



Case Summary
Baucau District Court
March 2020

Affirmation: 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: 26

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 and Article 36 on domestic violence as a public crime)	15
Article 145 of the Penal Code (PC) and Articles 2, 3, 35(b) and 36 of the Law Against Domestic Violence (LADV) and Article 20.1 (f) and Article 20.2 of Law No. 5/2017	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 and Article 36 on domestic violence as a public crime). Crime of using a bladed weapon.	1
Article 154 (PC) and Article 2.1(f) and Article 20 of Law No. 5/2017	Mistreatment of a spouse and using a bladed weapon	1
Article 177(1) (PC) and Article 182.1 (a)	Aggravated sexual abuse against a minor – Incest	1

and d) of the PC & Article 35 (LADV)		
Article 177 (1) of the PC and Article 182.1(a and d) of the PC	Aggravated sexual abuse of a minor	1
Articles 2.1 and 20. 2	Bladed weapons	1
Article 140 of the PC	Manslaughter	1
Article 258 of the PC and Article 2.1(f) and Article 20.2 of Law No. 5/2017	Property damage and use of a bladed weapon	1
Article 157 of the PC and Article 2.1(f) and Article 20.2 of Law No. 5/2017	Threats and using a bladed weapon	1
Article 259 of the PC	Aggravated property damage	1
Article 139 of the PC	Aggravated homicide	1
Article 334(1) of the Civil Procedure Code	Judicial and extrajudicial embargo	1
Total		26

2. Total decisions monitored by JSMP: 15

Type of decision	Total Number
Prison sentence (Article 66)	2
Suspension of execution of a prison sentence (Article 68 of the PC)	4
Fine (Article 67 of the PC)	8
Claimant's land rights or land dispute	1
Total	15

3. Total cases adjourned based on JSMP monitoring: 0

4. Total ongoing cases based on JSMP monitoring: 11

B. Descriptive summary of decisions handed down in cases that were monitored by JSMP:

1. Civil case of judicial and extrajudicial embargo

Case Number : 0087/CVTDB
Composition of the Court : Single Judge
Judge : Florencia Freitas
Claimant's representative : Gil Amaral (private lawyer from Fukun Advokasia)
Breacmas)
Defendant's representative : Grigório Maria Lourdes de Lima

Decision : The claimant Afonso Ximenes is entitled to the land in dispute

On 4 March 2020 the Baucau District Court conducted a hearing to announce its decision in a civil case of judicial and extrajudicial embargo, the urgent nature of an injunction, proceedings and adversarial procedure involving the claimant Afonso Ximenes and the defendant Jacinto Amaral in Lamak-laran Sub-Village, Karaubalu Village, Viqueque Sub-District, Viqueque District.

The claimant's claim

The claimant has arable land called *Kakeu-abut/sukaer mahon*, situated in Lamak-laran Sub-Village, Karaubalu Village, Viqueque Sub-District, Viqueque District. The *Kakeu-abut* land was illegally occupied by the defendant to build a house and therefore the claimant requested for the court to intervene because the claimant is the owner of this inherited land. The land measures 120 x 100 M² from the North boundary which shares a border with land owned by Mr. Agostu Laco Funu, the East Boundary which shares a border with Ms. Octaviana Salsinha Pinto, the South Boundary is the Kuha River and the West Boundary is the Kuha River.

This arable land previously belonged to Antonio de Jesus (the claimant's father) and when his father died in 1952, this land would under normal circumstances be bequeathed to the claimant as inherited land. Previously the father of the claimant used this land for crops, and coconuts were planted in 1920 and those trees are still alive.

On 23 November 2019 the claimant saw that the defendant and his friends had started to clear the land and construct a house on the land without the knowledge of the claimant. The claimant told the defendant to stop building the house, but the defendant continued with the construction and told the claimant to make a complaint to the court so they could deal with the issue in court. The arable land where the defendant was building the house measured approximately 9 m x 7 m.

The disputed land is the only land of the claimant and he was going to divide it among his eight children, but the claimant did not follow through with his plan because he is quite old. The defendant and his relatives used force to build the house on the land of the claimant.

Defendant's response

The *Kakeu-abut* land situated in Lamak laran Sub-Village, Karaubalu Village, Viqueque Sub-District, Viqueque District was not illegally occupied by the defendant, but rather the claimant's son Rui Manuel Ximenes gave permission to the defendant to build a house on the aforementioned land measuring 6 m x 7 m with the East Boundary bordering on land owned by Elizio Ximenes, the North Boundary shared with Sico Noco, the South Boundary shared with Henrique Soares and the West Boundary shared with the claimant.

The defendant started building the house on 12 November 2019 and finished on 23 November 2019. The defendant built this house because Rui Manuel Ximenes (the claimant's son) gave permission and he himself measured the house.

In relation to efforts to stop the construction of the house, it was not the claimant, but rather Álvaro Domingos Henrique Ximenes (the claimant's son), who obstructed them, and at that time Rui Manuel Ximenes was also at the location and told his older brother Álvaro Domingos Henrique Ximenes not to obstruct this work.

The respondents did not use force to occupy the aforementioned land but were given permission from the applicant's son Rui Manuel Ximenes and started constructing the house on 12 November 2019 and finished on 23 December 2019 and now the respondents are living in a house on the aforementioned land.

Legal basis

Article 334 of the Civil Procedure Code on judicial and extrajudicial embargo, Article 305 (1&2) of the Civil Procedure Code on injunctions with unspecified scope, Article 309 (1&5) of the Civil Procedure Code on opposition by the defendant.

Presentation of evidence

Statements by witnesses appearing for the claimant

The witness Etelvina de Araújo who is the claimant's neighbor testified that the land in dispute known as *Kakeu-abut* is situated in Lamak-laran Sub-Village, Karaubalu Village, Viqueque Sub-District, Viqueque District and belongs to the claimant and based on her knowledge about the history of this land dispute, previously the claimant's father (Antonio de Jesus) administered (oversaw the land) and then gave it to the claimant as inherited land, because the claimant is the son of Antonio de Jesus. This witness added that the Northern Boundary of this land shares a border with Mr. Agostu Laco Funu, the East Boundary shares a border with Ms. Octaviana Salsinha Pinto, the South Boundary is the Kuha River and the West Boundary is the Kuha River. The claimant has eight children, namely five sons and three daughters.

The witness Fernando Amaral, who is a neighbor, stated that the disputed land *Kakeu-abut* belongs to the claimant because historically the claimant had administered (overseen) the land since 1920 and when the claimant's father died in 1952, the claimant has continued to oversee the land until now. The Northern Boundary of this land shares a border with Mr. Agostu Laco Funu, the East Boundary which shares a border with Ms. Octaviana Salsinha Pinto, the South Boundary is the Kuha River and the West Boundary is the Kuha River. The claimant has eight children, namely five sons and three daughters.

The witness Álvaro Domingos Henrique Ximenes (the claimant's son) stated that on 10 November 2019, he got permission from the claimant and together with his uncle Manuel Soares obstructed the defendant and his friends who were clearing the land in dispute and they started to construct the columns of the house. On 23 November 2019 the witness together with a Village Police Officer (OPS) obstructed the construction, but the defendant continued to construct the house measuring approximately 9m x 7m which had corrugated iron on the roof.

Manuel Soares testified that on 10 November 2019 he and the witness Álvaro Domingos Henrique Ximenes obstructed the defendant, but the defendant continued to construct the house which had corrugated iron on the roof but had no walls.

Statements by witnesses appearing for the defendant

The witness Rui Manuel Ximenes (defendant's brother in law) and the claimant's son stated that previously the witness met with and informed the claimant's father that the witness had given this piece of land to the defendant to build a house and make a living and the aforementioned house had not yet been occupied by the defendant and his family because it wasn't ready yet.

Inspection of the new works¹

During the inspection the court viewed the construction, namely the house constructed by the defendant, measuring 7m x 6m, and cement had been poured into the foundations and the columns, and corrugated iron had been put on the roof, the walls were made from palm stems and there were curtains in the doorways. The house was connected to electricity and had a moderately sized kitchen and now the defendant and his family were living in the house.

Closing statements

The claimant's representative alleged that the witnesses appearing for the claimant confirmed the legitimacy of bringing an injunction before the court on behalf of the claimant in relation to the disputed land called *Kakeu-abut* situated in Lamak-laran Sub-Village, Karaubalu Village, Viqueque Sub-District, Viqueque District, as this was inherited land belonging to the claimant. The witness Álvaro Domingos Henrique Ximenes, who is the claimant's son, also confirmed that for a period of 30 days together with the witness Manuel Soares they had obstructed the construction, but the defendant used force to continue constructing the aforementioned works.

The witness Rui (claimant's son) who is close to the defendant (married to the defendant's sister) stated that the house has not been occupied yet, but when the inspection of the house took place they were living in the house. The defence said that the house was not yet inhabitable because the defendant has relatives, a wife and a child, and the walls were made of palm stems and the front and back doors only had curtains in the doorways. The land on which the defendant had built the house belonged to the claimant, and not the defendant's brother in law (Rui), because according to the inheritance, the claimant was the owner of the land and not the defendant's brother in law. In addition, the claimant is still alive, and the inherited land has not yet been divided among his children, including the defendant's brother in law. Therefore, the court was asked not to disadvantage the defendant further by allowing the claimant to file an action in the main proceedings and that the appropriate decision would be to block the aforementioned works. As a result, pursuant to Article 334 (1) of the Civil Procedure Code, the claimant through his representative brought an injunction before the court within the time limit provided for in the law.

Meanwhile, the defendant's representative alleged that during the hearing to examine witness testimony, the representatives observed that the injunction had been brought before the court on 10 December 2019 but in early December 2019 the defendant was already living on the land in the house that he had taken possession of from his own brother in law. The inspection confirmed that there was a house measuring 7m x 6m, with cement foundations and columns, corrugated iron on the roof, walls made from palm stems and a moderately sized kitchen. The representative observed that this house matched the economic capacity of a farmer and the aforementioned house was already occupied by the defendant and his family. The representative had no doubt

¹ The local inspection of the new works took place on 11 February 2020

that the inspection showed that the works were complete, and the house was already occupied, and matched the economic capacity of the defendant. Therefore, the representative requested for the court to allow the defendant to continue living in the aforementioned house and on the aforementioned land or to acquit the defendant from the injunction proceedings set forth by the claimant's representative.

Decision

The court upheld the injunction proceedings brought by the claimant to stop construction work pursuant to Article 334 (1) of the Civil Procedure Code, with a view to preventing the defendant from carrying out building activities on the *Kakeu-abut* land situated in Lamak Iaran Sub-Village, Karaubalu Village, Viqueque Sub-District, Viqueque District.

Based on the evidence and all other considerations, the court concluded this matter and decided to issue a protective order and to declare an embargo on the new construction works and decided that the claimant was entitled to the disputed land.

2. Crime of aggravated sexual abuse of a minor

Case Number	: 0006/18. MNLLB
Composition of the Court	: Panel
Judges	: Ersilia de Jesus, José Gonçalves and Florencia Freitas
Prosecutor	: Ambrósio Rangel Freitas
Defence	: António Fernandes
Decision	: 13 years in prison

On 6 March 2020 the Baucau District Court, via the mobile court in Manatutu District conducted a hearing to announce its decision in a case of aggravated sexual abuse of a minor involving the defendant AS, allegedly committed against his granddaughter aged 7 years and 11 months, in Manatutu District.

Charges of the Prosecutor

The public prosecutor alleged that on 5 November 2018, at 15:30, when the victim was returning from collecting water, the defendant gave US\$0.50 to the victim to buy some instant noodles. When she got back from buying the instant noodles the defendant told the victim to go inside and take off her clothes. Then the defendant removed his sarong and had sexual intercourse with the victim.

The public prosecutor charged the defendant for violating Article 177.1 of the Penal Code on the sexual abuse of a minor as well as Articles 182.1(a & d) of the Penal Code on aggravation as well as Article 35 of the Law Against Domestic Violence.

Presentation of evidence

During the trial, the defendant stated that the facts set out in the indictment were all correct but at that time he was intoxicated. The defendant also stated that he was a first-time offender and regretted his actions.

Meanwhile the victim confirmed the facts set out in the indictment and stated that at that time her parents had gone to a plantation and then the defendant had sexual intercourse with the victim and his actions caused the victim to suffer pain and bleeding to her sexual organs.

Final recommendations

The prosecutor stated that the defendant confessed all the facts in the indictment and these facts were confirmed by the victim. Therefore, considering all the aggravating circumstances and to deter the defendant from reoffending in the future, the public prosecutor requested for the court to impose a prison of 15 years.

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

Decision

After evaluating all of the facts, the court found that the defendant told the victim to go inside, and the defendant told the victim to remove her clothing and the defendant removed his sarong and had sexual intercourse with victim. Based on the facts that were proven, and after considering all the circumstances, the court sentenced the defendant to 13 years in prison.

3. Crime of mistreatment of a spouse and using a bladed weapon

Case Number : 0015/19. BCVMS
Composition of the Court : Panel
Judges : Ersilia de Jesus, José Gonçalves and Florencia Freitas
Prosecutor : Ambrósio Rangel Freitas
Defence : António Fernandes
Decision : Prison sentence of 3 years, suspended for 5 years

On 6 April 2020 the Baucau District Court, through the mobile court in Manatuto District, conducted a hearing to announce its decision in a case of mistreatment of a spouse and using a bladed weapon involving the defendant FdS who allegedly committed the offence against his wife in Baucau District.

Charges of the Prosecutor

The public prosecutor alleged that on 8 August 2019, at 8:00am, the defendant kicked the victim once on her right cheek, punched the victim twice in the back which caused the victim to faint and fall to the ground. Previously, on an unspecified date in 2018 the defendant punched the victim many times on her body, but the victim did not make a complaint. Then, on an unspecified date in September 2017, at 5pm, the defendant used a sword to cut the victim's throat which caused a small injury to her throat.

The public prosecutor alleged that the defendant violated Article 154 of the Penal Code on the mistreatment of a spouse that carries a prison sentence of 2 years to 6 years as well as Articles 2, 3(a) and 35 (a) and 36 of the Law Against Domestic Violence and Article 20(1) of Law No. 5/2017 on bladed weapons.

Presentation of evidence

During the trial, the defendant confessed the facts set out in the indictment and stated that in 2017, the defendant called out to the victim who was standing outside but the victim did not hear him so they had an argument and the defendant took a sword from under the bed and cut the victim's throat which caused a small injury. The defendant added that in 2018, the defendant and the victim argued about household needs and the defendant slapped and punched the victim, but he did not remember how many times. Then on 8 August 2019, the defendant told the victim and their child to go to mass with the aim of talking to catechists so their children could get baptised, but the victim argued with the defendant. Therefore, the defendant physically assaulted the victim in accordance with the facts set out in the indictment. Since then the defendant has not hit the victim because the defendant regretted his actions.

Also, the victim confirmed all the alleged facts and stated that in 2017 the defendant took a sword and slashed the victim's throat because the victim took too long to bring the defendant some rice.

Final recommendations

The public prosecutor stated that the defendant confessed to all of the facts and the victim also confirmed that the allegations had been proven that the defendant mistreated his spouse and therefore the public prosecutor requested for the court to impose a prison sentence of three years, suspended for five years.

Meanwhile, the defence requested for the court to consider the defendant's confession, the defendant was a first-time offender, the defendant regretted his behaviour, and has reconciled with the victim. Therefore, the prosecutor requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating all the facts, the court found that the defendant kicked the victim once on her right cheek, punched the victim once in the back, and caused the victim to fall to the ground. The court also found that the defendant punched the victim many times on her body and the defendant used a sword to cut the victims throat. Based on the facts that were proven, including consideration of all the circumstances, the court sentenced the defendant to a single penalty of 3 years in prison, suspended for 5 years.

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

Case Number	: 0042/19. MNMNT
Composition of the Court	: Single Judge
Judges	: José Gonçalves
Prosecutor	: Ambrósio Rangel Freitas
Defence	: António Fernandes
Decision	: Fine of US\$60.00

On 5 March 2020 the Baucau District Court, through the mobile court in Manatuto District, announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant AB who allegedly committed the offence against his wife in Manatuto District.

Charges of the Prosecutor

The public prosecutor alleged that on 23 June 2019, at 8am, at the Manatuto Market, the victim purchased phone credit from Telemor and put it on her mobile phone so she could ring her children, but before she rang them, the defendant used the victim's phone to play a game and used up all of the phone credit. Therefore, the defendant and the victim argued, and the defendant punched the victim once on the back of the neck, kicked the victim once below her left eye and the victim fainted and fell to the ground.

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 stated that they argued about the telephone and the victim hit the defendant first on the back of the neck. They continued to argue, and the victim went outside, and the defendant followed her and punched her once on the back of the neck and kicked the victim once below the eye. After this incident, on 24 June 2019 they reconciled and until now the defendant has not hit the victim again. The defendant added that he was a first-time offender, promised not to reoffend against the victim or other family member in the future and the defendant drives a minibus with a monthly income of US\$120.00.

The victim confirmed the facts set out in the indictment and stated that before the defendant committed the assault, the victim grabbed the front of the defendant's shirt and pushed him, and did not punch him, as alleged in the indictment. Therefore, the defendant punched the victim once on the back of the neck and kicked the victim once below the eye. The victim confirmed the defendant's statement that they have reconciled and until now the defendant has not beaten her again.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime against the victim. Therefore, the public prosecutor requested for the court to impose a fine of US\$60 against the defendant.

In addition, the defence requested for the court to amend the charge from Article 145 of the Penal Code and Articles 2, 3(a), 35(b) and 36 of the Law Against Domestic Violence to Article 151 of the Penal Code on reciprocal offences against physical integrity.

Decision

After evaluating all the facts, the court accepted the charges of the prosecutor and found that the defendant punched the victim once on the back of the neck, kicked the victim once below her left eye and she fell to the ground. Based on the facts that were proven, and consideration of all the circumstances, the court ordered the defendant to pay a fine of US\$60 to be paid in daily instalments of US\$1.00 cents for 60 days. The court also imposed an alternative penalty of 40 days in prison if the defendant does not pay this fine.

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

Case Number : 0077/19. BCBCV
Composition of the Court : Single Judge
Judge : José Gonçalves
Prosecutor : Remízia de Fátima da Silva
Defence : Sidonio Maria Sarmiento
Decision : Fine of US\$90.00

On 11 March 2020 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant AdC who allegedly committed the offence against his wife in Manatuto District.

Charges of the Prosecutor

The public prosecutor alleged that on 6 June 2019, at 19:00, the defendant and the victim argued about their young child who was crying, and the defendant punched the victim twice in the back. The victim received treatment at the Baucau 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 (a), 35 (b) and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed the facts set out in the indictment and stated that after the incident the victim stayed in a shelter for a week and then the defendant asked her to come back and now they are living together. The defendant also stated that he has not hit the victim again, was a first-time offender, promised not to commit a crime against the victim or other family member in the future. The defendant builds houses and can earn US\$300 a month.

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 beaten her again.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime against the victim based on the statement of the defendant and the victim's confirmation of the alleged facts. The defendant also has some financial capacity, therefore the public prosecutor requested for the court to impose a fine on the defendant.

The public defender requested for the court to impose a lenient penalty against the defendant because the defendant confessed all of the facts set out in the indictment, regretted his actions, and was a first time offender, and cooperated with the judicial authorities.

Decision

After evaluating all the facts, the court found that the defendant punched the victim twice in the back. Based on the facts that were proven, and consideration of all the circumstances, the court ordered the defendant to pay a fine of US\$ 900 to be paid in daily instalments of \$ 1.00 for 90

days. The court also imposed an alternative penalty of 60 days in prison if the defendant does not pay this fine.

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

Case Number : 0032/19. BCBCV
Composition of the Court : Single Judge
Judge : José Gonçalves
Prosecutor : Bartolomeu de Araújo
Defence : Sidonio Maria Sarmento
Decision : Fine of US\$90.00

On 11 March 2020 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant AX who allegedly committed the offence against his wife in Baucau District.

Charges of the Prosecutor

The public prosecutor alleged that on 7 March 2019, at 09:00am, the defendant took a piece of dry wood and struck the victim once on her leg, and struck the victim twice in the back and kicked the victim once in the back. Previously, the defendant and the victim argued about an unknown person who came and asked the victim for US\$1,000 and said that the defendant owed money to that person and also owed US\$55.00 for a telephone.

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 confessed all of the facts set out in the indictment, regretted his actions, reconciled with the victim, was a first time offender, has two children and has not hit the victim since the incident. The defendant also stated that he works as a driver with a monthly income of US\$200.

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 beaten her again.

Final recommendations

The public prosecutor stated that the defendant should have found another way to resolve the problem instead of using physical force against the victim. Therefore, to deter the defendant from reoffending in the future and using violence again, the public prosecutor requested for the court to impose a prison sentence of one month, suspended for one year.

The defence requested for the court to impose a lenient penalty against the defendant, because he confessed the facts, was a first-time offender, has reconciled with the victim, and has not hit the victim again.

Decision

After evaluating all of the facts, the court found that the defendant took a piece of dry wood and struck the victim once on her leg, and struck the victim twice in the back and kicked the victim once in the back. Based on the facts that were proven, and consideration of all the circumstances, the court ordered the defendant to pay a fine of US\$90 to be paid in daily instalments of US\$1.00 for 90 days. The court also imposed an alternative penalty of 60 days in prison if the defendant does not pay this fine.

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

Case Number : 0112/19. BCBCV
Composition of the Court : Single Judge
Judges : José Gonçalves
Prosecutor : Remízia de Fátima da Silva
Defence : Sidonio Maria Sarmento
Decision : Fine of US\$ 90.00

On 13 March 2020 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant ASB who allegedly committed the offence against his wife in Baucau District.

Charges of the Prosecutor

The public prosecutor alleged that on 30 August 2019 at 5:30pm, the defendant punched the victim twice in the head and kicked the victim many times in the back, the victim went into the bedroom but the defendant followed the victim and pushed the victim to the ground and stood on her body. Previously, the victim told the defendant to collect some water, but the defendant did not listen and played with her telephone, therefore the defendant and the victim argued and then the defendant committed these acts against 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 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 totally confessed to the facts set out in the indictment of the public prosecutor and stated that one day later in front of the families the defendant and the victim reconciled. The defendant also expressed regret and promised not to repeat his actions in the future, was a first-time offender, works as a housebuilder with a monthly income of approximately US\$500 to support his family.

Meanwhile, the victim reinforced the facts set out in the indictment and confirmed that they started a family in 2014, they have three children, this was the first time the defendant hit the victim, they have reconciled and until now the defendant has not beaten the victim again.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime against the victim, based on the defendant's confession and the confirmation of the victim, regarding the facts alleged in the indictment. To deter the defendant from repeating such acts in the future, the prosecutor requested for the court to impose a fine of US\$50 against the defendant.

Meanwhile, the defence requested for the court to impose a fair sentence against the defendant based on the mitigating circumstances, namely that the defendant was a first time offender, has reconciled with the victim, has not reoffended, and works as a housebuilder and is the main breadwinner of the family.

Decision

After evaluating all the facts, the court found that the defendant punched the victim twice in the head and kicked the victim many times in the back. The court also found that the defendant pushed the victim to the ground and stood on the victim's body. Based on the facts that were proven, and consideration of all the circumstances, the court ordered the defendant to pay a fine of US\$ 90 to be paid in daily instalments of \$ 1.00 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 simple offences against physical integrity characterized as domestic violence

Case Number	: 0001/19. BCQLC
Composition of the Court	: Single Judge
Judge	: José Gonçalves
Prosecutor	: Bartolomeu de Araújo
Defence	: António Fernandes
Decision	: Prison sentence of 1 year, suspended for 2 years

On 13 March 2020 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant CG who allegedly committed the offence against his wife in Baucau District.

Charges of the Prosecutor

The public prosecutor alleged that on 23 March 2019, at 09:00am, the defendant kicked the victim once on her left hip, punched the victim once on her left shoulder and when the victim ran away to her aunt's place which was close to the victim's house, the defendant followed her and dragged her from the house out to the road. On the road the defendant grabbed the victim's hair and threw her on the ground. The defendant then dragged the victim inside the house and punched her once on her left shoulder. Previously, the defendant saw a letter on the table which the victim had written, saying that the defendant always hit the victim. Therefore, the defendant and the victim argued, and the assault took place.

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 partially confessed that they argued because the victim wrote down what the defendant had done. The defendant stated that he kicked the victim once in her calf and when the victim ran away to her aunt's house, the defendant followed her and grabbed her by the arm and returned to their house and he punched her once in the arm. After this incident, the victim ran away to her uncle's house and has been living with her parents until now. Even so, the defendant stated that the defendant and the victim always contacted each other to meet up at the Baucau Market and the defendant also gave US\$100 to the victim because the victim was pregnant. The defendant added that he regretted his behaviour and really wanted to be with the victim because they got together in 2018 and they have a child, but he was afraid of his father in law. The defendant also promised that he would not hit the victim in the future, and he works as a farmer and uses his produce to sustain his family.

Meanwhile the victim stated that before the victim went to the market she wrote a letter and put it on the table with the intention of just joking with the defendant but when the victim returned from the market the defendant called out to the victim and asked about the letter and they argued and the assault occurred. The victim added that at that time, before the defendant punched the victim on the shoulder, the defendant took a rock to throw at the victim but did not manage to do so because the victim ran back to the defendant. When the police arrived at the scene, the defendant opened the door and ran away. The victim went to the police station to make a complaint and two days later the victim and the defendant went back to the police station. Then the victim went to stay at her uncle's house and then went to stay with her parents in Baucau until now. The victim added that they always contacted each other to meet up and when the victim was pregnant the defendant gave her US\$100.

Final recommendations

The public prosecutor stated that after the incident the defendant and the victim have been separated but they always contacted each other and the defendant also gave money to the victim. This shows that the victim and the defendant were still thinking of living together because they have a child. For this reason, the public prosecutor requested for the court to impose a prison sentence of 3 months, suspended for 1 year.

Meanwhile, the defence requested for the court to impose a fair penalty with consideration that the defendant was a first-time offender, regretted his actions, has not reoffended, works as a farmer and provides for his child.

Decision

After evaluating the facts, the court found that the defendant kicked the victim once on her hip, punched her once on the shoulder, and the victim ran outside, and the defendant took a rock and was going to throw it at the victim, so the victim became afraid and ran back to the defendant and the defendant punched her once in the shoulder and then the victim ran away to her aunt's house, and the defendant followed her and from the side of the house the grabbed the victim by

the hair and threw her on the ground, and dragged her into the bedroom and punched her once on the shoulder. Based on the facts that were proven, including consideration of all the circumstances, the court sentenced the defendant to 1 year in prison, suspended for 2 years.

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

Case Number : 0048/19. BCBCV
Composition of the Court : Single Judge
Judge : José Gonçalves
Prosecutor : Ambrósio Rangel Freitas
Defence : António Fernandes
Decision : 4 months in prison, suspended for 1 year

On 13 March 2020 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant VB who allegedly committed the offence against his wife in Baucau District.

Charges of the Prosecutor

The public prosecutor alleged that on 5 April 2019, at 5pm, the defendant asked for his belt so he could go to training, and the victim said she had not seen it, so the defendant and the victim argued and the defendant kicked the victim once in her chest and kicked the victim once on her right ear.

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 confessed the alleged facts and stated that they have are separated until now. The victim is with another man and the defendant is also with another woman. The defendant regretted his behaviour, was a first-time offender and promised not to repeat his behaviour in the future. The defendant added that he does Pajadjaran martial arts training and works as a farmer.

Meanwhile, the victim confirmed the facts set out in the indictment and confirmed the statement of the defendant that they are separated, and they have both formed new relationships.

Final recommendations

The prosecutor stated that based on the confession of the defendant, he was guilty of committing the crime against the victim. Therefore, the public prosecutor requested for the court to order the defendant to pay a fine.

Meanwhile, the defence requested for the court to impose a fair sentence against the defendant based on the mitigating circumstances, namely that the defendant was a first time offender, the defendant has not reoffended, and the defendant works as a farmer.

Decision

After evaluating all the facts, the court found that the defendant kicked the victim once in the chest and kicked the victim once on her right ear. Based on the facts that were proven, including consideration of all the circumstances, the court sentenced the defendant to 4 months in prison, suspended for 1 year.

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

Case Number : 0024/19. BCBCV
Composition of the Court : Single Judge
Judge : José Gonçalves
Prosecutor : Bartolomeu de Araújo
Defence : Cristovão Nuno Ximenes
Decision : Fine of US\$45.00

On 13 March 2020 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant JJF who allegedly committed the offence against his wife in Baucau District.

Charges of the Prosecutor

The public prosecutor alleged that on 19 May 2019, at 23:00, the victim was ill but she was looking after their child who was still awake. When the victim became sleepy, she called out to the defendant to look after their child, but the defendant did not want to. Therefore, the defendant and the victim argued, and the defendant punched the victim once above the eye, twice in the head, and kicked the victim many times on her left hip. The victim tried to run away but the defendant stopped her and slapped the victim once on her right cheek.

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 used his right to remain silent. The victim confirmed the facts set out in the indictment and stated that they have been living together since 2016, and have one child, and this was the first time that the defendant hit the victim and afterwards they reconciled and the defendant has not hit the victim again.

Final recommendations

The prosecutor stated that even though the defendant chose to remain silent, the victim maintained the facts set out in the indictment. Therefore, even though they have reconciled and this was the first time that the defendant had hit the victim, the public prosecutor requested for the court to impose a prison sentence of two months, suspended for one year.

The public defender requested for the court to impose a fair penalty against the defendant because the defendant has reconciled with the victim and this was the first time that he had hit the victim.

Decision

After evaluating the facts, the court found that the defendant punched the victim once above the eye, twice in the head, kicked the victim many times on her left hip and slapped the victim once on her right cheek. Based on the facts that were proven, and consideration of all the circumstances, the court ordered the defendant to pay a fine of US\$ 45 to be paid in daily instalments of US 50 cents for 90 days. The court also imposed an alternative penalty of 60 days in prison if the defendant does not pay this fine.

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

Case Number : 0004/19. VQOSU
Composition of the Court : Single Judge
Judge : Florencia Freitas
Prosecutor : Bartolomeu de Araújo
Defence : Sidonio Maria Sarmiento
Decision : Fine of US\$ 45.00

On 16 March 2020 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant SF who allegedly committed the offence against his wife in Baucau District.

Charges of the Prosecutor

The public prosecutor alleged that on 1 October 2019, at 10am, the defendant slapped the victim twice on her left cheek and kicked the victim once on her side which caused the victim to fall to the ground. When the victim was on the ground the defendant sat on her and choked her. Previously, the defendant and victim argued because the victim asked a “Zeova” group to come to their house.

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 confessed the facts set out in the indictment and one month later they reconciled in front of the two families. The defendant apologised to the victim and stated that he regretted his actions and promised not to repeat such acts in the future. The defendant is a farmer and provides for his family.

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

Final recommendations

The public prosecutor stated that the defendant confessed the facts and victim also confirmed the facts, therefore to deter the defendant from such acts in the future, the public prosecutor requested for the court to impose a fine on the defendant.

Meanwhile, the defence requested for the court to impose a fair sentence against the defendant because the defendant was a first time offender, the defendant has not reoffended, the defendant works as a farmer and is the main breadwinner of the family.

Decision

After evaluating all the facts, the court found that the defendant slapped the victim once on her left cheek, kicked her once on her side, sat on her, and choked her. Based on the facts that were proven, and consideration of all the circumstances, the court ordered the defendant to pay a fine of US\$ 45 to be paid in daily instalments of US\$ 0.75 cents for 60 days. The court also imposed an alternative penalty of 40 days in prison if the defendant does not pay this fine.

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

Case Number	: 0051/19.MNMNT
Composition of the Court	: Single Judge
Judge	: Florencia Freitas
Prosecutor	: Domingos Gouveia Barreto
Defence	: Grigório Maria Lourdes de Five
Decision	: Fine of US\$30.00

On 17 March 2020 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant MCdS who allegedly committed the offence against his wife in Manatuto District.

Charges of the Prosecutor

The public prosecutor alleged that on 12 August 2019, at 1am, the defendant slapped the victim twice on her on her left and right cheeks, which caused her to faint. Previously, the defendant was going to feed the victim who was sick and lying down on her bed, but the victim did not want to eat. Therefore, the defendant committed the assault against 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 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 confessed the facts set out in the indictment and stated that one week after the incident they reconciled in front of the two families. The defendant apologised to the victim, regretted his actions, and promised not to hit the victim again in the future. The defendant is a farmer and provides for his family.

The victim confirmed all the facts in the indictment and also confirmed the statement of the defendant that they resolved the problem and until now the defendant has not hit her again.

Final recommendations

The prosecutor stated that the defendant confessed all the facts in the indictment and the victim confirmed the alleged facts and the statement of the defendant. Therefore, to deter the defendant from reoffending in the future, the public prosecutor requested for the court to issue an admonishment.

Meanwhile, the defence requested for the court to impose a fair sentence against the defendant based on the mitigating circumstances, namely that the defendant was a first time offender, the defendant has not reoffended, the defendant works as a farmer and is the main breadwinner of the family.

Decision

After evaluating all the facts, the court found that the defendant slapped the victim twice on the back of her neck and twice on her right cheek. Based on the facts that were proven, and consideration of all the circumstances, the court ordered the defendant to pay a fine of US\$ 30 to be paid in daily instalments of US\$ 0.50 cents for 60 days. The court also imposed an alternative penalty of 20 days in prison if the defendant does not pay this fine.

13. Case of aggravated sexual abuse of a minor²

Case Number : 0084/19. LASIC
Composition of the Court : Panel
Judges : Florencia Freitas, Ersilia de Jesus and José António de Jesus Escurial da Silva Faria
Prosecutor : Bartolomeu de Araújo
Defence : António Fernandes
Decision : 15 years in prison

On 17 March 2020 the Baucau District Court announced its decision in a case of aggravated sexual abuse of a minor involving the defendant AM who allegedly committed the offence against the victim LSM aged 11 in Lautem District.

Charges of the Prosecutor

The public prosecutor alleged that on 21 September 2019, at 5pm, the victim was selling boiled eggs and met with the defendant who was selling fish from his motorcycle. The defendant stopped his motorcycle and asked the victim about the eggs and the victim said that each egg cost US\$0.25. Therefore, the defendant bought one egg. Then the defendant went about 10 metres and then came back to the victim and told the victim that his wife like to eat boiled eggs and so he told the victim to get on the motorcycle. The victim got on the motorcycle and when they arrived at a traditional house the defendant gave US\$20.00 to the victim, but the victim said she did not have any change. The defendant grabbed the victim's arm and dragged her into some grass and forced the victim to have sexual intercourse. The defendant also threatened the victim

² The hearing to examine evidence was carried out by the mobile court in Manatuto District and at that time ALFeLa transported the victim from Lospalos to Manatutu.

by saying “If you scream I will get a knife and stab you to death”. The defendant’s actions caused the victim to feel pain to her sexual organs.

The public prosecutor accused the defendant of violating Article 177.1 of the Penal Code on the sexual abuse of a minor and Article 182.1 (a) of the Penal Code on aggravation.

Presentation of evidence

During the trial, the defendant stated that the facts set out in the indictment were all true, the defendant also stated that he was a first time offender, regretted his actions, is married and has three children who are all young.

Also, the victim confirmed the facts set out in the indictment and stated that she could clearly identify the defendant because she saw his face and the number plate of the motorcycle.

Final recommendations

The public prosecutor stated that the defendant confessed all the facts alleged in the indictment and these facts were confirmed by the victim. For this reason, the public prosecutor requested for the court to impose a prison sentence of 13 years 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, expressed regret and was a first-time offender.

Decision

After evaluating all the facts, the court found that the defendant grabbed the victim's arm and dragged her into some grass and forced the victim to have sexual intercourse. The court also found that the defendant threatened to kill the victim if she screamed. Based on the facts that were proven, and after considering all the circumstances, the court sentenced the defendant to 15 years in prison.

14. Crime of using a bladed weapon

Case Number	: 0001/19. MNMNT ³
Composition of the Court	: Panel
Judge	: José António de Jesus Escurial da Silva Faria, José Gonçalves and Florencia Freitas
Prosecutor	: Bartolomeu de Araújo
Defence	: Grigório Maria Lourdes de Lima
Decision	: 3 years in prison, suspended for 2 years

On 17 March 2020 the Baucau District Court announced its decision in a case of using a bladed weapon involving the defendants Anascario Pascoal do Carmo and the victim João Dos Reis, which allegedly occurred in Fuuk-run Sub-Village, Uma-boku Village, Natarbora Sub-District, Manatuto District.

³ The hearing to examine evidence was carried out by the mobile court in Manatuto District

Charges of the Prosecutor

The public prosecutor alleged that on 17 November 2018, at 8am, the defendant was riding a motorcycle and carrying a machete and following the victim who was also riding a motorcycle. When the victim stopped his motorcycle, the defendant got off his own motorcycle and immediately slashed the victim on the thigh and pushed him in the mouth. These actions caused the victim to suffer a minor injury to his thigh.

The prosecutor alleged that the defendant violated Article 2.1(f) and Article 20.2 on bladed weapons.

Presentation of evidence

During the trial, the defendant stated that on 17 November 2018, at 5:30pm, the defendant and his friends were standing on the road and the victim rode past on his motorcycle and nearly collided with the defendant and swore at the defendant, therefore the defendant went home and got his motorcycle and also a machete and followed the victim and caught up with him on the road and the defendant used the flat part of the machete to strike the victim on the thigh. At that time, the younger brother of the defendant was transporting his mother, and he arrived at the scene and told the defendant not to fight because the defendant and the victim were related, so the defendant did not continue with his behaviour. The defendant also stated that he was a first-time offender, regretted his actions and promised not to commit any further crimes in the future. The defendant is a farmer with no fixed income.

Meanwhile, the victim confirmed all the facts in the indictment and stated that the defendant did not continue with his actions when members of the community all gathered around, and the defendant's own mother stopped the defendant.

Final recommendations

The prosecutor stated that the defendant confessed all the facts in the indictment and these facts were confirmed by the victim. For this reason, the prosecutor requested for the court to impose a prison sentence of 3 years, suspended for 3 years against the defendant.

Meanwhile, the defence requested for the court to consider the confession of the defendant and the mitigating circumstances, namely the defendant was a first-time offender, regretted his actions, and promised not to reoffend in the future. Therefore, the public defender requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating all the facts, the court found that the defendant slashed the victim once on the thigh and pushed the victim in the mouth. Therefore, the defendant was found guilty of committing the crime of using a bladed weapon against the victim. Based on the facts that were proven, including consideration of all the circumstances, the court sentenced the defendant to 3 years in prison, suspended for 2 years.

15. Crime of simple offences against physical integrity characterized as domestic violence⁴

⁴ The hearing to examine evidence was carried out by the mobile court in Manatuto District

Case Number : 0005/19. MNMNT
Composition of the Court : Single Judge
Judge : José António de Jesus Escurial da Silva Faria
Prosecutor : Bartolomeu de Araújo
Defence : Grigório Maria Lourdes de Lima
Decision : Fine of US\$120.00

On 18 March 2020 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant CdC (member of PNTL) who allegedly committed the offence against his wife in Manatuto District.

Charges of the Prosecutor

The public prosecutor alleged that on 26 March 2019, at 6pm, the defendant slapped the victim three times in the head and took a jacket and struck the victim in the face which caused her to suffer a swollen eye because the zipper of the jacket struck her in the eye. Previously, the defendant gave his salary of US\$150 to the victim but the victim wanted US\$ 200. 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) and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial, the defendant used his right to remain silent. The victim reinforced the facts set out in the indictment and stated that after this incident, they have been separated until now, and the defendant went back to his first wife.

Final recommendations

The public prosecutor stated that even though the defendant chose to remain silent, the victim maintained the facts set out in the indictment. Therefore, the defendant was guilty of committing the crime against his wife, who is supposed to protect, because the defendant is a member of PNTL and he has thorough knowledge about crimes and how deter crimes from happening in the community. Based on these considerations, the public prosecutor requested for the court to sentence the defendant to 3 months in prison, suspended for 1 year.

On the other hand, the public defender stated that even though the defendant chose the right to be silent, with consideration of the evidence produced during the trial, the public prosecutor requested for to court to apply an appropriate punishment against the defendant.

Decision

After evaluating all the facts, the court found that the defendant slapped the victim three times in the head and struck her in the face with a jacket. Based on the facts that were proven, and consideration of all the circumstances, the court ordered the defendant to pay a fine of US\$ 120 to be paid in daily instalments of US\$ 1.00 for 120 days. The court also imposed an alternative penalty of 80 days in prison if the defendant does not pay this fine.

For more information, please contact:

Casimiro dos Santos

Acting Executive Director of JSMP

Email: santos.cas76@gmail.com

info@jsmp.tl

Telephone: 3323883 | 77257466

Website: <http://jsmp.tl/>