



**Case Summary**  
**Baucau District Court**  
**June 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: 14**

Article	Case Type	Number of Cases
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)	5
Article 145 of the PC & Articles 2, 3, and 35 (b) of Law Against Domestic Violence and Article 2.1 (f) and Article 20 of Law No. 5/2017	Simple offences against physical integrity characterized as domestic violence and using a bladed weapon	1
Articles 259 (d) and 185 (1) of the Penal Code	Aggravated property damage and unlawful entry	1

Articles 244.1 and 225.1 of the PC	Failure to meet obligation to provide alimony and disobedience	1
Articles 2.1(f) and 20.2	Bladed weapons	1
Articles 263.1 of the PC, 260 of the PC, 139 (c) of the PC and Article 20.1 (b) 20.2 (f), Articles 2.1 and 2.2 of Law No. 5/2017	Property damage with use of violence, arson, aggravated homicide and use of a bladed weapon	1
Article 257 of the PC	Abuse of trust	1
Article 145 of the PC and Article 19 of Law No. 5/2017 on Bladed Weapons	Simple offences against physical integrity and use of <i>rama ambon</i> (device for firing darts)	1
Article 259 of the PC	Aggravated property damage	1
Article 137 and Article 138 of the Civil Procedure Code	Questions and complaints, Recording the submission of the procedural documents	1
<b>Total</b>		<b>14</b>

## 2. Total decisions monitored by JSMP: 2

Type of Decision	Number
Fine (Article 67 of the PC)	2
<b>Total</b>	<b>2</b>

## 3. Total ongoing cases based on JSMP monitoring: 12

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

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

Case Number : 0014/19. BCBQL  
Composition of the Court : Single Judge  
Judge : José Quintão Soares Celestino  
Prosecutor : Ambrósio Rangel Freitas  
Defence : Germano Guterres Ramos  
Decision : Fine of US\$15.00

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

### **Charges of the Prosecutor**

The public prosecutor alleged that on 28 November 2019, at 3:30pm, the defendant punched the victim once on the ear and grabbed her and threw her on the ground. In response to this assault the victim grabbed a rock and struck herself once in the head. Prior to this incident the victim was unhappy with the defendant's first wife who rang the defendant. Therefore, they argued and 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 but stated that the incident occurred because the victim owed money to someone, so the person came and took a pig belonging to the victim and the defendant. The defendant also stated after the incident he reconciled with the victim, and since the incident the defendant has not hit the victim. The defendant added that he was a first time offender, promised not to reoffend against the victim or family member in the future and the defendant is a farmer with no fixed income.

Also, the victim maintained all of the facts in the indictment and stated that since the incident the defendant has not assaulted the victim and they have reconciled.

### **Final recommendations**

The prosecutor stated that the defendant was guilty of committing the crime against the victim, even though the defendant stated that there was another reason for this incident, however the victim maintained the facts. Therefore, the public prosecutor requested for the court to impose a fine of US\$30.00 against the defendant.

The public defender requested for the court to issue an admonishment against the defendant because the defendant admitted his actions, was a first time offender and cooperated with the judicial process.

### **Decision**

After evaluating all of the facts, the court maintained the charges of the prosecutor and found

that the defendant punched the victim once in the ear and grabbed her and threw her on the ground. Also, the court found that the victim struck herself once on the head with a rock.

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\$ 15 to be paid in daily instalments of US 50 cents for 30 days. The court also imposed an alternative penalty of 20 days in prison if the defendant does not pay this fine.

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

Case Number	: 0057/19. BCBCV
Composition of the Court	: Single Judge
Judge	: Jumiatty Freitas
Prosecutor	: Bartolomeu de Araújo
Defence	: António Fernandes
Decision	: Fine of US\$60.00

On 18 June 2020 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant AAB who allegedly committed the offence against his wife in Baucau District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 17 April 2009, at 9pm, the defendant took the leg of a chair and struck the victim twice in the back, three times above the eye and took a machete and threatened the victim by saying “*I will slash you to death*”. When the defendant made these threats, the victim ran outside and the defendant also followed the victim and took a tree root to hit the victim again, but did not manage to hit her, because the victim ran away. Before the defendant committed these acts, the defendant and the victim argued about a neighbor who came to ask for US\$10.00 from the victim. The defendant had borrowed the money and the victim had no knowledge about it.

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 and stated that after the incident they immediately reconciled. The defendant added that he was a first time offender, promised not to reoffend against the victim or family member in the future and the defendant is a farmer with no fixed income.

The public prosecutor requested for the court to disregard the victim's statement because the defendant confessed all of the facts in the indictment. The public defender agreed with this request.

### **Final recommendations**

The public prosecutor stated that the defendant had been proven guilty of committing the crime against the victim based the confession of the defendant. The public prosecutor added that every day cases of domestic violence are tried at the courts, therefore the prosecutor requested for the court to impose a penalty that could deter the defendant from repeating such acts and also to educate the surrounding community that crimes of domestic violence are punished. For this reason, the public prosecutor requested for the court to impose a prison sentence of two months, suspended for 1 year.

The defence requested for the court to impose a fair 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 produced during the trial, the court found that the defendant took the leg of a chair and struck the victim twice in the back, and struck the victim three times above the eye and took a machete and threatened that he would slash the victim to death.

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\$ 60 to be paid in daily instalments of \$ 1.00 for 60 days. The court also imposed an alternative penalty of 30 days in prison if the defendant does not pay this fine.

For more information, please contact:

Ana Paula Marçal,

Executive Director of JSMP.

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

Telephone: 3323883 | 77040735

[info@jsmp.tl](mailto:info@jsmp.tl)

Website: <http://jsmp.tl>