



Case Summary
Oecusse 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 Oecusse District Court

1. Total number of cases monitored by JSMP: 38

Articles	Case Type	Number of Cases
Article 145 of the Penal Code (PC) as well as Articles 2, 3, 35(b) & 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.	9
Article 171 and 145 of the PC, as well as Articles 2, 3, and 35(b) and 36 of the LAVD	Sexual coercion and simple offences against physical integrity characterized as domestic violence and types of offences categorised as domestic violence	1
Article 154 of the PC	Mistreatment of a spouse	3
Articles 154 and 157 of the Penal Code	Mistreatment of a spouse and threats	1
Article 316 of the PC	Smuggling	11
Article 259 of the PC	Aggravated property damage	1

Article 260 of the PC	Property damage with use of violence	1
Article 140 of the PC	Manslaughter	1
Article 145 of the PC	Simple offences against physical integrity	2
Article 151 of the PC	Reciprocal offences against physical integrity	5
Article 157 of the PC	Threats	1
Article 207 of the PC	Driving without a licence	2
Total		38

2. Total number of decisions monitored by JSMP: 15

Type of decision	Total Number
Suspension of execution of a prison sentence (Article 68 of the PC)	4
Fine (Article 67 of the PC)	2
Exemption from punishment (Article 318 of the PC)	2
Acquitted	1
Validating withdrawal of complaint	6
Total	15

3. Total number of cases adjourned based on JSMP monitoring: 15

Reason for adjournment	Total Number
Defendant and victim not present	14
Victim went to Dili and could not be notified	1
Total	15

4. Total ongoing cases based on JSMP monitoring: 8

B. Short description of proceedings in these cases:

1. Crime of simple offences against physical integrity

Case Number : 0002/19.OEPMK
Composition of the Court : Single Judge
Judge : Hugo da Cruz Pui
Prosecutor : Mateus Nesi
Defence : Marcelino Marques Coro
Decision : Validating withdrawal of complaint

On 5 June 2020 the Oecusse District Court attempted conciliation in a case of simple offences against physical integrity involving the defendant Francisco da Cunha who allegedly committed the offence against the victim Hermenegildo da Cunha, his brother, in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 3 March 2019, at 6am, the defendant took a piece of wood and struck the victim three times on the back, which caused swelling, redness and pain. Previously, the victim's pig destroyed the defendant's corn in his plantation. Therefore, they argued and the defendant committed the assault against the victim. A medical report from the Oecusse Referral Hospital and photos from the police were included in the case file.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a minimum penalty of 30 days in prison and a maximum of 3 years in prison or a fine.

Presentation of evidence

Based on Article 262 of the Criminal Procedure Code on attempted conciliation in cases involving semi-public crimes, before commencing the examination of evidence, the court may seek to reach conciliation between the defendant and victim.

However, during the attempted conciliation the victim stated that he wanted to withdraw the complaint against the defendant with some conditions. The defendant agreed to this request and wanted to reconcile with the victim, who is his brother. The defendant also promised not to commit any further crimes against the victim.

Final recommendations

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

Decision

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

2. Crime of reciprocal offences against physical integrity

Case Number : 0023/19.OEPMK
Composition of the Court : Single Judge
Judge : Hugo da Cruz Pui
Prosecutor : Matias Soares
Defence : Calisto Tout
Decision : Validating withdrawal of complaint

On 9 June 2020 the Oecusse District Court attempted conciliation in a case of reciprocal offences against physical integrity involving the defendants MPC no VdF who were involved in a romantic relationship, which occurred in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 22 June 2019, at 4:30pm, the defendant MPC punched the victim VdF once in the forehead, pulled her hair and stomped on her right side. These acts caused VdF to suffer pain to the parts of her body where she was assaulted. The prosecutor also charged VdF as a defendant because when she was struck by the defendant MPC, VdF took a razor blade and sliced the defendant MPC once in the chest which caused an injury and bleeding. Before the incident, MPC suspected VdF of having a romantic relationship with another man. A medical report from the Oecusse Referral Hospital and photos from the police were included in the case file.

The public prosecutor alleged that the defendant MPC and the defendant VdF violated Article 151 of the Penal Code on reciprocal offences against physical integrity that carries a maximum penalty of two years in prison or a fine because the two of them damaged each other's physical health.

Presentation of evidence

Based on Article 262 of the Criminal Procedure Code on attempted conciliation in cases involving semi-public crimes, before commencing the examination of evidence, the judge may seek to reach conciliation between the defendant and victim.

During this attempted conciliation, MPC and VdF stated that they wanted to withdraw their complaint because they reconciled.

Final recommendations

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

Decision

Based on the request to withdraw the case and the amicable agreement between MPC no VdF, the court decided to validate the settlement.

3. Crime of riding a motorcycle without a license

Case Number : 0008/19.OESTR
Composition of the Court : Single Judge
Judge : Hugo da Cruz Pui
Prosecutor : Mateus Nesi
Defence : Marcelino Marques Coro
Decision : Fine of US\$30.00

On 9 June 2020 the Oecusse District Court announced its decision in a case of riding a motorcycle without a license involving the defendant Fernando Ase Timo who allegedly committed the crime against the State of Timor-Leste in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 29 May 2019, at 12.00 noon, the defendant was riding a Honda Supra X 125 motorcycle, without a number plate on the Manipena public road and the defendant collided with a minibus from behind. When the police conducted a check, they found that the defendant did not have a motorcycle licence or documents for the motorcycle.

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

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, and the defendant also stated that he regretted his actions. The defendant also stated that he was a first time offender, works at a motorcycle repair shop in Masin, has a monthly income of US\$150.00, and the defendant is still young. The defendant added that he since obtained a motorcycle licence from the Directorate of Land Transport.

Because the defendant confessed all of the facts set out in the indictment, the public prosecutor requested for the court not to hear witness testimony. The public defender agreed with this request. Therefore, the court decided not to hear witness testimony.

Final recommendations

The public prosecutor stated that cases of people riding a motorcycle without a licence continue to occur and this can endanger the lives of others. As happened in this case, the defendant did not know how to ride a motorcycle, but he was riding on a public road. For this reason, the

prosecutor requested for the court to convict the defendant pursuant to Article 207 of the Penal Code.

The public defender stated that the defendant confessed all of the facts set out in the indictment, regretted his actions, is still young and was a first time offender. Therefore, the defence requested for the court to impose a lenient penalty against the defendant.

Decision

After evaluating all of the facts, the court found that the defendant was riding a Honda Supra X 125 motorcycle without a number plate, did not have a driving licence and did not have any documents for the motorcycle and collided with a minibus from behind. 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\$ 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. Crime of simple offences against physical integrity characterized as domestic violence

Case Number	: 0029/19.OESIC
Composition of the Court	: Single Judge
Judge	: Hugo da Cruz Pui
Prosecutor	: Matias Soares
Defence	: Marcelino Marques Coro
Decision	: Prison sentence of 1 year, suspended for 1 year and 6 months

On 10 June 2020 the Oecusse District Court announced its sentence in a case of simple offences against physical integrity characterized as domestic violence involving the defendant CTS who allegedly committed the offence against his wife ENC, in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 22 February 2019, at 8am, the defendant ripped the victim's jumper from her body and dragged the victim from the public road inside the house. In addition, the defendant punched the victim once on her back and took a machete to slash the victim's pants but the victim resisted with her hand and the machete connected with the victim's left thumb which caused a small injury and bleeding. Previously, at 12:00 midday, the victim went to her brother's house in Palaban and returned home at 8pm. A medical report from the Oecusse Referral Hospital and photos from the police were included in the case file.

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 for the joinder of crimes as well as Article 35 of the PC and 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, the defendant also stated that he regretted his actions. The defendant also promised not to repeat his behaviour in the future. The defendant added that they have reconciled, he was a first time offender, he is a farmer with a monthly income of US\$40.00 and has eight children.

The court decided not to hear the statement of the victim because during the presentation of evidence the defendant confessed all the facts in the indictment.

Final recommendations

The public prosecutor stated that the defendant had been proven guilty of physically assaulting the victim based on the confession of the defendant. The public prosecutor also stated that the defendant tried to slash the victim's pants which caused the victim to suffer a small injury to her thumb, and the defendant might again use a machete to harm the victim in the future. For this reason the prosecutor requested for the court to impose a prison sentence of 1 year and 6 months, suspended for 2 years.

The public defender requested for the court to impose a fair penalty against the defendant because the defendant confessed all of the facts in the indictment, regretted his actions and has reconciled with the victim. The defendant regretted his actions and promised not to commit any further crimes against a family member or other person in the future.

Decision

After considering the facts, the court found that the defendant ripped the victim's jumper from her body and dragged the victim from the public road inside the house and struck the victim once on the back. The court also found that the defendant used a machete to slash the victim's pants but struck the victim's thumb because she resisted with her hand.

Based on this evidence and also considering the mitigating circumstances, namely that the defendant confessed, regretted his actions, has reconciled with the victim, was a first time offender, with a monthly income of US\$40.00 and he promised not to repeat his actions in the future, therefore the court concluded this matter and imposed a prison sentence of one year suspended for one year and six months and ordered him to pay court costs of US\$20.00.

5. Crime of reciprocal offences against physical integrity

Case Number : 0092/19.OESIC

Composition of the Court : Single Judge

Judge : Hugo da Cruz Pui
Prosecutor : Mateus Nesi
Defence : Marcelino Marques Coro
Decision : Validating withdrawal of complaint

On 10 June 2020 the Oecusse District Court attempted conciliation in a case of reciprocal offences against physical integrity involving the defendant IA (wife) and JC (husband) in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 29 June 2019, at 4pm, the defendant IA took a piece of wood and struck the victim JC twice on his right leg, once on his right arm and bit the victim once on the inside of his left hand (palm) which caused pain. The public prosecutor also charged JC as a defendant because after IA hit him, JC responded by striking IA three times in the forehead and kicking her twice on her left thigh which caused her to lose consciousness and suffer pain. A medical report from the Oecusse Referral Hospital and photos from the police were included in the case file.

The public prosecutor alleged that the defendant JC and the defendant IA violated Article 151 of the Penal Code on reciprocal offences against physical integrity that carries a maximum penalty of two years in prison or a fine because the two of them damaged each other's physical health.

Presentation of evidence

Based on Article 262 of the Criminal Procedure Code on attempted conciliation in cases involving semi-public crimes, before commencing the examination of evidence, the judge may seek to reach conciliation between the two parties.

During this attempted conciliation, the two of them wanted to withdraw their complaint against each other because they reconciled.

Final recommendations

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

Decision

Based on the request to withdraw the case and the amicable agreement between IA and JC, the court decided to validate the settlement.

6. Crime of riding a motorcycle without a license

Case Number : 0013/19.OESTR
Composition of the Court : Single Judge

Judge : Hugo da Cruz Pui
Prosecutor : Matias Soares
Defence : Calisto Tout
Decision : Fine of US\$60.00

On 12 June 2020 the Oecusse District Court announced its decision for the crime of riding a motorcycle without a license involving the defendant Guido Eco who allegedly committed the crime against the State of Timor-Leste in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 26 July 2019, at 2:50pm, the defendant was riding a *mio* motorcycle on a public road from Numbey towards Oesono on the wrong side of the road. Therefore, the traffic police stopped the defendant to conduct a check and found out that he did not have a motorcycle licence and no documents for the motorcycle.

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

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, the defendant also stated that he regretted his actions. The defendant also said he was a first time offender, works by supplying rocks and has a monthly income of US\$100 and has four children. The defendant added that previously he didn't have a motorcycle licence but now he has one.

The public prosecutor requested for the court to disregard the statement of the witness that was given previously to the Public Prosecution Service.

Final recommendations

The public prosecutor stated that the crime of driving without a licence is prevalent and in this case the defendant posed a risk to others because he was riding a motorcycle on a public road without a driving licence. Therefore, the prosecutor requested for the court to impose a fine of US\$0.50 per day for 90 days pursuant to Article 207 of the Penal Code.

The public defender stated that before the court the defendant confessed all of the facts, regretted his actions and was a first time offender. Also, the defendant supplies rocks and has a monthly income of US\$100.00 but sometimes he doesn't make any money and he has four children. Now the defendant has a motorcycle licence, so the public defender requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating all of the facts, the court found that the defendant was riding a motorcycle on a public road, but on the wrong side of the road, and did not have a driving licence and also did not have any motorcycle documents, so the court concluded the matter and ordered the defendant to pay a fine of US\$60.00 in daily instalments of US\$0.50 for 120 days. The court also ordered the defendant to pay court costs of US\$20.00. If the defendant does not pay this fine, the defendant will serve 80 days in prison as an alternative punishment.

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

Case Number	: 0021/19.OEPMK
Composition of the Court	: Single Judge
Judge	: Hugo da Cruz Pui
Prosecutor	: Mateus Nesi
Defence	: Calisto Tout
Decision	: Prison sentence of 1 year, suspended for 1 year and 6 months

On 15 June 2020 the Oecusse District Court announced its sentence in a case of simple offences against physical integrity characterized as domestic violence involving the defendant ME who allegedly committed the offence against his wife in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 9 March 2019, at 7:00 pm, the defendant pulled the victim's hair and threw her on the ground and the victim suffered a small injury and bleeding to her head. Previously, the victim asked the defendant for some money to buy some rice because the defendant kept his salary but the defendant did not give her any money to buy some rice, so they argued and the assault took place. A medical report from PRADET and photographs from Police-VPU were also attached to this case file.

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 confessed to all of the facts in the indictment of the public prosecutor and stated that assaulting a person could harm their physical health and could cause pain and injury. Even so, the defendant regretted his actions and promised not to commit such acts against the victim in the future. The defendant also stated that they have reconciled, he was a first time offender, he has seven children and works as a security guard with a monthly income of US\$225.

The public prosecutor requested for the court not to hear the statement of the victim because during the presentation of evidence the defendant confessed all the facts in the indictment.

Final recommendations

The public prosecutor stated that the defendant was guilty of physically assaulting the victim who he was supposed to protect. Also, the defendant committed this crime freely, intentionally and took advantage of the circumstances to assault the victim, who was powerless as a woman. Therefore, the prosecutor requested for the court to convict the defendant in accordance with the provisions of Article 145 of the Penal Code.

The public defender stated that that the defendant completely confessed the facts set out in the indictment, regretted his actions, has reconciled with the victim, collaborated with the court, promised not to reoffend against a family member or other person in the future. Based on these considerations, the public defender requested for the court to impose a fair penalty.

Decision

After evaluating all of the facts, the court found that the defendant pulled the victim's hair and threw the victim on the ground. Based on all of the evidence and consideration of the aggravating and mitigating circumstances, the court concluded this matter and sentenced the defendant to 1 year in prison, suspended for 1 year and 6 months, and ordered the defendant to pay court costs of US \$60.

8. Crime of reciprocal offences against physical integrity

Case Number	: 0047/19.OESIC
Composition of the Court	: Single Judge
Judge	: Hugo da Cruz Pui
Prosecutor	: Matias Soares
Defence	: Marcelino Marques Coro
Decision	: Validating withdrawal of complaint

On 16 June 2020 the Oecusse District Court attempted conciliation in a case of reciprocal offences against physical integrity involving the defendant JP (wife) and ACA (husband) in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 4 March 2019, at 8pm, the defendant JP struck the victim ACA once above his left eye with a pen which caused an injury and bleeding. The public prosecutor also charged the victim ACA because he struck JP once in the face and kicked the victim once in the face which caused swelling. After this incident ACA received treatment at the Oecusse Referral Hospital.

The public prosecutor alleged that the defendant JP and the defendant ACA violated Article 151 of the Penal Code on reciprocal offences against physical integrity that carries a maximum penalty of two years in prison or a fine because the two of them damaged each other's physical health.

Presentation of evidence

Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the court may seek to reach conciliation between JP and ACA.

During this attempted conciliation, JP and ACA reached an amicable agreement and wanted to withdraw their complaint. Also, the defendants expressed regret for their actions and promised not to repeat such acts in the future.

Final recommendations

The prosecution and defence had no other option but to accept the amicable agreement between JP no ACA and requested for the court to settle this process.

Decision

Based on the request of JP and ACA to withdraw the complaint and their amicable agreement, the court decided to validate the settlement.

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

Case Number	: 0051/19.OESIC
Composition of the Court	: Single Judge
Judge	: Hugo da Cruz Pui
Prosecutor	: Matias Soares
Defence	: Filipe Landos (private lawyer)
Decision	: 1 year in prison, suspended for 1 year

On 17 June 2020 the Oecusse District Court announced its sentence in a case of simple offences against physical integrity characterized as domestic violence involving the defendant JSB who allegedly committed the offence against his wife in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 2 April 2019, at 10pm, the defendant slapped the victim twice on her left cheek, punched the victim twice on the back of the neck and threw the victim on the ground which caused swelling and the victim lost consciousness. Previously, the victim told the defendant to buy some nappies, but the defendant became angry and assaulted the victim. A

medical report from PRADET and photographs from Police-VPU were also attached to this case file.

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 to the facts and stated that he slapped the victim once on the left cheek and punched the victim once above the right eye. The defendant also denied that he slapped the victim twice on her left cheek, punched her twice on the back of the neck and threw the victim on the ground. The defendant also stated that he regretted his actions, reconciled with the victim and was a first time offender. In addition, the defendant added that he is a voluntary teacher at STM with a monthly income of US\$75.00 and has two children.

Meanwhile, the victim confirmed all of the statements of the defendant and said they started living together in 2017 and nobody saw the assault because only the two of them were at home.

Final recommendations

The court found the defendant guilty of committing the crime against the victim based on the facts set out in the indictment. Even though the defendant has reconciled with the victim, in reality crimes of domestic violence are prevalent in the Oecusse region, therefore the prosecutor requested for the court to impose a penalty of 2 years in prison against the defendant, suspended for two years and six months.

The public defender requested for the court to impose a fair penalty against the defendant because the defendant partially confessed his actions, and the victim provided confirmation. In addition, the defendant regretted his actions, collaborated with the court, has reconciled with the victim, and was a first time offender. The defendant is a voluntary teacher at STM with a monthly income of US\$75.00 and the defendant is responsible for his wife and two children.

Decision

After evaluating all of the facts, the court found that the defendant slapped the victim twice on her left cheek and punched her twice on the back of the neck and threw the victim on the ground. Based on all of the evidence and consideration of the aggravating and mitigating circumstances, the court concluded this matter and sentenced the defendant to 1 year in prison, suspended for 1 year, and ordered the defendant to pay court costs of US \$40.

10. Crime of reciprocal offences against physical integrity

Case Number : 0016/19.OEPMK

Composition of the Court : Single Judge
Judge : Hugo da Cruz Pui
Prosecutor : Matias Soares
Defence : Marcelino Marques Coro
Decision : Validating withdrawal of complaint

On 17 June 2020 the Oecusse District Court attempted conciliation in a case of reciprocal offences against physical integrity involving the defendant RCB (wife) and AL (husband) in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 28 May 2019, at 11:00pm, the defendant RCB kicked the victim once on his left thigh, punched the victim twice on his back, bit him twice in the back and bit him once on the chest. These acts caused small injuries to his back and chest. The public prosecutor also charged the victim AL because after he was assaulted by RCB, AL punched the victim once on her left cheek and kicked the victim once on her left thigh which caused pain. Before the incident, AL suspected RCB of having a romantic relationship with another man. Therefore they argued and the assault occurred. After this incident AL received treatment at the Oecusse Referral Hospital.

The public prosecutor alleged that the two defendants violated Article 151 of the Penal Code on reciprocal offences against physical integrity that carries a maximum penalty of two years in prison or a fine because the two of them damaged each other's physical health.

Presentation of evidence

Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the court may seek to reach conciliation between RCB and AL.

During this attempted conciliation, RCB and AL reached an amicable agreement and requested to the court to withdraw their complaint. Also, the defendant expressed regret for his actions and promised not to repeat such acts in the future.

Final recommendations

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

Decision

Based on the request of RCB and AL to withdraw the complaint and their amicable agreement, the court decided to validate the settlement.

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

Case Number	: 0064/19.OESIC
Composition of the Court	: Single Judge
Judge	: Hugo da Cruz Pui
Prosecutor	: Mateus Nesi
Defence	: Calisto Tout
Decision	: 1 year and 6 months in prison, suspended for 2 years

On 17 June 2020 the Oecusse District Court announced its sentence in a case of simple offences against physical integrity characterized as domestic violence involving the defendant VQ who allegedly committed the offence against his wife in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 8 May 2019, at 7:00pm, the defendant punched the victim once in the mouth which caused an injury, bleeding and swelling. Previously, the victim returned from her parents at night-time. Therefore they argued and the defendant committed the assault against the victim. A medical report from PRADET and photographs from Police-VPU were also attached to this case file.

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 to the facts set out in the indictment and said that the defendant did not hit the victim in the mouth but slapped her in the mouth. The defendant also stated that he knew that hitting a person could damage their physical health and that person could suffer pain or injury, but he still did it. Even so, the defendant regretted his actions and promised not to commit such acts against the victim in the future and has reconciled with the victim. The defendant also said he was a first time offender, works as a farmer and has a monthly income of US\$50 and has five children.

Meanwhile, the victim confirmed the defendant's statement that the defendant slapped the victim once in the mouth but did not punch her. The victim added that they have reconciled, and nobody saw the defendant committing the assault.

The public prosecutor requested for the court not to hear testimony from the witness (neighbor) because when the defendant slapped victim there were no witnesses and the defence also agreed with this request. Therefore, the court decided not to hear witness testimony.

Final recommendations

The public prosecutor stated that the defendant was guilty of physically assaulting the victim which could damage her physical and psychological health. The defendant assaulted a woman, who was powerless to resist the defendant. Also, domestic violence is prevalent in Oecusse in comparison with other municipalities therefore to generally deter such crimes, the public prosecutor requested for the court to convict the defendant pursuant to Article 145 of the Penal Code.

The defence requested for the court to impose a fair penalty against the defendant with consideration that during the examination of evidence the defendant collaborated with the court and confessed to all of the facts in the indictment. The defendant also regretted his actions, has five children and has reconciled with the victim and the defendant is a farmer with no fixed income every month.

Decision

The court found that the defendant slapped the victim once in the mouth. The court also found that the defendant acted with intent because the defendant committed the assault against the victim. Based on the facts that were proven, and after considering all of the circumstances surrounding this crime, the court sentenced the defendant to 1 year and 6 months in prison, suspended for 2 years, and ordered the defendant to pay court costs of US\$ 40.

12. Crime of making threats

Case Number	: 0003/19.OESIC
Composition of the Court	: Single Judge
Judge	: Hugo da Cruz Pui
Prosecutor	: Matias Soares
Defence	: Marcelino Marques Coro
Decision	: Validating withdrawal of complaint

On 18 June 2020 the Oecusse District Court attempted conciliation in a case of making threats involving the defendant Jose Manka Teme and the victim Raimundo Suni, his cousin, which occurred in Lifau Village, Pante-makasar Sub-District, Oecusse District.

Charges of the Prosecutor

The prosecutor alleged that on 30 January 2019, at 3pm, the defendant grabbed a machete and went looking for the victim at his plantation and pointed his machete at the victim and told the victim *“I will find a time to slash you to death”*. The defendant’s actions caused the victim to suffer trauma and fear, and he made a complaint to the police. Previously, the victim said that the defendant’s father was a sorcerer.

The public prosecutor alleged that the defendant violated Article 157 of the Penal Code on making threats that carries a maximum penalty of 2 years in prison or a fine.

Presentation of evidence

Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the court tried to reach conciliation between the defendant and victim.

During this attempted conciliation the victim agreed to withdraw the complaint and the defendant agreed. The defendant also stated that he regretted his actions and promised not to repeat such acts in the future, and therefore the victim requested for the court to withdraw his complaint against the defendant.

Final recommendations

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

Decision

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

13. Crime of property damage and simple offences against physical integrity

Case Number	: 0059/18.OESIC
Composition of the Court	: Panel
Judges	: Hugo da Cruz Pui, Evangelino Belo and Yudi Pamukas
Prosecutor	: Matias Soares
Defence	: Marcelino Marques Coro
Decision	: Withdrawal of complaint

On 25 June 2020 the Oecusse District Court announced its decision in a case of property damage and simple offences against physical integrity involving the defendant Rezedio Antonio Mesquita Alves and the victim Muhamad Tahir (Indonesian Citizen), the victim Luiza Nufa Quefi and the victim Luis Fernandes, in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 18 April 2018, at 11:15pm, the defendant kicked and damaged the door of a restaurant and entered and slapped the victim Muhamad once on the left cheek which scared the victim. Then the defendant tried to slap the victim Luiza but missed because the victim put her hand up. The defendant tried to choke the victim but couldn't because the victim moved away. Previously, the defendant was intoxicated and wanted to eat some iced

sweet dessert (*es-cendol*) even though the restaurant was closed. A medical report from the Oecusse Referral Hospital and photos from the police were included in the case file.

The public prosecutor alleged that the defendant violated Article 260 of the Penal Code on property damage with use of violence that carries a maximum penalty of 4-12 years in prison.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment and said his behaviour was not good and he regretted his actions. The defendant stated that after this incident, the defendant repaired the door that was damaged, reconciled with the victims and an amicable agreement was made in writing. Before this crime was committed, the defendant stated that he committed a crime against his wife and was fined US\$40.00. The defendant is a public servant with a monthly income of US\$510.00 and the defendant has five children. The defendant promised not to reoffend against the victims or other persons in the future.

Meanwhile the victim Muhamad Tahir, who is not related to the defendant and works as a waiter in the restaurant, said that the defendant was intoxicated and shouted out that he wanted to eat some iced sweet dessert (*es-cendol*). The victim also stated that the defendant kicked and damaged the door to the restaurant and then went inside and slapped the victim once on his left cheek. However, the victim stated that he forgave the defendant and they reconciled.

The victim Luiza Nufa Quefi, who is not related to the defendant and works as a waiter in the restaurant, stated that the defendant tried to slap the victim but missed because the victim put her hand up and the defendant tried to choke the victim but could not because the victim moved away. The victim also stated that she forgave the defendant and they reconciled.

After hearing from the parties, the court understood that Luis Fernades was a victim of the crime of property damage because the victim was the owner of the restaurant. The prosecution and defence had no choice but to accept the decision of the court.

During the trial the victim Luis Fernandes also stated that he is not related to the defendant and is the owner of the restaurant. The victim added that when the incident occurred he was not there, but he confirmed that the door was damaged, and the defendant repaired it for US\$15.00. The victim also confirmed that the defendant and the victims made an amicable agreement in writing.

The public prosecutor requested for the panel of judges not to hear witness testimony. The defence and the prosecution agreed with this request. Therefore, the court did not hear witness testimony in this case.

Final recommendations

The prosecutor stated that the defendant was guilty of committing the crime of property damage with use of violence based on the facts set out in the indictment, and what is worse the restaurant was closed but the defendant used force to kick and damage the door and went in and assaulted the victims. The prosecutor said that the defendant is a public servant and knew that such behaviour is not right, but the defendant did it anyway. Therefore, the public prosecutor requested for the panel of judges to use its discretion to convict the defendant.

The public defender stated that during the examination of evidence the defendant confessed all of the facts set out in the indictment, regretted his actions and promised that in the future he would not commit such crimes. The defence reinforced that prior to the trial the defendant went looking for the victims and they managed to reconcile. The defendant also collaborated with the court, has five children and works as a public servant with a monthly income of US\$510. Therefore, the defence requested for the court to provide justice for the defendant's wrongdoing.

After hearing the final recommendations, the court made slight modifications to the alleged facts pursuant to Article 273 of the Criminal Procedure Code. Also, pursuant to Article 274 of the Criminal Procedure Code the court amended the charges from the crime of property damage with the use of violence to the crime of property damage as set out in Article 258 of the Penal Code which carries a sentence of 3 years or fine and the crime of simple offences against physical integrity (Article 145 of the Penal Code) which carries a sentence of 3 years or a fine, because the court understood that the property damage and offence did not threaten the victims' lives. The prosecution and defence agreed with this modification and no time was needed to contest this modification.

Decision

The court found that the defendant was intoxicated and kicked the door to the restaurant and damaged it and slapped the victim Muhamad once on the left cheek. Even though the defendant knew that the restaurant closed at 8:00-9:00pm the defendant came at 11pm and there was no food. Based on this evidence and the amicable agreement of the parties, the court concluded the matter and endorsed the amicable agreement.

14. Crime of smuggling

Case Number	: 0028/18.OESIC
Composition of the Court	: Panel
Judges	: Hugo da Cruz Pui, Yudi Pamunkas, Evangelino Belo
Prosecutor	: Mateus Nesi
Defence	: Marcelino Marques Coro
Decision	: Exemption of punishment

On 26 July 2020 the Oecusse District Court conducted a hearing to announce its decision in a case of smuggling involving the defendant Elizabeth Cono and the defendant Simão Pedro Elu who allegedly committed the offence against the State of Timor-Leste, in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 17 February 2018, at 02:00 am, the defendants illegally imported goods from Indonesia into the territory of Timor-Leste and did not go through Customs to pay tax to the State of Timor-Leste. The defendants were arrested by the Timor-Leste National Police Border Patrol Unit (UPF). The defendant Elizabeth imported 1225 litres of petrol, 510 litres of diesel and 175 litres of kerosene and the defendant Simão imported 1030 litres of petrol, 510 litres of diesel and 175 litres of kerosene. The defendants committed this crime and avoided paying tax to the Customs Directorate which disadvantaged the State.

The public prosecutor alleged that the defendants violated Article 316 of the Penal Code on smuggling that carries a maximum penalty of 2 - 6 years in prison or a fine.

Examination of evidence

During the trial the defendants completely confessed all of the facts set out in the indictment of the prosecutor, and the defendants also stated that they regretted their actions. The defendants also promised not to repeat their behaviour in the future. The defendants added that after this incident they paid tax to the State via the bank account of the Public Prosecution Service. The defendant Elisabeth stated that she has two children and works as a trader with a monthly income of US\$150.00 and was a first time offender. The defendant Simão stated that he is still young, works as the driver of a minibus public transport with a monthly income of US\$100.00.

The court decided not to hear from witnesses who were members of the Border Patrol Unit (UPF) because the defendants totally confessed to all of the facts in the indictment.

Final recommendations

The public prosecutor stated that the defendants were guilty of committing the crime of smuggling in accordance with the charges. The public prosecutor stated that their behaviour meant the State of Timor-Leste might not receive any domestic revenue because the defendants avoided paying tax to the State. For this reason the prosecutor requested for the court to convict the female defendant pursuant to Article 316 of the Penal Code.

The public defender requested for the court to apply a lenient sentence against the defendants because they completely confessed the facts set out in the indictment and regretted their actions. In addition, the defendants also collaborated with the court and compensated the State for its loss because before the trial the defendants used their own initiative to pay tax to the State via the bank account of the Public Prosecution Service.

Decision

The court found the defendants guilty of illegally importing petrol, diesel and kerosene in accordance with the allegations and did not pay tax to the State. Based on the facts that were proven and consideration of all of the circumstances associated with this crime, the court concluded this matter and decided to apply an exemption of punishment pursuant to Article 318 of the Penal Code because before the trial the defendants voluntarily paid tax to the State via the bank account of the Public Prosecution Service.

15. Crime of smuggling

Case Number : 0036/18.OESIC
Composition of the Court : Panel
Judges : Hugo da Cruz Pui, Evangelino Belo, Yudi Pamukas
Prosecutor : Mateus Nesi
Defence : Marcelino Marques Coro
Decision : Exemption of punishment

On 30 June 2020 the Oecusse District Court announced its decision in a case of smuggling involving the defendant Beneditha Ola who allegedly committed the crime against the State of Timor-Leste, in Bobometo Village, Oesilo Sub-District, Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 9 March 2018, at 8.00pm, at the Oesilo-Poto border in the Special Administrative Region of Oecusse-Ambeno, the defendant illegally imported 50 kilograms of urea fertilizer in three sacks without paying tax to the State via the Customs Directorate. The actions of the defendant disadvantaged the State of Timor-Leste due to a loss of internal revenue. The defendant was arrested by the Timor-Leste National Police Border Patrol Unit (UPF).

The public prosecutor alleged that the defendant violated Article 316 of the Penal Code on smuggling that carries a maximum penalty of 2 - 6 years in prison or a fine.

Examination of evidence

During the trial the defendant completely confessed all of the facts set out in the indictment and the defendant also stated that she regretted her actions. The defendant also promised not to repeat such acts in the future, was a first time offender, is employed as a weaver of *tais* (traditional cloth), with a monthly income of US\$60.00 and has seven children. The defendant stated that she paid tax to the State via the Customs directorate.

The court decided not to hear from witnesses who were members of the Border Patrol Unit (UPF) because the defendant totally confessed to all of the facts in the indictment.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime of smuggling in accordance with the charges. For this reason, the prosecutor requested for the court to convict the defendant pursuant to Article 316 of the Penal Code.

The public defender requested for the court to apply a lenient sentence against the defendant because during the examination of evidence she completely confessed the facts set out in the indictment and regretted her actions. In addition, the defendant also collaborated with the court, has seven children and a very small monthly income.

Decision

After evaluating the facts, the court found that the defendant illegally imported 50 kilograms of urea fertilizer in three sacks without paying tax to the State. Based on the facts that were proven and consideration of the circumstances, namely that the defendant was a first time offender, is employed as a weaver of *tais* (traditional cloth), has seven children, and before the trial the defendant voluntarily paid tax to the State via the Customs Directorate, therefore, the court concluded this matter and decided to apply exemption of punishment pursuant to Article 318 of the Penal Code because before the trial the defendant voluntarily paid tax to the Customs Directorate.

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