



**Case Summary**  
**Oecusse District Court**  
**August 2021**

**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: 3**

Articles	Case Type	Total Number
Article 145 of the Penal Code (PC) as well as Articles 2, 3, 35(b) and 36 of the Law Against Domestic Violence	Simple offences against physical integrity characterized as domestic violence and types of offences categorised as domestic violence.	1
Article 145 of the Penal Code (PC) as well as Articles 2, 3, 35(b) and 36 of the Law Against Domestic Violence	Simple offences against physical integrity characterized as domestic violence and types of offences categorised as domestic violence and simple offences against physical integrity	1
Articles 177 and of the Penal Code	Sexual abuse of a minor and child pornography	1
<b>Total</b>		<b>3</b>

**2. Total number of decisions monitored by JSMP: 2**

Type of decision	Articles	Total Number
Fine	Article 67 of the PC	1
Admonishment and validating withdrawal of complaint	Article 82 of the PC	1
<b>Total</b>		<b>2</b>

**3. Total ongoing cases based on JSMP monitoring: 0**

**4. Total ongoing cases based on JSMP monitoring: 1**

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

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

Case Number : 0030/20.OEBCN  
Composition of the Court : Single Judge  
Judge : Hugo da Cruz Pui  
Prosecutor : Mateus Nesi  
Defence : Calisto Tout  
Decision : Fine of US\$ 45.00

On 5 August 2021 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant VTTT who allegedly committed the offence against her husband in Oecusse District.

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

The public prosecutor alleged that on 8 August 2020, at approximately 8pm, the defendant took a piece of wood and struck the victim five times on the left side of his head, struck him once on his backside and then slapped the victim on the left side of his head and then punched the victim in the chest. The assault committed by the defendant caused the victim to suffer pain to his head, cheek, backside and chest. Prior to this assault the defendant and the victim had an argument because the defendant was going to hit their child, but the victim spoke up. Then the assault occurred. A medical report from the Baocnana Medical Centre and photographs of the injuries from this violence from the 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.

#### **Examination of evidence**

During the trial the defendant confessed all of the facts in the indictment and knew that using a piece of wood and slapping and punching is not right and could cause pain. The defendant also stated that she regretted her actions and promised not to repeat her actions against the victim or other person in the future. She was a first time offender and has no fixed monthly income and has two children, and after this incident the defendant has not committed any further crimes against the victim, and the defendant and the victim have reconciled.

In addition, the victim confirmed all of the facts set out in the indictment and stated that after this incident, the defendant has not repeated her actions. In addition, the victim said that he has reconciled with the defendant.

### **Final recommendations**

The prosecutor stated that the defendant's actions were proven in accordance with the facts set out in the indictment, because the defendant confessed, and confirmation was provided by the victim. The prosecutor also stated that if the victim obstructed her in any way, then she should have modified her behaviour and discussed the matter, but rather she physically assaulted the victim for obstructing her. The prosecutor also stated that there are many cases of domestic violence in Oecusse in comparison with other municipalities, therefore the prosecutor requested for the court to impose a sentence as provided for in Article 145 of the Penal Code.

The public defender said that during the examination of evidence the defendant collaborated with the court and confessed to all of the facts in the indictment, regretted her actions, reconciled with the victim, and the defendant has two children, and she promised to the court not to repeat her actions against the victim or other person in the future, and she was a first time offender and has no fixed income and after the incident the defendant has not committed any further crimes against the victim and they have reconciled. Therefore, the defence requested for the court to impose a fair penalty against the defendant.

### **Decision**

After evaluating all of the facts, the court found that the defendant took a piece of wood and struck the victim five times on the left side of his head, struck him once on his backside and then slapped the victim on the left side of his head and then punched the victim in the chest. The assault committed by the defendant caused the victim to suffer pain to his head, cheek, backside and chest.

Consideration was given to the facts that were proven and also the mitigating circumstances, namely that the defendant confessed, regretted her actions, has reconciled with the victim, was a first time offender and promised not to reoffend in the future. Therefore, the court concluded this matter and 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.

## **2. Crime of simple offences against physical integrity characterized as domestic violence, as well as the crime of simple offences against physical integrity**

Case Number	: 0010/20.OEPSB
Composition of the Court	: Single Judge
Judge	: Hugo da Cruz Pui
Prosecutor	: Mateus Nesi
Defence	: Calisto Tout
Decision	: Admonishment and validating withdrawal of complaint

On 6 August 2021 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence and simple offences against physical integrity involving the defendant AP who allegedly committed the offence against her husband LMF and her father in law JM in Oecusse District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 7 October 2020, at approximately 10am, the defendant slapped the victim JM once above the left eye and then kicked the victim LMF in the chest. Prior to this assault the defendant argued with the victims because the defendant was going to take back a drum belonging to her that the victim JM was using to give water to buffaloes, however the victim JM did not give her the drum, so the assault occurred. A medical report from the Pasabe Medical Centre and photographs showing the results of this violence from the 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 for the offences committed against her husband, as well as Article 145 of the Penal Code on simple offences against physical integrity that carries a penalty of three years or a fine for the offences committed against her father in law.

Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge tried to reach conciliation between the defendant and the victim JM who is her father in law. During this attempted conciliation, the victim wanted to reconcile with the defendant unconditionally as long as the defendant does not repeat such acts against the victim in the future because the victim is very old.

The defendant agreed with the victim's request and expressed regret for her actions and promised not to repeat such acts in the future, so the victim requested for the court to withdraw his complaint against the defendant.

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

Based on the amicable agreement between the two parties and the request to withdraw the complaint from the victim, the court concluded this matter and endorsed the request to withdraw the complaint regarding the defendant's assault against her father in law and the trial continued regarding the trial of the case of simple offences against physical integrity committed against her husband.

### **Examination of evidence**

During the trial, the defendant stated that she committed the acts against the victims, because at the time of the incident the two victims grabbed the defendant, so she freed herself from the two victims and then the defendant committed the acts against the victims. The defendant also stated that she has not yet reconciled with the victim because since the incident they have been living separately. The defendant said that she was a first time offender and promised not to repeat such acts against the victim or other person in the future. The defendant works as a farmer and has no fixed monthly income.

The victim confirmed all of the facts in the indictment and also declared that since the incident the defendant and the victim have not yet reconciled, because the defendant has been living with her parents and the victim has been living with their children.

The witness HU who is the mother of LMF testified that the defendant grabbed the edge of her sarong and the edge of her sarong become tangled up with a piece of wood and the victims ran over to grab the arms of the defendant to get her to let of the sarong that she was holding on to.

### **Final recommendations**

The public prosecutor stated that the defendant's behaviour fulfilled the elements of the crime of simple offences against physical integrity characterised as domestic violence because during the examination of evidence the defendant herself stated that she committed the acts. Therefore, the prosecutor requested for the court to apply the penalty prescribed in Article 145 of the Penal Code against the defendant.

The public defender requested for the court to acquit the defendant with the consideration that the defendant committed this act, because the two victims grabbed the defendant's arms, so she acted in legitimate self defence to flee from the scene. The defence also stated that the defendant has not yet reconciled with the victim, because since the incident the defendant and the victim have been living separately. The defendant stated that she was a first time offender, regretted her actions and promised not to commit any further crimes against the victim or other person in the future.

### **Decision**

After evaluating all of the facts, the court found that the defendant kicked the victim LMF in the chest.

Based on the facts that were proven and consideration of the mitigating circumstances, namely that the defendant collaborated with the court, regretted her actions, and promised not to repeat such acts in the future, the court concluded this case and issued an admonishment against the defendant.

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