



Case Summary
Oekusi District Court
February 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 Oekusi District Court

1. Total number of cases monitored by JSMP: 31

Articles	Case Type	Number of cases
Article 145 of the Penal Code (PC) as well as Articles 2, 3, 35(b) and 36 of the Law Against Domestic Violence)	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 (DV) and Article 36 on domestic violence as a public crime)	13
Articles 177,176 of the PC	Sexual abuse of a minor and child pornography	1
Article 177 of the PC	Sexual abuse of a minor	1
Articles 145, 23, 24, 138 of the PC	Simple offences against physical integrity, attempt, punishability of attempt, homicide	1
Article 154 of the PC	Mistreatment of a spouse	2
Article 316 of the PC	Smuggling	6
Article 252 of the PC	Aggravated larceny	1
Article 207 of the PC	Driving without a licence	1
Article 148 of the PC	Negligent offences against physical	1

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	integrity	
Article 151 of the PC	Reciprocal offences against physical integrity	1
Article 145 of the PC	Simple offences against physical integrity	1
Articles 828 (2) of the CPC & Articles 1652, 1653, 1654, 1655 of the CC	Divorce based on mutual consent	1
Articles 828 (3) of the CPC & Articles 1652, 1653, 1654, 1655 of the CC	Divorce based on mutual consent	1
Total		31

2. Total decisions monitored by JSMP: 14

Type of decision	Article	Number of Decisions
Suspension of execution of a prison sentence	Article 68 of the PC	5
Fine	Article 67 of the PC	3
Admonishment	Article 82 of the PC	1
Endorsed agreement	Article 216 of the PC	5
Total		14

3. Total cases adjourned based on JSMP monitoring: 0

4. Total number of ongoing cases based on JSMP monitoring: 17

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

1. Civil case of divorce

Case Number : 0017/20.CVTDO
Composition of the Court : Single Judge
Judge : Hugo da Cruz Pui
Prosecutor : Pedro Baptista Aleixo dos Santos
Defence : Marcelino Marques Coro
Decision : Temporary separation based on the mutual consent of the applicants

On 3 February 2021 the Oekusi District Court announced its ruling of temporary separation based on the mutual consent for the applicants Mr. JL (husband) and Ms. MC (wife), in Pante-makasar Sub-District, Oekusi District.

Decision

Pursuant to Article 828.2 of the Civil Procedure Code (CPC) a conference was held for the applicants, namely the husband JL and the wife MC. Regarding the first conference, second conference and the ruling, the applicants confirmed in good faith that they wanted to separate.

Regarding the parental authority for the children (children of the applicants) the court split the custody based on an agreement between the two parties, namely LCL (aged 17), ECL (aged 15) and JCL (aged 13) will live together with their father or the applicant Mr. JL. Meanwhile the children MCL (aged 6) and RCL (aged 4) will live together with their mother or the applicant Ms. MC. Even though they are living separately the court provided the children with the option to freely move back and forth between the applicants, namely their parents.

While they were living together as wife and husband, the applicants had shared marital property, namely a brick house measuring 12 by 12 and a motorcycle. In relation to the shared marital property, the court decided that the motorcycle would be given to the female applicant Ms. MC and the house would be given to the male respondent Mr. JL. Also, the applicant Mr. JL has to provide compensation of US\$2,000.00 to the female applicant Ms. MC because the female applicant is moving out of the house that they built together because the land was inherited from the parents of the male applicant.

Based on Article 828.2 of the CPC on conferences, Article 1652 of the Civil Code on requirements, Article 1653 of the CC on the first conference, Article 1654 of the CC on the second conference and Article 1655 of the CC on sentencing, the court concluded this matter and endorsed the aforementioned agreement for the two applicants to be temporarily separated based on mutual consent.

2. Crime of reciprocal offences against physical integrity

Case Number : 0122/20.OESIC
Composition of the Court : Single Judge
Judge : Hugo da Cruz Pui
Prosecutor : Pedro Baptista A. d. Santos
Defence : Calisto Tout
Decision : Validating withdrawal of complaint

On 04 February 2021 the Oekusi District Court attempted conciliation in a case of reciprocal offences against physical integrity involving the defendant HMT (husband) and AJ (wife) in Oekusi District.

Charges of the Prosecutor

The public prosecutor alleged that on 24 August 2020, at 10pm, HMT slapped the victim AJ twice on her left cheek and slapped the victim twice on her right cheek until AJ fell to the ground. These acts caused redness, swelling and pain. Therefore, AJ did not accept this and grabbed a bag and inside the bag there was a bottle of *gandapura* oil and AJ struck the victim HMT once above the right eye which caused an injury, bleeding,

swelling and pain. A medical report for AJ and HMT from the Oekusi Referral Hospital and photos from the police were included in the case file.

The public prosecutor alleged that the male defendant HTM and the female defendant AJ 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.

Examination of evidence

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

During this attempted conciliation, HTM and AJ acknowledged that they had a fight however they have reconciled therefore they wanted to withdraw their complaint. Therefore, they requested for the court to withdraw their complaints against each other.

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

3. Crime of simple offences against physical integrity

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

On 5 February 2021 the Oekusi District Court announced its decision regarding attempted conciliation in a case of simple offences against physical integrity involving the defendant Jose Lafu who allegedly committed the offence against his cousin the victim Aleixo Ulan in Usitaqueno Village, Oesilo Sub-District, Oekusi District.

Charges of the Prosecutor

The public prosecutor alleged that on 24 July 2020, at 10pm, the defendant punched the victim once in the forehead, punched the victim once on his left cheek and kicked the victim once in the chest. These acts caused the victim to suffer pain and swelling. Prior to this assault, the defendant and the victim were drinking palm wine and became intoxicated. Then the assault occurred. A medical report from the Oesilo Medical Centre and photographs from the Police were also attached to this case file showing the results of this violence.

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.

Examination of evidence

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

During this attempted conciliation the victim wanted to reach an amicable settlement with the defendant without any conditions. The defendant agreed with the victim's request and expressed regret for his 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.

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.

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

Case Number	: 0087/20.OESIC
Composition of the Court	: Single Judge
Judge	: Yudi Pamukas
Prosecutor	: Pedro Baptista Aleixo dos Santos
Defence	: Calisto Tout
Decision	: Prison sentence of 1 year, suspended for 1 year

On 08 February 2021 the Oekusi District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant FO who allegedly committed the offence against his wife in Oekusi District.

Charges of the Prosecutor

The public prosecutor alleged that on 25 May 2020, at approximately 7.50 pm, the defendant slapped the victim once above her mouth and punched the victim once on the back of the neck. These acts caused an injury and bleeding to the victim's mouth and pain to the back of her neck. Prior to this assault, the defendant and the victim argued because the victim asked the defendant for the key to their motorcycle to go to the market to purchase vegetables, but the defendant did not give it to her. Therefore, they argued and the defendant committed the assault against the victim. A medical report from Pradet and photographs from the police 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 set out in the indictment, the defendant also stated that he regretted his actions. The defendant also stated that he has reconciled with the victim and promised that he will not repeat such crimes against the victim or other person in the future. The defendant added that he is a first time offender, works as a driver with a monthly income of US\$155.00, and has three children.

Also, the victim confirmed all of the facts in the indictment and stated that she has reconciled with the defendant and since the incident the defendant has not committed any crimes against the victim. The victim also added that they got married in 2004 and this was the first time that the defendant committed an offence against the victim.

Because the defendant confessed and the victim provided confirmation, therefore the prosecutor requested for the court not to hear witness testimony.

Final recommendations

The public prosecutor stated that the defendant knew that committing these acts of violence could cause another person to suffer swelling, injury and pain, but the defendant still committed the acts. The public prosecutor reiterated that the defendant freely committed the crime against the victim who he was supposed to protect from violence, but on the contrary the defendant committed violence against the victim. Therefore, to deter the defendant from reoffending against the victim or other person, the prosecutor requested for the court to impose a prison sentence of one year, suspended for one year.

The public defender stated that the violence occurred when the defendant and victim had an argument. However, during the examination of evidence the defendant confessed to all of the facts in the indictment without any reservations, regretted his actions, promised not to reoffend against a family member or other person. Also, the defendant reconciled with the victim, has three children and the defendant is a driver with a monthly income of US\$155.00. Therefore, the public defender requested for the court to apply an appropriate punishment against the defendant.

Decision

After evaluating all of the facts produced during trial, the court found that the defendant slapped the victim once above her mouth and punched the victim once on the back of the neck. Based on the facts that were proven and consideration of the mitigating circumstances, namely that the defendant confessed, regretted his actions, has reconciled with the victim and promised not to reoffend against the victim or other

person, the court concluded this case and imposed a prison sentence of 1 year, suspended for 1 year.

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

Case Number : 0127/19.OESIC
Composition of the Court : Single Judge
Judge : Yudi Pamukas
Prosecutor : Mateus Nesi
Defence : Filipe Landos (private lawyer)
Decision : Prison sentence of 1 year, suspended for 1 year and 6 months

On 8 February 2021 the Oekusi District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant SO who allegedly committed the offence against his wife in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 27 August 2019, at approximately 11pm, the defendant returned home intoxicated, and argued with the victim, because he suspected that the victim was having an affair with another man. Therefore, the defendant took a plastic plate with rice on it and threw it at the victim's right thigh and he slapped the victim twice on her left cheek. These acts caused the victim to suffer pain to her left cheek and right thigh. A medical report from the Pradet and photographs from the Police were also attached to this case file showing the results of this violence.

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 partially confessed to the facts set out in the indictment that he did throw a plate at the victim and slapped the victim once, not twice. The defendant also stated that he regretted his actions, has reconciled with the victim and promised that he will not repeat such crimes against the victim or other person in the future. The defendant stated that he was a first time offender, with no fixed income and has five children.

The victim reinforced the facts set out in the indictment and stated that one day after this incident the defendant apologized to the victim and they reconciled.

The witness EMO is the daughter of the defendant and is aged 15. She chose to remain silent or did not want to give testimony.

Final recommendations

The prosecutor stated that the defendant was guilty of committing the crime against the victim based on the statement of the defendant and the confirmation of the victim regarding the alleged facts including the medical report and photos from the police. Therefore, the prosecutor requested for the court to impose a sentence in accordance with Article 145 of the Penal Code to deter the defendant from repeating such acts in the future and to educate other persons to avoid such behaviour.

The public defender stated that the violence was committed against the victim. However, because the defendant collaborated with the court, regretted his actions, promised not to reoffend in the future, has reconciled with the victim and has five children and has no fixed income, the public defender requested for the court to impose an appropriate penalty against the defendant.

Decision

After evaluating the facts produced during trial, the court found that the defendant took a plastic plate with rice on it and threw it at the victim's right thigh and slapped the victim twice on her left cheek. Therefore, the court gave more weight to the victim's statement because in addition to confirming the facts, there was other evidence in the form of a medical report and photos from the police.

Based on the facts that were proven and consideration of the mitigating circumstances, namely that the defendant regretted his actions, has reconciled with the victim and promised not to reoffend against the victim or other person in the future, and the defendant was a first time offender, with no fixed income and has five children, the court concluded this case and imposed a prison sentence of 1 year, suspended for 6 months.

6. Civil case of divorce

Case Number	: 0007/20.CVTDO
Composition of the Court	: Single Judge
Judge	: Hugo da Cruz Pui
Prosecutor	: Pedro Baptista Aleixo dos Santos
Defence	: Calisto Tout
Decision	: Temporary separation based on the mutual consent of the applicants

On 9 February 2021 the Oekusi District Court announced its ruling of temporary separation based on the mutual consent of the applicants Mr. AB (husband) and Ms. CT (wife), in Pante-makasar Sub-District, Oekusi District.

Decision

Pursuant to Article 828.2 of the Civil Procedure Code (CPC) the court conducted a conference for the applicants, namely Mr. AB as the husband and Ms. CT as the wife. Regarding the first conference, second conference and the ruling, the applicants

confirmed in good faith that they wanted to separate because they no longer wish to live together as a family.

In relation to the parental authority regarding the children, the court decided that based on an agreement between the two parties, the children EBB (aged 16), GSB (aged 14), ZTB (aged 9) and AJB (aged 5) will live with their mother or the female applicant CT in their own home and the applicant AB will leave the house but will be responsible for paying alimony for his children totalling US\$75.00 every month. Also, the court decided that the children are free to travel backwards and forwards between their parents (the two applicants).

During the definitive conference the court referred to Article 828.2 of the CPC on conferences, Article 1652 of the Civil Code on requirements, Article 1653 of the CC on the first conference, Article 1654 of the CC on the second conference and Article 1655 of the CC on sentencing, and the court concluded this matter and endorsed the aforementioned agreement for the two applicants to be temporarily separated based on mutual consent.

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

Case Number : 0090/20.OESIC
Composition of the Court : Single Judge
Judge : Yudi Pamukas
Prosecutor : Mateus Nesi
Defence : Marcelino Marques Coro
Decision : Prison sentence of 3 years, suspended for 4 years

On 9 February 2021 the Oekusi District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant RE who allegedly committed the offence against his wife in Oekusi District.

Charges of the Prosecutor

The public prosecutor alleged that on 27 May 2020, at approximately 5pm, the defendant kicked the victim twice in the backside, punched the victim twice in the back and used the wooden handle of a hammer to strike the victim once in the back. The defendant's actions caused the victim to suffer pain. Prior to this assault, the defendant and the victim argued because the victim told the defendant to call the manager of EDTL to fix their electricity because the power was out, but the defendant did not want to. Therefore, the defendant committed this assault. A medical report from the Pradet and photographs from the Police were also attached to this case file showing the results of this violence.

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 to all of the facts in the indictment and the defendant acknowledged that that his actions were not good. The defendant also stated that he regretted his actions but he has not yet reconciled with the victim because they have been separated for 8 months. The defendant stated that he is a student at UNTL, with no fixed income and he was a first time offender. The defendant said that he didn't want to live together with the victim as husband and wife.

The victim was crying as she confirmed the facts set out in the indictment and stated that the two of them got married in 2017, and the victim became pregnant and gave birth via an operation and the doctors removed her uterus so she can't get pregnant again because it would have a bad effect on her health. Three months after the operation their child passed away. Since that time the defendant always physically assaulted the victim. Therefore, the victim also decided that she did not want to live with the defendant.

Final recommendations

The public prosecutor stated that the defendant's actions were very cruel because during the examination of evidence the victim was crying when she gave testimony and decided that she no longer wanted to live with the defendant, because when they were living together the defendant always physically assaulted the victim. Therefore, the prosecutor requested for the court to impose a sentence in accordance with Article 145 of the Penal Code to deter the defendant from repeating such acts against others.

The public defender stated that the defendant confessed, regretted his actions, and even though the defendant and the victim said before the court that they want to live separately, the court should still consider the mitigating circumstances, namely the defendant was a first time offender, and as a student he is being supported by his parents, therefore the public defender requested for the court to apply a lenient sentence against the defendant.

Decision

After evaluating all of the facts that were produced during the trial, the court found that the defendant kicked the victim twice on her backside, punched her twice in the back and then used the wooden handle of a hammer to strike the victim once in the back. The court also found that the defendant's actions were very cruel towards the victim, especially considering that the defendant knew that the victim had undergone an operation previously.

Based on the facts that were proven and consideration of the mitigating circumstances, namely that the defendant confessed, regretted his actions, was a first time offender, the court concluded this case and imposed a prison sentence of 3 years against the defendant, suspended for 4 years.

8. Negligent offences against physical integrity

Case Number : 0021/19.OEOSL
Composition of the Court : Single Judge
Judge : Yudi Pamukas
Prosecutor : Pedro Baptista Aleixo dos Santos
Defence : Calisto Tout
Decision : Validating withdrawal of complaint

On 9 February 2021 the Oekusi District Court attempted conciliation in a case of negligent offences against physical integrity involving the defendant AB who allegedly committed the offence against his wife in Oekusi District.

Charges of the Prosecutor

The public prosecutor alleged that on 3 October 2019, at 8:00am, the defendant and the victim argued because the defendant did not want their son to continue studying at university because there was no money to support his studies in the future. When they argued the defendant went inside the house and tripped over the door to the house which was leaning against the wall, so the door fell down and struck the victim on the back of the neck which caused pain. A medical report from the Oesilo Medical Centre and photographs from the Police were also attached to this case file showing the results of this violence.

The public prosecutor alleged that the defendant violated Article 148 of the Penal Code on negligent offences against physical integrity that carries a maximum penalty of 1 year in prison or a fine.

Examination of evidence

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

During this attempted conciliation, the victim wanted to reconcile with the defendant because since the incident they have been living in harmony. Also, the defendant accepted the victim's request for conciliation and stated that at the time of the incident the defendant had no intention of committing the act against the victim. Therefore, the victim requested for the court to withdraw the 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 amicable agreement.

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

Case Number : 0037/19.OEBCN
Composition of the Court : Single Judge
Judge : Yudi Pamukas
Prosecutor : Pedro Baptista Aleixo dos Santos
Defence : Marcelino Marques Coro
Decision : Prison sentence of 1 year, suspended for 1 year and 6 months

On 17 February 2021 the Oekusi District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant JE who allegedly committed the offence against his wife in Oekusi District.

Charges of the Prosecutor

The public prosecutor alleged that on 18 August 2019, at approximately 12 pm, when the defendant was asleep the victim woke the defendant up to get a pillar to build their house. The defendant woke up and approached the victim and slapped the victim once on her right ear. The victim ran away and split her left eyebrow on a branch which caused the victim to suffer an injury, bleeding and pain to her eyebrow. A medical report from Pradet and photographs from the Police were also attached to this case file showing the results of this violence.

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 set out in the indictment, the defendant also stated that he regretted his actions. The defendant also promised not to repeat his behaviour against the victim or other person in the future. The defendant stated that he was a first time offender, with no fixed income and has reconciled with the victim and has one child.

Also, the victim confirmed all of the facts in the indictment and stated that after the incident the defendant took the victim for treatment and they have reconciled. The victim stated that the two of them got married in 2019 and this was the first time that the defendant hit the victim.

Final recommendations

The prosecutor stated that the defendant's actions were proven according to the alleged facts stated in the indictment. Therefore, the prosecutor requested for the court to impose a prison sentence of six months, suspended for 1 year, to deter the defendant from repeating such acts against the victim in the future.

The public defender stated that the violence occurred when the victim woke the defendant who was asleep. Therefore, the public defender requested for the court to apply a lenient sentence against the defendant with consideration of the mitigating circumstances, namely the defendant confessed, regretted his actions, was a first time offender and cooperated with the court, has no fixed income and has one child.

Decision

After evaluating all of the facts, the court found that the defendant slapped the victim once on her right ear which caused the victim to run away and her eyebrow was split open when she collided with a branch. Based on the facts that were proven and consideration of the mitigating circumstances, namely that the defendant confessed, regretted his actions, was a first time offender, cooperated with the court, has no fixed income and has one child, the court concluded this case and imposed a prison sentence of 1 year in prison, suspended for 1 year and 6 months.

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

Case Number	: 0112/20.OESIC
Composition of the Court	: Single Judge
Judge	: Hugo da Cruz Pui
Prosecutor	: Mateus Nesi
Defence	: Calisto Tout
Decision	: Prison sentence of 1 year and 6 months, suspended for 2 years

On 18 February 2021 the Oekusi District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant CFR who allegedly committed the offence against his wife in Oekusi District.

Charges of the Prosecutor

The public prosecutor alleged that on 9 June 2020, at approximately 2pm, the defendant kicked the victim three times in the back, slapped the victim twice on the back of her neck and slapped the victim twice on her right cheek. These acts caused the victim to suffer pain. Prior to this assault, the defendant and the victim argued about a message received on the victim's telephone. A medical report from the Oecusse Referral Hospital and photos from the police were included in the case file that showed the results of this violence.

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 partially confessed to the facts set out in the indictment and said he did not kick the victim three times in the back, but he acknowledged that he slapped the victim once on the back of her neck and slapped the victim twice on her right cheek. The defendant also stated that these acts were not good and he regretted his actions and they have not yet reconciled because the defendant and the victim are separated. The defendant stated that he works as a farmer with no fixed income, was a first time offender and the defendant has a young child who lives with the victim.

The victim confirmed all of the facts in the indictment and to also stated that she married the defendant in 2019 but since this incident they have been separated.

Final recommendations

The public prosecutor stated that the violence occurred in accordance with the alleged facts set out in the indictment therefore the defendant's actions fulfilled the elements of the crime of simple offences against physical integrity. Therefore, the prosecutor requested for the court to impose a sentence in accordance with Article 145 of the Penal Code to deter the defendant from repeating such acts against others.

The public defender stated that the defendant testified about his actions, regretted his actions, and was a first time offender. The defendant is as farmer, has no fixed monthly income, and has one child. Therefore, 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 kicked the victim three times in the back, slapped the victim twice on the back of the neck, and slapped the victim twice on her right cheek. Based on the facts that were proven and consideration of the mitigating circumstances, namely that the defendant regretted his actions, was a first time offender, cooperated with the court, and is a farmer with no fixed income and has one child, the court concluded this case and imposed a prison sentence of 1 year and six months in prison, suspended for 2 years.

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

Case Number	: 0109/20.OESIC
Composition of the Court	: Single Judge
Judge	: Hugo da Cruz Pui
Prosecutor	: Pedro Baptista Aleixo dos Santos
Defence	: Marcelino Marques Coro
Decision	: Fine of US\$45.00

On 18 February 2021 the Oekusi District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant JP who allegedly committed the offence against her husband in Oekusi District.

Charges of the Prosecutor

The public prosecutor alleged that on 25 August 2020, at approximately 7pm, the defendant and the victim argued because the victim suspected that the defendant took US\$0.50 belonging to the victim. Therefore, the defendant punched the victim twice on his right ear and then took an electrical cable and struck the victim twice on the back which caused redness, swelling and pain. A medical report from the Pradet and photographs from the Police were also attached to this case file showing the results of this violence.

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 set out in the indictment of the public prosecutor, and the defendant also stated that she regretted his actions. The defendant also promised not to repeat her behaviour against the victim in the future. The defendant added that she has reconciled with the victim, was a first time offender and cooperated with the court. The defendant is a staff member with the department of agriculture and earns US\$150.00 per month, and has three children. The defendant promised not to commit any crimes against a family member or other person in the future.

Also, the victim maintained all of the facts in the indictment and stated that one week after the incident they reconciled and since then the defendant has not assaulted the victim. The victim also stated that this was the first time that the defendant committed a crime against the victim.

Final recommendations

The prosecutor stated that the defendant committed the physical assault against the victim as alleged in the indictment, therefore to deter the defendant from committing such acts against the victim and also to reduce the high number of cases involving domestic violence in the Special Administrative Region of Oecusse-Ambeno, the prosecutor requested for the court to impose a prison sentence of six months against the defendant, suspended for one year.

The public defender stated that that the defendant completely confessed the facts set out in the indictment, regretted her actions, has reconciled with the victim, collaborated with the court, and promised not to reoffend against a family member or other person in the future, so the public defender requested for the court to apply a lenient penalty against the defendant.

Decision

After evaluating all of the facts produced during the trial, the court found that the defendant punched the victim twice on his right ear and then took an electrical cable and struck the victim twice on the back.

Based on the facts that were proven and also the mitigating circumstances, namely that the defendant confessed, regretted her actions and promised not to reoffend in the future. Also, the defendant was a first time offender, and has reconciled with the victim, so the court concluded this matter and imposed a fine of US\$45.00 against the defendant that needs to be paid via daily instalments of US\$0.50 for 90 days. If the defendant does not pay this fine, then the defendant will have to serve a prison sentence of 60 days as an alternative penalty.

12. Crime of driving without a license

Case Number : 0014/20.OESTR
Composition of the Court : Single Judge
Judge : Hugo da Cruz Pui
Prosecutor : Mateus Nesi
Defence : Marcelino Marques Coro
Decision : Fine of US\$60.00

On 18 December 2021 the Oekusi District Court announced its decision for the crime of driving without a license involving the defendant Francisco Colo who allegedly committed the crime against the State of Timor-Leste in Costa Village, Pante-makassar Sub-District, Oekusi District.

Charges of the Prosecutor

The public prosecutor alleged that on 1 October 2020, at approximately 5pm, the defendant was riding a black Revo-fit motorcycle, without a number plate on a public road in Vila Oecusse, in the Palaban area. When police conducted a check they found that the defendant did not have a driving licence.

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.

Examination of evidence

During the trial the defendant confessed to all of the facts set out in the indictment, the defendant also stated that he regretted his actions, and was a first time offender. The defendant stated that such behaviour is not good and against the law, and the defendant is still young and has no fixed income.

The prosecutor requested for the court not to hear testimony from the witness (Oecusse Traffic Police) because the defendant confessed all of the alleged facts in the indictment. Based on this request the court did not require testimony from the witness.

Final recommendations

The public prosecutor stated that the defendant had been proven guilty of committing the crime of driving without a licence based the confession of the defendant. The prosecutor also stated that every month people commit the crime of driving without a licence, therefore the prosecutor requested for the court to impose a penalty against the defendant as set out in Article 207 of the Penal Code.

The public defender stated that that the defendant confessed, regretted his actions, was a first time offender, is still young and has no fixed income. 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 black Revo-fit motorcycle, without a number plate, without a driving licence on a public road.

Based on the facts that were proven and also considering the mitigating circumstances namely that the defendant confessed, regretted his actions and was a first time offender, therefore the court concluded this matter and imposed a fine of US\$60.00, to be paid in daily instalments of US\$0.50 for 120 days. If the defendant does not pay this fine, the defendant will spend 80 days in prison as an alternative punishment.

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

Case Number : 0025/19.OEBCN
Composition of the Court : Single Judge
Judge : Yudi Pamukas
Prosecutor : Pedro Baptista Aleixo dos Santos
Defence : Marcelino Marques Coro
Decision : Penalty of admonishment

On 19 February 2021 the Oekusi District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant PQC who allegedly committed the offence against his wife in Oekusi District.

Charges of the Prosecutor

The public prosecutor alleged that on 7 July 2019, at approximately 3pm, the defendant slapped the victim once on her left cheek and caused pain and swelling. Prior to this assault, the defendant and the victim argued about their pig which escaped from the pigpen. 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.

Examination of evidence

During the trial the defendant confessed to all of the facts in the indictment and knew that harming another person could result in pain. The defendant also stated that he regretted his actions, has reconciled with the victim and promised to the court that he will not repeat his actions against the victim or other person in the future. The defendant added that he is a first time offender, has four children and works as a contracted teacher with a monthly income of US\$166.00.

The victim confirmed all of the facts in the indictment and stated that this was the first time that the defendant physically assaulted the victim and the two of them got married in 2009.

Final recommendations

The prosecutor stated that the defendant is a teacher who has knowledge about behaviours that are considered as crimes in accordance with the law, but the defendant still physically assaulted the victim, who is his wife. Therefore, the public prosecutor requested for the court to impose a prison sentence of one year, suspended for one year with the aim of deterring the defendant from reoffending against the victim or other person in the future, as well as reducing the high number of cases involving domestic violence in Oecusse.

The public defender requested for the court to impose a fine against the defendant in accordance with his wrongdoing, because if the courts was to impose a prison sentence it could harm the defendant's work performance evaluation as he was still contracted. The public defender also reiterated that the defendant collaborated with the court, confessed to all of the facts in the indictment, the defendant also regretted his actions, promised not to reoffend against a family member or other person, has reconciled with the victim and has four children.

Decision

After evaluating all of the facts, the court found that the defendant slapped the victim once on her left cheek. Based on the facts that were proven and consideration of the mitigating circumstances, namely that the defendant confessed, regretted his actions, has reconciled with the victim and promised not to reoffend against the victim or other person in the future, the court concluded this case and issued an admonishment against the defendant.

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

Case Number	: 0190/19.OESIC
Composition of the Court	: Single Judge
Judge	: Yudi Pamukas
Prosecutor	: Mateus Nesi
Defence	: Marcelino Marques Coro
Decision	: Fine of US\$120.00

On 19 February 2021 the Oekusi District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving

the defendant MC who allegedly committed the offence against his brother in law DVN in Oekusi District.

Charges of the Prosecutor

The public prosecutor alleged that on 16 December 2019, at approximately 7pm, when the defendant returned from work the victim had not washed the dishes or cooked any food. Therefore, the defendant told the victim to clean the dirty dishes and cook, but the victim continued to sit behind the kitchen because he didn't hear what the defendant said. Because the victim continued to stay seated, the defendant went out of the house to the back of the kitchen and slapped the victim once on his left cheek, then the victim walked inside the house and the defendant followed him from behind and kicked the victim once on his side, and kicked the victim once in the chest and punched the victim once on the shoulder. These acts caused the victim to suffer pain to his body. A medical report from the Oecusse Referral Hospital and photographs from the Police were also attached to this case file showing the results of this violence.

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

Examination of evidence

During the trial the defendant confessed to all of the facts in the indictment and the defendant acknowledged that that his actions were not good. The defendant also stated that he regretted his actions, and one week later the defendant and the victim reconciled and they have continued to live together. The defendant stated that this was the first time that he committed a crime against the victim and he cooperated with the court and has not repeated his actions. The defendant added that victim had been living with the defendant for three years, the defendant has two children and works as a nurse with a monthly income of US\$457.00.

Also, the victim confirmed all of the facts in the indictment and stated that after the incident the defendant has not committed any other crimes against the victim and the defendant looks after the victim. The victim also confirmed the defendant's statement that one week after this incident they reconciled.

Final recommendations

The prosecutor stated that the defendant was guilty of committing the crime against the victim as alleged in the indictment and because the defendant is a public servant he needs to act appropriately and respect his brother in law, because the defendant has a good understanding about acts of violence. The prosecutor added that crimes of domestic violence are very high in the Oecusse region in comparison with other municipalities, therefore to deter the defendant in general and to educate the defendant not to repeat his actions against the victim or other person, the public prosecutor requested for the court to apply a penalty as provided for in Article 145 of the Penal Code.

The public defender stated that during the examination of evidence the defendant cooperated with the court and told the truth to the court in accordance with the alleged facts in the indictment. The defendant also felt that his behaviour towards his brother in law was not right, therefore one week later the defendant reconciled with the victim and they have continued living together. Therefore, the public defender requested for the court to apply a lenient sentence against the defendant with consideration of the mitigating circumstances, namely the defendant confessed, regretted his actions, was a first time offender and cooperated with the court.

Decision

After evaluating the facts produced during trial, the court found that the defendant slapped the victim once on his left cheek, kicked the victim once on his side, kicked the victim once in the chest and punched him once on his shoulder

Based on the facts that were proven and also considering the mitigating circumstances namely that the defendant confessed, regretted his actions, was a first time offender, and cooperated with the court and reconciled with the victim, therefore the court concluded this matter and imposed a fine of US\$120.00, to be paid in daily instalments of US\$1.00 for 120 days. If the defendant does not pay this fine, the defendant will spend 80 days in prison as an alternative punishment.

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