

**Case Summary****The Suai District Court****September 2018**

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 Suai District Court**1. Total cases monitored by JSMP: 35**

Article	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 and Article 36 on domestic violence as a public crime)	20
Article 154 of the PC as well as articles 2, 3, 35(a) and 36 of the Law Against Domestic Violence	Mistreatment of a spouse	1
Article 177 of the PC	Sexual abuse of a minor	1
Article 225 of the PC	Failure to fulfil an obligation to provide food assistance	1
Article 138 of the PC	Homicide	1
Articles 23 and 138 of the	Attempted homicide	1

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Penal Code		
Article 252.1 (a & e) of the Penal Code	Aggravated larceny	1
Article 258 of the PC	Property damage	1
Article 316 of the PC	Smuggling	3
Article 145 of the PC	Simple offences against physical integrity	4
Article 157 of the PC	Threats	1
Total		35

2. Total decisions monitored by JSMP: 14

Type of penalty	Number of cases
Prison sentence (Article 66 of the PC)	1
Suspension of execution of a prison sentence (Article 68 of the PC)	8
Fine (Article 67 of the PC)	2
Validated withdrawal of complaint (Article 262 of the CPC)	2
Admonishment (Article 82 of the PC)	1
Total	14

3. Total cases adjourned based on JSMP monitoring: 12

Reason for adjournment	Number of cases
The defendant and victim were absent	9
The victim was not present	1
The defendant was absent	2
Total	12

4. Total ongoing cases based on JSMP monitoring: 9

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

1. Crime of mistreatment of a spouse

Case No. : 0052/16.BBMLV
Composition of the Court : Panel
Judges : Argentino Luisa Nunes, Alvaro Maria Freitas and Samuel da Costa Pacheco
Prosecutor : Ricardo Leite Godinho

Public Defender : Fernando da Costa (private lawyer)
Type of penalty : 3 years in prison, suspended for 3 years

On 17 September 2018 the Suai District Court announced its decision in a case of mistreatment of a spouse involving the defendant OdS who allegedly committed the offence against his wife in Bobonaro District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 25 March 2016 the defendant pulled the victim's hair and kicked the victim once in the back and she suffered pain. Prior to the incident, the victim asked the defendant not to leave the house because their child was sick. However, the defendant kept going to the Maliana market. When the defendant came home and went to fetch some water the victim asked the defendant why he went to the market.

The defendant told the victim that he went to see his first wife at the market, and worked at a restaurant and left at 7pm and the two of them went to discard some fish waste in the gutter. Also, the defendant continued to mistreat the victim and said “you are poor, you are a sad person, your family doesn't treat me properly, I won't attend to any of your problems, I have looked after you for five years, your uncles and the others haven't looked after you, I have worked to feed your child”.

Two days later on 27 March 2017, at some time in the morning, the defendant told the victim to cook some food for their pig but the victim didn't want to and told the defendant “I gave birth less than one month ago, don't tell me what to do, because it is cold and it could affect my ability to breast feed the baby. The defendant told the victim to boil some water but the victim did not want to because it was still dark.

The defendant kicked the victim four times in the back, punched her once on her right ear and punched her once in the mouth. These acts caused the victim to suffer swelling to her ear and bleeding to her mouth. After the incident the defendant went back to live with his first wife.

The public prosecutor alleged that the defendant violated Article 154 of the Penal Code on the mistreatment of a spouse that carries a prison sentence of 2 years to 6 years as well as Articles 2, 3 and 35 (a) and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial, the defendant stated that on 25 March 2017 he did not pull the victim's hair and did not kick the victim in the back. In regards to the alleged incident on 27 March 2017, the defendant completely confessed. The defendant also stated that he regretted his actions and was a first time offender. Also, the defendant promised not to reoffend in the future against a relative or the victim even though the defendant is no longer living with the victim.

The victim reinforced the facts set out in the indictment and stated that before the incident (25 March 2018), the defendant's first wife rang the victim and mistreated the victim. Therefore the victim asked the defendant why he always went to the market.

Final recommendations

The public prosecutor stated that the defendant committed physical assault against the victim on two occasions and even though the defendant partially confessed to the facts set out in the indictment, the prosecutor requested for the court to sentence the defendant to three years in prison, suspended for four years.

The defence lawyer requested for the court to amend the charges from Article 154 to Article 145 of the Penal Code on the crime of simple offences against physical integrity characterized as domestic violence because he believed that the victim instigated the incidents. Based on these considerations, the public prosecutor requested for the court to sentence the defendant to 6 months in prison, suspended for 1 year.

Decision

After evaluating the facts produced during the trial, the court found all of the facts proven, based on the testimony of the victim. The court concluded this matter and sentenced the defendant to 3 years in prison, suspended for 3 years.

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

Case No.	: 0062/15.ANANV
Composition of the Court	: Single judge
Judge	: Argentino Luisa Nunes
Prosecutor	: Ricardo Leite Godinho
Public Defender	: Manuel Amaral
Type of penalty	: Penalty of admonishment

On 17 March 2018 the Suai District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant FdA who allegedly committed the offence against his wife in Ainaro District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 27 October 2015, at approximately 6am, the defendant kicked the victim once in the chest which caused the victim to fall to the ground and she suffered pain and swelling to her chest. The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum

penalty of three years in prison or a fine as well as Articles 2, 3 (a), 35 (b) and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed to all of the facts set out in the indictment, the defendant also stated that he regretted his actions, was a first time offender and has reconciled with victim. The defendant also promised not to repeat his behaviour against his relatives in the future.

In addition, the victim reinforced the facts set out in the indictment and she confirmed the defendant's statement that she has reconciled with the defendant and until now the defendant has not beaten her again.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime against the victim. Although the defendant regretted his actions, has reconciled with victim and was a first time offender, the prosecutor requested for the court to impose a prison sentence of one year suspended for one year against the defendant to prevent the defendant from repeating his actions in the future.

The public defender requested for the court to impose a suitable fine against the defendant because the defendant confessed all of the facts set out in the indictment, regretted his actions, has reconciled with the victim and was a first time offender.

Decision

After evaluating the facts, the court found that all of the facts were proven. The court found that the defendant kicked the victim once in the chest, which caused the victim to fall to the ground and she suffered pain and swelling to her chest. Based on the facts that were proven, the court concluded this matter and imposed an admonishment against the defendant.

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

Case No.	: 0087/17. BBMLV
Composition of the Court	: Single judge
Judge	: Argentino Luisa Nunes
Prosecutor	: João Marques
Public Defender	: Albano Maia (trainee lawyer)
Type of penalty	: Prison sentence of 2 years and 6 months, suspended for 3 years

On 17 March 2018 the Suai District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant MI who allegedly committed the offence against her husband in Bobonaru District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 24 September 2017, the victim was with another woman (the defendant's lover) (BV) on a motorcycle travelling from Dili to Maliana. At that time BV was steering the motorcycle because the victim was drunk. When they arrived in Maliana BV dropped off the victim at the victim's home and after approximately 20 minutes the defendant returned from her plantation and argued with BV because she suspected that BV was having a romantic relationship with the defendant's husband. The victim heard the defendant and BV arguing, so the victim told the defendant "be quiet, otherwise someone will hear us". The victim also tried to separate the defendant and BV, but the defendant took a knife that she had been holding and used the blunt part to strike the victim in the forehead that caused an injury and bleeding.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity as well as Article 2, 3(a), 35(b) and 36 of the Law Against Domestic Violence.

Presentation 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 victim maintained the facts in the indictment and stated that he has separated from the defendant.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime against the victim based on the facts set out in the indictment, and therefore requested for the court to sentence the defendant to 1 year in prison, suspended for 2 years. The public defender requested for the court to impose an appropriate penalty against the defendant because the defendant regretted his actions and was a first time offender.

Decision

After evaluating these facts the court found the defendant guilty of committing the crime based on the facts set out in the indictment. Based on this evidence, the court concluded the matter and sentenced the defendant to 2 years and 6 months in prison, suspended for 3 years, and ordered the defendant to pay court costs of US\$ 25.

4. Crime of smuggling

Case No. : 0018/17.CVSLL

Composition of the Court : Panel

Judges : Alvaro Maria Freitas, Argentino Luisa Nunes and Benjamin Barros

Prosecutor : Matias Soares
Public Defender : Fransisco Caetano Martins
Type of penalty : Fine of US\$ 30

On 19 September 2018 the Suai District Court conducted a hearing to announce its decision in a case of smuggling involving the defendant Abel Caetano Loe who allegedly committed the offence against the State of Timor-Leste, in Covalima District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 26 November 2017, the defendant was carrying 10 jerry cans of petrol totalling US\$350.00 at the border with Indonesia and each jerry can contained 35 litres of petrol. The defendant brought the goods into Timor-Leste through Betun. When the defendant was carrying these jerry cans, a member of the Border Patrol Unit who was patrolling the area saw the defendant and arrested him.

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.

Presentation of evidence

During the trial the defendant confessed the facts set out in the indictment and stated that he did import the petrol illegally. The defendant also stated that he purchased the petrol from an Indonesian person on the Timor-Leste side, and not on the Indonesian side.

Final recommendations

The public prosecutor believed that the defendant was guilty of committing the crime against the victim and therefore he asked for the court to sentence the defendant to 3 years in prison, suspended for 3 years. The prosecutor requested for the confiscated fuel to be given to the State. The prosecutor asked for the aforementioned penalty and asked for the fuel to be given to the State to deter the defendant from repeating his actions in the future.

The public defender requested for the court to impose an appropriate penalty against the defendant because he purchased the petrol in Timor-Leste and not in Indonesia. The defendant confessed to all of the facts and also regretted his mistake, and was a first time offender. Also, the court was asked to return US\$350.00 to the defendant for the cost of the fuel.

Decision

After evaluating the facts produced during the trial, the court found the defendant guilty of committing the crime based on the facts set out in the indictment. The court concluded this matter and ordered the defendant to pay a fine of US\$ 30 to be paid in daily instalments of 50 cents for 60 days. The court also imposed an alternative penalty of 40 days in prison if the

defendant does not pay this fine. In relation to the petrol that was illegally imported by the defendant into Timor-Leste, the court decided to give it to the State and did not compensate the defendant for money he had spent.

5. Crime of sexual abuse against a minor

Case No. : 0006 /17.ANMBS
Composition of the Court : Panel
Judges : Nasson Sarmiento, Samuel da Costa Pacheco and Florensia Freitas
Prosecutor : Ricardo Leite Godinho
Public Defender : Albino de Jesus Pereira
Type of penalty : 7 years in prison

On 19 September 2018 the Suai District Court announced its decision in a case of sexual abuse of a minor involving the defendant BdC who allegedly committed the offence against the victim, his neighbour, who was only aged 13 in Ainaro District.

Charges of the Public Prosecutor

The public prosecutor alleged that on the morning of 16 April 2017, the defendant went into the victim's bedroom and removed all of her clothes. The defendant also removed his own pants, grabbed both of the victim's breasts and had sexual intercourse with the victim. At the same time their neighbour (AdR), was going to feed his pig and passed by the side of the victim's house and when he passed in front of the victim's bedroom the witness AdR heard a sound so he went into the victim's room and saw the defendant putting on his pants and fleeing from the scene.

The public prosecutor alleged that the defendant violated Article 177.1 of the Penal Code on the sexual abuse of a minor that carries a maximum penalty of 5-20 years in prison.

Presentation of evidence

During the trial, the defendant partially confessed that he went into the victim's bedroom but did not have sexual intercourse with the victim. The defendant stated that he just grabbed both of the victim's breasts and rubbed his genitals on the victim's vagina and was about to put on his pants and AdS caught him in the act. The court summoned the victim to hear her testimony but the victim is disabled (mute) so the court decided not to hear her testimony.

Final recommendations

The public prosecutor maintained the charges and requested for the court to impose a prison sentence of 11 years.

The public defender argued that the defendant did not manage to have sexual intercourse but only rubbed his genitals on the victim's vagina. The defendant also regretted his actions and collaborated with the court. Therefore he requested for the court to impose a suspended sentence against the defendant.

Decision

After evaluating all of the facts, the court found that the defendant committed the crime of sexual abuse against the victim who was still a minor, as alleged in the facts set out in the indictment and based on the defendant's confession during initial questioning.

The court understood that the defendant stopped his sexual activity or did not continue with his sexual intent until completion or did not ejaculate because AdS entered the victim's bedroom and caught the defendant and the defendant put on his pants and fled from the scene. Based on this evidence and the mitigating circumstances such as the defendant collaborated with the court, regretted his actions and is still young (aged 20), there is an opportunity for him to improve himself, so the court sentenced the defendant to seven years in prison.

6. Crime of failure to fulfil an obligation to provide food assistance

Case No.	: 0205/16.PDSUA
Composition of the Court	: Single judge
Judge	: Argentino Luisa Nunes
Prosecutor	: Napoleão da Silva Soares
Public Defender	: Fernando da Costa (trainee lawyer)
Type of penalty	: Withdrawal of complaint

On 20 September 2018 the Suai District Court announced its ruling in a case of failure to fulfil an obligation to provide food assistance involving the defendant GdS who allegedly committed the offence against his wife and child in Manufahi District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 15 May 2016 the victim asked the defendant if he had another woman. They argued and the defendant decided to leave the home. From the time the defendant left home he never gave alimony for his three children who are still minors.

The public prosecutor alleged that the defendant violated Article 225 of the Penal Code on failure to provide food assistance that carries a maximum penalty of 3 years in prison or a fine.

Presentation of evidence

During this attempted conciliation the victim decided to withdraw the complaint against the defendant on the condition that the defendant must provide alimony for their children. The

defendant stated that he was willing to provide alimony for his children totalling US\$120.00 every month. The victim agreed with this amount and wanted to withdraw her complaint against the defendant.

Final recommendations

The public prosecutor and public defender accepted the agreement between the two parties and decided to acquit the defendant.

Decision

Based on the amicable agreement between the parties and the defendant's promise to fulfil his obligation to provide alimony for his child and the victim's request to withdraw the matter, and the court endorsed this agreement.

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

Case No.	: 0040/18.PDSUA
Composition of the Court	: Single judge
Judge	: Samuel da Costa Pacheco
Prosecutor	: Matias Soares
Public Defender	: Fernando da Costa (trainee lawyer)
Type of penalty	: 3 months in prison, suspended for 1 year

On 20 September 2018 the Suai District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant IMB who allegedly committed the offence against her husband in Covalima District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 19 February 2018 the defendant slapped the victim once on his left cheek and caused the victim to suffer pain to his cheek. This case occurred when the victim went to meet the defendant's family members to resolve their problem in accordance with the local culture because previously the defendant had a romantic relationship with another man.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3 (a), 35 (b) and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed to all of the facts in the indictment. Also, the victim corroborated the facts set out in the indictment that the defendant had slapped him.

Final recommendations

The public prosecutor stated that defendant confessed to all of the facts set out in the indictment and requested an admonishment, because the defendant regretted her actions and was a first time offender.

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

Decision

After evaluating the facts produced during the trial, the court found the defendant guilty of committing the crime based on the facts set out in the indictment. Based on the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 3 months in prison, suspended for 1 year.

8. Crime of smuggling

Case No.	: 0037/16.BBLMV
Composition of the Court	: Panel
Judge	: Florensia Freitas, Nasson Sarmiento and Samuel da Costa Pacheco
Prosecutor	: Ricardo Leite Godinho
Public Defender	: Albano Maia (trainee lawyer)
Type of penalty	: 2 years in prison, suspended for 3 years

On 20 September 2018 the Suai District Court conducted a hearing to announce its decision in a case of smuggling involving the defendants Ricardo Freitas and Julio da Silva who allegedly committed the offence against the State of Timor-Leste, in Bobonaro District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 22 February 2016, Agapito Noronha who was the Commander of the Border Patrol Unit, was together with two of his members named Basilio Moniz and Acácio Andreas and they were conducting a patrol on foot from the Border Patrol Unit Post in Nunura-Maliana. When they arrived at the Nunura bridge, a member of the BPU decided to follow the river to the Aikakeu-laran area. In that area the other three members of the BPU saw a Honda Supra X125 motorcycle with Indonesian number plates that had been hidden.

When they saw the motorcycle, the commander Agapito called out to the owner of the motorcycle but nobody answered. Therefore the commander and two of his members waited at the scene and not long after the two defendants emerged. The Commander Agapito asked the two defendants about the motorcycle. The defendant Julio responded that they purchased the motorcycle in Kupang, Indonesia and imported it illegally from Atambua. Then the three

members of the BPU confiscated the motorcycle and took the defendants to be investigated and they were found to have no documents or licence to import goods.

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.

Presentation of evidence

During the trial the defendants confessed to their actions based on the facts set out in the indictment and stated that they were first time offenders. The defendants stated that they regretted their actions and promised not to reoffend in the future.

Final recommendations

The public prosecutor stated that the defendants were guilty of committing the crime as alleged in the indictment and therefore he requested for the court sentence the defendants to 2 years in prison, suspended for 2 years. The prosecutor also requested for the court to issue an instruction for the defendants to pay tax to Customs.

Therefore the public defender requested for the court to impose a suspended sentence against the defendant. In addition, the public defender also agreed with the request of the prosecutor for the defendants to pay tax to Customs, so that the defendants could use the motorcycle because they did not intend to sell it.

Decision

After evaluating the facts, the court found the defendants guilty of committing the crime based on the facts set out in the indictment. Based on this evidence the court imposed a prison sentence of two years against the defendants, suspended for three years, including an order for the defendants to pay import tax on the motorcycle to the State, through Customs. The court also decided to give the motorcycle back to the defendants when they have paid the tax. The court also ordered the defendants to pay court costs of US\$20.

9. Crime of aggravated larceny

Case No.	: 0097/17.PDSUA
Composition of the Court	: Panel
Judges	: Samuel da Costa Pacheco, Florensia Freitas and Nasson Sarmiento
Prosecutor	: Matias Soares
Public Defender	: Manuel Amaral
Type of penalty	: 3 years in prison, suspended for 3 years

On 21 September 2018 the Suai District Court announced its decision in a case of aggravated larceny involving the defendant Filomeno Moniz who allegedly committed the offence against the victim Domingas Amaral, in Covalima District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 30 March 2017 the defendant went to pick up two tonnes or 2000 kilograms of candlenuts at the victim's warehouse without the knowledge of the victim.

Then on 31 March 2017 the defendant took the candlenuts to Dili and sold them at US\$0.80 per kilo and the defendant received US\$1,600. The defendant also did this without the knowledge of the victim as the owner of the goods. Therefore the victim asked the defendant to give back the money that previously the victim had put together with the defendant to conduct the candlenut sales business totalling US\$1,300.00 including interest of US\$53.40.

The public prosecutor alleged that the defendants violated Article 252 (a and e) of the Penal Code on aggravated larceny that carries a prison sentence of 2-8 years.

Presentation of evidence

During the trial, the defendant confessed that he picked up the candlenuts without the knowledge of the victim and her husband. However previously the defendant told the court that he had first rung the victim's husband, and her husband agreed for the defendant to take the candlenuts to be sold in Dili. The defendant also stated that he was willing to give the victim her money back within six months.

In addition, the victim confirmed the facts set out in the indictment and stated that the defendant did not tell her and also did not tell her husband. The victim added that previously the defendant and the victim had an agreement to put their money together to conduct a candlenut sales business and each person put in US\$1,300. The money was given to the defendant to conduct this business and the interest was to be shared.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime of aggravated larceny as alleged in the indictment and therefore he requested for the court sentence the defendant to 3 years in prison, suspended for 3 years. In addition the prosecutor also requested for the court to order the defendant to give the victim her money back.

The public defender requested for the court to impose a suspended sentence against the defendant because the defendant regretted his actions and was a first time offender.

Decision

The court found the defendant guilty of committing the crime of aggravated larceny based on the facts set out in the indictment and sentenced the victim to 3 years in prison, suspended for three years. The court also told the defendant to give the victim's money back, including interest totalling US\$1,450.00. The court also ordered the defendant to pay court costs of US\$25.00.

10. Crime of smuggling

Case No. : 0001/17.BBBGD
Composition of the Court : Panel
Judges : Samuel da Costa Pacheco, Nasson Sarmiento and Florensia Freitas
Prosecutor : João Marques
Public Defender : Albino de Jesus Pereira
Type of penalty : Fine of US\$ 180

On 21 September 2018 the Suai District Court conducted a hearing to announce its decision in a case of smuggling involving the defendant Domingos Ati Sury Gomes who allegedly committed the offence against the State of Timor-Leste, in Bobonaro District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 10 January 2017, the Nubadak Border Patrol Unit team was conducting a patrol in the Manuhain area near the sea. During this patrol the BPU caught the defendant transporting 18 jerry cans containing 5 litres of kerosene and 44 jerry cans containing 20 litres of kerosene. The BPU team confiscated the goods and handed over the defendant for investigation. The investigation found that the defendant purchased the kerosene at US\$ 0.50 from a foreigner and also found that the defendant had no licence to import goods.

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.

Presentation of evidence

During the trial, the defendant confessed to all of the charges against him and stated that he purchased the kerosene on the Timor-Leste side because an Indonesian had brought the kerosene into Timor-Leste.

Final recommendations

The prosecutor believed that the defendant was guilty of committing the crime of smuggling and therefore in the interest of deterrence the public prosecutor requested for the court to sentence the defendant to 3 years in prison suspended for 4 years. The prosecutor requested for the kerosene confiscated by the BPU to be given to the State.

The public defender requested for the court to acquit the defendant because the defendant's behaviour did not fulfil the requirements of the crime of smuggling because the defendant purchased the kerosene in Timor-Leste.

Decision

After evaluating the facts, the court found that the defendant brought the kerosene into Timor-Leste illegally. The court ordered the defendant to pay a fine of US\$ 180 to be paid in daily instalments of US\$ 2 for 90 days. The court also imposed an alternative penalty of 60 days in prison if the defendant does not pay this fine. In addition, the court decided to give the kerosene bought into the country by the defendant to the State of Timor-Leste.

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

Case No.	: 0008/17.ANANV
Composition of the Court	: Single judge
Judge	: Alvaro Maria Freitas
Prosecutor	: Matias Soares
Public Defender	: Fernando da Costa (trainee lawyer)
Type of penalty	: 1 year in prison, suspended for 2 years

On 26 September 2018 the Suai District Court, through the mobile court in Ainaro District, announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant AdR who allegedly committed the offence against his wife in Ainaro District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 31 July 2017 the defendant punched and kicked the victim multiple times. The defendant also threw an avocado at the victim and struck the victim on the back. These acts caused the victim to suffer pain and swelling to her body and back. Prior to the incident, the victim asked the defendant about information that she had heard, namely that the defendant had another woman. The defendant and victim argued and the defendant assaulted the victim.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3 (a), 35 (b) and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed 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 since the incident the defendant has not hit the victim. The victim maintained the facts in the indictment and stated that she has reconciled with the defendant and that the defendant is the only breadwinner in their family.

Final recommendations

The public prosecutor requested for the court sentence the defendant to 3 years in prison, suspended for 3 years, because it had been proven that the defendant was guilty of committing the crime as alleged in the indictment. The public prosecutor stated that the penalty is a way to deter the defendant from committing other acts in the future.

The public defender requested for the court to impose a penalty of two years in prison against the defendant, suspended for two years, because the defendant confessed, regretted his actions and promised not to reoffend against the victim in the future.

Decision

After evaluating the facts that had been proven, the court found that the defendant and victim argued about information stating that the defendant had another woman. The court also found that the defendant punched and kicked the victim multiple times and also threw an avocado at the victim that struck her on the back. The court found that the defendant's actions caused the victim to suffer pain and swelling to her body and back. Based on this evidence the court concluded the matter and sentenced the defendant to 1 year in prison, suspended for 2 years.

12. Crime of making threats

Case No.	: 0010/17.ANANV
Composition of the Court	: Single judge
Judge	: Alvaro Maria Freitas
Prosecutor	: Matias Soares
Public Defender	: Octavio Manuel da Costa (trainee lawyer)
Type of penalty	: Validating withdrawal of complaint

On 26 September 2018 the Suai District Court, through the mobile court in Ainaro District, attempted conciliation in a case of threats involving the defendant Manuel de Araujo who allegedly committed the offence against his father, Luis de Araujo, in Ainaro District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 13 March 2017 the defendant took a long machete and tried to slash the victim but missed and then the defendant slashed the door. The defendant yelled out, called the victim a dog and threatened that he would kill the victim and would cut off the victim's genitals. After saying these things, the defendant ran outside and threw a rock at the house. Prior to the incident, the defendant told his younger brother to get some food for him to eat, but the defendant's younger brother did not want to. The defendant became angry and was going to hit his younger brother. The victim did not accept the defendant saying he was going to hit his younger brother, so the victim was became angry with the defendant. The defendant did not accept this and committed the assault against the victim.

The public prosecutor alleged that the defendant violated Article 157 of the Penal Code on making threats with that carries a maximum penalty of 1 year 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 judge may seek to reach conciliation between the defendant and victim.

During this attempted conciliation the defendant apologised to the victim and expressed regret. The defendant also promised the victim that he would not swear, throw rocks or make threats against the victim in the future. Therefore the victim was willing 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 request of the victim to withdraw the case and the amicable agreement between the parties, the court decided to validate the settlement.

13. Crime of simple offences against physical integrity

Case No.	: 0011/17.ANAMBS
Composition of the Court	: Single judge
Judge	: Alvaro Maria Freitas
Prosecutor	: Matias Soares
Public Defender	: Octavio Manuel da Costa (trainee lawyer)
Type of penalty	: 6 months in prison, suspended for 1 year

On 26 September 2018 the Suai District Court, through the mobile court in Ainaro District, announced its decision in a case of simple offences against physical integrity involving the defendant Lino Silva Benevides who allegedly committed the offence against the victim Laurinda Tilman Goncalves, the defendant's neighbour, in Ainaro District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 27 August 2017 the defendant punched and kicked the victim many times and caused the victim to suffer pain and swelling to her body. Before this incident the victim saw some cow manure in front of the house so the victim swore. Although the victim did not say a person's name when she swore, the defendant was unhappy and approached the victim to assault her.

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.

Presentation of evidence

Because this crime was semi-public in nature, before proceeding to the examination of evidence the court attempted conciliation between the defendant and the victim, but the victim wanted to continue with the matter.

During the trial the defendant confessed that he punched and kicked the victim multiple times because even though the victim did not mention his name, at that time the victim swore and looked straight at the defendant so the defendant felt that the victim was swearing at him. In addition, the defendant also stated that he was not happy because it was not his cow that had made a mess in front of the victim's house. The victim maintained the facts in the indictment and stated that the defendant punched and kicked her multiple times.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime against the victim, therefore to deter the defendant from committing any further crimes against the victim, the public prosecutor requested for the court to sentence the defendant to 3 years in prison, suspended for 3 years, and ordered the defendant to pay court costs of \$US 20.

The public defender requested for the court to impose a suspended prison sentence against the defendant but a lesser penalty than that recommended by the prosecutor because the defendant regretted his actions, promised that he would not commit any further crimes against victim in the future.

Decision

After evaluating the facts, the court found that the defendant punched and kicked the victim multiple times which caused the victim to suffer swelling to her body. Therefore, the court concluded the matter and sentenced the defendant to 6 months in prison, suspended for 1 year, and ordered the defendant to pay court costs of US\$ 20.

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

Case No. : 0001/17. ANMBS
Composition of the Court : Single judge
Judge : Alvaro Maria Freitas
Prosecutor : Napoleão da Silva Soares
Public Defender : Fernando da Costa (trainee lawyer)
Type of penalty : Prison sentence of 1 year and 8 months, suspended for 3 years

On 27 September 2018 the Suai District Court, through the mobile court in Ainaro District, announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant JCP who allegedly committed the offence against his wife in Ainaro District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 02 June 2018 the defendant slapped the victim multiple times on her right cheek which caused swelling and bruising to her right cheek. Prior to the incident, the victim called out to the defendant to grab their pig but the defendant went to have a rest and then they argued and the defendant slapped the victim.

Two years ago in 2016 the defendant slapped the victim once on her right cheek and kicked the victim once on her side. These acts caused the victim to suffer swelling to her cheek and side. Prior to the incident the defendant and his friends were returning from cutting down some bamboo and he told the victim to make them some coffee to drink but the victim replied that she would cook some corn. Then the defendant committed the assault against the victim.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3 (a), 35 (b) and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, the defendant also stated that he regretted his actions and has reconciled with the victim. The defendant also stated that he was a first time offender. Also the victim confirmed all of the facts in the indictment that the defendant committed the crime against her in accordance with the charges.

Final recommendations

The public prosecutor stated that based on the evidence the defendant was guilty of committing the crime against the victim and therefore the prosecutor asked the court to sentence the defendant to 2 years in prison, suspended for 5 years.

The public defender requested for the court to impose a prison sentence of 1 year and six months against the defendant, suspended for three years, because the defendant confessed, regretted his actions and has reconciled with the victim.

Decision

After evaluating the facts produced during the trial, the court found that all of the alleged facts were true, namely that on 02 June 2018 the defendant slapped the victim many times on her right cheek which caused swelling and bruising because they argued because the defendant did not want to grab their pig.

The court also found that previously in 2016 the defendant slapped the victim once on her right cheek and kicked her once on her side which caused swelling to her cheek and pain. Based on the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 1 year in prison, suspended for 3 years.

For more information, please contact:

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