



**Case Summary**  
**Suai District Court**  
**June 2020**

**Statement:** 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 number of cases monitored by JSMP: 15**

Articles	Case Type	Number
Article 145 of the Penal Code (PC) as well as Articles 2, 3 & 35(b) and 36 of the Law Against Domestic Violence (LADV)	Simple offences against physical integrity characterized as domestic violence and types of offences categorised as domestic violence.	4
Article 316 of the PC	Smuggling	2
Articles 23 and 172 of the Penal Code	Attempted rape	1
Article 177 of the PC	Sexual abuse of a minor	1
Article 154 of the PC	Mistreatment of a spouse	1
Article 225 of the PC	Failure to fulfill an obligation to provide food assistance	1
Article 146 of the PC	Serious offences against physical integrity	1
Article 145 of the PC	Simple offences against physical integrity	1
Articles 1757, 1761 & 1871 of the Civil Code	Exercise of parental authority	1
Article 260 of the PC	Property damage with violence	1
Articles 1, 2, 20 (1) of Law No. 5/2017	Bladed weapons	1
<b>Total</b>		<b>15</b>

**2. Total decisions monitored by JSMP: 3**

Type of Decision	Number
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Suspension of execution of a prison sentence (Article 68 of the PC)	1
Endorsement of agreement	1
Acquitted	1
<b>Total</b>	<b>3</b>

### 3. Total number of cases adjourned based on JSMP monitoring: 4

Reason for adjournment	Number of cases
The defendant was attending proceedings in another case	1
The court did not manage to notify the parties	2
Adjourned without specifying a date	1
<b>Total</b>	<b>4</b>

### 4. Total ongoing cases based on JSMP monitoring: 8

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

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

Case Number	: 0187/15 BBMLV
Composition of the Court	: Single Judge
Judge	: Naason Mário Armindo Marques Doutel
Prosecutor	: Nelson José Soares Magno
Private Lawyer	: Albano Maia
Decision	: 6 months in prison, suspended for 1 year

On 16 June 2020 the Suai District Court, through the mobile court in Maliana, announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant IL who allegedly committed the offence against his wife (the victim) in Bobonaro Municipality.

#### Charges of the Prosecutor

The public prosecutor alleged that on the morning of 13 December 2015 the defendant slapped the victim three times on the back, punched the victim once on the ear and the victim fell to the ground and he grabbed the victim by the arm and dragged her into some rocks. These acts caused the victim to suffer an injury and she had blood in her urine. Prior to this assault, the victim rang her mother in Maliana to ask her to visit the victim who was sick. The victim's mother said that she would take the victim to Maliana. The defendant did not agree with the victim's mother and told the victim to hide when her mother arrived at the house. However, the victim did not want to hide. So the defendant got angry and committed the acts 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 completely confessed all of the facts set out in the indictment of the prosecutor, the defendant also stated that he regretted his actions. The defendant also stated that after this incident, the victim did not want to live together with the defendant, so now they are separated.

In addition, the victim also confirmed all of the facts in the indictment and confirmed the defendant's statement that now they are living apart. The victim also stated they separated because according to their culture, they cannot live together because they are cousins.

### **Final recommendations**

The prosecutor stated that the defendant was guilty of committing the crime of simple offences against physical integrity based on the facts set out in the indictment and to deter this crime in the future the prosecutor requested for the court to impose a prison sentence of eight months against the defendant, suspended for one year.

The public defender stated that the defendant confessed the facts set out in the indictment and the victim also confirmed these facts, but the public defender requested for the defendant to be acquitted from the charges of the public prosecutor because this case happened more than 4 years ago, therefore this crime has expired.

### **Decision**

The court referred to Article 112 KP (1) on suspension of limitations and considered that this crime would lapse in December 2020. Therefore, the court rejected the request of the defence regarding limitation.

The court found that the defendant slapped the victim three times on her back, punched the victim once in the back, and the victim fell to the ground. The court also found that the defendant grabbed the victim by the arm and dragged her into some rocks. Based on the facts that were proven and consideration of all of the circumstances, namely the defendant confessed the facts, regretted his actions, the defendant's actions caused the victim to suffer an injury and blood in her urine, therefore the court concluded this matter and imposed a prison sentence of six months against the defendant, suspended for one year.

## **2. Exercise of parental authority**

Case Number : 0103/19.CVTDS  
Composition of the Court : Single Judge  
Judge : José M. de Araújo  
Prosecutor : Nelson José Soares Magno (representing the minors)  
Defence : Francisco Caitano (representative of the male respondent and female respondent)  
Decision : Endorsement of agreement

On 16 June 2020 the Suai District Court, through the mobile court in Maliana, conducted a hearing to attempt conciliation in a case of case exercise of parental authority involving the applicants who are minors: ES, AG, SG, AG and AT, against the male respondent FT and female respondent ES (mother and father of the minors), in Bobonaro Municipality.

### **Circumstances and background**

The male respondent and female respondent have been living together as husband and wife and they have four children. The male respondent left home and abandoned their children as well as the female defendant to live together with another woman. The male respondent neglected his responsibilities as a father to the minors and never paid alimony for the minors from that time on. Therefore, the female respondent made a request to the Public Prosecution Service to seek parental authority for the minors.

This case related to the exercise of parental authority (parents' responsibility for minors) pursuant to Articles 1757, 1758(1), 1759, 1762, 1765, 1786, 1787(2), 1782, 1804 and 1805 of the Civil Code.

### **Attempted conciliation**

During the attempted conciliation, the male respondent as the father agreed for the minors to keep living with the female respondent, with visits on the holidays and on their birthdays and he will provide alimony for their children totalling US\$25.00 through the female respondent. The male respondent stated that he was unable to give more than US\$25.00 because he is a farmer. However, if he gets work, he promised to give more than this amount.

In addition, the female respondent, who is the mother, agreed with the respondent's request about the money, accommodation and visiting regime and if they are on holidays from school or if the minors have a birthday, the male respondent can take them to his home for one or two days.

### **Final recommendations**

The prosecutor representing the minors requested for the court to endorse the agreement made by the male respondent and female respondent to look after the minors and the respondent can visit the minors on holidays and their birthday.

The representative of the female respondent and male respondent requested for the male respondent to try and fulfil his responsibilities. The representative of the female respondent requested for the male respondent to be able to visit the minors.

### **Decision**

Based on the agreement made by the two parties regarding, residence, and visiting schedule, the court concluded this matter and endorsed the agreement.

### **3. Crime of using a bladed weapon**

Case Number	: 0001/19 BBATB
Composition of the Court	: Panel
Judges	: Naason Mário Armindo Marques Doutel, José M. de Araujo and Benjamin Barros
Prosecutor	: Nelson José Soares Magno
Defence	: Albano Maia
Decision	: Acquitted

On 20 June 2020 the Suai District Court announced its decision in a case of simple offences against physical integrity and use of a bladed weapon involving the defendant Filomino Pires and the victim Vitorino Marques, in Bobonaro Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 01 January 2019, at 4pm, the defendant used a machete and slashed the victim once on his left hand which caused a small injury. Previously, the victim accused the defendant of being a sorcerer so the defendant and the victim argued and then the defendant committed this assault.

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(b) and 20.1 of the Law on Bladed Weapons that carries a penalty of three to six years in prison.

Before the presentation of evidence, the court attempted conciliation between the parties and the victim wanted to withdraw the complaint against the defendant because they have reconciled. The defendant agreed with the request of the victim. Based on the agreement of the two parties,

the court endorsed the request to withdrawal the complaint. Meanwhile, for the crime of using a bladed weapon, the court proceeded to trial.

### **Presentation of evidence**

During the trial the defendant partially confessed the facts set out in the indictment that he was holding a machete to make a fence but suddenly the victim and a group of people had an argument with the defendant and called him a sorcerer. The defendant further stated that the victim wanted to fight the defendant, so he defended himself with the machete and it struck the victim's hand and caused a small injury. The defendant added that he bought the machete from a Chinese Shop for US\$3.00 to clean a plantation, not to slash a person. However, the defendant stated that he regretted his actions and promised not to reoffend in the future.

### **Final recommendations**

The public prosecutor stated that even though the defendant partially confessed to the facts that he purchased the machete to clean a plantation, not to slash a person, and regretted his actions, to deter the defendant from reoffending in the future, the public prosecutor requested for the court to impose a sentence of three years imprisonment against the defendant, suspended for four years.

The public defender stated that the defendant is a farmer and was carrying a machete to clean a plantation or rice field, not to slash a person. Therefore, the public defender requested for the court to acquit the defendant from the crime of using a bladed weapon because the defendant had no bad intention to use the machete.

### **Decision**

After evaluating all of the facts, the court found that the defendant was a farmer and at that time the defendant was carrying a machete with the intention of fixing a fence in front of his house. The court also found that the defendant used the machete to defend himself when the victim and his friends argued with the defendant and tried to fight the defendant. Based on the facts that were proven and consideration of all of the circumstances surrounding this crime, the court decided to acquit the defendant from this crime.

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