



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

Case Summary
Oekusi District Court
July 2019

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 Oekusi District Court

1. Total number of cases monitored by JSMP: 16

Article(s)	Case Type	Total
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.	9
Article 145 (PC), as well as Articles 2, 3, and 35(b) and 36 (LADV) and Article 157 of the PC	Simple offences against physical integrity characterized as domestic violence and types of offences categorised as domestic violence and threats.	1
Article 179 of the PC	Aggravated sexual abuse of a person incapable of resistance	1
Article 316 of the PC	Smuggling	4
Article 259 of the PC	Aggravated property damage	1
Total		16

2. Total number of decisions monitored by JSMP: 16

Type of decision	Total
Prison sentence (Article 66 of the PC)	1
Suspension of execution of a prison sentence (Article 68 of the PC)	12
Fine (Article 67 of the PC)	1

Admonishment (Article 82 of the PC)	1
Exemption from punishment (Article 318 of the PC)	1
Total	16

3. Total cases adjourned based on JSMP monitoring: 0

Reason for adjournment	Total
Total	0

4. Total ongoing cases based on JSMP monitoring: 0

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

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

Case No. : 0107/18.OESIC
Composition of the Court : Single Judge
Judge : João Ribeiro
Prosecutor : Mateus Nessi
Defence : Marcelino Marques Coro
Decision : Prison sentence of 1 year and 6 months, suspended for 1 year and 6 months

On 8 July 2019 the Oekusi District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant MP who allegedly committed the offences against his first wife (LC) and second wife (LM) in Oekusi District.

Charges of the public prosecutor

The public prosecutor alleged that on 12 June 2018 at approximately 3pm the defendant and the victim LC argued because the victim's father came to visit them but the defendant did not greet the victim's father. Then the defendant took a small bag of rice and threw it, striking the victim LC in the head, and then he punched the victim once on her right cheek and kicked the victim once on her left cheek.

At the same time, the victim LM tried to save the victim LC but the defendant took a piece of corn and threw it, striking the victim LM on her left side. Then the defendant pulled the hair of the victim LM and took a piece of wood and struck the victim LM four times on her back. This assault caused the victims LM and LC to suffer swelling, bruising and pain to the head, cheek, waist and back. After the incident the victims received treatment at PRADET.

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

Presentation of evidence

During the trial the defendant confessed to all of the facts in the indictment and stated that he knew that hitting a person could damage their physical health and that person could suffer pain or injury, but he still did it. However, the defendant regretted his actions and promised not to commit such acts against the victims in the future. The defendant also stated that after the incident the defendant and the victims reconciled and they are living together in the same house until now. The defendant was a first time offender. The defendant has eight children with these two wives.

Because the defendant confessed all the facts in the indictment, the public prosecutor requested for the court not to hear the testimony of the victims.

Final recommendations

The public prosecutor stated that the defendant had been proven guilty of committing the physical assault against his wives based on his confession. The prosecutor also stated that the defendant should have protected the victims and should have felt happy because the victims never had a problem even though they are living together in one house. Therefore the prosecutor requested for the court to convict the defendant in accordance with the provisions of Article 145 of the Penal Code.

The defence stated that the defendant confessed all of the facts set out in the indictment, regretted his actions, has reconciled with the victims and collaborated with the court. The defendant regretted his actions and promised not to commit any further crimes against a family member or other person in the future. Based on all of these circumstances, the defence requested for the court to apply an appropriate punishment against the defendant.

Decision

After considering all of the facts, the court found that the defendant threw a small bag of rice at the victim LC and struck her in the head, he then punched the victim once on her right cheek and kicked the victim once on her left cheek. The court also found that the defendant threw a piece of corn at the victim LM and struck her on her left side, and pulled her hair and used a piece of wood to strike her four times on the back.

With consideration of the mitigating circumstances, namely that the defendant confessed, regretted his actions, has reconciled with the victims, was a first time offender, has no fixed monthly income and promised not to repeat his actions in the future, the court concluded this matter and sentenced the defendant to six months in prison, suspended for one year and six months.

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

Case No.	: 0062/18.OEBCN
Composition of the Court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Mateus Nessi
Defence	: Calisto Tout
Decision	: 1 year in prison, suspended for 1 year

On 8 July 2019 the Oekusi District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant ALC who allegedly committed the offence against his wife in Oekusi District.

Charges of the public prosecutor

The public prosecutor alleged that on 9 October 2018 at approximately 7pm the defendant and the victim argued because the defendant told the victim to go and cut some rice then the defendant slapped the victim twice on her left cheek which caused swelling, redness and pain. After the incident the victim received treatment at the health centre.

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 totally confessed to all of the facts in the indictment and stated that the defendant regretted his actions, has reconciled with the victim and is again living with the victim as husband and wife. This was the first time that the defendant committed the crime against the victim, and he is a farmer with no fixed monthly income and has three children.

Because the defendant confessed all the facts in the indictment, the public prosecutor requested for the court not to hear the testimony of the victim.

Final recommendations

The prosecutor stated that the defendant was guilty of committing the crime against the victim based on the defendant's confession. Even though the defendant has reconciled with the victim, in reality crimes of domestic violence continue to be prevalent in the Oekusi Region in comparison with other municipalities, so the public prosecutor requested for the court to convict the defendant in accordance with the provisions of the charge against the defendant.

The public defender requested for the court to impose an adequate penalty against the defendant because he completely confessed the facts, regretted his actions and collaborated with the court. The defendant also reconciled with the victim, and this was the first time that the defendant offended against the victim.

Decision

The court found that the defendant slapped the victim twice on her left cheek. The court said that the defendant assaulted the victim, a woman who was powerless to defend herself. Based on the evidence and these considerations, namely the defendant express remorse, was a first time offender, has reconciled with the victim, has three children and has no fixed income, the court concluded this matter and sentenced the defendant to one year in prison, suspended for one year.

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

Case No. : 0209/18.OESIC

Composition of the Court : Single Judge

Judge : João Ribeiro
Prosecutor : Mateus Nessi
Defence : Calisto Tout
Decision : Prison sentence of 1 year and 6 months, suspended for 1 year and 6 months

On 8 July 2019 the Oekusi District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant CIH who allegedly committed the offence against his older sister (BH) in Oekusi District.

Charges of the public prosecutor

The public prosecutor alleged that on 6 December 2018, at approximately 3pm, the defendant kicked the victim once in the back, choked her and punched her many times in the head. These acts caused victim to suffer swelling, bruising, redness and pain to her side, throat and head. After this incident the victim received medical treatment in PRADET. In addition, a medical report from PRADET and photographs from Police-VPU were also attached to this case file.

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

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, and the defendant also stated that he regretted his actions. The defendant stated that he was a first time offender and promised not to assault the victim again. Even so, the defendant has not yet reconciled with the victim because after the incident the victim immediately left the house. The defendant added that he is a student, has no income and the victim was sustaining the household before the problem occurred.

In addition, the victim confirmed the facts set out in the indictment and stated that prior to this incident, they were living together and the victim was sustaining the defendant. The victim added that she wanted to reconcile with the defendant but the defendant did not seek her out, as his older sister, to reconcile with her.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime as set out in the indictment and the defendant's actions showed that the defendant was uneducated and did not respect the victim as his older sister. For this reason the prosecutor requested for the court to convict the defendant pursuant to Article 145 of the Penal Code.

The public defender requested for the court to apply a fair punishment against the defendant, because the defendant confessed all of the facts, regretted his actions and promised not to reoffend against the victim in the future. The defendant also stated that he was a first time offender.

Decision

The court found that the defendant assaulted the victim, who is his older sister, by kicking her once on her side, choking her and punching her many times in the head. The victim is the older sister of the defendant and the defendant should respect her and protect her from any other person wishing to cause her harm. In addition, the court found that the victim sustained the defendant.

Based on the facts that were proven, and after considering all of the circumstances surrounding this crime, the court concluded sentenced the defendant to 1 year and 6 months in prison, suspended for 1 year and 6 months.

4. Crime of smuggling

Case No. : 0229/17.OESIC
Composition of the Court : Panel
Judges : João Ribeiro, Sribuana da Costa, Yudi Pamukas, Alexandre E. Brige Viega (mentor judge)
Prosecutor : Mateus Nessi
Defence : Marcelino Marques Coro
Decision : One year in prison, however with exemption from punishment

On 10 July 2019 the Oekusi District Court conducted a hearing to announce its decision in a case of smuggling involving the defendant Venancio Lafo who allegedly committed the offence against the State of Timor-Leste in Oekusi District.

Charges of the public prosecutor

The public prosecutor alleged that on 20 December 2017, at approximately 11:30pm, the defendant illegally imported 105 litres of petrol and 560 litres of diesel via Noel Ekate across the border between Indonesia and Timor-Leste. The defendant committed this crime and avoided paying tax to the Customs Directorate which caused the State to suffer a loss.

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 all of the facts in the indictment. However, the defendant stated that he had no intention of illegally importing the goods into Timor-Leste but he was advised by an Indonesia citizen at a market near the border who was selling this fuel cheaply. The defendant stated that he was a first time offender, regretted his actions and promised not to commit any further crimes in the future. The defendant added that after this incident the defendant used his own initiative to pay tax through the bank account of the Public Prosecution Service. The defendant is a farmer, has no fixed monthly income, and has three children.

The court decided not to hear testimony from the witness who is a member of the Border Patrol Unit (UPF) because the defendant confessed all of the facts alleged by the prosecutor.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime of smuggling in accordance with all of the facts in the indictment because the defendant completely confessed to the facts. Therefore the public prosecutor requested for the court to convict the defendant pursuant to the provisions of the alleged crime.

The public defender requested for the court to impose a lenient penalty against the defendant because the defendant confessed and before this case went to trial, the defendant paid tax to the State through the bank account of the Public Prosecution Service. The defendant also regretted his actions, promised that he will not repeat his actions in the future and the defendant has no fixed income and has three children.

Decision

The court found the defendant guilty of illegally importing diesel and petrol and he did not pay tax to the State. The court also found that after this incident the defendant used his own initiative to pay tax to the State for these illegal goods through the bank account of the Public Prosecution Service. In addition, the court also found that the defendant had no intention of purchasing goods and importing them into Timor-Leste, but he was advised by an Indonesian citizen who sold these goods cheaply to the defendant.

Based on the facts that were proven and considering all of the circumstances associated with this crime, the court concluded the matter and sentenced the defendant to one year in prison, however the court decided to apply an exemption of penalty pursuant to Article 318 of the Penal Code because the defendant voluntarily paid tax to the Customs Directorate via the bank account of the Public Prosecution Service.

5. Crime of smuggling

Case No.	: 0235/17.OESIC
Composition of the Court	: Panel
Judges	: João Ribeiro, Sribuana da Costa, Yudi Pamukas, Alexandre E. Brige Viega (mentor judge)
Prosecutor	: Mateus Nesi
Defence	: Marcelino Marques Coro
Decision	: Each of the defendants sentenced to 1 year in prison, suspended for 1 year

On 10 July 2019 the Oekusi District Court conducted a hearing to announce its decision in a case of smuggling involving the defendants Mateus Bobo, Marta Punef and Elisabeth Oqui who allegedly committed the offence against the State of Timor-Leste, in Oekusi District.

Charges of the public prosecutor

The public prosecutor alleged that on 14 December 2017, at approximately 6am, at the Poto border in the Special Administrative Region of Oekusi-Ambeno, the defendants illegally imported 385 litres of petrol and 359 litres of diesel and did not pay the State via the Customs Directorate. The defendants' behaviour disadvantaged the State.

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 defendants completely confessed all of the facts set out in the indictment of the prosecutor, and the defendants also stated that they regretted their actions. The defendants also promised not to repeat their behaviour in the future. The defendants added that after this incident they paid tax for the goods they imported into Timor-Leste via the bank account of the Public Prosecution Service.

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

Final recommendations

The public prosecutor stated that the defendants were guilty of committing the crime of smuggling in accordance with the charges. Therefore, the public prosecutor requested for the court to convict the defendants in accordance with Article 316 of the Penal Code on the crime of smuggling.

The public defender requested for the court to apply a lenient sentence against the defendants because they completely confessed to the facts set out in the indictment and regretted their actions. In addition, the defendants collaborated with the court and paid for the loss suffered by the State, because they paid tax via the bank account of the Public Prosecution Service.

Decision

After evaluating all of the facts, the court found that the defendants illegally imported 385 litres of petrol and 359 litres of diesel, or did not pay tax to the State via Customs. The court also considered the mitigating circumstances, namely that the defendants were first time offenders and they paid for the loss suffered by the State.

Based on all of the facts that were proven, and the circumstances associated with this crime, the court sentenced the defendants to 1 year in prison, suspended for 1 year.

6. Crime of smuggling

Case No.	: 0037/18.OESIC
Composition of the Court	: Panel
Judges	: João Ribeiro, Sribuana da Costa, Yudi Pamukas, Alexandre E. Brige Viega (mentor judge)
Prosecutor	: Mateus Nessi
Defence	: Marcelino Marques Coro
Decision	: Each of the defendants sentenced to 1 year in prison, suspended for 1 year

On 11 July 2019 the Oekusi District Court conducted a hearing to announce its decision in a case of smuggling involving the defendants Adito Name, Ananias Caet, Cristaforos Crisantos Elo and Francisco Auni who allegedly committed the offence against the State of Timor-Leste, in Oekusi District.

Charges of the public prosecutor

The public prosecutor alleged that on 9 March 2018, at approximately 7.30pm, the defendants illegally imported 410 litres of petrol, 115 litres of diesel, 16 sacks of red fertilizer, 9 sacks of black fertilizer and 19 sacks of white fertilizer across the Saben border between Timor-Leste and Indonesia. The defendants' behaviour disadvantaged the State because they did not pay tax via the Customs Directorate.

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 defendant confessed all of the facts set out in the indictment and regretted their actions. The defendants also stated that they paid tax via the bank account of the Public Prosecution Service for the illegal goods. The defendants promised not to repeat this behaviour in the future and they were first time offenders.

The court decided not to hear testimony from a witness who is a member of the Border Patrol Unit (UPF) because the defendants totally confessed to the facts set out in the indictment.

Final recommendations

The public prosecutor stated that the defendants were guilty of committing the crime of smuggling based on the facts set out in the indictment and based on their full admission of the facts. For this reason the prosecutor requested for the court to convict the defendants pursuant to Article 316 of the Penal Code.

The public defender requested for the court to impose a lenient penalty against the defendants because they confessed, regretted their actions and paid tax for these illegal goods. The defendants also have no fixed income and are the breadwinners for their families.

Decision

After considering all of the facts, the court found that the defendants illegally imported 410 litres of petrol, 115 litres of diesel, 16 sacks of red fertilizer, 9 sacks of black fertilizer and 19 sacks of white fertilizer. Based on the facts that were proven and the mitigating circumstances, namely that the defendants confessed, regretted their actions, were first time offenders and have no fixed income, the court sentenced each defendant to one year in prison, suspended for one year.

7. Crime of smuggling

Case No.	: 0033/17.OESIC
Composition of the Court	: Panel
Judges	: João Ribeiro, Sribuana da Costa, Yudi Pamukas, Alexandre E. Brige Viega (mentor judge)
Prosecutor	: Mateus Nesi
Defence	: Marcelino Marques Coro
Decision	: Each of the defendants sentenced to 1 year in prison, suspended for 1 year

On 11 July 2019 the Oekusi District Court conducted a hearing to announce its decision in a case of smuggling involving the defendants Filomena Bobo, Francisca Eco, Jose Caet and Bento Oqui who allegedly committed the offence against the State of Timor-Leste, in Oekusi District.

Charges of the public prosecutor

The public prosecutor alleged that on 20 February 2017, at approximately 5am, the defendants illegally imported goods across the border at Poto. The goods were 170 litres of petrol, 280 litres of diesel, 105 litres of kerosene and 2 sacks of fertilizer. The defendants' behaviour disadvantaged the State because they did not pay tax via the Customs Directorate.

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 all of the facts set out in the indictment, and the defendants also stated that they regretted their actions. The defendants also stated that they paid tax via the bank account of the Public Prosecution Service for the goods that they imported illegally, and that they were first time offenders and promised not to repeat such behaviour in the future. The defendants are small-scale traders with no fixed monthly income.

Final recommendations

The public prosecutor stated that the defendants knew that importing goods without paying tax is against the law but they still did it. Therefore, the defendants were guilty of committing the crime of smuggling. With these considerations in mind the public prosecutor requested for the court to sentence the defendants in accordance with the provisions of Article 316 of the Penal Code.

The public defender requested for the court to apply a lenient sentence against the defendants because they confessed, regretted their actions, and promised not to repeat their actions in the future. The defendants also collaborated with the court and they are the breadwinners of their families.

Decision

The court found that the defendants were guilty of illegally importing 170 litres of petrol, 280 litres of diesel, 105 litres of kerosene and two sacks of fertilizer. However, prior to the trial the defendants paid tax for these goods via the bank account of the Public Prosecution Service. Based on these facts, and also considering the mitigating circumstances, namely that they defendants were first time offenders, regretted their behaviour, are small-scale traders and have no fixed monthly income, the court sentenced each defendant to one year in prison, suspended for one year.

8. Crime of aggravated property damage

Case No.	: 0029/16.PDOEC
Composition of the Court	: Panel
Judges	: João Ribeiro, Sribuana da Costa, Yudi Pamukas
Prosecutor	: Mateus Nesi

Defence : Calisto Tout
Decision : 1 year in prison, suspended for 1 year

On 11 July 2019 the Oekusi District Court conducted a hearing to announce its decision in a case of aggravated property damage involving the defendant Agostinho Mauno who allegedly committed the offence against the victim Antonio Sila, in Oekusi District.

Charges of the public prosecutor

The public prosecutor alleged that on an unspecified day and month in 2015, the defendant cut down and burned the victim's sacred tree that normally the victim used for rituals (sacrificing animals such as chickens, goats, pigs and buffaloes to pay respect to ancestors). The defendant cut down and burned the tree so he could plant crops.

The public prosecutor alleged that the defendant violated Article 259(e) of the Penal Code on aggravated property damage that carries a maximum penalty of 2-8 years in prison.

Presentation of evidence

During the trial the defendant confessed to all of the facts in the indictment and stated that he burned this tree because he did not know it was sacred. However, after the incident the defendant immediately apologised to the victim and immediately handed over a pig and some wine. The defendant stated that he regretted his actions and promised not to reoffend in the future. The defendant was a first time offender, and he is a farmer with no fixed monthly income and has four children.

Meanwhile the victim confirmed the facts set out in the indictment and stated that the defendant and the victim live in the same village and the defendant knew about the sacred tree because the victims always use that place for worship. The victim state that the defendant cut down and burned the sacred tree with the intention of destroying the sacred house of Fotes-Tahonis. However, the victim confirmed that the defendant apologised by handing over a pig and some wine to compensate for the damage he caused.

Final recommendations

The public prosecutor stated the defendant was guilty of committing the facts set out in the indictment, and therefore requested for the court to convict the defendant based on the provisions set out in Article 259(e) of the Penal Code.

The public defender requested for the court to impose a lenient penalty against the defendant because the defendant did not know about the sacred tree, regretted his actions, adhered to East Timorese custom and promised not to repeat such behaviour in the future. The defendant is also a farmer and has no fixed monthly income and is the breadwinner of the family.

Decision

The court found that the defendant cut down the victim's sacred tree that the victim used to performed rituals to pay respects to ancestors. The court found that the defendant apologised to the victim and handed over a pig and some wine to compensate for the damage he caused. Based on the facts that were proven and after considering all of the circumstances associated with this

crime, the court imposed an effective prison sentence of one year against the defendant, suspended for one year.

9. Aggravated sexual abuse of a person incapable of resistance

Case No. : 0153/17.OESIC
Composition of the Court : Panel
Judge : João Ribeiro, Sribuana da Costa, Yudi Pamukas
Prosecutor : Mateus Nessi
Defence : Calisto Tout
Decision : 10 years in prison

On 12 July 2019 the Oekusi District Court conducted a hearing to announce its decision in a case of aggravated sexual abuse of a person incapable of resistance involving the defendant AC, the nephew of the alleged victim. This crime allegedly occurred in Oekusi District.

Charges of the public prosecutor

The public prosecutor alleged that on 27 July 2017, at approximately 7pm, the victim drank two bottles of palm wine with her husband, and her two sons-in-law and her oldest son. At 9pm the victim was heavily drunk and did not want to continue drinking the palm wine. The victim's husband, the victim's oldest son and the victim's two sons-in-law carried the victim inside the house and lay her down.

Several minutes later, when the victim's husband and son went to a wake, the defendant, who is the nephew of the victim (the son of the victim's husband's sister) went into the house and removed the victim's sarong, removed the victim's pants and had sexual intercourse with the victim who was heavily drunk. The victim's husband returned home and caught the defendant having sexual intercourse with the victim.

The public prosecutor alleged that the defendant violated Article 172 of the Penal Code on rape and article 173(a) of the Penal Code on aggravation.

Presentation of evidence

During the trial the defendant partially confessed that at that time they were drinking palm wine at the victim's house and the victim became heavily drunk. Then, the victim's husband and her two sons-in-law carried the victim into the house to lay her down and the defendant went home. However, because his phone was missing, the defendant went back to the victim's house to look for his phone. The defendant added that when victim's husband came home he saw the defendant outside, not inside the house. Therefore, the defendant denied that he had sexual intercourse with the victim.

The victim stated that at that time she was drinking palm wine with her husband and her two sons-in-law, not with the defendant. The victim added that at that time she was heavily drunk so she did not feel anything when the defendant had sexual intercourse with her. The victim's husband told the victim about the incident after it happened. The victim stated that the defendant's house and the victim's house are approximately 200 metres apart.

The witness CQ, who is the victim's husband, testified that the defendant was not drinking with them. However, after laying the victim down inside the house the defendant went home and not long after the defendant came back. The witness also did not know that the defendant had returned. After the defendant came back, the witness and others went to a wake, but on the way the witness suddenly felt uneasy and went back to the house by himself.

When the witness arrived at the house the witness went inside and saw the defendant having sexual intercourse with the victim. Therefore the witness slapped the defendant six times on his left and right cheeks. The witness went outside and closed the door to search for some rope to tie up the defendant but the defendant tore down the wall of the house and ran away. The defendant left behind his sandals and shirt inside the house. The witness also stated that the defendant is the son of his sister, and lives close by, approximately 300 metres away.

During the presentation of evidence the court stated that the defendant allegedly committed this crime against the victim who was drunk and did not know where she was. Therefore, pursuant to Article 274 of the Criminal Procedure Code on amending the charge, the court changed the charge from rape to Article 179 of the Penal Code on the sexual abuse of a person incapable of resistance and maintained Article 182.1(d) of the Penal Code on aggravation because the defendant and the victim are related. This amended charge was agreed to by the prosecution and defence.

Final recommendations

The prosecutor stated that the defendant was guilty of committing the crime of sexual abuse of a person incapable of resistance based on the allegations set out in the indictment because the defendant took advantage of the victim who was drunk and didn't know where she was so he could have sexual intercourse with her. The public prosecutor stated that during the presentation of evidence the defendant tried to deceive the court by saying that he did not have sexual intercourse with the victim. In addition, the defendant should have respected the victim because the victim was his aunty. Based on these considerations, the prosecutor requested for the court to convict the defendant in accordance with the provisions of Articles 179 and 182.1(d) of the Penal Code.

The public defender requested for the court to place more trust in the statement of the defendant that he did not have sexual intercourse with the victim which was reinforced by the victim's statement that she did not know about this incident. Therefore, the public defender requested for the court to acquit the defendant from the charges or for the court to use its discretion to uphold justice for the defendant.

Decision

The court found that the defendant had sexual intercourse with the victim, and even though the victim herself did not know about this incident because she was heavily drunk, the victim's husband witnessed this incident. The court also found that the defendant was a first time offender and is a student.

In addition to this evidence, the court found that the defendant knew that the victim was his aunty or the wife of his uncle, but he took advantage of the fact that the victim was heavily drunk to commit this act. The defendant also did not regret his actions because he tried to deceive the

court. Based on the facts that were proven, and after considering all of the circumstances, the court concluded the matter and sentenced the defendant to 10 years in prison.

10. Crime of simple offences against physical integrity characterized as domestic violence and the crime of threats

Case No. : 0049/18.OESIC
Composition of the Court : Single Judge
Judge : João Ribeiro
Prosecutor : Mateus Nessi
Defence : Marcelino Marques Coro
Decision : Fine of US\$ 120

On 22 July 2019 the Oekusi District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence and the crime of threats involving the defendant AL who allegedly committed the offence against his wife in Oekusi District.

Charges of the public prosecutor

The public prosecutor alleged that on 13 May 2018, at approximately 12 midday, the defendant slapped the victim once on her right cheek and punched the victim twice on her left cheek. These acts caused the victim to suffer pain to her left and right cheeks. The defendant also threatened to beat the victim to death. The incident occurred when the defendant heard that the victim had organised a scholarship for their child through the BNCTL bank without his knowledge, because they are separated. After the incident the victim received treatment at the Oekusi Referral Hospital. In addition to the medical report, photos of the victim's injuries from the VPU Unit of the Police were also attached to the case file.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison, as well as Articles 2, 3(a), 35(b) and 36 of the Law Against Domestic Violence, as well as Article 157 of the Penal Code on the crime of threats damage that carries a maximum penalty of 1 year in prison or a fine.

Before continuing with the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the court the court attempted conciliation between the defendant and the victim in relation to the crime of threats because that is a semi-public crime and is a crime on complaint.

During this attempted conciliation, the victim wanted to withdraw the complaint against the defendant relating to the charge of making threats. Based on the agreement of the two parties, the court endorsed the amicable settlement. The court tried the crime of simple offences against physical integrity characterized as domestic violence.

Presentation 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 he regretted his actions. The defendant said that he

knew that hitting a person could cause pain or injury but he still committed the assault against the victim. The defendant also reconciled with the victim, and this was the first time that the defendant offended against the victim. The defendant has three children, works as a public servant with a monthly income of US\$204.00.

The victim confirmed all of the facts set out in the indictment of the public prosecutor and stated that before this problem occurred they were living separately but now they are living together as husband and wife.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the physical assault against his wife based on the facts set out in the indictment. The public prosecutor reiterated that the defendant should have been grateful that the victim had a good idea to help the defendant by organising a scholarship for their child to help sustain their family, but in response the defendant actually assaulted the victim. Therefore, even though the defendant and the victim have reconciled, to deter the defendant from committing such acts in the future, the public prosecutor requested for the court to convict the defendant in accordance with the provisions of Article 145 of the Penal Code.

The public defender requested for the court to impose a fine against the defendant because the defendant totally confessed all of the facts set out in the indictment, regretted his actions and they are living together as husband and wife. In addition, the defendant was a first time offender, has three children and the defendant is a public servant with a monthly income of US\$204.00.

Decision

The court found that the defendant slapped the victim once on her right cheek and once on her left cheek. The court found that the defendant committed these acts with intent because the defendant knew that hitting a person was against the law. The court also considered the mitigating circumstances such as the defendant confessed, regretted his actions, has reconciled with the victim, was a first time offender, has three children and works as a public servant with a monthly income of US\$204.00.

Based on the facts that were proven and all of the circumstances associated with this crime, the court ordered the defendant to pay a fine of US\$120.00 through daily instalments of US\$ 1.00 for 120 days. The court also ordered the defendant to pay court costs of US\$20.00. If the defendant does not pay this fine then he will be sent to prison for 80 days as an alternative punishment.

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

Case No.	: 0022/18.OEOSL
Composition of the Court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Mateus Nessi
Defence	: Marcelino Marques Coro
Decision	: 1 year in prison, suspended for 1 year

On 22 July 2019 the Oekusi District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant JA who allegedly committed the offence against his wife in Oekusi District.

Charges of the public prosecutor

The public prosecutor alleged that on 7 December 2018, at approximately 8pm, the defendant slapped the victim once on her left cheek and choked the victim. This act caused the victim to suffer swelling, redness and pain to her cheek and throat. After the incident, the victim received medical treatment at a health centre and photos of the victim's injuries from the VPU of the Police were attached to the case file.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine 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 they are living together as husband and wife. The defendant is a first time offender, works as a farmer, has no fixed monthly income, and has three children.

The court did not require the statement of the victim because the defendant confessed all of the facts.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing a physical assault against his wife by slapping the victim once on her left cheek and choked the victim. Therefore, it is necessary to deter the defendant from repeating such acts in the future. In addition, because crimes of domestic violence are prevalent in the Oekusi Region in comparison with other municipalities, the public prosecutor requested for the court to convict the defendant in accordance with the provisions of Article 145 of the Penal Code.

The public defender requested for the court to impose a lenient penalty against the defendant because during the presentation of evidence the defendant confessed, regretted his actions and reconciled with the victim. The defendant was also a first time offender, collaborated with the court and the defendant has three children that he needs to provide for.

Decision

After evaluating all of the facts, the court found that the defendant slapped the victim once on left cheek and choked her. The court also found that the defendant's actions were serious because he committed the offence against his wife who he is supposed to protect.

Based on the facts that were proven and all of the mitigating circumstances, namely that the defendant confessed, regretted his actions, and has reconciled with victim, the court imposed a prison sentence of 1 year against the defendant, suspended for 1 year.

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

Case No. : 0004/19.OESIC
Composition of the Court : Single Judge
Judge : João Ribeiro
Prosecutor : Mateus Nessi
Defence : Calisto Tout
Decision : 1 year in prison, suspended for 1 year

On 23 July 2019 the Oekusi District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant RTC who allegedly committed the offence against his wife in Oekusi District.

Charges of the public prosecutor

The public prosecutor alleged that on 3 January 2019, at approximately 8am, the defendant and the victim argued and the defendant kicked the victim once on her left arm, pulled the victim's hair, choked the victim and kicked the victim twice on her backside. These acts caused the victim to suffer swelling, redness and pain to her arm, head, throat and backside. After this incident the victim received treatment at PRADET and photographs of her injuries were provided by the VPU of the Police.

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

Presentation of evidence

During the trial the defendant partially confessed the facts, namely that that kicked the victim once on her left arm and kicked her twice on her backside but did not pull the victim's hair and did not choke the victim. The defendant said that he knew that hitting someone could cause pain or an injury to their body. However, the defendant regretted his actions and before the court the defendant requested for the victim to live with him again because they have been separated since the incident. The defendant also stated that he was a first time offender and he works as a security guard with a monthly income of US\$130.00.

The victim confirmed all of the facts in the indictment and stated that it was true that they have been separated since the incident. The victim also accepted the defendant's request for them to live together again as husband and wife because they have a child.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the physical assault against his wife based on the facts set out in the indictment. Even though during the presentation of evidence the defendant confessed to some of the facts, the public prosecutor requested for the court to give more consideration to the victim's statement. The public prosecutor reiterated that cases of domestic violence are prevalent in the Oekusi Region in comparison with other municipalities. Therefore to deter the defendant in the future, the public prosecutor requested for the court to convict the defendant pursuant to Article 145 of the Penal Code.

The defence requested for the court to place more trust in the defendant's statement because the defendant honestly declared that he kicked the victim once on the arm and kicked her twice on her backside. In addition, the defendant collaborated with the court, regretted his actions and was a first time offender. The defendant also has a child and is the breadwinner of the family. The defendant works as a security guard with a monthly income of US\$130.00. Therefore, the defence requested for the court to impose a fair sentence against the defendant.

Decision

The court found that the defendant was guilty of physically assaulting the victim and convicted the defendant for his actions because the defendant intended to commit the crime against his wife who he is supposed to protect. The court considered the mitigating circumstances, namely that the defendant confessed, regretted his actions, was a first time offender and reconciled with the victim.

Based on the facts that were proven and the mitigating circumstances, the court sentenced the defendant to 1 year in prison, suspended for 1 year, and ordered him to pay court costs of US\$ 20.

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

Case No. : 0001/19.OESIC
Composition of the Court : Single Judge
Judge : João Ribeiro
Prosecutor : Mateus Nessi
Defence : Calisto Tout
Decision : 1 year in prison, suspended for 1 year

On 24 July 2019 the Oekusi District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant FL who allegedly committed the offence against his wife in Oekusi District.

Charges of the public prosecutor

The public prosecutor alleged that on 1 January 2019, at approximately 2:30pm, the defendant and the victim argued because the defendant prohibited the victim from congratulating her family. The defendant slapped the victim once on the left side of her head, punched the victim twice on the left side of her head, kicked the victim three times in the back and slapped her once on her right cheek. This physical assaulted caused the victim to suffer swelling, redness and pain to her left cheek, right cheek, head and back. After this incident the victim received medical treatment at PRADET. In addition to the medical report, photos of the victim's injuries from the VPU Unit of the Police were also attached to the case file.

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

Presentation of evidence

The defendant confessed all of the facts set out in the indictment, and the defendant also stated that he regretted his actions. The defendant added that he was a first time offender, has two

children and has reconciled with the victim. The defendant promised not to reoffend against his wife or other person in the future.

The victim confirmed all of the facts in the indictment of the public prosecutor and stated that after this incident the victim and the defendant reconciled and have continued living together as husband and wife.

Final recommendations

The public prosecutor stated that the defendant was guilty of intentionally punching, striking and kicking the victim multiple times. Based on these facts, and to deter the defendant in the future, the public prosecutor requested for the court to convict the defendant pursuant to Article 145 of the Penal Code.

The defence stated that the defendant confessed all of the facts set out in the indictment, regretted his actions, and has reconciled with the victim. The defendant collaborated with the court, has no fixed income because he is unemployed, he has two children and promised not to commit any further crimes against members of his family or other persons in the future. Based on all of these circumstances, the defence requested for the court to apply an appropriate and fair punishment against the defendant.

Decision

The court found the defendant guilty of intentionally committing the physical assault against the victim based on the facts set out in the indictment. The court also considered the defendant's confession, that he has regretted his actions, has reconciled with the victim, is a first time offender and has two children.

Based on the facts that were proven and after considering all of the circumstances associated with this crime, the court imposed an effective prison sentence of one year against the defendant, suspended for one year.

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

Case No.	: 0221/18.OESIC
Composition of the Court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Mateus Nessi
Defence	: Calisto Tout
Decision	: Prison sentence of 1 year and 6 months, suspended for 1 year and 6 months

On 24 July 2019 the Oekusi District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant ZC who allegedly committed the offence against his wife in Oekusi District.

Charges of the public prosecutor

The public prosecutor alleged that on 30 December 2018 at approximately 11pm, the defendant and the victim argued because the victim hid the motorcycle key. Then the defendant slapped the

victim once in the mouth causing an injury, bleeding and pain. The defendant then pushed the victim to the ground which caused her to suffer pain to her body. After this incident the victim received treatment at the Oekusi Referral Hospital and photos provided by the VPU of the police were attached to the case file.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine 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 and the defendant also stated that he regretted his actions. The defendant also stated that he has reconciled with the victim and they are living together as husband and wife. The defendant added that he is a first time offender, he has two children and works as a public servant with a monthly income of US\$200.00.

The victim confirmed the facts set out in the indictment and stated that the victim hid the motorcycle key with the intention of preventing the defendant from going out, because it was late at night.

Final recommendations

The court found that all of the facts in the indictment of the public prosecutor were proven. The public prosecutor reiterated that the victim loves her husband so she did not want the defendant to go out late at night so he could stay at home with the family. However, the defendant physically assaulted the victim. For this reason the prosecutor requested for the court to convict the defendant pursuant to Article 145 of the Penal Code.

The public defender requested for the court to impose an appropriate sentence against the defendant because the defendant confessed, regretted his actions, has reconciled with the victim, collaborated with the court and the defendant has two children that he is responsible for. The defendant works as a public servant with a monthly income of US\$200.00.

Decision

The court found that the defendant intentionally slapped the victim once and pushed the victim on the ground. The court also considered the mitigating circumstances, namely the defendant expressed remorse, has reconciled with the victim and has two children. Based on the facts that were proven, and all of the circumstances, the court concluded this matter and sentenced the defendant to 1 year and 6 months in prison, suspended for 1 year and 6 months. The court also ordered the defendant to pay court costs of US\$30.

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

Case No. : 0210/18.OESIC
Composition of the Court : Single Judge
Judge : João Ribeiro
Prosecutor : Mateus Nessi
Defence : Calisto Tout

Decision : 2 years in prison, suspended for 2 years

On 24 July 2019 the Oekusi District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant DCS who allegedly committed the offence against his wife in Oekusi District.

Charges of the public prosecutor

The public prosecutor alleged that on 9 December 2018, at approximately 8pm, the defendant kicked the victim once on her right calf, slapped her twice on her right cheek, struck her four times on the back of the neck. The defendant also used a plastic chair to strike the victim once on her right elbow and took a broom and struck her once on her right eyebrow. The defendant's actions caused the victim to suffer swelling, redness and pain to her stomach, cheek, back of neck, elbow and eyebrow. As a result of this act the victim was treated at PRADET.

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, regretted his actions, was a first time offender, has reconciled with the victim and has four children. The defendant works as a farmer, and has no fixed monthly income.

Because the defendant confessed all the facts in the indictment of the public prosecutor, the court requested for the court not to hear the testimony of the victim.

Final recommendations

The prosecutor stated that the defendant was guilty of committing the crime in accordance with the indictment. In addition, the public prosecutor considered that the way the defendant had beaten the victim many times showed that this was not the first time that the defendant committed this crime but he always assaulted the victim. Therefore, the public prosecutor requested for the court to convict the defendant in accordance with the provisions of Article 145 of the Penal Code to deter the defendant from committing such acts in the future.

The public defender requested for the court to impose a lenient penalty against the defendant because during the presentation of evidence the defendant confessed to all of the facts, regretted his actions, was a first time offender and promised not to repeat such acts in the future. The defendant has four children and the defendant is the breadwinner.

Decision

The court found that the defendant kicked the victim once on the right side of her stomach, slapped her twice on her right cheek, struck her four times on the back of the neck, and the defendant also used a plastic chair to strike the victim once on her right elbow and took a broom and struck her once on her right eyebrow.

The court also considered the mitigating circumstances, namely the defendant confessed, expressed remorse, has reconciled with the victim, promised not to reoffend in the future, was a first time offender, has four children, has no fixed income is the main breadwinner of the family.

Based on the facts that were proven, and after considering these circumstances, the court sentenced the defendant to 2 years in prison, suspended for 2 years.

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

Case No. : 0012/19.OESIC
Composition of the Court : Single Judge
Judge : João Ribeiro
Prosecutor : Mateus Nessi
Defence : Calisto Tout
Decision : Penalty of admonishment

On 24 July 2019 the Oekusi District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant FC who allegedly committed the offence against his wife in Oekusi District.

Charges of the public prosecutor

The public prosecutor alleged that on 24 January 2019, at approximately 6pm, the defendant slapped the victim once on her right cheek, punched her once on the back of the neck. These acts caused the victim to suffer pain to her cheek and head, so she needed to receive treatment from doctors at the Oekusi Referral Hospital. Photographs from the VPU of the police showing the victim's injuries were attached to the case file.

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

Presentation of evidence

During the trial the defendant confessed all of the facts in the indictment and stated that the defendant is a driver and he was driving a car on the morning of the previous day and the defendant told the victim not to take their child outside because the child is only three and a half months old and it was raining at that time. However, the victim took the child to the market and when they came home the child immediately got sick. The defendant also stated that he regretted his actions and promised not to commit any further crimes against his wife. The defendant added that after the incident, the defendant and the victim immediately reconciled and now are living together. The defendant was a first time offender and has 2 children.

Meanwhile, the victim confirmed all of the facts set out in the indictment and confirmed the defendant's statement that they have reconciled.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the physical assault against his wife based on the facts set out in the indictment of the public prosecutor. Therefore, because crimes of domestic violence are prevalent in the Oekusi Region in comparison with

other municipalities, the public prosecutor requested for the court to convict the defendant in accordance with the provisions of Article 145 of the Penal Code.

Meanwhile, the defence stated that the defendant confessed all of the facts in the indictment and believed that the defendant committed the assaults because he was concerned about the health of their child. The defendant and the victim have reconciled, the defendant regretted his actions and promised not to reoffend against a family member or other person in the future. The defendant also collaborated with the court and has two children. Therefore the defence requested for the court to impose a lenient penalty against the defendant.

Decision

The court announced its verdict and stated that the defendant was guilty of slapping the victim once on her right cheek and punching the victim once on the back of her head. The court considered the facts that were proven, including other circumstances, namely that the defendant confessed, regretted his actions, has reconciled with the victim and promised not to reoffend in the future, the defendant has two children, was a first time offender has no fixed monthly income.

Based on the facts that were proven and after considering all of the circumstances associated with this crime, the court concluded the matter and imposed a penalty of admonishment.

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