



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA DE MONITORIZAÇÃO DO SISTEMA JUDICIAL

Case Summary

Period: February 2009

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Summary of Criminal Cases Tried by the Suai District Court

JSMP conducted monitoring for five days at the Suai District Court (SDC) between the 9th and 13th February 2009 to oversee both criminal and civil cases, however only criminal cases were tried during the aforementioned period. Eight criminal cases were scheduled for trial during this period however hearings only took place in three criminal cases, one of which included a marathon trial that culminated in a final decision. All of these cases related to maltreatment.

The reason why only three of the original eight scheduled cases were eventually tried was because defendants, witnesses and victims were not notified by the court because the court did not know their whereabouts. What is of concern to JSMP and others seeking justice is the lack of coordination between the investigative section of the police and the court to ensure that court summons are delivered to witnesses, victims and defendants.

The following cases could not be tried by the Suai District Court (SDC) during the aforementioned period: No. 50/Pen/2008/PDS, No. 113/Pen/2008/PDS, No. 18/Pen/2008/PDS (these three cases related to maltreatment). Another two cases were scheduled but JSMP was unable to obtain the case numbers because the defendants, witnesses and victims did not appear in court.

More information has been provided below on the criminal trials that were observed by JSMP between the 9th and 13th February 2009 at the Suai District Court

Case No. 103/Pen/2008/PDS

On Tuesday 10/02/2009 The Suai District Court tried a case of light maltreatment committed by the defendant SG against the victim SA who is the Principal at a Junior High School in the District of Suai. This incident of maltreatment was committed by the defendant SG on 22 August 2007 as outlined in the prosecutor's indictment read out by the judge in the court room.

The incident occurred because the younger sibling of the witness AA and a friend JA falsified their report books including the signature of the principal who was the victim in this case. Normal teaching activities continued at the school until one month later when the school found out that the report books had been falsified by AA and JA. One of them was expelled from school; however the other one was not expelled because he was related to one of the teachers.

At his own initiative the defendant SG met with the victim SA who was the principal of the aforementioned school and the victim immediately started abusing the defendant who became angry and slapped the victim on the ear causing bruising. After hearing the testimony of the defendant the court summoned the witness JA who is a teacher at the school.

The witness JA confirmed in his testimony that on 22 August 2007 the defendant was at the school and committed maltreatment against SA; however the witness did not know why the defendant committed this act. The witness also explained that the defendant only slapped the victim once on the ear and did nothing else and as a result of the maltreatment the victim received outpatient treatment at the Suai Hospital but he was able to continue his normal activities.

After hearing testimony from the witness the court accepted a request from the prosecutor to decide not to summon any more witnesses because enough information had been provided and the court immediately proceeded to the next stage of the trial, namely to hear the prosecutor's final recommendation in this case. The prosecutor recommended for the court to examine all the facts of the case and issue a fair decision against the defendant. In his final statement the public defender requested for the court to carefully examine the case and issue a fair decision against the defendant, recalling that the defendant was currently studying in a private university in Dili.

The trial was adjourned until 12 February 2009 for the pronouncement of the final decision in this case. On 12 February 2009 at 10:27am the decision was announced by the presiding judge who found the defendant guilty of committing the act of maltreatment in violation of Article 351.1 of the Indonesian Penal Code that carries a maximum sentence of two years imprisonment, however the judge took into account that the defendant was a student who needs to continue his studies and also that the defendant was cooperative during the trial. The defendant was sentenced to six months imprisonment to be suspended for a period of one year pursuant to Article 14.a of the Indonesian Penal Code and the defendant was ordered to pay \$10 to the defendant.

Case No. 100/Pen/2009/PDS

On Wednesday (11/02) the Suai District Court tried a case of light maltreatment committed by the defendants TA and JT against the victim MCG on 4 September 2007 in Tali Oan. In their testimony the defendants TA and JT Based admitted all of their actions against the victim and accepted all of the charges read out by the court against them. They committed maltreatment against the victim because the victim ridiculed and abused the defendant TA for no reason at all one day before the incident, namely on 3 September 2007, and the defendant was unhappy with the argument that took place, so on the following day the defendant asked the defendant JT to join him and wait for the victim who was returning home from school.

The presiding judge felt that it was not necessary to hear testimony from other witnesses because the defendants accepted all of the charges made by the prosecutor. The prosecutor and the public defender agreed with the court's decision not to hear any further testimony and the court proceeded to the next stage which was to hear the final statements of both parties. In his final recommendation the prosecutor maintained his original charges as read out to the court previously, namely that the defendants' actions violated Article 351.1 of the Indonesian Penal Code and the prosecutor recommended for the court to sentence the defendants in accordance with the aforementioned article with consideration to mitigating circumstances presented during the trial. The public defender requested for the court to issue a fair decision and stated that the actions of the defendants did not cause any long lasting physical suffering.

The court decided to adjourn this trial until 18 February 2009.

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