



**JUDICIAL SYSTEM MONITORING PROGRAMME**  
**PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU**

**Press Release**  
**Dili District Court**  
**27 June 2014**

### **Court acquits defendant in case of sexual violence due to a lack of evidence**

On 24 June 2014 the Dili District Court conducted a hearing to read out its decision to acquit the defendant LA from the crime of sexual violence that allegedly occurred on 8 September 2013 in Ermera District.

The public prosecutor alleged that on 8 September 2013 the defendant hugged the victim, forcefully grabbed the victim's genitals and covered the victim's mouth so that she could not scream. Then the defendant removed the victim's clothes and raped the victim. The defendant threatened to kill the victim if she told anyone about what he had done to her. The defendant attacked the victim when she was searching for firewood. The victim was only 15 years old at the time of the alleged crime.

“Even though JSMP understands that in order for a judge to hand down a conviction evidence is needed, JSMP is concerned that the court did not take into consideration some important circumstances such as the victim's ability to provide certainty about items of evidence and threats that were accompanied by force on the part of the defendant after he committed the aforementioned crime”, said the Executive Director of JSMP, Luis de Oliveira Sampaio.

JSMP highlights that it is very difficult for a victim of sexual violence from remote and isolated areas to have a good understanding of legal charges and other matters like a medical report from a hospital. This is a very difficult situation for the victim because she was threatened by the defendant and because of this threat the victim did not have the option to seek assistance. JSMP believes that the court's decision did not reflect these difficulties and that this decision has failed to give protection to victims, especially children victims of violence.

JSMP is also concerned with the judge's reasoning that took issue with the victim's virginity during the trial. JSMP emphasizes that this was not an issue pertaining to the victim losing her virginity, but rather that the victim had suffered sexual violence accompanied by threats and force. Whenever a court considers these matters when making a decision, it is an issue that should raise serious concerns about the fairness of the decision.

In this case the public prosecutor charged the defendant with violating Article 172 on rape and Article 173 of the Penal Code on aggravation.

During the trial the defendant rejected all of the charges of the public prosecutor that the defendant had committed sexual violence against the victim. On the other hand, the victim stated

that she lost her virginity and suffered an injury to her genitals. However, the victim only made a complaint to the police three days after the alleged crime happened.

The court believed that the facts in the indictment and the testimony of the victim raised some doubts, in addition to the absence of a medical report, so the court decided to acquit the defendant.

In such cases, investigation has to be thorough in order to avoid the case to be based solely on the victims' testimony. For that reason, JSMP believes that victims of sexual violence must be given proper legal assistance and that public prosecutors must investigate cases more thoroughly in order to gather strong evidence. JSMP requests for the public prosecutor to consider lodging an appeal against this decision.

This case was registered as Case No. 130/2014/TD Dili. The panel of judges was represented by José Maria de Araujo who read out the decision. The Public Prosecution Service was represented by Ambrosio Rangel and the defendant was represented by public defender José da Silva.

For more information, please contact:

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