



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

Press Release

Suai and Baucau District Courts

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Suai District Court and Baucau District Court try and sentence defendants in cases of sexual abuse characterized as incest

On 31 July 2015 the Suai District Court sentenced a defendant to 17 years in prison in a case of rape after he was found guilty of raping his step-daughter who was 12 years old. Meanwhile, the Baucau District Court also sentenced a defendant to 18 years in prison after he was found guilty of raping his own daughter who was 18 years old.

“These decisions reflect the seriousness of the crimes committed because any crime involving a family member will have a massive impact on the victim and will often result in extremely serious psychological consequences. Adults are trusted by children, and are their protectors, but in cases like these they are the perpetrators who destroy the future of the victims,” said Casimiro dos Santos, Acting Director of JSMP.

JSMP hopes these decisions will educate the community to reject these crimes. JSMP has observed that crimes of incest are increasing in all locations and everyone should be concerned because every day children are victimized by adults who are supposed to protect them from all forms of violence.

In July 2015 there were at least 8 cases involving the sexual abuse of women and children and two of these cases involved incest. JSMP believes that everyone has to acknowledge this reality as a serious issue in our community.

The Suai District Court sentenced the defendant CdCM to 17 years in prison after the public prosecutor recommended a sentence of 10 years in prison. This case occurred on 13 April 2012 in Same.

The court proved all of the facts presented by the public prosecutor together with witness testimony and a medical report. However, the defendant rejected all of the charges and testified that he did not commit sexual abuse against the victim.

Rua setubal, Colmera, Dili Timor Leste

PoBox: 275

Telephone: 3323883

www.jsmp.tl

info@jsmp.minihub.org

Facebook: www.facebook.com/timorleste.jsmp

Twitter: @JSMPtl

During the trial the victim testified that the defendant committed rape on six occasions; four times at home and twice in a plantation. These acts caused the victim to become pregnant and she gave birth to a baby girl.

The public prosecutor charged the defendant for violating Article 177 (2) of the Penal Code on the sexual abuse of a minor and Article 173 (a) on aggravation, as well as Article 35 (b) of the Law Against Domestic Violence because the victim was the step-daughter of the defendant.

Meanwhile, the Baucau District Court sentenced the defendant JS to 18 years in prison. This case allegedly occurred on 13 May 2014 in Baucau District.

The court proved that on 13 May 2015, at 1am, the defendant went into the victim's room, and forced the victim to have sexual intercourse.

Then, approximately seven hours after the first incident, at 8am, the defendant again entered the victim's room, threatened to punch the victim and committed sexual violence against the victim, when the victim was about to go to school.

The public prosecutor charged the defendant with violating Article 172 on rape, Article 173 of the Penal Code on aggravation, and Article 35 of the Law Against Domestic Violence.

During the examination of evidence the court found new evidence that the defendant had started groping the genitals of the victim since she was in grade 4 of primary school. For this reason, the court added Article 182.1 (d) of the Penal Code on aggravation because the victim was related to the defendant.

Based on this evidence, the court sentenced the defendant to 12 years in prison for each incident. The court accumulated the sentence to 18 years in prison.

JSMP has monitored cases of incest since 2012, and launched a report entitled: 'Incest in Timor-Leste: An Unrecognized Crime.' The aforementioned report discusses JSMP findings about limitations in the provisions of the Penal Code which do not provide sufficient protection to victims of incest.

JSMP has also produced a range of information on cases tried by the courts and has met with a wide range of authorities in relation to JSMP's concerns about the increase in incest cases in all locations across Timor-Leste.

In each of these meetings the relevant authorities such as Committee A of the National Parliament, National Parliament's Women's Caucus (GMPTL), Coordinating Minister for Social Affairs, Minister of Justice, National Commission on the Rights of the Child, have all reacted positively to consider draft amendments to the Penal Code and the Law Against Domestic Violence to include specific articles on incest. However, until now there have been no positive signs relating to this issue.

In January 2015 JSMP and ALFeLa launched a report entitled: 'Amending the Penal Code to better protect women and children'. The proposals in this report were submitted to the National Parliament and other relevant institutions.

In its proposal JSMP and ALFeLa recommended for the National Parliament and Minister of Justice to include a specific article in the Penal Code after Article 172 (rape). This article should criminalize all incestual relations without regard to the age and consent of the victim and shall cover relationships between uncles and nieces. This amendment should include proportional penalties for aggravated sexual assault against minors, and should explain that this article shall only be applied to those who exploit a familial relationship, to ensure that only defendants are charged.

For more information, please contact:

Casimiro dos Santos

JSMP Interim Director

E-mail: santos.cas76@gmail.com

Telephone: 3323883/77257466