



Press Release
Dili District Court
15 October 2015

Dili District Court sentences Defendant in case of rape to 10 years and 6 months in prison and orders him to pay compensation pursuant to the Penal Code and CEDAW

On 12 October 2015 the Dili District Court, pursuant to Article 172 of the Penal Code and The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), sentenced the defendant ZAB to 10 years and 6 months in prison and ordered him to pay US\$700 compensation to the victim. The Court proved that on 29 January 2015 in Comoro, Dili, the Defendant forced the victim to have oral coitus and ejaculated his sperm onto the body of the victim, causing her to vomit twice.

The public prosecutor charged the Defendant with violating Article 172 of the Penal Code on rape and Article 23 on attempt to commit a crime. The Court found the Defendant guilty of committing rape under Article 172.

“JSMP values this decision because the penalty imposed on the Defendant is close to the maximum penalty available and the Court also ordered the Defendant to pay compensation as restoration for the victim. JSMP also welcomes this decision because once again the court has referred to CEDAW when deciding a case of violence against women and children. This is an important development in protecting the rights of female victims, and ensuring they receive justice,” said the Executive Director of JSMP, Luis de Oliveira Sampaio.

CEDAW is an instrument of international law that sets out the obligation of State Parties to take action to eliminate all forms of discrimination against women. CEDAW establishes three basic principles, namely: equality, non-discrimination and the need for State action. Timor-Leste is a party to this Convention and is obliged to adhere to the aforementioned principles, including in its formal judicial system. Therefore, JSMP welcomes the Court’s decision, which shows its commitment to ensuring CEDAW is applied in Timor Leste’s judicial system in decisions involving violence against women.

JSMP believes the application of prison sentences and compensation in cases of gender-based violence is a positive development in the formal justice sector and a reference point for future court decisions. Compensation is necessary to address the suffering of the victim, and contributes to combatting violence against women.

In this case, the public prosecutor charged the Defendant with committing attempted rape because the Defendant tried to have sexual intercourse with the victim, but she resisted. During the trial the Court removed the attempt charge because the Defendant forced the victim to have oral coitus, which also meets the definition of rape as set out in Article 172

of the Penal Code.

Article 172 states that: *Any person who, by the means referred to in the previous article, practices vaginal, anal, or oral coitus with another person or forces the same to endure introduction of objects into the anus or vagina is punishable with 5 to 15 years imprisonment.*

JSMP observes that, in this case, the public prosecutor charged the Defendant incorrectly by including Article 23 on attempt. However, JSMP praises the Court because after examining the evidence the Court amended the indictment to remove attempt, and found the defendant guilty of raping the victim.

In her final recommendations the public prosecutor agreed with the Court's amendment and requested the Court to impose a 12 year prison sentence on the Defendant.

This case was heard by a panel of judges comprising Jumiatty Freitas, Jacinta Correia da Silva and Benjamin Barros. The Public Prosecution Service was represented by Remigia Fatima and the defendant was represented by Marcal Mascarenhas and Marcelino Coro the Office of the Public Defender. This case was registered as Case No. 0069/15. DICMR.

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