



**JUDICIAL SYSTEM MONITORING PROGRAM
PROGRAM PEMANTAUAN SISTEM YUDISIAL**

Press Release,
Suai Court, 17 October 2005

Elderly man convicted of raping his step-daughter given a suspended sentence

On Tuesday, 11 October 2005, The Suai District Court handed down a suspended sentence to a suspect aged 80 years old, of Bobonaro District, in a case of rape of a minor.

The Public Prosecutor stated in the indictment that the accused was charged under Article 287 of the Criminal Code which states: “Whoever has sexual relations with a female who is not his wife, and knows that the age of the female is less than 15 years...can be sentenced up to nine years in prison.”

In the decision, the Judge explained the facts proved in the trial, namely that the accused confined his step-daughter, aged 12 or 13 years at the time, in his home for three days and during the three days raped her three times. Further, the accused covered the mouth of the victim with cloth during the rapes to stop her screaming and threatened her with a machete that he would kill her if she told anyone. This occurred while the victim’s mother was away in Maliana. The perpetrator confessed to having intercourse with the victim but said that it was consensual.

The Judge explained in the judgment that the Court noted that the testimony of the accused and the victim differed in some respects but found that the testimony of the victim was more reliable. Also, the Court explained that the victim had been terrorized by the experience and was still suffering major trauma as a result. But because the perpetrator partially confessed to the crimes and expressed remorse, the Court sentenced him to only two years in prison.

The decision then stated: “Taking into account, however, that the accused is 80 years old, the condition of his health is precarious and that probably he would not survive incarceration, to imprison him in this case is disproportionate and also difficult to execute.” For that reason, the Court suspended the sentence on the conditions that the perpetrator report to the police bi-weekly, that he not change address and that he not go near the victim.

A spokesperson from JSMP’s Women’s Justice Unit who monitored the case commented: “It is very positive to see progress in the justice system in expediting cases involving women. However, it seems as if the Court has given more weight to the perpetrator’s age than the crime he has been convicted of. Although his age is a relevant factor in reducing the sentence, there are a number of aggravating factors that make this a serious case. As the child’s step-father, the perpetrator had a responsibility to protect her.

Instead he abused his power with intent and threats of violence. The victim remains very traumatized and has not yet returned to school.”

The victim says that she is not satisfied with the Court’s decision but will not appeal.