



***Press Release***  
***Dili District Court***  
**22 July 2016**

**The court imposes a penalty of 6 years 8 months prison against defendant in case of sexual abuse against a minor aged 4 years**

**JSMP: This decision is far from providing justice for the victim**

JSMP is concerned with the decision issued by the Dili District Court in a case of sexual abuse against a minor, involving a four-year-old victim, which was decided on 13 July 2016. The court sentenced the defendant to 6 years 8 months jail after he was found guilty of committing the crime of sexual abuse against the victim on 03 May 2015, at 2pm, in Liquica District.

“This decision falls well short of providing justice for the victim who is still very young and this decision shows that the court has failed to understand the circumstances of children at such an age,” said the Executive Director of JSMP, Luis de Oliveira Sampaio.

JSMP believes that this sentence does not reflect the maximum penalty available, which should have been aggravated, and resulted in a sentence of 26 years 6 months in prison. However, the most important thing is that this sentence is unfair because the crime was committed against a minor and it should never have happened. In this case the court only chose the most lenient sentence of 6 years 8 months in prison to punish the defendant.

The court concluded that the defendant was guilty for violating Article 177 (1) of the Penal Code for practicing vaginal, anal or oral coitus with a minor aged less than 14 years.

The court found the defendant guilty of committing sexual abuse against the victim based on the facts stated in the indictment, the testimony of the victim and the testimony of two witnesses. Also, there was written evidence from the hospital that showed there were lacerations on the genitals of the victim.

The Public Prosecutor alleged that the defendant invited the victim who was playing in her aunt's house to go and pick guava. The victim agreed and they started across the river. When they arrived in the middle of the river the defendant asked the victim to have sexual intercourse but the victim said she didn't want to. The defendant then forced the victim to remove her clothing, put his finger in the victim's vagina, grabbed the victim

and rubbed his genitals on the genitals of the victim. After that the defendant ordered the victim to clean her body (bathe) in the river. These acts caused the victim to suffer pain to her genitals.

After returning from the river, the victim told her aunt about the incident and what the defendant did to the victim and her aunt reported it to the police.

Children belong to an extremely vulnerable category of people and it is very easy for them to be targeted by criminals. Therefore, JSMP requests for sentences to be proportional to the actions of defendants to contribute towards preventing similar crimes in the community and show that the State strongly opposes such crimes and imposes heavy penalties for any forms of sexual violence against children.

Timor-Leste has ratified the Convention on the Rights of the Child to protect children's rights. Article 19 of this Convention says that "State Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child."

Also, Article 34 of this Convention says that State Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse.

Timor-Leste is a State Party to the Convention and is obliged to protect children. In this case, the State through the courts has the obligation to protect victims during the entire process, from the time of the preparation of the indictment, the examination of evidence and the decision.

JSMP is also concerned with the way the Public Prosecutor has described and presented the legal facts in his indictment. The Prosecutor's indictment states that the defendant asked the victim to have sexual intercourse. In JSMP's opinion, a child aged 4 years old could not possibly have the ability to understand conversations like an adult.

JSMP believes that both the Public Prosecutor and the courts have failed to understand the circumstances of children and their immaturity, and how to use appropriate language in the legal process that matches their capacity and understanding.

JSMP considers that this penalty is very lenient and does not reflect the seriousness of the psychological suffering of the victim. Therefore, JSMP requests for the Public Prosecutor to lodge an appeal against this decision.

This case was registered as Case No.0054/15.LILIQ. The decision was read out by judge Francisca Cabral representing a panel of judges. The Public Prosecution was represented by Nelson de Carvalho and the office of the public defendant was represented by Manuel Sarmiento.

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