



## JUSTICE UPDATE

*March 2006*

### **A Sentencing Decision involving a woman victim in the Dili District Court increases the threshold for cases**

This Justice Update focuses on a judgement from a panel of judges in the Dili District Court in relation to a woman victim who was brutally raped then killed. The decision by the court resulted in an appropriate sentence for the defendant.

The Judicial System Monitoring Programme's (JSMP) Women's Justice Unit (WJU) has been monitoring cases involving women victims for a period of three years. One of the primary criticisms of the courts during this time has been the trends emerging in sentencing, including that many of the sentences do not give adequate weight to the interests of the victim, sometimes resulting in a sentence that is too low or involves a suspended sentence only.

Other organisations that have conducted research have concluded that victims of both domestic and sexual violence rarely use the formal justice system, the majority using traditional systems (adat) to resolve their complaints.<sup>1</sup> Further, they found that many women themselves do not consider gender based violence to be a serious crime requiring resolution by the formal court system.

WJU has also observed that even when women did lodge complaints with police and wished to proceed through the courts, factors, including the current backlog of cases, made it difficult for them to have their cases processed and finalised in a satisfactory manner. Where they were processed, the sentences often did not reflect the severity of the crime.<sup>2</sup>

When the court does not adequately deal with and punish offenders committing crimes of this type, it sends the wrong message to the community and the perpetrator, that these are not serious crimes. This deters women from proceeding with cases through the formal justice system.

However, this year WJU has observed some progress in one case, in terms of deciding a sentence in relation to a suspect found guilty for raping and then killing a woman.

In the decision the panel found the defendant guilty of two crimes. First, that the victim was raped, and secondly that they were killed. Rightly so, the panel considered these crimes serious and the defendant was given a sentence proportionate to his crimes. The accused received a prison sentence of 13 years.

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<sup>1</sup> Swaine, Aisling, 'Traditional Justice and Gender Based Violence', IRC, 2002

<sup>2</sup> JSMP, 'Women in Formal Justice Sector', 7 April 2004; and 'The Law of Gender Based Violence in Timor-Leste', February 2006

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Unfortunately, WJU was unable to obtain a copy of the decision, and was thus unable to perform an in-depth analysis of the reasoning behind the sentence and the weight given to mitigating and aggravating factors. However, on the face of it the sentence is an improvement in terms of holding people who commit serious crimes accountable and providing justice for women victims.

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