



**JSMP PRESS RELEASE**

20 March, 2006

## **TWO YEARS AND SIX MONTHS FOR SEXUAL ASSAULT: A SLIGHT IMPROVEMENT, BUT VICTIMS' RIGHTS STILL TAKEN LIGHTLY**

On 15 March, a panel of judges in the Dili District Court handed down a two and a half year sentence to a man identified as 'G' for attempted rape. The victim was the defendant's cousin, a child aged 14 and still in secondary school. G had been charged with rape under article 285 of the Indonesian penal code which carries a maximum sentence of 12 years, and alternatively with statutory rape under article 287 which carries a maximum sentence of nine years. However, the panel convicted him of attempted rape under article 285 and article 53, which carries a lesser sentence of 8 years.

The judges found the defendant guilty of committing attempted rape. According to the defendant's statement, he entered the victim's house and removed her clothes while she slept. Upon waking, she fought him off and immediately reported the incident to her father. The family of the victim reported the case to the Liquica District PNTL as soon as it was practically possible.

The decision, issued by the panel, stated the defendant did not succeed in committing rape. This was based on a medical report showing the victim's hymen was still intact and the defendant's statement that he committed attempted rape, but not rape. The decision indicated that a sentence of two and a half years was appropriate as the rape attack was not successful. The family of the victim was unsatisfied with the sentence and expressed their dismay to JSMP's Women's Justice Unit (WJU) Court Monitor.

The sentence of two and a half years compares favourably with other sentences handed down for crimes of sexual violence (*refer to JSMP's report, "The Law of Gender-Based Violence in Timor-Leste, 2006"*). The decision took into account the mitigating circumstances of the defendant having no prior criminal record and his willingness to submit a statement admitting his crime. The decision also referred to the aggravating circumstances, including the familial relationship with the victim and the fact the defendant entered the victims home, bedroom and bed, whilst she was sleeping. JSMP commends the judge for taking into account both aggravating and mitigating circumstances and considers this an improvement for women victims seeking justice for gender based violence offences.

However, despite the sentence being an improvement on previous sentences, JSMP believes that a sentence of two and a half years still does not reflect the seriousness of the crime committed. Despite the judge referring to the situation of the victim and aggravating features of the crime, it still seems that judges are giving more weight to mitigating circumstances and the defendant's situation than to aggravating circumstances and the situation of the victim. This balance must be restored.

**JSMP**

**Address:** Rua Setubal, Kolmera, Dili, Timor-Leste, **Mailing address:** P.O. Box 275 Dili, East Timor  
**Phone:** +670 332 3883, **E-mail:** info@jsmp.minihub.org, **Website:** <http://www.jsmp.minihub.org>

Overly light sentences send the message to the Timorese community that the courts do not consider sexual violence a serious matter. This infringes upon the guarantees of equality and protection given to women and girls by the Timorese constitution and UN conventions.

JSMP would also like to commend the timely processing of this case, an encouraging sign for the developing Timorese judiciary.

**For more information:**

JSMP's Women's Justice Unit (WJU)

Phone: +670 332 3883

**JSMP**

**Address:** Rua Setubal, Kolmera, Dili, Timor-Leste, **Mailing address:** P.O. Box 275 Dili, East Timor  
**Phone:** +670 332 3883, **E-mail:** info@jsmp.minihub.org, **Website:** <http://www.jsmp.minihub.org>