



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

Press Release,  
24 May 2005.

**Judge Sentences Defendant to Six Years Imprisonment in Rape Case**

On Thursday 19 May 2005 an international judge of the Dili District Court sentenced a defendant to six years imprisonment in a rape case. The indictment charged the defendant with the offence of rape under Article 285 of the Indonesian Penal Code which carries a maximum sentence of 12 years imprisonment.

The judge decided that the evidence presented in the case proved that the defendant had forced sexual intercourse with the victim. The victim is the daughter of the defendant. The victim is married and has two children to her husband who still lives in West Timor as a refugee.

The judge found that the defendant raped the victim on five occasions, and had impregnated the victim as a result of the rape. The child born of the rape had since died. The victim is still suffering from illness and trauma as a consequence of the defendant's actions.

When the defendant raped the victim he threatened that he would kill his two grandchildren if the victim did not allow him to have sexual intercourse with her. The victim feared this threat and was forced to have sex with her father on five occasions. When the victim was eight months pregnant she informed her mother, who is the wife of the defendant, what had happened.

The judge stated that the court could hand down a maximum sentence of twelve years as the defendant had been found guilty based on conclusive evidence. However the court also took into account differences in the testimony of the victim and the defendant and the prior record of the defendant. The judge then decided to sentence the accused to six years imprisonment.

JSMP welcomes the six year imprisonment penalty handed down by the judge in this case. Compared with penalties delivered for other serious sexual assault offences discussed in JSMP's report "*Analysis of Decisions in Cases involving Women and Children Victims: June 2004 – March 2005*" this is one of the harsher penalties to date, and in our view reflects the seriousness of the offence committed. However, we would again like to remind the court that in cases involving sexual violence carried out by a close family member there is a gross breach of trust, and consequently, the maximum sentence for the offence (Article 285 carries a maximum sentence of twelve years) should always be considered.

**END**