

**PUBLIC PROSECUTOR**  
-v-  
**JOHN NAHUM HOKAU  
JEAN CLAUDE KAPALU**

Prosecutor: Mr. Leo ✓  
Defendants: Mr. Toa

**SENTENCE**

You have both pleaded guilty to rape. You admitted the matter to the police. These are the two biggest mitigating factors in your favour. I give a lot of credit for them. You have saved the complainant the ordeal of giving evidence.

You are young men. Hokau, you have no previous convictions. Kapalu, your last conviction was five years ago. You have no convictions for sexual matters. I disregard your convictions.

I accept this was not planned, but once you saw that woman on her own you followed her. You have expressed shame and remorse. That is something in your favour, but it is too late for the complainant.

It makes no difference that the complainant worked at an embassy. Rape is the same wherever the woman is from.

There are several aggravating features:

- (a) the complainant was temporarily on her own out for a run in the countryside, you followed her;
- (b) there were two of you, you took it in turns to indecently assault and rape her;
- (c) there were sexual acts beyond the rape itself;

(d) you held and squeezed her neck and put a hand over her eyes to stop her seeing you.

"I find I can take into account the report of J. P. Bonnetaud, psychologist. Such a report can be described as a "*Victim Impact Report*". It sets out the harm that has been caused to this young woman by this rape. Whilst she looks for a heavy judicial penalty, it is for the Court alone to decide, having heard all submissions what the sentence is to be.

The complainant will remember what you have done for many years, if not all her life. You have made her life with her husband very difficult. How can she have sex with him in a normal, loving way without thinking of you.

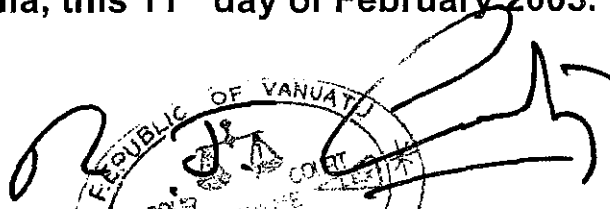
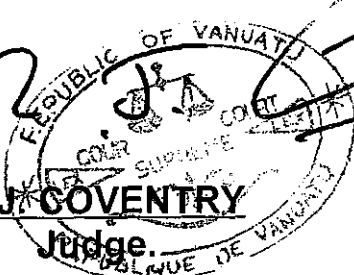
I must also look to the question of deterrence. The Court continues to see large numbers of rape and indecent assault cases.

The case of *PP -v- Katipa and Roy (CRC 32 of 2002)* has been cited. A sentence of 8 years was imposed on two men for rape, there were moderate physical injuries and a plea of not guilty. Your counsel suggests 4 years. That is too little.

If there was a not guilty plea in this case the Court would consider 10 years. I give great credit for the admissions and plea of guilty. The fact remains this was a rape by two men with further aggravating features. I will impose a sentence of 7 years. It cannot be suspended.

Sentence – Each – Seven years imprisonment.  
Informed of right of appeal.

**Dated at Port Vila, this 11<sup>th</sup> day of February 2003.**

  
  
**R. J. COVENTRY**  
Judge.