

**IN THE SUPREME COURT OF  
THE REPUBLIC OF VANUATU**  
*(Criminal Jurisdiction)*

**Criminal Case No. 26 of 2010**

**PUBLIC PROSECUTOR**

**-V-**

**JEFFREY NATAU**

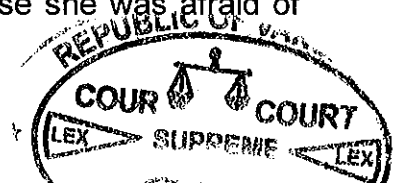
*Coram:* Justice N. R. DAWSON

*Date of Sentence:* 8<sup>th</sup> June, 2010

*Counsel:* Mr. T. Karae for Public Prosecutor  
Mr. E. Molbaleh for Accused

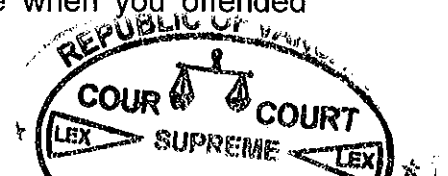
**SENTENCE**

1. Mr. Natau you appear in Court today for sentencing on one charge of Incest and one charge of Sexual Intercourse Without Consent. The charge of Incest carries a maximum sentence of 10 years imprisonment. The charge of Sexual Intercourse Without Consent carries a maximum sentence of life imprisonment.
2. The facts of your offending are as follows: since April 2007 you have been demanding and obtaining sex from your biological daughter, and you have also threatened her with violence should she tell anyone of your offending against her. On numerous occasions in your garden and in your house you would require your daughter to have sex with you. If necessary you would use force against your daughter to ensure you obtained your wishes. In 2009, both you and the complainant came to live in Vila. You were residing at Mele, while the complainant was living at Teouma with one of your sons. During the weekends you would go to Teouma and demand sex from the complainant. If she refuses to have sex you would threaten her causing her to feel afraid. The last time you had sexual intercourse with the complainant was in 2010. The complainant said she never reported the matter to the police earlier because she was afraid of



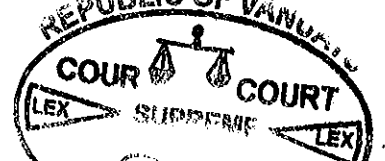
what you would do to her if she told anyone. I note Mr. Natau that you are approximately 32 years of age and you had no previous convictions. I also note that the complainant was 16 years of age at the time of your offending against her commenced. I have read the probation report and I have also read the submissions from the prosecutor and also from your defence counsel.

3. In sentencing you it is necessary to denounce your appalling behaviour and to consider imposing a sentence that will act as a deterrent to stop you and other people offending against women in the community in this way. Women in our community are entitled to the protection of the law and the gravity of your offending needs to be reflected in your sentence.
4. There are aggravating factors to your offending. The first is your threat and violence over a period of years against the complainant to keep her quiet. In addition she was only sixteen years of age when your offending against her commenced. Your behaviour was cruel and an abuse of trust as it was your daughter you were offending against. She was particularly vulnerable and she should have been able to look to you for protection, not as a person who would be offending against her. Many of your offences against her over this period of time were premeditated where you deliberately travelled to Teouma in order to obtain sex from your daughter. You also offended against her on a large number of occasions over at least three years.
5. In mitigation you entered guilty pleas at a relatively early stage once the charges were amended. You have also offered compensation and you have no other convictions on your record.
6. The Probation Report writer notes that you blame your offending on your family line because you say they have a history of committing incest and unlawful sexual intercourse. Mr. Natau you are responsible for your own offending. You cannot blame anybody else. If other people offend they are responsible for their actions and you are responsible here today for your actions. That is totally unacceptable excuse. You daughter lived in fear, according to the probation writer, and also told the probation writer that you treated her as if you were his wife. You also did not want her talking to other boys in the village and every time when you offended



against her she would cry and beg you to stop but you would not listen. The Probation Report also notes that you have performed two custom ceremonies to your daughter and the chiefs on Erromango. You also indicated that you were sorry for what you did and you indicated that you would never have sexual intercourse with your daughter again. However, after saying that and after those custom ceremonies you were caught having sexual intercourse with your daughter on several further occasions. On the second occasion you indicated to some chiefs that you were sorry and you were fined 1 cow, 1 kava, 3 mats, 3 pieces of calico, some island produce and 3,000 VT. The Probation Report writer says that you do not take responsibility for your offending. You blame your offending on your family and it is the report writer's opinion that you cannot control your sexual desires and you take it out on your daughter. The writer also indicates that the victim is scared of you and does not want you to return home.

7. Finally the Probation Report writer notes that your motivation to change is high but that has to be measured against the risk of reoffending in which he also notes is high.
8. Mr. Natau your offending against your daughter was hideous. You used your young daughter as your sexual toy for your own sexual gratification. You were prepared to ruin her opportunities to have a normal life. Because you abused her over a long period on many occasions and from a young age, your sentence needs to result in a longer period of imprisonment than most offending of this type. The Court of Appeal in a case of the PP v. Gideon [2000] VUCA 7; Criminal Appeal Case 03 of 2001 said *"men must learn they can not obtain sexual gratification at the expense of the weak and the vulnerable. What occurred is the tragedy for all involved. Men who take advantage sexually of young people forfeit their right to stay in the community"*. The Court of Appeal also adopted a sentencing guidelines set by the Supreme Court in the case of the PP v. Ali [2000]. In that case it was said *"the offence of rape is always a serious crime. Other than in wholly exceptional circumstances, rape calls for an immediate custodial sentence"*. It then goes on to say *"a custodial sentence is necessary for a variety of reasons. First of all to mark the*




*gravity of the offence. Secondly to emphasize public disapproval. Thirdly to serve as a warning to others. Fourthly to punish the offender, and last by no means least, to protect women".*

9. I am going to sentence you today taking the rape charge as the leading offence and incest charge will be regarded as an aggravating factor along with the other aggravating factors when I consider your sentence. The appropriate starting point for an offence of rape is a period of imprisonment of five years. I then take into account the Incest charge and the other aggravating factors, and it is appropriate to increase your sentence to a term of ten years. I then take into account the few mitigating factors that I have mentioned and you are today convicted and sentenced to a term of imprisonment of seven years. I note that you have been in custody since 8<sup>th</sup> March, 2010 and therefore the effective term of your sentence from today will be a period of six years and 9 months.
10. You have the right to appeal this sentence. For any appeal you must lodge a notice of appeal within 14 days of today's date.

**DATED at Port Vila, this 8<sup>th</sup> day of June, 2010**

**BY THE COURT**

  
.....  
**N. R. DAWSON**  
Judge

