

**PUBLIC PROSECUTOR VS- TOUASI LAMAI**

**Coram:** *Mr. Justice Oliver A. Saksak*

**Counsel:** *Losana Matariki for the State*  
*Andrew Bal for the Defendant*

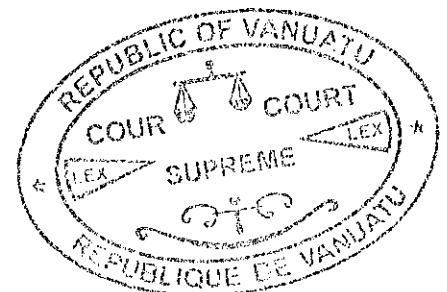
**Date:** *23<sup>rd</sup> April 2015*

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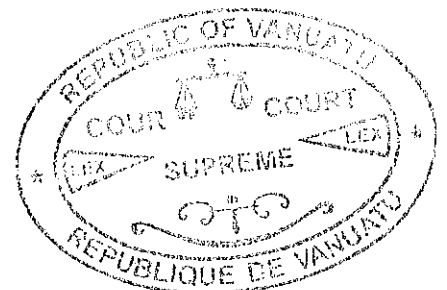
**SENTENCE**

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1. Touasi Lamai you are for sentence today for having pleaded guilty to one charge of sexual intercourse without consent on 3<sup>rd</sup> March 2015.
2. This is a serious offence because it carries the maximum penalty of life imprisonment.
3. Your victim is a 17<sup>th</sup> year old girl and a student at the INTV. She is your step-daughter as you are married to her mother. She has been living under your care with her mother since she was 8 years old. On 10<sup>th</sup> December 2014 at your home in Etas area at around 10 o'clock at night you approached the complainant and pulled on her left leg. She struggled to wake up and saw you standing beside her fully naked. You then told her to move closer to you but she refused and you assaulted her on her buttock with a diving wire (for shooting fish). Then you forcibly removed her clothes and you tried having sex with her. She struggled but in the end you overpowered her and had sexual intercourse with her without her consent. She felt pain as a result and saw blood on her pantie. You threatened to "Kill" her if she told anyone about what you did to her. The very next day 11<sup>th</sup> December 2014 at night, you tried forcing the complainant to have sex with you again but she refused. Her mother discovered the incident and reported the matter to the police on 15<sup>th</sup> December 2014. You have admitted all these in your Record of Interview to Questions 17, 18, 21, 22, 23 and 25.




4. In considering the appropriate sentence for you, I will adopt and apply the sentencing principles set out in the cases of **PP.v.Ali Criminal Case no.14 of 2000** [VUSC] and **PP.v. Gideon Criminal Appeal Case no. 3 of 2001**. These are classic cases that lay down clear sentencing principles that “rape” or sexual intercourse without consent calls for an immediate custodial sentence because it is always a serious crime. Further, that men who take advantage sexually of the weak forfeit the right to remain in the community. And further that the starting point is 5 years imprisonment.
5. Accordingly for the one count of sexual intercourse without consent that you have admitted, you are sentenced to imprisonment for 5 years as the starting point. This is however increased by 2 years for the following aggravating features-
- a) There was violence and threats used against the victim.
  - b) The disparity in the ages of the victim and the defendant.
  - c) There was a serious breach of trust.
- That increases the sentence of 5 years to 7 years imprisonment.
6. This heavy sentence is to serve the following purposes:-
- a) Mark the gravity of your offending.
  - b) Mark public disapproval or condemnation of your actions.
  - c) Serve as a deterrence to both you and other men who think they can do what you did.
  - d) To punish you adequately, and
  - e) To protect the weaker and the vulnerable members of the society namely women and young girls.
7. In mitigation, I consider that you are entitled to a 1/3 reduction for your guilty plea. This means that 2 years and 4 months are deducted from your 7 years sentence. The balance remaining is 4 years and 8 months.
8. I have seen your pre-sentence report. I note that you have been kept in custody on remand from or since 18<sup>th</sup> December 2014. Your sentence of 4 years and 8 months is therefore backdated to 18<sup>th</sup> December 2014.



9. I do not see any other factors which warrant any further deductions of your sentence.
10. Accordingly for one count of sexual intercourse without consent, I sentence you Touasi Lamai to an end sentence of 4 years and 8 months to be served at the Correctional Centre in Port Vila.
11. You have a right of appeal against this sentence within 14 days if you do not agree with it.

**DATED at Port Vila this 23<sup>rd</sup> day of April 2015**

**BY THE COURT**

  
**OLIVER.A.SAKSAK**

**Judge**

