

**BETWEEN:** Public Prosecutor

**AND:** Presley Taur  
Defendant

*Date of Sentence:* 11 October 2018  
*Before:* Justice G.A. Andrée Wiltens  
*Counsel:* Mr L. Young for the Public Prosecutor  
Mr G. Takau for the Defendant

---

**SENTENCE**

---

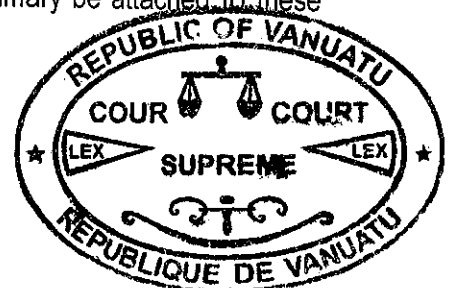
A. Introduction

1. Mr Taur pleaded guilty to:

- (i) Unlawful Sexual Intercourse, contrary to section 97(2) of the Penal Code Act [Cap 135]. The maximum sentence for is a term of 15 years imprisonment; and
- (ii) Act of Indecency with a Young Person, contrary to section 98A of the Penal Code Act [Cap 135]. The maximum sentence for is a term of 10 years imprisonment.

B. Facts

2. An amended summary of facts was tendered at the time pleas were taken. That summary was accepted as being correct. Mr Takau filed written submissions as to sentence which contradicted the summary and sought to put a different light on the offending – however, when challenged as to that, Mr Takau confirmed that the summary was correct and that his submissions to the contrary ought to be ignored. I direct the summary be attached to these sentencing notes.



C. Principles/Purposes of Sentencing

3. The main purposes and principles of sentencing for this type of offending are to:

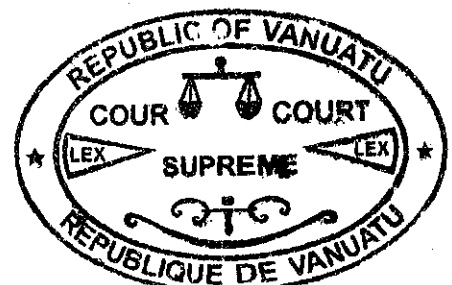
- hold the offender accountable for his conduct and the harm done
- promote a sense of responsibility for the harm done
- denounce the conduct
- deter the offender and the public at large from this type of behaviour
- protect the community
- assist in rehabilitation and re-integration
- take into account the gravity of the offending
- take into account the seriousness of the offending in comparison with other offending
- consider consistency of sentencing and parity of sentences, and
- impose the least restriction possible.

D. Aggravating Factors of the Offending

4. The leading authorities in Vanuatu for this type of offending are *PP v. Gideon* [2002] VUCA 27, *PP v Scott* [2002] VUCA 29, *PP v Epsi* [2011] VUSC 287 and *PP v Roy* [2011] VUSC 99.

5. I identify as relevant aggravating factors the following aspects which are present in this case:

- (i) The offending took place in a domestic setting, with Mr Taur residing at the premises as a member of the wider family;
- (ii) Mr Taur took advantage of the absence of the complainant's parents in order to perpetrate these offences;
- (iii) There is a breach of trust, as Mr Taur was included as one of the wider family;
- (iv) There was a significant age difference between them – Mr Taur was 45, the complainant was but 15 years of age;
- (v) In respect of the unlawful sexual intercourse offence, Mr Taur ejaculated, and took no precautions thereby exposing the complainant to sexually transmitted disease and unwanted pregnancy;



- (vi) In relation to the act of indecency, Mr Taur took off the complainant's clothes, exposed himself to her, asked her to touch and suck his penis, and touched the complainant's vagina.

E. Mitigating Factors of the Offending

6. There are no mitigating factors relating to the offending.

F. Start Point

7. The start point for this offending, as required to be identified by *PP v Andy* [2011] 14, is set at 6 years imprisonment, on a totality basis taking both offences into account. That is arrived at by setting 5 years as the appropriate sentence for the unlawful sexual intercourse, and 4 years imprisonment for the act of indecency charge – but then taking totality of sentence into account and reducing the overall start point for the sentence to 6 years imprisonment.

G. Personal Factors

8. I accept there is a low level of remorse, given that Mr Taur waited until the day of trial to plead – the effect of that is that the complainant would have come to Court with the expectation of having to testify about these matters. In the circumstances I reduce the end sentence by 2 months to take this into account.
9. Mr Taur has participated in a custom reconciliation ceremony – I reduce the end sentence by 6 months due to that factor. He also has no previous convictions – which enables a further reduction of 9 months. I further take into account that he has spent some 5 months in custody prior to trial – I allow a further reduction of 8 months for that.
10. The final matter of mitigation is Mr Taur's late plea. For that, I allow another 20% reduction of the end sentence.

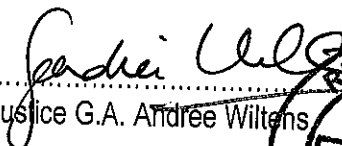
H. End Sentence

11. Taking all of those matters into account, the end sentence that must be imposed is one of 3 years imprisonment. I impose that on both charges concurrently.

I. Suspension

12. Suspending Mr Taur's sentence cannot possibly be countenanced: *PP v Ali August* [2000] VUCA 29; and *PP v Gideon* [2002] VUCA 7.
13. Mr Taur has 14 days to appeal this sentence if he disagrees with it.

Dated at Port Vila this 25th day of October 2018  
BY THE COURT

  
Justice G.A. Andree Wiltens

