

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

**Criminal**  
**Case No. 19/2676 SC/CRML**

**BETWEEN: Public Prosecutor**

**AND: Moses Peter**  
*Defendant*

**Coram: Justice Aru**

**Counsel: Ms. M. Taiki for the Public Prosecutor**  
**Mr. W. Taiva for the Defendant**

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**SENTENCE**

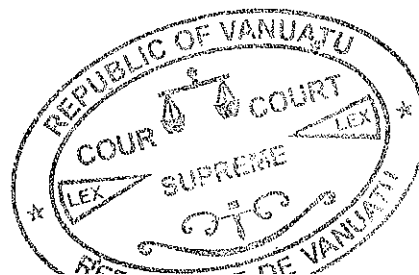
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**Introduction**

1. Mr. Moses Peter you are in Court today to receive your sentence. You were charged with one count of sexual intercourse with a child under care and protection. The maximum penalty for this offence is 10 years imprisonment.
2. You pleaded guilty to the charge therefore I convict you accordingly.

**The Facts**

3. The facts are not disputed. The complainant was living with you and your family on Tanna when the offending occurred. She has been living with you since childhood and is regarded as a member of your family.
4. From time to time since her childhood she had been subjected to beatings with an electric wire cord. At the time of the offending the complainant was 17 years of age. On the evening of June 2019 she was asleep when you entered her bedroom. She recognised you but was afraid you would beat her as you had done on previous occasions.
5. You removed her clothes and laid on top of her. And inserted your penis into her vagina and had sexual intercourse with her. The complainant was in pain but you persisted and ejaculated inside her.



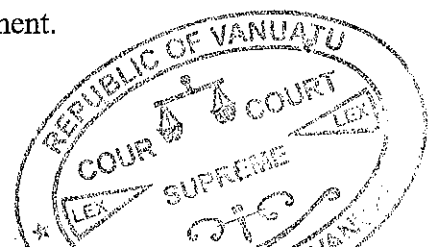
6. Sometime in 2019 the complainant reported the incident to a close relative. When they confronted you with what she told them, you denied any wrong doing. You beat the complainant as a result and continued to have sexual intercourse with her. She was afraid of reporting the matter fearing that she will be beaten by yourself and your wife.
7. The matter came to light when the complainant failed to see her monthly period. She left the home she shared with you and resided with her uncle and aunt. She told her aunt she was pregnant. A meeting was arranged by the chiefs regarding the matter but nothing happened. This led to your wife beating the complainant again.
8. The complainant was then taken to the Police station by her uncle to report the matter.
9. A medical report issued by her doctor after examining the complainant confirmed that she was pregnant.
10. You were arrested by the Police on 10 September 2019. After being cautioned and interviewed, you told the Police that you will only talk in court.

#### **Aggravating Factors**

11. There is a serious breach of trust as the complainant regarded you as her father and she is the eldest of your children .She was raised by you from childhood .The Offending occurred in the home where she is supposed to be protected. The age disparity is quite obvious as you are much older than her. You had unprotected sex with her resulting in pregnancy which was unwarranted and also exposed her to sexually transmitted diseases.
12. Finally the offending was repeated and the use of the electric cord to beat her was to force her to submit to your sexual desires and suppress any thoughts of reporting what you were doing to her.

#### **Starting Point**

13. Sexual offending of this nature involving children under care and protection is always very serious. The general principles are that men who conduct themselves in this way by abusing children in their care forfeit their rights to remain in the community. ( **Talivo v. Public Prosecutor** [1996] VUCA 2 )
14. The sentence I impose today is punishment for crime and also to mark public disapproval of such offending. It should be a deterrence to others and is also to protect young girls from such behaviour.
15. I set the starting point of your sentence at 7 years imprisonment.

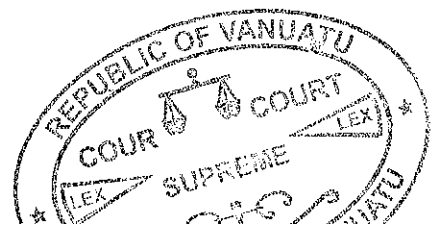


## **Personal Factor**

16. Your pre-sentence report states that you are now 40 years of age and that you are originally from middle bush Tanna. You are the fourth child in your family and completed your education at class 6 and could not continue due to financial difficulties. You told your probation officer that you are married and want a good life for your children. You have 3 children the eldest being the complainant whom you adopted from your wife's sister . Your wife is a teacher but suffers some disability as a result of a stroke she suffered in 2019.
17. You have a good relationship with your community and your Chief speaks highly of you that you relate well with your community and assist with community activities whenever required . Currently you reside at Ohlen Freshwind. You are unemployed and depend on gardening to earn your income.
18. You told your probation officer that you were under the influence of kava and alcohol when you committed the offending and now regret your actions.
19. Counsel on your behalf submits that you are a first time offender with a crime free past and performed a custom reconciliation to the victim and her relatives by exchanging the following:-
- Cow X 1
  - Pig X 1
  - Kava X 4
  - 18 Kg Rice X 2
  - Calicos
  - Blankets
  - Mats
  - Root Crops
20. For your personal factors and roughly 2 months spent in custody I deduct 12 months from your sentence.

## **Guilty Plea**

21. In assessing the proper discount for your guilty plea I take account of the fact that you sought to minimise your culpability by blaming your offending on kava and alcohol and lack of self-control over your sexual desires. There was a lack of genuine remorse . The strength of the prosecution is also overwhelming. What you did to the complainant will remain a scar on her life .Therefore for your guilty plea your sentence will only reduced by 6 months .



**End sentence**

22. Your end sentence is therefore 5 years and 6 months imprisonment effective from today.

**Conclusion**

23. You have 14 days to appeal if you are not happy with the decision.

**DATED at Port Vila this 18 day of June, 2020  
BY THE COURT**

