

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION

Crim. Case No: HAC 150 of 2024

STATE

v

VAIONE TEGU

Counsel: Mr. J. Singh & Ms. K. Dugan for the State
Ms. O. Grace & Ms. S. Naidu for the Accused

Date of Mitigation & Sentence Hearing: 11 July 2025

Date of Sentencing: 1 August 2025

SENTENCE

Caveat – The alleged victim and PW2 shall herein be respectively referred to as **‘CLOE’** and **‘TAMMY’** pursuant to the Name Suppression Order.

1. **Vaione Tegu**, the accused, was tried, found guilty and duly convicted on 27 June 2025 of *Rape*, laid out as follows in the Information by the Acting Director of Public Prosecutions dated 19 June 2024 and filed on 20 June 2024:

Statement of Offence

RAPE: Contrary to section 207(1) and 2(b) of the Crimes Act 2009.

Particulars of Offence

VAIONE TEGU on the 10th day of May 2024 at Nasinu, in the Central Division, penetrated the vagina of **CLOE** with his tongue, without her consent.

Brief facts of the Rape

2. PW1 CLOE, the complainant, was born on 28 August 2008, and was 15 years old on 10 May 2024, living at Omkar Road, Narere, Nasinu, with her father PW3 Tomu Vaniqa, mother PW4 Meredani Tuivakaca, elder brother Joseva (25 years), sister Unaisi Sorova (24 years), brother Jeke Malele (21 years), and niece PW2 TAMMY (2 years). PW1 CLOE attended Baulevu High School as a Form 5 student, but stopped going to school since March 2024 because her marks dropped and she usually wake up late. On Friday 10 May 2024, PW4 went to work, PW3 was outside in the garden, while PW1 and PW2 remained in the house, when the accused Vaione Tegu knocked on the door and opened by PW2, allowing Vaione Tegu to enter the house. Vaione Tegu, who is PW3's cousin-brother and PW1's *Ta Lailai* or uncle, once inside the house then approached PW1 who was in the kitchen washing dishes, and asked PW1 in PW2's presence, if he could use the toilet, to which PW1 said yes and continued washing the dishes, while PW2 had her tea in the living room. Vaione Tegu entered the toilet and upon coming out, he then immediately approached PW1 and shut PW1's mouth with his hand, then dragged PW1 into the bathroom, removed PW1's clothes, put PW1's leg on top of the timber, knelt down and began licking PW1's *vatu* or vagina, to which PW1 objected and told her uncle Vaione Tegu to stop. At that same moment, PW2 was peeping through a hole into the bathroom and also saw Vaione Tegu licking PW1's *vatu* or vagina. PW3 returned from the garden and upon entering the house, he saw PW2 peeping through a hole, and asked PW2 as to what she was looking at, to which PW2 replied that Vaione Tegu kissed CLOE (PW1). PW3 then called PW1, and PW1 reacted by instantly wearing a towel and rushing out of the bathroom, and was promptly asked

by PW3 as to what had happened, to which PW1 did not reply but hastily proceeded to her room. PW3 then saw Vaione Tegu come out of the bathroom with just a towel on and no other clothing, picked up his clothe and gumboot, and scooted out of the house, leaving PW3 shocked and bewildered. PW3 then confronted PW1, and was then told by PW1 of what her uncle Vaione Tegu did to her inside the bathroom, which information was later conveyed to her mother PW4 when she returned home from work at about 5.00 pm that same Friday. The matter was then reported by PW4 at the Nasinu Police Station on the following morning of Saturday 11 May 2024. Vaione Tegu was subsequently arrested by the police, interviewed under caution and formally charged, and then tried, found guilty and convicted on 27 June 2025 of *Rape* as per the indictment.

Rape sentence analysis

3. The maximum penalty for *Rape* contrary to section 207(1) & (2)(b) of the Crimes Act 2009 is life imprisonment.
4. The sentencing tariff for rape of a child including persons under 18 years is 11 to 20 years imprisonment according to Aitcheson v State [2018] FJSC 29; CAV0012.2018 (2 November 2018), and at paragraphs 24 – 25, the Supreme Court held:

[24] The increasing prevalence of these crimes, crimes characterised by disturbing aggravating circumstances, means the court must consider widening the tariff for rape against children. It will be for judges to exercise discretion taking into account the age group of these child victims. I do not for myself believe that judicial discretion should be shackled. But it is obvious to state that crimes like these on the youngest children are the most abhorrent.

[25] The tariff previously set in Raj v The State [2014] FJSC 12; CAV0003.2014 (20th August 2014) should now be between 11 – 20 years imprisonment. Much will depend upon the aggravating and mitigating circumstances, considerations of remorse, early pleas, and finally time spent on remand awaiting trial for the final sentence outcome. The increased tariff represents the denunciation of the courts in the strongest terms.

5. The complainant CLOE was 15 years old when she was raped by her *Ta Lailai* or uncle Vaione Tegu on Friday 10 May 2024.

6. Given the sentencing tariff of 11 to 20 years imprisonment for rape of a person below 18 years, for this instant, I choose a **starting point** of 13 years imprisonment.

7. The starting point of 13 years is enhanced by 6 years based on the following **aggravating factors**:

- a) The accused Vaione Tegu raped his 15 year old niece CLOE, by intentionally licking and penetrating CLOE's vagina with his tongue, without CLOE's consent.
- b) This is an incestuous and heinous rape of a vulnerable 15 year old girl who should be attending school, but instead stays home doing house chores and looking after her niece, and letting the accused into the house with all trust that he will not abuse her, which trust was blatantly and unconscionably violated by the accused, a 33 year old male adult, deemed and obliged to uphold and enforce good morals and values including protecting and preventing vulnerable young girls like his niece CLOE from being raped.
- c) The accused had acted opportunistically and atrociously in raping CLOE at her most vulnerable moment while she was washing dishes in the kitchen, and home alone with her 2 year old niece, while the adults had gone to work and gardening.
- d) The complainant CLOE, being raped by her paternal uncle Vaione Tegu inside her dwelling house at Omkar Road, Narere, Nasinu, has undoubtedly caused her emotional and psychological trauma, and Omkar Settlement therefore is no longer a safe haven for her from sexual predators and exploiters. In the *Victim Impact Statement* dated 1 July 2025, the complainant CLOE noted at page 4, *'I use to mingle with my relatives back in the village before the incident happen, now I do not mingle with them as the effect of what happen that I have reported about Ta Vaione. My relatives from the village has been sending rumors about me and have push me aside since myself and Ta Vaione are from the same village, and I am so shameful. Now I do not trust my male relatives since Ta Vaione always visit us'*. The Supreme Court in Aitcheson v State (supra) at paragraph 72 held, *'[72] [u]ndoubtedly it has been accepted by the society that rape is the most serious offence that could be committed on a woman. Further it is said that; "A murderer destroys the physical body of his victim; a rapist degrades the very soul of a helpless female."*

e) Rape of young girls is becoming prevalent in Fiji, thus a scourge and menace to the entire society, compelling the need for holistic means to properly and effectively deter and prevent such societal bane, and also reflect and uphold the community's denouncement of such horrid crime. Deterrence is however highly warranted weighed together with *inter alia* the sentencing objectives of punishment, retribution and rehabilitation.

8. The 19 years is reduced by 4 years due to the **mitigating factors** considering that the accused is now 34 years old, married with children, dwells in Delasui village, Tailevu, a subsistence farmer earning \$150 weekly, and has no prior conviction, thus arriving at the interim custodial term of 15 years.

Time spent in custody

9. The 15 years imprisonment is further reduced by 3 months for **time spent in custody** pursuant to section 24 of the Sentencing and Penalties Act 2009, thus arriving at the custodial term of 14 years 9 months for the *Rape*.

Non-parole period

10. Pursuant to section 18 of the Sentencing and Penalties Act 2009 and Timo v State [2019] FJSC 22; CAV0022.2018 (30 August 2019), I have decided to fix a non-parole period of 13 years 9 months imprisonment for the main custodial term of 14 years 9 months.

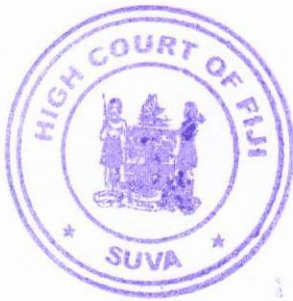
CONCLUSION

11. Vaione Tegu stands convicted of *Rape* contrary to section 207(1) and 2(b) of the Crimes Act 2009, and hereby sentenced to a custodial term of 14 years 9 months with the non-parole period of 13 years 9 months imprisonment.

Permanent DVRO, standard non-molestation, non-contact orders

12. In addition to the imprisonment sentence, pursuant to the Domestic Violence Act 2009, I hereby issue a ***Permanent Domestic Violence Restraining Order*** [s.22] with the standard non-molestation conditions [s.27] including a non-contact order [s.29] against **Vaione Tegu**, and the protected party being the complainant **CLOE**.

13. Thirty (30) days to appeal to the Fiji Court of Appeal.



A handwritten signature in blue ink, appearing to read "Pita Bulamainivalu", is written over a dotted line.

Hon. Mr. Justice Pita Bulamainivalu
PUISNE JUDGE

At Suva

1 August 2025

Solicitors

Office of the Director of Public Prosecutions for the State.

Legal Aid Commission for the Accused