

Court of Appeal decision raises National and International Concern

The Court of Appeal has this week published a decision which has shaken the foundations of the legal system in East Timor. The Court ruled that Indonesian law has never been validly in force in East Timor, questioned the validity of the United Nations Regulation 2000/15 which forms the basis for prosecution of Crimes Against Humanity, and purported to expand the definition of 'genocide' under international law.

In its decision on Tuesday, 15 July 2003, the Court of Appeal decided that because the Indonesian occupation of East Timor between 1975 and 1999 was unlawful under international law, Indonesian laws were never validly in force, and that prior to 25 October 1999, the applicable law in East Timor was the law of Portugal. The Court further decided that where there are gaps in current East Timorese law, the Portuguese law still applies.

This decision concerns the case of Armando dos Santos, who had been convicted of murder and sentenced to 20 years imprisonment by the Special Panel for Serious Crimes in September 2002. The Court instead found Santos guilty of Genocide (an offence with which he was not charged) and increased his sentence from 20 to 22 years. In doing this, the Court chose to apply the Portuguese Criminal Code rather than the Indonesian law applied by the Special Panel.

JSMP is currently analysing the Court's decision, and its possible implications. JSMP intends to publish a report on the decision next week. The decision of the Court of Appeal (in Portuguese) can be found on our website (<http://www.jsmp.minihub.org>)