



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAM PEMANTAUAN SISTEM YUDISIAL

Press Release
9 September 2005

**DILI DISTRICT COURT GRANTS APPLICATION FOR HABEAS CORPUS IN
CASE OF SUSPECT DETAINED IN EXCESS OF 6 MONTHS**

On Wednesday 8 September 2005, an international judge at the Dili District Court conducted a hearing in relation to a case of sexual assault that occurred in Aitarak Laran in October 2004. The incident occurred when the suspect was drunk, the suspect known as 'A' was represented by a lawyer from the Legal Aid Institute URA and the suspect is required to report once a month to the local police station.

In the aforementioned hearing, the international judge explained to the suspect about his attendance in court and the application for Habeas Corpus made by his lawyer. The judge also held that the habeas corpus procedure is explicitly provided for in Article 33 of the RDTL Constitution and UNTAET Regulation 25/2001, which is applicable in Timor Leste.

Article 33 of the RDTL Constitution and UNTAET Regulation 25/2001 both guarantee that every citizen arrested and illegally detained or detained in excess of the maximum time limit has the right to be brought before a competent court to apply for habeas corpus. The procedure set out in this article may be requested at any time and is not limited to criminal cases only, and all courts in Timor Leste have the authority to hear an application for habeas corpus.

In the aforementioned hearing the judge gave an opportunity to the prosecutor and law to present their opinions on habeas corpus. The prosecutor acknowledged that the appropriate detention period is 6 months, however in this case the suspect had been detained in excess of the maximum period set out in UNTAET Regulation No. 25/2001, as the suspect had been detained for 10 months without any further review of his case. Based on these grounds the suspect, via his lawyer, submitted an application for habeas corpus requesting a suspension of detention pending trial in this matter.

The Women's Justice Unit of JSMP has observed that applications for Habeas Corpus are rarely used by lawyers as a means to release clients detained in excess of 6 months. The Women's Justice of JSMP understands that the judge's decision is based on compelling

grounds. On one hand, the judge has handed down a decision in the form of conditional release for a suspect accused of committing the criminal act of rape pending further investigation and indictment, whereas on the other hand, the judge also considered an extension of detention for the suspect who has already been detained in excess of six months without any review, which had resulted in the suspect being detained for 10 months.