

PRESS RELEASE

JSMP Expresses Concern About Personal Attacks Upon Court of Appeal Judges

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JSMP is alarmed by the recent pattern of criticism from members of government towards judges of the Court of Appeal of East Timor. Several statements appear to constitute personal attacks on individual judges, rather than fair comment on the content of judicial decisions.

JSMP believes this practice is inappropriate in that it challenges the separation of powers and judicial independence enshrined in the East Timorese Constitution.

The Court of Appeal has delivered two significant, but controversial, decisions since June this year. The first decision, delivered on 30 June, related to the constitutionality of the Immigration Draft Law. The second decision, issued on 15 July, held that the subsidiary law to be applied in East Timor is the law of Portugal, rather than the law of Indonesia.

The response from the government in each case has included comments that the Judges of the Court of Appeal are incompetent and unprofessional.

JSMP would like to highlight that there is nothing wrong in critically evaluating decisions given by Judges. Justice is not a secluded virtue and some criticism must indeed be allowed from members of government, media and civil society. But improper or excessive personal criticism of judges as a response to dissatisfaction with their decisions constitutes a serious inroad into the independence of the judiciary. Whatever the form or shape of such criticism, it has the inevitable effect of undermining public confidence and eroding the independence of the judiciary.

Judges should unquestionably be held accountable for their performance in the fulfilment of their duties. Where allegations of improper or unprofessional conduct arise, a proper procedure is provided by the Statute of Judicial Magistrates.

"This is not to say that criticism of existing judicial process is not warranted. Scrutiny of the judicial system is an essential element of any democratic society and should be encouraged. Our interest in this issue is the need to preserve the boundaries between fair criticism and personal attacks on judges." - said JSMP.
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