



## **JSMP monitors release of detainees**

**Dili, East Timor 20 January 2003**

Thirty one men arrested by the East Timorese defence force on 9 January and released on Friday by the Dili District Court were illegally detained, according to investigations by East Timorese rights organisation Judicial System Monitoring Programme (JSMP).

JSMP is concerned that, in contravention of East Timorese law, the men were admitted to Dili's Becora Prison on 10 January without an order from a judge, no judge's order was ever obtained, and their detention was not reviewed by a judge within 72 hours as required by East Timor's Constitution.

The detainees, who had not talked to their defence lawyer until Thursday morning, were released on Friday after two separate hearings in the Dili District Court. The judge in one of the hearings, monitored by JSMP observers, told the court that the Prosecutors did not present any evidence that the men were involved in any crimes.

The judge released three men on condition they report twice a week to police, and 11 without conditions. The court then noted it had not made an order for a 15<sup>th</sup> man and at a separate hearing later made a decision to release him without conditions. It appeared to JSMP monitors that the court was not aware at the time that it had not dealt with one further individual JSMP is still unaware of whether this person has been specifically dealt with.

It is believed that the other judge released 15 prisoners unconditionally, reportedly suggesting that compensation for illegal detention would be appropriate.

The 31 men were part of a group of 50 men arrested on 9 January 2003 by the East Timorese defence force FDTL in one village, Leomea Kraik, in the Hatolia subdistrict of Ermera District, south-west of the capital Dili.

JSMP is also concerned that it was not clear that FDTL had proper legal authority to arrest the individuals. According to an agreement made available to JSMP, on 6 January FDTL took over responsibility for defence operations in certain parts of Ermera and Bobonaro Districts from the United Nations Peace Keeping Force in East Timor until at least 17 January 2003.

Although the agreement between FDTL and the PKF transfers responsibility for defence, the document does not specify that FDTL has powers of arrest.

The Constitution of East Timor states that no one shall be arrested or detained except under terms clearly provided for by law. East Timor's Transitional Rules of Criminal Procedure only refer to police when describing arrest procedures. The East Timorese law that applies to the FDTL does not grant the FDTL power to arrest.

The arrests occurred as part of continuing arrests across the country, including a reported further 16 arrests in Ermera last week. Those arrested are alleged to be ex-militia members or members of the group Colimau 2000.

-JSMP

For more information, contact: Marcela Rodriguez-Farrelly      [marcela@jsmp.minihub.org](mailto:marcela@jsmp.minihub.org)

*The Judicial System Monitoring Programme (JSMP) was set up in early 2001 in Dili, East Timor. Through court monitoring, the provision of legal analysis and thematic reports on the development of the judicial system, JSMP aims to contribute to the ongoing evaluation and building of the justice system in East Timor. For further information see [www.jsmp.minihub.org](http://www.jsmp.minihub.org)*