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JSMP: New Internal Security Act May Be Unconstitutional

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On Tuesday, East Timor's proposed Internal Security Act was referred by Parliamentary Committee A to the President of the Republic for the purpose of its approval prior to entry into force as law. The Judicial System Monitoring Programme (JSMP) is concerned that the Act is potentially unconstitutional as it undermines the role of Parliament and may challenge human rights guarantees.

The Act, which was passed by Parliament on 30 July, seeks to regulate the enforcement of public law and order in East Timor. However, the Act fails to provide significant detail on the internal security policy, but instead delegates that responsibility to the Government. JSMP believes that the Constitution may not allow Parliament to delegate its responsibility for security affairs in this manner.

"Whilst JSMP commends the Parliament for its recognition of human rights standards in the Act, we are concerned that, in practice, the Act may fail to safeguard fundamental civil rights and liberties, such as the right to privacy and the right to silence. This is always a significant issue when it comes to any legislation dealing with internal security matters." said JSMP

The President now has thirty days in which he can either promulgate the law or exercise a right of veto and send the bill back to Parliament for further consideration. The President can also refer the matter to the Supreme Court of Justice, the role of which is currently being filled by the Court of Appeal, for an opinion on the Constitutionality of the law. The President took such a step recently when considering the promulgation of the Immigration and Asylum law. In the matter of the Immigration and Asylum law the Court found that certain sections of that draft Act were unconstitutional.

JSMP is currently preparing a report on the Act which will be made available on the JSMP web site.

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