

JSMP Press Release

New Judicial Magistrates Law passed but concerns ignored

JSMP, Dili September 5, 2002.

Serious concern has been expressed by the Judicial System Monitoring Programme (JSMP) in Dili on the Statute on Judicial Magistrates that was passed by National Parliament on Tuesday 3 September 2002.

“It is disappointing no significant or substantive changes were made to the draft before it passed into law. While the willingness of the National Parliament to receive comments and recommendations on the draft Statute on Judicial Magistrates from national and international jurists is to be strongly commended, and the need for such a law is evident, JSMP’s analysis is that the changes to the draft are largely textual and have not taken into account concerns expressed by a range of commentators.”

The law which lays the foundation for the appointment, promotion, discipline and dismissal of judges had in its draft form been described by the UN Special Rapporteur on the Independence of the Judiciary, Dato Param Cumaraswamy, as “inconsistent with the principles of judicial independence as set out in international standards.”

JSMP went on to say that their principal concerns about the new law included its focus on discipline and censure of judges in the absence of a detailed code of ethics against which their conduct might be judged. Additionally, insufficient provisions outlining in what circumstances a judge may be subject to discipline or dismissal, and lack of clarity on procedures to be followed, place the independence of the judiciary in a vulnerable position. Finally, the law assumes an already fully staffed and resourced legal system with a large number of senior judicial personnel. A lack of transitional provisions mean that it is uncertain how the law can operate in East Timor at this time.

JSMP’s comments on the Draft Magistrates Law can be found at www.jsmp.minihub.org