



JUDICIAL SYSTEM MONITORING PROGRAMME **PROGRAM PEMANTAUAN SISTEM YUDISIAL**

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Press Release

Penal Code to Be Passed as a Government Decree Law

On 28 July 2005 the National Parliament by unanimous vote authorised the Government to draft a Penal Code for Timor-Leste in the form of a Decree Law. The authorization was based on a request submitted to Parliament by the Council of Ministers on 30 March 2005. The request was last week presented to the Parliament for discussion at a plenary session, which was attended by the Minister and Vice Minister of Justice.

The process for passing a piece of legislation as a Decree Law is ordinarily quicker and involves less debate than for a Parliamentary Law. According to legislative procedure the government must now develop the draft Penal Code and present its final version for consideration by the Council of Ministers within 120 days. When finalised it will be sent to the President for promulgation. Following promulgation Parliament has one final opportunity to re-consider the Penal Code but only if one-fifth of its members request it. It will otherwise be passed automatically into law. There is consequently far less scope for public review and consideration of legislation passed in the form of a Decree Law rather than as a Parliamentary Law.

The Penal Code is intended to replace the Indonesian Penal Code which, subject to modification by UNTAET regulations, continues to apply in Timor-Leste. The passage of a national penal code and the replacement of the Indonesian Penal Code will be a major milestone for Timor-Leste's development as an independent, sovereign nation with its own legal system. It is also a major legislative achievement and the Government ought to be congratulated for its initiative in that regard.

JSMP is aware that an initial draft of the Penal Code has been in existence since at least November 2004, however, there has been very little public consultation with respect to its contents. JSMP has been informed that the Minister of Justice has notified women's groups that, if requested, he will attend meetings to listen to and address their concerns in relation to those provisions which affect women's rights. This is a positive step, nevertheless, broad-based consultation in relation to *all* provisions of the Penal Code is essential to ensure that the Penal Code, when passed, properly addresses wider societal concerns, is appropriate in the specific context of Timor-Leste and will on that basis be widely respected and adhered to.

JSMP therefore encourages the Government to expand on this process by raising public awareness of the Penal Code and seeking public feedback with respect to its contents. This may require a significant delay in the passage of the law, however, if it ensures the future legitimacy of Timor-Leste's criminal laws then the price is, in JSMP's view, worth it.