



JUDICIAL SISTEM MONITORING PROGRAMME
PROGRAMA DE MONITORIZASAUN DO SISTEMA JIDISIAL

**Draft laws on the National Reparation Program and
Institute of Public Memory**

Background

The draft laws on the National Reparation Program and Establishment of an Institute of Public Memory seek to implement key recommendations from the Commission for Reception, Truth and Reconciliation (CAVR) and the bilateral Commission of Truth and Friendship (CTF). The two draft laws have already been approved by Committee A of the National Parliament; however they must be debated by parliament and approved before they can be passed into law.

Debate on these two laws have been postponed since 29 September 2010. The National Parliament scheduled debate on these laws in an extraordinary plenary sessions for 1-3 February 2012. However, parliament cancelled the debate for reasons that are unclear.

What is 'reparation'?

'Reparation' are measures that aim to rehabilitate individuals and communities who have suffered serious human rights violations. According to international law, victims of human rights violations have a right to access complete and effective reparation.

Reparation must, as far as is possible, attempt to restore victims to the position they were before the violation occurred. Types of reparation include measures that:

- rehabilitate victims in physical, mental, or social status
- provide satisfaction to victims by providing official recognition of their suffering, and
- ensure that these serious violations will not happen again.

The objective of reparation is not to 'exchange suffering with money'. A reparation program can include measures that rehabilitate victims through giving practical assistance which they need.

Why is reparation important for Timor Leste?

Reparation is important in order to secure peace and stability, and to address the continuing impact of past abuses in societies that have experienced mass violence.

Although Timor-Leste is now independent, many people continue to suffer the consequences of past human rights violations. CAVR and CVA both identified that Timor Leste needs to urgently attend to victims who suffered from human rights violations between 1975 and 1999. Many victims are still waiting for official responses and assistance that recognise their suffering and gives them back their dignity.

Who has responsibility for providing reparation?

In principle, the State and persons who committed the violation must provide reparation. Indonesia has responsibility under international law to provide complete reparation to Timorese victims. However, when the responsible party refuses to fulfil its obligation, the State has responsibility to establish a national reparation program and provide other assistance to the victims.

Are the draft laws consistent with international law and standards?

The amended versions of the two laws have positive amendments that further bring them into conformity with international law and standards. For example, amendments to the draft law on the Establishment of an Institute of Public Memory seek to guarantee that the Institute is independent, particularly from ministerial and executive control.

However, further amendments are required in order to ensure that the draft law on the National Reparation Program is consistent with international law and standards.

Required amendments include:

- expanding the scope of beneficiaries, which is currently limited to an arbitrary list of “vulnerable victims”
- providing that all recognised forms of reparation can be made available to victims, and
- providing for specific measures to ensure that women can access effective reparation, including challenging the stigma and discrimination experienced by survivors of sexual violence and gender stereotypes that underlie violence against women.

With respect, JSMP encourages the National Parliament to:

1. Reschedule debate on the two draft laws.
2. Consider making amendments to the two draft laws in order to make them consistent with international law and standards.
3. Urgently debate the two laws before this parliament's mandate for making legislation expires.
4. Note that if parliament decides to debate and pass the two laws, this will signify that each member of parliament respects the suffering of the Victims and their family members and demonstrate their solidarity with the Victims who have waited for government's intervention.
5. Note that if parliament fails to reschedule the debate and approve the two laws, unfortunately the two laws will expire and their efforts on this important issue will have been wasted.
6. Separate political disputes from issues relating to victims' rights, which have impeded the debate and passage of the two laws.

6 February 2012

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