

GOPAC Timor Leste

**Seminar on: “Launching of Anti-Corruption Draft Law”
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Good morning to all distinguished guests.

A warm welcome to Her Excellency the Prosecutor General Dr. Ana Pessoa and Commissioner for Anti Corruption Dr. Adérito de Jesus Soares. On behalf of GOPAC, I would like to extend our grateful thanks for your participation in this seminar.

We are here today to launch the Anti-Corruption Draft Law. GOPAC would like to acknowledge and congratulate the Prosecutor General for putting an urgent focus on combating corruption and for quickly producing this draft anti corruption law which GOPAC members have endorsed as being of utmost importance in our legislative agenda to combat corruption. Indeed, Timor Leste is taking another critical step in combating corruption. GOPAC is pleased to be able to collaborate with all state institutions and civic society to assist in the enactment of legislation, promote civic values and assist institutions to implement legislation comprehensively, impartially and sustainably.

The objective of the seminar is to inform the public about the draft anti-corruption law and to also gather public opinion and views about this important anti corruption instrument. My presentation will focus on why the Anti-Corruption Draft Law is important and highlight some of the issues that we may need to consider.

Concern alone for corruption is not enough. Timor-Leste has made some important inroads to combating corruption. Very early in our nascent state we established an independent institution, Provedor for Human Rights with limited powers to investigate corruption. As corruption become a national concern we were able to gain consensus on the establishment of Anti Corruption Commission with exclusive powers to investigate corruption and passed a penal code that criminalizes a broad range of specific forms of corruption.

This Anti Corruption Law is important because it will complement our penal code and enable our Anti Corruption Commissioner, Prosecutors and Judges to investigate, prosecute and trial corruption cases more effectively.

The penal code has provisions that deal with crimes practiced in the exercise of public functions articles 292 to 302, and other corruption related articles 192, 274, 275, 287, 288, 290 and 314. Based on our context and comparative studies of laws these articles are insufficient to effectively combat corruption. The new draft law introduces new crimes that are specific to corruption in our context and makes an attempt to address some of the principles in the UNCAC Convention.

Since Timor Leste is now a signatory to the UNCAC Convention we have the obligation to broaden the type of crime committed to include the corporate or business sector, unjust enrichment during tenure or after tenure of office, fraud in the building process, obstruction to investigation and legalizes the involvement of the public to participate.

The Anti Corruption Draft Law also establishes criminal procedure provisions additional to what is in the criminal procedure code. A complimentary review of what is established in the CAC Law to ensure that the two are compatible and identify the gaps that need to fill.

The draft law is important because it attempts to start setting standards in law on anti bribery actions, promoting integrity in business and public involvement in the fight against corruption.

The new anti-corruption law is also urgent in our development context as it identifies and seeks to address what is currently the worst area of corruption fraud in the building process. This will help ensure that public investment monies result in quality infrastructure and citizens have the improved and better access to infrastructure throughout the country. We may also wish to consider how else we can address the forms of corruption that hit the poor hardest.

As the intention of the seminar is to also gather public opinion and views, I would like to also share some ideas that have come to mind.

1. Are the sentences imposed in the penal and proposed law too low for such crimes? Is it sufficient to deter people from being corrupt?
2. Does the draft law and penal code adequately address asset recovery in the criminal and civil law and process? Do we need to consider quickly adopting the Stolen Asset Recovery (STAR) Initiative which allows developing countries to recover from safe havens in developed nation's assets that have been stolen by corrupt leaders?
3. Do we need more new corruption crimes that are relevant to our context? Have we addressed all the opportunities for corruption throughout the project building cycle? Does our Procurement Laws and Penal Code provide the appropriate provisions to enable effective prosecution?
4. Does the law adequately protect citizens from political bribes?
5. Is the current witness protection law adequate to combat corruption?
6. Should we consider whistle blowers role and protection?
7. The draft law establishes a special investigation team. With the presence of the Anti Corruption Commissioner, we hope to hear his views on this matter and the coordination mechanism and cooperation established or to establish with the Prosecutor General.
8. Is the right to information sufficient for citizens and media to control corruption? Do we need a separate legislation and a new public ethos of openness?

Finally, before closing much of the law involves the pursuit of justice – exposing and prosecuting the guilty. As a young democratic state determined to make corruption illegal it is also prudent to do with it caution so as not to suppress peoples civil and political liberties which can act as a further deterrent to even less public accountability.

Again, thank you very much for your participation here today. I look forward to an open and frank discussion on the importance of this law and to hear your views.