



CIAL SYSTEM MONITORING PROGRAMME  
AMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

**Opinion:**

**Alternative options for (solutions to) addressing the political situation after the rejection of the Draft 2020 Budget Law at the National Parliament**

Addressed to:

**The President of the Republic**

**CC:**

- 1) National Parliament**
- 2) Government**
- 3) The Courts**

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## Table of Contents

|  |           |
|--|-----------|
| <b>INTRODUCTION</b>  | <b>3</b>  |
| <b>PROCEDURE AND DATELINE FOR THE STATE BUDGET</b>   | <b>3</b>  |
| <b>APPROVAL PROCEDURE AND WITHDRAWAL OF THE 2020 STATE BUDGET</b>                                | <b>5</b>  |
| <b>THE APPLICATION OF THE PROVISIONS IN ARTICLE 86 F) AND ARTICLE 100 OF THE TL CONSTITUTION</b> | <b>7</b>  |
| <b>CONSTITUTIONAL AND LEGAL GROUNDS VS THE 2020 STATE BUDGET</b>                                 | <b>8</b>  |
| <b>IMPORTANCE OF THE STATE BUDGET</b>  | <b>8</b>  |
| <b>DUODECIMAL BUDGET</b>   | <b>9</b>  |
| <b>ALTERNATIVE SOLUTION</b>  | <b>10</b> |
| <b>INCLUSIVE GOVERNANCE</b>  | <b>11</b> |
| ADVANTAGES   | 11        |
| DESVANTAGES  | 11        |
| <b>EXCLUSIVE GOVERNMENT</b>  | <b>12</b> |
| ADVANTAGES   | 12        |
| DESVANTAGES  | 12        |
| <b>CONCLUSIONS AND RECOMMENDATIONS</b>   | <b>13</b> |

## Introduction

JSMP is a civil society organization that has for a long time contributed to national development by monitoring and strengthening the work of the justice sector and the political-legislative sector. The current political situation facing Timor-Leste is linked to the rejection of the Draft 2020 State Budget Law by the National Parliament on 17 January 2020, and JSMP has an ongoing obligation to present its thoughts and analysis to contribute towards finding an alternative solution that can adequately reflect and uphold the principles of the democratic rule of law.

The democratic rule of law means that the State is built on and administered in accordance with the Constitution and the law. Therefore, all actions and decisions of the State and by State organs and institutions need to respect the Constitution and the law. For this reason, JSMP will try to present its opinion and analysis to the sovereign bodies that have constitutional competence to make decisions, for their reference and careful consideration before they make any decisions.

This opinion reflects the thoughts of JSMP and is aimed at generating discussion and has no power to bind. It is the responsibility of the President of the Republic and other relevant State organs to decide on this issue. JSMP has full faith in the intelligence and wisdom of the President of the Republic to make wise decisions based on the Constitution and the law and to reflect the national interest.

In this opinion JSMP will try to analyse this political situation and interpret some relevant articles of the Constitution and some articles from relevant laws to present alternative options for solutions as well as their impact. Finally, JSMP will also present some recommendations to the relevant State bodies for their consideration.

## Procedure and Deadline for the State Budget

The Draft State Budget Law is given special treatment, and is not the same as other draft laws and bills that deal with other issues. This special treatment starts with the initial procedure of the submission of the proposal through to final approval that is specifically set out in Section I, Chapter VII, Law No. 15/2009 on the Rules of Procedure of the National Parliament, as amended by Law No. 1/2016 that deals with the State Budget.

The deadline for discussion and approval of the State Budget is limited by the provisions in Article 86 f) of the Timor-Leste Constitution that sets a maximum of 60 days for approving the budget. The specific procedures involved also have their own limited timeframes. The

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timeframe starts with the admission of the Draft State Budget Law. The Specialised Standing Committees have to send their opinions to the Economic and Finance Committee within a time limit of 15 days as set out in Article 164.1. The Economic and Finance committee draws up a report and opinion within a time limit of 20 days, as set out in Article 164.2 of the Rules of Procedure of the National Parliament. The timeframe for debate on the general points of the Budget in the Plenary is 3 days as set out in Article 166.1 and the timeframe for debate on the specific points in the Plenary is 10 days as set out in Article 167 of the Parliamentary Rules of Procedure.

The rationale for placing a time limit or deadline on the approval process of this budget is because the State Budget needs to be executed in accordance with the financial year which in the context of Timor-Leste starts on 1 January and ends on 31 December. Another reason is to ensure the effectiveness and efficiency of budget execution and implementation of Government programs. Therefore, the State Budget for the new financial year needs to be approved before the financial year starts at the end of the previous financial year. In addition, the law does not allow for an approved State Budget that is being executed during one financial year to be amended or revoked as set out in Article 97.2 of the Timor-Leste Constitution on legislative initiative. This idea is reinforced in the provisions of Article 93 of the Parliamentary Rules of Procedure on specific limits to legislative initiative.

When the Parliament's process does not adhere to this requirement it has a major impact on budget execution and will directly impact also on national development for one year. Development could stagnate or not move forward or be very slow.

The ordinary legislative process has no requirements about time limits that restrict this process as set out in Chapter I, Title V, Section I of the Parliamentary Rules of Procedure on Ordinary Legislative Procedures. During an Ordinary Legislative Procedure there are time limits for the discussion of draft laws or bills but there is no maximum time limit to approve a draft law or bill. Draft laws or bills expire when the legislature ends and can be reinitiated in the next legislature. Therefore, these Ordinary Legislative Procedures cannot be fully used or applied during the budget legislative process, such as withdrawing a draft State Budget and amending or revoking the State Budget Law that is being executed. Accordingly, the VIII Constitutional Government was not allowed to withdraw the Draft 2020 State Budget Law, as has occurred.

Pursuant to Article 30.1 of Law No. 13/2009<sup>1</sup> as amended by Law No. 9/2011 and Law No. 3/2013 on Budgets and Financial Management and Article 162 of Law No. 15/2009<sup>2</sup> as amended by Law No. 1/2016 on the Rules of Procedure of the National Parliament, the Government must present a draft Budget Law for the next financial year to the National Parliament by 15 October. This is when there are no impediments and institutions are functioning effectively.

The Budget can be presented on another date after 15 October in the following three justified circumstances, as set out in Article 30.2 a), b) and c) below:

- a) The acting Government has been dismissed or the Government has not yet been formed;
- b) The new Government is invested in office;
- c) The end of the legislature.

When none of these three circumstances are present, the Government has no reason to justify a delay in submitting the budget by 15 October. This article does not allow for a justification of a delay when the State Budget has been presented within the normal time frame.

On the other hand, as prescribed, the maximum time frame for approval is 60 days. Therefore, the time frame of 60 days still applies when the presentation of the State Budget is late because of one of the reasons indicated above. This time frame of 60 days is calculated from the date the Government presents or submits the State Budget to the National Parliament. For example, if the Government submits the State Budget on 25 October, the maximum deadline is 25 December or if it is submitted on 15 November the maximum deadline is 15 January, as this 60 day time limit cannot be exceeded.

The VIII Constitutional Government did indeed present the Draft 2020 State Budget Law<sup>3</sup> to the National Parliament on 15 October 2019. However, the Government failed to comply with or violated this 60 day time limit provided in the Constitution when it extended the time limit for approving the 2020 State Budget to 17 January 2020 i.e. for 92 days counting from 15 October 2019. This situation occurred because the Government withdrew the Draft 2020 State Budget on 3 December 2019.

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<sup>1</sup> The details of this law are available on page 3670 of the State Gazette, Series I, No. 37:

[http://www.mj.gov.tl/jornal/public/docs/2009/serie\\_1/serie1\\_no37.pdf](http://www.mj.gov.tl/jornal/public/docs/2009/serie_1/serie1_no37.pdf)

<sup>2</sup> The details of this law are available on page 3757 of the State Gazette, Series I, No. 40:

[http://www.mj.gov.tl/jornal/public/docs/2009/serie\\_1/serie1\\_no40.pdf](http://www.mj.gov.tl/jornal/public/docs/2009/serie_1/serie1_no40.pdf)

<sup>3</sup> Details of the Draft 2020 State Budget:

[https://www.laohamutuk.org/econ/OGE20/proposed/Proposta%20Lei\\_OGE\\_202015Oct2019pt.pdf](https://www.laohamutuk.org/econ/OGE20/proposed/Proposta%20Lei_OGE_202015Oct2019pt.pdf)

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## Approval procedure and withdrawal of the 2020 State Budget

At the outset, the VIII Constitutional Government complied with the legal requirements to present the Draft 2020 State Budget Law by 15 October 2019 and the Specialised Standing Committees and the Economic and Finance Committee carried out their work in accordance with the time limits set out in the law. Debates in the Plenary also adhered to these time limits. However, the National Parliament did not manage to discuss this draft law on the specific points because the Government withdrew it after discussion on the general points on 3 December 2019<sup>4</sup>. When the Government withdrew the draft 2020 State Budget Law, a public discussion took place with a range of interpretations on legal avenues or the legality of this withdrawal as well as the resubmission of this draft law to the National Parliament.

When we look at the legislative structure, form and procedures, the approval of the draft budget law is not part of Ordinary Legislative Procedures, but is set out in a separate chapter on the budget only. The Ordinary Legislative Procedures as provided for in Title V, Chapter I, Section I of the Parliamentary Rules of Procedure do not establish a time limit for submitting draft laws and bills and when they need to be approved, because according to this procedure, draft laws or bills that were not adopted by the Parliament will expire when the legislature ends, unlike what happens with the law on the State Budget.

Therefore, the procedure for this draft budget law will either end with its approval or rejection, and it cannot be withdrawn before the vote on the general points as set out in Article 95.2 of the Parliamentary Rules of Procedure on the Ordinary Legislative Procedure because the time limit for resubmission and approval of this budget is limited or there is no sufficient time left. When counting the time elapsed based on the time limits set out in the Parliamentary Rules of Procedure on procedures, and considering that this draft law was withdrawn on the third day of debate on general points, it becomes apparent that there were 10 days left to debate specific points.

If a new draft was resubmitted, the procedure would not continue on from the previous stage of the procedure for the draft law to immediately move on to debate on specific terms to use the remaining 10 days, but rather it would be a new procedure. Therefore the time available for the new procedure would not be sufficient based on the time limits set out in the Constitution and the law or it would exceed 60 days. Therefore the procedure for withdrawing a draft law provided in the ordinary legislative procedure cannot be applied in the context of approving the

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<sup>4</sup> Please refer to detailed information in this article:

<http://noticias.sapo.tl/portugues/lusa/artigo/27599054.html>

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State Budget. This is because the adoption of the State Budget can't take a long time, especially if it takes place during the financial year when the Budget is going to be used, because this will have a major impact on the execution of the Budget and programs, and will also have an impact on the development of all sectors.

Therefore, the actions of the Government to withdraw the Draft 2020 State Budget Law on 3 December 2019 and resubmit it on 19 December 2019 and proceed with a debate on the general points on 15 January 2020 did not comply with the time limit set out in the Timor-Leste Constitution and the law on the deadline for approving the State Budget. If this deadline is exceeded, the draft law cannot be resubmitted to the National Parliament and the situation provided for in Article 86 f) can occur. This provision limits the deadline for approving the budget to 60 days and if this deadline is exceeded it means that the public institutions of the State, particularly the Government and the National Parliament, are not functioning properly or in crisis.

This institutional crisis can occur within the Government or the National Parliament or both of these organs when they do not allow for the State Budget to be approved within the 60 day period. This is because of the logic underpinning democracy and the system of rule based on a majority in the National Parliament. In such a system, members of Parliament representing benches in power have the duty and obligation to defend the program and State Budget presented by the Government and to vote in favour because the program and Budget are initiated from their parties who are in power. They are not supposed to do the job of the party or parties in opposition to question and vote against the program and State Budget.

The situation facing the VIII Constitutional Government is the result of the decision of the V legislature of the National Parliament not to approve the 2020 State Budget because the majority of the Members of Parliament from the AMP coalition in power did not give their vote to support this Budget. This situation shows that there is a serious institutional crisis that in the end did not permit the 2020 State Budget to be approved within the prescribed deadline. In this situation the President of the Republic can exercise his constitutional powers to identify and provide a solution to this problem through the appropriate avenue.

### **The application of the provisions in Article 86 f) and Article 100 of the Timor-Leste Constitution**

The context in which the provision in Article 86 f) may apply is not limited to the establishment of a new Parliament and the formation of Government after elections. This provision is applicable for the entire period that the Parliament and Government are in existence. For

example, the Government can be re-formed after dismissal by the President of Republic without elections as set out in Article 86 g) of the Timor-Leste Constitution. However, a crisis can occur and prevent the formation of a new Government after dismissal. Therefore, circumstances can occur during a legislature whereby the National Parliament does not manage to approve the State Budget within the 60 day deadline. Under those circumstances, the President of the Republic is fully justified to exercise his powers in accordance with this provision and dissolve the National Parliament.

There are exceptions to the President of the Republic being able to exercise his competence in accordance with the provisions of Article 86 f) of the Timor-Leste Constitution. Certain circumstances need to be taken into consideration that do not allow the President to exercise this competence immediately, or that require a postponement for a certain amount of time. These circumstances are detailed in the provisions of Article 100.1 of the Timor-Leste Constitution. This article places a temporary limitation on the President of the Republic's ability to exercise the competence provided for in Article 86 f) to dissolve the National Parliament as follows:

- The President of the Republic may not dissolve the National Parliament during six months immediately following its election, meaning that the National Parliament can only be dissolved after this period;
- The President of the Republic cannot dissolve the National Parliament during the last six months of the term of office of the President of the Republic, meaning that when the President still has more than six months left in office he can exercise his competence to dissolve the National Parliament;
- The President of the Republic cannot dissolve the National Parliament during a state of siege, meaning that the President of the Republic can dissolve the Parliament after the state of siege has ended;
- The President of the Republic cannot dissolve the National Parliament during a state of emergency, meaning that the President of the Republic can dissolve the Parliament after the state of emergency has ended;

The current President of the Republic adhered to these aforementioned provisions, especially the first one, when he exercised his competence and dissolved the National Parliament on 26 January 2018. Even though the VII Constitutional Government that was formed after elections in 2017 had no majority in the Parliament and the Government program was not passed, the President of the Republic could not yet exercise his powers based on the provisions of Article 86 f) to dissolve the Parliament because the Parliament had just recently been formed and six months had not yet elapsed.



When considering the current situation, it is not covered by any of the circumstances provided for in Article 100 of the Timor-Leste Constitution. The National Parliament was established well over six months ago and has now entered into its second legislative session. There is no state of siege or emergency and the President of the Republic still has a long time left in office. Therefore, the provisions of Article 100 of the Timor-Leste Constitution are not relevant in relation to the sovereign organs exercising their constitutional competence to provide a solution to the current situation and problem.

### **Constitutional and legal grounds vs the 2020 State Budget**

In this section JSMP will try to present its opinion and interpretation of the provisions providing constitutional and legal grounds that prevent the Government or National Parliament from presenting other draft laws or bills to the National Parliament for discussion and approval during the current legislative session.

The constitutional and legal grounds are set out in the provisions of Article 97.3 of the Timor-Leste Constitution that states that bills and draft legislation that have been rejected by the National Parliament shall not be presented anew or re-submitted in the same legislative session. This limitation applies to all legislative procedures, both the ordinary procedures as well as specific procedures such as those for the draft State Budget law. In relation to ordinary legislative procedures, Article 92.2 of Law No. 15/2009 as amended by Law No. 1/2016 on the Rules of Procedure of the National Parliament reinforces the provisions of the Constitution. This is a principle and guideline for the democratic rule of law which State organs and public institutions have to follow when exercising their powers.

The Draft 2020 State Budget Law was not passed in the National Parliament on 17 January 2020, therefore the VIII Constitutional Government cannot present another Draft 2020 State Budget Law to the V legislature of the National Parliament during the second legislative session because this is the same legislative session. This situation will not only apply to the VIII Constitutional Government, but will also apply to any new Government that may be formed, whether it is formed after elections or not. A new Government can present a Draft 2020 State Budget Law during the third legislative session on 15 September 2020 if the V legislature continues or during the first legislative session of the VI legislature on 15 September 2020 if the National Parliament is dissolved and there are new elections.

### **Importance of the State Budget**

The State Budget is the central element or essence that allows the State to survive, in particular to promote national development and ensure the welfare of the people according to Timor-

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Leste's doctrine that "people should be liberated from poverty and destitution". When the State has no budget the State cannot achieve its dream or make its dream into a reality.

The State Budget can effectively guarantee the 2011-2030 national development strategic plan to attain its goals and also achieve its dream or strategic vision to help Timor-Leste achieve medium/high growth by 2030, to ensure the normal and effective functioning of public administration, to ensure economic growth and increase the welfare of the people or improve people's lives. According to some estimates, economic growth in Timor-Leste can increase to 4.9 in 2020 if there is a Budget, but if there is no Budget then this will not occur<sup>5</sup>. In any case, this economic growth has not yet managed to improve the economic circumstances of the population. Most of the population (75%) survive on a subsistence economy which supports their livelihoods<sup>6</sup>.

Timor-Leste is a newly established State and national development has not yet reached remote areas even though it has been 20 years since the Indonesian occupation and 18 years since independence was restored. Most of the population (90%) survive on less than US\$5/day and the unemployment rate exceeds 10%<sup>7</sup>. Politicians often have no sense or awareness about these circumstances because economically and financially they do not affect them. Therefore when they play political games and make decisions they do not think about the impact this will have on the general population.

Therefore, JSMP hopes and appeals to politicians to uphold the national interest when they play political games and make political decisions to avoid making the lives of the people even more difficult and jeopardizing national development. The 2020 State Budget is the main factor that will determine the fate and lives of the people and the nation now and in the future.

### **Duodecimal Budget**

Many members of the public have a range of interpretations about the duodecimal budget. Some argue that no alternative solution is required because the Government can survive on a

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<sup>5</sup> Please refer to detailed information at: <https://observador.pt/2018/11/26/crescimento-da-economia-timorense-em-2019-depnde-de-estabilidade/>

<sup>6</sup> Please refer to detailed information on page 34 of this report: <https://www.cgd.pt/Empresas/Plataforma-Internacional/Estudos/Documents/9-TIMOR-LESTE-INDONESIA-ASEAN.pdf>

<sup>7</sup> Please refer to details in this report: [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms\\_630853.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_630853.pdf)

duodecimal budget. In relation to this budget, JSMP will try to analyse and interpret the legal framework that deals with this issue.

The duodecimal budget is provided for in Article 31 of Law No. 13/2009 on Budgets and Financial Management. This provision clearly specifies the character or nature of this budget and its scope of application.

The main objective of this budget is to ensure the functioning of the public administration of the State temporarily when no budget is available for the new financial year to sustain the public administration of the State. Therefore the character of this budget is temporary and the budget is limited in terms of its duration, use and amount.

This budget cannot be used to execute the Government program or carry out national development and cannot be used for a long time or for one year. Each budget allocation under the duodecimal mechanism can only be used for one month of the new financial year with a total that does not exceed 1/12 of the amount set out in each allocation of the State Budget Law from the previous financial year or old budget as set out in Article 31.1 (a) & (b). Therefore, this budget is not supposed replace the Budget for the new financial year, but merely to facilitate the administration of the State while there is no new State Budget available. Once a new State Budget becomes available the amounts spent under this duodecimal mechanism are integrated into the new State Budget in accordance with the Budget Law for the new financial year. Therefore this law also provides that when a State Budget for the new financial year is available within one month, then this duodecimal budget will automatically expire as set out in Article 31.2 of the aforementioned law.

### **Alternative solution**

Starting in 2017 after the parliamentary elections, Timor-Leste has been faced with and beset by political circumstances that are dominated by individual interests and party interests that have placed the people and the nation in a vicious circle with no way out. Therefore, through this opinion JSMP will try to present some alternative solutions that can provide a way out of this vicious circle to avoid Timor-Leste from going round and around in a circle in the next few years as this will have a massive negative impact on the lives of the people and the nation.

JSMP is interested in appropriate solutions that actually reflect and address the current political situation in accordance with constitutional and legal rules adopted by Timor-Leste or solutions that are able to reflect the national interest and do not violate the norms enshrined in the Constitution and the law.

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The alternative solution that JSMP believes is available to the leaders and politicians that will have to solve this situation is to form a new government in accordance with the Constitution and the law. Even though it is possible to maintain the VIII Constitutional Government, reality has already shown that this could be considered an unwise option. This is because if the AMP coalition that formed this government was solid, then the situation currently facing the country would not have occurred. Therefore, JSMP believes that it would be better for the leaders and politicians to find another better and more appropriate solution so that they do not play around with the fate of the nation and the people.

A new Government could be formed by maintaining the model of exclusive governance or to adopt again a model of inclusive governance. These two alternative solutions have their own separate procedures. The process of forming this government could take place without an election and also via an election.

The leaders and politicians could sit together and share ideas and listen to the thoughts of relevant parties and the public to choose one of these options and also decide on the procedure. If a government is formed without an election, this will mean that governance will continue under the V legislature of the National Parliament. A new Government will be formed by dismissing the VIII Constitutional Government and removing the Prime Minister. If the option for an election is chosen, then the President of the Republic has to exercise his powers to dissolve the National Parliament and hold new elections. After the election a new Government could be established or formed with an exclusive or inclusive model based on the desire of the leaders and politicians.

### **Inclusive governance**

In this section JSMP will present its thoughts about the inclusive governance model as well as the advantages and disadvantages.

This inclusive Government, in addition to providing a way out of the vicious circle that Timor-Leste is currently experiencing, would also act as a mechanism for training future leaders and politicians. Therefore, leaders and politicians from the generation of the founding fathers and mothers of our nation would leave behind a “legacy” or positive record and lessons for future generations to follow, rather than creating the circumstances that Timor-Leste has been experiencing during the last few years.

This inclusive Government would be a two tier or two level structure comprising ministers-counsellors and deputy ministers. The ministers-counsellors would be selected from amongst

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leaders or politicians from the generation of the founding fathers and mothers of our nation . The deputy ministers would be selected from amongst capable and promising leaders and politicians of the new generation, both from political parties and independents. Ministers-counsellors would provide advice to the deputy ministers and head the ministries. Therefore, when leaders and politicians from the older generation leave their political careers, they would have prepared the younger generation properly who would be able to lead and rule properly and the people would have a future.

### Advantages

This model of governance will most likely benefit the nation and people, especially in the current situation. The advantages are as follows:

- would remove Timor-Leste from the current vicious circle or similar political situations;
- stable Government;
- consensus in decision-making;
- decisions properly reflect the interests of everybody/the national interest;
- leading to a more effective process of future leader training;
- greater likelihood of effective development.

### Disadvantages

In addition to the advantages, this model of governance could present some disadvantages, namely:

- no opposition in the National Parliament;
- a single source of power and no control over political decisions;
- political decisions could deviate from the national interest;
- less than serious attitude towards being in power, because of a lack of criticism in the National Parliament;

After examining the advantages and disadvantages, it is also necessary to examine the constitutional and legal basis that would ensure the formation of a Government under such a model. In relation to this model of governance, the Constitution and the law are not explicit, because it would be up to politicians and political parties to decide based on their preferences, which must also comply with the Constitution and the law.

This model of governance would allow the Government to be established via an election and also via a consensus between all parties, especially political parties and political leaders. In the

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context of the current political situation, should this model of governance be established via an election, the President of the Republic would have to exercise his powers in accordance with the Constitution to dissolve the National Parliament based on the provisions of Article 86 f) to call early elections to elect a new Parliament and establish a new Government based on the inclusive Government model. If no election is required for this model of governance to be established, the President of the Republic would have to exercise his powers based on the provisions of Article 86 g) to dismiss the Government and sack the Prime Minister to form such an inclusive Government.

## Exclusive Government

This exclusive model has been the one used to date. An exclusive Government is formed by the political party or coalition of political parties who win the parliamentary election and have a majority in National Parliament to be in power. This model of governance has advantages and disadvantages.

### Advantages

The advantages of this model are as follows:

- stable government when the political party or coalition of political parties are solid;
- there will be an opposition and control within the National Parliament;
- proper and meaningful debate and discussion about issues before decisions are made;

### Disadvantages

The disadvantages of this model are linked to the context and political situation in Timor-Leste, which are as follows:

- not possible to get out of the vicious circle when government is always led by the same political players using the same tactics;
- could lead to a dictatorial majority that does not give consideration to the thoughts of the opposition;
- not really serious when dealing with issues related to the national interest;
- giving greater priority to individual interests and party interests rather than the national interest;
- will only foster political games of paying back favours or taking revenge.

If we look at the political situation several years ago and evaluate the current situation, there is the likelihood that exclusive governance after an election will be made up by the same political

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parties and leaders who created this political circle from which there is no way out. If this happens Timor-Leste will face again the current situation and the people and the nation will be victims of political games. Another possibility is exclusive governance made up of the political party or coalition of parties who had the second highest number of votes in an election. The President of the Republic could exercise his constitutional competence as set out in Article 86 (g) to dismiss the Government and sack the Prime Minister, and then the President of the Republic could invite the political party or coalition of parties with the second highest number of votes in the 2018 election to form a Government.

The President of the Republic could dismiss the VIII Constitutional Government without receiving a request for dismissal from the Prime Minister because the vote to reject the 2020 State Budget is an act of no confidence in this Government as set out in Article 112.1 (e) of the Timor-Leste Constitution on the grounds to dismiss the Government in the wake of the non-approval of a vote of confidence. The State Budget is also relevant to the national interest and it is necessary to have the confidence of the National Parliament as set out in Article 110 of the Timor-Leste Constitution on Government's requests for votes of confidence. When the Government presented this draft State Budget Law there was an intention to request a vote of confidence through the approval of the State Budget. If the State Budget is rejected it means that the National Parliament has not given a vote of confidence to the Government to execute the State Budget. While the Government may be dismissed because due to a lack of confidence from the National Parliament, the President of the Republic may also dismiss or sack the Prime Minister to ensure the normal functioning of democratic institutions, having consulted the Council of State, as set out in Article 112.2 of the Timor-Leste Constitution.

These two options are both fine, but more importantly the State needs to have a budget for the financial year. Whether the State chooses one or the other of these options to establish an inclusive or exclusive Government via an election or not, it will still require a budget for this financial year. That would happen when the new Government or IX Government resubmits its Draft 2020 State Budget Law after the second legislative session of the V Legislature ends on 14 September 2020 and the new legislative session starts on 15 September. If an election is required, the new Government will still present its draft 2020 State Budget on 15 September 2020 because the first legislative session of the VI Legislature can only commence on this date, as set out in Article 45.1 of the Rules of Procedure of the National Parliament on legislative session that states that the legislative session starts on 15 September and ends on 14 September of the next year. The new Government may not present the 2020 State Budget in

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July because the legislative session of the V Legislature has not yet ended and the first legislative session of the VI Legislature has not yet commenced in accordance with the law.

The National Parliament has 44 days or more than a month (15 September until 14 October) to approve the 2020 State Budget. This is because on 15 October 2020 the Government must present the Draft 2021 State Budget Law to Parliament. When considering this limited amount of time, the Government or parliamentary benches can make a request for an emergency procedure in accordance with Article 97 of the Parliamentary Rules of Procedure so that the Government has enough time to prepare the 2021 State Budget. Once there is a 2020 State Budget Law, the expenses incurred between 1 January – 14 September 2020 are integrated automatically into the new budget together with the expenditures for the remaining months until 31 December 2020.

The main issue for consideration is to have a budget that can temporarily sustain public administration after the duodecimal budget has been fully used. A possible alternative solution is for the National Parliament to draft a law similar to Law No. 1/2018 on Extraordinary Authorization to Make a Transfer from the Petroleum Fund<sup>8</sup>. The new Government needs to estimate expenditure during the period where the 2020 State Budget does not exist to be presented to the Parliament so that a law can be drafted to authorise the withdrawal of money from the Petroleum Fund. This budget cannot be used for development purposes, but must be used only to cover expenditure by the public administration of the State.

### **Conclusions and Recommendations**

Political developments in Timor-Leste, particularly after the 2020 State Budget was rejected are worrying for all stakeholders who demand extraordinary efforts from State organs that have the competence to make appropriate political decisions, to reflect the national interest and respect the Constitution and laws in accordance with the Democratic Rule of Law.

Therefore, through this opinion JSMP recommends for:

- 1) The President of the Republic
  - a. to wisely make an appropriate decision, that reflects the national interest, respects the principles and norms enshrined in the Constitution and the law to provide a short term solution to the political situation that will have a massive impact on national development in 2020 if the nation is without a State Budget.

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<sup>8</sup> Please refer to details of this law at:

[http://www.mj.gov.tl/jornal/public/docs/2018/serie\\_1/SERIE\\_I\\_NO\\_31\\_A.pdf](http://www.mj.gov.tl/jornal/public/docs/2018/serie_1/SERIE_I_NO_31_A.pdf)



- b. to avoid the influence of political games that only prioritise political party interests that are destructive in nature in order to make wise decisions in accordance with the Constitution and the law.
  - c. to listen to and consider thoughts and suggestions deemed positive and helpful to make a decision that reflects the interests of everybody.
- 2) The National Parliament (Parliamentary Benches)
- a. to effectively cooperate and accept whatever decisions the President of the Republic takes in accordance with his duties and constitutional competence to ensure stability in the country.
  - b. to inform the followers and supporters of each political party to continue contributing to the establishment and maintenance of national stability when the decision taken by the President of the Republic does not favor the interests and preferences of their political party.
- 3) The Government
- a. to keep cooperating with other State organs, particularly the President of the Republic to find a good solution for everyone, that reflects the national interest and respects the Constitution and the law.
  - b. continue to perform its work until the President of the Republic makes a final decision and the process has concluded.

Dili, 29 January 2020

Casimiro dos Santos  
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