



JUDICIAL **SYSTEM** MONITORING PROGRAMME  
PROGRAMA MONITORIZASAUN BA **SISTEMA** JUDISIÁRIU

## **Submission**

**Progress and challenges relating to legislative developments in  
Timor-Leste**

**Submitted to:**

**(The National Parliament)**

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## Introduction

First of all, on behalf of JSMP (Judicial System Monitoring Programme) we would like to take this opportunity to praise and congratulate the President of the National Parliament, His Excellency Member of Parliament, Arão Noe, and his Deputy Presidents and the distinguished elected members of the National Parliament of the Fifth Legislature as well as members of the Eighth Constitutional Government who were sworn in on 22 June 2018 and successfully discussed the 2018 State Budget.

JSMP appreciates and congratulates all of the distinguished members of parliament, from the first legislature up until the fourth legislature (despite its limited time) who have all engaged in a range of efforts and achieved a range of progress at the National Parliament.

## Findings

JSMP observed that in the fifth and last legislative session of the third legislature, the National Parliament managed to approve and amend some important laws. These laws included law No.7/2017 Approving the Law on Pensions for Members of Parliament, and the first amendment of Law No.5/2004, 5 May, on the Status of Members of Parliament and First Amendment to Law No.7/2007, 25 July, on the Statute for the Holders of Positions in Sovereign Organs. In particular, the first amendment to the Law on Lifelong Pensions is an important step for the National Parliament because for many years most people have been concerned and have demanded that the law be amended because they believed that it was unfair and did not reflect the reality of people's lives. However, the first amendment to the Law on Lifelong Pensions will remove some of these concerns, and this will be discussed in this submission.

In addition, the National Parliament also discussed and approved the Law on Expropriation of Public Utilities and Law No.13/2017 on a Special Regime on Definition of Ownership of Real Estate (Land Law), Law No.05/2016 on Granting Pardons and Commuting Sentences and the first amendment to Law No.10/2009 Law on Remuneration for Judicial Magistrates, Prosecutors and Public Defenders, Law No.01/2017 on the Transitory Regime for the Recruitment of Magistrates and Public Defenders who are not East Timorese and the Second Amendment to Law No. 9/2011, 17 August, approving the Organic Law of the Chamber of Commerce, the High Administrative, Tax and Audit Court and other important laws. JSMP has been monitoring developments relating to these aforementioned laws and contributing to the legislative process by submitting opinions and attending consultations because of its strong and close links to the development of the justice sector.

JSMP also appreciates the good collaboration enjoyed to date, particularly the provision of a space to enable civil society to participate in the legislative process through consultations and the acceptance of submissions or opinions on thematic and relevant issues. JSMP hopes that these good practices will continue to be further strengthened and institutionalised in the current and future legislatures.

Other positive progress noted by JSMP included the establishment of an “Ad-Hoc Commission” to deal with thematic issues (specific laws) as a more useful and productive mechanism to accelerate the processing of important laws that are still pending at the National Parliament. However, JSMP also noted some substantial shortcomings, gaps and challenges that need to be addressed to increase the productivity and quality of the National Parliament based on its competencies provided in Article 92 of the Constitution and the Parliamentary Rules of Procedure as well as represents of the people in the National Parliament.

## **Shortcomings, gaps and challenges**

Shortcomings, gaps and challenges included; the lack of a National Legislative Program, ambiguous interpretation of the immunity granted to members of parliament and members of government, issue of failing to establish a quorum because of problems with punctuality and discipline, absences without justification and no sanctions or appropriate disciplinary measures for members of parliament who failed to comply with their duties.

JSMP also discovered pointless practices or irregularities such as certain members of parliament engaging in their own discussions (separately) during sessions of the plenary and sometimes moving around (walking back and forth), while other members of parliament discussed draft laws or issues relating to the national interest. These situations had a serious effect on the quality, productivity and image of the National Parliament during the previous legislative periods.

The gaps and shortcomings that have posed obstacles and challenge to the productivity and quality of the National Parliament to date will be listed, discussed, analysed and highlighted in this submission based on JSMP's findings, and are presented to the National Parliament to use its 'political will' to give consideration and make improvements.

### ***1. National Legislative Program***

The National Legislative Program is a planned or programmatic tool that involves identifying legislative priorities that have been designed in a systematically, integrated and accessible fashion during a legislature.

Since April 2010 JSMP has observed the work of the National Parliament, particularly in the Plenary and Committee A, and JSMP has found substantial challenges in that the National Parliament has not yet institutionalised a “National Legislative Program” to help the National Parliament identify legislative priorities for each year based on the actual interests and needs of the people or the national interest. JSMP observed that problems relating to the lack of a National Legislative Program have affected the productivity of the legislative in each legislative session or legislative year to date.

JSMP believes that the National Legislative Program will help the National Parliament to carry out its legislative role more effectively and productively based on the roles and competencies provided in the Constitution and the law. The National Legislative Program will identify resources, technical capacity (advisors) and laws that are given priority. This will also reduce the

National Parliament's dependence on draft laws coming from the Government because the National Parliament will have its own priorities or can engage in better negotiations regarding the priorities of the National Parliament and the Government to avoid the allocation of resources and unnecessary spending<sup>1</sup>.

To do this, a technical team of the National Parliament needs to consult with relevant entities, civil society, academics, individuals or experts in relevant areas and other components of society. This process will ensure that the legislative process will be conducted in a transparent, accommodative, necessary and useful manner and will promote public participation in legislative processes.

As discussed previously, JSMP observed that the National Parliament has engaged in a range of efforts but because there is no National Legislative Program, many laws that have been brought before the National Parliament for discussion have not been approved and have expired during previous legislatures. These laws were the Law Against Corruption, Law on the Creation of a Bar Association, Law on Juvenile Justice, Law on National Reparations for Victims of Past Crimes and Law on a Public Memory Institute, etc. that expired some time ago at the National Parliament.

The National Legislative Program is also important because it can play a role in monitoring and evaluating existing laws and their relevance to the current situation, the existing context and public needs. This is linked to government policies for making legislative reforms. The National Parliament can work together with the Government, particularly the Ministry for Legislative Reform, to identify laws that need to be reformed or introduced to respond to the interests and reality of Timor-Leste.

JSMP believes that the National Legislative Program will transform the work of the National Parliament to be more productive and effective and at the same time will increase the credibility of the National Parliament. JSMP is also convinced that if the National Parliament managed to establish a "National Legislative Program" there would be no more draft laws pending or expired, as experienced during previous legislatures or it could avoid and minimise the risks of this occurring.

## ***2. Ambiguous interpretation on immunity and the need to develop guidelines for interpretation***

JSMP observed that in cases involving active members of parliament and members of government, there is a major challenge because there is a tendency in some cases for members of

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<sup>1</sup> Previously there were several draft laws on juvenile justice. Some of the drafts have been in existence for ten years and have been revised multiple times however none of these draft laws have been discussed and approved at the national parliament. The draft laws relating to juvenile justice are as follows: Code on Rights of the Child; Law on Adoption; "Draft Law on Juvenile Justice and Special Regime for Juvenile Delinquents". Also, relating to the Draft Law Against Corruption, during the third legislature the National Parliament started a range of initiatives, including organizing an international conference and bringing in experts from many countries, however the National Parliament failed to discuss and approve these laws before its mandate ended.

parliament and members of government to refuse to collaborate with the judicial authorities. This tendency has occurred because of ambiguous and inconsistent interpretation of immunity guaranteed in the Constitution and the Parliamentary Rules of Procedure.

Article 94 of the Constitution guarantees immunity for Members of Parliament. Pursuant to Article 94.1 of the Constitution, the Members of National Parliament shall not be held liable for civil, criminal or disciplinary proceedings in regard to votes and opinions expressed by them while performing their functions. However, Article 94.2 states that Parliamentary immunities may be withdrawn in accordance with the Rules of Procedures of the National Parliament. Article 2.8 of the Parliamentary Rules of Procedure states that the immunity of members of parliament can be removed if they commit a crime carrying a prison sentence of more than five years, by way of authorisation given by the National Parliament. Also, Article 8.3 of the Parliamentary Rules of Procedure states that members of parliament can lose their immunity when there are criminal proceedings initiated by the court, but the National Parliament shall decide to suspend the immunity or not. If a member of parliament is facing criminal proceedings initiated by the court, the suspension of immunity shall be requested by a competent judge, as set out in Article 8.4.

Also, Article 113 of the Constitution guarantees immunity for Members of the Government, however with strict limitations. Members of government who are charged with an offence punishable with a sentence of imprisonment for more than 2 years must be automatically suspended. Meanwhile, where a member of the government is charged with a criminal offence punishable with a sentence of imprisonment for a maximum of two years, the National Parliament shall decide whether or not that member of the Government shall be suspended or not.

However, Article 133.1 of the Constitution and Article 26.2 of Law No. 7/2007 as amended by Law No.7/2017 on Statute for the Holders of Positions in Sovereign Organs<sup>2</sup> provides an opportunity for members of the Government accused with an offence punishable with a prison sentence of more than two years to be automatically suspended in order to be subject to criminal proceedings. Article 114 of the Constitution and Article 26.1 of Law No.7/2007 as amended by Law No.7/2017 protects members of Government from being detained or imprisoned for a crime punishable with a maximum sentence of imprisonment for more than two years and in *flagrante delicto*.

JSMP has observed that the constitutional and legal provisions have created confusion and provided an opportunity for a range of interpretations that are unclear and ambiguous. In some cases, defendants have stated that they have immunity against criminal proceedings because they are member of parliaments or members of government. In cases like this, members of parliament or members of government refused to cooperate with the request of the court and the National Parliament failed to suspend members from their functions, because of confusion between the members of parliament themselves about how and in when the members of parliament are able to exercise their immunity. This situation was exacerbated when the National Parliament was unable to hold a plenary session to remove the immunity of members of parliament or members of

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<sup>2</sup>Please refer to this article in the State Gazette, P. 16:

[http://www.mj.gov.tl/jornal/public/docs/2017/serie\\_1/SERIE\\_I\\_NO\\_16\\_A.pdf](http://www.mj.gov.tl/jornal/public/docs/2017/serie_1/SERIE_I_NO_16_A.pdf)

government because there was no quorum which was caused by members of parliament not turning up to work on time or because of being absent without justification.

JSMP believes that if there is a serious allegation against a member of government or member of parliament immunity cannot be used as a justifiable cause to impede the trial process. These individuals need to immediately respond to any criminal accusations against them and collaborate with a notification from the court.

The Constitution clearly states that members of parliament and members of government only have immunity when carrying out their duties in relation to their functions, not when there are indications that a crime has been committed. This is to demonstrate that “everyone is the same” under the law, and to improve the public perception that the law only applies to common people, whilst important people get to hide behind these privileges.

In addition, this is a way to promote good governance and to strengthen State efforts to combat corruption, and to prevent members of parliament and members of the government from committing corruption.

In relation to all of this confusion, JSMP recommends the development of guidelines on a single interpretation to provide clarity about this confusion and to provide a sense of how and when members of parliament and members of government need to use their immunity. These guidelines also clarify how to remove the immunity of members of parliament and members of government so they can appear in court.

### ***3. Issue of punctuality and discipline***

Pursuant to Article 92 of the Constitution, the National Parliament is the organ of sovereignty that represents all Timorese citizens and is vested with legislative, supervisory and political decision making powers. Article 95 of the Constitution also sets out a number of competencies that are exclusive to the National Parliament.

In addition to the Constitution, the National Parliament also has other competencies set out in Law No.4/2002 on the Organic Law of the National Parliament, Law No.5/2004 on the Status of Members of Parliament and Law No.15/2009 as amended by Law No.1/2016 on Rules of Procedure of the National Parliament.

The Rules of Procedure of the National Parliament set out the regular and day to day functioning of the National Parliament. The schedule for plenary and committee meetings is provided for in Article 46.2 of the Parliamentary Rules of Procedure which states that the morning session is from 09:00 to 12:30 and the afternoon session is from 15:00 to 18:00.

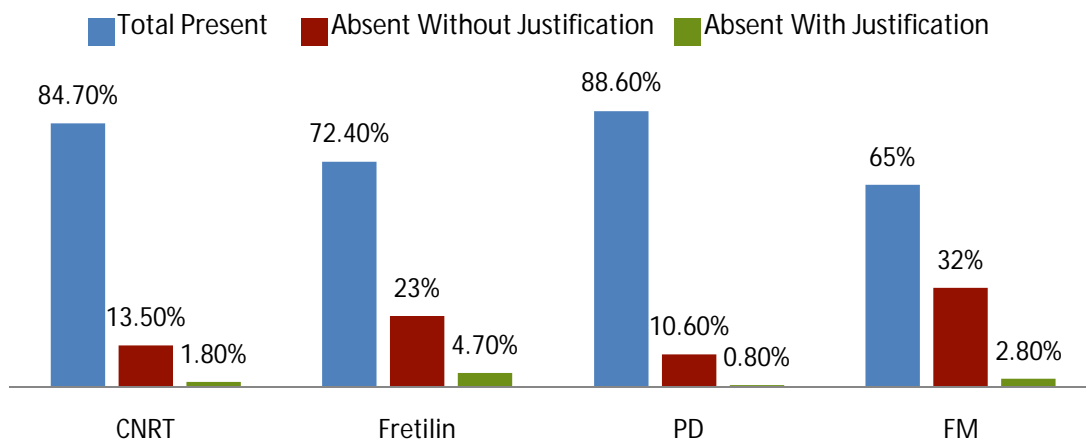
JSMP has observed over the last few years, and particularly in 2017, that members of parliament have continued to ignore the Parliamentary Rules of Procedure regarding punctuality. JSMP has found that plenary and committee meeting always started late at 10:00 or later and sometimes meetings could not take place at all because a quorum could not be established.

Plenary sessions and committee meetings never start in accordance with the timetables established in Law No.15/2009 as amended by Law No.1/2016 on Rules of Procedure of the National Parliament<sup>3</sup>.

JSMP has noted that in the fifth legislature under the leadership of His Excellency, Arão Noe, the plenary sessions started on time, therefore JSMP recommended for the members of parliament in the fifth legislature to maintain this good practice by adhering to the Parliamentary Rules of Procedure regarding arriving and leaving work on time. This will further dignify the image and prestige of the National Parliament as a sovereign organ representing the people in the National Parliament. When members of parliament comply with their duties to arrive and leave on time they will work better and can discuss and approve these important laws.

#### 4. Absences without justification

**Percentage of MPs, according to each Bench, present during Plenary Sessions from January - June 2016**

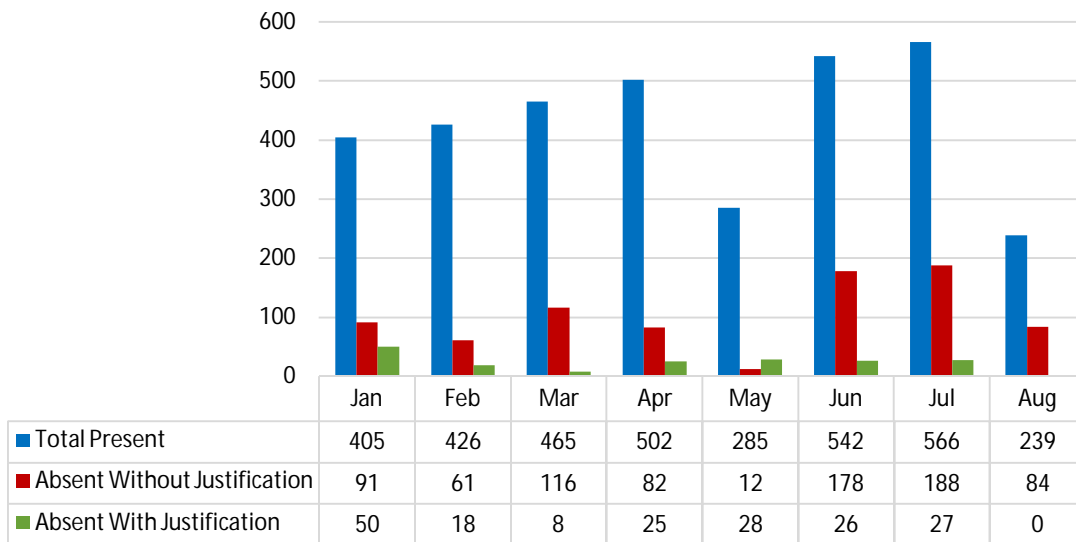


Another important concern noted by JSMP has been the issue of absences without justification. JSMP is concerned because this is closely linked to the productivity of the National Parliament and concerns about pending laws because no quorum can be established, and in particular because members of parliament have failed to comply with their duties in accordance with the law. JSMP's 2016 Parliamentary Watch Report found that four MPs from the major parties were absent consecutively without justification 25 to 43 times, and some were absent without justification 41 to 47 times.

<sup>3</sup>Please refer to the particulars of this lawat: [http://www.mj.gov.tl/jornal/public/docs/2016/serie\\_1/SERIE\\_I\\_NO\\_18.pdf](http://www.mj.gov.tl/jornal/public/docs/2016/serie_1/SERIE_I_NO_18.pdf)



## The Presence of MPs at Legislative III and V Sessions



Also, the 2017 Annual Parliamentary Watch Report highlighted the different percentage of members of parliament from each party who were absent with justification. For example, 14% of absences without justification related to the CNRT Party, Fretilin 24%, PD 14% and FM 37%.

Article 7.1 and Article 28.1 of Law No.15/2009 on Parliamentary Rules of Procedure state that members of parliament may lose their mandate in the event of:

- They do not take their seat in National Parliament up to the fifth plenary session with no justification; or
- Fail to appear at five consecutive sessions of the Plenary or committees; or
- Have been absent with no justification on five consecutive occasions.
- The Members of Parliament who, without notification of absence, do not attend more than three of the committee meetings they are part of, shall lose their seat on such committee during the ongoing parliamentary term.

Based on JSMP's observations to date, the National Parliament, and in particular the relevant committees, have failed to meet their obligations or have not fulfilled the provisions relating to members of parliament who have not abided with their duties as provided in Article 7.1 and Article 28 of Law No.15/2009 on the aforementioned Parliamentary Rules of Procedure.

JSMP recommends for the National Parliament to ensure effective and consistent implementation for members of parliament in the fifth legislature who have not abided by their duties in accordance with the law and the aforementioned Rules of Procedure to encourage members of parliament to carry out their functions responsibly.

## ***5. Draft laws need to be available in the two official languages: Tetum – Portuguese***

There are issues relating to the use of language in the drafting of laws, as all draft laws are only available in Portuguese, and often it is very difficult for members of parliament and the general public to properly understand the contents of these draft laws, and be able to better participate in discussions in the plenary. Based on JSMP observations, this was quite apparent during the debate on the Draft Civil Code in 2011, where a number of MPs did not fully contribute to discussions because this draft law was only available in Portuguese.

For all citizens or beneficiaries of any law or legislative diploma produced by the National Parliament or Government there needs to be a guarantee that they have access to and can understand these processes. A key element in a democratic State is public participation in the legislative process. This can take a number of forms, including the opportunity to express their thoughts about State policies and laws that regulate the lives of the people. Therefore, technical issues should not be a barrier to extinguishing the rights of citizens to participate in these processes.

Article 13.1 of the Constitution guarantees that the official languages of Timor-Leste are Tetum and Portuguese. Therefore, the State, through its democratic institutions have the constitutional obligation to ensure that these rights cannot be denied so they can have full participation in the entire legislative process.

JSMP recommends that in the future draft laws should be prepared in the two official languages to allow all East Timorese to participate in the legislative process and comply with their obligations pursuant to Article 13 of the Constitution.

## ***6. Prioritising pending laws***

### **1. Draft Law Against Corruption**

For many years the Law Against Corruption has also been a priority of JSMP advocacy. JSMP believes that a Law Against Corruption is extremely crucial to help the work of the Anti-Corruption Commission (ACC) and the Public Prosecution Service in combatting corruption and promoting good governance.

Based on JSMP monitoring conducted at the courts during the last 4 years there has been a significant increase in cases of corruption. Between 2014-2017 JSMP has noted 56 cases of corruption. Meanwhile, according to a report from the Prosecutor General for the 2013 - 2016 period, the Public Prosecution Service processed 286 cases, and 165 of these resulted in formal charges before the courts. The Anti-Corruption Commission regrets that in many cases they have encountered difficulties in conducting investigations because of a lack of cooperation from the relevant parties because there are no strong or appropriate legal instruments to force people to collaborate with the Anti-Corruption Commission.

JSMP believes that the approval of the Draft Law Against Corruption should not just be considered a top and urgent priority, but is actually mandatory, because Timor-Leste is a member State that has ratified the United Nations Convention Against Corruption (UNCOC) and this can empower the Anti-Corruption Commission to conduct its role more effectively.

## **2. Draft Law on Child Protection**

The Law on Child Protection is a draft law that expired some time ago during one legislature to another. Since the first legislature to the fourth legislature, this draft law was discussed but was not approved for various reasons. Although relevant ministries such as the Ministry of Justice and Social Solidarity recruited advisors to prepare these draft laws, in the end they were not approved. Lastly in 2016 and 2017 the Ministry of Social Solidarity again presented a draft law on Child Protection to the National Parliament for discussion and approval, unfortunately, this draft law was submitted to the National Parliament at a time when it was preoccupied with other draft laws and during election campaigning so the National Parliament failed again to discuss and approve this law. JSMP also submitted an opinion<sup>4</sup> to the National Parliament to ask for an in-depth consultation with relevant entities in the area of child protection before approving this law.

JSMP believes that the Draft Law on Child Protection is an important step in establishing a specific legal framework to provide better monitoring, care and protection to children. In reality, Timor-Leste's formal justice system does not really give good protection and has failed to comply with international obligations to protect children against any risks of violence and discrimination.

This Law on Child Protection is important because children are considered as a social group that is particularly vulnerable in society and they need special protection. In addition, many children go to prison because they have committed crimes and the Penal Code does not provide adequate protection to children.

## **3. Creation of a Law on a Bar Association**

The creation of a Law on a Bar Association is aimed at regulating the profession of lawyers and organization for lawyers to make a more effective contribution to the work of the judicial sector to promote access to formal justice.

The Law on a Bar Association is crucial to properly and effectively ensuring the work and contribution of private lawyers towards the administration of justice. This law will guarantee that access to justice is facilitated and promoted for all people as a principle and right of all citizens as enshrined in Article 26 of the Timor-Leste Constitution, Article 8 and 10 of the Universal Statement of Human Rights (United Nations Charter), on access to justice and fair justice in accordance with Article 14 (1) to (7) of the International Covenant on Civil and Political Rights (ICCPR) about the Right to Access Justice through the Courts.

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<sup>4</sup>Please refer to the JMSP submission at: <http://jsmp.tl/wp-content/uploads/2013/03/Analiza-ba-Esbosu-Lei-Protesaun-Labarik-MSS-2016.pdf>

Timor-Leste has shown its commitment to justice as an international obligation, through the Constitution as well as through ratifying international tools on human rights. Article 9 of the Constitution states that the legal system of East Timor shall adopt the general or customary principles of international law and Article 23 further requires fundamental rights shall be interpreted in accordance with the Universal Declaration of Human Rights. Timor-Leste ratified a number of human rights tool including the International Covenant on Civil and Political Rights, and International Covenant on Economic, Social and Cultural Rights, and therefore all national laws need to adhere to these instruments.

The independence of the profession of lawyers is extremely important for the proper administration of justice, the effective application of human rights standards and strong functioning of the rule of law. This can be guaranteed through a national Bar Association that can organise and govern/regulate themselves.

The establishment of a Bar Association is also particularly important to ensure that if a lawyer performs in a manner that does not uphold his/her professional duties, there will be a legitimate body formed by the Bar Association that can provide supervision and will be able to apply any necessary sanctions. The Bar Association is a body that will protect all lawyers from any actions or interference from State authorities in the performance of their professional duties. International law provides strong protection to the legal profession of lawyers.

In 2017 the National Parliament managed to have a public consultation with relevant entities, including JSMP and the International Bar Association's Human Rights Institute (IBAHRI), to discuss the Draft Law on a Bar Association presented by the Ministry of Justice. JSMP and IBAHRI made a submission<sup>5</sup> to the National Parliament, but the parliament did not have enough time because the draft law was presented to the National Parliament at the last moment when the National Parliament was busy with 2017 electoral activities.

JSMP recommends for the National Parliament to consider and include the Law on a Bar Association as a priority to be included with other priorities to be rescheduled for discussion and approval during the first or second year of the fifth legislature.

## ***7. Amendments to existing laws***

### **1. Amendments to the Law on Lifelong Pensions**

As discussed above JSMP appreciates the political will of the members of parliament from the third legislature and their social sensitivity to consider and interpret public concerns in relation to public demand to amend the Law on Lifelong Pensions.

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<sup>5</sup>Please refer to JSMP and IBAHRI submission to the National Parliament at: <http://jsmp.tl/wp-content/uploads/2013/03/IBAHRI-and-JSMP-submission-on-draft-law-on-the-creation-of-Timorese-Bar-Association-Final-Tetum-Version1.pdf>;

However, afterwards JSMP discovered that in the amended version Article 6 of Law No.7/2017 on “established” rights, it continues to protect members of parliament from the 1 – III legislature from the application of this amended law. This means that former members of parliament continue to receive the lifelong pension based on the old law. In other words, the amendment does not affect former members of parliament and members of government. Therefore, JSMP wrote an opinion to the President of the Republic to veto this law and JSMP also shared its concerns to the public. However, the President Taur Matan Ruak promulgated this law and it was published as Law No. 7/2017.

JSMP recommends for members of parliament in the current legislature to review this law to amend the Law on Lifelong Pensions to be consistent and fair to all members of parliament and also so it can reflect the reality of many people and avoid placing a major burden on the State in the future which could expose the State and the people to risk.

## **2. Amendments to the Penal Code**

Based on JSMP monitoring in the courts, it was discovered that incest is a phenomenon that is widespread in Timor-Leste.

Incest is a sexual act between a father and his daughter or his adopted daughter, or between a mother and her son or adopted son, a grandfather and his granddaughter or adopted granddaughter, or grandmother and her grandson or adopted grandson, an uncle with his niece, or an aunty with her nephew, with consent and/or taking advantage of their position of authority in the family to commit sexual abuse against a victim.

Incest is a terrible and odious offence/act in society because it contradicts and offends social, moral and religious values, and has serious and ongoing psychological and physical effects.

JSMP recognised that some articles in the Penal Code can be used to charge and convict defendants, however these provisions are not adequate to protect victims because they only provide limited protection, especially for victims who have not yet reached the age of 14. However, for cases involving victims aged 14 and above, the law requires three elements of proof: the victim must resist, there needs to be a serious threat and there needs to be violence. If these three elements are not proven, the court will consider that the relations were based on consent. These considerations will result in the court acquitting the defendant from the charges.

The provisions in the Timor-Leste Penal Code are not adequate to protect women and children, especially in the family context (cases of incest) and are inconsistent with Timor-Leste's international obligations and constitutional obligations.

Based on these facts, JSMP and ALFeLa jointly took the initiative to develop a joint submission and recommended for the Penal Code to be amended, in particular the creation of a specific article or sub-section to criminalise incest without considering age and consent. These amendments included provisions on sexual crimes against juveniles, sexual coercion and rape, and aggravating circumstance in sexual offences and sexual assault. When making these

amendments consideration should be given to also reviewing the Law Against Domestic Violence to ensure consistency and compatibility with these articles that are interconnected.

However, the courts have started to show significant progress in their decisions and sentences in cases characterised as incest, but JSMP and ALFeLa still believe that it is important to amend the Penal Code.

JSMP recommends for the Penal Code to be amended and to incorporate incest as a specific crime in the Penal Code without consideration of the victim's age and consent.

### **3. Civil Code –civil marriages, Catholic marriage and Article 1478 on monogamous traditional marriage**

In September 2011 the National Parliament approved Draft Law No.56/II on the Civil Code dated 23 August 2011, and presented it to the President of the Republic for promulgation and publication in the State Gazette. However, there are some substantial issues that need to be reconsidered to reflect the real circumstances of Timor-Leste. In particular Article 1475 of the Civil Code that deals with civil marriage, catholic marriage and Article 1478 on monogamous traditional marriage.

In JSMP's position on the promulgation of the Civil Code, in September 2011, JSMP vigorously questioned the provisions on marriage. The Civil Code only provides provisions on civil marriage unions for members of the Catholic religion and traditional monogamous marriage (*barlakeadu*) (limited to marriages between a man and a woman), and does not include protestant marriages, and Islamic marriages and other groups or elements who are an integral component of East Timorese society and the democratic rule of law.

JSMP believes that it is important to amend the current Civil Code to incorporate all of the faiths that exist in the community and recognise marriage to include groups or elements in society with other sexual orientations not yet defined in the Civil Code.

It is important to combine this process by amending articles contrary to our constitutional norms and international laws ratified by the State.

## **Conclusions and Recommendations**

The National Parliament is a sovereign body that performs an important role in representing the people and ensuring that the voice of the people and their interests are adequately encapsulated in any policies and legislation produced by the National Parliament pursuant to Article 92 of the Constitution and other relevant laws on the role of the National Parliament.

Once again JSMP appreciates the efforts and important progress achieved by the National Parliament, but believes that the National Parliament can improve and be more productive by considering the following recommendations:

1. The National Parliament is requested to establish a National Legislative Program to identify legislative priorities in each legislative session;

2. Develop guidelines on a single interpretation to clarify how and when members of parliament and members of government need to use their immunity and how to remove the immunity given to a member of parliament and member of government so they can appear in court;
3. Recommend for members of parliament in the fifth legislature to comply with the Parliamentary Rules of Procedure to arrive and leave on time and to be disciplined, to present a good image to the public as representatives of the people in the National Parliament;
4. JSMP recommends for the National Parliament to ensure effective and consistent implementation for members of parliament in the fifth legislature who have not abided by their duties in accordance with the law and the aforementioned Rules of Procedure to encourage members of parliament to carry out their functions responsibly;
5. JSMP makes a recommendation to the National Parliament that in the future draft laws should be prepared in the two official languages to allow all East Timorese to participate in the legislative process and to comply with their obligations pursuant to Article 13 of the Constitution;
6. Recommends for the National Parliament to reschedule pending laws or laws that have expired such as the draft Law Against Corruption, Law on a Bar Association, Law on Child Protection, and to amend laws that were discussed in this submission such as the Law on Lifelong Pensions ("established" rights), the Penal Code (specific provisions on incest) and the Civil Code (on the issue of marriage);
7. Recommend for the Government to support a policy on a 'solidarity fund' initiated by the *Chega* National Centre because this policy is important to fulfil the rights of victims and survivors from past crimes as another alternative in relation to the Law on National Reparations.