



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN SISTEMA JUDISIÁL

2012 Parliament Watch Project

JSMP Annual Report



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Justice Facility
A Bilateral Co-operation between the
Governments
of Timor-Leste and Australia
2008-2013



The United Nations
Democracy Fund

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EXECUTIVE SUMMARY

The Parliament Watch Project (PWP) is primarily engaged in monitoring the competence and performance of the National Parliament in relation to the legislative process, oversight and political decision making. The aim of PWP is to promote transparency, accountability and public participation in the democratic process.

This report makes practical recommendations on how to further strengthen democracy and good governance in Timor-Leste. JSMP has developed these recommendations based on the results of its monitoring of parliamentary activities in 2012.

In 2012, Timor-Leste successfully conducted two general elections – the parliamentary elections on 7 July 2012 and the presidential elections on 17 March 2012. These elections occurred without conflict and everyone was free to choose their 65 representatives. The National Electoral Commission (CNE) and the Technical Secretariat for Electoral Administration (STAE) assumed responsibility from UNMIT to conduct the electoral process in 2012.

During 2012 the National Parliament continued to show significant progress in several areas, including the approval of important laws such as the Labor Law and Law on the Right to Industrial Action. The parliament also amended the laws regulating elections, namely the Law on the Election to the National Parliament and the Law on the Election of the President of the Republic.

The National Parliament also approved other important laws such as the Land Law Package – General Regulations regarding limitations on Land Ownership, the Law on Real Estate and the Law on Evictions. However the aforementioned three laws were vetoed by the President.

JSMP also observed that the parliament was not able to debate and approve several important laws including the Draft Law Against Corruption, the Draft Law on Reparations and the Draft Law on an Institute of Public Memory. In addition, JSMP continued to monitor problems with the regular functioning of parliament, including several Members of Parliament (MPs) who continued to ignore the rules of parliament, especially in relation to working hours.

Despite the efforts of MPs, awareness raising activities and communication with community members was still minimal. Members of the community do not yet have a good understanding of the main duties or role of State institutions. In addition, the parliament and the government have not yet conducted widespread and substantial consultations with relevant parties on legislative policies and draft laws.

In order to strengthen democracy and promote good governance in Timor-Leste, JSMP recommends the following:

1. The National Parliament should establish a 'National Legislative Program' similar to other countries to ensure that legislative policies are in accordance with national priorities for the next 5 years.
2. The National Parliament should consider important draft laws that have expired, namely the Draft Law on Institute of Public Memory, the Draft Law on Reparations and the Draft Law Against Corruption.
3. The National Parliament needs to consult all relevant stakeholders on draft laws through an open, comprehensive and substantial process, and ensure public involvement in the legislative process to guarantee that laws reflect the aspirations of the people, the current reality and national interests.

4. The National Parliament should issue guidelines on the proper procedure for formalizing the suspension of a member of government under article 113.1 of the Constitution. The guidelines should clarify that the suspension applies from the commencement of the legal proceedings (i.e. laying of criminal charges) until the conclusion of the legal proceedings, including any appeal process.
5. The National Parliament should apply sanctions based on the Internal Rules of the Parliament against MPs who do not adhere to the working hours without justification.
6. The National Parliament should prepare documents, including draft laws, in two versions - Tetum and Portuguese - to facilitate the understanding of all MPs and so that they are accessible to the public.
7. Institutions that prepare draft laws should also provide a simple explanation of each article to facilitate the understanding of all MPs as well as the public.
8. The National Parliament needs to ensure the allocation of sufficient funds to increase the number of national and international advisors, as well as technical support staff for the parliament and research staff to assist the parliament conduct its duties more effectively.
9. The National Parliament should avoid unnecessary expenditure during each legislative period to purchase the same resources, for example new cars for MPs.
10. The National Parliament needs to make effective use of communications methods such as radio and television to facilitate the public's access to parliamentary proceedings in order to better disseminate information to the public.

INTRODUCTION

In February 2010, JSMP set up its Parliament Watch Project (PWP). This project responded to the need to contribute to the establishment and promotion of a political system that provides every person with the space to participate to strengthen democracy in Timor-Leste. These objectives are to be achieved by:

1. Monitoring the activities of the National Parliament so that it can perform effectively and efficiently and to promote transparency and accountability.
2. Enhancing public participation in the law making process, oversight and the political decision-making, and
3. Disseminating information to the public about the duties and roles of the sovereign institutions of State, particularly the National Parliament.

This report outlines the performance of the National Parliament in legislative process, oversight and political decision-making based on monitoring conducted by JSMP during the 2012 legislative year, which encompasses the second legislative period (23 July 2008 – 30 July 2012) and the third legislative period (30 July 2012 – to date). This report also describes the activities carried out by JSMP to increase community participation in the democratic system of Timor-Leste.

This report is structured as follows:

Section 1 – Summary of the 2012 General Elections.

Section 2 – Describes the activities of the National Parliament, including passing laws and resolutions as well as oversight of government programs.

Section 3 – Describes the challenges and issues that impacted negatively on the democratic system in 2012.

Section 4 – Describes JSMP activities aimed at increasing community participation and disseminating information about the parliament and democratic system.

Section 5 - Conclusion and recommendations.

1. 2012 GENERAL ELECTIONS

In general, JSMP observed that the presidential and parliamentary elections of 2012 were successful. As a result of the presidential election on 17 March 2012, Taur Matan Ruak was elected as the new President for 2012–2017, replacing the former President of Timor-Leste José Manuel Ramos Horta. Through the parliamentary election on 7 July 2012, Timor-Leste elected 65 new MPs and a coalition government of CNRT, PD and Frenti Mudansa, with Xanana Gusmão as the Prime Minister.

The parliamentary election was conducted successfully without major conflict, however there were civil disturbances in Dili and other districts when the public found out the results. In Dili, a student was shot dead in Hera on 15 July 2012 with a member of PNTL being accused of the shooting. JSMP has urged for a transparent criminal investigation into the alleged murder.¹ This case is currently being heard by the Dili District Court with the first hearing conducted on 4 March 2013. The trial is ongoing.

National and international observers directly monitored the elections and the international community acknowledged that democracy has continued to be strengthened in Timor-Leste. The success of this election also meant that the United Nations Mission for Timor-Leste (UNMIT) could end its mission after 10 years in Timor-Leste.

JSMP observed that during the campaign period through to the counting of votes the National Electoral Commission (CNE) received complaints and accusations of small scale irregularities and contestation of results. For example, for the parliamentary election CNE received 89 complaints from 13 districts. All of these complaints were effectively responded to by the CNE and in the end all of the political parties accepted the outcome.

CNE forwarded all of the complaint files to the court regarding the presidential candidates and several parties who were suspected of misusing funds, public facilities, government cars, using children during campaign activities, including some groups who declared that they were leaving a particular party and then gave their support to a presidential candidate from another party.

JSMP appreciates the performance of CNE for successfully conducting the 2012 elections after taking over responsibility from the UNMIT Technical Secretariat for Electoral Administration and organizing the 2012 electoral process.

¹ JSMP Press Release, 'JSMP calls for a transparent investigation in the alleged murder committed by a member of the Timor-Leste National Police in Hera' (20 July 2012): <www.jsmp.tl>

2. ACTIVITIES OF THE NATIONAL PARLIAMENT

A. Legislative progress

The National Parliament has achieved some significant progress in the area of legislation, oversight and development of political policy. The parliament has also endeavored to carry out its duties effectively and efficiently in accordance with its mandate.

In 2012 the National Parliament managed to approve several important laws such as the Law on the Right to Industrial Action, the Draft Land Law Package and proposed amendments to the Law on the Presidential Elections and the Law on Parliamentary Elections.

In 2011 the Parliament managed to approve 18 pieces of legislation; however in 2012 the parliament approved only 10 laws. The 2012 parliamentary elections did interrupt the parliamentary program, however it should be questioned whether MPs used their time effectively in terms of legislative output. Table 1 lists the laws approved in 2012.

Table 1: Laws approved in 2012

Law	Date introduced	Date of final approval	Date of enactment	Vote		
				For	Against	Abstain
Law No. 5/2012 on the Right to Industrial Action	30/05/2011	16/01/2012	17/02/2012	28	1	6
Law No. 6/2012 on a Transitional Regime for Social Security for the elderly, disabled and deceased government employees	06/06/2011	25/01/2012	17/02/2012	37	0	2
Law No. 3/2012 on Environmental Material	13/12/2011	13/12/2011	12/01/2012	23	1	10
Law No. 1/2012, Third Amendment to Law No. 6/2006 on Election to the National Parliament	03/01/2012	05/01/2012	12/01/2012	32	17	1
Law No. 2/2012, Third Amendment to Law No. 7/2006 on the Presidential Election	03/01/2012	5/01/2012	12/01/2012	24	16	2
Law No. 7/2012, Fourth Amendment to Law No. 7/2006 on the Presidential Election	01/03/12	01/03/12	01/03/2012	44	0	0
Draft Law No. 34/II on a Special Regime on Real Estate (Land Law Package)	06/04/2010	08/02/2012	20/03/2012	28	5	2
Draft Law No. 35/II on Evictions (Land Law Package)	06/04/2010	13/02/2012	20/03/2012	37	13	1
Draft Law No. 36/II on Real Estate (Land Law Package)	06/04/2010	13/02/2012	20/03/2012	27	8	3
Law No. 8/2012, First Amendment to Law No. 16/2011, 21 December, on the Approval of the 2012 State Budget (Ratification)	14/09/2012	17/10/12	25/10/2012	40	25	0

The National Parliament also approved the Draft Land Law Package in February 2012. However the President vetoed these packages because of a range of recommendations received from civil society stating that the National Parliament did not conduct sufficient consultation with the community. Also, the contents of the draft laws did not reflect the reality and context of Timor-Leste. In 2013 the Ministry of Justice reopened the public consultation process to hear the views of stakeholders and recommendations from civil society, especially those in conflict with the aforementioned laws. JSMP hopes that this consultation can produce a law that protects the interests of the people.

The National Parliament did not manage to debate and approve important laws, including the Draft Law Against Corruption, Draft Law on Reparations and an Institute of Public Memory. These laws were put on hold since 2011 and have expired. JSMP observed that MPs were not serious in discussing laws that go against their political interests. For example, the Draft Law on Reparations and Draft Law on Institute of Public Memory was strongly objected to by MPs including veterans who proposed amendments to the two laws without any clear justification.

Table 2: Draft laws that expired in 2012

Law	Date introduced
Draft Law No. 30/II, Fourth Amendment to Law No. 6/2006 on Election to the National Parliament	23/04/2012
Draft Law No. 27/II, First Amendment to Law No. 11/2008, on Private lawyers and their training	5/03/2012
Draft Law No. 29/II, Amending Law No. 1/2007 on Lifelong Pensions for members of parliament and other privileges and Law No. 7/2007 on the Holders of Sovereign Bodies	13/02/2012
Draft Law No.21/II on Anti-Corruption	08/11/2011
Draft Law No. 18/II on Local Governance	18/02/2009
Draft Law No.20/II on the Establishment of an Institute of Public Memory	16/06/2010
Draft Law No. 19/II on a National Reparations Program	16/06/2010
Draft Law No. 9/II on the Ownership of Weapons	02/04/2008
Draft Law No. 19/II on Municipal Elections	18/02/2008

RECOMMENDATION 1

The National Parliament should establish a ‘National Legislative Program’ similar to other countries to ensure that legislative policies are in accordance with national priorities for the next 5 years.

RECOMMENDATION 2

The National Parliament should consider important draft laws that have expired, namely the Draft Law on Institute of Public Memory, the Draft Law on Reparations and the Draft Law Against Corruption.

RECOMMENDATION 3

The National Parliament needs to consult all relevant stakeholders on draft laws through an open, comprehensive and substantial process, and ensure public involvement in the legislative process to guarantee that laws reflect the aspirations of the people, the current reality and national interests.

B. Parliamentary resolutions

In 2012 the National Parliament made a number of important decisions through Parliamentary Resolutions such as the resolution to suspend the immunity of the Minister of Justice and Minister of State Administration and Territorial Management. These resolutions forced them to respond to accusations of corruption.

Suspension of the Minister of Justice Lúcia Lobato

On 9 February 2012 the Dili District Court submitted a request to the National Parliament to remove the immunity of the Minister of Justice Lúcia Maria Brandão Lobato so that she could be tried for charges of maladministration and economic involvement.

The request to remove the immunity of Minister Lobato was submitted to Committee I of the National Parliament on 2 March 2012. The Dili District Court adjourned the trial until 24 March 2012 pending a parliamentary resolution.

On 20 March 2012 Committee I concluded that parliament should remove the Minister of Justice's immunity. The National Parliament passed Resolution No. 87/II to remove Lobato's immunity. This resolution stated that "The National Parliament has decided, in accordance with the provisions of article 113 of the Constitution, to suspend the Minister of Justice from her position so that Case No. 622/C.Ord/2011/TDD can proceed, with immediate effect."

On 21 March 2012 Resolution No. 87/II was gazetted. This resolution suspended the Minister with immediate effect without delaying until the date of the hearing. Even so, on 2 April 2012 the National Parliament organized a debate on Draft Resolution No. 89/II to amend Resolution No. 87/II and delay the suspension until the date of the trial. Parliament did not manage to discuss this resolution because it was unable to establish a quorum.

On 23 April the Prime Minister assumed responsibility and authority as the Minister of Justice.

JSMP presented its observations through a JSMP report entitled "Parliamentary Privilege and Immunity in Timor-Leste: How to ensure equality before the Law?". JSMP believes that there is some confusion about the correct procedure to remove the immunity of members of government. JSMP has recommended for the National Parliament to clarify the procedure regarding the suspension of members of government in accordance with the Constitution. The National Parliament should also clarify that this suspension applies from the outset of the legal process (from when the indictment is issued) until the process is concluded, including any appeal process.

Suspension of the Minister for State Administration and Territorial Management

On 11 June 2011 the Baucau District Court submitted a request to the National Parliament to remove the immunity of the Minister for State Administration and Territorial Management so that he could be tried for charges of maladministration (Case No. 141 Crm.C/2010. TD.BCU).

This request sought to suspend the immunity of Minister Arcângelo Leite and was referred to Committee I of the National Parliament on 21 June 2011. The National Parliament then set a schedule to conduct a plenary session to remove the legal immunity of Minister Arcângelo Leite, however this did not actually occur until March 2012, approximately 12 months later.

On 27 March 2012 the National Parliament rescheduled a plenary session of parliament to discuss and vote on Resolution No 70/II on the suspension of Minister Arcângelo Leite because it considered that Committee I's advice did not clearly refer to the date of the trial of Minister Arcângelo Leite.

On 2 April 2012 the National Parliament rescheduled a plenary session to discuss Resolution No. 70/II, however a quorum still could not be established. The discussion of this resolution was postponed two more times – parliament tried to vote on 3 and 10 April 2012 however a quorum could not be established.

The National Parliament only approved Resolution No. 7/II to remove the immunity of Minister Arcângelo Leite on 23 April 2012 via a secret vote with 42 in favor, 1 against and 1 abstaining. This resolution was officially gazetted on 2 May 2012.

The Baucau District Court adjourned the trial until 20 June 2012 – 1 year after the initial request – because parliament failed to fulfill its responsibility.

Table 3 below lists the resolutions approved in 2012.

Table 3: Resolutions approved in 2012

Resolution	Date introduced	Date approved	Vote		
			For	Against	Abstain
Resolution No. 1/2012 on the Visit of the President to Japan and the United States	10/01/2012	10/01/2012	28	2	9
Resolution No. 2/2012 on the Visit of the President to the United States	24/01/2012	24/01/2012	24	2	3
Resolution No. 3/2012 on the cost of overseas travel for Members of Parliament	25/01/2012	25/01/2012	32	1	1
Resolution No. 4/2012 on a Friendship and Bilateral Relationship Treaty with Southeast Asia	16/01/2012	30/01/2012	38	0	2
Resolution No. 5/2012 on the Visit of the President to the United States	14/02/2012	14/02/2012	36	0	7
Resolution No. 6/2012 on the Sale of Alcohol and Fuel	24/01/2012	25/01/2012	29	0	4
Resolution No. 7/2012 on the Suspension of the Minister of Justice to be tried in Case No. 622/2011.TDDIL in accordance with article 113 (1) of the Constitution	13/03/2012	20/03/2012	36	0	3

Resolution No. 8/2012 on the Situation in Guinea Bissau	23/04/2012	23/04/2012	40	0	0
Resolution No. 9/2012 on the Suspension of the Minister for State Administration and Territorial Management Arcângelo de Jesus Goveia Leite	21/06/2011	23/04/2012	42	1	1
Resolution No. 10/2012 on the Rehabilitation of former combatants who died and were tortured during the struggle	18/05/2012	18/05/2012	31	1	3
Resolution No. 11 on the Recognition/granting of Honorific Status to the former combatants of the struggle for national liberation at the institutional level and as citizens	18/05/2012	18/05/2012	31	0	3
Resolution No. 13/2012 on the Visit of the President to Mozambique	13/07/2012	13/07/2012	46	0	0
Resolution No. 14/2012 on the Selection of a National Group from the National Parliament to the Parliamentary Assembly of the CPLP	14/08/2012	21/08/2012	58	0	1
Resolution No. 1/III/1a on the Participation of the National Parliament in the Inter-Parliamentary Union (UIP)	14/08/2012	21/08/2012	55	3	2
Resolution No. 2/III/1a on the Selection of a Delegation from the National Parliament to the Inter Parliamentary Union (UIP)	14/08/2012	21/08/2012	58	0	1
Resolution No. 5/III/1 on the 2011 General State Budget	11/12/2012	11/12/2012	60	0	2

RECOMMENDATION 4

The National Parliament should issue guidelines on the proper procedure for formalizing the suspension of a member of government under article 113.1 of the Constitution. The guidelines should clarify that the suspension applies from the commencement of the legal proceedings (i.e. laying of criminal charges) until the conclusion of the legal proceedings, including any appeal process.

C. Oversight

Oversight means that MPs closely monitor government programs in infrastructure, education, health and agriculture. The members of parliament present their findings in a plenary session before engaging in legislative debate.

In 2012 MPs continued to make substantial criticism of government programs. This shows that parliament understands well their responsibility in accordance with the Constitution to represent the people of Timor-Leste and to exercise control over government power. JSMP recommends for MPs to continue to properly engage in oversight activities, especially regarding financial management of government programs.

Although MPs have endeavored to criticize government activities, there is still no mechanism in parliament to follow up what the government is doing in response to the issues identified by MPs. For example, the

Ministry of Social Solidarity provided emergency assistance to victims of natural disasters, including fires that destroyed homes in Kilikai and strong winds that damaged homes in Aituto, Ainaro District, however MPSs did not monitor this response.

The following examples highlight the substantial criticisms that MPs discussed in 2012.

Criticism regarding clean water and sanitation

- Residents still facing water shortages in Dili and in remote areas

Antonino Bianco (Fretilín)

Criticism regarding education

- Civil servants are never paid on time
- Some schools in Dili don't have enough chairs and tables
- Food provided in schools is not of good quality
- Natural disaster damaged schools in Hatobuiliko, Aituto and Mauchiga (Ainaro)

Virginia Belo, Romeo Moises (CNRT); Adriano Nascimento (PD);
Ilda da Conceição, Estanislau da Silva (Fretilín); Francisco de Araújo (ASDT)

Criticism regarding health

- Shortage of medicine in the Dili and Baucau hospitals
- Sharp rise in dengue fever
- Inadequate facilities in hospitals
- Problems with regular power outages in hospitals

Paulo Martins, Natalino dos Santos (CNRT); Antonino Bianco (Fretilín);
Agusto Tara, Adriano do Nascimento (PD)

Criticism regarding electricity

- New power plant is not yet functioning
- Problems with electricity in Dili

Fernanda Borges (PUN); Inacio Moreira (Fretilín)

Criticism regarding roads

- Roads in Turiscai, Ermera, Aituto-Maubisse and Atsabe are in very poor condition and the road to Hatolia and Cailaco is not passable\
- Road between Laleia and Viqueque is severely damaged and the rehabilitation of roads in Dili is of poor quality

Teresa Amaral (ASDT); Mateus de Jesus (INDEPENDENT);
Domingos Sarmento, Joaquim dos Santos, David Dias Ximenes
and Inácio Moreira (Fretilín); Getrudes Moniz (PD)

Criticism regarding agriculture

- Sandalwood in Tilomar has died because weeds were not removed, rice and corn were damaged in the storage house in Metiaut Dili

David Dias Ximenes, Inácio Moreira (Fretilín);
Adriano do Nascimento, Getrudes Moniz (PD)

Criticism regarding security

- In border areas of Suai, Bobonaro and Oecusse the UPF police have very limited communication facilities
- Issues raised about the actions of the PNTL Task Force who have arbitrarily assaulted people and in one case a police officer threatened a young child with a pistol
- Traffic problems in Dili

Adriano Nascimento, Rui Menezes (PD); Paulo Martins (CNRT)

Criticism regarding social security

- Provision of family allowance to civil servants
- Suspicion that manipulation has occurred relating to the verification of veterans' data - request for re-verification
- Lack of transparency regarding payments made to the elderly
- Demand for social support to victims of natural disaster in the villages of Mape and Lepo

Domingos Sarmento, Inacio Moreira and Francisco Jerónimo (Fretilín);
Rui Menezes, Adriano Joao (PD); Fernanda Borges (PUN);
Natalino dos Santos (CNRT); Maria Teresa Exposto (PSD);
Mateus de Jesus (INDEPENDENT)

JSMP observed that during the last three years parliament has found it very difficult to obtain direct responses from members of the government about their concerns. To facilitate a better relationship between the government and parliament, in 2012 the government designated the Secretary of State for Parliamentary Affairs, Maria Terezinha Viegas, who will work closely with MPs in order to compile all information, questions, concerns and input from MPs so that direct responses can be provided by the government.

For example on 13 and 26 November, and also on 17 December 2012 the President of the National Parliament gave an opportunity to the Secretary of State for Parliamentary Affairs to read out a justification from the Minister of State Administration and Territorial Management about a District Development Project in Tilomar Village, Covalima District. The Secretary also presented the response from the Secretary of the President of the Public Service Commission regarding disciplinary process for civil servants and a response from the Secretary of State for Defense about the end of UNPOL and FSI operations in 2012. She also read out information from the Ministry of Social Solidarity regarding payments for victims in Zumalai.

JSMP believes that this communication mechanism set up between the parliament and the government is positive and hopes that this relationship can continue in the future in order to oblige the government to respond to all of the problems faced by the community.

D. Other activities

In 2012 the National Parliament held 23 extraordinary plenary session.

The National Parliament also conducted audiences and other activities in 2012, including the following:

- 8 February 2012 – audience with the Prime Minister Kay Rala Xanana Gusmão and Minister of Education João Cândio Freitas and other members of the government in relation to a mother tongue pilot project.
- 27 February 2012 – accepted a letter and instructions from the President José Manuel Ramos Horta regarding the Labor Law.
- 13 March 2012 – audience with the Office of the Prosecutor-General to hear the annual report on the performance of the Public Prosecution Service.
- 30 July 2012 – Legislative Period II ended its mandate, commencing Legislative Period III with the acceptance of a new mandate.
- 31 July 2012 – parliament elected Vicente Guterres as the Third President of the National Parliament with a total of 40 votes in favor, 4 against, 7 abstaining and 13 empty votes to replace Fernando Lasama de Araujo, the Second President of the National Parliament.
- 13 August 2012 - Third legislature of the National Parliament accepted a request for the temporary replacement of MP Dionísio D. C. Babo Soares (CNRT), MP Ricardo Cardoso Nheu (Frenti Mudansa) and MP António da Conceição and Samuel Mendonça (PD), due to their appointment as members of the government.
- 15, 16 and 17 October 2012 – Third Legislature of Parliament conducted an opinion sharing session with the Fifth Constitutional Government to discuss and approve the Rectification Budget which was led by the Prime Minister Kay Rala Xanana Gusmão who was accompanied by the Deputy Prime Minister and Minister of Finance.
- 24 October 2012 – parliament received submission regarding advice from the Court of Appeal on the 2011 State Budget.
- 27 August 2012 – parliament accepted a letter from the Acting Special Representative of the Secretary-General of the United Nations in Timor-Leste regarding a visit by the Secretary-General of the United Nations, Ban Ki Moon, and his delegation to Timor-Leste.
- 3 December 2012 – audience with the Deputy Minister of Finance, Santana Cardoso, and the Secretary of State for Parliamentary Affairs, Maria Terezinha Viegas, regarding the Petroleum Fund.

On 21 May 2012 parliament received an official visit from the President of Portugal, Aníbal Cavaco Silva, in a plenary session to hear about Portugal's commitment to help Timor-Leste in the future. On 15 August 2012 parliament received an official visit from the Secretary-General of the United Nations, Ban Ki Moon, to explain about the end of the UNMIT mission in Timor-Leste. On 30 November 2012 parliament also received an official visit from the President of Cape Verde, Jorge Carlos Fonseca, to hear about the policy regarding the relationship between Portuguese speaking nations.

On 5, 7, 10 and 11 September 2012, the new members of the National Parliament were given training by the former Presidents of Parliament from Portugal and Cape Verde, Jaime Gama and Aristides Lima, about the duties and responsibilities of MPs including the competencies of the President of the National Parliament, plenary sessions, agendas, consensus and voting.

On 17 October 2012 parliament started debating the draft Rectification Budget. This draft was aimed at adjusting the US\$50 million budget for government programs in 2012. JSMP believes that the allocation of this rectification budget is not proportional because the education sector only received an injection of funds totaling US\$1.7 million in comparison with the pension allocation for veterans that totalled US\$26.9 million and US\$7 million for the elderly.

E. Committee A

Committee A of the National Parliament deals with issues relating to the Constitution, justice, public administration, local authorities and legislation. Committee A has full authority in accordance with article 95 of the Constitution to oversee the work of the government through debate and the submission of written questions to the government.

In 2012, Committee A focused on the proposed Land Law Package which was referred by the plenary to Committee A on 6 April 2010. Table 4 shows the process for discussing this law.

Table 4: Process for discussing the Draft Land Law Package in Committee A

Date	Discussion
06/04/2010	National Parliament receives the proposed Land Law Package and refers it to Committee A
03/01/2012	Committee A prepares a schedule for discussing the proposed Land Law Package
09/01/2012 - 26/01/2012	Committee A starts discussions and holds a special vote in Liquica, in the meeting room of the Carmelitas Maubara Convent
14-02-2012	Committee A holds a vote on the proposed Land Law Package in the meeting room of Committee A in the National Parliament. JSMP did not obtain the results of the vote because the President and Deputy President of Committee A did not grant permission.

JSMP acknowledges that Committee A tried to hear the opinions, comments and suggestions of the public and stakeholders regarding the proposed Land Law Package. JSMP also notes that Committee A received this proposed law in April 2010, however it did not discuss it until January 2012. Although Committee A had other priorities to deal with, JSMP encourages MPs to prioritize laws that have been submitted by the plenary to Committees so that delays of up to one year can be avoided.

In 2012 Committee A also held audiences with relevant government bodies such as the Ministry of State Administration and Territorial Management and the Technical Secretariat for Electoral Administration, National Electoral Commission and representatives from NGOs regarding the Presidential Election Law and the Parliamentary Election Law. Committee A also accepted complaints from victims of a natural disaster in Viqueque District.

Table 5: Other activities of Committee A

Date	Discussion
05/01/2012	Final approval of the Third Amendment to the Presidential Election Law and the Third Amendment to the Parliamentary Election Law
23/04/2012	Received victims of a natural disaster from Betulari Sub-Village, Viqueque District
24/04/2012	Revised the Parliamentary Election Law
24/04/2012	Held an audience with the Ministry of State Administration and Territorial Management
26/04/2012	Approved a report on the proposed Law on Election to the National Parliament

3. CHALLENGES

A. Inconsistent attendance of MPs

Article 46.2 of the Parliamentary Rules of Procedure states that the normal working hours of MPs are between 9 am and 12.30 pm for the morning session, and the afternoon session starts at 3 pm and continues until 6 pm.

Some MPs continue to ignore this rule. MPs who fail to adhere to the working hours have a significant impact on the work and functioning of parliament. Irregular attendance has caused legislative debates to be delayed and results in calling extraordinary meetings.

As observed in previous years by JSMP, irregular attendance continues to occur because the chair of the parliament has not taken firm action to sanction those MPs violating the rules. For example, in accordance with article 10(e), an MP must provide justification for every absence from a plenary session or committee meeting within five days after the absence. However, many MPs do not fulfill their obligations and do not attend work without any justification.

This is a serious issue for JSMP because it has a major impact on the plenary sessions and legislative process in the National Parliament.

The table below shows the attendance of MPs between January – May 2012 (Second Legislative Period) and between August – December 2012 (Third Legislative Period) based on JSMP monitoring.

Table 6: Attendance of MPs in plenary sessions – January to May 2012 (Second Legislative Period)

Bench	January	February	March	April	May
Fretilin (21)	58%	57%	57%	68%	68%
CNRT (18)	71%	72%	62%	38%	38%
PD (8)	63%	59%	36%	71%	71%
PSD (6)	68%	71%	67%	56%	56%
ASDT (5)	42%	53%	38%	13%	12%
UNDERTIM (2)	55%	75%	56%	58%	58%
PUN (2)	40%	88%	83%	42%	42%
Independent (1)	70%	50%	89%	33%	33%
KOTA (1)	30%	75%	11%	67%	67%
PPT (1)	60%	0%	0%	0%	0%

At the start of 2012, the President of the National Parliament appealed to all MPs to attend the parliament in a disciplined manner. The President of Committee A, Fernanda Borges, also stated that there was a minimum level of participation from MPs because often a quorum could not be established and discussions had to be postponed on several important laws.

Although JSMP understands that often MPs have other activities to attend to, attendance in plenary sessions, especially during voting, is very important so that they can fulfill their responsibilities in accordance with the Constitution. The public should question the commitment of MPs and the effectiveness of parliament should this situation continue.

Graph 1: Average attendance by each party in plenary sessions – January to May 2012

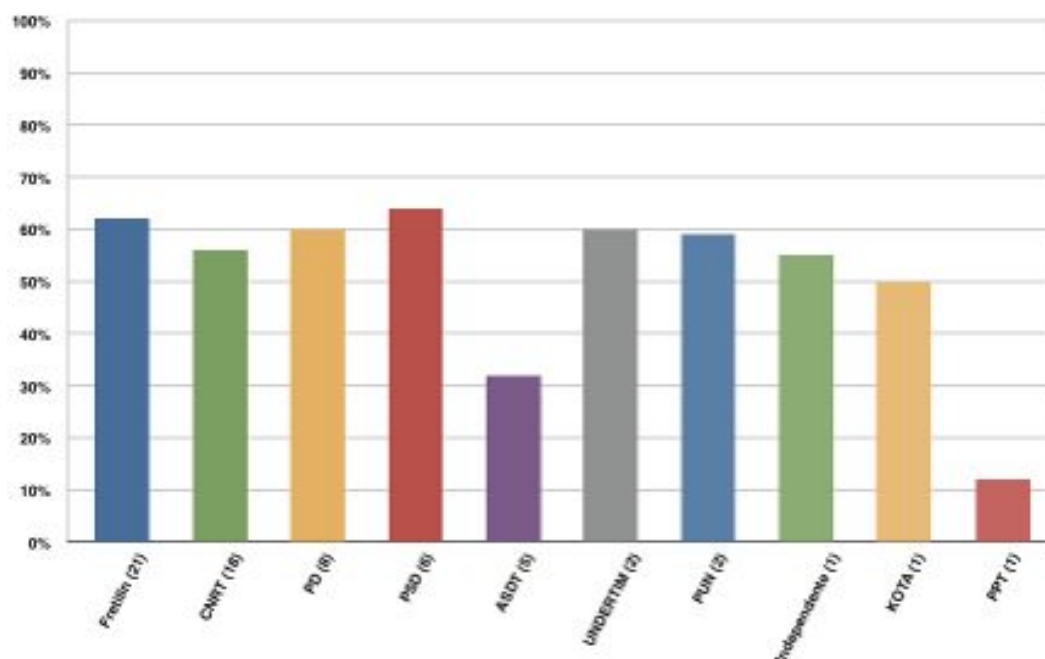
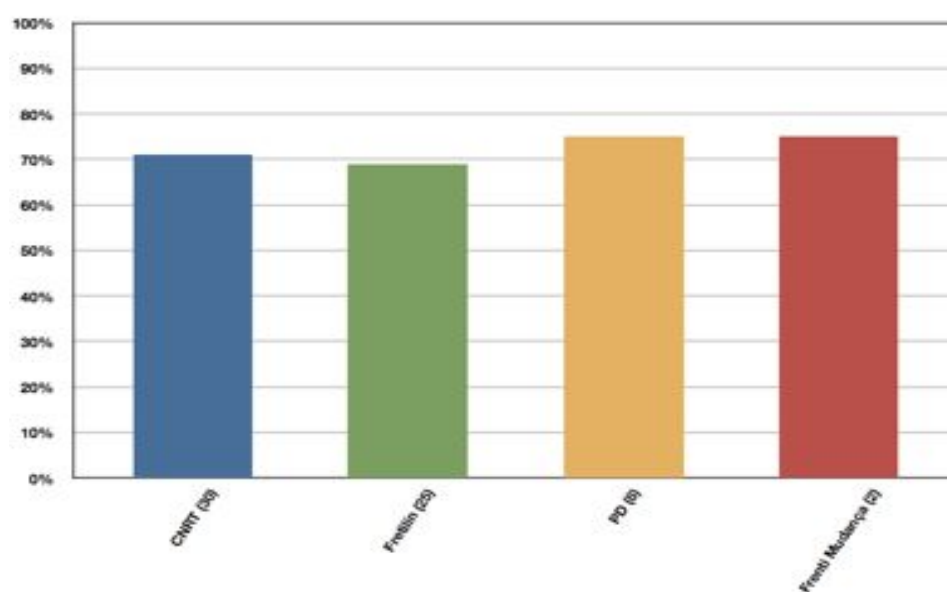


Table 7: Attendance of MPs in plenary sessions – August to December 2012 (Third Legislative Period)

Bench	August	September	October	November	December
CNRT (30)	78%	80%	73%	59%	66%
Fretilin (25)	77%	74%	73%	56%	64%
PD (8)	79%	92%	79%	61%	64%
Frenti Mudansa (2)	75%	85%	83%	61%	71%

Graph 2: Average attendance by each party in plenary sessions - August and December 2012



RECOMMENDATION 5

The National Parliament should apply sanctions based on the Internal Rules of the Parliament against MPs who do not adhere to the working hours without justification.

B. Legislative process is ineffective

In 2012 the National Parliament only approved 10 laws. JSMP observed that plenary sessions and voting often couldn't take place because there were insufficient numbers to establish a quorum – meaning that the non-attendance of the MPs had a serious impact on the law-making process.

JSMP has also observed that for the last three years certain MPs have chosen to ignore those laws that are not in the interest of their parties. This occurred during the discussion of the draft Law on a National Reparations Program and the draft Law on an Institute of Public Memory. Certain MPs left the plenary sessions and some proposed for discussions to be postponed without justification. JSMP acknowledges that MPs have an obligation to consider the views of stakeholders, including veterans' groups. However, MPs are obliged to debate draft laws and make a final decision through voting. The public cannot accept that certain important draft laws are constantly delayed by the parliament.

Some MPs are still not actively contributing to the law-making process. JSMP is concerned that although MPs want to participate in legislative debates, they cannot express their opinion because they don't really understand the draft law. This occurs because normally MPs only have a Portuguese version of the draft law which can be very complex. For example, in relation to the Law on Industrial Action several MPs wanted to actively contribute to the debate, however they were prevented from doing so because it was only prepared in Portuguese and MPs had difficulty interpreting the provisions. Consequently, those MPs couldn't actively participate and merely voted to approve the law. As noted by JSMP last year, the majority of MPs do not understand Portuguese.² To ensure that all MPs can participate effectively in the law-making process, all draft laws should be written in Tetum with simple explanations about what is contained in the law, as occurs in other nations.

JSMP also believes that the timing and target of public consultation is not clearly established. Many laws are of poor quality because they were not analyzed and do not reflect the reality of Timor-Leste. For example, the proposed draft Land Law package was eventually vetoed by the President because of strong objection from civil society that there was insufficient consultation on this law and it did not reflect the reality and context of Timor-Leste. JSMP recommends for the parliament to extend and improve the public consultation process with stakeholders.

RECOMMENDATION 6

The National Parliament should prepare documents, including draft laws, in two versions - Tetum and Portuguese - to facilitate the understanding of all MPs and so that they are accessible to the public.

² JSMP Annual Report, 'Let's work together to Develop a Strong System of Democracy in the Future' (2011): <www.jsmp.tl>

RECOMMENDATION 7

Institutions that prepare draft laws should also provide a simple explanation of each article to facilitate the understanding of all MPs as well as the public.

C. Parliamentary resources are not managed efficiently

JSMP continued to observe that the National Parliament still has a limited number of advisors and officers who can provide support to MPs. In 2012, the number of advisors was increased to 11. From these advisors, seven were from the parliament itself and the other four were from UNDP. JSMP is concerned because only two advisors provide support to all of the parliamentary committees. One advisor provides special support to the President of the National Parliament and the other provides technical support in areas such as law, human resources and the media.









The limited number of advisors in parliament has continued to have an impact on MPs being able to truly understand the contents of proposed laws that originate from the government, which are mostly drafted in Portuguese. JSMP continues to recommend for parliament to recruit and employ international and national advisors in sufficient numbers, especially to support the committees that currently don't have dedicated advisors.

The National Parliament previously received internet support from the Asia Foundation (TAF). However the MPs are not yet using these facilities efficiently and effectively. In accordance with its plan for 2013, UNDP will install software for logistics at the National Parliament. JSMP believes that it is important for MPs to have a good understanding of these electronic communication tools and to use them properly.

During the Second Legislative Period of the National Parliament (2008–2012) 65 laptops were provided to MPs. There is a plan for these laptops to be donated to the former MPs. JSMP believes that parliament needs to avoid this type of expenditure and avoid the need to purchase the same facilities in the future.

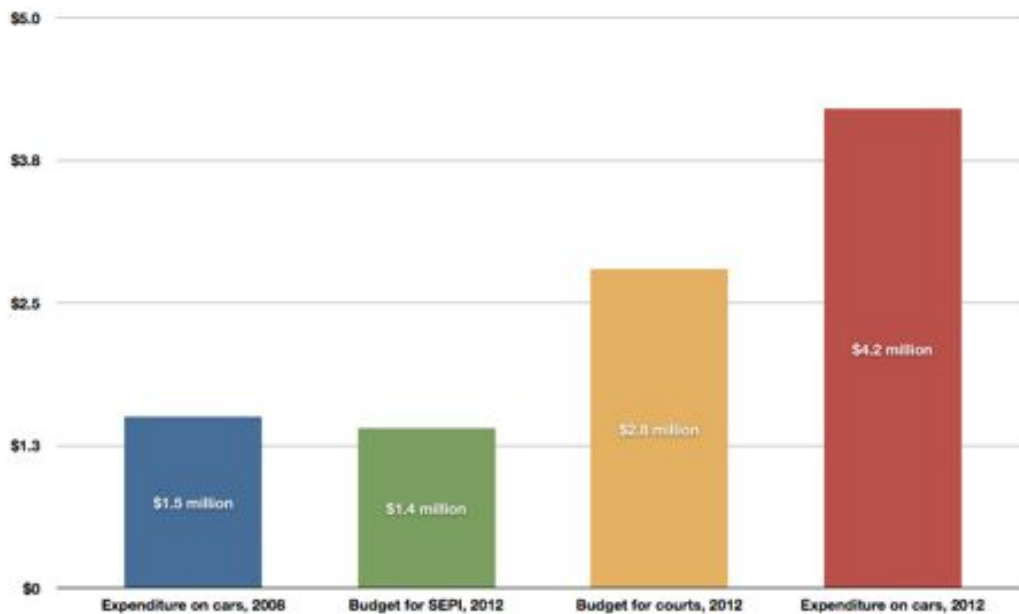
During the Second Legislative Period the National Parliament also purchased 65 Pajero vehicles for each member of parliament. However, 21 MPs refused to accept the vehicles – 19 MPs from Fretilin and two from PUN, because of political reasons, namely that they believed that the situation of the people of Timor-Leste does not permit MPs to enjoy luxurious vehicles or a higher standard of vehicle.

Table 8: Cars for MPs during the Second Legislative Period (2008 – 2012)

Bench	No. of cars received		Total expenditure
CNRT	18		\$612,000
PD	8		\$272,000
PSD	6		\$204,000
ASDT	5		\$170,000
Fretilin	2		\$68,000
KOTA	2		\$68,000
UNDERTIM	2		\$68,000
Independente	1		\$34,000
Total	44		\$1.49 million

From the vehicles purchased by the State in 2008, the government has sold 44 cars to MPs who were using them at the price of US\$9,000 per car. In 2013, the government purchased new vehicles to be distributed to each MP of the Third Legislative Period and one car will be allocated to each Special Committee. Each vehicle costs US\$63,000. The total amount of money spent to purchase the new cars was US\$4.2 million.

Graph 3: Comparison - total funds used to purchase MPs' vehicles and total funds for SEPI and the courts – 2008 & 2012



JSMP questions why parliament did not continue to use the cars that were purchased for the Second Legislative Period. This shows that State resources were utilized at a very minimal level and the spending was not proportional with the funding allocated to other institutions such as the courts.

JSMP acknowledges the importance of MPs being provided with sufficient means of transport to facilitate their work. However, JSMP recommends for the parliament to avoid unnecessary expenditure by re-using where possible the same facilities in each successive legislative period.

RECOMMENDATION 8

The National Parliament needs to ensure the allocation of sufficient funds to increase the number of national and international advisors, as well as technical support staff for the parliament and research staff to assist the parliament conduct its duties more effectively.

RECOMMENDATION 9

The National Parliament should avoid unnecessary expenditure during each legislative period to purchase the same resources, for example new cars for MPs.

4. JSMP ACTIVITIES

A. Training for members of the community

In 2012 JSMP continued to carry out training activities for members of the community to increase public understanding about democracy and the parliamentary system. JSMP's strategy is to increase public understanding through the provision of training workshops at the suku level. JSMP used each of the training sessions to disseminate information about parliamentary activities during the last few years.

In 2012, JSMP conducted four workshops in Bobocasse, Oecusse District; Ililai, Lautem District; Betano, Manufahi District; and Camnasa, Covalima District. During these workshops JSMP facilitated discussions and gave information to the participants about the law-making process in Timor-Leste and parliament's duties.

The participants recommended for JSMP to continue conducting these activities to community members in other sukus. The participants asked for parliament to disseminate information about the laws that have been approved and published in the State Gazette to every village and sub-village. The participants also asked why parliament and government did not hold sufficient public consultations on laws, especially in remote areas. The participants recommended for JSMP to convey their demands to parliament and the government.

Community members also suggested that the State to include civic education programs in their agenda to disseminate information to the public, as is done by JSMP.

RECOMMENDATION 10

The National Parliament needs to make effective use of communications methods such as radio and television to facilitate the public's access to parliamentary proceedings in order to better disseminate information to the public.

B. National Seminar

On 23 August 2012 JSMP organized a national seminar on the theme of 'The Role of the National Parliament regarding Legislation, Oversight and Political Decision Making: Aspirations and Challenges'. The aim of this seminar was to improve and enhance transparency, accountability and quality of the work of the National Parliament and to increase public participation in the formulation of laws and national policy.

The Deputy President of the National Parliament, Adriano do Nascimento represented the Chair of the National Parliament, Francisco Miranda Branco represented the opposition party Fretilín and Natalino do Santos represented the Coalition. These MPs participated as speakers. Participants included village

authorities from five districts (Lautem, Ainaro, Covalima, Manufahi, and Dili). The participants recommended for JSMP to continue organizing such seminars at least twice a year to facilitate communication between parliament and citizens, especially the local authorities.



Photograph of participants of the National Seminar on 23 August 2012.

C. Independent evaluation

In 2012 TAF conducted an independent evaluation of PWP activities during 2010–2012.³ The evaluation concluded that this program was implemented successfully and created a good relationship between civil society, the general public and the National Parliament. The evaluation acknowledged that this program is important in the context of Timor-Leste and recommended for the impact of this program to be increased. JSMP is committed to implementing the report's recommendations in order to support the development of democracy in Timor-Leste.

³ Norbu Thupten, 'A Snapshot Assessment of the Parliament Watch Project, Year One and Year Two Project Implemented by Judicial System Monitoring Program' (01/08/2012).

CONCLUSION AND RECOMMENDATIONS

In 2012, democracy continued to strengthen in Timor-Leste, especially with the successful conduct of the general elections and the significant developments in the National Parliament in regards to oversight. JSMP requests for the new parliament to improve on these efforts over the next five years to continue these positive achievements.

JSMP continues to be concerned with the inconsistent attendance of MPs which often delays the legislative process because parliament cannot establish a quorum. JSMP is also concerned that MPs are not participating effectively in the law-making process because all of the draft laws are written in Portuguese and are very complex. MPs cannot fulfill their obligation if they don't properly understand what is stated in these laws.

JSMP also acknowledges that the parliament did not manage to debate important laws such as the draft Law Against Corruption, the draft Law on Reparations and an Institute of Public Memory. JSMP hopes that parliament can reschedule these laws for debate as part of a new national legislative program.

Based on the analysis contained in this report, JSMP presents the following recommendations for consideration during the next few years:

1. The National Parliament should establish a 'National Legislative Program' similar to other countries to ensure that legislative policies are in accordance with national priorities for the next 5 years.
2. The National Parliament should consider important draft laws that have expired, namely the Draft Law on Institute of Public Memory, the Draft Law on Reparations and the Draft Law Against Corruption.
3. The National Parliament needs to consult all relevant stakeholders on draft laws through an open, comprehensive and substantial process, and ensure public involvement in the legislative process to guarantee that laws reflect the aspirations of the people, the current reality and national interests.
4. The National Parliament should issue guidelines on the proper procedure for formalizing the suspension of a member of government under article 113.1 of the Constitution. The guidelines should clarify that the suspension applies from the commencement of the legal proceedings (i.e. laying of criminal charges) until the conclusion of the legal proceedings, including any appeal process.
5. The National Parliament should apply sanctions based on the Internal Rules of the Parliament against MPs who do not adhere to the working hours without justification.
6. The National Parliament should prepare documents, including draft laws, in two versions - Tetum and Portuguese - to facilitate the understanding of all MPs and so that they are accessible to the public.
7. Institutions that prepare draft laws should also provide a simple explanation of each article to facilitate the understanding of all MPs as well as the public.
8. The National Parliament needs to ensure the allocation of sufficient funds to increase the number of national and international advisors, as well as technical support staff for the parliament and research staff to assist the parliament conduct its duties more effectively.

9. The National Parliament should avoid unnecessary expenditure during each legislative period to purchase the same resources, for example new cars for MPs.
10. The National Parliament needs to make effective use of communications methods such as radio and television to facilitate the public's access to parliamentary proceedings in order to better disseminate information to the public.



JSMP's vision

A democratic society that guarantees justice and human rights for all.

JSMP's mission

JSMP will work in a spirit of collaboration to improve and protect democracy, law, justice and human rights through:

- Monitoring
- Legal education, and
- Advocacy.



Working together to create a strong and fair justice system for all Timorese.