

PARLIAMENT WATCH PROJECT (PWP)

ANNUAL REPORT 2017





PARLAMENTO
NACIONAL
República Democrática de Timor-Leste





Civil Society Fund, Cabinet of Prime
Minister

Working to:

 *Promote the transparency, accountability and affectivity of the function of the National Parliament in creating law, oversight and political decision making;*

 *Promote public participation in legislation process;*

 *Promote access to formal justice;*

 *Disseminate information through community workshop.*



Project of CARDNO, Australian
Embassy in Timor-Leste

Table of Contents

Executive Summary	4
Introduction	9
Functioning of the National Parliament	11
Punctuality	11
Graph 1 - Attendance of MPs, 3rd Legislature, 5 th Legislative Session, from January to August 2017	12
Graph 2 – CNRT Seats	12
Graph 3 – Fretilin Seats.....	12
Graph 4 – PD Seats.....	13
Graph 5 – FM Seats.....	13
Productivity	14
Graph 6 - Legislative Productivity of the III Legislature from 2015-2017	14
Graph 7 - Participation of MPs on Legislation Process	15
Graph 8 – Participation of MPs in Political Decision Making (Resolution)	16
Specialised Standing Committees	16
Graph 9 - Legislative Process of Committee A, 2017.....	17
Adoption of International Treaties, Conventions and Agreements	19
Graph 10 - International Instruments Ratified between 2002-2017	20
Critical Observations of the Political Situation after the 2017 Parliamentary Elections	22
Competence and Constitutional Obligations of the President	23
Formation of the Government in relation to the Obligations and Competencies of the President	24
Political developments and impact on the functioning of the National Parliament	26
Motion to Reject the Program of the VII Constitutional Government	27
Government Program	28
Rectification Budget	29
Vote of no confidence	31
Request for the Dismissal of the President of the National Parliament	33
Dissolution of the National Parliament	34
Advocacy	35
Law on Lifelong Pension	36
Law on a Bar Association	37
Law Against Corruption	38
Draft Law on Child Protection	38
Community Concerns	39
Graph 11 – Pre and Post testing results from democracy and access to justice training in community	40
Conclusions and Recommendations	41
Annex	43
Table 1: Draft Bills and Laws submitted to Committee A	43
Table 2: Draft Bills and Laws approved in Plenary.....	46
Table 3: Draft Resolution from Parliament	48

Table 4: Draft resolution proposed by Government	50
Table 5: List of Charters, Constitutions, Statutes and Treaties	51
Table 6: List of International Conventions	52
Table 7: List of Protocols	55
Table 8: List of Bilateral and International Agreements	56
Table 9: List of Complaints to Committee A.....	57

Executive Summary

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 carries out its roles and competencies as provided for 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 amending 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 monitoring in 2017 found that members of parliament continued to fail to adhere to the Parliamentary Rules of Procedure in terms of punctuality. Plenary and committee meeting always started late between 10:00 or later and sometimes meetings could not take place at all because a quorum could not be established.

The participation of members of parliament in the legislative process and political decision making also decreased. In the plenary sessions members of parliament discussed and approved laws, and the highest number of members of parliament was 57 which happened only once. In terms of approving resolutions, the highest number of members of parliament was just 52.

In terms of productivity, in 2017 the National Parliament produced many laws in comparison with the previous two years of 2015 and 2016. This happened because of a change in leadership at the National Parliament and also with the creation of an Ad Hoc Committee to focus on important laws.

JSMP observed that in terms of productivity, the work load of the National Parliament is greater for Committee A. For the period between January and August 2017, Committee A received 15 draft laws and 2 draft bills. Committee A managed to discuss, approve and provide opinions on the 2 draft bills and 12 draft laws, and the Committee gave opinions to the plenary on 14 draft laws.

The issue of adopting international instruments was also identified as concern for JSMP in this report. Between 2002 and 2017 the National Parliament has ratified the accession of Timor-Leste to 19 International Charters, Constitutions, Statutes and International

Treaties, 42 International Conventions, including seven (7) main conventions on human rights and 15 Bilateral and International Agreement and 13 Protocols.

These international judicial instruments, upon their ratification and publication in the Official Gazette, enter into the legal framework of Timor-Leste and automatically come into effect, as provided for in Article 9.2 of the Timor-Leste Constitution. This means that the State of Timor-Leste has the obligation to implement and adhere to them and failure to comply with some of them can result in sanctions.

For example, currently Timor-Leste has many migrant workers from many nations and in 2003 Timor-Leste via Parliamentary Resolution No.23/2003 ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. If the State fails to create appropriate mechanisms and conditions to comply with its obligations under this convention and if there are violations against the rights of migrant workers and members of their families, Timor-Leste can be given economic or commercial sanctions by other member states whose citizens have had their rights violated.

Also, JSMP has provided critical observations of the political situation after the 2017 Parliamentary Elections. The political situation has had a massive impact on the functioning of the National Parliament, particularly the IV Legislature. The National Parliament has been contaminated by political party interests whereby members of parliament have not focused on national interests in order to contribute to discussions focused on national and stability and the welfare of the people.

JSMP has made observations together with analysis and interpretation of relevant articles in the Constitution and the law. These interpretations and discussions are aimed at contributing to providing clarification to the public in general and the National Parliament in particular relating to the functioning of the political system and the constitutional and legal framework of Timor-Leste. Therefore, in the future public confusion can be avoided by not engaging in the same practices.

JSMP's observations included issues such as the competence of the President in relation to the formation of the government, the impact of the political situation on the functioning of the National Parliament, the motion to reject the Government program, the rectification budget, vote of no confidence, request for dismissal to the President of the National Parliament and the dissolution of the National Parliament.

In relation to the functions of the President of the Republic, Article 74 of the Timor-Leste Constitution clearly states that the President of the Republic is "the symbol and guarantor of national independence and unity of the State." The situation in the National Parliament after the election demanded for the president to exercise wisdom and prudence to ensure that his decision would not deviate or conflict with the provisions of the Constitution, or in other words he need to make an impartial decision to guarantee national unity.

Political developments after the 2017 parliamentary elections had a massive impact on the functioning of the National Parliament. MPs from the IV Legislature did not concentrate on discussing and debating the program of the VII Constitutional Government. In plenary meetings monitored by JSMP, members of parliament were not

serious and did not focus on national interests by engaging in healthy discussion to contribute towards improving the program of the VII Constitutional Government, but rather discussions tended to focus on taking down the government through a motion to reject the Government program.

The motion to reject the program of the Government is a political action and constitutional competence of the members of parliament, as provided for in Article 109.3 of the Timor-Leste Constitution. In this context, members of parliament, especially those from the opposition, can choose this option when they have no confidence in the Government to exercise its programs when the Government presents its program to the National Parliament. This political action is more effective when the Government in power has no political force in the National Parliament.

Article 108.1 of the Timor-Leste Constitution states that the Government program should contain the objectives and tasks proposed, the actions to be taken and the main political guidelines to be followed in the fields of government activity.

The program of the VII Constitutional Government contains main political guidelines from the 2011-2030 National Development Plan and the opposition parties should actually contribute towards improving this program so it reflects the interests of all parties. JSMP observed that an ideal Government is where the parties in opposition have maximum control. This means that what the opposition proposes to Government must be taken into consideration because it has more political force.

In addition to rejecting the government program, the National Parliament also rejected the 2017 Rectification Budget. This budget is proposed when the general budget for the current year is not sufficient to cover some of the main budget lines which are necessary and urgent to cover any expense that is needed.

From the Rectification Budget proposed by the VII Constitutional Government, almost 99.98% will be used to pay for projects and debts and also wages and pensions and State goods and services. The budget projected for the structure of the new Government accounts for just 0.2%.

After rejecting the Rectification Budget, the National Parliament also conveyed a vote of no confidence towards the VII Constitutional Government, because it did not present its second program within 30 days.

A vote of no confidence is a political tool that the National Parliament can use to control the Government, particularly the opposition. This vote of no confidence needs to be initiated by the opposition when the opposition does not have, or has lost, confidence in the Government to execute its budget to implement its programs and or when there are issues relating to national interests as provided for in Article 111.1 of the Timor-Leste Constitution. However, JSMP observed that there are no clear provisions on the issues related to national interests that pave the way for a range of interpretations.

When the President of the National Parliament did not schedule a discussion on the vote of no confidence, the National Parliament, and the opposition benches in particular, submitted a request of dismissal to the President of the National Parliament. This request

of dismissal is set out in Law No.15/2009 amending Law No.1/2016 on Rules of Procedure of the National Parliament.

The dismissal of the President of the National Parliament is based on the provisions of Article 16-B of the amended Rules of Procedure of the National Parliament which must be made through a secret vote in the plenary whereby more than half of the effective members of parliament must be present. The dismissal can only happen when an absolute majority vote in favor, as provided for in Article 16-B 3) of the amended Rules of Procedure of the National Parliament.

The President of the National Parliament responded to this request for dismissal by lodging an interlocutory injunction to the Dili District Court in his capacity as a citizen and lodged an appeal to the Court of Appeal to examine the issue of constitutionality and legality of the request from the opposition parliamentary benches. The Dili District Court did not process this case because it considered it to be a political issue and the National Parliament has its own rules of procedure to resolve this problem. The Court of Appeal also expressed an opinion that the request for dismissal did not contravene the Constitution and the law.

This political situation has a serious effect on the functioning of the National Parliament which did not manage to discuss and approve the 2018 State Budget within 60 days which caused a serious institutional crisis as provided for in Article 86 f) of the Timor-Leste Constitution. In addition, when counting from the date that the results were announced on the general election of the parliament in 2017 from 22 July 2017 until 26 January 2018, more than six months had elapsed, therefore as provided for in Article 100 1) of the Timor-Leste Constitution the National Parliament could be dissolved.

The President of the Republic dissolved the National Parliament on 26 January 2018 pursuant to the provisions of Article 86 f) and Article 100 1) of the Timor-Leste Constitution. The dissolution of the National Parliament to hold early elections is the only way to resolve this political impasse.

In addition to issues relating to the National Parliament and the political situation after the parliamentary elections, JSMP also included in its report the issue of advocacy and training in the community.

Advocacy is a means used by JSMP to influence decisions in the political, legislative and also judicial systems, including improving and promoting human rights, justice, and the transparency and accountability of State institutions and organs.

JSMP regularly submits opinions, holds consultations, participates in national and international human rights and justice networks and publishes articles in the mass media and electronic media, radio and television.

During 2017 JSMP presented an opinion on the proposed amendments to the Law on Lifelong Monthly Pension, the Law on the Creation of a Bar Association, Law on Local Government and amendments to the Law on the Election of the National Parliament, debate on the appointment of the President of the Court of Appeal, formation of the VII Constitutional Government and Law on Child Protection.

In 2017 JSMP conducted 19 trainings with 595 participants in total comprising 296 women and 299 men. JSMP provided training in 11 villages and 49 villages participated in trainings at the Administrative Post level in 8 Administrative Posts, from the 13 municipalities.

In addition to disseminating information to communities, JSMP also noted the concerns of communities in this report and makes recommendations to the relevant State institutions for their consideration.

For this reason JSMP makes the following findings and recommendations:

- 1) In the next Legislature the National Parliament needs to have a five year legislative plan to prioritise important laws that are pending at the National Parliament such as the Law on National Reparations and Public Memory Institute to ensure transitory justice for victims of past crimes, the Law Against Corruption, the Law on the Creation of a Bar Association and the Law on Juvenile Justice.
- 2) Members of parliament need to adhere to the Rules of Procedure of the National Parliament and to attend to their work punctually and with discipline to project a good image to the public as a sovereign organ that represents the people and can conduct its work properly to discuss and approve these important laws.
- 3) The National Parliament needs to apply disciplinary sanctions against members of parliament that violate the Parliamentary Rules of Procedure, to prevent such behaviour from occurring in the future.
- 4) Avoid and reduce political discussion focused on political party interests that undermine the national interest.
- 5) Hold proper examination and discussion before ratifying Timor-Leste's accession to international legal instruments, to avoid increasing the financial burden and work of the State in the future.
- 6) The National Parliament and relevant State institutions should actively involve the public in the legislative process and disseminate information about these important laws linked to community interests such as the Law on Community Leaders, Law on Ownership of Real Estate, Law on Expropriation, Law on Land Use and the Law Against Domestic Violence, to help local leaders and communities can understand how to deal with these issues when they occur in their village or community.

Introduction

The Judicial System Monitoring Program (JSMP)¹ was established in 2001 with the vision to build a democratic society that guarantees justice and human rights for all people. JSMP's mission to achieve its vision is to work in a spirit of collaboration to promote and protect democracy, law, justice and human rights through monitoring, legal education and advocacy.

In 2010 JSMP established the Parliamentary Watch Project (PWP) to contribute towards further improving the efficiency and functioning of the National Parliament in regards to its legislative, supervisory and political decision making powers. Also, by effectively contributing to the legislative process through consultations and submission of opinions to the National Parliament, this will help ensure that the laws produced by the Parliament reflect the interests and aspirations of the people and also guarantee public participation in legislative processes.

Through this program JSMP has also carried out its role as an intermediary that links the public, especially communities in rural villages, with sovereign organs, particularly the National Parliament and judicial sector institutions. These activities are carried out through disseminating information to communities about the role of the sovereign organs and channeling the thoughts, concerns and recommendations of the communities to the sovereign organs through consultations and publications. Also, JSMP organizes national and regional seminars to facilitate direct contact between members of village councils and communities with members of the National Parliament and judicial actors.

This 2017 PWP Annual Report will outline three main activities, namely monitoring of the National Parliament, advocacy and training for the community. It also includes observations and critical analysis of the current political situation after the 2017 parliamentary elections. This analysis covers the entire situation, including information from early 2018 up until the dissolution of the National Parliament. Relating to the work of the National Parliament, JSMP includes the work of the Third Legislature from 1 January to 4 September 2017 and the Fourth Legislature from 5 September to 31 December 2017.

In terms of monitoring the National Parliament, this report will discuss the issue of the punctuality of members of parliament in plenary sessions and committee meetings, legislative activity and the principle of interdependence between the sovereign organs, particularly the Office of the President. This report will also discuss and make observations about the adoption of international legal instruments such as Charters, Constitutions, Statutes, Treaties, Conventions, Protocols and International Agreements.

In relation to advocacy, the report will outline the opinions that have been submitted to the National Parliament, including consultations on important legislative issues such as amending laws that deal with the Lifelong Monthly Pension, Draft Law on a Timor-Leste Bar Association and Law on Child Protection.

¹ Please refer to the JSMP website at: www.jsmp.naroman.tl

In relation to the community concerns, JSMP will outline the concerns conveyed by communities during training conducted in remote villages. These concerns will be passed on to the relevant State bodies and institutions through recommendations in this report.

The last part of this report contains conclusions and recommendations that JSMP will convey to the National Parliament and relevant institutions for consideration in order to improve the functioning of State systems.

The structure of this report is as follows:

- ✓ Part 1 Introduction
- ✓ Part 2 Functioning of the National Parliament
- ✓ Part 3 Critical Observations of the Political Situation after the 2017 Parliamentary Elections
- ✓ Part 4 Advocacy
- ✓ Part 5 Community Concerns
- ✓ Part 6 Conclusions and Recommendations
- ✓ Part 7 Annexes.

Functioning of the National Parliament

Monitoring the National Parliament is aimed at improving the work and functioning of the National Parliament so it exercises its constitutional and legal competences properly in an effective, transparent and accountable manner.

In this regard, JSMP will discuss the punctuality and productivity of the National Parliament in its plenary sessions and Specialised Standing Committees, particularly Committee A. In addition, JSMP will include observations about the principle of interdependence between sovereign organs, particularly the President and the National Parliament. JSMP will also make observations about the international legal instruments ratified by the National Parliament that are in effect in Timor-Leste.

Punctuality

Through its National Parliamentary Watch Project (PWP), from January to December 2017 JSMP managed to monitor 47 plenary sessions of the National Parliament and 23 meetings of Committee A.

During this monitoring JSMP observed that the punctuality of MPs in plenary meetings and also the Specialised Standing Committees continues to be a concern for the public. Plenary sessions and committee meetings never started in accordance with the timetables established in Law No.15/2009 amended by Law No.1/2016 on the Rules of Procedure of the National Parliament.² Pursuant to Article 46.2 of the Parliamentary Rules of Procedure plenary and committee meetings start at 9:00am and end at 6:00pm. Morning sessions start at 09:00am and end at 12:30pm and afternoon sessions start at 3:00pm and end at 6:00pm.

Daily monitoring by JSMP indicates that plenary and committee meetings always started late, from 10:00am onwards, and afternoon sessions always started late as well. JSMP also observed that meetings were often not completed because of these delays. There were no plenary and committee meetings because there was no agenda and also sometimes because a quorum could not be established. Pursuant to Article 47.1 of the Parliamentary Rules of Procedure, the plenary can proceed when at least one third or 21 effective MPs are present.

To make decisions or deliberations in the plenary, pursuant to Article 47.2 of the Parliamentary Rules of Procedure, half or at least 33 effective MPs must be present.

Delayed and missed meetings have consequences for the Chair of the National Parliament because it must spend time rescheduling meetings of the plenary and committees in the future.

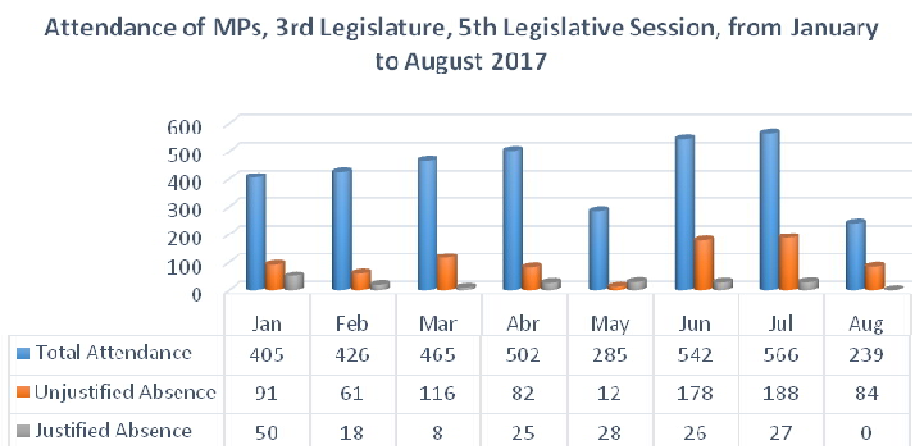
Members of parliament continue to lack punctuality when taking the 15 minute break provided for in Article 46 (30) of the Rules of Procedure of the National Parliament, as these breaks often lasted for 30 and 45 minutes.

In addition to failing to adhere to proper working hours, some MPs continued to be absent without justification. This behaviour did not result in any disciplinary sanctions

²Details of this law are available at: http://www.mj.gov.tl/jornal/public/docs/2016/serie_1/SERIE_I_NO_18.pdf

from the Chair of the Parliament as provided for in the Rules of Procedure to deter such behaviour in the future.

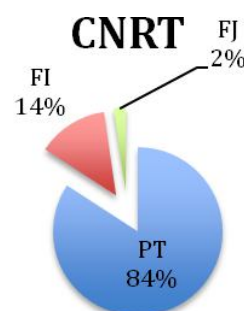
Graph 1 - Attendance of MPs, 3rd Legislature, 5th Legislative Session, from January to August 2017



Based on information regarding attendance, some MPs were present in plenary meetings, but did not sign the attendance list. In the table below JSMP has presented attendance in terms of percentages and absences according to the number of seats each bench has in parliament based on the data regarding MP attendance in plenary meetings.

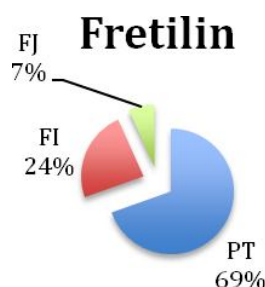
The *Congresso Nacional Reconstrução Timorense (CNRT)* party during the 3rd Legislature had 30 seats in parliament and a total attendance of 84% with unjustified absences totalling 14%.

Graph 2 – CNRT Seats



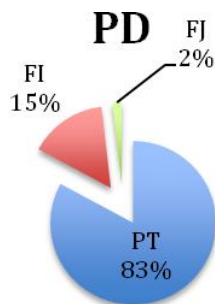
The *Frente Revolucionário de Timor-Leste Independente (Fretilin)* party had 25 seats in parliament and a total attendance of 69% with unjustified absences totalling 24%.

Graph 3 – Fretilin Seats



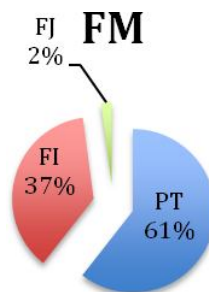
The Democratic Party (PD) had 8 seats in parliament and a total attendance of 83% with unjustified absences totalling 14%.

Graph 4 – PD Seats



Frente Mudansa (FM) had 2 seats in parliament and a total attendance of 61% with unjustified absences totalling 37%.

Graph 5 – FM Seats



JSMP has often questioned the issue of disciplinary sanctions for MPs who are absent without justification (unjustified) in its previous publications in the form of recommendations such as: RecommendationNo.6 in its 2014 Annual Report, RecommendationNo.5 in its 2015 Annual Report, RecommendationNo.1 in its 2016 Annual Report.

These recommendations specifically requested for the National Parliament to use its internal mechanisms such as the Ethics Committee to investigate and impose disciplinary sanctions on members of parliament who violate the Parliamentary Rules of Procedure.³

However, JSMP has observed a small change to punctuality under the presidency of Aderito Hugo over a period of several months. JSMP values⁴ and congratulates the parliament for this positive change and encourages the national parliament to maintain this positive progress. However this situation did not last long and deteriorated during the period after the 2017 parliamentary elections.

³Refer to the 2014 Annual PWP Report on P.20: http://jsmp.tl/wp-content/uploads/2012/05/150428-Relatoriu-PWP-for-printing_TETUM.pdf and 2015 Annual PWP Report: <http://jsmp.tl/wp-content/uploads/2012/05/Relatoriu-anual-POP-2015-versaun-final-edited1.pdf> and 2016 Annual PWP Report at: http://jsmp.tl/wp-content/uploads/2012/05/Relatoriu-PWP_TETUM.pdf

⁴ Please refer to the Press Release at:

The issue of poor punctuality and other problems relating to poor management during this period has had a major impact on the productivity of the National Parliament in exercising its role and constitutional competence in regards to its legislative, supervisory and political decision making powers. However, there has been some progress in terms of law making because in 2017 the National Parliament managed to produce 16 laws, in comparison with 2016, when only 13 laws were produced.

JSMP observed that productivity increased slightly in 2017 due to a change in leadership of the National Parliament. JSMP really values the presidency of Aderito Hugo, because when he assumed this position he gave priority to finalising pending laws by establishing Ad Hoc Committees to focus on important laws and priorities. This is what JSMP had been hoping for in the Recommendations made in previous reports, such as: Recommendations No.5 from its 2015 Annual Report to the National Parliament to establish an Ad Hoc Committee based on Section III of the Parliamentary Rules of Procedure to speed up the important laws that had been pending for a long time.⁵

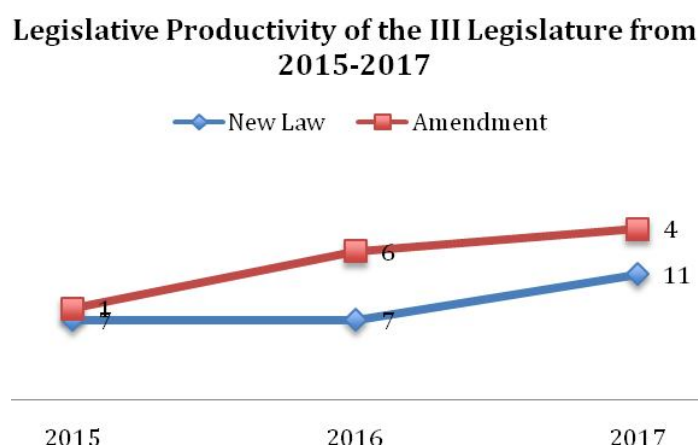
The President of the National Parliament took some actions relating to MPs who were late by reducing their right to discuss other issues in the Plenary. However, this action did not manage to resolve the problem of punctuality and discipline in the National Parliament.

As representatives of the people MPs have not given proper representation, and have not engaged in practices that educate the public about respecting and valuing time and also have not displayed maturity and professionalism in performing work for the State. JSMP hopes that MPs in future legislatures can make a change and a positive difference and contribute to the functioning and systems of the National Parliament, so that the parliament can effectively and productively make laws, provide supervision and make political decisions.

Productivity

The productivity of National Parliament in terms of law making was somewhat positive in comparison with 2016. In 2017 the National Parliament managed to produce 15 laws and 27 resolutions that were published in the State Gazette.⁶

Graph 6 - Legislative Productivity of the III Legislature from 2015-2017



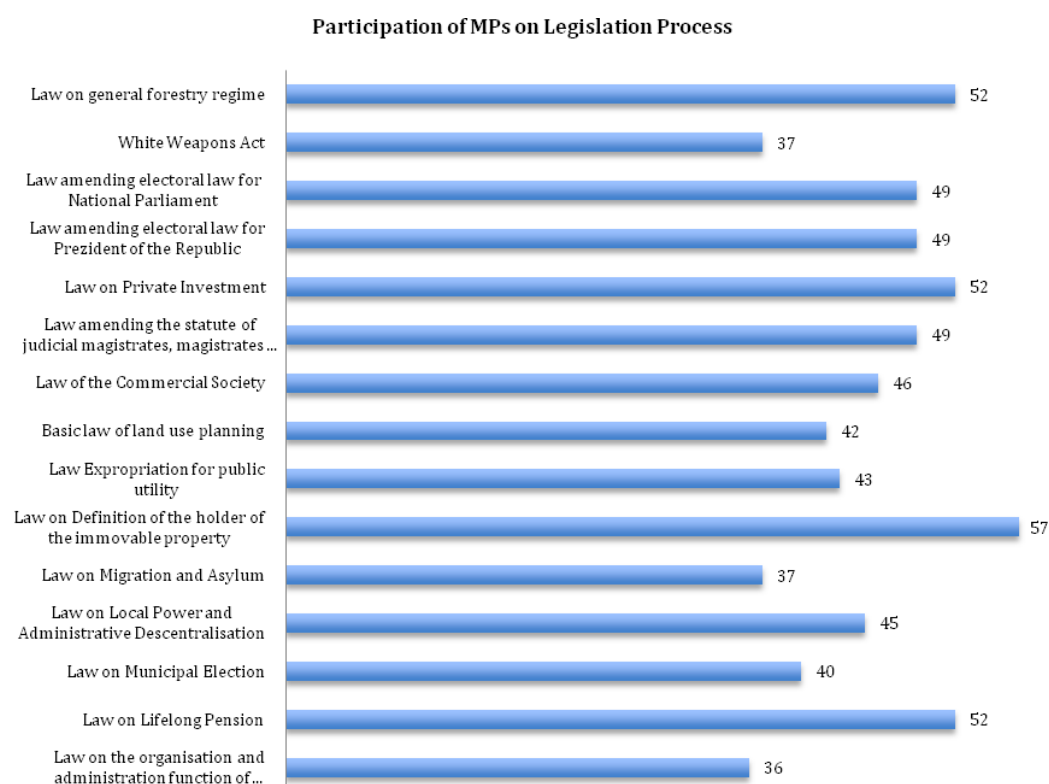
⁵ Refer to Recommendation No. 5 from the 2015 Annual Report at: <http://jsmp.tl/wp-content/uploads/2012/05/Relatorio-anual-POP-2015-versaun-final-edited1.pdf>

⁶ Refer to the State Gazette: <http://www.mj.gov.tl/jornal/?q=node/19>

However, participation levels of MPs during the legislation process were low. The average number of participants involved in plenary sessions in which draft bills and laws were discussed and voted upon were 45.7 from a total of 65 MPs.

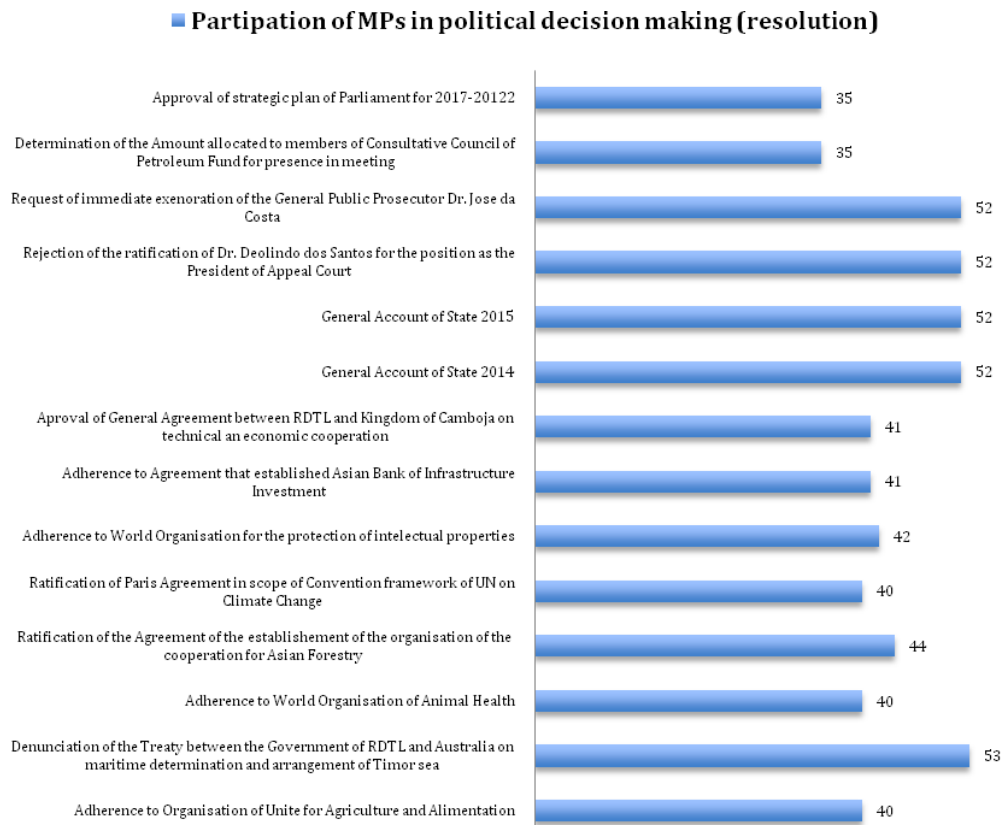
From the participant list of plenary sessions in which they discussed and voted for 15 draft laws and bills, the highest number of attendees recorded was 57 MPs (88%) when they discussed and voted for the draft law on definition of the holder of the immoveable properties or land law. The second highest attendance number was 52 (80%) for 3 separate sessions. During these sessions, they discussed and voted for the draft laws and bills on lifelong pension, private investment and general regime on forestry. The lowest recorded attendance was 36 MPs (55%) when the law on the organisation and administration function of Parliament was discussed.

Graph 7 - Participation of MPs on Legislation Process



Besides legislative process, their participation in the decision making process was also low, it did not reach 65 MPs. The highest number of MPs approved the resolutions was 52 or 80% with the average number was 44.2.

Graph 8 – Participation of MPs in Political Decision Making (Resolution)



JSMP considers those MPs who did not perform their duties well and did not comply with law in the Legislature III at the last legislative session did not show good example and practice to public in general and future politicians. The MPs as the representatives of people, they should have performed good representation.

Specialised Standing Committees

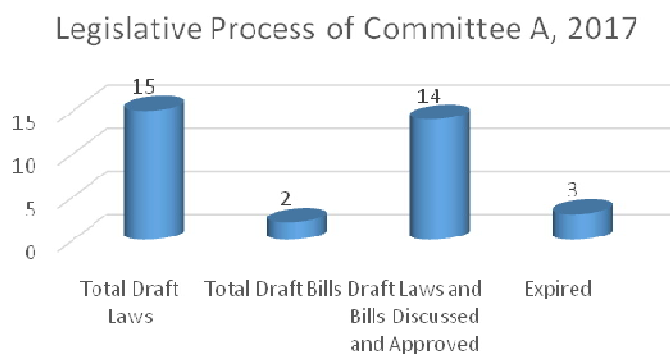
When the new Legislature began, the National Parliament also established Specialised Standing Committees and Ad Hoc Committees as required, in accordance with Article 26.1 of Law No. 15/2009 amended by Law No. 1/2016 on the Parliamentary Rules of Procedure. Standing Committees and Ad Hoc Committees consist of MPs indicated by their corresponding Parliamentary Benches, as provided for in Article 27.2 of the Parliamentary Rules of Procedure.

Article 35 of the Parliamentary Rules of Procedure gives a number of powers to the Specialised Standing Committees to carry out technical work relating to political, administrative and legislative issues. These committees have the competence to discuss and issue opinions on bills and draft laws, proposals for amendments and treaties submitted to Parliament. These committees also have the competence to appraise petitions submitted to Parliament, appraise acts of Government, hold public consultations with civil society entities and summon any members of public administration bodies to provide information on matters related to their areas of competence.

Based on JSMP observations and also data from the Technical Secretariat of the National Parliament, in 2017 the Standing Committee with the most responsibility and biggest work load was Committee A. JSMP really appreciates the work of Committee A because with limited resources and in less than one year (between January and August 2017) it managed to produce important laws and deal with a range of priorities. This committee had 11 members from the parliamentary benches and was supported by two national technical officers and 3 international legal advisors. The legal advisors also supported the work of the other Standing Committees.

During the period between January and August 2017 Committee A received 15 draft laws and 2 draft bills. Committee A managed to discuss, approve and provide an opinion on 2 draft bills and 12 draft laws. For those draft laws which Committee A gave an opinion to the Plenary of the National Parliament, the draft law on a Bar Association only reached the discussion phase and debate on specific terms.⁷ Two draft laws were given final approval as Parliamentary Decrees and were sent to President of the Republic for promulgation. These two Parliamentary Decrees were vetoed or given preventive appraisal by the President. These two Parliamentary Decrees were the Law on Municipal Elections and the on Law on Local Government and Administrative Decentralization.

Graph 9 - Legislative Process of Committee A, 2017



JSMP also noted that even though Committee A engaged in efforts to conduct seminars and consultations with all interested parties to listen to their opinions, and held discussions, and gave approval and opinions on some important laws such as the Draft Law Against Corruption and Law on a Bar Association, it did not manage to finalise these laws in the Plenary due to the issue of the attendance of members of parliament, because often a quorum could not be established. Therefore the agenda for discussion and approval of these draft laws was delayed until they passed their date of expiry at the end of the legislature.

In addition, Committee A of the National Parliament also held public consultations to discuss and approve a Package of Land Laws that were vetoed by the former President Jose Ramos Horta in 2012. President Horta vetoed these Laws based on submissions and advocacy provided by civil society under the leadership of *Rede ba Rai* because of the opinion that these laws gave too much power to the State to take land from the people.

⁷ Refer to Table 1 in the annex.

The Approval of the Land Law in 2017 was the result of advocacy carried out over a long period of time by civil society and *Rede ba Rai*.

As a member of *Rede ba Rai* JSMP was involved in advocacy work, both collectively or individually, through consultations and the submission of opinions to the National Parliament to ensure that the laws produced by the Parliament will benefit all people or reflect the needs of the people. JSMP conducted regular consultations and produced and presented opinions or submissions on this issue.

In 2013 JSMP produced 2 opinions, one to the National Parliament⁸ and one to the Government.⁹ In 2016 JSMP also submitted two opinions to Committee A of the National Parliament. The first opinion was on land issues¹⁰ and the second opinion covered the issue of the Law on Land Use which was believed to be linked to land issues.¹¹

JSMP notes that the version of the Law on ownership of real estate was published as Law No. 13/2017 on the Ownership of Real Estate which did not really reflect the needs of the people.¹² JSMP engaged in strong advocacy on two main issues that should be considered in this law. The first issue regarded "*prior customary law*" which was linked to custom and culture and certificates were not granted by the Portuguese or Indonesian administration, which in this Law is considered to be an "*informal right*" (Article 13 of Law No. 13/2017). JSMP wants this right to be included because during the Portuguese colonial period and the Indonesian occupation the colonialists and East Timorese who were on their side occupied a lot of land and granted certificates. When an informal right is not recognised, those who lost their land in the past will continue to lose their rights after independence because they don't have a certificate.

The second issue related to private or community land during the Portuguese colonial period or the Indonesian occupation. Article 9.2 of Law No. 13/2017 allowed East Timorese people to get back private or community land that had been taken and used during the Portuguese colonial period or Indonesian occupation, including some people who did not have informal or customary rights who are able to get compensation if the State takes this land for public purposes.

JSMP has been involved in advocacy regarding other important laws through the submission of opinions and public consultations such as Law No. No/2017 on the Transitory Regime for the Recruitment of non-East Timorese Magistrates and Public Defenders,¹³ Law No. 3/2017 on Preventing and Combatting Human Trafficking,¹⁴ Law

⁸ Please refer to the full opinion at: <http://jsmp.tl/wp-content/uploads/2013/10/Submisaun-Pakote-Lei-ba-Rai-ba-PN-versaun-final-L-2-.pdf>

⁹ Please refer to the full opinion at: <http://jsmp.tl/wp-content/uploads/2013/03/Submisaun-Lei-Ba-Rai-2013-versaun-final3.pdf>

¹⁰ Please refer to the contents of this opinion at: <http://jsmp.tl/wp-content/uploads/2013/03/Submisaun-Pakote-Lei-ba-Rai-ba-PN-versaun-final-2016-2-.pdf>

¹¹ Please refer to the contents of this opinion at: <http://jsmp.tl/wp-content/uploads/2013/03/Submisaun-Pakote-Lei-ba-Rai-ba-PN-versaun-final-2016-paraser-daruak.pdf>

¹² This law is available at:

http://www.mj.gov.tl/jornal/public/docs/2017/serie_1/Tradusaun_REJIME_ESPECIAL_BA_DEFINISAUN_TITULARIDADE_B_EIN_IMOVEL_Lei_No_13_2017.pdf

¹³ Please refer to JSMP's opinion at: <http://jsmp.tl/wp-content/uploads/2013/03/Paraser-baremunirasaun-no-rekrutamentu-Autor-judiciariu-L.pdf>

¹⁴ Please refer to JSMP's opinion at: <http://jsmp.tl/wp-content/uploads/2013/03/Paraser-baremunirasaun-no-rekrutamentu-Autor-judiciariu-L.pdf>

No. 6/2017 on Land Use¹⁵ and Law No. 8/2017 on the Expropriation of Public Utilities.¹⁶

In addition to receiving draft laws and draft bills, Committee A also received and dealt with petitions or complaints from the public. In 2017 Committee A received 15 petitions or complaints from individuals or groups. The issues covered in these petitions included land issues, veterans issues, administrative eviction or expropriation, irregularities regarding the appointment of officials in the National Directorate of Maritime Transport, cases involving human rights violations allegedly committed by the PNTL and Prison Guards, demands of public servants, EP and demands of the teachers' union, etc.

Based on information received by JSMP, data from Committee A indicates that the Committee has not yet responded to petitions by preparing opinions to forward complaints on each issue to the competent institution or body.

Adoption of International Treaties, Conventions and Agreements

The legal system of Timor-Leste shall adopt the general or customary principles of rules provided for in international conventions, treaties and agreements, as provided for in Article 9.1 of the Timor-Leste Constitution. Rules provided for in international conventions, treaties and agreements shall apply in the internal legal system of Timor-Leste following their approval, ratification or accession by the respective competent organs and after publication in the official gazette (Article 9.2 of the Timor-Leste Constitution).

The National Parliament has the competence to ratify International Laws that the State of Timor-Leste has adopted, as provided for in Article 95.3 (f) of the Timor-Leste Constitution and Article 131.1 of Law No.15/2009 amended by Law No.1/2016 on the Rules of Procedure of the National Parliament.¹⁷ The ratification is exercised by way of Parliamentary Resolution as provided for in Article 133.2 of the Parliamentary Rules of Procedure via a global vote in the Plenary. After approval, the resolution is sent to the President for promulgation as provided for in Article 85(a) of the Timor-Leste Constitution and Article 133.1 of the Parliamentary Rules of Procedure and published in the Official Gazette.¹⁸

As a consequence of Article 9.1 of the Timor-Leste Constitution, between 2002 and 2017 the National Parliament has ratified the accession of Timor-Leste to 19 International Charters, Constitutions, Statutes and International Treaties, 14 International Conventions, including seven (7) main human rights conventions¹⁹ and 15 Bilateral and International Agreements and 13 Protocols.²⁰

¹⁵Please refer to JSMP's opinion at: http://jsmp.tl/wp-content/uploads/2013/03/Paraser-baremunirasaun-no-rekrutamentu-Autor-judiciariu_L.pdf

¹⁶Please refer to JSMP's opinion at: http://jsmp.tl/wp-content/uploads/2013/03/Submisaun-Pakote-Lei-ba-Rai-ba-PN-versaun-final-2016-2_.pdf

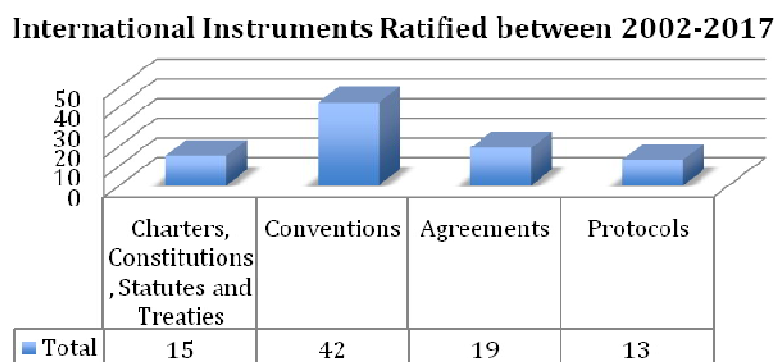
¹⁷Please refer to this law at: http://www.mj.gov.tl/jornal/public/docs/2016/serie_1/SERIE_1_NO_18.pdf

¹⁸Please refer to the Official Gazette at: <http://www.mj.gov.tl/jornal/>

¹⁹Please refer to the complete list of the seven (7) main human rights conventions at: <http://unhrt.pdhj.tl/tet/>

²⁰For more information please refer to the tables in the annexes.

Graph 10 - International Instruments Ratified between 2002-2017



As highlighted above, these international judicial instruments, upon their ratification and publication in the Official Gazette, enter into the legal framework of Timor-Leste and automatically come into effect (Article 9.2 of the Timor-Leste Constitution). This means that the State of Timor-Leste has the obligation to implement them and its failure to comply with some of these instruments can result in sanctions.

For example, currently Timor-Leste has many migrant workers from many nations and in 2003 Timor-Leste via Parliamentary Resolution No. 23/2003²¹ ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.²² If the State fails to create appropriate mechanisms and conditions to comply with its obligations under this convention and if there are violations against the rights of migrant workers and members of their families, Timor-Leste can be given economic or commercial sanctions by other members states whose citizens have had their rights violated.

The adoption of international judicial instruments is normally based on national interests, as well as the circumstances and capacity of the State to implement them. Every State is free to choose and decide. Therefore, many States partially adopt them or adopt them with reservations regarding certain sections that they consider unnecessary or when the State is not yet ready to adopt.

Even though from a political and diplomatic perspective there are advantages for Timor-Leste to adopt these international judicial instruments, it is still necessary to consider the capacity of the State to implement them. They state should prioritize in the adoption of the international judicial instruments that are really necessary such as the instruments on the promotion of human rights and justice. If there is a lack of capacity or resources to implement them, then the adoption of international instruments increases the work of the State and increases its financial burden. Some international instruments oblige the State to provide an allocation or annual financial contribution and to report on the progress of implementation.

²¹Please refer to this resolution

at: http://www.mj.gov.tl/jornal/public/docs/2002_2005/resolucao_parlamento/23_2003.pdf

²²Please refer to this Convention at: <http://acnudh.org/wp-content/uploads/2012/08/Conven%C3%A7%C3%A3o-Internacional-para-a-Prote%C3%A7%C3%A3o-dos-Direitos-Humanos-de-todos-os-Trabalhadores-Migrantes-e-Membros-de-suas-Fam%C3%ADlias.pdf>

Based on JSMP observations, from amongst these international Conventions, the Convention on the Rights of the Child (ICCPR)²³ and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)²⁴ are the only two conventions for which reports on implementation have been regularly sent, namely to the CEDAW Committee and ICCR Committee respectively.

In 2017 JSMP observed some progress in relation to the Convention Against Torture²⁵ and drafting of reports on the International Convention on Civil and Political Rights (ICCPR),²⁶ and also the United Nations Convention Against Corruption (UNCAC).²⁷

JSMP has conducted research through existing documents and interviews with relevant State institutions that are responsible for the implementation of these conventions. In relation to the implementation of CEDAW, JSMP conducted an interview with the Secretary of State for Women's Affairs and also with the Ministry of Education on Government policy to promote gender equality in terms of promoting women's rights and access to education.

Meanwhile, regarding the issue of combatting corruption, JSMP conducted interviews with ACC Commissioners to find out the challenges faced by the Commission whilst carrying out its role in combatting corruption, especially in relation to the Draft Law Against Corruption.²⁸ In relation to the ICCPR, JSMP also conducted interviews with those responsible for drafting the progress reports on the implementation of this Convention.

JSMP found that in terms of its policies the Government always gave consideration and priority to women's issues and gender equality. These priorities include policies to encourage all people to gain access to education. In terms of access to services the Government has introduced mechanisms to give priority to women by advising them about applications whereby the last passage states "women are encouraged to apply for this position". In terms of policy, the Parliamentary Election Law establishes that political parties are obliged to include a woman after each two men on the party's list of candidates.

In relation to combatting corruption, the Government made efforts to establish the Anti-Corruption Commission (ACC) in 2010 to focus on investigating cases of

²³Concluding observations (2015) CRC/C/TLS/CO/2-3
at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/TLS/CO/2-3&Lang=En

²⁴Please refer to the Tetum version of this Convention at: <http://unhrt.pdhj.tl/tet/konvensaun-kona-ba-halakon-forma-diskriminasaun-hotu-hotu-hasoru-feto/> and the English version at: <http://www.ohchr.org/Documents/ProfessionalInterest/cedaw.pdf>

²⁵Concluding observations (2017) CAT/C/TLS/CO/1 – English Version at: <http://www.ohchr.org/EN/Countries/AsiaRegion/Pages/TLIndex.aspx>

²⁶ Please refer to the Tetum version of this Convention at: <http://unhrt.pdhj.tl/tet/paktu-internasional-kona-ba-direitu-sivil-no-politiku/> and the English version at: <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>

²⁷ Please refer to the English version of this Convention at: https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf

²⁸Please refer to JSMP's opinion on the pledge to combat corruption, the competence of the Anti-Corruption Commission and challenges at: http://jsmp.tl/wp-content/uploads/2013/03/Komprimisiuatukombatekrimekorruptasaun_TETUM.pdf

corruption.²⁹ Even so, the major challenge faced by the Commission is the lack of proper cooperation from some State institutions regarding access to necessary and relevant information. Even though Law No.8/2009 on the Establishment of the CAC exists, it does not provide enough power to combat corruption.³⁰ The Law Against Corruption is an important and obligatory instrument that provides assistance and competence to the Commission and the Public Prosecution Service³¹ to perform their roles.

In relation to the ICCPR, although the State is developing its initial primary report, JSMP observed that the State of Timor-Leste has already created a mechanism and specific legal framework to guarantee implementation of the principles and rights enshrined in this Convention. For example the Law on Political Parties is aimed at guaranteeing the political rights of all people in the process of State building and development.³² The Media Law aims at guaranteeing the freedoms and civil rights of citizens to express their opinions.³³ The State has also created a Law on Freedom of Assembly and Demonstration to guarantee the rights of citizens to assemble and conduct demonstrations.³⁴ Currently JSMP is conducting research to examine and ensure that this law is not in conflict with the ICCPR Convention ratified by Timor-Leste or the Timor-Leste Constitution.

In relation to the Law on Freedom of Assembly and Demonstration, JSMP has also conducted interviews with representatives of civil society, students, youths, local authorities and communities. Most entities recommended amendments to Law No 1/2006 on the Freedom of Assembly and Demonstration, especially Article 5.2 that prescribes a distance of 100 metres, because this clause on 100 metres does not reflect the reality of distance between public buildings in Dili. For example when conducting a demonstration in front of the Government Palace, the demonstrators would have to be standing in the ocean. JSMP also observed that Article 14 (2) and (3) of UNTAET Regulation No 5/2001 Section 4.4 dated 23 April and the Indonesian Penal Code also need to be amended.

Critical Observations of the Political Situation after the 2017 Parliamentary Elections

Since the restoration of independence in 2002 Timor-Leste has managed to organize and successfully conduct general elections, in particular, four parliamentary elections.

The parliamentary elections on 22 July 2017 have created a similar situation for the political party that won the election or gained the most votes, namely the Fretilin party. In the 2007 parliamentary elections Fretilin won a simple majority and gained 21 seats

²⁹ Please refer to the ACC website at: <http://cac.tl/>

³⁰ Please refer to this law at: <http://www.mj.gov.tl/jornal/?q=node/846> or P. 3308 at: http://www.mj.gov.tl/jornal/public/docs/2009/serie_1/serie1_no25.pdf

³¹ Please refer to Law No. 15/2005 on the Statute of the Public Prosecution Service at: http://www.mj.gov.tl/jornal/public/docs/2002_2005/leis_parlamento_nacional/14_2005.pdf

³² Please refer to this law at: http://mj.gov.tl/jornal/public/docs/2016/serie_1/SERIE_1_NO_5.pdf

³³ Please refer to this law at: http://www.mj.gov.tl/jornal/public/docs/2014/traducao/Traducao_Lei_Comunicacao_Social.pdf

³⁴ Please refer to this law at: http://www.mj.gov.tl/jornal/public/docs/2006/traducao/Traducao_Lei_de_Manifestacao_e_Reuniao.pdf

in parliament and in the 2017 parliamentary elections Fretilin again won a simple majority with just 23 seats in parliament.

However, the evolution and development of the political situation in 2007 is not the same as 2017. In 2007 Fretilin did not manage to form an alliance or coalition to obtain a parliamentary majority, so the President at that time Jose Ramos Horta invited the CNRT Party, which obtained the second highest number of votes, with 18 seats in parliament, to form the government with its allies. Whereas in the 2017 election Fretilin conducted political negotiations which took some time and managed to form a coalition with PD and KHUNTO to obtain 35 seats in parliament.

Unfortunately this coalition was not solid or long lasting and became even more complicated because after forming the Fourth (IV) Legislature on 5 September 2017 the KHUNTO Party decided to withdraw and exit the coalition on 13 September 2017. This meant that the political parties lost their power to rule because they only had 30 seats in parliament. Even though in the end Fretilin and PD managed to form the VII Constitutional Government led by Fretilin as a minority, the Government faced major challenges in the National Parliament. This situation created a political phenomenon with a range of interpretations about the norms set out in the Constitution and laws about the competence of the President to make decisions, and on the issue of the formation of the government and stability of governance.

The biggest consequence of this political situation occurred when the National Parliament did not approve the rectification budget which would have guaranteed that the new Government could conduct its work and deal with debts from previous governments. In addition, the new Government was not able to execute the Government program and the State administration could not function effectively because there was no State budget. According to normal practices the Government can only present the State budget when the Government program has been approved by the National Parliament. Therefore until now the Government has not been able to present its program to the National Parliament since the National Parliament decided not to approve the program presented in the initial phase.

JSMP will discuss the competence and constitutional obligations of the President, efforts of the President regarding the formation of the Government, political developments and their impact on the functioning of the National Parliament, the motion to reject the Government program, the Government program, vote of no confidence, the rectification budget, request to remove the President of Parliament and also the dissolution of the National Parliament.

Competence and Constitutional Obligations of the President

Timor-Leste has adopted a democratic republic political system with a semi-presidential style of governance. The semi-presidential system of governance in terms of decision making provides a major advantage to the President because he has a large amount of political power because the President gains his legitimacy through general elections.

The President of the Republic in this context is a "symbol and guarantor of national independence and unity of the State". Along with these privileges the Constitution also sets out the extensive competencies granted to the President to make decisions and guarantee national and State interests in exceptional circumstances such as those that exist now.

These competencies and privileges are set out in Article 74 of the Constitution which states that the President is:

- a) The Head of State;
- b) The symbol and guarantor of national independence and unity of the State and of the smooth functioning of democratic institutions;
- c) The Supreme Commander of the Defence Force.

In addition to his capacity as the Head of State, symbol and guarantor of national independence, and unity of the State, the Timor-Leste Constitution also attributes a range of competencies in relation to other organs of sovereignty.

Article 85 of the Constitution grants exclusive competencies to the President. In addition, Article 86 of the Constitution also grants competencies that are linked to other organs. Article 87 of the Constitution sets out competencies with regard to international relations and Article 88 of the Constitution sets out competencies to promulgate and veto statutes.

In the exercise of these roles, functions and powers the President may not deviate from the competencies and obligations provided for in the Constitution.

Formation of the Government in relation to the Obligations and Competencies of the President

Political developments after the 2017 parliamentary elections demanded for the President to exercise vigour and prudence in relation to his constitutional obligations and competencies to ensure the unity of the State and regular functioning of democratic institution as provided for in Article 74 (b) of the Timor-Leste Constitution.

The results of the 2017 parliamentary elections show that no political party or alliance of political parties won an absolute majority or obtained a majority in the National Parliament. The Fretilin party won the election with a simple majority and obtained just 23 seats in parliament. Therefore, to form the Government the political party that obtained the most votes needed to form a coalition to obtain the majority in Parliament.

The President has the constitutional obligation and responsibility to ensure the unity of the State and regular functioning of State institutions. This means that the President needs to consult all political parties that have seats in the parliament and all stakeholders to hear their opinions before exercising his constitutional competence and making a decision to invite the party with the most votes to form the Government.

During this consultation between the President and the political parties, the party with the second highest number of votes CNRT declared that it would be in opposition and the Democratic Party (PD), PLP and KHUNTO parties were willing to form a coalition with the political party invited by the President to form the Government.

The President, after hearing the thoughts and stances of all parties, invited the Fretilin party which won the election with a simple majority to form the Government because the party with the second highest number of votes CNRT clearly stated its position that it would not be in power.

After going through a complex and time consuming negotiation process the Fretilin Party managed to form a parliamentary majority coalition to form the VII Constitutional Government. This coalition comprised the Fretilin Party with 23 seats, PD with 7 seats and KHUNTO with 5 seats, totalling 35 seats in parliament or an absolute majority of more than 50+1.

This coalition formed the National Parliament with the swearing in of members of parliament of the IV Legislature on 05 September 2017. After forming the National Parliament, on 13 September 2017, the KHUNTO Party withdrew and left the coalition and did not sign a coalition agreement. However, Fretilin and PD signed the agreement to form the Government. This coalition presented Mari Alkatiri as the Prime Minister. On the same day the President summoned the political parties with seats in parliament (CNRT, PLP and KHUNTO) to hear their opinions about this formation of Government. The political parties declared that they would be in the opposition and supported the VII Constitutional Government formed by Fretilin and PD.

After hearing from the political parties the President then exercised his Constitutional competence pursuant to Article 106.1 of the Constitution to appoint Mari Alkatiri as the Prime Minister to lead the VII Constitutional Government.

When examining the Timor-Leste political context after the 2017 parliamentary elections, the swearing in of the IV Legislature of the National Parliament and the formation of the VII Constitutional Government, JSMP also submitted its opinion on the formation of the Government from political, constitutional and legislative perspectives.

JSMP is of the opinion that the formation of the VII Constitutional Government, when examined from a political context and in relation to Constitutional and legal norms, is legitimate and constitutional.³⁵ This Government has legitimacy because it was formed by political parties that competed in the election and gained seats in parliament; and it is constitutional because it was formed by the party that received the most votes in a coalition that obtained a parliamentary majority. Unfortunately, KHUNTO withdrew and left the coalition on 13 September 2017 after forming the National Parliament on 5 September.

As highlighted above, the CNRT Party that had the second highest number of votes, declared that it would be in the opposition, and therefore the President could not invite it to form the Government. On the other hand, after the departure of KHUNTO, Fretilin and PD continued as the parliamentary minority.

In relation to this situation, JSMP presented its opinion to the National Parliament on the formation of the Government and recommended for all parties, particularly those parties with seats in parliament, to support the Government. In its opinion JSMP also set out and discussed the advantages and disadvantages of the current Government and potential risks that could arise if there was no mutual consensus between the political parties and

³⁵ In addition to JSMP's opinion, please refer also to the opinion of a researcher from [Fundasaun Mahein](http://fundasaunmahein.org) João Almeida on the formation of the VII Constitutional Government for *Timor Agora* at: <http://timoragora.blogspot.co.id/2017/09/formasaun-vii-governu-polemika-kona-ba.html>

highlighted that an early election³⁶ should be a last resort only when all other options had been exhausted.

This situation of political uncertainty had a major impact on the functioning of the National Parliament. The National Parliament did not function effectively to discuss issues reflecting the national interest and sustainability of governance, but these discussions focused more on political party interests to take down the Government with minority power in the Parliament.

Political developments and impact on the functioning of the National Parliament

After establishing the National Parliament and forming the VII Constitutional Government, the political situation did not undergo any significant changes, but rather it worsened. This situation seriously affected the functioning of the National Parliament and functioning of the State in general.

JSMP's daily observations of the National Parliament during plenary sessions and meetings of Committee A indicated that members of parliament of the IV Legislature did not concentrate on discussing and debating the program of the VII Constitutional Government. Debates and arguments focused on issues such as the motion to reject the Government program, motion to remove the President of the National Parliament, vote of no confidence in the Government, etc.

This institutional crisis impeded the National Parliament from approving the 2018 State budget on time as set out in the Timor-Leste Constitution. Article 86 (f) of the Constitution states that within 60 days or a period no longer than 60 days the National Parliament must approve the State Budget to ensure the sustainability and functioning of the State.

Namely:

"(f) To dissolve the National Parliament **in case of a serious institutional crisis preventing** the formation of government or **the approval of the State Budget and lasting more than sixty days**, after consultation with political parties sitting in the Parliament and with the Council of State, on pain of rendering the dissolution null and void, taking into consideration provisions of Section 100"

Based on JSMP's observations and analysis, these political developments placed the National Parliament into a serious institutional crisis. The National Parliament was in a serious crisis because even though the VII Constitutional Government was formed with the swearing in of members of the IV Legislature, the 2018 State Budget was not approved within 60 days.

Counting from the date that the members of parliament of the IV Legislature were sworn in on 5 September 2017 up until one day before (25 January 2018) the President dissolved the National Parliament on 26 January 2018 a total of 142 days had elapsed, or 82 days more than the 60 day period. During this period the State of Timor-Leste had no

³⁶Please refer to the full JSMP opinion at: <http://jsmp.tl/wp-content/uploads/2013/03/Submisaun-kona-ba-Formasaun-Governu-2017-versaun-ZeP+M.Luis-FinalLoos-18-10-17.pdf>

2018 State Budget.

After making observations and analysing the Constitution and relevant laws, JSMP recommended³⁷ for the President to prudently use his constitutional competence pursuant to Article 86 (f) to explore possible options in accordance with the Constitution to end this political impasse, to protect the national interests, especially the regular functioning of the State in terms of public administration.

Motion to Reject the Program of the VII Constitutional Government

In a Democratic State based on the Rule of Law power rests with the people, and therefore major issues relating to national interest need to obtain legitimacy from the people through their representatives in the National Parliament, such as the program of the Government itself.

If the Government presents its program to the National Parliament, there are two constitutional options available to the National Parliament. Pursuant to the provisions of Article 109 of the Timor-Leste Constitution on consideration of the Government Program³⁸, the National Parliament can choose to approve the program of the Government or reject it.

When the Government presents its program, the National Parliament has 5 days to discuss and debate this program. After discussion and debate, the National Parliament will choose to approve the program with a vote of confidence or reject this program with a vote through a motion of rejection.

The motion to reject the program of the Government is a political action and constitutional competence of the members of parliament. In this context, members of parliament, especially those from the opposition, can choose this option when they have no confidence in the Government to exercise its programs when the Government presents its program to the National Parliament. This political action is most effective when the ruling Government has no political power in the National Parliament, namely as a minimum it must have an absolute majority of 50+1% to make decisions, or when it has a qualified majority of 60%. Article 109 of the Timor-Leste Constitution states the following:

Namely:

"Consideration of the Programme of Government

- 1. The Programme of the Government shall be submitted to the National Parliament for consideration. Where the National Parliament is not in session, its convening for this purpose shall be mandatory.*
- 2. Debate on the programme of the Government shall not exceed five days and, prior to its closing, any parliamentary group may propose its rejection or the Government may request the approval of a vote of confidence.*
- 3. Rejection of the programme of the Government shall require an absolute majority of the Members in full exercise of their functions."*

³⁷Please refer to JSMP's Press Release at: http://jsmp.tl/wp-content/uploads/2018/01/PrPWPKompetensia-PrezidentebaEmpasePolitiku_TETUM.pdf

³⁸ Please refer to more information about the Constitution with annotations at: http://www.mj.gov.tl/jornal/files/Constitui%C3%A7%C3%A3o_Anotada.pdf

This political situation has led to the National Parliament, in particular those parties in the opposition, not approving the Program of the VII Constitutional Government. The political parties in the opposition comprising CNRT, PLP and KHUNTO presented a motion of rejection to the plenary for a vote on 20 October 2017. In this vote, there were 35 in favour of the vote of rejection and 30 votes against.

The opposition parliamentary benches rejected the Government program on the grounds that this program did not adhere to the Constitution. The opposition also argued that the Government cannot execute this program because it did not have the majority in the National Parliament, and this program was not realistic, not consistent, etc. On the other hand, the Government continued to defend this program as a continuation of the programs of the previous governments based on the 2011 – 2030 strategic plan for national development.³⁹

JSMP observed that members of parliament from the opposition parties were not that serious about discussing the Government program presented to the National Parliament on 16 October 2017, because the opposition parties had already signed an agreement and pledge to reject the Government program that had already been prepared before the Government presented its program in the National Parliament. This agreement and pledge was called the *Parliamentary Majority Alliance Political Platform*.⁴⁰

The rejection of this program continued to have serious implications on the regular functioning of the National Parliament. The National Parliament was contaminated by political party interests that influenced discussion and debate in the plenary sessions on issues that would not contribute to stable governance to respond to the needs and interests of the people and the State.

Government Program

Article 108.1 of the Constitution states that the Government program should contain the objectives and tasks proposed, the actions to be taken and the main political guidelines to be followed in the fields of government activity.

Namely:

"1. Once appointed, the Government should develop its programme, which should include the objectives and tasks proposed, the actions to be taken and the main political guidelines to be followed in the fields of government activity."

In the Timor-Leste context when talking about the government program, two main principles need to be considered; one is the 2011 - 2030 Strategic Plan for National Development⁴¹ and the other one is the main political guidelines of each party.

³⁹Please refer to details of the development plan at: <https://www.laohamutuk.org/econ/SDP/2011/Plano-Estrategico-Desenvolvimento-TL3.pdf>

⁴⁰Please refer to details of this platform at: <http://www.laohamutuk.org/misc/gov7/AMPPPlatformTe.pdf>

⁴¹Please refer to the complete program in Portuguese at: <http://www.laohamutuk.org/misc/gov7/ProgVIIGovernuAprovCM10Out2017Pt.pdf>

Each political party has an important role to play in democracy and the rule of law that adopts a multiparty system. All political parties have political guidelines that are designed based on party principles that are guided by national interests.

This means that a political party or alliance of parties that are in power do not necessarily need to develop a program that completely represents (100%) the strategic plan for national development. The Strategic Plan for National Development was initiated in 2009 and comprised a 20 year program and was presented in the National Parliament on 11 July 2011 for approval.⁴²

On 20 October 2017 the National Parliament through the opposition parliamentary benches voted to reject the Program of the VII Constitutional Government after four days of debate.⁴³

The opposition parties of the IV Legislature, in addition to voting to reject the program of the VII Constitutional Government, also voted to reject the 2017 Rectification Budget.

JSMP believes that the political arguments and control practices by the opposition in the National Parliament is a normal and essential democratic exercise in the development of our nation. However these arguments should reflect the national interest and contribute towards strengthening the system of democracy in Timor-Leste.

Rectification Budget

The rectification budget is an additional budget for the State Budget for the current financial year. Normally the Government proposes this budget at the end of the financial year. This budget is proposed when the general budget for the current year is not sufficient to cover some of the main budget lines which are necessary and urgent to cover any expense that is needed.

On 25 October 2017 the VII Constitutional Government revised the Government Program after it was rejected by the Parliament, and the Council and Ministers also analysed the 2017 Rectification Budget that was presented by the Ministry of Planning and Finance.⁴⁴ The Council of Ministers continued to discuss and analyse amendments to the government program, organic law of the government and also the preliminary version of the 2017 Rectification Budget.⁴⁵

The total of the 2017 Rectification Budget proposed by the Government was USD \$223 million and with a further increase of USD \$13 million, the total was USD \$236 million. This budget was essentially proposed to cover additional costs that emerged in 2017 to ensure continued provision of essential services by the Government and to pay or

⁴² Please refer to the Strategic Plan for National Development at:

<https://www.laohamutuk.org/econ/SDP/10SDPindexTe.htm>

⁴³ Please refer to a summary regarding the debate of this program at:

<http://www.laohamutuk.org/misc/gov7/PNKI16-19Oct2017TePt.pdf>

⁴⁴ Please refer to a press release on this issue at:

<http://www.laohamutuk.org/misc/gov7/Com25Oct2017en.pdf>

⁴⁵ Please refer to the details of this press release at:

<http://www.laohamutuk.org/misc/gov7/COM31Oct2017en.pdf>

resolve delays and contractual obligations that have piled up or were not paid in previous years.⁴⁶

The Council of Ministers approved the Rectification Budget and Organic Law on 8 November 2017.⁴⁷ The budget proposal was submitted to the National Parliament on 9 November 2017⁴⁸ and urgent consideration was requested for this budget.⁴⁹

The National Parliament established a Budget Committee to examine the rectification budget. This Committee recommended not to hastily or urgently approve this budget and the plenary as a majority agreed with this recommendation on 20 November 2017. This budget was presented formally to Committee C on 11 December 2017. On 19 December 2017, the opposition benches comprising CNRT, PLP and KHUNTO suspended the approval of the budget and submitted an appeal against the decision of the President of the National Parliament, Aniceto Guterres, to allow the procedure of approval of the Amending Budget to move forward.⁵⁰

This Rectification Budget is used to cover budget lines such as wages and taxes, goods and services, public transfers, minor capital and capital development, including also some funds for the structure of the new Government.⁵¹ The details are set out in the following table:

Category	Original	Rectification	Increase	Saving	+ Saving
Wages and Taxes	209.7	216.308	6.608		
Goods & Services	395	463.782	68.782		
Public Transfers	421	421.38	0.38		
Minor Capital	12.1	12.587	0.487		
Capital Development	349	495.761	146.761		
Total	1,386.8	1,609.818	223.018	13	236.018

The total amount of this rectification budget used to make payments and allocations is set out in the following table.

⁴⁶ Please refer to P. 4 of the 2017 Rectification Budget Booklet at:

<http://www.laohamutuk.org/econ/OGE17/ret/OR17PropBk1en.pdf>

⁴⁷ Please refer to Press Release at: <http://www.laohamutuk.org/misc/gov7/COM8Nov2017en.pdf>

⁴⁸ Please refer to information from the National Parliament about accepting this budget at:

<http://www.laohamutuk.org/econ/OGE17/ret/PNSimuOR17-9Nov2017te.pdf>

⁴⁹ Please refer to this information on the government website at: <http://timor-leste.gov.tl/?p=19070&n=1>

⁵⁰ Please refer to *Lusanews* about this issue: <http://noticias.sapo.tl/portugues/info/artigo/1519671.html>

⁵¹ Please refer to the *La'o Hamutuk* description at:

<http://www.laohamutuk.org/econ/OGE17/16OGE17.htm#ret> or refer directly to the 2017 Rectification Budget Booklet: <http://www.laohamutuk.org/econ/OGE17/ret/OR17PropBk1en.pdf>

Projects with Infrastructure Funds	146.7
Debts, fuels for generators & Other committed expenses	53.5
Wages & pensions, some goods & services, & TL cement	36.1
For the structure of the new Government	0.4

When examining the budget amount based on the allocations in this table, it is evident that almost 85% percent or USD\$200.2 million of the total budget is to be used just for infrastructure fund projects⁵² and the debts of the former Government have been ignored. The budget projected for the structure of the new Government accounts for just 0.2%. Almost 99.98% of this Rectification budget will be used to pay for projects and debts and also wages and pensions and State goods and services.

JSMP believes that it would be better for the National Parliament to carefully consider this budget when examining the national interests and the aim of this budget. Normally in a sovereign nation the public administration needs to continue to function without interruption, so they need a budget to pay for wages and to purchase goods and implement the public services of the State.

In addition, the payment of these projects also needs to adhere to the terms in the contracts, so as to not undermine the State/Government and cause it to suffer losses. When Government does not adhere to these contracts, it can also cause the State to suffer losses, because they have to pay fines. Although the rejection of the rectification budget and dynamics within the National Parliament reflect the exercise of democratic practices and constitutional norms, JSMP considers the rejection of the rectification budget to be a political decision that lacks prudence and awareness of the reality of people's lives and the reality in this nation.⁵³ Timor-Leste is a new State with State institutions and administrative bodies that are still young and not yet stable. The political and social awareness of the society is also fragile because Timor-Leste is a post-conflict State/society. Therefore the exercise of democracy needs to consider the social and political circumstances and there needs to be collective awareness and use of prudence.

Vote of no confidence

A vote of no confidence is a political tool that a National Parliament uses to control the Government, or to express dissatisfaction with the policies of the Government or in regard to other national issues. A vote of no confidence is also an official political protest to demonstrate a serious protest against Government actions and policies. The mechanisms and processes related to this vote of no confidence depend on the political

⁵² Please refer to the 2017 Rectification Budget Booklet for infrastructure funds at: <http://www.laohamutuk.org/econ/OGE17/ret/OR17PropBk3Aen.pdf>

⁵³ Please refer also to a JSMP Briefing on this issue at: <http://jsmp.tl/en/rejection-of-the-amendment-of-the-law-no-132016-on-general-state-budget-2017-is-an-unwise-political-decision/>

system, legal and constitutional framework of each State.⁵⁴

In Timor-Leste, a vote of no confidence is provided for in Article 111 of the Timor-Leste Constitution. Pursuant To Article 111 of the Timor-Leste Constitution the initiative to propose a vote of no confidence should come from at least 16 effective members of parliament or $\frac{1}{4}$ of the total number of MPs. The same signatories cannot move another vote of no confidence during the same legislative session when a vote of no confidence is not passed, pursuant to Article 111.2 of the Timor-Leste Constitution.

A vote of no confidence can bring down the Government as provided for in Article 112 (d) and (e) of the Timor-Leste Constitution. However the Government can only be dismissed when the President dismisses the Prime Minister and where it is deemed necessary to ensure the regular functioning of the democratic institutions, after consultation with the Council of State, as provided for in Article 112.2 of the Timor-Leste Constitution.

This vote of no confidence can be initiated by the National Parliament on two grounds provided for in Article 111.1, namely;

- 1) when the Government cannot execute its budget and program;
- 2) Any relevant matter of national interest.

Unfortunately, the Constitution does not clearly articulate the concept of national interest in relation to Article 111.2, therefore there are numerous interpretations that can lead to contradictory interpretations and confusion within the political, legal and constitutional systems. The Constitution does not clearly define the national interest that needs to be protected and thus requires a vote of no confidence. This lack of provision in the Constitution is advantageous to the opposition that they can use in any political situation where there is instability which provides them with an opportunity and basis to bring down the Government.

The opposition parliamentary benches moved a vote of no confidence against the Government on 11 December 2017 because the Government did not present its second program within 30 days after the first rejection on 19 October 2017.⁵⁵ This issue arose because there were no clear provisions in the Constitution about the time limit for presenting the Government program after the first rejection.

Article 108.2 of the Timor-Leste Constitution only states that the Government has a maximum of 30 days to submit its program to the National Parliament for consideration, counted from the date of the formation of Government. This Article does not explicitly set out a definitive time limit for resubmitting the Government program to the National Parliament for consideration after the first program has been rejected.

The President of the National Parliament, Aniceto Guterres, did not schedule a plenary session to discuss a vote of no confidence. As a consequence of this decision by the

⁵⁴ Please refer to references from the Portuguese Parliament:

https://www.parlamento.pt/ArquivoDocumentacao/Documents/Folha_Mocoes.pdf

⁵⁵ An interview with the President of the CNRT Parliamentary Bench, Mr. Arão Noe, in relation to this issue is available at: <http://rttletl.id/tv-news/2017/11/bankada-opozisaun-ih-pn-apresenta-mosaun-sensura-hasoru-vii-governo-konstitusional>

President of Parliament, the opposition parliamentary benches again presented a request for dismissal to the President of the National Parliament.⁵⁶

Request for the Dismissal of the President of the National Parliament

The position of the President of the National Parliament is obtained through an election process or vote as set out in Law No.15/2009 amended by Law No.1/2016 on the Rules of Procedure of the National Parliament.⁵⁷ Therefore substitution or dismissal must be done through a vote as set out in Article 16 (b) of the amended version of the Parliamentary Rules of Procedure on dismissal.

Namely:

- "1. The President may be removed from office by means of a secret ballot that takes place in a plenary session of the Parliament that shall be attended by more than half of the Members of Parliament in full exercise of their office.*
- 2. The request for removal from office, duly justified, shall be submitted by at least ten Members of Parliament. The vote on the request must be included in the agenda of a plenary session of the Parliament no later than five days after its submission.*
- 3. The removal from office is approved by an absolute majority of the Members of Parliament in full exercise of their office.*
- 4. The removal from office, once approved, takes effect immediately."*

On 11 December 2017 the President of the National Parliament used his rights as a citizen request an interlocutory injunction from the Dili District Court to respond to the request for dismissal and lodged an appeal to the Court of Appeal to examine the issue of constitutionality and legality of the request from the opposition parliamentary benches.⁵⁸

After evaluating this request, the Dili District Court found that what occurred in the National Parliament was still within the political sphere and the National Parliament could resolve the matter based on its own Rules of Procedure.⁵⁹ This decision was then reinforced by the Court of Appeal on 5 January 2018 which found that the request for dismissal against the President of Parliament from the Opposition Parliamentary Majority Alliance Opposition Block was constitutional and not illegal.⁶⁰

In a democratic country based on the rule of law political situations like this are normal and acceptable. However, this political situation has had a serious impact on the functioning of the National Parliament and the entire State administration. The functioning of the State was affected because the National Parliament could not function as per normal and concentrate on the Government Program and 2018 State Budget. This

⁵⁶ Please refer to an article in the *Tatoli* newspaper on this issue at: <http://www.tatoli.tl/2018/01/opozisaun-konsidera-ppn-la-respeita-rejimentu-pn/>

⁵⁷ Please refer to the Rules of Procedure of the National Parliament at: http://www.mj.gov.tl/jornal/public/docs/2016/serie_1/SERIE_I_NO_18.pdf

⁵⁸ Please refer to an article in the *Tatoli* Newspaper about this issue at: <http://www.tatoli.tl/2017/12/anacetodefende-ho-tribunal-hasoru-destituisaun-amp/>

⁵⁹ Please refer to an article in the *Independente* Newspaper about this issue at: <https://www.independente.tl/tl/nasional/tdd-rejeita-karta-prezidente-pn>

⁶⁰ Please refer to an article from the *Grupo Mídia Nacional (GMN)* about this issue at: <http://gmntv.tl/id/politika/2018/01/tr-deside-karta-destituisaun-hasoru-ppn-konstitusional-boamp-husu-ppn-labele-subar/>

situation impeded the National Parliament from approving the 2018 State Budget within the prescribed time limit of 60 days (Article 86 (f) of the Timor-Leste Constitution).

Dissolution of the National Parliament

The dissolution of the National Parliament is a political tool set out in the Constitution to ensure stability and the regular functioning of State organs and institutions. In the Timor-Leste political system legal framework this competence is attributed to the President of the Republic.

Article 86 (f) of the Timor-Leste Constitution provides for a situation of serious institutional crisis which provides the basis and grounds for the President to exercise this competence. This provision sets out two situations that can be grounds for the President to dissolve the National Parliament. The first ground is the passing of more than 60 days since the establishment of the National Parliament, a political situation preventing the formation of the Government. The second one is where the Government has been formed, but the political situation prevents the National Parliament from approving the State Budget within a 60 day period. These two situations mean that the National Parliament is experiencing a serious institutional crisis and this allows the President to dissolve the National Parliament.

In other situations, where the National Parliament is not categorised as experiencing an institutional crisis, the President may not dissolve the National Parliament in certain situations set out in Article 100.1 of the Timor-Leste Constitution.

Article 100.1 of the Constitution states that the President cannot exercise his competence to dissolve the National Parliament within six months immediately following its election, during the last half-year of the term of office of the President, or during a state of siege or a state of emergency.

When the National Parliament has been dissolved, it will be transformed into a Standing Committee as set out in Article 102.1 of the Timor-Leste Constitution with limited competencies provided for in Article 102.3 of the Constitution. This dissolution will have no impact on the mandate of members of parliament until the swearing in of the new Legislature, as provided for in Article 100.2 of the Timor-Leste Constitution.

JSMP values the initiative of the President to consult and hear the opinions of all entities and components in resolving national problems. However the Constitution states that the President is only obliged to consult with those political parties that have seats in parliament and members of the Council of State (Article 86 (f) of the Constitution). It is important for the President to adhere to norms in the Constitution. The reality is that this political situation has put the National Parliament in a serious institutional crisis as defined in Article 86 (f). Because more than 60 days had passed and the National Parliament did not approve the 2018 State Budget, even though the Government had been formed.

Namely:

"(f) To dissolve the National Parliament in case of a serious institutional crisis preventing the formation of government or the approval of the State Budget and lasting more than sixty days, after consultation with political

parties sitting in the Parliament and with the Council of State, on pain of rendering the dissolution null and void, taking into consideration provisions of Section 100."

If dissolution takes place six (6) months after the election, as provided for in Article 100.1 of the Timor-Leste Constitution, and the date of the election was 22 July 2017, then by 26 January 2018 six months and 4 days had elapsed.

Namely:

1. The National Parliament shall not be dissolved during the 6 months immediately following its election, during the last half-year of the term of office of the President of the Republic or during a state of siege or a state of emergency, on pain of rendering the act of dissolution null and void.

JSMP believes that the decision of the President to dissolve the National Parliament to end the political impasse in the National Parliament is constitutional and legal. However, the opposition still has a way to contest this decision by asking for a declaration of unconstitutionality from the Supreme Court of Justice or Court of Appeal pursuant to Article 150 (a) and (e) of the Constitution, and the Supreme Court of Justice or Court of Appeal has this competence as provided for in Article 126.1 (a) of the Timor-Leste Constitution. There will be no further avenue to contest the final decision of the highest court.

In relation to this issue, JSMP also gave its opinion by drafting an opinion containing recommendations to the National Parliament to seek a constitutional solution to the debate about this political impasse.⁶¹

Advocacy

Advocacy is a means used by JSMP to influence decisions in the political, legislative and also judicial systems, including improving and promoting human rights, justice, and the transparency and accountability of State institutions and organs.

JSMP regularly submits opinions, holds consultations, participates in national and international human rights and justice networks and publishes articles in the mass media and electronic media, radio and television.

In 2017 JSMP presented a number of opinions to the public bodies and State institutions on political, legislative and justice issues. The aim of these opinions was to provide some alternative opinions to help political bodies and State organs to make political and legislative decisions that reflect the national interest.

During 2017 JSMP presented opinions on the proposed amendments to the Law on Lifelong Monthly Pension, the Law on the Creation of a Bar Association, Law on Local Government and amendments to the Law on the Election of the National Parliament,

⁶¹ Please refer to the details of this opinion in Tetumat: <http://jsmp.tl/wp-content/uploads/2013/03/Disolusaun-Parlamentu-Nasional-versaun-ikus-3.pdf> and English at: http://jsmp.tl/wp-content/uploads/2013/03/Disolusaun-Parlamentu-Nasional-versaun-ikus_ENGLISH.pdf

debate on the appointment of the President of the Court of Appeal, formation of the VII Constitutional Government and Law on Child Protection.

JSMP provided long term advocacy on some of these laws, by submitting opinions to the National Parliament for suggested improvements, and also for the National Parliament to accelerate the process of discussion and approval. These laws are as follows:

Law on Lifelong Pension

The issue of the lifelong monthly pension has been a social and political issue of public concern for many years. These concerns were not just at the national level, but communities in remote areas also conveyed their concerns during training activities in rural villages. JSMP also conveyed the concerns of these communities through its publications, for example reports,⁶² press releases,⁶³ opinions,⁶⁴ and letters to the President⁶⁵ and also consultation with members of parliament, because this issue is one where JSMP has provided long term advocacy.

The public is concerned about the 100% net salary received by former members of parliament and the Government, and the automatic increase of pension corresponding with an increase in salary for active members of parliament and the Government. In addition to the issue of remuneration, there are several privileges that they are entitled to during their lifetime as former members of parliament and the Government.

In response to these concerns the National Parliament under the presidency of Aderito Hugo established an Ad Hoc Committee in June 2016 to focus on this issue. JSMP and other members of civil society such as Asosiasaun HAK and La'o Hamutuk (LH)⁶⁶ were invited to a consultation⁶⁷ and were also invited to submit a written opinion.⁶⁸ The consultation and opinion focused on two draft laws prepared by the FRETILIN Bench and PD bench.⁶⁹

⁶² Please refer to the 2014 Annual PWP Report, P.18, at: http://jsmp.tl/wp-content/uploads/2012/05/150428-Relatoriu-PWP-for-printing_TETUM.pdf and 2015 Annual PWP Report, P.40, on community demands to amend the law on lifelong pension at: <http://jsmp.tl/wp-content/uploads/2012/05/Relatoriu-anual-POP-2015-versaun-final-edited1.pdf>

⁶³ Please refer to JSMP Press Release on this issue at: http://jsmp.tl/wp-content/uploads/2016/01/PrSesaunLejizlativaV-tauprioridade-ba-pensaun-vitalisia_Tetum.pdf

⁶⁴ Please refer to an opinion in 2016 on this issue at: <http://jsmp.tl/wp-content/uploads/2013/03/Submisaun-Pensaun-Mensal-vitalisia-versaun-final-30-6-2016.pdf>

⁶⁵ Please refer to this letter at: http://jsmp.tl/wp-content/uploads/2013/03/Karta-ba-PR-kona-ba-Pensaun-Vitalisia_Final2.pdf

⁶⁶ Please refer to the LH opinion at: <https://www.laohamutuk.org/econ/pension/LHSubPensVital30Jun2016te.pdf>

⁶⁷ Please refer to the Press Release on the consideration of the Ad Hoc Committee of contributions from Civil Society at: http://jsmp.tl/wp-content/uploads/2016/01/Prkona-ba-audensia-ho-Komisaun-Eventual-ba-Pensaun-Vitalisia_TETUM.pdf

⁶⁸ Please refer to the details of the JSMP opinion at: <http://jsmp.tl/wp-content/uploads/2013/03/Submisaun-Pensaun-Mensal-vitalisia-versaun-final-30-6-2016.pdf> and please refer to the La'o Hamutuk opinion at: <https://www.laohamutuk.org/econ/pension/LHSubPensVital30Jun2016te.pdf>

⁶⁹ Please refer to this draft law at: <https://www.laohamutuk.org/econ/pension/PropostaLeiPensaunVitalJun2016pt.pdf>

The Ad Hoc Committee managed to improve the laws that deal with the Lifelong Pension, namely Law No.5/2004 on the Status of Members of Parliament,⁷⁰ Law No.1/2007 on Lifelong Monthly Pensions for former Members of Parliament⁷¹ and Law No.7/2007 on the Statute for the Holders of Positions in Sovereign Organs.⁷²

After collating the opinions of civil society and other entities, the Ad Hoc Committee managed to amend Law No.7/2007 and revoke Law No.1/2007. The 100% percentage corresponded with the length of service. This percentage dropped to 60% for former members of parliament who worked for 5 years or more, 75% for those who worked uninterrupted for 10 years or more and 90% for those who worked uninterrupted for 15 years or more.⁷³ In addition to reducing the percentages, some regalia and privileges were removed as set out in Article 7 b), c) and d) of Law No. 7/2017.⁷⁴

When the National Parliament sent the Parliamentary Decrees on the amendments to these laws to the President of the Republic, JSMP submitted two (2) opinions to the President. The first opinion was aimed at requesting for the President to promulgate the amended version of the Law on Lifelong Pensions.

However, JSMP then discovered that in the amended version in Law No.7/2017, Article 6 on "acquired" rights continues to protect members of parliament from the I – 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. Therefore, JSMP wrote another opinion to the President to veto this law and send it back to Parliament for improvement or to remove this acquired right⁷⁵ and JSMP also presented its concerns to the public through a press release.⁷⁶ However, the President Taur Matan Ruak promulgated this law and it was published as Law No. 7/2017.

Law on a Bar Association

JSMP has also provided long term advocacy regarding the Law on the Creation of a Bar Association. This Law on a Bar Association is aimed at regulating the profession of lawyers and an organization for lawyers, aimed at guaranteeing a more effective contribution to the work of the judicial sector to promote access to formal justice and to control the work of advocacy carried out by private lawyers.

JSMP together with the with International Bar Association's Human Rights Institute (IBAHRI) prepared and submitted an opinion on a draft law on the Creation of a Timor-Leste Bar Association.⁷⁷

⁷⁰ Please refer to this law at:

http://www.mj.gov.tl/jornal/public/docs/2002_2005/leis_parlamento_nacional/5_2004.pdf

⁷¹ Please refer to this law at: http://www.mj.gov.tl/jornal/public/docs/2007/serie_1/serie1_no1.pdf

⁷² Please refer to this law at: http://www.mj.gov.tl/jornal/public/docs/2007/serie_1/serie1_no20.pdf

⁷³ Please refer to this law at: http://www.mj.gov.tl/jornal/public/docs/2017/serie_1/SERIE_I_NO_16_A.pdf

⁷⁴ Please refer to this law at: http://www.mj.gov.tl/jornal/public/docs/2017/serie_1/SERIE_I_NO_16_A.pdf

⁷⁵ Please refer to this law at: http://jsmp.tl/wp-content/uploads/2013/03/Karta-ba-PR-kona-ba-Pensaun-Vitalisia_Final2.pdf

⁷⁶ Please refer to the details of this press release at: http://jsmp.tl/wp-content/uploads/2017/01/PrPensaunVITALIASIAHabokurPNnoMembruGOVERNU_Tetum.pdf

⁷⁷ Please refer to this submission 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>

JSMP and IBAHRI engaged in extraordinary efforts to convince Committee A of the National Parliament to schedule this Draft Law on a Bar Association, and Committee A did in fact schedule a discussion on a draft law. Finally, JSMP and IBAHRI were invited to a consultation with Committee A and conveyed their opinion on this draft law and also submitted an opinion to Committee A.

JSMP and IBAHRI also organized two workshops to hear the opinions of East Timorese and foreign private lawyers for the purpose of adding more information to the submission from JSMP and IBAHRI to the National Parliament. However, the draft law was not approved by the National Parliament and passed its date of expiry.

This Law on a Bar Association is important to guarantee that the work and contributions of private lawyers is better and more effective to provide legal aid that can promote Access to Justice for all people as a principle and right of citizens as enshrined in Article 8⁷⁸ and Article 10⁷⁹ of the Universal Declaration of Human Rights (United Nations Charter), on access to Justice⁸⁰ and fair justice pursuant to Article 14.1 – 14.7 of the ICCPR on the Right to Access Justice in the courts,⁸¹ Article 26 of the Timor-Leste Constitution.

Law Against Corruption

For many years the Law Against Corruption has also been a priority of JSMP advocacy. A Law Against Corruption is extremely crucial to help the work of the Anti-Corruption Commission (ACC)⁸² and the Public Prosecution Service⁸³ in combatting corruption.

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 registered 56 cases of corruption and the ACC faced difficulties in investigating many cases due to a lack of cooperation and also because it did not have strong and adequate legal instruments. In relation to this issue JSMP also conducted specific monitoring and produced a summary on the progress and challenges of combatting corruption.⁸⁴

Draft Law on Child Protection

Civil society and also international organizations, such as UNICEF, organised discussions, provided advocacy and submitted opinions to the Government and National Parliament in relation to the creation of a Law on Child Protection. This legislative process started in 2010 and until now the National Parliament has not yet approved this law.

This Law on Child Protection is important because children are considered as a social group that is quite vulnerable in society and they need special protection. In addition,

⁷⁸ Please refer to this article at: <http://www.standup4humanrights.org/en/article.html?article=10>

⁷⁹ Please refer to this article at: <http://www.standup4humanrights.org/en/article.html?article=10>

⁸⁰ Please refer to the United Nations Charter at: <https://treaties.un.org/doc/publication/ctc/uncharter.pdf>

⁸¹ Please refer to P. 176-177 of the ICCPR at:

<https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>

⁸² Please refer to the ACC at: <http://cac.tl/>

⁸³ Please refer to the Public Prosecution Service at: <https://www.mp.tl/>

⁸⁴ Please refer to details of the JSMP findings on this issue at: http://jsmp.tl/wp-content/uploads/2013/03/Komprimisiuatukombatekimekorupsaun_TETUM.pdf

many children go to prison because they have committed crimes and there is no specific law to provide adequate protection to children.

The Ministry of Justice presented this draft law to the National Parliament in 2017. JSMP also presented an opinion together with ALFeLa to the National Parliament to ensure that this law truly reflects the interests of children and involves stakeholders.⁸⁵

In addition to an opinion on legislative issues, JSMP also presented an opinion on the issue of the appointment of the President of the Court of Appeal which finally achieved a positive result and ended the political tension and debate amongst members of the national parliament in the third legislature and the President Taur Matan Ruak. This debate and confusion occurred because of some inconsistencies relating to this appointment.

In relation to this debate, JSMP sent this opinion to the President of the Republic, the National Parliament, the Courts and other relevant institutions.⁸⁶ This opinion contained analysis and interpretations on the Constitution and relevant laws that the appointment was constitutional and legal. In addition, this opinion helped to clarify public confusion about previous appointments and guaranteed the legitimacy of the President of the Court of Appeal.

Positive comments were made in relation to this opinion by the Office of the Prime Minister, namely, Rui Maria Araújo and Minister of State, Coordinator of State Administration Affairs and Justice, Dr. Dionisio Soares Babo, PhD. The final outcome of this opinion was that all parties accepted the appointment of the President of the Court of Appeal, Judge Deolindo dos Santos.

Community Concerns

JSMP regularly provides information that it has obtained through monitoring of the National Parliament and the courts to members of Village Councils and community members in remote villages where it is difficult to access information. These activities are carried out through workshops or trainings at the administrative post level and also the village level.

In 2017 JSMP conducted 19 trainings with 595 participants in total, comprising 296 women and 299 men. JSMP provided training in 11 villages and 49 villages participated in trainings at the Administrative Post level in 8 Administrative Posts, from the 13 municipalities.⁸⁷

In these trainings many members of the Village Councils and communities expressed their concern about Law No.9/2016 Law on Community Leaders,⁸⁸ in particular about

⁸⁵ Please refer to the full opinion at: <http://jsmp.tl/wp-content/uploads/2013/03/Analiza-ba-Esbosu-Lei-Protesaun-Labarik-MSS-2016.pdf>

⁸⁶ Please refer to the details of this opinion at: <http://jsmp.tl/wp-content/uploads/2013/03/Submisaun-kona-ba-Nomeasaun-PR-TR-20171.pdf>

⁸⁷ Please refer to these press releases at: http://jsmp.tl/wp-content/uploads/2017/01/PrPWPSeminariuDistritalBaucauDemokrasianoJustisa_Tetum.pdf, and

⁸⁸ Please refer to this law at: http://www.mj.gov.tl/jornal/public/docs/2016/serie_1/SERIE_I_NO_26A.pdf

the subsidy for members of the Village Council that they believed were unfair and insufficient and in some villages the members were no longer active because of this subsidy.

Other concerns are linked to land issues, especially land belonging to Indonesians during the occupation and also some land belonging to East Timorese people who have become Indonesian citizens and are living in Indonesia, including land and plantations that used to belong to the colonial government that has been occupied and used by East Timorese people after independence.

Communities also requested for the National Parliament and Government to raise awareness on important and relevant laws such as the Law on Community Leaders, the Law Against Domestic Violence, the Law Ownership of Real Estate, Law on Expropriation, Law on Land Use and other relevant laws for communities in remote villages so they can have knowledge about these laws.⁸⁹ Therefore, when problems occur in their village, they can also understand how to resolve them through the mechanisms and legal avenues that exist.

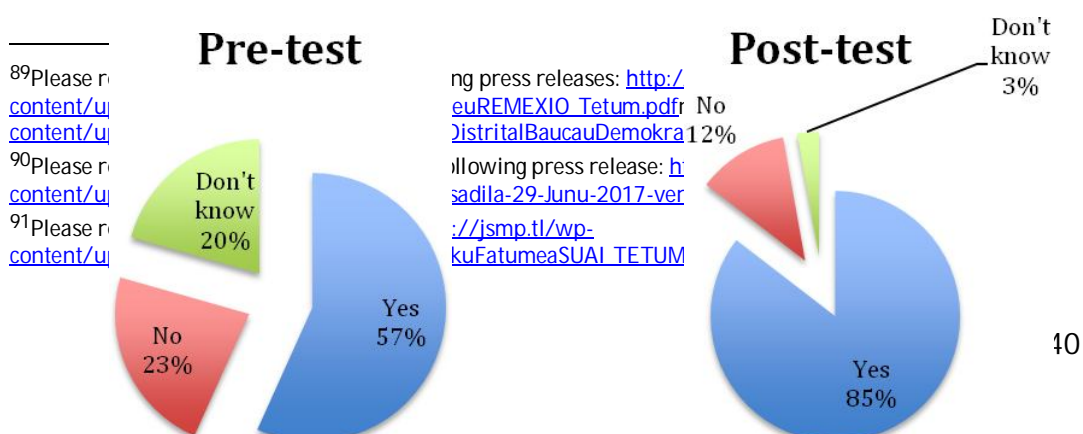
Other concerns were linked with justice issues such as cases of divorce resulting in children being neglected by parents, because the mother marries another man and the father marries another woman. Also, cases of domestic violence are a concern because village chiefs and members of the village councils do not know how to resolve these cases through formal justice because of limited knowledge about the law.⁹⁰

Also, some communities were concerned with justice for past crimes, especially the perpetrators who are still at large and when they are arrested so they can be prosecuted the leaders let them go, like the case of Maternus Berek.⁹¹

JSMP considers community concerns are very relevant and State organs and institutions need to give consideration to these concerns and create an appropriate mechanism to disseminate important information about political and legislative matters and access to formal justice. The public need to be actively involved in the legislative process through public consultation with all stakeholders.

Through JSMP training sessions, community leaders and members gain knowledge on democracy, roles of state organs, public participation in legislation process and access to the formal justice system. JSMP measures results through pre and post-test questionnaires that are completed by participants during training.

Graph 11 – Pre and Post testing results from democracy and access to justice training in community



For the purpose of analyzing results from these questionnaires, 'No' is a wrong answer and is considered the same as a 'Don't know' answer. As indicated in the graphs above, Pre-test results have shown 'No' and 'Don't know' answers constitute around 43%. The results of Post-test questionnaires indicate learning has occurred amongst participants as the number of 'No' and 'Don't Know' answers has decreased to 15%

Conclusions and Recommendations

The National Parliament in its fifth legislative session of its Third Legislature managed to finalise important laws that were the focus of long term advocacy efforts by JSMP, either individually or collectively through networks. These laws were Law No.7/2017 approving a Pension for Members of Parliament and the first amendment of the laws that regulate the Lifelong Monthly Pension, Law No.8/2017 Law on Expropriation of Public Utilities and Law No.13/2017 on a Special Regime on Definition of Ownership of Real Estate.

However, there are still other important laws that the National Parliament has not managed to initiate and finalise for a long time, such as the Law on Reparations and Public Memory Institute, Law Against Corruption, Law on the Creation of a Bar Association, Law on Child Protection, etc.

The issue of the punctuality and discipline of members of parliament during Plenary Sessions and Committee Meetings continues to be a public concern and there is no mechanism that can effectively resolve this issue. The punctuality and discipline of members of parliament has a serious effect on the functioning and productivity of the National Parliament because often they can't establish a quorum to discuss and approve important laws.

The National Parliament also ratified Timor-Leste's accession to many international legal instruments without evaluating the capacity of the State to implement them. The accession to these instruments has increased the financial burden and work of the State.

Also, political developments after the 2017 parliamentary elections have seriously affected the functioning of the National Parliament which has resulted in a range of political phenomena. Discussions in the plenary have focused more on political party interests rather than national interests.

For this reason JSMP makes the following findings and recommendations:

- 7) Requests for the next Legislature to develop guidelines on the official interpretation of the provisions in the Constitution to avoid confusion and biased interpretations guided by political interests and party interests;
- 8) In the next Legislature the National Parliament needs to have a five year legislative plan to prioritise important laws that are pending at the National Parliament; such as the Law on National Reparations and Public Memory Institute to ensure transitory justice for victims of past crimes; the Law Against Corruption to strengthen the work of the Public Prosecution Service and the ACC in combatting

Corruption, and the Law on the Creation of a Bar Association to strengthen the judicial system and access to justice;

- 9) Members of parliament need to adhere to the Rules of Procedure of the National Parliament and attend to their work punctually and with discipline to project a good image to the public as a sovereign organ that represents the people and is able to conduct its work properly to speed up the development of these important laws.
- 10) The National Parliament needs to apply disciplinary sanctions against members of parliament that violate the Parliamentary Rules of Procedure, to prevent such behaviour from occurring in the future;
- 11) Avoid and reduce political discussion focused on political party interests that undermine the national interest;
- 12) Conduct proper examination and discussion before ratifying Timor-Leste's accession to international legal instruments, to avoid increasing the financial burden and work of the State in the future;
- 13) The National Parliament and relevant State institutions should actively involve the public in the legislative process and disseminate information about these important laws that are linked to community interests such as the Law on Community Leaders, Law on Ownership of Real Estate, Law on Expropriation, Law on Land Use and the Law Against Domestic Violence, to help local leaders and communities understand how to deal with these issues when they occur in their village or community.

Annex

Table 1: Draft Bills and Laws submitted to Committee A

Nu.	Initiative	Issue	Reporter	Current state
Draft Laws				
1	PPL N° 23/III (3ª)	Eleitoral Municipal	Dep. Arão Noé de Jesus da Costa Amaral	Em sede de fiscalização preventiva
2	PPL N° 25/III (3ª)	Cria a Ordem dos Advogados	Dep. Manuel Guilherme da Costa Guterres	Em fase da discussão e votação na especialidade
3	PPL N° 26/III (3ª)	Prevenção e Luta Contra o Tráfico de Seres Humanos	Dep. Arão Noé de Jesus da Costa Amaral	Publicada em JR, 4ª, 25 de jan de 2017 - Série I, nº4 Lei nº3/2017, de 25 de jan de 2017
4	PPL N° 27/III (3ª)	Lei de Combate ao Tráfico de Drogas	Dep. Aniceto Longuinhas Guterres Lopes	Publicada em JR, 4ª, 25 de jan de 2017 - Série I, nº4 Lei nº2/2017, de 25 de jan de 2017
5	PPL N° 29/III (3ª)	Poder Local e Descentralização Administrativa	Dep. Arão Noé de Jesus da Costa Amaral	Em sede de fiscalização preventiva
6	PPL N° 36/III (3ª)	Regime para a Definição de Titularidades de Bens e Imóveis	Dep. Arão Noé de Jesus da Costa Amaral	Publicada em JR 05/06/2017
7	PPL N°37/III (3ª)	Expropriação para a Utilidade Pública	Dep. Arão Noé de Jesus da Costa Amaral	Publicado em JR, 4ª, 26 de Abril de 2017 Série I, nº17A Número extraordinário Lei n.º8/2017 de 27 de 8Abril

8	PPL N° 38/III (3ª)	Bases do Ordenamento do Território	Dep. Joaquim dos Santos	Lei n.º 6/2017 de 19 de Abril
9	PPL N° 40/III (4ª)	Regime Geral das Contraordenações		Caducado
10	PPL N° 42/III (5ª)	Primeira alteração à Lei nº11/2009, de 5 de agosto, que estabelece o Estatuto Remuneratórios dos Magistrados Judiciais, Magistrados do Ministério Público e dos Agentes dos Defensores Públicos	Dep. Arão Noé de Jesus da Costa Amaral	Caducado
11	PPL N° 45/III (5ª)	Que estabelece o regime jurídico das associações públicas profissionais	Dep. Paulo Moniz Maia	Caducado
12	PPL N° 46/III (5ª)	Aprova a segunda alteração à Lei N°11/2009, de 7 de Outubro (Divisão Administrativa do Território)		Caducado
13	PPL N° 50/III (5ª)	5ª Alteração à Lei n.º 7/2006, de 28 de Dezembro (Lei eleitoral para o Presidente da República)	Dep. Arão Noé de Jesus da Costa Amaral	Publicado
14	PPL N° 51/III (5ª)	4ª Alteração à Lei n.º 6/2006, de 28 de Dezembro (Lei eleitoral para o Parlamento Nacional).	Dep. Manuel Guilherme da Costa Guterres	Publica em JR, 6ª, 5 de Maio de 2017 Série I, nº17A Número extraordinário Lei nº9/2017 de 5 de Maio
15	PPL N° 52/III (5ª)	Sobre os crimes de fabrico,	Dep. Joaquim dos Santos	

		importação, transporte, venda, cessão ou porte de <i>Rama Ambon</i> , utilização armas brancas para prática de crimes e prática ilícita das artes marciais e de rituais		Publicado em JR, 4 ^a , 19 de Abril de 2017 Série I, nº17A Número extraordinário Lei n.º 5/2017 de 19 de Abril
Draft Bills				
1	PJL Nº 3/III (3 ^a)	Lei Anti-Corrupção		
2	PJL nº10/III (4 ^a)	Regime Transitório de Recrutamento dos Juízes, Procuradores e Defensores Públicos e Segunda alteração à Lei nº Orgânica da Câmara de Contas, aprovada pela Lei nº9/2011, de 17 de agosto e alterada pela Lei nº3/2013	Dep. Arão Noé de Jesus da Costa Amaral	Publica em JR, 4 ^a , 18 de Jan de 2017 Série I, nº3 Lei N.º 1 / 2017 de 18 de Janeiro

Table 2: Draft Bills and Laws approved in Plenary

No. Initiative	Title	Date entrance	Date and result of vote in final global	No. Law
Draft Bills				
11/III (5ª)	Lei da Organização e Funcionamento da Administração Parlamentar	20/12/16	9/05/17 F = 32 C = 0 A = 4	Nº. 5/2017 de 26 de Abril.
9/III (4ª)	Aprova a Lei sobre Pensão dos Deputados, e Procede à Primeira Alteração à Lei nº 5/2004, de 5 de Maio, sobre Estatuto dos Deputados e à Primeira Alteração à Lei nº 7/2007, de 25 de julho, sobre Estatuto dos Titulares dos Órgãos de Soberania.	22/09/2016	10/01/17 F = 42 C = 5 A = 5	Lei Nº. 7/2017 de 27 de Abril
Draft Laws				
23/III/(3ª)	Lei Eleitoral Municipal	7/05/15	01/08/2017 F = 40 C = 0 A = 0	Veta Política
29/III/(3ª)	Lei do Poder Local e da Descentralização Administrativa	06/07/15	14/06/2017 F = 41 C = 0 A = 4	Veta Política
31/III/(3ª)	Lei de Migração e Asilo	27/07/15	7/03/2017 F = 37 C = 0 A = 0	Lei Nº. 11/2017 de 24 de Maio.

36/III/(4ª)	Regime Especial para a Definição da Titularidade dos Bens Imóveis	10/5/16	6/02/2017 F = 57 C = 0 A = 0	Lei Nº. 13/2017 de 5 de Junho.
37/III/(4ª)	Expropriação por Utilidade Público	10/5/16	27/02/2017 F = 43 C = 0 A = 0	Lei Nº. 8/2017 de 27 de Abril.
38/III/(4ª)	Bases do Ordenamento do Território	10/5/16	27/02/2017 F = 42 C = 0 A = 0	Lei Nº. 6/2017 de 19 de Abril.
39/III/(4ª)	Lei das Sociedades Comerciais	19/5/16	27/07/2017 F = 46 C = 0 A = 0	Lei Nº. 10/2017 de 17 de Maio.
42/III/(4ª)	1ª Alteração à Lei n.º 10/2009, de 5 de agosto, Estatuto dos Magistrados Judiciais, dos Magistrados do Ministério Público e dos Agentes da Defensoria Pública.	1/7/2016	14/8/2017 F = 47 C = 1 A = 1	-
44/III/(4ª)	Lei do Investimento Privado	12/8/2016	25/4/2017 F = 52 C = 0 A = 0 Confirmação de Votos 7/8/2017 F = 44 C = 0	Veta política Lei Nº. 15/2017 de 23 de Aug.

			A = 1	
50/III/(5ª)	5ª Alteração Lei nº 7/2006 de 26 dezembro (Lei Eleitoral para o Presidente República)	6/01/17	31/01/2017 F = 36 C = 9 A = 4	Lei Nº. 4/2017 de 23 de Fev.
51/III/(5ª)	3ª Alteração Lei nº 6/2006 de 28 dezembro (Lei Eleitoral para o Parlamento Nasional)	6/01/17	20/02/2017 F = 49 C = 0 A = 0	Lei Nº. 9/2017 de 5 de Maio.
52/III/(5ª)	Crimes de fabrico, Importação, Transporte, venda, cessão ou porte de Rama Ambon, Utilização de Armas Brancas para Prática de Crimes e de Prática Ilícita das Artes Marciais e de Rituais e 5ª Alteração ao Código Penal.	06/01/17	6/3/2017 F = 37 C = 0 A = 0	Lei Nº. 5/2017 de 19 de Abril.
53/III/(5ª)	Regime Geral das Florestas	19/01/17	15/05/17 F = 52 C = 0 A = 0	Lei Nº. 14/2017 de 2 de Agosto.

Table 3: Draft Resolution from Parliament

No. Initiative	Title	Data entrance	Dateand result of vote	No. Resolution
31/III (5ª)	Conta Geral do Estado de 2014	17/04/2017	17/04/2017 F = 52 C = 0 A = 0	Nº. 5/2017 de 26 de Abril.
32/III (5ª)	Conta Geral do Estado de 2015	17/04/2017	17/04/2017 F = 52 C = 0 A = 0	Nº. 6/2017 de 26 de Abril.
33/III (5ª)	Recuja de Ratificação da Nomeação do Dr. Deolindo dos Santos para o Cargo de Presidente do Tribunal de Recurso	8/05/2017	9/05/2017 F = 46 C = 6 A = 0	Nº. 8/2017 de 17 de Maio
34/III (5ª)	Pedido de Exoneração Imediata do Procurador-Geral da República, Dr. José da Costa Ximenes, por não Reunir Condições Objetivas de Nomeação para o Cargo	8/05/2017	9/05/2017 F = 46 C = 6 A = 0	Nº. 9/2017 de 17 de Maio
35/III/(5ª)	Determinação do Montante Atribuido aos Membros do Conselho Consultivo do Fundo Petrolífero (CCFP) pela Presença em Reuniões	9/06/2017	9/06/2017 F = 35 C = 0 A = 0	Nº. 12/2017 de 21 de Junho
36/III/(5ª)	Aprova o Plano Estratégico do Parlamento Nacional 2017-2022	13/06/2017	13/06/2017 F = 34 C = 0	Nº. 13/2017 de 21 de Junho

			A = 1	
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Table 4: Draft resolution proposed by Government

No. Initiative	Title	Data entrance	Date and result of vote	No. Promulgation	No. Resolution
22/III/ (5 ^a)	Adesão à Organização das Unidas para a Agricultura e Alimentação	29/12/16	27/02/2017 F = 40 C = 0 A = 0	13/07/17	Nº. 14/2017 de 25 de Julho.
23/III/ (5 ^a)	Denúncia do Tratado entre Governo da RDTL e o Governo da Austrália sobre Determinação Ajustes Marítimos no Mar de Timor e Acordo Transitório quanto à Vigência do Tratado do Mar de Timor.	10/01/17	10/01/2017 F = 53 C = 0 A = 0	16/01/17	Nº. 1/2017 de 16 de Janeiro
24/III/ (5 ^a)	Adesão à Organização Mundial de Saúde Animal	29/12/16	27/02/2017 F = 40 C = 0 A = 0	13/07/17	Nº. 15/2017 de 25 de Julho.
25/III/ (5 ^a)	Ratificação do Acordo de Criação do Organização de Cooperação para a Floresta Asiático.	28/02/17	27/03/2017 F = 44 C = 0 A = 0	-	-
26/III/ (5 ^a)	Ratifica o Acordo de Paris no Âmbito da Convenção-Quadro das Nações Unidas sobre as Alterações Climáticas	-	14/03/2017 F = 40 C = 0 A = 0	-	Nº. 11/2017 de 17 de Maio.
27/III/ (5 ^a)	Adesão à Organização Mundial para a Proteção	27/03/17	15/05/2017	13/07/17	Nº. 16/2017 de 25 de

	da Propriedade Intelectual		F = 42 C = 0 A = 0		Julho.
28/III/ (5ª)	Adesão ao Acordo Que Cria o Banco Asiático de Investimento em Infraestruturas	3/05/17	23/05/2017 F = 41 C = 0 A = 0	13/07/17	Nº. 17/2017 de 25 de Julho.
29/III/ (5ª)	Aprova o Acordo Geral Entre a República Democrática de Timor-Leste e o Reino do Camboja sobre Cooperação Técnica e Económica	4/05/17	31/08/2017 F = 41 C = 0 A = 0	-	Agosto 23 2017

Table 5: List of Charters, Constitutions, Statutes and Treaties

No.	No. Resolution	Charters, Constitutions, Statutes and Treaties	Date of Publication
1	No. 1/2002	Ratifica a Carta das Nações Unidas	20/05/2002
2	<u>No. 13/2002</u>	Ratifica o Estatuto do Tribunal Penal Internacional	13/08/2002
3	<u>No. 17/2002</u>	Ratifica o Tratado sobre a não proliferação de armas nucleares	09/09/2002
4	<u>No. 19/2003</u>	Que ratifica o estatuto do fórum dos parlamentos dos Países de Língua Portuguesa	08/07/2003
5	<u>No. 2/2003</u>	Ratifica o Tratado do mar de Timor entre o Governo de Timor-Leste e o Governo da Austrália	03/01/2003
6	<u>No. 11/2004</u>	Que ratifica, para adesão, os estatutos da Organização Mundial do Turismo	11/11/2004
7	<u>No. 4/2007</u>	Que Ratifica o Tratado entre o Governo da Republica Democrática de Timor-Leste e o Governo da Austrália sobre Determinados Ajustes Marítimos no Mar de Timor	08/03/2007
8	<u>No. 16/2009</u>	Aprova, para Adesão, o Instrumento que Cria uma Rede de Cooperação Jurídica e Judiciária Internacional dos Países de Língua Portuguesa	06/05/2009
9	<u>No. 6/2009</u>	Adesão à União Internacional das Telecomunicações	25/03/2009
10	<u>No. 14/2010</u>	Aprova, para Adesão, o Estatuto da Comunidade dos Países da Língua Portuguesa	16/06/2010
11	<u>No. 4/2012</u>	"Tratado de Amizade e Cooperação no Sudeste Asiático" "Protocol de Alteração do	15/02/2012

		Tratado de Amizade e Cooperação no Sudeste Asiático " "Segundo Protocolo de alteração do Tratado de amizade e Cooperação no Sudeste Asiático" "Terce	
12	<u>No. 5/2015</u>	Ratifica a Constituição da Organização Internacional do Trabalho	13/05/2015
13	N.º 10/2016	Ratifica os Estatutos do Instituto Internacional da Língua Portuguesa (IILP)	15/06/2016
14	No 14/2017	Ratifica para, Adesão, a Constituição da Organização das Nações Unidas para a Alimentação e a Agricultura	25/07/2017
15	No.3/2017	Ratifica a Constituição da Organização das Nações Unidas para a Educação, Ciência e Cultura .	01/02/2017

Table 6: List of International Conventions

No.	No. Resolution	Conventions	Date of Publication
1	No. 15/2002	Ratifica a Convenção sobre a proibição da utilização de minas antipessoal	09/09/2002
2	<u>No. 16/2002</u>	Ratifica a Convenção sobre a proibição das armas bacteriológicas (biológicas) ou tóxicas	09/09/2002
3	<u>No. 18/2002</u>	Ratifica as Convenções de Genebra relativas à protecção de vítimas de conflitos armados e os seus dois protocolos adicionais	09/09/2002
4	<u>No. 19/2002</u>	Ratifica a Convenção sobre a proibição do desenvolvimento, armazenagem e utilização de armas químicas e sobre a sua destruição	09/09/2002
5	<u>No. 23/2003</u>	Ratifica a convenção internacional sobre a protecção dos direitos de todos os trabalhadores migrantes e dos membros das suas famílias	26/09/2003
6	<u>No. 24/2003</u>	Que ratifica convenção de viena sobre relações diplomáticas de 1961e a convenção de viena sobre relações consulares de 1963	22/10/2003
7	<u>No. 8/2003</u>	Ratifica o pacto internacional sobre os direitos económicos, sociais e culturais	17/09/2003
8	<u>No. 9/2003</u>	Ratifica a convenção contra a tortura e outras penas ou tratamentos cruéis, desumanos ou degradantes	17/09/2003
9	<u>No. 10/2003</u>	Ratifica a convenção internacional sobre a eliminação de todas as formas de discriminação racial	17/09/2003
10	<u>No. 11/2003</u>	Ratifica a convenção sobre a eliminação de todas as formas de discriminação contra as mulheres	17/09/2003
11	<u>No. 16/2003</u>	Ratifica a convenção sobre os direitos da criança	30/07/2003

12	<u>No. 20/2002</u>	Ratifica a convenção de 1951 sobre o estatuto dos refugiados e respectivo protocolo de 1967	13/09/2003
13	<u>No. 3/2003</u>	Ratificação do Pacto Internacional sobre os direitos civis e políticos	23/05/2003
14	<u>No. 10/2004</u>	Que ratifica a convenção da Organização Marítima Internacional	11/11/2004
15	<u>No. 12/2004</u>	Que ratifica a convenção da Aviação Civil Internacional, assinada em Chicago, em 7 de Dezembro de 1944	11/11/2004
16	<u>No. 13/2004</u>	Que ratifica a convenção quadro para o Controlo de Tabaco	11/11/2004
17	<u>No. 5/2004</u>	Que Ratifica a Adesão à Convenção de Viena Sobre o Direito dos Tratados, de 23 De Maio De 1969	06/04/2004
18	<u>No. 7/2006</u>	Que Ratifica a Adesão à Convenção Quadro das Nações Unidas sobre as Alterações Climáticas	26/04/2006
19	<u>No. 8/2006</u>	Que Ratifica a Adesão à Convenção Internacional de Combate à Desertificação nos Países Afectados por Seca Grave e ou Desertificação, Particularmente em África	26/04/2006
20	<u>No. 9/2006</u>	Que Ratifica a Adesão à Convenção Internacional sobre Diversidade Biológica	26/04/2006
21	<u>No. 25/2008</u>	Ratifica, para Adesão, a Convenção da Organização das Nações Unidas Contra a Corrupção	10/12/2008
22	<u>No. 26/2009</u>	Convenção das Nações Unidas Contra o Crime Organizado Transnacional	09/09/2009
23	<u>No. 28/2009</u>	Adesão à Convenção de Haia de 29 de Maio de 1993 relativa à Protecção das Crianças e à Cooperação em matéria de Adopção Internacional Haia 29/05/93	09/09/2009
24	<u>No. 30/2009</u>	Ratifica, para Adesão, A Convenção de Viena para a Protecção da Camada de Ozono e o Protocolo de Montreal para a Redução de Substâncias que Empobrecem a Camada de Ozono	09/09/2009
25	<u>No. 23/2009</u>	Aprova, para Adesão, a Declaração Constitutiva da Comunidade dos Países de Língua Portuguesa	10/06/2009
26	<u>No. 13/2009</u>	Ratifica, para Adesão, a Convenção de Auxílio Judiciário em Matéria Penal entre os Estados Membros da Comunidade dos Países de Língua Portuguesa	06/05/2009
27	<u>No. 15/2009</u>	Ratifica, para Adesão, a Convenção de Extradicação entre os Estados Membros da Comunidade dos Países de Língua Portuguesa	06/05/2009
28	<u>No. 5/2009</u>	Ratifica, para Adesão, a Convenção da Organização Meteorológica Mundial	11/03/2009
29	<u>No. 7/2009</u>	Ratifica, para Adesão, a Convenção N.º 87 da Organização Internacional do Trabalho,	25/03/2009

		sobre a Liberdade Sindical e a Protecção dos Direitos Sindicais	
30	<u>No. 8/2009</u>	Ratifica, para Adesão, a Convenção N.º 98 da Organização Internacional do Trabalho, sobre a Aplicação dos Princípios do Direito de Sindicalização e de Negociação Colectivas	25/03/2009
31	<u>No. 9/2009</u>	Ratifica, para Adesão, a Convenção n.º 182 da Organização Internacional do Trabalho Relativa à Interdição das Piores Formas de Trabalho das Crianças e à Acção Imediata com Vista à sua Eliminação	08/04/2009
32	<u>No. 5/2010</u>	Ratifica, para Adesão, a Convenção sobre a Transferência de Pessoas Condenadas entre os Estados Membros da Comunidade dos Países de Língua Portuguesa	10/02/2010
33	<u>No. 2/2014</u>	Ratifica, para Adesão, a Convenção das Nações Unidas Contra o Tráfico Ilícito de Estupefacientes e Substâncias Psicotrópicas	29/01/2014
34	<u>No. 3/2014</u>	Ratifica, para Adesão, a Convenção das Nações Unidas para a Eliminação do Financiamento do Terrorismo	29/01/2014
35	No.11/2015	Ratifica, para adesão, a Convenção n.o 111 da Organização Internacional do Trabalho, sobre Discriminação em matéria de Emprego e Profissão	05/08/2015
36	No.12/2015	Ratifica, para adesão, a Convenção n.o 100 da Organização Internacional do Trabalho, sobre a Igualdade de Remuneração entre Homens e Mulheres por Trabalho de Igual Valor	05/08/2015
37	N.º 14/2016	Ratifica a Convenção para a Resolução de Diferendos Relativos a Investimentos entre Estados e Nacionais de outros Estados	31/08/2016
38	N.º 6/2016	Ratifica, para Adesão, a Convenção da UNESCO para a Salvaguarda do Património Cultural Imaterial	18/05/2016
39	N.º 7/2016	Ratifica, para Adesão, a Convenção da UNESCO para a Protecção do Património Mundial, Cultural e Natural	18/05/2016
40	N.º 8/2016	Ratifica, para Adesão, a Convenção da UNESCO sobre a Protecção e a Promoção	18/05/2016
41	N0 16/2017	Ratifica, para Adesão, a Convenção Internacional que Institui a Organização Mundial para a Protecção da Propriedade Intelectual	25/07/2017
42	No.2/2017	Ratifica, para Adesão, a Convenção Internacional Contra a Dopagem no Desporto	01/02/2017

Table 7: List of Protocols

No.	No. Resolution	Protocols	Date of Publication
1	<u>No. 3/2002</u>	Ratifica o Protocolo de Cooperação com Assembleia da República de Portugal	10/06/2002
2	<u>No. 12/2003</u>	Ratifica o protocolo opcional à convenção sobre a eliminação de todas as formas de discriminação contra as mulheres	17/09/2003
3	<u>No. 13/2003</u>	Ratifica o segundo protocolo adicional ao pacto internacional sobre os direitos civis e políticos com vista à abolição da pena de morte	17/09/2003
4	<u>No. 15/2003</u>	Ratifica o protocolo facultativo referente ao pacto internacional sobre direitos civis e políticos	30/07/2003
5	<u>No. 17/2003</u>	Ratifica o protocolo facultativo à convenção sobre os direitos da criança relativo à venda de crianças, prostituição infantil e pornografia infantil	17/09/2003
6	<u>No. 18/2003</u>	Ratifica o protocolo facultativo à convenção sobre os direitos da criança relativo à participação de crianças em conflitos armados	17/09/2003
7	<u>No. 6/2008</u>	Ratifica, para Adesão, o Protocolo de Quioto à Convenção-Quadro das Nações Unidas sobre Alterações Climáticas	07/05/2008
8	<u>No. 27/2009</u>	Procolo Adicional à Convenção das Nações Unidas Contra o Crime Organizado Transnacional, Relativo ao Combate ao Tráfico de Migrantes por Via Terrestre, Marítima e Aérea	09/09/2009
9	<u>No. 29/2009</u>	Procolo Adicional à Convenção das Nações Unidas Contra o Crime Organizado Transnacional, relativo à Prevenção, Repressão e Punição do Tráfico de Pessoas, em Especial Mulheres e Crianças	09/09/2009
10	<u>No. 22/2009</u>	Ratifica, para Adesão, o Protocolo Adicional às Convenções de Genebra de 12 de Agosto de 1949 Relativo à Adopção de Emblema Distintivo Adiciona	10/06/2009
11	<u>No. 17/2009</u>	Aprova, para Adesão, o Protocolo de Cooperação entre os Países de Língua Portuguesa no Domínio da Segurança Pública	06/05/2009
12	<u>No. 18/2009</u>	Aprova, para Adesão, o Segundo Protocolo Modificativo ao Acordo Ortográfico da Língua Portuguesa entre os Estados Membros da Comunidade dos Países de Língua	06/05/2009

		Portuguesa	
13	<u>No. 19/2009</u>	Aprova, para Adesão, o Protocolo Modificativo ao Acordo Ortográfico da Língua Portuguesa entre os Estados Membros da Comunidade dos Países de Língua Portuguesa	06/05/2009

Table 8: List of Bilateral and International Agreements

No.	No. Resolution	Agreements	Date of Publication
1	<u>No. 9/2004</u>	Que aprova o acordo de cooperação técnica entre a República Democrática de Timor-Leste e a República Federativa do Brasil	11/11/2004
2	<u>No. 14/2004</u>	Que aprova o acordo de cooperação económica e técnica entre o governo da República Democrática de Timor-Leste e o governo dos Estados Unidos da América	22/11/2004
3	<u>No. 5/2007</u>	Que Ratifica o Acordo Entre o Governo da Austrália e o Governo da República Democrática de Timor-Leste Relativo a Unitização dos Campos do Sol Nascente e do Travado	08/03/2007
4	<u>No. 5/2008</u>	Aprova o Acordo de Cooperação Técnica entre Governo da República de Timor-Leste o Governo da República Federal da Alemanha	07/05/2008
5	<u>No. 21/2009</u>	Aprovado o Acordo Entre a Republica Democratica de Timor- Leste e a Republica da Indonesia Sobre a Passagem Fronteirica Tradicional e Mercados Regulados	28/05/2009
6	<u>No. 11/2009</u>	Aprova, para Adesão, o Acordo Sobre a Concessão de Vistos para Estudantes Nacionais dos Estados Membros da Comunidade dos Países de Língua Portuguesa	06/05/2009
7	<u>No. 12/2009</u>	Aprova, para Adesão, o Acordo de Cooperação entre os Estados Membros da Comunidade dos Países de Língua Portuguesa sobre o Combate à Malária/ Paludismo	06/05/2009
8	<u>No. 14/2009</u>	Aprova, para Adesão, o Acordo Ortográfico da Língua Portuguesa entre os Estados Membros da Comunidade dos Países de Língua Portuguesa	06/05/2009
9	<u>No. 19/2010</u>	Aprova o Acordo Básico de Cooperação entre a República Democrática de Timor-Leste e o Reino de Espanha	23/06/2010
10	<u>No. 15/2010</u>	Aprova o Acordo de Cooperação Entres os Estados - Membros da CPLP nos Domínios Cinematográfico e Audiovisual	16/06/2010
11	<u>No. 16/2010</u>	Aprova o Acordo de Cooperação Consular Entre os Estados - Membros da Comunidade dos Países da Língua Portuguesa	16/06/2010

12	<u>No. 12/2012</u>	Aprovação do Protocolo de Cooperação entre os Estados Membros da Comunidade dos Países de Língua Portuguesa No Domínio da Defesa	27/06/2012
13	No.18/2015	Ratifica o Acordo entre a República Democrática de Timor-Leste e a Santa Sé	11/11/2015
14	No.9/2015	Aprova o Acordo de Cooperação entre a República Portuguesa e a República Democrática de Timor-Leste, visando a criação da Escola Portuguesa de Díli	05/08/2015
15	No.10/2015	Aprova o Acordo entre a República Democrática de Timor-Leste e a União Europeia sobre a isenção de visto para as estadas de curta duração	05/08/2015
16	Nº 15/2017	Ratifica, para Adesão, o Acordo Internacional para a Criação da Organização Mundial de Saúde Animal	25/07/2017
17	No 10/2017	Ratifica o Acordo de Paris no âmbito da Convenção Quadro das Nações Unidas sobre as Alterações Climáticas (Ver Suplemento)	17/05/2017
18	No 11/2017	Ratifica o Acordo de Paris no âmbito da Convenção Quadro das Nações Unidas sobre as Alterações Climáticas (Ver Suplemento)	17/05/2017
19	No.4/2017	Aprova o Acordo Entre o Governo da República Democrática de Timor-Leste e o Governo da Nova Zelândia Relativo ao Estatuto das Forças Visitantes	08/03/2017

Table 9: List of Complaints to Committee A

No.	No. Complaint	Date	Actor	Issue	Opinion	Decision
1	n.º 22 Queixa/2017	09.01.17	Marciano da Cunha Ribeiro	O Frederico do Carmo, guarda prisional praticou ato de violência ao vítima Marciano Ribeiro		
2	n.º 23 Queixa/2017	12.01.17	Ernesto Martins	Solicita o processo de averiguação do direito		
3	n.º 24/Queixa/2017	12. 01,17	Maria Pereira da Costa Galhos	O problema da terra na Aldeia 02 do Suco de Caicoli		

4	n.º 25/Queixa/2017	12.01.17	Leão da Silva	Pedido da divisão administrativa no Suco de Vessoru em Viqueque.		
5	n.º 26/Queixa/2017	16.01.17	1. Faustino dos Santos 2. Octávio da Conceição 3. Amadoro M.S.F	Exigência dos Combatentes e Veteranos do Município Lautem		
6	n.º 27/Queixa/2017	30.01.17	Mateus Quefe Falo	Despejo Administrativo a comunidade de Aitarak-laran		
7	n.º 28/Queixa/2017	30,01,17	Domingas de Jesus	Preocupação do Ministério Público a não fazer o pedido da execução sobre o exercício do poder paternal na alimentação da menoridade no Tribunal Distrital de Dili		
8	n.º 29/Queixa/2017	6.2.16	Natalino Duval Nunes de Carvalho e outros	Irregularidades na nomeação dos funcionários no DNTM (Direção Nacional de Transportes Méritos)		
9	n.º 30/Queixa/2017	14.2.17 14.2.17	Agapito Mali Mau Soares Negociante Ambulante	- O problema da terra a vítima recebeu ofensas corporais da Polícia Comunitária em Casnafar do Posto Administrativo de Dare - A atuação da segurança civil e da PNTL aos vendedores ambulantes		
10	n.º 34/Queixa/2017	16.02.17	Alexandrina F.C.V.D. Borromeu	O problema da terra em Alas, Município de Same		
11	n.º 31/Queixa/2017	17.2.17	Maria Felizaeda e outros (32 pessoas)	O problema da terra em Becora		
12	n.º 32/Queixa/2017	17.2.17	Domingos Ribeiro e outros	O problema da terra em Bazartete/Ulmera do Município de Liquiçá		
13	n.º	24.7.17	Funcionário RTTL.EP	Exigência do funcionário da RTTL.EP		

	33/Queixa/2017					
14	n. ^o 34/Queixa/2017	27.02.17	João Florinda de Jesus	O Instituto Nacional de Investigação e Recuperação da Luta à Independência de Timor Leste (INIRHILITIL) não pagou o salário do mês de fevereiro e mês de março.		
15	n. ^o 35/Queixa/2017	10.03.17	Vicente Marçal da Silva e José Viegas	Exigência dos Sindicatos dos Professores do Município de Baucau		