



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA DE MONITORIZAÇÃO DO SISTEMA JUDICIAL

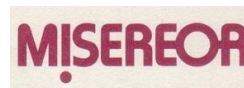
Progress and Challenges of the National Parliament in 2010: *Lessons for the Future*



JUSTICE FACILITY
Serbisu hamutuk bilateral entre
Governu Timor-Leste no Austrália
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Executive Summary

In 2010 the Judicial System Monitoring Program established a new program, the Parliament Watch Project (*PWP*). The aim of this project is to monitor the National Parliament of Timor

-Leste to promote accountability and transparency as well as helping members of the community to participate in the legislative process. This report aims to provide information and analysis on the parliamentary system during 2010 and makes a number of recommendations on how to strengthen the democratic system in Timor-Leste.

During 2010, the Parliament Watch Project observed that the National Parliament made considerable progress in a number of areas. The National Parliament has approved a number of important laws, for example the Domestic Violence Law, the Internal Security Law, the National Security Law and the National Defense Law. Each of these laws will have a major impact on the people of Timor-Leste. The National Parliament has also provided some effective oversight of government programs and has actively debated the 2011 State Budget.

While JSMP recognizes these achievements, JSMP also believes that the National Parliament faced a number of challenges in 2010. For example, Members of Parliament still do not comply with official working hours, they are not actively participating in the drafting of laws, there is a lack of consultation on draft laws, the Portuguese language remains an impediment to the drafting of laws, there is a lack of information being disseminated to the public to enable them to understand the political process and the debate on the State Budget in Parliament was extremely protracted.

JSMP congratulates Parliamentarians for their achievements in carrying out their duties effectively and completing a wide range of work in 2010. In order to increase the capacity of Members of Parliament to effectively perform their duties in 2011, JSMP makes the following recommendations:

1. The National Parliament needs to employ more staff, especially researchers, and to build their capacity to a reasonable standard so that they can assist Parliamentarians to perform their work;
2. The National Parliament needs to increase the number of national and international advisors so that Members of Parliament can be given expert assistance in relation to the drafting of laws;
3. The National Parliament should increase the available resources in Tetum and Indonesian in the parliamentary library so that all members of parliament can understand and use these resources;
4. The National Parliament and Government should prepare all documents, including draft laws, in both official languages. Therefore documents should be provided in Tetum, not only Portuguese;
5. Members of Parliament need to be more disciplined and comply with working hours set out in the internal regulations of the National Parliament that were approved by the Parliamentarians themselves;
6. Members of Parliament need to be more active and creative during the legislative process. This will require them to be well prepared before participating in the drafting of laws, including by engaging in discussion with advisors and technical researchers, accessing books and the internet, as well as engaging in effective comparative studies with other countries;
7. Members of Parliament should attend the capacity building programs which have been designed to increase their knowledge on relevant matters;

8. The National Parliament and Government should develop a program for improving education about Timor-Leste's democratic system, the legislative process and people's political rights, through civic education starting at primary school level and extending to cover all members of the community;
9. This civic education must include specific topics that reflect the current situation. For example prior to elections, civic education should focus on political rights, electoral laws and laws on municipal elections;
10. The Government and Parliament need to engage in thorough, meaningful and relevant consultation with all parties in relation to the drafting of laws and provide assistance to members of the community to participate in this process;
11. The Government and Parliament need to have a clear plan in relation to the State Budget, so that Parliamentarians can provide positive input and approve the budget annually in a precise and efficient manner, avoiding unnecessarily protracted debates;
12. In 2011 the National Parliament needs to pay specific attention to important draft laws that are currently pending before it, for example the draft Law on a Memorial Institution, the draft Law on Reparations, the draft Civil Code and the draft Land Law.

1) Introduction

In February 2010, with assistance from The Asia Foundation, JSMP established a new program known as the Parliament Watch Project (*PWP*). JSMP decided to set up this project after observing a number of existing challenges within the parliamentary process and in relation to the community's level of understanding about the legislative process.

In October and November 2009, JSMP staff engaged in a consultation process with relevant stakeholders to examine and assess their views on the functioning of the National Parliament and to listen to their ideas on JSMP's proposal to establish this new project. JSMP's consultation on the parliamentary process revealed the following:

- For civil society and the general public it is difficult to obtain information about the National Parliament, partly because such information is only published in Portuguese;
- majority of Timorese citizens believed that democracy involves simply participating in general elections. There is not a deeper understanding that democracy also encompasses ongoing dialogue between Members of Parliament and their constituents;
- The Parliament does not yet have efficient and effective processes in place, for example time is not managed effectively, there is no well established plan for prioritizing important issues, there is a lack of effective communication with voters, and a lack of resources, for example advisors.

Based on the problems identified through the consultation process, JSMP established the PWP with three strategic goals, namely:

- To educate the public about the legislative process and to increase the knowledge and understanding of all Members of Parliament, about their duties to uphold the rule of law in Timor-Leste, including the importance of accountability and transparency;
- To effectively oversee good governance, through the promotion of democratic values and principles in all government institutions; and
- To increase the capacity of the Timorese people to actively participate in the democratic process.

This annual report is a substantive report of the PWP with the following aims:

- To provide information about how the parliamentary system functioned in 2010;
- To analyze and critique the functioning of the parliamentary and legislative system in 2010 and to gauge the effectiveness of this system; and
- To make recommendations about how to improve this system.

2) Summary of PWP Activities

In March 2010 JSMP established a PWP Sub-Unit within its Legal Research Unit (*LRU*). In order to achieve the goals of the PWP the following activities were conducted:

- **Monitoring:** A PWP staff member visits the National Parliament each day to monitor the activities of Members of Parliament in plenary sessions and in parliamentary Committee A. The staff member is responsible for taking notes about the activities of Parliament and

interviewing parliamentary staff. The information obtained through this monitoring is used by the PWP for other activities.

- ***Training/Dissemination of information:*** In 2010 PWP conducted five workshops at the village level in various districts. These workshops were conducted by PWP staff who traveled to teach participants about the duties of parliamentarians, the legislative process, the system of governance in Timor-Leste and how the public can express their views and opinions to Members of Parliament. Dissemination of information carried out in the districts included raising awareness and distributing information to the community in relation to PWP publications on parliamentary activities.
- ***Focus Group Discussion (FGD):*** This activity is a method PWP uses to hold important discussions on draft laws and to focus on case studies so that participants can develop a sufficient understanding of the impact of these draft laws. In 2010 PWP held a FGD on the draft Juvenile Justice Laws, the draft Law on Reparations and draft Law on a Memorial Institution, and the draft Civil Code.
- ***Publications:*** The PWP produced a variety of publications on parliamentary activities and specific draft laws with the aim of disseminating information to the public and engaging in advocacy with relevant actors. These publications included:
 - *Press Releases* which include controversial information with the aim of providing up to date information, attracting public attention and providing critical analysis of recent events.
 - *Parliamentary Bulletins* are substantive publications aimed at providing information about parliamentary activities and analysis on specific draft laws. These bulletins are normally published on a quarterly basis.
 - *Monthly reports* are publications which include the results from data collected about the progress and performance of Parliament and Committee A, including the challenges encountered and existing weaknesses.
- ***Legislative analysis and proposals relating to the legislative process:*** This activity involved JSMP providing its analysis on critical draft laws that will have a major impact on Timorese lives. The results were presented in the form of submissions which were forwarded to the relevant institutions, for example to the Ministry of Justice and Parliamentary Committee A.
- ***Advocacy:*** PWP engages in various types of advocacy. For example PWP participated in a working group designed to lobby Members of Parliament to support the draft Law on Reparations and the draft Law on a Memorial Institution. PWP also organized victims from the districts to participate in a public hearing on these draft laws with Committee A. In addition PWP conducted a National Seminar designed to enable members of the public to meet directly with parliamentarians.

JSMP has used the knowledge obtained through the above activities, including the recommendations of the public and the experience of Parliamentarians, to prepare this report.

3) Parliamentary System and Legislative Process in Timor-Leste

a) The Democratic System in Timor-Leste

According to the Constitution, Timor-Leste is a democratic, sovereign, independent and unitary State based on the rule of law, the will of the people and the respect for the dignity of the human person.¹ As a democracy, the state has four sovereign organs, namely the President, the National Parliament, the Government and the Courts.²

- *The President* is the Head of State whose main function is symbolic in nature. The President also has a number of competencies, for example the right to veto or promulgate statutes, request a referendum for specific issues that threaten national interests; grant pardons or commute sentences after hearing from the government, and declare a state of siege or emergency.³
- The *National Parliament* represents all Timorese citizens and has the authority to make laws, conduct oversight of State policy and make political decisions.⁴ In addition, Members of Parliament have the authority to make laws on basic issues such as the country's domestic and foreign policy.⁵ The National Parliament can also authorize the Government to make certain laws.⁶
- The *Government* has responsibility for conducting and executing the general policy of the country and is the supreme organ of Public Administration.⁷ The Government comprises the Prime Minister, the Ministers⁸ and the Secretaries of State⁹
- Lastly, the *Courts* are sovereign organs with competency to administer justice on behalf of the people, and therefore decisions that are issued by the courts are binding and prevail over the decisions of any other authority.¹⁰

Organs of sovereignty, in their reciprocal relationship and exercise of their functions, must observe the principle of separation and interdependence of powers established in the Constitution as the highest source of law.¹¹ This means that the organs of sovereignty in the context of the democratic state of Timor-Leste have to work together while still respecting the sovereignty of, and refraining from intervening in, the affairs of other organs. According to the Constitution, political power is in the hands of the people and is to be exercised in accordance to the Constitution.¹² The President of the Republic or members of the National Parliament must be elected by universal, free, direct, secret, and personal suffrage.¹³ Before elections candidates for President and Parliament can nominate themselves through political parties or as independents.

¹ RDTL Constitution, Article 1

² Ibid, Article 67.

³ Ibid, Article 85.

⁴ Ibid, Article 92.

⁵ Ibid, Article 95.

⁶ Ibid, Article 96.

⁷ Ibid, Article 103.

⁸ Ibid, Articles (1) and (2).

⁹ Ibid, Articles 104 (1) and (2).

¹⁰ Ibid, Articles 118 (1) and (3).

¹¹ Ibid, Article 69.

¹² Ibid, Article 62.

¹³ Ibid, Articles 76 (1) and 93 (1).

Political power is in the hands of the people because the Constitution itself guarantees the direct and active participation of women and men in political life as a fundamental requirement and instrument of the democratic system.¹⁴ The Constitution also provides every citizen with the right to submit, individually or jointly with others, petitions, complaints and claims to organs of sovereignty or any authority for the purpose of defending his or her rights, the Constitution, the law or general interests.¹⁵ This legal framework ensures that all citizens have the same rights to participate in the democratic process in Timor-Leste.

b) Legislative Process in Government

Constitutionally the National Parliament has the primary authority to make laws.¹⁶ However the Constitution allows the Government the power to initiate laws.¹⁷ In addition, the Constitution also states that the National Parliament can authorize the Government to make laws. There are also specific matters that relate to domestic policy where the Government has authority to propose draft statutes that are then approved by the Prime Minister.

There are three ways in which the Government can exercise its legislative authority:

i) Government Authority to Initiate Laws

The Government, through the relevant minister or department, can initiate a draft statute. Firstly, the ministry in question will work together with its legislative unit and expert staff/advisors to conduct research before drafting a law. At this stage the ministry has the opportunity to organize consultations with other parties to ensure that the draft law is of a higher quality.

When the ministry feels that the draft law fulfills the necessary criteria, it can forward the draft law to the Secretariat of the Council of Ministers. The Secretariat will then distribute it to the relevant parties, for example to advisors, academics and civil society. Further consultation can take the form of proposals or public hearings so that the law will reflect the needs of the people.

After sufficient consultation, further meetings are required to fulfill technical requirements. The next stage is to include the draft law in the agenda for distribution and to be tabled for discussion by the Council of Ministers. During this phase the substance of the draft law is examined to decide if it needs to be deferred or withdrawn and archived.

Upon receipt by the Council of Ministers the draft law will be debated and approved. When it is ratified and final revisions are made, the draft law will be signed and forwarded to the National Parliament for debate and approval.

ii) Legislative Authorization from the National Parliament to the Government

Article 96 of the Constitution states that the National Parliament can authorize the Government to make laws on the following matters:

- a) Definition of crimes, sentences, security measures and their respective prerequisites;
- b) Definition of civil and criminal procedure;

¹⁴ Ibid, Article 63 (1).

¹⁵ Ibid, Article 48.

¹⁶ Ibid, Article 95.

¹⁷ Ibid, Article 97(c).

- c) Organization of the Judiciary and status of magistrates;
- d) General rules and regulations for the public service, and their responsibilities;
- e) General bases for the organization of public administration;
- f) Monetary system;
- g) Banking and financial system;
- h) Definition of the bases for a policy on environment protection and sustainable development; and
- i) Rules for radio and television broadcasting and other mass media;
- j) Civic or military service;
- k) General rules and regulations for requisition and expropriation for public purposes; and
- l) Means and ways of intervention, expropriation, nationalisation and privatisation of means of production and land on grounds of public interest, as well as criteria for the establishment of compensations in such cases.

In this process, it is the National Parliament itself that initiates the process of drafting the law by authorising the Government, through a particular ministry or department, to draft a law with respect to the subject areas set out in the Constitution above. The relevant ministry or department will then work with its legislative unit and advisors to carry out appropriate studies and draft the law. The same approval process is then followed by the Government as it is when the Government initiates the law, as described in the previous subsection.

The difference with this process is that once the law is approved by the Council of Ministers, the Council of Ministers can submit the law directly to the President who can promulgate it in the State gazette as a decree-law or exercise the right of veto.

iii) Government Decrees and Other Instruments

Article 115(3) of the RDTL Constitution states that only the Government has legislative authority on matters concerning its own organization and functioning, as well as on the direct and indirect management of the State. This provision means that the government has exclusive authority to specify its own internal regulations. This includes government decrees and resolutions.

Government decrees do not take as long to develop as the two types of laws described above, as drafts are prepared by the relevant ministry or department then forwarded to the Prime Minister to be enacted as a Government Decree.

c) Legislative Process in Parliament

Article 95 of the RDTL Constitution states that it is incumbent upon the National Parliament to make laws on basic issues of domestic and foreign policy. It is exclusively incumbent upon the National Parliament to make laws on many issues, such as national symbols, other rights and guarantees, the status and capacity of the person, family law and inheritance law, political parties and associations, defence and security policy, and financial laws.¹⁸

It is important to understand two important components of the National Parliament, plenary sessions and parliamentary committees. Plenary sessions relate to meetings of the whole of the National Parliament to discuss laws, oversee the government and conduct meetings with

¹⁸ Ibid, Articles 95 (1) and (2).

the Government. In general, plenary sessions take place on Mondays and Tuesdays¹⁹ and are led by the President of the National Parliament or the Deputy Presidents or Secretary of Parliament. However, if there are important matters to discuss, plenary sessions can be held on other days, and these are known as “extraordinary plenary sessions”.

Committees are groups of parliamentarians with representatives from each of the political party benches in Parliament. Each committee has between 7 and 12 members and deals with different issues.²⁰ Members of Parliament can be part of two committees at the same time. Parliamentary committees meet each Wednesday and Thursday²¹, and these meetings are presided over by the President of each Committee.

In the National Parliament Members of Parliament or parliamentary benches initiate laws (unless initiated by the government, as explained above).²² When a draft law fulfills the necessary technical requirements and has been presented in a plenary session of the National Parliament, the draft law will then be discussed in generality and a general vote will be taken. If the draft is passed by the general vote then the Parliamentary Secretary will forward it to the relevant committee to be discussed in speciality and each article will be voted on in speciality.²³ At this level there is an opportunity for the committee to organize public hearings and to forward the draft to civil society and relevant institutions to be assessed and critiqued through proposals.

After discussions have been completed at the committee level the draft law and proposals will be returned to the plenary to be assessed by the leadership of each bench in Parliament. When this process has been concluded the draft will be discussed and voting in speciality will take place in the plenary and then there will be a final vote. Technical modifications will then be made and the draft will be signed by the President of the National Parliament and forwarded to the President of the Republic to be promulgated or vetoed.²⁴ If the President decides to veto the law then it will be sent back to National Parliament to be discussed or archived.

d) Role of the National Parliament to Provide Oversight and Make Political Decisions

In addition to its legislative authority the Parliament also plays an important role in controlling government programs and making political decisions. The National Parliament also has the authority to oversee government programs relating to the state budget. This oversight can be exercised over all government programs in all sectors. The results of this monitoring are presented by Members of Parliament in plenary sessions every Monday and Tuesday during the session known as “Miscellaneous Information”.

Reports on “Miscellaneous Information” are noted by the Parliamentary Secretary and forwarded to the Government. For example, if there is an urgent and serious issue the President of the Parliament will contact the Prime Minister directly. The Parliament can also summon the Government to come to the National Parliament to provide clarification in relation to the results of monitoring carried out by the National Parliament.²⁵

The National Parliament also has authority to make political decisions in the national interest that can impact the life of the entire community. For example, in July 2010 the National

¹⁹ Amended Parliamentary Rules of Procedure, Article 46 (1) (a).

²⁰ UNDP, *The National Parliament of Timor-Leste*, pp. 27, 31-33.

²¹ Amended Parliamentary Rules of Procedure, Article 46 (1) (b).

²² RDTL Constitution, Article 97 (a) and (b), Amended Parliamentary Rules of Procedure, Article 90.

²³ Amended Parliamentary Rules of Procedure, Articles 101 (1) and 108.

²⁴ *Ibid*, Article 114.

²⁵ *Ibid*, Article 143.

Parliament voted to challenge a hypothetical draft proposal on the establishment of a refugee processing centre in Timor-Leste.

e) Responsibilities of Members of Parliament

The National Parliament represents all the citizens of Timor-Leste, which means that Members of Parliament do not only represent the people who voted for them, the people who come from their district or their political party.²⁶ The Constitution and the Law on the Status of Member of Parliament specify that Parliamentarians represent the aspirations of all citizens of Timor-Leste.

In addition to this role, Members of Parliament also have an important obligation to actively participate in plenary sessions of parliament and in the committees in accordance with the schedules set out in the parliamentary rules of procedure.²⁷

4) Activities of the National Parliament in 2010

a) Approvals of the Plenary of the National Parliament

Approval takes place when Members of Parliament take a final vote in the plenary by raising a green card which indicates a vote in favor, a red card which is a vote against, or a blue card to abstain. *Abstain* means that the parliamentarian chooses not to vote on a specific issue or draft law. The table below shows the number of laws and resolutions that were given final approval in 2010, based on JSMP’s monitoring of the National Parliament.

List of Laws and Resolutions approved in 2010

Approved by National Parliament	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Laws	0	2	4	1	1	0	1	0	1	0	0	0	10
Resolutions	1	3	5	1	2	0	2	0	1	4	5	0	24
Other approvals	1	0	1	3	1	0	1	0	0	0	1	0	8
Total	2	5	10	5	4	0	4	0	2	4	6	0	42

This table shows that in 2010 the National Parliament approved 10 laws, 24 resolutions and made another 8 approvals. In August there were no approvals because of the parliamentary recess. There were also no approvals in June because the Parliamentarians were busy with the proposed amendments to the 2010 Budget. In December there were no approvals because the parliament was busy getting ready to discuss the 2011 State Budget.

In 2009 the National Parliament approved 19 Laws and 38 Resolutions.²⁸ This shows that during 2010 the National Parliament was less productive in terms of producing laws and resolutions in comparison with other years.

²⁶ Law No 5/2004 on the Status of Members of Parliament, Article 1.

²⁷ Amended Parliamentary Rules of Procedure, Article 46 (2).

²⁸ UNMIT, *Monthly Governance Report – November 2010*, p.78.

Laws Approved in 2010

In 2010 the National Parliament managed to approve a number of important laws such as the Domestic Violence Law, the Internal Security Law, the National Security Law and the National Defence Law. The table below shows the laws that were approved in 2010.

Date	Name	Vote
2 February 2010	Draft Law No. 24/II on Sport	37 in favor, 0 against and 7 abstain
23 February 2010	Draft Law No. 21/II on International Treaties	46 in favor, 0 against and 2 abstain
22 March 2010	Draft Law No. 25/II on Internal Security	36 in favor, 0 against and 0 abstain
22 March 2010	Draft Law No. 26/II on Internal Security	22 in favor, 2 against and 9 abstain
22 March 2010	Draft Law No. 27/II on National Defence	22 in favor, 2 against and 9 abstain
30 March 2010	Draft Law No. 33/II on a National Census	33 in favor, 0 against and 2 abstain
12 April 2010	Draft Law No. 32/II on State Protocol of Precedence	37 in favor, 0 against and 4 abstain
3 May 2010	Draft Law No. 31/II Against Domestic Violence	30 in favor, 0 against and 3 abstain
2 July 2010	Draft Law No. 37/II on Proposal to Amend the State Budget 2010	39 in favor, 7 against and 3 abstain
28 September 2010	Draft Law No. 40/II on First Amendment to Law No 13/2009 "Management of State Finances"	34 in favor, 15 against and 5 abstain

Resolutions approved in 2010

The table below shows the draft resolutions that were approved by the National Parliament in 2010.

Date	Name	Vote
11 January 2010	Draft Resolution No. 35//II on the President's Trip to Mozambique	33 in favor, 0 against and 2 abstain
1 February 2010	Draft Resolution No. 2/II on the Anti-Corruption Commission	A secret vote was taken and Aderito de Jesus Soares was chosen with 64.5% of votes
9 February 2010	Draft Resolution No. 3/II on the President's Trip to the Maldives	37 in favor, 0 against and 2 abstain
9 February 2010	Draft Resolution No. 4/II on Annual Subsidies to the Parliamentary Benches	29 in favor, 2 against and 7 abstain
2 March 2010	Draft Resolution No. 11/II on Solidarity with the victims of disaster in Chile	47 in favor, 0 against and 0 abstain
01 March 2010	Draft Resolution No. 38 /II on approving the official travel of the President to Great Britain, Ireland, Japan and Switzerland	33 in favor, 0 against and 2 abstain
01 March 2010	Draft Resolution No. 39/II on Parliamentary Council CPLP	36 in favor, 0 against and 0 abstain
10 March	Draft Resolution No. 24/II on the approval and reappointment of the Ombudsman for Human Rights and Justice	35 in favor, 0 against and 0 abstain
23 March 2010	Draft Resolution No. 40/II on National Symbols	95 in favor, 0 against and 0 abstain
19 April 2010	Draft Resolution No. 41/II on the President's trip to Cambodia and Vietnam	33 in favor, 0 against and 4 abstain

11 May 2010	Draft Resolution No. 43/II on Solidarity with the people of Cuba	40 in favor, 0 against and 0 abstain
25 May 2010	Draft Resolution No. 34 /II on a Treaty between Timor-Leste and Spain	37 in favor, 0 against and 0 abstain
08 July 2010	Draft Resolution No. 46/II on the President's Trip to China 11-17 July to attend the launch of the Shanghai Expo	42 in favor, 0 against and 1 abstain.
12 July 2010	Draft Resolution No. 47/II on Rejecting a Hypothetical Proposal from the Government of Australia to Establish a Refugee Processing Centre in Timor-Leste	34 in favor, 0 against and 0 abstain <i>FRETILIN 11, CNRT 10, PD 2, PSD 4, ASDT 3, UNDERTIM 2, PPT 1, Independent 1, PUN and KOTA did not vote because they were absent</i>
8 September 2010	Draft Resolution No. 48/II on the official travel of the President to the USA, Portugal and European nations	16 in favor, 0 against and 0 abstain
11 October 2010	Draft Resolution No. 37/II on approving Protocol for Cooperation between Portuguese Speaking Nations in terms of defence cooperation	38 in favor, 0 against and 0 abstain – published on 2/2/2010
19 October 2010	Draft Resolution No. 49/II on recommendations to the government regarding the need for an audit	39 in favor, 39 against and 3 abstain
26 October 2010	Draft Resolution No. 50/II on the President's Trip to Macau 11-16 November 2010	30 in favor, 0 against and 8 abstain
26 October 2010	Draft Resolution No. 51/II on the Use of Tetum and Portuguese	30 in favor, 30 against and 8 abstain
4 November 2010	Draft Resolution No. 52/II on the Internal Finances of the National Parliament 2011.	23 in favor, 2 against and 18 abstain
9 November 2010	Draft Resolution No. 53/II on recommendations to the Government to reduce plastic bags and encourage the use of recyclable bags.	26 in favor, 1 against and 0 abstain.
15 November 2010	Draft Resolution No. 54/II on the appointment of parliamentary representatives as members of the Timor-Leste group to form the Parliamentary Assembly for Portuguese Speaking Communities (CPLP)	42 in favor, 0 against and 1 abstain.
16 November 2010	Draft Resolution No. 55/II on the President's Trip to Australia	44 in favor, 0 against and 0 abstain.
16 November 2010	Draft Resolution No. 56/II on the President's Trip to Cuba	44 in favor, 0 against and 2 abstain.

Other approvals

Mostly the National Parliament approves laws and resolutions. However sometimes the parliament also approves other matters. One such matter is the approval of what is known as a '*Voto de Pesar*' which is a document expressing the solidarity of the National Parliament. Other approvals relate to granting permission to Members of Parliament to act as witnesses in court.

Date	Name	Vote
25 January 2010	Expression of solidarity to the government and people of Haiti	51 in favor, 0 against and 0 abstain
16 March 2010	Approval of the ' <i>Voto de Pesar</i> ' to show respect to Mr. Takahisa Kawakami who was the UN DSRSG to express the solidarity of the Timorese people	33 in favor, 0 against and 0 abstain
13 April 2010	Approval granting permission to MP Paulo de Fatima Martins of the CNRT party to appear as a witness before the Dili District Court	33 in favor, 0 against and 0

		abstain
13 April 2010	Approval of the 'Voto de Pesar' to show respect to Polonia H. E. Mr. Lech Kaczynski and to express the solidarity of the Timorese people	33 in favor, 0 against and 0 abstain
19 April 2010	Approval of the 'Voto de Pesar' to show respect to the President of the National Assembly of Sao Tome and to express the solidarity of the Timorese people.	40 in favor, 0 against and 0 abstain
17 May 2010	Approval granting permission to MP Paulo de Fatima Martins of the CNRT party to appear as a witness before the Dili District Court	38 in favor, 0 against and 5 abstain
12 July 2010	Approval granting permission to MP Aniceto Guterres (FRETILIN) to appear as a witness before the Dili District Court	32 in favor, 0 against and 2 abstain
8 November 2010	Approval of the 'Voto de Pesar' to express the solidarity of the Timorese people in relation to the natural disasters in Indonesia	36 in favor, 0 against and 0 abstain

b) Approvals by Committee A

In 2010 Committee A of the National Parliament debated several laws that are yet to be approved, for example the draft Land Law. Other laws including the draft Civil Code were the subject of a general vote, but have not yet been approved in speciality. The following approvals were made by Committee A in 2010.

Laws that were Approved by Committee A in 2010

Date	Name	Vote	Current Status
24 March 2010	Draft Law No. 33/II, Household and Population Census 2010.	5 in favor, 0 against and 2 abstain	Approved through final vote in the plenary of the National Parliament
19 May 2010	Draft Law No. 30/II on the Civil Code	5 in favor, 0 against and 4 abstain	A general vote was taken and now it is undergoing specific discussion by Committee A
14 July 2010	Draft Law No. 19/II on a National Reparations Program	5 in favor, 2 against and 0 abstain	Approved through general vote in the plenary of the National Parliament and is still being processed
14 July 2010	Draft Law No. 20/II on the establishment of a Memorial Institution	5 in favor, 2 against and 0 abstain.	Approved through general vote in the plenary of the National Parliament and is still being processed

c) Total Number of Plenary Sessions and Meetings of Committee A

Although plenary sessions are supposed to take place on Mondays and Tuesday, and Committees are supposed to meet on Wednesdays and Thursdays, this schedule is sometimes changed because of clashes with other activities. The table below shows the total number of plenary sessions and meetings of Committee A in 2010.

Plenary Sessions and Meetings of Committee A in 2010

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Plenary													
Plenary Sessions	3	4	8	6	8	8	7	4	5	7	5	0 ²⁹	65
Extraordinary	0	0	5	4	1	2	4	0	2	0	1	0	19

²⁹ In December the only activities conducted were those of the Standing Committees.

Activities													
Committee A													
Meetings	0	8	6	4	6	8	3	0	0	5	6	7	53
Extraordinary Activities	0	0	2	0	0	2	0	0	1	0	0	1	4

d) Attendance in Plenary Sessions and Committee A

The table below shows the average monthly attendance for each party based on official documentation.³⁰ There are 65 members of the National Parliament. The table below shows that the official attendance rate for 2010 was 83.6%. According to JSMP's monitoring in 2010, the actual attendance was not the same as the official attendance because Members of Parliament often did not comply with the prescribed working hours, or in other words they came to work late or left early.

Official Average Attendance of Parliamentarians in the Plenary

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	%
No. Plenary	5	7	13	7	9	9	5	0	7	7	6	2	77	
Fretilin 21 seats	18.8	19.7	16.7	16.9	17.1	19.6	15	-	15.9	15.2	18.8	15.5	17.2	81.9
CNRT 18 seats	15.0	17.6	12	16.6	15.3	17.0	13.4	-	16.6	15.2	16.4	12.5	15.2	84.6
PD 8 seats	6.7	6.9	6.4	6.6	6.0	7.9	5.2	-	6.1	7.0	6.4	6.5	6.5	81.4
PUN 2 seats	1.5	1.3	1.8	2.0	1.2	1.9	0.8	-	2.0	1.3	1.0	0	1.3	67.3
UNDERTIM 2 seats	1.8	1.9	1.9	1.9	1.3	2.0	1.8	-	2.0	1.8	2.0	1.0	1.8	88.6
KOTA / PPT 2 seats	2.0	1.7	0.8	1.7	1.8	2.0	1.4	-	2.0	1.8	2.0	2.0	1.6	82.4
ASDT / PSD 11 seats	9.3	10.0	8.2	8.0	8.0	9.4	7.8	-	10.6	8.7	10.0	9.5	9.0	82.2
Independent 1 seat	0.8	1.0	0.9	1.0	1.0	1.0	1.0	-	1.0	1.0	1.0	1.0	1.0	97.6
All parties	56	60	48.7	54.6	51.8	60.7	46.4	-	56.1	51.5	57.6	54.3	53.8	82.7

e) Laws Pending at the End of 2010

At the end of 2010 there were a number of draft laws that were still being developed and were awaiting approval in 2011. The table below lists these pending draft laws.³¹

Table of Draft Laws that are Pending in the National Parliament

Name of Draft Law	Status of Draft Law
<i>Draft Laws from the Government</i>	
Protocol of State Precedence ³²	Sent to Parliament for discussion 21.06.10
RDTL State Budget for 2011	Approved by Council of Ministers 10.11.10 and given final approval by the National Parliament on 28 January 2011.
Second amendment to Law 03/2006 on the Statute of the Combatants of the National Liberation	Sent to Committee E 11.10.10
Civil Code	Committee A started to discuss in detail 07.06.10. They postponed this discussion on 11 November 2010 until February 2011.
Labor Code	Committee A and C received this draft and discussed it in a plenary session (general) 20.09.10.
Law on Private Investment	Committee C received it 07.06.10

³⁰ This information was obtained from National Parliament and also from the Monthly Governance Report UNMIT– November 2010.

³¹ This information was obtained through JSMP monitoring in parliament, from the Department of Parliamentary Administration and the Monthly Governance Report UNMIT– November 2010.

³² This draft law was vetoed by the President and returned to the National Parliament for reconsideration.

Special Regime on Land Ownership	Committee A received it 06.04.10.
Law on Financial Funds for Immovable Property	Committee A received it 06.04.10.
Law on Expropriation	Committee A received it 06.04.10.
Law on Local Governance	Waiting for general discussion in parliament
Law on Municipal Elections	Waiting for general discussion in parliament
<i>Draft Laws from the Parliament</i>	
Law Against Corruption	Received by Committee C - 07.06.10
Law on the establishment of a Memorial Institution	General approval 22.09.10: 45 in favor, 0 against, 8 abstain, however discussions postponed until 2011.
Draft Law No. 19/II on a National Reparations Program	General approval 22.09.10: 42 in favor, 1 against and 14 abstain, however discussion was postponed until 2011.
Law against Money Laundering and Financial Terrorism	Received by Committee C- 07.06.10
Organic Law on a Timor-Lest Central Bank	Received by Committee C - 18.05.10
<i>Draft Resolutions</i>	
Convention on reducing the number of stateless people	Received by Committee A - 13.08.09
Convention on the status of stateless people	Received by Committee A - 13.08.09

f) Miscellaneous Information

In 2010, the National Parliament regularly exercised its oversight of the execution of policy by the government. Members of Parliament gathered various types of information that were raised in parliament, including in relation to:

- Power outages in Dili and the districts;
- The sale of MTCI rice at prices higher than those set by the government;
- The rehabilitation of the main roads in the districts is not of a high standard;
- Lack of clean water in Dili and the districts during the dry season and rainy season;
- Lack of facilities in schools such as tables, chairs, bathrooms and toilets;
- Discrimination in the distribution of tractors to the community, and failure to distribute benefits to members of the community because of political reasons; and
- Accusations by the Opposition against the government of maladministration and corruption.

The six issues above have been major concerns for Members of Parliament and have been regularly raised in the plenary. These issues have been debated and the opposition has issued political statements on these issues.³³

5) Human Resources and Facilities

Based on JSMP monitoring, the National Parliament does not yet have sufficient human resources to assist Members of Parliament to perform their work effectively. In 2010 the National Parliament had 102 staff. This total includes just seven national technical advisors.

³³ Bulletin 1, 2 and 3 from JSMP website: www.jsmp.minihub.org, Parliament Watch Project.

Other staff work in areas like financial administration, as administrative assistants, in public and media relations, and human resources.

Due to limited human resources the National Parliament has recruited 43 additional staff members to commence work in 2011. JSMP hopes that this staff will support Parliamentarians in their work, especially by helping Members of Parliament to analyze government policies and draft laws.

In 2010, the National Parliament had eight international advisors, four providing legal assistance and another four helping with financial management. There is only one new national advisor who is dedicated to infrastructure. Based on JSMP monitoring, these advisors work efficiently to help Members of Parliament, however their numbers are very limited in comparison with the amount of work required of them. JSMP believes that in 2011 the National Parliament should recruit more national and international advisors, especially to support committees who do not yet have dedicated advisors.

JSMP has an excellent working relationship with staff in the National Parliament, especially with the Secretariats that support the plenary and Committee A, including the Secretariat for Public and Media Relations. JSMP hopes that this cooperation will continue in the future.

Based on JSMP monitoring there have been positive developments in relation to the National Parliament's infrastructure and facilities. Parliamentarians and staff have transport and offices, even though the offices provided to some staff are quite small. A library for the National Parliament has been established, but most of the books are in Portuguese, and this makes it difficult for the Members of Parliament to use them.

Members of Parliament receive a higher salary than most people and this reflects their level of responsibility. In 2010 parliamentarians received US\$2,850 per month. This salary includes a housing and telephone allowance, however it does not include the vehicles that they have also received. Members of Parliament who have special positions, such as the Chiefs and Deputy Chiefs of Parliamentary Benches, the President, and Vice Presidents, receive higher salaries (US\$3,000 or more per month). Considering that Members of Parliament receive higher salaries than ordinary citizens, JSMP encourages them to work hard to fulfill their responsibilities.

6) Knowledge of People Living in Rural Areas About the Parliamentary System

JSMP is concerned that in the districts many people do not really understand the parliamentary system or the activities of the government or parliament. This includes what each institution does, how Members of Parliament and the government make laws, what is parliamentary oversight and how they can ensure that politicians represent and consider the needs of the people. In addition, many people in the districts do not have information about the decisions made by the parliament and government that impact on their lives. JSMP believes that this is a major problem because members of the community choose their representatives but they don't know what work their representatives carry out. This is an issue of transparency and accountability. So that democracy can move forward in Timor-Leste, it's important that the community members have the ability and necessary information to make good decisions about who they choose as their representatives.

a) Confusion About Each Institution

As explained above, in 2010 the PWP organized workshops and also disseminated information to the community at the village level, including several remote areas. JSMP noted that participants were still confused about the responsibilities of the sovereign organs of the State such as the role of the Government, the Parliament, the Courts and the President.

The participants thought that the Government, the Parliament, the Courts and the President have the same function and that there was no separation of powers.

Members of the community participating in the workshops, FGDs or other modes of information dissemination often raised the following issues:

- Participants believed that the head of the Courts was the Minister of Justice;
- Participants believed that the President was the person who heads the four sovereign organs, namely that he is the head of the Government, the Parliament and the Courts;
- Participants believed that Ministers, Vice Ministers, Secretaries of State and Members of Parliament are led by the Prime Minister and his deputy was the President of the National Parliament;
- Participants always asked for Members of Parliament to deal with their problems which include roads, electricity and MTCI rice on the grounds that it is the Parliament that authorizes the budget and also the Parliament that executes the budget in the interests of national development;
- Participants were also confused about the role of the National Parliament and the Courts, so they would go to the National Parliament when they wanted to resolve a dispute.

b) Lack of Understanding about the Legislative Process

Based on the workshops and efforts to disseminate information organized by JSMP at the grassroots level, it is evident that many members of the community do not understand the legislative process in Timor-Leste. This is especially evident in the following examples:

- Participants believed that the Minister of Justice and the Courts make their own laws and implement them.
- Participants believed that the Parliament doesn't make laws, and that their work is focused on politics and discussing politics.

c) Lack of Understanding About the Parliamentary Oversight Process

Participants believed that the Parliament does not have the authority to monitor Government programs at the grass roots (villages). Instead, participants thought that the Parliament only receives complaints from community members about existing problems, and that Members of Parliament do not go to the villages to see for themselves how people are suffering.

d) Lack of Understanding About the Role of Political Parties

Many participants had the wrong idea about the role of political parties. They believed that political parties aim to provoke community members to kill each other as happened in 1975. Participants had doubts and concerns about choosing another party when an election is

approaching, even if their favored party has weak policies. Participants believe that the role of the political party is to govern them, not to serve and educate them.

e) Lack of Understanding About How to Communicate with Representatives

Participants did not yet know how to communicate with their representatives in Parliament, because, according to them, Members of Parliament spend most of their time just sitting in Parliament and don't visit the villages. Participants think that they only have the right to choose their representatives, but don't have the right to meet with them in Parliament to convey their difficulties and problems. Participants stated that they were afraid to meet with their representatives in Parliament because police are fully armed to provide security and do not allow them to go inside and meet with their representatives. What is worse, the participants do not know where the National Parliament is situated in Dili.

f) Lack of Information About the Political Decisions of the Parliament and Government

Participants in the villages were often surprised when there was a sudden political decision that impacted on their lives, for example the declaration of a State of Siege. They were also concerned about other political decisions such as the sale of MTCI rice, because the rice is not sold at the price set by the Government, but those selling the rice are not punished. Participants believed that political decisions only protect important people and not ordinary citizens because their rights are often violated.

g) The Parliament and Government have to Disseminate Information

Based on JSMP's monitoring, participants have a limited ability to obtain information. This is partly because of difficulties they encounter in accessing civic education and information about politics from Parliamentarians and the Government on the role of Parliament and the Government.

Based on information obtained by JSMP, Members of Parliament disseminate information, however only to strengthen their political position so they can win in the general election. They do not provide effective civic education to all citizens to enable them to understand the political process. Government efforts to disseminate information have not been effective, because in reality many citizens do not understand what laws have already been approved. JSMP believes that most Timorese citizens do not yet understand the Parliamentary system and the activities of the government. There needs to be civic education about the role of the Parliament and the Government because many citizens do not yet have a sufficient understanding.³⁴

7) JSMP Analysis on the Parliamentary System in 2010

In 2010, JSMP observed progress as well as obstacles emerging in the parliamentary system in Timor-Leste. In this section we will describe the developments and obstacles, so that we can then make recommendations for the Parliament to consider in 2011.

³⁴ This conclusion is based on the results of the workshop, focus group discussion and the dissemination of information in 6 districts, namely Holpilat Village, Covalima District, Taiboco Village, Oecusse District, Humboe Village, Ermera District, Sananain Village, Manatuto District, Lahae Village, Aileu District and Maliana, Bobonaro District.

a) Progress of the National Parliament in 2010

The National Parliament is a sovereign organ, and there are a large number of activities that need to be carried out in a single year. JSMP believes that in the past year the National Parliament has achieved the following:

i) Members of Parliament from AMP Criticized the Government

JSMP is proud that in 2010 several Parliamentarians from the AMP bench began to criticize government programs. For example, Member Lucas da Costa from the Democratic Party criticized the agreement made between the Government and the International Company ENSUL.³⁵ JSMP believes that this shows that there is a new atmosphere in the National Parliament of political maturity, as politicians do not just aim to defend the interests of the current government in power; but feel it is more important to correct a political decision if it does not reflect or represent the public interest. JSMP hopes that the democratic process will continue to develop based on the positive criticism by Members of Parliament.

ii) Oversight Carried Out by Parliamentarians has Effectively Achieved Results

JSMP believes that Members of Parliament have truly carried out their role as monitors by regularly voicing their opinion towards the government to improve mistakes/failures that have emerged in the development of this country. Although parliamentary monitoring has not taken place in the entire country, nevertheless an important step has been taken by the National Parliament. There were a number of important issues raised by Members of Parliament requiring the immediate attention of the government. For example, Member Ilda Maria da Conceição from the Fretilin bench raised the issue of power outages in the Guido Valadares National Hospital. Based on that information the President of the National Parliament contacted the Prime Minister immediately and within one hour a team of technicians immediately took a generator to the Guido Valadares National Hospital.³⁶

Although JSMP is concerned about the problem of electricity, that is affecting everyone's day-to-day lives, JSMP is proud that the Government can deal with a specific and urgent need in the interests of the community.

iii) Members of Parliament have Communicated with their Constituents on a Number of Occasions

JSMP acknowledges that Members of Parliament have interacted with their constituents on a number of occasions. Outside of working hours Parliamentarians sometimes make themselves available for interviews so that their constituents can discuss their difficulties and any other issues. An example was the participation in JSMP's National Seminar by the Deputy President of the National Parliament Maria Paixao and Member Antoninho Bianco. After the Seminar Ms. Paixao gave her office phone number to the participants so they could inform her of important issues.

³⁵ JSMP Press Release, May edition entitled "MP from AMP criticizes the Government. Refer to JSMP website, www.jsmp.minihub.org, Parliament Watch Project.

³⁶ JSMP Press Release, November 2010 edition entitled "Government attends to urgent request from the National Parliament in relation to the issue of electricity at the National Hospital". Refer to JSMP website, www.jsmp.minihub.org, Parliament Watch Project.

b) Challenges Faced by the National Parliament in 2010

In addition to the achievements of the Parliament, a number of obstacles were also encountered in 2010. These challenges included:

i) Attendance of Parliamentarians Impacted the Legislative Process

Based on JSMP monitoring, some Parliamentarians did not comply with the working hours prescribed in the Internal Regulations of the National Parliament that were approved by the Parliamentarians themselves. These regulations state that the working hours of the National Parliament are between 9am and 6pm.³⁷

The failure to comply with the prescribed working hours has a major impact on the legislative process. Often work is delayed because there are insufficient numbers to establish a quorum and this impacts on the agenda of the Members of Parliament. This often happens in the plenary and in Committee A. For example, in 2010 many of the plenary sessions started at 10am. Often there were not enough Parliamentarians to establish a quorum, and consequently in March the President of the National Parliament demanded that Members of Parliament comply with the proper working hours.³⁸ This stance was supported by the President of Committee A, Ms. Fernanda Borges who stated that the participation of Parliamentarians was minimal and therefore on many occasions a quorum could not be established and discussion on important laws had to be postponed.³⁹

That said, JSMP acknowledges that sometimes members of Parliament have other more important activities to attend to. Member Maria Paixao emphasized this point when she said that Parliamentarians often arrive late because they have other important commitments such as attending seminars, meetings and other events.⁴⁰

ii) Parliamentarians Not Very Active or Creative During the Legislative Process

JSMP noted that when draft laws were being debated, Parliamentarians did not actively contribute to the legislative process in comparison with their reporting back to the parliament on miscellaneous information. JSMP acknowledges that resources to support the Parliamentarians are still limited in comparison with other developing nations. JSMP also understands that Members of Parliament have a lot of work to do, however JSMP encourages Parliamentarians to prepare themselves adequately before participating in debates. In order to undertake the necessary preparation Parliamentarians can get assistance and information from advisors, technical experts, books and the internet.

To increase their knowledge about the law, Members of Parliament conduct comparative studies with other countries. There have also been capacity building programs for Members of Parliament, but these have been poorly attended because Parliamentarians say that they have other work to attend to.⁴¹ On this issue, Member

³⁷ Amended Parliamentary Rules of Procedure, Article 46 (2).

³⁸ JSMP Press Release, Edition March 2010, entitled "President of Parliament urges MPs to perform their duties effectively as representatives of the people. Refer to JSMP website: www.jsmp.minihub.org, Parliament Watch Project.

³⁹ Interview with President of Committee A, Ms. Fernanda Borges, on 21 January 2011 at the National Parliament, Dili.

⁴⁰ Interview with the Deputy President of the National Parliament, Ms. Maria Paixao on 16 December 2010 during a National Seminar organized by the PWP in Hotel Boa Ventura, Dili.

⁴¹ Interview with MP Josefa Pereira on 18 January 2011, at the National Parliament, Dili.

Fernanda Borges stated that capacity building must start with the Members of Parliament themselves, though she recognized that capacity building programs are still needed for political parties.⁴²

JSMP believes that it is important for Parliamentarians to be able to understand and discuss draft laws in Parliament. Therefore, JSMP recommends that Members of Parliament make stronger efforts to prepare themselves for legislative debates.

iii) Language Continues to Impede the Legislative Process

At present in the National Parliament nearly all draft laws are written in Portuguese, even though the rules of parliament state that they can be written in either of the official languages, which means it is possible for the laws to be written in Tetum, and for discussion to take place with the use of the other working languages.⁴³

JSMP acknowledges that the use of Portuguese language makes it difficult for a number of Members of Parliament to actively participate in the discussion of draft laws. On this issue, Member Natalino do Santos stated that during plenary sessions the use of Portuguese made it difficult for him to discuss things properly, as was the case when a general discussion took place on the draft Civil Code.⁴⁴ In addition, Member Maria Paixao said that she chose to abstain from a vote on a draft resolution on a group to represent Timor-Leste in the CPLP Council, because she did not understand Portuguese.

The same issue arises within the Government which is responsible for drafting many laws. JSMP notices that often Timorese people cannot participate actively in the legislative process because of language, and therefore draft laws are often prepared by international advisors and are not very well understood by Timorese people.

The Portuguese language still makes it hard for many parties to actively participate in the legislative process, therefore several organizations including JSMP have tried to resolve this problem. For example, JSMP organized an unofficial translation of Books 3 and 4 of the draft Civil Code and focus group discussions on several draft laws. The Post-CAVR institution has also prepared information and translations of the draft Law on a Memorial Institution and the draft Law on Reparations together with other organizations including JSMP. These activities have been aimed at trying to give the public a chance to discuss draft laws. However, there have not been enough of these activities and the Government and the Parliament are actually responsible for organizing these kinds of activities, not civil society.

JSMP urges Members of Parliament and the Government to be more open to all parties and to enable joint analysis and discussion of important draft laws, in order to produce legal products of high quality and publish these laws in languages understood by the community.

⁴² Interview with MP Fernanda Borges on 21 January 2011, at the National Parliament, Dili.

⁴³ Amended Parliamentary Rules of Procedure, Article 98 (1) a).

⁴⁴ JSMP Press Release, Edition June 2010, entitled "Portuguese Languages Makes it Difficult for Members of National Parliament to debate the Draft Civil Code". Refer to JSMP website: www.jsmp.minihub.org, Parliament Watch Project.

iv) Consultation on Draft Laws is Minimal

Consultations on draft laws are the most important part of the legislative process, because during the consultation process good ideas will emerge that will enrich and improve the draft laws and make them more in tune with the local context. As explained above, the Government and the Parliament are responsible for organizing consultations. Consultations can be held at various stages of the drafting process. When the National Parliament conducts a consultation it is called a public hearing.

JSMP is quite concerned because several important laws have not involved adequate consultation. For example, the draft Civil Code is extremely important for all citizens in this nation, however there has not been effective consultation on this draft law.⁴⁵ Based on JSMP monitoring, certain parties were consulted, such as the Bishop of Dili, and a large meeting was held in the Dili Convention centre (Mercado Lama) in relation to the aspects of this law relevant to land. But this is not sufficient - thorough consultations including representatives from civil society and the public are required.

The consultation processes carried out by the Government are also limited. One example are the draft Laws on Juvenile Justice.⁴⁶ Although the Ministry of Justice asked civil society to express opinions on this law, the Ministry has not responded to recommendations made by civil society and did not form a working group to contribute to this important law.

JSMP acknowledges that there has been effective consultation on a number of laws, for example, the Law Against Domestic Violence involved an extremely comprehensive process which took almost eight years. Another example is the draft Law on a Memorial Institute and the draft law on Reparations which have not yet been approved by Parliament.⁴⁷ Therefore, JSMP urges the Parliament and Government to welcome contributions from all parties who wish to provide an opinion or take part in all forms of discussion, to improve the draft laws and ensure that they truly reflect the context of Timor-Leste.

v) Debate on the State Budget has been Very Time Consuming

The State Budget is an extremely important matter that the National Parliament needs to pay attention to, including early considerations on the draft State Budget, financial reports of the State as well as monitoring how the State uses the National Budget.⁴⁸ However, there are also other important issues that the Parliament has to consider. JSMP is concerned that in 2010, a lot of time was spent discussing budgetary issues including: the Budget Rectifications for 2010; the Extensions granted for the submission the report on the Budget Rectification for 2010; and the State Budget for 2011.

Article 1 of Law 8/2007 on the budget period, states that the budgetary period starts on 1 January and ends on 31 December each year. This means that the debate and approval of the budget occurs once a year. However Law No. 13/2009 on the budget

⁴⁵ JSMP Bulletin 3/2010, October 2010, refer to JSMP website: www.jsmp.minihub.org, Parliament Watch Project and proposals made by JSMP to members of Committee A on the Civil Code.

⁴⁶ JSMP Bulletin 1/2010, May Edition and proposals made by JSMP to the Ministry of Justice, refer to JSMP website: www.jsmp.minihub.org, Parliament Watch Project.

⁴⁷ JSMP Bulletin 2/2010, July Edition, refer to JSMP website: www.jsmp.minihub.org, Parliament Watch Project.

⁴⁸ RDTL Constitution, Article 95 (3) (d) and (e).

and financial management acknowledges that the budget can be amended (a budget rectification) and Article 34(2) of this law provides an opportunity to amend the State Budget if necessary.⁴⁹

Based on JSMP monitoring in 2010 a lot of time was spent debating the State Budgets of 2010 and 2011. In June three weeks were spent debating the Rectification of the State Budget for 2010.⁵⁰ A further 30 sitting days were spent debating the State Budget for 2011, which included organising a public hearing and holding discussions in plenary.⁵¹ The Committees started on 18 November 2010 and the budget was approved in plenary on 28 January 2011.

Despite this criticism, JSMP respects the efforts of Members of Parliament to attend and participate actively in the debate on the State Budget because the majority of Parliamentarians came early and almost all of them attended the plenary. During the debate most Parliamentarians actively questioned and criticized members of government. JSMP believes that this is a positive attribute in a democratic nation.

JSMP hopes that the attendance and active participation of Members of Parliament in debating the State Budget will also be extended to other aspects of the legislative process, because all laws are as important as the State Budget. JSMP also believes that the debate on the budget was not used merely as a political stage, despite the fact that the debate was transmitted live on State radio and television. For example on 14 December 2010, the plenary session to debate the budget started in the afternoon and continued until midnight. Members of Parliament from AMP and the opposition complained that the budget debate was slow because several Members wanted to politicize the debate broadcasted on television and radio.⁵² JSMP believes that this statement is not true and that Members participated actively and sacrificed their time by working until midnight, because they wanted there to be financial transparency in this democratic nation.

8) Conclusions and Recommendations

JSMP congratulates the National Parliament because it managed to complete a lot of work successfully and effectively in 2010. JSMP observed many developments in the legislative process in the Democratic State of Timor-Leste; however some aspects require further improvements. For this reason JSMP has prepared a number of recommendations to help the work of the Members of Parliament. JSMP hopes that the Parliamentarians will consider these recommendations so they can work more effectively in 2011.

JSMP offers the following recommendations for consideration:

1. The National Parliament needs to employ more staff, especially researchers, and to build their capacity to a reasonable standard so that they can help the Members of Parliament to perform their work;

⁴⁹ JSMP Bulletin POP 3/2010, p 6, October 2010, refer to JSMP website: www.jsmp.minihub.org, Parliament Watch Project.

⁵⁰ JSMP Bulletin 2/2010, July Edition, refer to JSMP website: www.jsmp.minihub.org, Parliament Watch Project

⁵¹ Appreciation of the State Budget by Committee C which deals with Economics, Finance and Anti-Corruption.

⁵² Based on JSMP monitoring - 14 December 2010

2. The National Parliament needs to increase the number of national and international advisors to help Parliamentarians with the legislative process;
3. The National Parliament needs to increase the quantity of resources in Tetum and Indonesian in the parliamentary library so that all members of Parliament can understand and use these resources;
4. The National Parliament and Government should prepare all documents, including draft laws, in Tetum, not just Portuguese since both are official languages.
5. Members of Parliament need to be more disciplined and comply with working hours in accordance with the internal regulations of the Parliament approved by the Parliament itself;
6. Members of Parliament need to be more active and creative during the legislative process; Members of Parliament also need to be well prepared before participating in the drafting of a law, by engaging in discussion with advisors, technical researchers, accessing books and the internet as well as ensuring there are comparative studies with other countries;
7. Members of Parliament have to attend all capacity building programs to increase their knowledge on relevant matters;
8. The National Parliament and Government should develop a program for improving the dissemination of information about the democratic system in Timor-Leste, the legislative process and people's political rights, through civic education starting at the primary school level and extending to cover all members of the community;
9. This civic education should include specific topics that reflect current situations, for example prior to elections civic education should focus on political rights, electoral laws and laws on municipal elections;
10. The Government and Parliament need to engage in thorough, meaningful and relevant consultation with all parties in relation to the drafting of laws and assist members of the community to participate in this process;
11. The Government and Parliament need to have a solid plan in relation to the State Budget, so that Members of Parliament can provide positive input and can approve the budget annually in a precise and efficient manner so as to avoid protracted debates on the budget;
12. In 2011 the National Parliament should pay special attention to important draft laws still pending before the Parliament, for example the draft law on a Memorial Institution, the draft law on Reparations, the draft Civil Code and the draft Land Law.

Appendix 1: List of Interviews

1. Interview with MP Fernanda Borges, President of Committee A, in the National Parliament, Dili, on 21 January 2011.
2. Presentation of the Deputy President of National Parliament, MP Maria Paixao, during a National Seminar organized by the PWP in Hotel Ventura Lecidere, Dili, 16 December 2010.
3. Interview with Deputy President of the National Parliament, MP Vicente Guterres, in the Plenary Room of the National Parliament, on 24 January 2010.
4. Interview with MP Aniceto Guterres, Chief of the Fretilin Bench, Opposition Party, 24 January 2010.
5. Interview with MP Tereza Carvalho, Deputy Secretary of National Parliament, on 21 January 2011.
6. Interview with MP Josefa Pereira from the Fretilin Bench, President of the Women's Parliamentary Caucus (GMPTL), in January 2011.
7. Interview with Mr. Francisco Ximenes, Technical Secretary to Committee A, on 21 January 2011.
8. Interview with Mr. João Rui Amaral, General Secretary of the National Parliament, in the National Parliament, Dili, 25 January 2011.