



**DEMOCRATIC REPUBLIC OF  
TIMOR-LESTE**

**FINAL REPORT**

**PRESIDENTIAL & PARLIAMENTARY  
ELECTIONS**

**April, May & June 2007**

**EUROPEAN UNION  
ELECTION OBSERVATION MISSION**

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## I. EXECUTIVE SUMMARY

- Following receipt of an invitation from the government of Timor-Leste, the European Union Election Observation Mission (EU EOM) observed the Presidential and Parliamentary elections that were held on 9 April (presidential first round), 9 May (presidential second round) and 30 June (parliamentary), 2007. The mandate of the EUEOM, led by Mr. Javier Pomes (Member of the European Parliament, MEP), was to assess the election process in accordance with the Timorese legal framework and regional and international standards for democratic elections. The EOM adhered to the “Declaration of Principles for International Election Observation” commemorated at the United Nations in October 2005.
- The presidential and parliamentary elections 2007 saw an openly-contested electoral process that represents a significant milestone in the democratic development of Timor-Leste. The elections benefited from the full engagement of political parties and were notable for the degree of freedom enjoyed by all candidates to assemble and to express their views. The electoral administration conducted credible and genuine elections in a generally peaceful environment, the Timorese showed an admirable commitment to democracy and eagerly engaged in the electoral process. Both Presidential and Parliamentary elections met basic international standards for democratic elections.<sup>1</sup>
- The legal framework is broadly in accordance with international standards for democratic elections, but contains significant gaps and was finalised late. Problematic aspects that need to be addressed before future elections include the lack of enforcement powers and sanctions to ensure compliance with the law.
- The elections were administered by the Technical Secretariat for Election Administration (STAE), which falls under the Ministry of State Administration, leading some candidates to question its impartiality throughout the process. The election process was supervised by the independent National Election Commission (CNE), which was also responsible for preparing regulations and resolving complaints. The CNE was created late, in January 2007, limiting its ability to supervise all aspects of the presidential election process. Some civil society organizations questioned the full independence of these two bodies from state influence, but approved their overall performance and agreed with the final outcome of the elections.
- Both election bodies carried out their tasks with technical proficiency and worked hard to achieve peaceful and credible elections. They were provided with advice and support by the United Nations Integrated Mission in Timor (UNMIT), with several hundred staff (400 at the peak of operations). This support occasionally went as far as decision making, beyond UNMIT’s original mandate. Some improvements and capacity-building are needed for future elections, in particular, a better co-ordination between STAE and CNE, more powers for the CNE, greater transparency by CNE, and more advance planning by STAE.

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<sup>1</sup> Of particular importance are the international standards contained in the international Covenant on Civil and Political Rights (ICCPR), which Timor-Leste ratified on 18 December 2003.

- Over 500,000 voters were registered to take part in the presidential and parliamentary elections, the majority having registered for the *suco* (local) elections of 2004-5. A total of 70,000 new voters registered during the registration update period. Certain features of the registration process affect the accuracy of the register, although this is due to the desire to enfranchise as many people as possible. These shortcomings need to be corrected.
- Due to the 2006 crisis and the large numbers of internally displaced persons (IDPs), there was no separate voter list for each polling stations, which allowed more flexibility to the voters but at the expense of some anti-fraud measures. There was also no public display and challenge period before the presidential election, although this is a key requirement for transparency and the credibility of the register.
- Eight candidates registered as presidential candidates, including one woman. None of the candidates that applied was rejected, the most onerous registration criterion being the presentation of 5,000 citizens' supporting signatures. There was a lack of public information about the candidate verification process. A total of 1260 candidates were registered for the parliamentary elections. The law requires that each party or coalition present a list of 90 candidates (65 principal candidates and 25 reserves). A total of 14 political entities submitted a list.
- Presidential and parliamentary candidates and parties were generally able to exercise their rights of freedom of expression, assembly, association and movement. Candidates were able to engage without major obstacles in all kinds of campaign activities, which took place across the whole country. In almost 30% of the campaign activities observed by EU EOM observers there was some distribution of goods or money, in contravention of Timorese electoral regulations. The Code of Conduct for Candidates for the Presidency of Timor-Leste, as well as the Political Party Accord for the Parliamentary election, were occasionally violated. The EU EOM noted that interventions by the CNE to stop negative campaigning were limited.
- The EU EOM regretted that parties and candidates did not dissociate themselves from local figures allegedly involved in voter intimidation, or accused of personal or institutional responsibilities during the 2006 crisis by the United Nations Independent Special Commission of Inquiry for Timor-Leste.
- The National Election Commission's complaints procedure used for both elections was published very late for the presidential elections. It contained some restrictive requirements. Public information about how to make a complaint, and about how complaints were resolved, needs to be improved.
- Women participated in all aspects of these elections, although not always in proportion to their numbers in the population. Women made up 48.7% of registered voters. One female presidential candidate stood, and raised women's issues in the national debate, but other candidates' campaigns had little coverage of gender issues. The law provides for a quota of a quarter of the candidates on the lists for the parliamentary elections to be women. The parliamentary quota resulted in a slightly higher percentage of women being elected than in the previous parliament.

- On election day voters turned out in significant numbers in both elections: 81% turnout in the presidential and 80% in the parliamentary. Voting was calm and handled in an orderly manner, and polling procedures were generally well followed. Few instances of intimidation and disruption were reported by EU observers. Representatives of political parties and national observers were present in almost all polling stations visited, contributing to the transparency of the process.
- Considerable improvements in voting and counting procedures were made, in particular between the first and second rounds of the presidential elections, resulting in swifter processes and fewer counting mistakes. Counting showed some difficulties in the first round with form-filling and the determination of invalid votes, with improvements by the second round. Counting took place at the district level during the parliamentary elections as a result of an amendment to the electoral law.
- The high turnout during both elections and the progressive reduction of blank and invalid votes throughout both elections show that the electorate was familiar with the polling procedures thanks to a long voter education campaign. Furthermore, the new counting procedures implemented during the parliamentary elections were understood and accepted by the population.
- Problems with district tabulation procedures and results announcements in the first round were largely corrected and improved for the second round of the Presidential elections. Public information on results could still be improved, by issuing a detailed breakdown of results per polling station and explaining the tabulation process. Significant improvements were noted for the parliamentary elections, with the CNE giving press conferences twice a day, providing results and feeding a website bulletin regularly.
- Like many other sectors of the country, the Timorese media is limited in its capacity and human resources. Specific legislation to regulate media activity should be adopted and efforts are necessary to improve the technical skills of journalists, the quality and the reach of media. Despite its weakness and the harsh conditions of work, coverage of the elections was fairly balanced and the media contributed to the dissemination of information on the elections.

## **II. INTRODUCTION**

Presidential Elections took place in two rounds the 9<sup>th</sup> of April and 9<sup>th</sup> of May, Parliamentary Elections were held 30 of June. Following an invitation from the government of Timor-Leste and the National Election Commission (CNE), the European Union (EU) established an Election Observation Mission (EOM) in the Democratic Republic of Timor-Leste for the duration of the election process. The Chief Observer was Mr. Javier Pomes (Spain), Member of the European Parliament (MEP).

The EU EOM was deployed on 15 March 2007, and undertook observation in all 13 Districts. The Mission comprised a core team of seven election experts and 28 long-term observers (LTOs). The EU EOM was joined during the first presidential round and the Parliamentary Election by a four and two member delegation from the European Parliament respectively, led by Mrs. Ana Gomes MEP from Portugal. The EU EOM issued three statements of preliminary findings and

conclusions on 11 of April, 11 of May and 2 July 2007<sup>2</sup>. Upon the conclusion of the electoral process, the EU EOM closed its operations on 14 July 2007.

The mandate of the EU EOM was to assess comprehensively whether the electoral process was in accordance with the Timorese legal framework and with international principles and standards for genuine democratic elections.<sup>3</sup>

The EU EOM wishes to thank the government of Timor-Leste, the National Electoral Commission (CNE), the Technical Secretariat for Election Administration (STAE), political parties, candidates and civil society organizations in Timor-Leste as well as representatives of EU Embassies in Dili, the European Commission Office in Timor-Leste and the United Nations Integrated Mission in Timor-Leste (UNMIT) for their support and assistance throughout the course of the observation. The EU EOM also extends its gratitude to the UN Electoral Certification Team, other international observer groups and domestic monitoring organizations.

This final report presents the findings of the EU EOM covering the process prior to, during and following the two elections and contains a number of recommendations for future elections.

### **III. POLITICAL BACKGROUND**

#### **A. Political Context**

Timor-Leste was under Portuguese control for 450 years, until the Portuguese abruptly left in 1975 after the Carnation Revolution (*Revolução dos Cravos*). Independence was unilaterally declared on 28 November 1975 by FRETILIN (Revolutionary Front for Independent Timor-Leste), but not internationally recognised. Nine days later Indonesia invaded, and remained for the next 24 years. Since FRETILIN had Marxist-Leninist leanings and some support from China, Indonesia invaded partly because of their fear of the spread of communism in the region, and received some Western backing for doing so. The Timorese carried out a long resistance struggle for independence, both politically and militarily. FRETILIN was the main political grouping, although from the late 1980s it operated under the umbrella of broader coalition fronts, including the CNRM (National Council of Maubere Resistance), and its successor the CNRT (National Council of Timorese Resistance) set up by Xanana Gusmão. The principal military resistance group was FALINTIL (National Liberation Armed Forces of Timor-Leste), led by Xanana Gusmão. Many of the political leaders spent this period in exile, including some in Mozambique and Angola known as the Maputo Group, others in Australia or Western countries. Some leaders (including Gusmão) spent periods in Indonesian prisons. Estimates by Amnesty International and by the Timorese Truth and Reconciliation Commission (CAVR) are that between 100,00 and 200,000 lost their lives during the period of Indonesian rule, whether in conflicts, or as a result of the extreme poverty, famine and displacements.

Following the downfall of the Suharto regime in Indonesia in 1998, President Habibie decided to allow the Timorese people to determine their status in a referendum. The UN supervised the referendum on independence from Indonesia on 30 August 1999, and 78% of the population

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<sup>2</sup> See EU EOM website [www.euomtimorleste.org](http://www.euomtimorleste.org)

<sup>3</sup> See “International Declaration of Principles for Election Observation” adopted by the EU, the United Nations and others on 27 October 2005:  
[http://ec.europa.eu/comm/external\\_relations/human\\_rights?euelection\\_ass\\_observ?docs?code\\_conduct\\_en.pdf](http://ec.europa.eu/comm/external_relations/human_rights?euelection_ass_observ?docs?code_conduct_en.pdf)

voted in favour. This resulted immediately in a huge wave of violence and terror carried out by pro-Indonesian militias and security forces, with many deaths, and a large part of the population forced to flee their homes. More than 250,000 fled across the border to West Timor, and many others fled into the interior. Over 80% of the country's infrastructure was destroyed. An Australian-led international military force arrived in late September 1999 to restore order, and from then on the country was under UN transitional administration (UNTAET) until May 2002.

In August 2001 elections were held for a constituent assembly, under UN supervision. Of the 88 seats making up this assembly, 55 went to FRETILIN, with the rest being divided amongst 11 smaller parties, none of which gained more than seven seats. Presidential elections were held in April 2002, and Xanana Gusmão was elected with an overwhelming majority of the vote – 82%. Gusmão had been a member of FRETILIN but had resigned from the party in 1987, pulling FALINTIL out of FRETILIN at the same time in order to make it a non-partisan army. No FRETILIN candidate stood against him, his only opponent being Xavier do Amaral (a well-known figure who had been the first president in November 1975, a founder of FRETILIN, and now an opposition leader). Both of these elections and the 1999 referendum were observed by EU election observation missions.

Independence was declared on 20 May 2002, and internationally recognised. The terms of the newly-approved Constitution provided that the members of the constituent assembly automatically became the members of the first parliament. Both the parliament and the president had five year terms which expired in 2007. After independence a UN presence remained in the country, with a peacekeeping mission (UNMISSET) until May 2005, followed by a smaller political mission (UNOTIL) until mid-2006. Following the political crisis of 2006 UNMIT was established, with a mandate that includes support of the electoral process, as well as a law enforcement and public security role.

The 2007 presidential and parliamentary elections came after the most severe social and political crisis experienced by Timor-Leste in its short history as an independent country. The crisis broke out in March 2006 due to the dismissal of 591 FDTL (Força de Defesa de Timor-Leste, i.e. Timor-Leste's Armed Forces) soldiers, who had abandoned their barracks in February 2006 protesting the alleged discrimination against members of the armed forces from the Western part of Timor-Leste. The soldiers were known as the *petitioners* for the written demands they had submitted to Brigadier General Taur Matan Ruak, who later took the decision to dismiss these soldiers with the support of then Prime Minister Mari Alkatiri. Then President Xanana Gusmão publicly criticized the firing of the soldiers.

After four days of demonstrating, a wave of violence that would last for two months ignited in the country. It was centred mainly in Dili, but with occasional echoes in some of the districts. The confrontations resulted in an estimated number of 37 fatalities and hundreds of thousands of displaced people (between 150,000 and more than 200,000, depending on the sources). One of the consequences was that the Dili national police were disarmed and taken out of service. The incidents demonstrated the weakness of the young Timorese institutions.

As the violence reached its peak in May 2006, FDTL Military Police's Major Alfredo Reinado deserted with some loyal officers for what he considered the army's improper intervention during the clashes outside the Government Palace. He became the unofficial spokesman for the petitioners, and was subsequently involved in clashes with the military. Arrested and sent to prison, Reinado escaped soon thereafter and remained at large during the whole electoral period, despite several attempts to hunt him down.



An international military and police force (made up of units from Australia, New Zealand, Malaysia and Portugal) started to arrive in the country on 27 May 2006, following the request of the Timorese government. Three days later, President Gusmão declared a state of emergency and took under his direct control the police and the army. Immediately, the political crisis gained momentum. Within one month, three ministers resigned (Interior, Rogério Lobato, and Defence, Roque Rodrigues, on 1 June; Foreign Affairs, José Ramos Horta, on 25 June), as well as Prime Minister Mari Alkatiri (on 26 June), whose position was taken on 10 July by José Ramos Horta.

The crisis raked up latent tensions between western and eastern Timorese dating back to the times of resistance against Indonesian occupation, which had been fuelled by persistent poverty, land ownership issues, a very high unemployment rate, and a serious problem of juvenile gang violence.

The security situation significantly improved towards the end of 2006, due to the presence of the United Nations Police (UNPOL), responsible for security in the country since September 2006, the International Stabilization Force (ISF), a joint Australian / New Zealand military force, and the National Police (PNTL), which worked under international command.

An UN Independent Special Commission of Inquiry for Timor-Leste was established to investigate the incidents that took place between April and May 2006. Its October 2006 report recommended the prosecution of numerous persons on criminal charges. Following the recommendations, former Minister of Interior Rogério Lobato was convicted of murder and sentenced to seven and a half years in jail. The sentence was challenged in the Court of Appeal, which upheld it.

The 2007 presidential and parliamentary elections were seen as an opportunity to put an end to the crisis, reduce tensions, consolidate stability and bring about solutions to Timor-Leste's long-lasting problems through peaceful and democratic means.

## **B. Key Political Actors**

Eight candidates ran for the presidency in the 9 April elections, among them the Speaker of the Parliament and president of the ruling party FRETILIN (Revolutionary Front for an Independent Timor-Leste), Francisco Guterres "Lú Olo"; and the Prime Minister and Nobel Laureate José Ramos Horta. Ramos Horta was backed by President Gusmão and his newly created party CNRT (National Congress for Timorese Reconstruction), which controversially took its acronym from the former umbrella resistance body. Neither of these two candidates' public image was deemed seriously damaged by the April-May 2006 crisis.

The other six candidates included Fernando "La Sama" Araújo, leader of the strongest opposition party in parliament PD (Democratic Party); Xavier do Amaral, from ASDT (Timorese Social Democratic Association), Timor-Leste's first president after the country announced independence in 1975; Lúcia Lobato, the only woman running for the presidency, supported by PSD (Social Democratic Party); Manuel Tilman, leader of the pro-Indonesian integrationist party KOTA (Association of Timorese Heroes); Avelino Coelho, leader of PST (Socialist Party of Timor), a Marxist breakaway of FRETILIN; and João Carrascalão, president of the conservative UDT (Timorese Democratic Union).

Francisco Guterres "Lú Olo" and Ramos Horta went to the second round after obtaining, respectively, 28% and 22% of the valid votes. On May 9, José Ramos Horta, supported by five of the candidates out of the presidential race (Fernando "La Sama" Araújo, Xavier do Amaral, Lúcia

Lobato, João Carrascalão and Avelino Coelho) won the presidency with 69% of the votes, whereas Francisco Guterres, only backed by Manuel Tilman, barely increased by 3% the vote he had obtained during the first round (31%).

All the candidates defeated in the first round of the presidential elections occupied top positions in their parties lists' for the 30 June parliamentary elections, which were contested by 14 parties. The 3% threshold for parties to be able to take up seats limited to 7 the number of parties that access to the new parliament. This threshold has the advantage of eliminating to many small parties and helping to avoid a fragmentary parliament. 3% is in line with international standards and generally welcome by parties.

## IV. LEGAL ISSUES

### A. The legal framework

Timor-Leste has ratified all major human rights conventions, including the International Covenant on Civil and Political Rights (ICCPR). The legal framework for the presidential and parliamentary elections is broadly in accordance with international standards for democratic elections and was respected in the conduct of these elections. However, perhaps due to the inexperience of the electoral authorities there was a lack of transparency in the process, especially when it came to access to information for observers, publication of results during the presidential election and complaints procedures during both elections.

The framework suffered from some gaps and shortcomings. A particular problem was the very late finalisation of the legal framework for both elections, leading to a lack of certainty for all involved. The legal framework for elections is found in the Constitution of 2002 and the three new electoral laws of December 2006: the Law of Election Administration Bodies, the Parliamentary Election Law and the Presidential Election Law. Relevant provisions are also found in the Political Parties Law<sup>4</sup>. Only some of the gaps in the Presidential and Parliamentary Election Laws were filled by Regulations and Codes of Conduct, but some other remained unfilled. The amendments to the Presidential and Parliamentary Election Laws partially addressed their shortcomings.

#### *The Presidential Electoral System*

The Presidential Election Law provides for the President to be elected by a majority of the valid votes in one national constituency. In case no candidate obtains an absolute majority in the first round, a run-off election is required to be held 30 days later between the top two candidates. For these elections the first round was held on 9 April and the second on 9 May.

#### *The Parliamentary Electoral System*

The Parliamentary Election Law provides for the Parliament to have 65 seats, elected in one national constituency. A closed-list proportional representation system is used, with a 3% threshold. The d'Hondt highest average formula is used for the allocation of the seats. According to the Parliamentary Election Law, presidential and parliamentary elections have to be held with a

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<sup>4</sup> These laws are numbered as the Law of Election Administration Bodies 5/2006, the Parliamentary Election Law 6/2006, the Presidential Election Law 7/2006, and the Political Parties Law 3/2004. The presidential and the parliamentary election laws are very similar.

minimum interval of three weeks between them. The parliamentary elections were held on 30 June.

#### *The Language of the Laws*

The Constitution and the election laws are substantially similar to Portugal's, and are written in Portuguese<sup>5</sup>, one of the two official languages. The other official language is Tetum, widely-spoken by 75-80% of the population, but still in the process of standardisation as a written language. Tetum is not yet at a stage to be the language of the laws and the legal system. It is a significant difficulty that only a minority of the population (perhaps 5-10%) speaks and reads Portuguese well. Illiteracy rates are high, around 50%. This means the laws are inaccessible to the majority of the population, including to some public officials and legislators. Special efforts at civic education and public information are needed to disseminate the laws.

#### *Local capacity*

Lack of knowledge of the law among key stakeholders is widespread and results in confusion, lack of transparency in the process and lack of follow up in cases of breaches.

### **B. Other Legal Issues**

The new laws were adopted as late as December 2006, in part due to parliamentary delays caused by the 2006 political crisis. The CNE is responsible for approving the regulations and codes of conduct, but the CNE was not constituted until 15 January 2007, thus leading to inevitable delays in finalising the legal framework.

#### *Late Amendment to the Presidential Election Law*

Parliament passed a late amendment to the election law at the end of March that remedied some of the shortcomings in procedures. The law had said that there was only one hour for counting to be completed at polling stations, after which all materials would be transported to the district centres for counting to begin again<sup>6</sup>. This was a cause for concern, as the transporting would have raised logistics and security concerns, and the process would have been less transparent. The amendment provided for counting at the polling stations. Another amendment was the removal of the provision for a re-election to be held if voting was interrupted or not held at a particular station.

However, the amendment also contained a controversial provision approved by the FRETILIN-dominated parliament, which had not been discussed or consulted among stakeholders. The amendment was imprecise, but it allowed candidates to include any symbol of their choice on the ballot paper. This issue resulted in two appeals to the Court of Appeal (see below, Candidate Registration), and caused further delay. The amendment did not come into force until 28 March, and this held up the Voting and Counting Regulation, which came into force only four days

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<sup>5</sup> International technical assistance in creating a body of national laws and in staffing the legal system is led by Portugal and other Lusophone nations. There is still not a complete set of national laws, with some Indonesian laws (for example, the Penal Code), and some UN transitional authority regulations remaining in force.

<sup>6</sup> The original counting provision was the result of a compromise between FRETILIN who wanted counting to be in the 13 district capitals (as it was in the previous UN-administered elections), and others who wanted it to be at the polling stations. Counting at polling stations is more transparent, and raises fewer suspicions. It is a better practice unless there are special circumstances requiring centralised counting. The same issue arose again in May with the controversial amendment to the Parliamentary Election Law that moved counting to the district capitals.

before the first round election. These delays created uncertainty and difficulties in voter education, in training for candidate agents, observers and polling staff.

*Amendment to the Parliamentary Election Law*

The Parliamentary Election Law was amended, approved by the FRETILIN parliamentary majority without discussion and promulgated by the President on 31 May. The most important modification concerned the counting at the District Tabulation Centres (DTC), instead of the Polling Stations (PS).

Counting at district level requires logistical and security preparations for the transport of the ballot boxes. The rationale behind the shift from PS to DTC counting was to hide the preferences of villages and small towns in order to avoid post-election retaliation. However, this was not served by the amendment to the electoral law, as mixing of the ballots was not foreseen but was included in the guidelines for counting produced only on 5 June. These guidelines provided the necessary safeguards for the transparency, promptness and accuracy of the counting process, therefore meeting all relevant international standards.

The CNE sent a letter dated 16 May, to the National Parliament regretting the fact that the CNE was not consulted during the period of discussion of the amendment. The CNE considered that the counting should be kept in polling stations for several reasons:

- the counting at polling stations for the presidential elections was decided with the support of the majority of political parties in parliament and after discussions among civil society;
- the counting at district level affects the transparency of the process (and might create suspicions of manipulation) and reduces the feeling of participation in the process by the population;
- changing the counting process implicates changes at several levels: legal (new regulations had to be approved), operational and logistical, voters' education, polling and counting staff training at polling station and district level and budget among others.

The CNE also sent a legal opinion to the parliament making recommendations to be included in the amendment of the Parliamentary Election Law. Six of the 17 recommendations were taken into account. Recommendations not taken into account included corrections to the definition of blank and invalid votes, the provision of a more detailed national tabulation process which included the process followed in the previous election, with increased powers to CNE to check the blank votes and validate them, as well as to call upon witnesses to provide evidence under oath.

A new positive provision gave the possibility to vote in prisons and hospitals through mobile polling stations, which had not been possible in the Presidential elections, contrary to international best practice. A provision to include photos of the first on the ballot of each list was removed.

*Late Approval of Regulations and Codes of Conduct*

The approval of regulations and Codes of Conduct are the responsibility of CNE. However, the lack of clarity in the legal provisions, compounded by difficulties in the relation between STAE and CNE, led to a number of disputes about this function<sup>7</sup>. There were disputes as to whether

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<sup>7</sup> The Law of Election Administration Bodies (5/2006) says at Article 8(c) that it is CNE's function to approve the regulations provided for in the electoral laws, as well as the codes of conduct. The Presidential Election Law (7/2006) says at Article 67 that regulations should be drafted by STAE and approved by CNE.

CNE could make amendments to draft regulations produced by STAE, as to which body had the power to send an approved regulation for publication in the national gazette (a prerequisite for it to come into force), and which body had the power to make a regulation on complaints. Whilst these disputes were being resolved, there were more delays in finalising the regulations. The law needs to be clarified to resolve these issues.

The Regulations on Candidate Registration and Voter Registration came into force on 16 February, unacceptably late for the presidential elections. It left the presidential candidates with only twelve days to complete all of the requirements, including obtaining 5,000 supporting signatures with a minimum of 100 from each district. Voter registration had already begun (on 29 January) before the governing regulation came into force. The reasons for these delays were the late approval of the election laws, and the late constitution of the CNE, which left STAE and CNE in a very difficult situation. The same regulations governed the parliamentary elections.

### **Gaps in the Legal Framework**

The Constitution contains important provisions to try and introduce a level playing field in elections, setting down the following principles for election campaigns: equality of opportunity and treatment for all candidates, impartiality towards candidacies on the part of public bodies, transparency and supervision of electoral expenses. But these important principles remain at the level of rhetoric unless provided with detail and enforcement mechanisms in legislation, and this was not fully done.

#### *Campaign Finance*

Campaign finance was under-regulated: there was no limit on candidate funding or spending. This meant that the richest candidate could out-spend all the others<sup>8</sup>. However, in-kind assistance for each candidate from UNDP (campaign materials) for both elections and a lump sum grant from the government contributed to levelling the playing field<sup>9</sup>. The lump sum was of USD 20,000 per presidential candidate. For the parliamentary elections it was USD 30,000 per political party and 45,000 per coalition.

The Campaign Regulation required the candidates to submit their accounts to CNE within 30 days of the election. CNE sent several letters to the presidential candidates reminding them of their obligation to present the campaign accounts within 30 days of election day. However, the accounts were not presented until 12 July for the presidential elections and CNE argued that the candidates did not have enough knowledge of the requirement. Insufficient detail had been provided and no sanction was specified for non-compliance. On 27 June, a meeting between CNE and the political parties and coalitions running for the parliamentary election was held to brief about campaign financing and transparency of political parties' accounts.

#### *Candidates' Code of Conduct*

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<sup>8</sup> The Political Parties Law provides that donations are permitted from foreign or national individuals, but not from governments, trade unions, public or state-owned companies.

<sup>9</sup> The public finance was not provided for by law, but was an ad hoc decision. It was a reasonable and equitable solution for these elections. However, if in future such amounts were provided to all candidates, it could work as a financial incentive to become a candidate. In these elections the proposal was announced after the candidates had already registered. In general it is more common for some part of public financing to be given proportionately to parties or candidates in accordance with their votes at the last elections. That presents a difficulty in calculating the support of new parties or candidates, and the fixed sum system does avoid that.

The candidates' code of conduct was not backed up by any sanctions, and so as a non-binding agreement its effectiveness was limited. It contained important provisions about respect for all candidates, and positive and peaceful rather than negative and violent campaigning. When it was breached, especially during the second round, there was little that could be done to stop this. It is essential to have a sanction for violation of a legal provision. If it is to be made a crime, it should preferably be contained in the electoral law itself, rather than in a regulation<sup>10</sup>. An alternative to creating a criminal offence is for violation of a provision to lead to an administrative sanction.

#### *CNE's Lack of Enforcement Powers*

One of the principal omissions in the law is the CNE's lack of enforcement powers. Responsible for supervising the elections, the CNE has no power to sanction violations of the laws or regulations, and little power to order matters to be remedied, or to obtain information from the STAE and other bodies. The CNE wrote letters to those reported as violating the law or regulations. The letters included to the two second round candidates regarding their use of insulting language during the campaign (a violation of the Candidates' Code of Conduct), and to the government regarding the use of public resources and campaigning by public officials. The CNE publicised some of these issues to the media, in an attempt to exercise moral pressure on those who violated the campaign regulations, but there was little more they could do. The CNE's powers need to be increased before future elections.

#### *Electoral Crimes*

A number of electoral crimes are set out in the Presidential Election Law, with punishments up to three years in prison and fines up to US\$ 2000. If an electoral crime is reported to the public prosecutor, there are no expedited procedures for dealing with it. There was a substantial backlog of cases in the criminal legal system (partly due to the lack of resources, partly due to cases pending from the 2006 crisis), which made it unlikely that a case would even begin to be investigated before the election. In general, it is difficult to say that the struggling and overburdened criminal legal system acts as an effective deterrent against crime. In previous elections reported electoral crimes have not resulted in any convictions. In part this is due to generalised problems in the legal system: citizens are unwilling to report crimes or appear as witnesses.

For the presidential elections, the CNE announced that they had sent over 30 of the complaints that they received during the first and second round to the public prosecutor, since they alleged a criminal offence. No convictions were made. For the parliamentary election period, the public prosecutor's office reported that they received a total of 32 cases of electoral-related alleged criminal offences.

#### *Complaints*

Having an effective complaints-resolution mechanism is a key part of an electoral system. It is one of the ways of enforcing the electoral laws, together with the criminal legal system and appeals to the court. It is more effective and usually swifter for minor violations of the laws or regulations (those violations that do not constitute crimes) to be dealt with by the election authority, rather than by the courts. The law gives CNE the power to receive and resolve complaints<sup>11</sup>. However, to make its complaints resolution function more meaningful, the CNE

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<sup>10</sup> It is not good legislative practice for a regulation, rather than a law, to create a brand new criminal offence. It can be acceptable for a law to give the broad outlines of the offence, and for further details of it to be specified in a regulation, as recommended by ICCPR art 15.

<sup>11</sup> The Law of Election Administration Bodies, Art. 4 and 8 give the CNE the general duty to supervise the electoral process and ensure the enforcement of the relevant laws. The Presidential Election Law Art. 43 gives voters or candidate agents the right to present a complaint, which if made during voting

needs to have adequate remedies available to it, and sanctions that it can impose (such as fines or suspension of a candidate). These powers are lacking in the current law.

A dispute between CNE and STAE over the power to issue a complaints regulation led to delay in the coming into force of the complaints procedure until *after* the first round election.<sup>12</sup> This was unacceptable in terms of the principle that laws and procedures should be publicly available. Very little public information was made available about how to make a complaint, and partly due to the public's and the candidates' lack of awareness of this mechanism, few official complaints were made during the two presidential campaign periods, despite frequent informal complaints about abuses committed by one or other candidate. CNE wished to circulate a public information leaflet about the complaints procedure to each polling station for the second round election, but STAE refused to do so because of a dispute about the content of the leaflet.

The complaints procedure contained unduly strict requirements, requiring complaints to be made and signed by the witness (it should be sufficient that the witness signs a witness statement, it is not necessary or practical that they must be the complainant themselves). Complaints had to be made by four p.m. of the day following the events, an unusually short deadline. In the logistics and communications context of Timor-Leste, this was onerous. On the other hand, no deadline was provided for the CNE to resolve complaints, although it would be good practice to do so. Few complainants provided the necessary witness statements or detailed description of the facts, and a significant number of complaints were rejected on those grounds.

CNE resources were over-stretched, and they were not able to publish sufficient information about complaints received or how they were resolved. It would increase transparency if more information were made public, and the law should require this. CNE released general statistics about complaints received (154 during the first round, 128 during the second round), the districts where they were received, and the categories that they fell into (for example, polling procedures, counting – which accounted for the great majority of complaints made). Many complaints concerned the validity of ballots, and as such these were dealt with during the national tabulation process. Those that alleged a criminal offence were passed directly to the prosecutor. A list of procedural issues arising from the complaints was sent to STAE so that they could make necessary improvements to staff training or voter education. Where possible, CNE wrote to the complainant informing them about the resolution of their complaint. At press conferences, CNE occasionally released information about how significant complaints had been resolved (for example, Ramos Horta's allegation of voter card-buying was rejected for lack of evidence), but this information was not given on a systematic basis.

Before the CNE announced the preliminary results, it prioritised any complaints that could affect the results and resolved those. In the first round, the CNE said that only a few complaints could

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should initially be handled by the polling staff. The complainant can go to CNE if not satisfied with the result. The Regulation on Voting and Counting (First Round) repeats this at Art. 33, and describes types of complaint at Art. 56 (against the electoral authority's decision, or against an irregularity committed by a third party). The Campaign Regulation Art. 35 says candidates and parties may complain to the CNE if their campaign rights are affected, and gives the CNE the power to pass a complaints procedure.

<sup>12</sup> CNE wanted to approve a complaints regulation earlier, and asked STAE to prepare a draft, but STAE took a restrictive view of the law and said that complaints were outside STAE's functions, and so it refused. CNE doubted its own powers to pass a regulation alone, but eventually approved a complaints procedure. It was not published in the Official Gazette until 19<sup>th</sup> April, the day after CNE announced the preliminary results.

affect the results, by only small numbers. In the second round, the CNE said that there were no complaints that could affect the results. Seven Timorese lawyers were trained by the CNE on complaints handling, and their salary paid by IFES, as part of the capacity-building effort.

See Annex 3 for tables of complaints for the two rounds of presidential elections and the parliamentary elections.

### *Appeals*

The rights of appeal provided by law were in accordance with international standards, although the deadlines were short and there were some procedural gaps. Appeals could be made to the Court of Appeal against any decision of the electoral bodies, and also specifically against the preliminary results and in relation to candidate registration<sup>13</sup>. There was only one instance of appeal provided – there being no further appeal from the Court of Appeal’s decision. 24 hours was the time limit for appealing against the preliminary results, and for appealing against a candidate registration decision, but no time limit was specified for the general right of appeal against a decision of the electoral bodies. 24 hours was a very short deadline for the appellants, given that proofs might need to be gathered from different parts of the country. The Court of Appeal sits only in Dili, so that any appellant from another district would have to travel to the capital. The court only had 24 hours to resolve (48 in candidate registration cases), also very short should it need to hear arguments and deliberate. It was a gap in the law that no procedural provisions were issued, so the grounds of appeal and the remedies to be sought were not specified. Access to justice is hampered by the language issue. The lead judges were internationals, as the national judges were still undergoing mentoring and training. The court judgments are written in Portuguese only.

Before the first round election, the Court of Appeal gave three judgments, as follows (see also below in Candidate Registration). An appeal was made by Lucia Lobato in relation to whether candidates who held public positions, such as Speaker of the Parliament and Prime Minister, should suspend their official functions. The court ruled that this was not required by law. The court’s advisory opinion was sought by President Gusmão on the constitutionality of the amendment to the Presidential Election Law. The court ruled that it was constitutional. Lu-Olo appealed against the CNE’s decision to allow candidates to use the national flag as their symbol on the ballot paper. The court upheld this decision. Each of these three judgments was given swiftly (within one or two days). The court’s judgments were set out clearly with the arguments of the parties presented, and then the detailed reasoning of the court. After the election, three candidates, Fernando Lasama, Xavier do Amaral and Lucia Lobato made an appeal against the preliminary results, and the court rejected this appeal (see “Results”, below). During the second round no appeals were made.

The amendment to the Parliamentary Election Law provided for 48 hours for presentation of appeals and a further 48 hours for their resolution. No appeals were presented after the publication of the provisional results.

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<sup>13</sup> The laws refer to appeals being made to the Supreme Court of Justice, but until that is constituted, the Court of Appeal (*Tribunal de Recurso*) takes its electoral functions. The Law of Election Administration Bodies Art. 3 provides that appeals may be made against decisions of the electoral administration bodies. The Presidential Election Law Art. 21 provides for an appeal against a candidate registration decision, and Art. 47 provides for an appeal against the preliminary results.



## V. ELECTION ADMINISTRATION

### A. Structure and Composition of the Election Administration

There are two election administration bodies: the Technical Secretariat for Election Administration (STAE), under the Ministry of State Administration, is responsible for the administration of the elections; the independent National Election Commission (CNE) is tasked with supervising the process, issuing of policy decisions and approval of regulations<sup>14</sup>. STAE was created in 2003 and administered local elections in 2004/5. CNE was not created until January 2007, due to the late passing of the electoral laws, leaving it in a difficult position for the presidential elections. Both STAE and CNE had limited human and material resources, and were still in the process of developing their institutional capacity. They relied on significant logistics and technical support from UNMIT, both at headquarters and in the districts.

STAE staff are civil servants, whereas the 15 CNE commissioners were appointed in a public appointment process, as specified by law. Both bodies are centralised, with field staff but no subordinate bodies at the local level (other than the polling stations and tabulation centres). In terms of district staff, STAE hired a district co-ordinator and other staff for the electoral period. CNE had four focal points in each district, also hired only for the electoral period, although not in place until the end of February 2007. Polling staff were selected by STAE from the local literate population, although concerns were raised about this process (see below, section B). District tabulation centres were staffed by both STAE and CNE personnel, and headed by a CNE Commissioner.

STAE is by law under the authority of the Minister of State Administration, rather than independent. Although all electoral staff are required by law to behave neutrally and impartially, their independence from ministerial influence was questioned several times (see below, section B). This model is used in other countries, including Portugal, but it means that the impartiality of STAE depends on the perceived and actual impartiality of government ministers, which may be greater in a more established democracy than it is yet in Timor-Leste.

CNE's functions are not only to supervise the process, but also to approve regulations, adjudicate complaints, manage district and national tabulation<sup>15</sup> and prepare the preliminary results. By law, CNE is permanent and autonomous, with its own budget. In fact, there was not enough time for CNE's budget to be included in the national budget, so the Minister for State Administration channelled the money to it, not a suitable long term solution. The CNE raised concerns about its budget being inadequate for its needs, and only short-term (lasting four to six months). However, the CNE's main obstacle was time. Constituted just two and a half months before the first round election, they had to begin from zero in terms of secretariat staff, offices, equipment, and know-how. As a result, their supervision of the voter registration process and some of the electoral preparations in the districts was necessarily incomplete.

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<sup>14</sup> Their functions come from the Law of Election Administration Bodies, and the Organic Statute of STAE, 1/2007. The Constitution, Art 65, refers to an independent body that will supervise registration and electoral activities.

<sup>15</sup> It is a strange feature of the Election Law that the CNE Commissioners are responsible for managing the district tabulation centres, meaning that they are absent from Dili and unable to take decisions or resolve complaints during that time. It would be sensible to have a mechanism for taking emergency decisions, for example, by telephone.

The law provides that CNE is made up of 15 commissioners: three appointed by the President, three elected by the Parliament, three appointed by the government (of the foregoing, at least one from each group must be a woman), one judge, one public prosecutor and one public defender elected by their peers, and three representatives of civil society, including one from the Catholic Church, one from other religions, and one from women's organisations. Their nomination was considered to be a good and independent process. It is unnecessary and undesirable for the government to have the right to appoint commissioners, as that could lead to too great a political majority, especially if one party dominates government, parliament and the presidency. It is a positive feature of the law that one cannot be a Commissioner and have responsibilities in political party leadership or candidacy. Their terms last six years, and are renewable once. The quorum is eight, and this is the number required to make a decision. 15 is a large number for a commission, and since the CNE tended to operate by consensus,<sup>16</sup> this was time-consuming. Although efforts were made to divide up CNE's work into committee structures, these were not all fully functional, in part because the post of Commissioner was not paid full-time, so a number were busy with their other jobs. Only two of the 15 commissioners had experience from previous elections, one of them being the President. This created a large burden for the President, and he and other commissioners worked extremely hard.

#### *The Relation Between the Two Electoral Bodies*

The relation between the two electoral authorities would almost inevitably lead to conflict, given the lack of clarity in the laws as to their respective functions and as to who ultimately has control over key areas. STAE has the legal obligation to provide support and collaboration to CNE, but this did not always happen in practice, as the bodies disagreed over issues.

In particular, disputes concerned the regulation-making power (see above, Legal Framework). There was also poor co-ordination between the two bodies, a lack of information-sharing, and mutual mistrust. Eventually complaints against the other organisation were traded in the media by both bodies just before the second round election, a worrying development, as it damages public credibility in the institutions. It has to be noted that improvement was noted during the parliamentary election as no public disagreements occurred.

The fact that the Minister and vice-Minister of State Administration under which STAE falls, were high profile candidates for FRETILIN, although not against the law, should be highlighted as problematic in perceiving the electoral administration as impartial.

#### *UNMIT's Role*

There were two components to UNMIT's role in the elections<sup>17</sup>: support and advice. UNMIT's staff (over 400 internationals including United Nations Volunteers) and vehicles were essential to the logistical operations, and in places played a key role in staff training and voter education. This was partly due to STAE's and CNE's lack of human and material resources. UNMIT's advice was not always taken, for example, it appeared that UNMIT advisers had only limited influence to help CNE improve the poor and confusing communication of first round results. Communications between national election staff and international UNMIT staff supporting the elections had generally improved by the second round of the Presidential elections, this being one of the lessons learned.

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<sup>16</sup> One notable exception to consensus decision-making was when they had a divided vote on allowing candidates to use any symbol, including the national flag, on the ballot.

<sup>17</sup> UNMIT was established by UN Security Council Resolution 1704 of August 2006.

Given the extreme time pressure during both elections, there was not a great deal of opportunity for UNMIT to carry out capacity-building. The shortage of national staff at STAE and CNE made it difficult for UNMIT to establish a counterpart structure. An inherent difficulty for capacity-building was that no electoral authority staff in the districts are to be employed after the elections, so valuable experience and skills are lost. Even in STAE headquarters, only around 20 staff (including support staff) are planned to be employed after the elections.

Close cooperation between national and international STAE and CNE staff was key for the successful organization of the parliamentary elections. However, EU observers reported a pattern in the districts of the international staff taking a leading role which went beyond advice and support. Although this was demanded by the difficult operational circumstances, it revealed a weakness in the national electoral institutions. It is also difficult to determine whether the presence of international staff, often with more experience, used to making quick decisions, and with control over resources, accentuated the situation.

For the first time the UN established an independent Electoral Certification Team to assess whether the electoral process meets international standards. This was at the request of the Prime Minister following the 2006 crisis and it was established in October of that same year, given fears that FRETILIN might dominate the electoral authorities and process. The Team consisted of three international experts and a small support staff. Their methodology is quite different from election observation, since they do not use first hand observation for processes such as registration, voting and counting. They produced eight public reports concerning the process, the last one published on July 13, 2007. The Certification Team succeeded in their call for some necessary legal changes for both presidential and parliamentary elections, but not all their recommendations were adopted by the electoral authorities or the parliament.

## **B. The Administration of the Elections**

Overall, and taking into account the shortness of time available, both STAE and CNE carried out their tasks with professionalism and worked hard to achieve peaceful and credible elections. Some improvements are needed for future elections, in particular, a better co-ordination between the two bodies, more powers for the CNE, greater transparency by CNE, and more advanced planning by STAE.

The CNE needed more powers in order to enforce the law and the regulations. It was a strengthened body from the predecessor body that had supervised the *suco* elections, and that had complained of its lack of powers<sup>18</sup>, but nonetheless it lacked powers to require information from STAE or other public bodies, or to act against violators of campaign regulations (see above, Legal Framework).

The CNE is fully committed to transparency in principle, although it was not always able to execute this in practice. It is unfortunate that the CNE did not always publicise its decisions (as required by law), and it was slow to disseminate the detailed breakdown of the first round results. This was due to its severe shortage of resources, technical and human, but nonetheless full transparency is a key part of its function and is a priority area for future elections. CNE did make

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<sup>18</sup> The predecessor CNE reported that *suco* election officials paid more attention to the directions from government officials who worked as support teams and accredited observers at polling centres, than they did to the CNE. "The CNE during the Suco Elections: Analysis and Recommendations for the Future Election Supervision Body" by two members of that CNE, Faustino Cardoso (chair of the current CNE) and Carmelita Caetano, Sept 2006.

available for inspection the letters it sent to candidates and other bodies (*avisos*), which was a positive step for transparency. The law does not require CNE to publish the minutes of its meetings or to allow party representatives or observers to attend them, although this could be a useful means to increase openness in the future.

The CNE worked hard to maintain its independence, so it was unfortunate that one of the CNE spokespersons made comments to the press before the first round presidential election that in his personal capacity he supported one of the candidates. This demonstrated his lack of understanding of the importance of CNE's utter impartiality, and showed the need for a code of conduct for CNE personnel. The spokesperson continued in his post throughout both elections.

There were a number of late changes made to STAE's operational plans, in particular relating to the delivery and retrieval of materials, and to the number of ballots to be printed, in both of which the Minister of State Administration became closely involved. The change to the delivery plan was made very late, rendering redundant many weeks of planning and preparation carried out in the districts. It was confusing and less transparent to change plans at the last minute. Although not contrary to the law, and although political manipulation was not widely suspected, it is unusual for a Minister to become involved in such operational questions. It may inhibit the growth of STAE as an institution if its decision-making is subject to frequent high-level revision. Ministerial involvement is inadvisable, as it can create the perception of political interference, even if none is present.

STAE failed to follow correct procedures in the accreditation of candidate agents during the first round of the Presidential elections, leading to many cards being produced at the very last moment (up until the eve of the elections), and making delivery of the cards to the districts difficult. Due to errors in the process, agents were registered by party rather than by candidate, and it was difficult for polling staff to identify which candidate an agent represented, and to enforce the rule of only one agent per candidate in each polling station. Far too many agents were accredited, giving a disproportionate presence to the largest parties. The total number accredited for the first round was 12573, of whom FRETILIN had 5525, PD 2356, PSD 2026, ASDT 1344, with smaller numbers for the remaining nine parties. This was improved by the second round, with a maximum of two agents per candidate per polling station receiving an accreditation, with the agents clearly identified.

An additional category of "free access" (*livre acesso*) passes was created outside the law or regulations, and 88 such cards were issued by STAE to government ministers and their staff, an inappropriate practice. It was a positive development that these were not valid and not re-issued for the second round. Some pressure was applied to STAE for government staff to receive observer accreditations for the second round, but this was also successfully resisted. It would have been inappropriate, as it is an international principle that election observers should be non-partisan and neutral.

An improvement was observed for the parliamentary elections as accreditations were issued in accordance with the law. However, observers reported party agents using national observers' accreditations. It is to STAE's credit that they expelled those party agents from the polling stations and district tabulation centres once the problem was highlighted. Weather conditions made the task of distributing the accreditations difficult. The last accreditations were delivered by STAE on 26 June. The candidate agents' knowledge of procedures was not complete, particularly at the district tabulation centres.

It was an institutional weakness that STAE lacked clear criteria for appointing polling staff. The law required that they be literate local voters, but STAE issued no guideline (for example, seeking previous election experience), and EU observers in many districts reported that staff were recommended by local administration officials and village chiefs, the bulk of whom were FRETILIN supporters, raising questions as to their (perceived) independence and impartiality.

#### *Improvements in the Second Round*

It was positive that lessons learned exercises were held following the first round, and efforts were made to improve the process before the second round of 9 May. Additional polling staff training was provided by STAE, focusing on problematic areas including counting, filling in the results form, and the determination of a valid vote. Additional voter education was carried out, through local NGOs, schools, churches and community organisations, although due to the shortage of time, and Timor's communication and transport difficulties, it was difficult to reach many people. CNE and STAE improved the district tabulation procedures, leading to faster and more accurate results. Candidate agent accreditation was improved. Extra vehicles were made available for distribution and retrieval of materials, and the supply of ballot papers was increased.

The candidates' view of the electoral authorities tended to divide between FRETILIN and non-FRETILIN. Opposition candidates had concerns about STAE showing some bias towards the FRETILIN government, notably in the late accreditation of candidate agents. FRETILIN on the other hand complained about CNE bias against it in particular during the first round, due to the number of letters the CNE sent reminding Lú-Olo's campaign and the public administration of their obligations relating to the insulting words spoken against other candidates, and to the misuse of state resources.

## **VI. VOTER REGISTRATION**

### **A. The right to vote**

The right to vote is universal and non-discriminatory, although there are a few exceptions in law and in practice. The Constitution gives the right to vote to all citizens aged 17 or over, without exceptions. However, the Presidential Electoral Law removes the right to vote from citizens whom a court has declared to lack mental capacity, and from those who are publicly well-known to be mentally ill, even though there is no court declaration of their incapacity. The amendment to the Parliamentary Election Law removed this restriction<sup>19</sup>. These restrictions are in conflict with the Constitution, and the latter provision is too vague and subjective to constitute an acceptable clause in a law.

Both Presidential and Parliamentary Electoral Laws do not remove the right to vote from sentenced prisoners. In practice, prisoners and those unable to leave hospital were not able to exercise their right to vote during the presidential elections, as no procedures were made available for prison or hospital voting, even though prisoners had been registered to vote. To make their rights a reality would require either an annex of a polling station to be set up in the facility, or a mobile polling station to visit the facility. There was a shortness of time for such preparations before the presidential elections, but it was included in the amendment to the parliamentary law, providing for mobile polling stations and implemented on election day with positive results.

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<sup>19</sup> The Constitution, Art 47, the Presidential Election Law, 7/2006, Art 5, Amendment to Parliamentary Election Law, 6/2007, Art 14.

## B. Voter Registration Procedures

The procedures for voter registration were very open and inclusive, reflecting the desire to enfranchise as many people as possible, at the expense of some anti-fraud measures. The crisis of 2006 resulted in large numbers of internally displaced people (IDPs, around 180,000 at the height of the crisis). Due to this, special inclusive measures were in place for both registration and voting. A total of 522,933 people were registered and eligible to vote prior to the presidential elections. This is 102% of the estimated eligible population of voters<sup>20</sup>. This high number reflects both the inclusiveness of the process, as well as some shortcomings in the system – the lack of counter-checks before a voter card is issued and the fact that dead people have not been removed from the register.

In order to vote, a citizen must register to vote and obtain a voter's card. STAE is responsible for voter registration, CNE for its supervision. All citizens who turn 17 during the year of the elections can register to vote. 8140 16 year olds were registered to vote, only some of whom had reached their 17<sup>th</sup> birthday by election day. For this reason, polling staff should check young voters' date of birth on their voters' cards. A total of 531,073 people were registered to vote before the presidential elections, of whom 522,933 were 17 or over for the first round, and 524,073 for the second round.

The current voter register was started for the *sucu* elections of 2004-5. A voter registration update was held between 29<sup>th</sup> January and 21<sup>st</sup> March 2007 for new voters and for those who had lost their cards or needed to make a change to the information on their cards. 73,767 new voters were added, and 77,315 people obtained a replacement card. After the presidential election an additional registration period was provided, between 21 and 25 May. There were 5,125 new eligible voters for the parliamentary elections. This made the total number of eligible voters for the parliamentary election 529,198 (257,527 female and 271,671 male). The increase in the number of eligible voters' results from voters registering for the first time and also a number of registered voters who became 17 years old between the second round of presidential elections and 30 June. Voters' deaths were not purged in the registration update.

A person could register with an original or copy of their birth or baptism certificate, passport, or civil registry certificate. In the absence of documents, witness testimony of the village chief or church authorities could be used. There is no national database of civil registration to check these documents against. The regulation on voter registration was made *after* the registration period had begun, although it purported to have retroactive effect. The regulation on registration from the *sucu* elections was used until the new regulation came into force, leading the UN Certification Team to question the legality of the process. No official complaints were made to the CNE about the registration process. In general the public and the candidates appeared to be satisfied with the voter register, in part perhaps due to a lack of awareness of all the technical issues involved.

As soon as s/he registered, a citizen obtained a voter registration card on the spot. Only subsequently were their details entered onto and checked against the central voter registration database. This system facilitated access for the citizen, but it meant that a person could register more than once and this would only be detected *after* they had received their card. 3,548 duplicates were detected once checks were made on the database, and these names were removed,

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<sup>20</sup> The National Statistics Directorate, with United Nations Population Fund support, carried out a full Census in 2004, published as the "Census of Population and Housing 2004", and also published "Population Projections 2004-2050" for each age group. The projected population aged 17 or more in April 2007 was 512,760.

but by then it was impossible in practice to get back the duplicate cards from their holders. In addition, a person could obtain a new card by declaring that they had lost their old card, even if this was not true. It is unknown how many such cards were in circulation. There was no mechanism for removing dead people from the register, other than on relatives' request, and to date no such removals have been made. Using the census figures and projections, the EU EOM estimated that 17,000 people of voting age died since the register began in 2004 and up until the first round presidential election. Of the dead, all who were registered remained on the register. If the dead were removed from the calculation, turn-out goes up by 3% to 84%<sup>21</sup>.

The registration update of 2007 used sophisticated technology and biometric information for the first time, with laptop computers taking digital photos, recording digital signatures and finger prints, and producing a plastic card with barcode. Such technology is heavily dependent on generators to provide power (given the significant power shortages throughout Timor-Leste), fuel for the generators, and on technical expertise. As such, it may not be a sustainable process for future elections that will have less international involvement. There is a stark contrast between the high security of the new card, and the lack of verification or checks needed to obtain it. Registration facilities were available in district capitals and for shorter time periods in sub-district capitals. Some of the more rural or less mobile citizens might have found access to the registration sites difficult. Many citizens were keen to obtain the new high-technology voter's cards, as a replacement for the old cardboard voter's cards that do not have photographs. Efforts were made by STAE with UNMIT's support to spread civic education and outreach messages about registration.

#### *Display and Challenge Period*

Regrettably, there was no opportunity for the public or the candidates to verify the register's accuracy, as due to time constraints there was no display and challenge period before the presidential elections. This had been done before the 2001 Constituent Assembly elections and the 2004/5 suco elections. A display and challenge period was given before the parliamentary elections. The data was displayed from 29 May to 4 June and the voters had the opportunity to present their complaints until 5 June, later extended to 11 June. A public display and challenge period is an important transparency requirement, and a key component of international standards, so that the public, parties and candidates should be able to verify the accuracy and inclusiveness of the register. This helps to build public confidence and trust in the electoral process as a whole.

#### *Special Post-Crisis Provisions*

Due to the 2006 crisis and the large numbers of IDPs, the decision was taken to allow voters to vote at any polling station in the country<sup>22</sup>. Although this enfranchised as many people as possible, there were disadvantages. Firstly, there was no voter register at any polling station, so that element of anti-fraud checking (has the person already voted, is their voter card genuine or a fake) was removed. Therefore, the only guarantees against multiple voting were the ink applied to the voter's finger and the hole punched in the voter's card. Secondly, it was difficult to predict

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<sup>21</sup> 522,933 people were registered and were 17 by the first round. Of these, 17,393 could be subtracted as the estimated dead, leaving a total of 505,540 who were in fact registered, eligible, and alive. The number who came to vote was 427,198. This gives a turnout figure of 84.5%.

<sup>22</sup> It might have been possible to devise a system whereby only the IDPs (who usually have a card indicating their status) had this special facility, with others having to vote in their place of registration. Alternatively, a system of tendered or absentee ballots could have been used. This was done in, for example, Bosnia, and those who cast their vote outside their area of registration do not have their vote counted until it has been sent to the capital for checking against the central voter register. However, the logistics and timing of this could have been difficult.

how many voters would go to each polling station, which led to ballot papers running out in some stations. Voting was allowed with a passport for those who did not have their voter registration card. Such a provision renders the voter registration process to some extent academic, since effectively a person can vote without being registered (although they should not do so). Overall, it is not uncommon to find these types of provision in a post-conflict country, where the need to enfranchise as many people as possible, including many undocumented or displaced people, is greater than the need for all anti-fraud measures to be in place.

## VII. REGISTRATION OF CANDIDATES

### A. Registration procedures

**Presidential candidate** registration was completed on 13 March, and all of the candidates satisfied the registration criteria, the most onerous being the presentation of 5,000 citizens' supporting signatures. On the whole a satisfactory process, candidate registration showed two problematic areas. Firstly, there was a lack of public information in the Court of Appeal's verification of candidacies. Secondly, there was some ambiguity and controversy about the question of party affiliation of the presidential candidates, with some Timorese questioning presidential candidates being members of political parties, arguing that presidential candidates must be independent with no party affiliation.

#### *Eligibility*

To be eligible<sup>23</sup>, a candidate must be a citizen by birth and at least 35 years old. Certain office-holders are disqualified (including serving public officials, members of the military, judiciary, and religious ministers). A person cannot be president more than twice. Presidential candidates must be nominated by at least 5000 voting citizens from all districts, with at least 100 proposers from each district, and with proof that all the proposers are registered voters. This was a fairly onerous requirement to accomplish in only 20 days. The law and regulation do not specify how it should be proved that the proposers were registered voters, although STAE made an ad hoc decision and informed candidates to submit a list with proposers' names and voter card numbers. The deadline for candidate nomination was 40 days before the election, 28<sup>th</sup> February.

#### *Verification*

According to the Constitution, the Supreme Court (in its absence the Court of Appeal)<sup>24</sup> verifies the registration of presidential candidates, checking eligibility requirements and proposers' signatures, and hearing appeals from any candidates who do not qualify. As part of the verification process, some candidates were given the opportunity to rectify errors in their lists of supporting signatures, but no details of this process were made available by the court. It is a gap in the Electoral Law that there is not a requirement for transparency in this process.

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<sup>23</sup> The requirements for presidential candidate registration are contained in the Constitution, the Presidential Election Law 7/2006, and the Regulation on the Registration of Candidates (16 February 2007).

<sup>24</sup> It is an oddity of the Constitution that the Supreme Court, rather than the independent election authority, is given the function of candidate verification. For parliamentary candidates the Constitution is silent, and the Parliamentary Election Law specifies that it is the CNE that verifies candidate registration, with any appeals to the Supreme Court. It would be more appropriate for candidate verification to be the task of the CNE, given their supervisory function, and also because that would allow a decision by one body, followed by an appeal to a different body (i.e., the Court).



### *Political Affiliation and Symbols*

Presidential candidates are registered as individuals, rather than as party representatives or nominees. However, the candidates are not prohibited from having party affiliation or party support. This issue was a source of controversy in the public debate, and there is some ambiguity in the legal framework and the public understanding of this figure. The Constitution states that the President is the head of state, and symbol and guarantor of national unity<sup>25</sup>. The Presidential Election Law states in its preamble “this law emphasises the independent and supra-partisan character of the presidency”. Xanana Gusmão had stood as an independent candidate in 2002, and felt that it was important for the president to be a non-partisan figure.

There was a controversial amendment to the Presidential Election Law just before the first round of the election, concerning what appeared on the ballot paper. The law said the name and photograph of the candidate. The amendment added the symbol of a candidate’s choice, which could include party symbols. This was considered to be an attempt by FRETILIN to bolster its support (their symbol consists of a flag very similar to the national flag, with the word FRETILIN written on it), since it has a high degree of name recognition. The President did not immediately sign this law, but referred it to the Court of Appeal for an opinion as to its constitutionality. He argued that it was not, because the Presidency is a non-partisan figure and this principle would be violated by the use of party symbols. The Court rejected his arguments, ruling that there was nothing in the law that prevents candidates being supported by political parties, that in practice they often are, and that therefore this information on the ballot paper gives more information to the voters. The President signed the amendment, and it came into force on 28 March. In fact, all the candidates had the support of political parties, and all of them except Ramos Horta were leaders or deputies for their party.

The CNE’s decision to allow four candidates to use the national flag as their symbol sparked further legal challenge. FRETILIN candidate Lú-Olo appealed to the Court of Appeal that special authorisation needed to be given to use a national symbol such as the flag, and that it would be confusing for voters if several candidates used the same symbol. The Court rejected the appeal, ruling that it was permissible for candidates to use the national flag, although it commented that it could be confusing for voters that several candidates chose the same symbol. Four of the candidates, including Ramos Horta, used the national flag as their symbol. Two used no symbol, and two used their party’s symbol, Lu-Olo and Manuel Tilman. For some Timorese it was controversial to allow a political candidate to use the national flag. In a country with high illiteracy rates, where many voters rely on photographs or symbols to recognise their candidates, it was a wasted opportunity to allow candidates to use the same symbol.

**Parliamentary candidates** are required to be registered voters, i.e., citizens by birth or naturalisation, over 17 years old<sup>26</sup>. There is no limit specified for the number of times a person can be a deputy. The deadline for candidate nomination is 50 days before the election, in this case 11<sup>th</sup> May. Electoral coalitions could be formed until 60 days before the parliamentary election date, for the purpose of presenting a combined list. Two coalitions were formed.

All candidates must belong to a party or coalition list, although they are not required to be party members. The law requires that each party or coalition present a list of 90 candidates (65

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<sup>25</sup> The Constitution, Art. 74.

<sup>26</sup> The requirements for parliamentary candidate registration are contained in the Parliamentary Election Law 6/2006 and the Regulation on the Registration of Candidates (16 February 2007).

principals and 25 reserves). A total of 14 parties or coalitions<sup>27</sup> submitted a list. The CNE's mandate includes checking their eligibility, and their compliance with the gender quota (at least one woman out of every four candidates). STAE is required to assist CNE by checking if each candidate is a registered voter. The holders of certain positions are not eligible to be candidates, including the President, serving public officials, police or military, judges, prosecutors, and diplomats. Nonetheless, President Xanana Gusmão was submitted in first position on the CNRT list. He would not become eligible until 20<sup>th</sup> May when the presidential term ended and one day before the period for corrections expired for the candidates. The Minister and two Vice-Ministers of State Administration, under whose authority is STAE, were parliamentary candidates for FRETILIN. CNE sent STAE a letter dated 29 May, asking for information regarding their replacements in charge of STAE. However they were never replaced.

It is specified in the Parliamentary Election Law what the ballot contains, being the name, initials, and flag or symbol of the party or coalition. This section was amended somewhat controversially in the amendment of 31 May 2007 to remove the requirement for the photograph of the candidate in first place on the list. The argument was made by those supporting the amendment that the lists are party lists and should not contain individuals' photographs. However, coming at a late stage the amendment was viewed as politically motivated to exclude the photograph of the very well-known Xanana Gusmão. Photographs can be a useful recognition tool for illiterate voters so their removal made their right to vote more difficult.

**Political party registration.** A number of new parties were registered under the Political Parties Law 2004 (3/2004) that sets out the requirements. One new party reported difficulties in the process. Pre-existing parties have also re-registered under this law. To register as a political party, the signatures of at least 1500 voting citizens are needed, distributed proportionately throughout the country. The law does not give any details about the proportional distribution of signatures, which leaves this unclear. The registration application is made to the Ministry of Justice, and then it is for the President of the Court of Appeal to make the provisional decision on a party's registration, and for the plenary of that Court to hear any appeal. There are no time limits in the law for the Minister of Justice to consider the request, nor to transfer it to the court. One political party *Partido Unidade Nacional* (PUN) is now registered, but had to undergo a long process, including an appeal to the Court of Appeal, in order to obtain their registration. According to their account, the lack of time limits mentioned above was a problem.

The Political Parties Law specifies that there should be internal democracy for parties, including in how they elect their leadership, but nothing is specified as to how they select their candidates.

## **B. Complaints Relating to Registration**

### *Appeal Against a Candidate's Registration*

The question arose as to whether Lú-Olo should suspend his functions as Speaker of the Parliament in order to stand as a candidate. The President of the Court of Appeal (in its candidate verification role) ruled that the public office holders of Speaker of the parliament, prime minister and member of the Cabinet are not required to suspend their functions when they are candidates.

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<sup>27</sup> Two coalitions registered - Coalition ASDT/PSD, was formed by two of the largest opposition parties, the Association of Timorese Social Democracy (headed by former presidential candidate Xavier do Amaral), and the Social Democratic Party (headed by Mario Carrascalão, for whom Lucia Lobato was the presidential candidate). The Democratic Alliance was made up of two small parties, PPT Party of the Timorese People, and Party of Timorese Heroes (KOTA – headed by former presidential candidate Manuel Tilman).

This affected Lú-Olo and Ramos Horta. PSD candidate Lucia Lobato appealed against this decision. The Court rejected the appeal because those offices do not fall within the definition of “serving public official” (one of the grounds for ineligibility), which should be interpreted narrowly since it is a restriction on a person exercising their political rights. However, both Lú-Olo and Ramos Horta voluntarily suspended their public office mandates during the campaign periods for both first and second round.

## **VIII. ELECTION CAMPAIGN AND PRE-ELECTION ENVIRONMENT**

### **A. Overview of the Election Campaigns**

The campaign lasted 15 days in both rounds of the Presidential Election and 30 days for the Parliamentary Elections, followed in all cases by a two-day silence period. Only in the second round of the Presidential Elections a low level of campaign was noticed during the silence period.

During the Parliamentary elections, minor violence was present in 1.5% in the campaign activities attended by EU EOM observers, whereas disruption and intimidation showed up in 4.7% of the cases. The presence of police in electoral events should be credited for the low level of confrontation. With few exceptions, candidates and supporters running for the presidential and parliamentary elections were able to exercise their rights of freedom of expression, assembly, association and movement, in accordance with international principles, despite limited, sometimes serious, episodes of intimidation and violence.

The most serious of those incidents, resulting in fatalities, occurred in the run-up to the Parliamentary elections in Viqueque on 3 June, when a member of the CNRT campaign was shot dead by an off-duty police officer, and a villager was also killed when taking part in a road-block afterwards. In addition, another person died after being run over by an UNPOL vehicle in Dili on June 27, shortly after the end of FRETILIN’s closing-of-campaign rally. Clashes among contending political factions and arson, not always clearly linked to the electoral process, also occurred during the campaigns.

Notwithstanding, presidential and parliamentary candidates and parties were generally able to engage without major obstacles in all kinds of campaign activities. Those with a large structure and more plentiful financial resources staged massive closing rallies at the end of the different campaign periods, most notably in Dili, but also in many district capitals. On some occasions those rallies concluded in public disorders and clashes between rival parties, in spite of the presence of escorts and security provided by UNPOL and PNTL.

Community meetings were held at the local level, where candidates introduced themselves and their programs to small groups of potential voters. Door-to-door campaigning, practiced by all parties, sometimes turned into threats to voters. Especially during the Presidential Elections, martial arts groups took part in this kind of intimidation. With some 15-20 martial art groups, and registered members estimated at around 20,000, several organizations have members in all 13 districts and are organised in a hierarchical model. Their members are mainly young males with a sense of disenfranchisement due to unemployment, security concerns and lack of access to education. Many parties did not hide their links to some of those gangs. As a result, some candidates and parties occasionally chose not to campaign in hostile areas or in those where they had little or no membership.

Last-minute rescheduling or cancellation of campaign activities was made without prior notification to the CNE and UNPOL.

Echoes of the April-May 2006 crisis, which unearthed old conflicts and divisions along ethnic and political lines, emerged during the campaigns through both intimidation and the use of inflammatory language by candidates and parties. Allegations of irregularities were made by all sides, but not always substantiated with convincing evidence. In so doing, the Code of Conduct for Candidates for the Presidency of Timor-Leste, as well as the Political Party Accord for the Parliamentary Election, were violated. The EU EOM noted that intervention of the CNE to stop negative campaigning was low-key. CNE only publicly rebuked Mari Alkatiri's language towards President Gusmão and presidential candidate José Ramos Horta as a violation of the candidates' code of conduct during the second round of the presidential elections, while leaving out other cases during both the Presidential and Parliamentary elections.

Undue interference by public officials in the electoral process was observed in the Presidential and Parliamentary elections. In the first round of the Presidential elections, Ramos Horta was criticised by FRETILIN for receiving support from the president, who attended his closing campaign rally in Dili. After being sworn in as President, Ramos Horta attended the rallies of several parties running for the parliamentary elections in a display of the independence of the presidential institution that was accepted by political actors.

The signing of community contracts for local development offered by FRETILIN government officials to all suco councils across the country during the Parliamentary election may have amounted to a breach of article 6.1.c. of the Regulation on the Electoral Campaign, which requires public entities to be impartial. The *chefes de suco* (village chiefs) who signed it did so as representatives of their communities, and by signing it they indirectly endorsed a party platform. In addition, the EU EOM registered a case in Bobonaro where a *chefe de suco* was feeling pressured into signing the contract. Furthermore, presidential candidate Lú-Olo announced in a press conference just before the second round election the delivery of millions of dollars of previously budgeted financial aid to villages, a move that the EU EOM judged inappropriate due to its timing, and contrary to international best practice.

The EU EOM regretted that parties and candidates did not dissociate themselves from local figures allegedly involved in voter intimidation, or accused of personal or institutional responsibilities during the 2006 crisis by the United Nations Independent Special Commission of Inquiry for Timor-Leste (UN Commission of Inquiry).

The EU EOM was concerned with the impunity enjoyed by António dos Santos, alias "55" ("Lima Lima"), whose hard-line pro-FRETILIN group had been linked with violent intimidation in Ermera during the Presidential Elections. In Liquiçá, Vicente da Conceição, "Rai Lós", recommended for prosecution in the report of the UN Commission of Inquiry, was Liquiçá's district coordinator for José Ramos Horta in the Presidential elections and later for CNRT in the Parliamentary elections. Also, in Viqueque, the district police commander Gaspar da Costa, suspected of intimidation on behalf of FRETILIN, remained active during his voluntary leave at the time of the Presidential elections.

The inclusion of Paulo de Fátima Martins, former general commander of PNTL, on the CNRT list for the Parliamentary elections, who was elected as a member of the Parliament, was worrying due to the institutional responsibility attributed to him by the UN Commission of Inquiry for his

role in the 2006 crisis. Though not deprived of his civil rights for this reason, the EU EOM considers inappropriate his participation in the elections, given the seriousness of the accusations.

The EU EOM also considered inappropriate the use of FRETILIN symbols in support of the campaign of José Ramos Horta and CNRT by members of FRETILIN-Mudança (a breakaway faction of FRETILIN) and by CNRT itself, for the potential misleading effect on voters. Nevertheless, the Mission notes that FRETILIN failed to apply disciplinary action in a timely manner against its members who did not comply with the party line, as stipulated in article 86 of the party's statutes.

## **B. Use of State Resources**

The use of state resources and campaigning by public officials was not regulated by the Presidential Election Law, but was prohibited by the Campaign Regulation. Since there was no sanction for violating it, the provision had moral force only. In the *sucó* election law of 2004<sup>28</sup> it was a criminal offence for public officials to abuse their public functions by encouraging voting for a particular candidate, but this offence was not included in the Presidential Election Law. It is especially important where one party dominates the public administration, that there are effective controls on the abuse of this position. Similarly, equitable provisions in relation to the media were established in the Campaign Regulation and the Media Code of Conduct, but no sanction was provided for their breach.

Several reports were made by EU EOM observers both in the Presidential and the Parliamentary elections of campaigning by public officials, from village chiefs, district administration staff, to government ministers.

During the Presidential Election, district officials were occasionally spotted at FRETILIN rallies using official vehicles; food aid earmarked for Bobonaro was discovered at the private home of a martial arts group leader, sparking suspicions of politically motivated distribution by the government; and \$5,000 in cash was found in a truck accompanying a FRETILIN convoy, [apparently destined for local officials].

Public officials were also spotted by EU EOM observers while actively campaigning in several districts during the Parliamentary election, as well as using state resources for proselytizing purposes in Dili, Manatuto, Baucau, Cova-lima, Viqueque and Oecusse. In almost 30% of the campaign activities observed in these elections, there was some distribution of goods or money.

## **C. Voter Education**

Voter education was mainly funded through UNDP and implemented by local organizations under the supervision of STAE. STAE officers, alongside local NGOs, conducted voter education training across the 13 districts.

Even if the level of coordination, commitment and techniques used varied greatly among the STAE NGO implementing partners and within the districts, the voter education exercise appeared to be generally satisfactory. Indeed, the high turnout and the low level of blank and invalid votes proved that the electorate was familiar with the polling procedures. Furthermore, the

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<sup>28</sup> Law for the Election of Village Chiefs and Village Councils, 2/2004.

new counting procedures during parliamentary elections were known and accepted by the population.

In a positive development, voter education improved between the presidential and parliamentary elections, and did not confine itself to putting up posters but also included more interaction with the electorate. Videos were shown and posters, bracelets and stickers were given to the voters during the voter education sessions. However, more could have been done in terms of voter education techniques. Voter education materials should have reflected the use of local languages in areas where the majority of the population speak languages other than Tetum (eg. in Manufahi: Mambae, Isni) and therefore had difficulties understanding the messages provided in Tetum.

EUEOM observers generally reported poor attendance at the voter education sessions. Voter fatigue and bad weather and therefore bad road conditions partially explained the low attendance observed. In addition, the pouring rain experienced during the weeks before parliamentary Election Day led to the cancellation of many scheduled events.

On a more worrying note, some LTOs reported a mixed performance from the local implementing partners NGOs, and also reported that voter education had not reached some remote villages in districts like Viqueque, Baucau and Dili. Regarding the failure of voter education to reach some remote places, in addition to the inaccessibility of these places, mention was made of the lack of collaboration and coordination from the *Suco* and *Aldeia* Chiefs in mobilizing their community. In those locations political parties were the main vehicle for voter education. While campaigning door-to-door they would explain to the voters how to mark or punch the ballots, using the ballot paper samples received from STAE.

In line with the new provision in the amended law which provides for voting in prisons and hospitals LTOs reported that voter education sessions were organized in those locations.

## **IX. MEDIA AND THE ELECTIONS**

### **A. Media Environment**

Following the end of the Indonesian occupation in 1999, the United Nations Transitional Administration for East Timor (UNTAET) restored the public radio and television service (RTTL, Radio and Television of Timor-Leste). With funds from various donors, community radios were set up in the 13 districts of the country and several private newspapers started to be published.

Besides the community radios (some of which are not operating due to technical problems and lack of staff) and public radio and TV, Timor-Leste has three daily newspapers (*Suara Timor Lorosae*, *Timor Post* and *Jornal Nacional Diario*), and three weekly newspapers (two in Dili, *Jornal Nacional Semanario* and *Tempo Semanal*, and one in the enclave of Oecusse, *Lifau Post*).

Five years after the departure of many international advisors with the end of the UN administration, the Timorese media is still in a process of development. Like many other institutions in the country, it lacks skilled human resources, technical equipment and an adequate legal framework. Furthermore, Timor-Leste is the poorest country in Asia: 40% of its population lives below the poverty line and around half of the population is illiterate, which reduces the potential media audience.

According to a recent media survey reported by Fondation Hironnelle<sup>29</sup>, RTTL Radio is the most important source of information about current events for less than half of the population, but its daily reach is less than 30%; the TV branch of RTTL is a source of information for 17.4%, with a daily reach of 19%; and local newspapers are a source of information for only 6.8%, with a circulation almost entirely limited to Dili.

In a country with at least sixteen local languages, language is also a problem for the development of the local media. Timor-Leste has two official languages, Tetum and Portuguese, and according to the Constitution, “Tetum and the other national languages shall be valued and developed by the State”. A transitional provision of the Constitution establishes also that Bahasa Indonesian and English are “working languages within civil service side by side with official languages as long as deemed necessary”.

The Tetum language is still in a process of consolidation, and its official standard version – developed by the National Institute of Linguistics – was only approved by the Government in 2004. Most of the news is produced in Tetum, but journalists are not following the official language guidelines. In the process of writing news, many words are imported from different sources according to the linguistic background of the journalists. Because of this problem, and due to poor journalistic techniques, many Timorese admitted to the EU EOM that they have difficulties in understanding the news. RTTL radio has news services in Tetum, Portuguese and Bahasa Indonesia; the TV channel, in Tetum and Portuguese; and newspapers are mostly written in Tetum, but carry some news in other languages. Cases of inaccurate news due to poor translation are common.

Radio RTTL is the only media with national coverage, but access to a radio is not universal. According to the above mentioned survey, nearly half of the population (47%) have a radio set at home. Two thirds of the radio sets run on batteries, which are expensive and difficult to find outside the capital. One third of the population lives with no media facilities of any kind.

Until last May 2007 coverage of state TV was almost entirely confined to the Dili area. The Government invested more than \$900,000 in a contract with an Indonesian company to use a satellite to cover seven districts; the remaining six districts will be covered in the near future with the support of Portuguese cooperation. Newspapers are produced in Dili and sales are low (each copy costs \$0.50). *Suara Timor Lorosae* reported to EU EOM sales between 800 and 1,000 copies daily, and that around 200 copies are distributed to subscribers in the districts, with a maximum of 35 copies sent to Aileu. *Timor Post* prints around one thousand copies, but direct sales in the street are less than one hundred; 750 copies are sent to subscribers, such as Government departments and international agencies, and distribution to subscribers in the districts varies between around one hundred copies to Baucau and ten to Ainaro. *Jornal Nacional Diário* prints 600 copies daily, of which 300 are for subscribers. Its weekly edition *Jornal Nacional Semanário* (on Saturdays), in Portuguese, is supported by Portuguese cooperation, that buys half of the approximately two thousand printed copies to distribute to its nationals living in the country.

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<sup>29</sup> “Timor-Leste National Media Survey” conducted by the market and opinion research company INSIGHT Timor-Leste for Fondation Hironnelle. The fieldwork took place in October and November 2006. A sample of 1,272 adults (15+) was selected in all districts and sub-districts. The sample is representative of the total adult (age 15+) population of Timor-Leste, which in 2006 was estimated to be 600,000.

Many of the Timorese media operate in difficult conditions, due to poor installations and bad or insufficient equipment. Many of the journalists are young (UNDP organized specific training on elections coverage and some of the participants were only 12 years old) and have poor qualifications. RTTL is the best and the biggest employer of journalists and follows the salary policy of the public sector: its news staff receive between \$100 and \$260 per month, 12 months a year, and pay 10% in taxes; no health insurance is provided. The average salary in private media is less than \$100/month. The weekly *Tempo Semanal* has 12 journalists working on a voluntary basis, with no salary.

In this context, the impact of the Timorese media in the elections was very limited in terms of “public opinion”. In fact, one can hardly acknowledge the existence in Timor-Leste of a public opinion shaped/conditioned by a media sector that is still at the stage of operating as a passive conveyor of messages rather than as a political actor in its own right, as happens in more developed societies. The role of media as a source of information competes with word of mouth: during the crisis of May/June 2006, RTTL Radio was a source of information for 44.6% of the respondents of the Foundation Hirondelle survey, followed by word of mouth, with 36.3%.

## **B. Legal Framework for the Media and Elections**

Freedom of expression and freedom of the press and other mass media are guaranteed by the Constitution. Article 41 establishes that “freedom of the press shall comprise, namely, the freedom of speech and creativity for journalists, the access to information sources, editorial freedom, protection of independence and professional confidentiality, and the right to create newspapers, publications and other means of broadcasting”. However, these constitutional rights were never implemented in legislation. Timor-Leste has no Press or Broadcasting laws. Two drafts were prepared by the Government and by a legal adviser of the National Parliament. It is not known when a law will be approved.

Press cards are issued by the media companies and there are estimates that about one hundred journalists are active in the country, including those working with the community radio stations. There are three media organizations in the country: *Associação dos Jornalistas de Timor Lorosae* (East Timor Journalists’ Association), *Sindicato dos Jornalistas* (Journalists Trade Union) and *Associação Rádio Comunidade* (Community Radio Association).

The laws for the presidential and the parliamentary elections do not contain any specific provisions for media, but some crimes can be applied to journalists, such as “abuse of public or equivalent functions” or “illicit electoral propaganda”.

A Code of Conduct for Media Professionals was proposed by STAE and approved by CNE. The code established the rights and duties of media professionals, including the need to guarantee “equal access to, and exposure of, all candidates, political parties and coalitions”. However, the code did not contain any powers for CNE to enforce it.

During the election process, FRETILIN filed a complaint with CNE for unbalanced distribution of time to the parties in two state TV news services. CNE replied it was not entitled to interfere with the freedom of press, but sent a letter to the channel to remind it of its duty of impartiality. On its own initiative, CNE sent letters of reprimand to state TV for not reporting the activities of all the candidates on a specific day; for wrong information concerning the composition of the coalition *Aliança Democrática*; and for excessive time allocated to FRETILIN in a news service.



One serious incident occurred during the campaign for the presidential elections, when the *Timor Post* correspondent in Gleno (Ermera district) was beaten up by FRETILIN supporters. The acting editor of *Timor Post* told EU EOM that the correspondent was actively supporting another candidate and that the newspaper has decided to suspend his activity as a journalist after the incident. The daily *Suara Timor Lorosae* was accused by CNRT and FRETILIN of misleading reporting. FRETILIN even called a press conference at its headquarters to accuse the newspaper, during which a small group of its militants/supporters were involved in unacceptable acts of intimidation against reporters. CNE also criticized the same newspaper for one news item involving some of the commissioners.

### C. Monitoring of Media Coverage of the Elections

A team of two media monitors was trained in the quantitative and qualitative methodology normally used by EU EOMs to measure the time, space and tone devoted to the political parties and candidates in a cross-section of the Timorese media:

#### *Rádio e Televisão de Timor-Leste (RTTL)*

(Chairman of the Board of Directors is appointed by the Government. Staff: 155, including 75 in news departments, of which 50 in TV and 25 in Radio)

#### *Suara Timor Lorosae (STL)*

(Private, successor of *Suara Timor Timur*, published during Indonesia occupation. Restarted on 31 July 2000)

#### *Timor Post (TP)*

(Private, founded in February 2000, by a cooperative of 14 journalists)

#### *Jornal Nacional Diário*

(Private, founded in 2004 by a local businessman)

The period of monitoring, carried out only for the Parliamentary elections, was from 12 June to 6 July, covering half of the 30 days-long campaign, two days of silence, election day and several days after the voting.

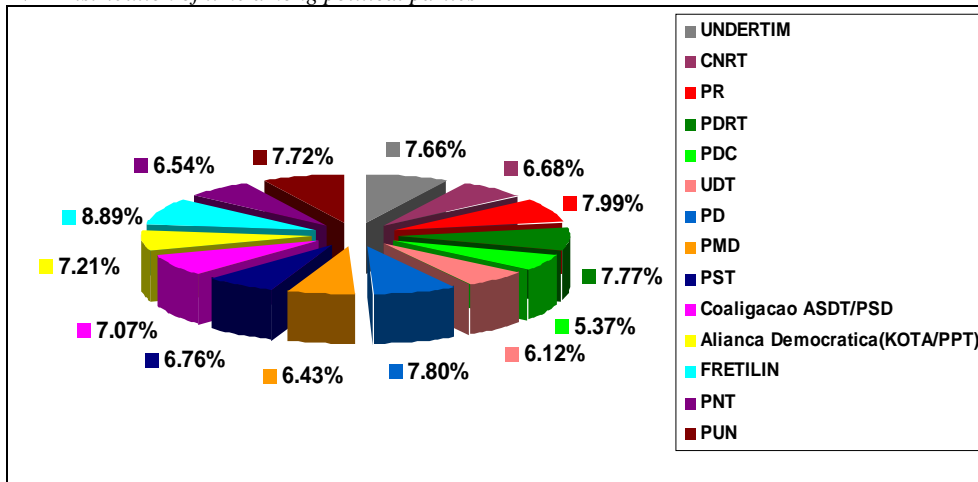
RTTL and the newspapers had different strategies for the long electoral period that started in March (two elections and three electoral campaigns, one of which lasted for one month). With more human and financial resources (the total 2007 budget is \$2.5 million, provided by the Government), RTTL assigned teams of reporters to follow each of the eight presidential candidates and each of the 14 parties and coalitions running for the parliamentary elections to the districts. With few journalists and limited funds, the coverage by the newspapers was more restricted to events in or close to Dili, and to reproducing press statements and declarations by political actors. The lack of telecommunication facilities and transportation difficulties due to poor roads prevented the equitable daily coverage of all the contenders. In some cases, campaign activities were reported with a delay of two or three days. Coverage of the campaign was broadcast in special programs and newscasts on state radio and TV. RTTL organized two debates with the presidential candidates (one for each round) and provided 20 minutes free airtime to the parties running for the parliament, which they used.

RTTL decided not to accept political advertisements with the argument that not all the parties have enough money to do it, which would create unbalanced coverage. Newspapers accepted political advertisements, which were paid according to the normal prices for commercial publicity.

Before the election process started, and between the presidential and the parliamentary elections, specific training for the national media and the community radios on electoral issues was provided by the United Nations Development Program, CNE, STAE, and other organisations such as the Timor-Leste Media Development Centre. Special programs on voter education were produced for TV and radio stations. Some editors complained that the training programs were badly timed, the last training was carried out during the campaign for the parliamentary elections.

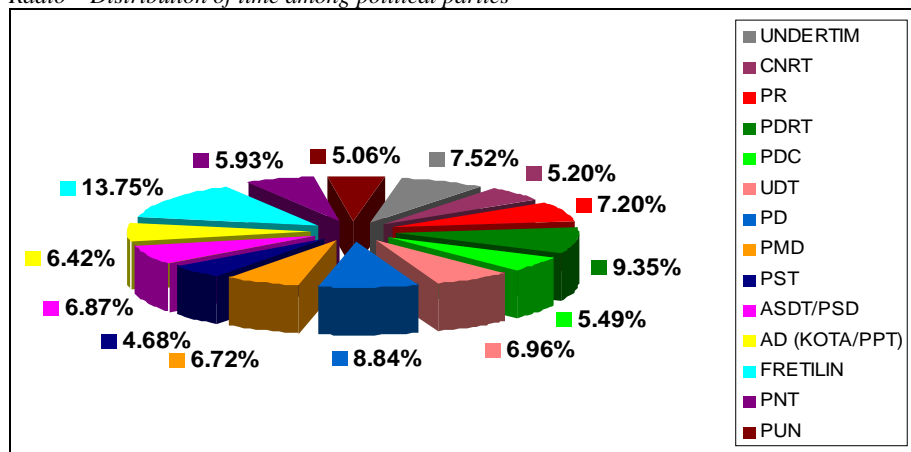
According to the data collected by EU EOM media monitors, the media coverage of the elections by RTTL was fairly balanced in terms of distribution of time among political parties. On TV, the distribution of time ranged from 8.89% for FRETILIN to 5.37% for PDC. During the period monitored, PR was the second party in terms of time allocated (7.99%) followed by PD (7.80%), PDRT (7.77%), PUN (7.72%), Aliança Democrática KOTA/PPT (7.21%), Coligação ASDT/PSD (7.07%), PST (6.76%), CNRT (6.68%), PNT (6.54%), PMD (6.43%) and UDT (6.12%).

TV – Distribution of time among political parties



On state Radio, the distribution of time ranged from 13.75% for FRETILIN to 4.68% for PST. PDRT got 9.35%, followed by PD (8.84%), UNDERTIM (7.52%), PR (7.20%), UDT (6.96%), Coligação ASDT/PSD (6.87%), PMD (6.72%), Aliança Democrática KOTA/PPT (6.42%), PNT (5.93%), PDC (5.49%), CNRT (5.20%) and PUN (5.06%).

Radio – Distribution of time among political parties



The coverage of RTTL was based on reports mixing interventions of journalists and political leaders (free airtime). The break down of this data shows that FRETILIN was the party with more free airtime on TV (8.65%), followed by UNDERTIM (8.56%), PR (8.27%), PD (7.96%), PST (7.71%), Aliança Democrática KOTA/PPT (7.67%), PDRT (7.48%), Coligação ASDT/PSD (7.22%), PUN (6.92%), PNT (6.59%), CNRT (6.22%), PDC (5.65%), UDT (5.60%) and PMD (5.48%).

TV – Free airtime

POLITICAL PARTY	Time Distribution
UNDERTIM	8.56%
CNRT	6.22%
PR	8.27%
PDRT	7.48%
PDC	5.65%
UDT	5.60%
PD	7.96%
PMD	5.48%
PST	7.71%
Coaligacao ASDT/PSD	7.22%
Alianca Democratica(KOTA/PPT)	7.67%
FRETILIN	8.65%
PNT	6.59%
PUN	6.92%

On Radio, FRETILIN also led the distribution of free airtime with 14.66%, followed by PDRT (9.13%), UDT (7.87%), PD (7.82%), Aliança Democrática KOTA/PPT (7.67%), PR (7.04%), Coligação ASDT/PSD (7.00%), UNDERTIM (6.22%), PMD (6.15%), PNT (6.05%), PUN (5.95%), PDC (5.75), CNRT (4.43%) and PST (4.27%).

Radio – Free airtime

POLITICAL PARTY	Time Distribution
UNDERTIM	6.22%
CNRT	4.43%
PR	7.04%
PDRT	9.13%
PDC	5.75%
UDT	7.87%
PD	7.82%
PMD	6.15%
PST	4.27%
Coaligacao ASDT/PSD	7.00%
Alianca Democratica(KOTA/PPT)	7.67%
FRETILIN	14.66%
PNT	6.05%
PUN	5.95%

Data for the print media show a wider range, reflecting the different approach of newspapers to the campaign: FRETILIN leads the amount of space given to political parties by *Suara Timor Lorosae* (39.40%), *Timor Post* (34.82%) and *Jornal Nacional Diário* (28.56%). CNRT was the second most covered party in the news with 26.35% (*Timor Post*), 18.45% (*Suara Timor Lorosae*) and 13.68% (*Jornal Nacional Diário*). During the period of monitoring, *Suara Timor Lorosae* did not publish specific news on three parties: UNDERTIM, PDC and PMD.

In terms of tone, there was a general tendency for informative/positive news. However, some of the media reflected the sometimes more aggressive tone of the campaign. The data for CNRT shows a negative tone (5.56%, on TV) corresponding to interventions of members of the group FRETILIN Mudança specifically asking the people not to vote for FRETILIN. On the other hand, the ruling party FRETILIN was subject to the criticism of its rivals and its reaction is evidenced by a negative tone in its campaign (25.64% on TV, and 27.66% on Radio).

## X. PARTICIPATION OF WOMEN IN THE ELECTION PROCESS

Women participated in all aspects of the presidential and parliamentary election process, although usually in lesser numbers than men<sup>30</sup>. Formal legal equality is guaranteed by the Constitution, which states that all citizens are equal before the law. The Constitution goes further, making it a fundamental objective of the state to create, promote and guarantee effective equality of opportunities between men and women. The Constitution provides that the law should promote equality in the exercise of civil and political rights and non-discrimination on the basis of gender for access to political positions<sup>31</sup>. Women and men enjoy the same legal rights in all areas, but gender discrimination is widespread in practice, often dismissed as traditional practice and custom. Domestic violence is a particular problem. Only 52% of women are literate, compared to

<sup>30</sup> Useful guides to assessing women’s participation are OSCE / ODIHR’s *Handbook for Monitoring Women’s Participation in Elections* [http://www.osce.org/odihr/item\\_11\\_13585.html](http://www.osce.org/odihr/item_11_13585.html) and *Women and Elections: Guide to Promoting the Participation of Women in Elections* (UN, 2005) <http://www.un.org/womenwatch/osagi/wps/index.html#pub>

<sup>31</sup> See the Constitution Articles 6j, 16, 17, and 63.

male literacy of 65%. Almost one third of the female population are malnourished, and the maternal mortality rate is high, at 800 per 100000 births<sup>32</sup>.

#### *Women in Politics*

Prior to the 2007 parliamentary elections, Timor-Leste had already achieved a high position in the Inter-Parliamentary Union ranking of parliaments with regard to the numbers of women (it was 29 out of more than 150 countries in April and May 2007<sup>33</sup>). 22 of the 88 deputies elected in the 2001 elections were women (25%).<sup>34</sup>

This level of women's representation was achieved without any mandatory quotas<sup>35</sup>. The women were elected in part due to additional training and incentives for women candidates and affirmative action measures by the parties. In the Parliamentary Election Law of 2006 a mandatory candidate quota was included – that one in every four candidates must be a woman, apparently without controversy. There was also a quota for women's representation in the *Suco* Elections Law of 2004, consisting of reserved seats in the *suco* councils, and resulting in 27% women. However, there was no quota for the top positions in the local administration (*Suco* and Village Chiefs), and only 1% are women (29 out of 2649).

The parliamentary quota resulted in a slightly higher percentage of women 27.69% being elected than in the previous parliament. The 2006 law also specifies that any female deputy who resigns from the parliament or dies must be replaced by the next *female* on the list. However, experience has shown that presence in the parliament or any other elected body is not enough on its own, women deputies need training and support in order to improve their influence, like their male colleagues. They also need support from their parties. The Political Parties Law 2004 allows the voluntary use of gender quotas by parties for their internal and leadership positions, but there are few women in leadership positions in the parties. However, of the outgoing cabinet of 15 ministers, four are women (Finance, State Administration, Public Works and Education).

#### *Women Voters*

Women made up 48.7% of registered voters for the presidential elections (255,156 women of 524,073 registered voters for the second round). According to the census of 2004, women make up 49.09% of the adult population. This means that their rate of registration as voters was only very slightly lower than that of men, and for both genders it was very high.

Voter turnout statistics were broken down by gender for the first time in the second round presidential election. This was a positive change, as obtaining statistics disaggregated by gender is a key part of any strategy to promote equal participation: first of all one needs to know if and where there are problems that need addressing. This statistic was achieved by means of a simple measure, a tick-box for men and women on the list of voters that each polling station filled in during the election day. In the second round, women came to vote in almost equal numbers to men, making up 47.7% of the total of voters, while men made up 52.3%. The CNE released this number as part of the preliminary results. Women's rate of voter turnout was 79%, whilst men's rate of voter turnout was 82.6% (202,432 women voted, out of a total of 424,475 voters). Some

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<sup>32</sup> All figures are from UNICEF 2003.

<sup>33</sup> <http://www.ipu.org/wmn-e/classif.htm>

<sup>34</sup> The number later went up to 24, as women who were next on the party list replaced deputies who had resigned or died.

<sup>35</sup> The issue of a gender quota was controversial in 2001, with the UN itself divided (the Electoral Assistance Division against, other bodies such as UNIFEM and the High Commissioner for Human Rights in favour), and ultimately the Timorese National Council voted against a mandatory quota.

efforts were made in voter education campaigns to target women. No data has been released so far for the parliamentary elections.

#### *Women and the Campaign*

EU EOM observers estimated that women made up approximately 25% of the audiences at the campaign rallies that they observed (74 rallies in the first and 28 in the second round). The eight presidential candidates in the first round scarcely targeted women voters or addressed gender issues in their campaign messages. Lucia Lobato, the only woman candidate, raised women's issues in the national debate, and the media gave some coverage to these issues. The televised debate among the candidates included a question on gender issues, and candidates emphasised the need to fight domestic violence and to economically empower women, although with few concrete proposals. In the second round run-off there was no woman candidate, and gender issues were absent from the candidates' campaign messages. A similar tone was followed during the parliamentary elections.

#### *Women in the Election Administration*

There are five women out of 15 CNE Commissioners, due to provisions in the Law of Election Administration Bodies that require at least four women commissioners. The President and coordinator of the CNE is a man. At district level, the CNE made a conscious effort to appoint women as focal points and achieved 38% women. There are two CNE spokespersons, a woman and a man. As a new organisation, CNE has made a good start for women's representation. It is part of CNE's statutory functions to ensure equality of treatment for citizens in voter registration and all electoral operations, and to ensure equality of opportunity for candidates during the campaign<sup>36</sup>. Gender equality is doubtless part of this role.

In STAE, there is no legal requirement regarding women's representation, and there are only two women out of 17 at senior national level, with the Director being a man. At the level of polling staff, in stations observed by the EU EOM, there were 38% women in the second presidential round (35% in the first round) and 34% for the parliamentary election, with women being the chairperson in 16% of cases in the presidential second round (12% in the first round) and 20% in the parliamentary election. The gender balance at STAE, especially in senior positions, could be improved.

UNMIT appointed an electoral gender adviser, who made efforts to raise the profile of gender issues, carrying out training, and producing a gender audit of the first round presidential election. UNMIT's advisory staff to the electoral authorities did not achieve gender parity, being 46% at headquarters, and 38% in the districts for the first round.

#### *Women Observers*

The domestic observer coalition KOMEK made a special effort to achieve gender parity, fielding close to 500 teams of one man and one woman to observe the elections. Several significant women's civil society networks participated in KOMEK, including Women's Network (*Rede Feto*) and Women's Caucus. Overall 43% of the 1,911 national observers of the first round were women, similar numbers were recorded during the second round and parliamentary elections. Of the international observers, around 34% were women in both elections. The EU EOM had one woman out of seven members of the core team and 11 women out of 27 LTOs for the presidential election, and two women in the core team and thirteen women LTOs during the parliamentary elections.

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<sup>36</sup> Law 5/2006, Law of the Electoral Administration Bodies, Article 8(e) and (f).

## **XI. PARTICIPATION OF CIVIL SOCIETY**

Civil society participated actively in contributing to the transparency of the democratic process. According to STAE figures, a total of 1854 civil society members were accredited to observe the presidential elections within 56 different observer groups. A broad coalition of civil society groups was formed in late January 2007 to observe the elections, led by the Catholic Church and known as KOMEG (Coalition for Monitoring the General Elections). KOMEG was the largest organisation and the only one with capacity to cover all polling stations with 1065 observers accredited. KOMEG was made up of 17 NGOs. KOMEG had at least one representative in 90% of stations visited by EU EOM observers during presidential voting, and in all those visited during counting (100%).

Similar numbers were accredited for the parliamentary elections, with KOMEG the largest group with comprehensive coverage of observers in all 13 districts. The second largest group with 500 observers was a GOITIL (Grupo de Observadores Independientes de Timor-Leste) a newly constituted coalition of various NGOs. Domestic Observers play a crucial part in guaranteeing the transparency of the electoral process and their existence should be encouraged.

A number of international observer missions were present during both elections, including from CPLP (Community of Portuguese Language Countries), the Asian Network for Free Elections (ANFREL), the Carter Center and bilateral missions from Japan, Australia, and other countries in the region. No other international observer mission had a long-term methodology and a widespread deployment of LTOs in numbers like the EU EOM's.

## **XII. ELECTION DAY**

### **First Round**

#### *A. Overview of Voting*

Voting on 9<sup>th</sup> April proceeded smoothly and peacefully, with a high turnout of voters – 81.69%. Voters were patient, and voting procedures were generally efficient and correct, conducted by more than 4,000 polling staff. Shortages of ballot papers in some places led to delays.

#### *(i) Basis of EU EOM Observation*

On election day, the 38 EU observers visited 160 polling stations during the election day out of the total of 705 (23%) in all 13 districts. Each polling station has a maximum of 1000 voters, and an average of 750.

#### *(ii) Voting Procedures*

In 90% of all polling stations observed, observers rated the voting process as satisfactory, good or very good. The vast majority of polling stations observed opened on time. The large influx of voters was generally smoothly handled by polling staff, with voting conducted in an organised and orderly way. The secrecy of the vote was well-respected, being ensured in 96% of stations observed. There were ballot paper shortages in about 10% of polling stations observed, but re-supplies resolved the problem in almost all cases, although sometimes after a considerable delay. These delays did not prevent voters from exercising their right to vote.

Key safeguards of the process were generally followed. There were some exceptions: inking was not properly done in 7% of polling stations observed, and the new voter's cards were not punched in 19% of cases. In the majority of stations observed, there was no prior check of ink on voters' fingers, or of young voters' age, although obviously underage voters were barred from voting in several instances. In some cases, not all ballots were stamped or signed on the back, rendering their validity problematic.

Isolated occurrences of inappropriate interference by FRETILIN activists or local administrators, for example writing down voters' card numbers, were reported by EU observers. At every stage of the process, security was provided by PNTL or UNPOL in all observed polling stations.

#### *Role of Candidate Agents*

Candidate agents were present in high numbers, which contributed to the transparency of the process, although in many cases too many agents were present. Lú-Olo's agents were predominant (90% of stations observed), followed by Fernando Lasama's, Lucia Lobato's and Xavier do Amaral's. Often agents of the best-represented candidates were present in groups of two or more per candidate, sometimes larger numbers, in clear breach of the Agents' Code of Conduct. This was due to STAE's disorganised accreditation of candidate agents, when far too many accreditations were produced. Nonetheless, EU observers reported that agents generally did not intervene in the process, but carried out their work peacefully. However, very little training had been provided to candidate agents in advance of the presidential elections, and in order to perform more effectively in future, this is needed.

### **Second Round**

#### *A. Overview of Voting*

Voting on 9<sup>th</sup> May was once again peaceful, voters were patient, and procedures were carried out smoothly, with improvements over the first round. Turnout was 81%, almost as high as the first round.

##### *(i) Basis of EU EOM Observation*

On election day, the 34 EU observers visited 170 polling stations during the election day, of the 705 polling stations in all 13 districts.

##### *(ii) Voting Procedures*

Overall, voting procedures were evaluated by EU observers as having improved since the first round. They were rated as satisfactory, good, or very good in 97% of stations observed. In all stations observed, the opening was on time or within half an hour. Procedures were generally swifter and smoother than in the first round, as both staff and voters were more familiar with what to do. The vast majority of polling staff had also worked in the first round. The secrecy of the vote was well-respected, being ensured in 98% of stations observed.

There were still problems with voters' fingers not being checked for ink before they voted in 71% of cases, and with young voters' age not always being checked. Ink was properly applied in 95% of cases observed, and the voters' cards punched in 100% of cases observed, important measures against double voting.

Ballot paper shortages were far fewer than in the first round, only 2% of stations observed, and in a total of only eight polling centres nationwide, as reported by STAE. STAE managed to solve the problem in all cases.



### *Role of Candidate Agents*

There were candidate agents present in 96% of stations observed, with Lu-Olo's agents present in 96%, and Ramos Horta's in 84%. There was often more than one agent per candidate, although not as many as in the first round, and there were a number of agents with first round accreditations present, but this was not reported as creating difficulties.

## **Parliamentary Elections**

### *A. Overview of voting*

Election Day took place in a calm and orderly manner throughout the country with a high turnout of 80%, a significant percentage if we consider that this was the third election day in three months. Despite difficult weather conditions prior to e-day all polling stations received the necessary sensitive material and opened on time.

#### *(i) Basis of the EU EOM Observation*

EU observers were deployed in all of the 13 districts of Timor-Leste. In total, the 14 Long Term Observer Teams, together with the teams of the European Parliament Delegation visited a total of 188 of the 708 polling stations, observing more than 26% of the polling stations of Timor-Leste.

#### *(ii) Voting Procedures*

Polling procedures were known and generally well followed by the polling station staff; they were assessed positively in 90% of the polling stations visited, demonstrating the quality of staff training and the professionalism of election officials. However, while almost 90% of the presiding officers counted the ballots received at the opening of their polling station only 56% of them recorded this number in the minutes. In a positive development for the later counting and tabulation process, in 93% of the polling stations observed the figures of received, unused and cancelled ballots reconciled with the number of voters' signatures on the lists. In common with the presidential elections, while inking the voters was conducted properly, in around 77% of the polling stations observed voters were not always checked for ink in advance of voting.

Polling stations closed on time around the country although some cases of early closing were observed in the districts. The retrieval of the election materials for transfer to the district tabulation centres was generally well organized and well accepted by the electorate, who were aware of the new regulation regarding the location of the count.

### *Role of Party Agents*

Representatives of the contesting political parties and coalitions were present in all the polling stations visited by EUEOM observers (in many cases two per party, instead of the stipulated one, were present inside the polling station) as well as national observers. Both made a significant contribution to the transparency of the process. However, the LTO's generally reported on the passivity of party agents from all parties who were not asking questions and not fully aware of the procedures.

It was more of a concern that in several cases detected by EU EOM observers in Lautem, Bobonaro, Viqueque and Baucau party representatives were present inside the polling station with a forged national observer accreditation card. The matter was addressed later on by CNE and STAE, as a result the election officials became more scrupulous in checking the accreditation badges and party agents wearing a national observer accreditation were turned away.

## **B. Counting**

### **First round**

Overall, EU observers rated the counting process as satisfactory or good in 57% of cases, and poor in 43% of cases. They noted that although the established counting procedures were generally followed, there were some difficulties. National observers were present in almost all cases observed by the EU EOM (96%), Lú-Olo's agents were present in high numbers (95%), while Lucia Lobato's were in 86.6% and Lasama's in 73.3%. PNTL (frequently backed up by UNPOL) was present outside all observed polling stations. Counting started on time in most polling stations.

The two principal difficulties observed by the EU EOM were firstly, problems in filling in the results form, including problems with the arithmetic and reconciliation, and secondly, problems with the determination of valid and invalid votes. The EU EOM considered that these difficulties were due to a lack of training and experience, rather than any attempt to distort the process. In 80% of stations observed the number of voters noted on the list matched the number of cast ballots, while in 85% of cases observed the number of ballots issued matched the number of ballots cast, cancelled and spoiled. This left a significant percentage of stations with reconciliation problems. Part of the difficulty was that the detailed procedures that lead to reconciliation (counting the total number of voters, the number of used and unused ballots, then counting the valid votes) were often not followed. Ballot papers were provided in books of 50 but without numbered stubs, rendering it more difficult to keep account of the numbers of used and unused ballot papers.

Problems in the determination of invalid votes were reported in 35% of observed cases, although this problem was alleviated because all invalid votes were reassessed during national tabulation. An important transparency measure, posting the results outside the polling station, was not complied with in 21% of cases observed. It was a shortcoming in the regulation not to provide for copies of the results forms to be made available to candidate agents, which is very useful for their tracking of the results process and recognized as international best practice to improve transparency and credibility of the process.

### **Second Round**

Counting was rated by EU observers as satisfactory, good or very good in 87.5% of cases, a significant improvement over the first round. National observers were present in 100% of stations observed, Lu-Olo's agents in 87% and Ramos Horta's in 94%.

PNTL, usually backed up by UNPOL, was present outside all observed stations. In 94% of stations observed the number of voters noted on the list matched the number of cast ballots, and the number of ballots issued matched the number of ballots cast, cancelled and spoiled. This was quite an improvement on the first round, although it still left a small percentage of stations with reconciliation problems. In 25% of observed cases, problems in the determination of invalid votes were reported, an improvement from the first round, but still a significant number. An important transparency measure, posting the results outside the polling station, was not complied with in 12.5% of cases observed.

*CNE action against reported violations* - The CNE lacked transparency in publicising decisions regarding complaints. This included making the information available to the observers, even in the case of complaints already decided upon. Putting on the CNE website the classification and summary of the complaints does not provide enough information for the observers to make a rigorous analysis of the process. The fact that the CNE has no enforcement powers is an impediment in the process.

### **Parliamentary Elections**

The reception of the ballot boxes and the reconciliation of the ballot papers were generally well organized in all the districts with the notable exception of the Dili District Tabulation Centre. Indeed, the original layout of the Dili DTC did not allow the observers and the party agents to fully observe the process and therefore for the latter to exercise their right to contest the allocation of votes. Furthermore, the implementation of a STAE memorandum of 20 June that authorized only one observer from each organization to be present at the same time inside the DTCs had the potential to compromise the transparency of the process. In a positive development, and after an interruption of the process, the layout of the Dili DTC was changed and observers and party agents were in a better position to fulfil their tasks. In addition, the CNE commissioners in charge of the DTC in the districts have received instructions to allow more than one observer/ party agent inside the DTCs.

Due to late reception of the election material and at times to late arrival of the party agents, almost all the DTC's opened late. EU observers reported that the counting and tabulation process at the DTC's proceeded slowly but with election officials performing their tasks with commitment and in accordance with the regulations, rating counting and tabulation as good or very good in 96% of cases. Party agents and national observers were present in large numbers, contributing to the transparency of the process.

## **XIII. RESULTS**

### **A. Tabulation and announcement of Results**

Tabulation of votes took place first at the district and then at the national level. There were some difficulties with the procedures and the results announcement during the first round, which led to some political controversy. Significant changes and improvements were made for the presidential second round and parliamentary elections.

#### **First Round**

##### *Tabulation*

The district tabulation process took place during the two days after the elections in every district capital. It was a peculiar feature of the electoral law that the CNE had hands-on responsibility for both district and national tabulation, with a CNE Commissioner deployed to each district to run the district tabulation centre. The law does not specify clearly the powers and functions of the district tabulation centres, other than to say generally that they tabulate the votes. CNE and STAE issued procedures to fill in the detail. The system used in the first round gave no real decision-making power to the district tabulation centres. Their task was simply to make an electronic transcription of each polling station results form. They could not correct mathematical errors, nor re-classify invalid votes, nor resolve previously-made complaints. Those functions were reserved

to the CNE national tabulation centre in Dili. There were fairly widespread procedural errors made during counting and district tabulation – some results information was incomplete or incorrectly transcribed, some sensitive materials were misplaced, frequently totals did not reconcile. Due to their limited transcription role, the district tabulation centre results reproduced the mathematical errors made during the polling station counts. Most problematic of these was an additional 300,000 voters recorded in the district of Baucau (caused by the polling station's code number having been filled in on the results form by mistake), and 14,000 missing voters from the district of Dili.

National tabulation took place at CNE headquarters in Dili, and was a time-consuming and meticulous process. Each polling station results form was re-examined, errors were corrected, every invalid vote was re-examined (over 25% of the 21,215 invalid votes were judged to be valid), and challenged votes were resolved. In some cases, valid votes had to be recounted in order to correct inconsistencies or fill in missing information. The process was completed after six days work, and it formed the basis of the preliminary results. District and national tabulation processes were generally conducted transparently, although boxes of sensitive materials were opened at the national tabulation centre in order to carry out preparatory organisational work before the process had formally begun. No observers or candidate agents were present, creating an unnecessary atmosphere of mistrust towards the process among the candidates, and breaching basic international standards of transparency.

#### *Results Announcement*

The announcement of the results from district tabulation on 11, 12 and 14 April was severely flawed. One of the CNE spokespersons announced partial provisional results to the press, without explaining that they were partial results (i.e., not representing 100% of polling stations), or that they were liable to change during national tabulation. No figures were given for total voters, invalid, blank or challenged votes. The spokesperson gave a wholly inaccurate voter turnout figure, that caused public concern, and he made alarmist statements about the arithmetical errors in Baucau and Dili. These failings in the announcements led to unnecessary speculation and concern in the national and international media, and uncertainty amongst the candidates and the population, with some rejecting the results process and calling for a re-election or a re-count.

No further announcements were made to correct these errors until the announcement by the CNE of preliminary results on 18 April. National totals were given for all candidates, for valid, blank and invalid votes, and for total voters. However, the law does not require a polling station breakdown of results to be made available, which is a shortcoming. Due to CNE's logistical and resource difficulties, the polling station breakdown of results was not posted on the CNE website and not made available to observers until the beginning of May. Greater explanation of how the tabulation process worked and why numbers had changed would have been helpful, as public understanding of the process was poor. The total number of valid votes had increased by more than 10,000 since the district tabulation results. It was clear to the EU EOM, on comparing with the district tabulation results, that 5,681 of those votes were invalid votes that had been declared valid. The source of the remaining 5,000 additional valid votes was not clear, presumably they came from the resolution of challenged votes and from arithmetical corrections. No explanation was offered about the overall changes made at national tabulation. This was not a significant concern in the presidential elections, as the margins were clear, but it could become so in a closer election. Unnecessary suspicions could be avoided by making public more information.

## **Second Round**

### *Tabulation*

District tabulation procedures changed significantly for the better after the first round, as part of STAE and CNE's efforts to improve the process. The district tabulation centres were given the power to correct mathematical mistakes and to fill in missing information on the polling station results forms. This meant that the district tabulation results were much more accurate, and fewer corrections were needed at national tabulation. EU observers evaluated the district tabulation process as improved, more efficient and faster. All districts completed tabulation by 10 May, quicker than the first round.

National tabulation was completed on 13 May, and was also smoother and quicker than the first round. Given that many errors had been corrected at district tabulation, the results differed only slightly following the national tabulation process. 2,469 invalid votes were re-evaluated as valid, 201 challenged votes were resolved, and an additional 584 votes were declared valid, presumably as a result of corrected errors. The tabulation process was conducted transparently and meticulously. The percentage of invalid votes decreased from 3.64% in the first round election to 2.19%, and of blank votes from 1.81% to 0.47%. These were both positive changes, and were due in part to increased voter education and staff training.

### *Results Announcement*

The announcement of results was vastly improved over the first round. The district tabulation results were announced on 10 and 11 May, and other than one transcription error for Liquicá results (almost 3,000 votes were wrongly allocated to Ramos Horta), the results were accurate and did not contain any mathematical inconsistencies, unlike the first round. As in the first round, no figures were announced for invalid votes or total votes, although this would be desirable.

CNE announced preliminary results on 14 May, giving a district breakdown for the candidates' votes, but not for invalid, blank and total votes, for which only the national totals were given. It was a significant improvement that the candidates' agents were given the full polling station breakdown of results as soon as the announcement was made, essential should they wish to make an appeal. As in the first round, the CNE gave little explanation of the tabulation process, and why the numbers changed slightly as a result of it. Since the margin between the two candidates was very large, no concerns were raised about the results, but for future closer margins, more detailed information and explanations would be helpful.

CNE wrote to one of the newspapers protesting against its inaccurate reporting of the preliminary results, and requesting it to republish the correct results.

## **Parliamentary Elections**

Counting and Tabulation took place at the same time in the 13 District Tabulation Centres (see above, Counting).

### *Results Announcement*

Final results of the parliamentary elections were proclaimed on 11 July by the Court of Appeal. No appeals were presented during the 48 hours following the announcement of the provisional national results by the CNE on 9 July. The results were accepted by all candidates.

The CNE gave two press conferences per day from 2 July until the proclamation of provisional results on 10 July and updated the results on its website three times a day, while district tabulation

was ongoing nationwide. This is a major accomplishment and improvement in achieving more transparency when compared to the presidential elections. Provisional results were announced in different percentages at district and national level. Results were presented to party agents and observers in all thirteen districts throughout the counting process.

## **B. Complaints Relating to Election Results**

### **The Presidential Elections**

#### *The Appeal Against the First Round Preliminary Results*

Following the CNE's announcement of preliminary results, candidates had 24 hours to appeal against them. Three candidates presented a joint appeal on 19 April: Fernando Lasama, Lucia Lobato and Xavier do Amaral. Given the 24 hours deadline for resolving the appeal, the Court of Appeal<sup>37</sup> dismissed it on 20 April. The appeal presented many of the same issues as were contained in Lasama's complaint to the CNE of 14 April, which the CNE had rejected. The grounds of appeal ranged from allegations of irregularities about the voting at individual polling stations, to intimidation, to allegations of manipulation in the vote tabulation, resulting in discrepancies of around 19,000 votes. The Court rejected the appeal on a number of grounds. Firstly, the results figures cited in the appeal were the old inaccurate numbers from the district tabulation, not the up-to-date corrected numbers from the preliminary results. The EU EOM noted with concern that the candidates had not been given the detailed breakdown of the preliminary results until the day *after* their release, i.e., the same day as the deadline for presenting their appeal to the court. By then it was too late for them to be able to study the new numbers and modify their appeal. From conversations with various actors involved, it was not clear to the EU EOM that the vital importance of the preliminary results, and their difference from the district tabulation results, was appreciated and understood.

The Court also rejected the appeal on the grounds that there was insufficient evidence to back up the claims of polling station irregularities, and that no complaints had been made at the polling station about those issues. The Court added that even if true, the appellants had not shown how these irregularities would have affected the final result (for example, allegations of intimidation or fraud were made, but without conclusions as to which candidates benefited or suffered or how many voters were affected or how this could have affected the results). Given that the appellants had only 24 hours to present their appeal, that this was a new process, and given the considerable logistics and communications difficulties in gathering detailed evidence from across the country, it was not surprising that their appeal was rather poorly argued and evidenced. The very short deadline that the Court had to resolve an appeal meant that the Court had no time to order any investigation, require further documents, or examine any witnesses. Given such short time limits, effectively any appellants would have to present a proven case in order to be able to succeed, which is a very difficult burden.

The Court's objection that no complaints had been made about the alleged irregularities at the polling stations was not clearly explained, and could be read in two ways. Firstly, it could have been an evidential objection, i.e., that if complaints had been made, there would have been a better evidential and document trail, some investigation might have been carried out, and the allegation would appear more plausible. Alternatively, it could have been a principled objection, i.e., that if complaints are not made at the polling station, then it is not permitted to raise the issue subsequently in an appeal. The first reading is a legitimate argument, but the second reading is

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<sup>37</sup> The Court of Appeal is staffed by international judges, although the Chief Justice is a dual national of Portugal and Timor-Leste.

not supported by the law, which does not contain any express restriction on the right to appeal an issue if a complaint has not been presented about it. To imply this into the law would be an undue restriction on the right to appeal.

Part of the appellants' difficulty in presenting the appeal was the lack of any guidance in the regulations as to the possible grounds of appeal, and as to what remedies might be sought. For example, possible grounds of appeal could be restricted to the counting of ballots, or could extend to issues of fraud in the electoral process, and access to the vote (for example, if polling stations were closed or materials ran out), and to agent and observer access. Examples of possible remedies could include ordering a recount, and wholly or partially invalidating the results. Given that the Presidential Election Law did not allow for holding a re-election, it would have been a very serious step for the court to declare the election invalid in a polling station. The impossibility of holding a re-election removed a very important remedy from the Court. The lack of any legal provisions as to the grounds of appeal or the remedies available left both the appellants and the Court to improvise. The Court had little time to examine all of the allegations and present its conclusions, but it would have been helpful if they could have laid down some guidelines for future appellants as to what kind of arguments or allegations would be necessary for an appeal to succeed. The Court's conclusion was that the allegations, if true, would not have affected the final results. The margin between the second and third place candidates was 10,643 votes. In future elections, this margin could be narrower, and the question will become more critical.

#### *Final Results*

Following the resolution of appeals, the Court of Appeal had the task of analysing the preliminary results and other documentation sent to it by CNE, validating the elections, and announcing the final results. The Court announced the final results on 21 April (see Annex 1 for the table of final results), confirming in every respect but one the CNE's preliminary results. The one figure that the Court changed was to remove 514 from the number of Total Voters, so that it would reconcile with the number of Total Votes Cast. The CNE had previously explained that this discrepancy existed because there were some missing votes that could not be physically located during national tabulation, so they had removed them from Total Votes Cast. It is not uncommon for an election's final results not to reconcile exactly, and it would have been preferable and more accurate to retain the true figures. Final results were not broken down by polling station, as the law does not require this.

#### *Final Results of the second round*

No appeals were made against the preliminary results, and the Court of Appeal announced the final results on 16 May, confirming in every detail the CNE's preliminary results (see Annex 1 for the table of final results).

### **The Parliamentary Elections**

A total of 83 complaints were presented for the parliamentary elections (see Annex 3), a significant reduction in comparison with the first and second round of presidential elections (154 and 128 respectively).

National tabulation started on 6 July with the deliberation of the invalid and disputed votes. After the provisional national results were published, 48 hours were given according to the amended electoral law, for presentation of appeals. No appeals were made and the final results were announced by the Court of Appeal on 12 July.

## **XIV. RECOMMENDATIONS**

The EU EOM recognises that this is the first national electoral process conducted by Timorese authorities, that the CNE is a new institution, and that the process is in a constant state of improvement. Furthermore the EU EOM acknowledges the improvements made between the presidential and parliamentary elections. The following recommendations are therefore offered for consideration and action by the Timorese authorities, political parties, civil society and the international community.

### **LEGAL FRAMEWORK**

#### **Finalise the legal framework**

1. For future elections, the legal framework, including all regulations and codes of conduct, should be in place well before the election day. Any amendments to the law should be made after a consultation process with stakeholders. Late amendments to the electoral law should not be made, in particular, controversial provisions. There should be public consultation and discussion before draft laws are introduced to parliament. Presidential and parliamentary election laws should be uniform in their provisions, particularly on counting. It is preferable to have one electoral law with separate chapters for presidential and parliamentary elections. There should be a Sub-Committee in charge of following the parliamentary discussions on electoral legislation and reforms.
2. The election laws need to create crimes for the violation of important provisions that currently have no sanction.
3. The respective roles of STAE and CNE in making regulations and codes of conduct need to be clarified in the law in order to avoid disputes and delays.
4. The constitution should have clear timeframes and guidelines for the formation of government following elections and provide a framework for parties and coalitions to present a government programme. It is best that the legal framework limits the opportunity for inconsistent interpretation through vague provisions and that it has broad support among stakeholders.

#### **Provide powers to the CNE to ensure compliance with and enforcement of the electoral laws**

5. The election laws need to be amended to provide enforcement powers to the CNE. These would *not* include the power to deal with criminal offences, which can only be dealt with by the judicial system. CNE's powers could include issuing administrative sanctions, such as are held by election authorities around the world. Alternatively, these powers could be held by a separate independent election complaints commission. Examples of the types of powers that the CNE could have include:
  - to view and to obtain copies of any documents or material held electronically by STAE or by any other government body concerned with administering the elections;
  - to seek court orders requiring any organisation to comply with its legal obligations in relation to the elections;



- to issue administrative fines to candidates, parties, media outlets;
- to suspend from campaigning or from broadcasting for a certain period those candidates, parties or coalitions who violate the electoral laws and regulations;
- to remove candidates from who commit serious violations of the laws; full procedural guarantees and right to appeal must be given to all candidates, the law must clearly stipulate each of the situations when this removal will be legally possible (this is a controversial power, as it can damage the election authority's perceived impartiality; it may be preferable for another body, such as the courts, or an independent election complaints commission, to have this power);
- to revoke the accreditation of an observer or party agent who violates the laws;
- to recommend or order the disciplining of electoral staff who commit irregularities.

Another option would be for the CNE to publicise more widely the letters that it writes to violators (*cartas de repreensão* or *avisos*), so that the public and the media become aware, and this would help to apply moral pressure.

### **Improve the Safeguards of Fairness of Election Campaigning**

6. The Election Laws should to be amended to make it an electoral offence to use state resources in campaigning. There also needs to be adequate provision to prevent civil servants from participating in electoral campaigns. Both of these matters were prohibited by the Campaign Regulation but no sanction was provided for their breach.
7. The Campaign Regulation prohibited political appointees and public officials from participating in campaigning during their official functions, but was frequently violated. Either the law needs to be amended to allow such people to campaign or the law should distinguish among positions of different levels or their compliance with the law needs to be made clear (for example, by providing evidence to the CNE of their being on leave and acting outside official functions).
8. Announcements about public spending or the launch of public projects should not be made by candidates during electoral campaign periods. It was inappropriate for the government to announce the disbursement of significant funds to village chiefs just three days before the second round presidential election, as was the signing of 'contracts' between village chiefs and FRETILIN during the parliamentary elections.
9. Clear guidelines should be provided by the CNE on the details that it needs from candidates in relation to monitoring their accounts, one of CNE's tasks according to the law. General requirements were specified in the Campaign Regulation, but specific details were not given. These are needed if such provisions are to be enforced equitably and properly.
10. Consideration could be given to including maximum amounts in the law on the amount of donations that a candidate or a party may receive, or the amount that they may spend on their campaign. Such limits are commonly provided in other countries, in order to prevent richer parties or candidates out-spending all others.
11. Candidates and parties' agreements committing them for a fair campaigning and the avoidance of violence should be enforceable. Furthermore, codes of conduct should be enshrined in the electoral laws, rather than be signed before each electoral period.

### **Make the Complaints Process More Accessible**

12. It is essential that the CNE provide more public information about how to make complaints, especially since this is a new procedure and they are a new body. The requirement that a complaint has to be signed by the witness, and made within 24 hours is very strict for the Timorese context, and consideration should be given to being more flexible. Extension of the different deadlines related to complains procedures must be studied. Witness statements should be considered to be evidence, rather than having to constitute the complaint itself. The complaints procedure should provide a time limit by which the CNE should resolve complaints.
13. The EU EOM recommends that the CNE make publicly available more information about the complaints received and how they are resolved. For the presidential and parliamentary elections, only general statistics were available, without more details. Although there was an improvement in the parliamentary elections with a regular bulletin being available on the CNE's website, only classification of complaints was available, sometimes –but not always- with their resolution. This should be developed for future elections and should provide substantive details.

## **ELECTION ADMINISTRATION**

### **Strengthen Independence and Impartiality of the Election Bodies**

14. The CNE's independence needs to be strengthened by providing it with financial autonomy, as the law requires. It should have its budget approved directly by parliament, rather than by the Minister of State Administration. The CNE should have the independence to reassign its budget internally, according to the needs of the election process.
15. The appointment of secretariat staff for the CNE needs to be carried out very carefully and in strict compliance with criteria of impartiality and merit, given its importance as an independent institution. So far UN staff have been completing these tasks. The secretariat should include a translation unit.
16. CNE should adopt a Code of Conduct for Commissioners and Staff, to strengthen its impartiality. STAE should pass a Code of Conduct for Staff, to encourage impartiality by all staff members. The internal regulation of CNE should be published to enter into effect.
17. The CNE Commissioners should have specific portfolios. For instance, there could be focal points for donor relations, relations with the Parliamentary Sub-Committee mentioned above, relations with observers, and so on.
18. Although the Minister of State Administration was a candidate in the Parliamentary Elections she did not openly interfere in the work of STAE. However there is an inherent conflict of interest present in such cases. This could be avoided by having an independent electoral administration which is more appropriate for countries where the election administration is new as in Timor-Leste and public institutions still do not have the necessary credibility among the population. The independent status of similar electoral

bodies (the STAE and the CNE) from other state institutions is a common international practice that helps improve the credibility of the electoral administration.

19. Capacity building for STAE and CNE should be strengthened with mutual visits, exchange of information and transfer of know-how with Portugal and Australia (being the countries which have the closest donor relations with on Timor-Leste) and membership in regional electoral authorities.

#### **Clarify the Relation and the Division of Tasks between STAE and CNE**

20. The electoral laws and regulations need to specify clearly the powers of each electoral body in relation to regulation-making. The current law is insufficiently precise, and this led to disputes between the two bodies, and delays in the issuing of regulations and procedures.
21. A standard model used in many countries would be for the CNE to be responsible for taking all policy decisions, and for STAE to be the implementing body. Clarifying this issue would reduce conflict and speed up processes. In any case, deadlines before the election day need to be provided by which key decisions should be taken, and beyond which regulations cannot be approved.
22. Operational plans on the different possible elections must be created and revised periodically. During electoral periods weekly co-ordination meetings between the two electoral bodies, both at headquarters and district level, would be helpful.
23. The two electoral bodies have to be fully functional all the time, maintaining a basic skeleton of staff at head quarters and district level, as elections can happen at any time.

#### **The Electoral Authorities Need to Improve their Communication with Candidates, Political Parties and Observers**

24. Both electoral bodies need to improve their communications with candidates, political parties and observers. It is recommended that regular briefing sessions are held explaining each stage of the electoral process. This would help to improve the transparency of the electoral bodies, and public confidence and understanding of the process. It would also save time for the election bodies who could deliver information in a more streamlined way. A common model is to set up a political party service office and an observer office in each election body.
25. The CNE's decisions are required by law to be publicised, and this needs to happen in every case. It would also be helpful to publish the minutes of their meetings, and to allow party representatives to attend their meetings, without voice or vote.

#### **Voter and Civic Education**

26. It would be useful for a long-term program of civic education to be carried out by STAE and CNE before future elections. Topics related to good governance and the role of the different state and local administrations could be included among the topics to be presented.

### **Selection of Polling Staff**

27. A new system of polling staff selection should be considered, prioritising previous electoral experience and literacy and numeric skills. It is common in many countries for school teachers to form the bulk of polling staff. This is apparently not possible in Timor because of restrictions on public officials being polling staff. This rule could be relaxed in the case of teachers. This process should be under the direct supervision of the CNE.

### **Capacity Building of the Election Administration**

28. Consideration could be given to retaining some national staff (perhaps on a part-time basis) at district level, in order not to lose all skilled and experienced personnel. Longer-term capacity building projects, such as BRIDGE training, could be considered.

## **VOTER REGISTRATION**

### **Improving the Voter Register**

29. In future, checks should be made against the voter register database *before* a person obtains a new or replacement voter's card, in order to try and prevent duplicate cards from being issued.
30. A display and challenge period is required at the end of each registration update, to include the whole voter register, not only the updated portion. The regulation needs to be amended to allow for this, providing the timeframes and the procedure for making challenges, and for removing ineligible names. It should also specify a mechanism for the political parties and candidates to be able to verify the data effectively, i.e. in an electronic format.
31. In the law, civil registration exists under the jurisdiction of the Ministry of Justice, including provision for an identity card, but this has never been implemented. STAE has the field personnel to carry out and maintain a registration process.
32. In the longer term, a civil registration process is needed, which would provide more reliable base documents (such as a birth certificate or I.D), against which checks could be made. There would need to be a permanent civil registry in place for updates to be made, in particular deaths. One of the advantages of a civil registry is that information can be extracted from it for different services or Ministries, such as education, health and taxes. Another is that it provides a permanent structure for the election administration, which is in this way always ready for elections.
33. Lastly, there should be a voter's list broken down by polling station with special provisions for IDPs in case they are still displaced for the next election.

## **CANDIDATE REGISTRATION**

34. There should be full public information about the process of candidate verification, including the rectification of candidate applications. This would improve transparency.

35. The law should clearly specify what symbols may be used on the ballot paper, and should not allow more than one candidate to use the same symbol. If several candidates wish to do so, a lottery should be held.

## **PARTICIPATION OF WOMEN**

36. Encouragement is needed for candidates and parties to address women's issues in their campaigns. This requires civil society to raise awareness of these issues, and for the media to provide coverage of them.

## **VOTING PROCEDURES**

37. The following steps should be taken to improve procedures on election day:
- i. The voter's finger should be checked for ink before voting;
  - ii. Young voters' cards should be checked to see if they are 17;
  - iii. Clear procedures should be produced on how to assist illiterate or disabled voters;
  - iv. Greater staff training and voter education on valid and invalid votes is needed to avoid inconsistency in the identification of invalid ones;
  - v. Ballot papers should be provided with numbered stubs to assist in accounting for them, as was done for the parliamentary elections;
  - vi. The polling station minutes (*Actas de Operasaun*) and any ballots not used (unused, cancelled) should be considered sensitive material.

### **Counting procedures**

38. The fact that the presidential and parliamentary elections took place this year with different counting procedures creates uncertainty as to which procedures will be used in future elections. The election procedures should be the same, whichever system is chosen. However, it is best practice to count as soon as possible after closing of polling and in the presence of all those directly involved; therefore it is preferable and more transparent to count at polling station level.

## **RESULTS**

### **Transparency in Counting and Publishing Election Results**

39. The election laws should be amended and the CNE should pass a regulation to ensure that the publication of results is detailed and accurate. In particular:
- i. Copies of each polling station minutes (*Acta de Operasaun*) should be made available to candidate or party agents at the polling station.
  - ii. If counting takes place at polling stations, greater efforts should be made to ensure that the minutes are displayed at each polling centre immediately after the count.
  - iii. Detailed preliminary and final results should be published in due time in newspapers, announced to the media, and posted on the CNE's website. An electronic copy on CDs could be made available to candidates and parties and to observers. A clear explanation should be given of the tabulation process, and why results may change during district and national tabulation.

- iv. When publishing partial, preliminary or final results the CNE should publish all available data, including results for all candidates, the total number of votes cast, and the number of invalid ballots.
- v. When publishing preliminary or final results, the results should be broken down by district and polling station.
- vi. Candidates and parties should be given the detailed breakdown of preliminary results as soon as they are announced, because they only have 24 hours to present an appeal against them.

### **Training for party agents on procedures of polling and counting**

40. Candidate and party agents need training on the polling and counting procedures, in order to better follow the process.

### **MEDIA**

41. Although freedom of the Press is guaranteed by the Constitution, the activities of the media should be regulated by specific legislation. This legislation should establish rights and duties for the media, the rules for access to the journalism profession, and provisions to discourage and prevent intimidation or attacks against journalists. An independent media authority that includes representatives of the media should be established.
42. A professional school of journalism should be established with the support of similar institutions of other countries. The National University of Timor-Leste should lead and concentrate efforts to promote this school. In the meantime, the University should organise training courses for the existing journalists. The University Radio should be activated and used as a “school” for journalists.
43. As Tetum is still in a process of consolidation, the media has a relevant role in its promotion. Media organisations should adopt the standards of Tetum developed and approved by the National Institute of Linguistics to avoid the *ad hoc* usage of terms from different linguistic sources, which creates confusion in the public.
44. The Timorese authorities and donors should establish and strengthen programs for reinforcing the technical quality and the reach of the media through support to community radio stations, the modernisation of printing facilities, and the distribution of newspapers in all districts. Community centres where people could watch national television should be established in the districts.
45. For future elections, election authorities should monitor the media coverage of the election campaign to ensure compliance with legal provisions, namely the right for candidates and political parties to have equal airtime. A clear framework that specifies how to make complaints against unfair media coverage, and the possible sanctions that can be applied, should be adopted. Reports of the election authorities’ media monitoring should be published.
46. Political actors should adopt channels of communication with the media and be ready to participate in public debates of ideas and proposals, rather than use the media to convey aggressive and violent messages. In a country with an almost non-existent public opinion

and with a history of violence, joint efforts by the political actors and the media are necessary to promote democratic values.

**Annex 1. Presidential Election Results**  
**First Round (9 April 2007)**

	<b>Final Results</b>	<b>Final Results %</b>	<b>Position</b>
<b>Lú-Olo</b>	112 666	27.89%	1 <sup>st</sup>
<b>Avelino Coelho</b>	8 338	2.06%	7 <sup>th</sup>
<b>Xavier do Amaral</b>	58 125	14.39%	4 <sup>th</sup>
<b>Manuel Tilman</b>	16 534	4.09%	6 <sup>th</sup>
<b>Lúcia Lobato</b>	35 789	8.86%	5 <sup>th</sup>
<b>Ramos Horta</b>	88 102	21.81%	2 <sup>nd</sup>
<b>João Carrascalão</b>	6 928	1.72%	8 <sup>th</sup>
<b>Fernando Lasama</b>	77 459	19.18%	3 <sup>rd</sup>
<b>Total Valid Votes</b>	403 941	94.56%	
<b>Total Blank Votes</b>	7 723	1.81%	
<b>Total Invalid Votes</b>	15 534	3.64%	
<b>Total Votes Cast</b>	427 198	100%	
<b>Registered Voters</b>	522 933		
<b>Total Voters</b>	427 198		
<b>% Turnout</b>	81.69%		

**Second Round (9 May 2007)**

	<b>Final Results</b>	<b>Final Results %</b>	
<b>Ramos Horta</b>	285 835	69.18%	
<b>Lú-Olo</b>	127 342	30.82%	
<b>Total Valid Votes</b>	413 177	97.34%	
<b>Total Blank Votes</b>	2 015	0.47%	
<b>Total Invalid Votes</b>	9 283	2.19%	
<b>Total Votes Cast</b>	424 475	100.00%	
<b>Registered Voters</b>	524 073		
<b>Total Voters</b>	424 475		
<b>% Turnout</b>	81%		
		<b>Women</b>	<b>Men</b>
		47.69%	52.31%



## Annex 2. Parliamentary Election Results (30 June 2007)

	National results			
	Votes	% votes	Seats	Women
<b>FRETILIN</b>	120,592	29.02%	21	5
<b>CNRT</b>	100,175	24.10%	18	6
<b>ASDT-PSD</b>	65,358	15.73%	11	4
<b>PD</b>	46,946	11.30%	8	2
<b>PUN</b>	18,896	4.55%	3	1
<b>AD (Kota-PPT)</b>	13,294	3.20%	2	
<b>UNDERTIM</b>	13,247	3.19%	2	
<b>PNT</b>	10,057	2.42%		
<b>PDRT</b>	7,718	1.86%		
<b>PR</b>	4,408	1.06%		
<b>PDC</b>	4,300	1.03%		
<b>PST</b>	3,982	0.96%		
<b>UDT</b>	3,753	0.9		
<b>PMD</b>	2,878	0.69%		
			65	18 (27.69%)
<b>Total valid votes</b>	415,604	97.51%		
<b>Blank votes</b>	2,636	0.62%		
<b>Invalid votes</b>	7,970	1.87%		
<b>Turnout</b>	80.05%			

### Results by region (1<sup>st</sup> place, 2<sup>nd</sup> place, 3<sup>rd</sup> place)

	Western Region		
	Covalima	Bobonaro	Ermera
<b>FRETILIN</b>	<b>28,5%</b>	16,1%	<b>13,8%</b>
<b>CNRT</b>	15,4%	<b>20,6%</b>	13,7%
<b>ASDT-PSD</b>	<b>17,7%</b>	<b>16,8%</b>	12,9%
<b>PD</b>	<b>20,8%</b>	<b>19,3%</b>	<b>22,0%</b>
<b>PUN</b>	5,0%	10,0%	<b>19,7%</b>
<b>AD</b>	2,4%	2,1%	3,0%
<b>UNDERTIM</b>	2,0%	1,5%	2,4%

	Mambae Land		
	Aileu	Manufahi	Ainaro
<b>FRETILIN</b>	<b>8,3%</b>	<b>25,2%</b>	10,0%
<b>CNRT</b>	<b>20,5%</b>	<b>13,8%</b>	11,8%
<b>ASDT-PSD</b>	<b>47,3%</b>	<b>27,0%</b>	<b>29,2%</b>
<b>PD</b>	6,1%	11,7%	<b>12,7%</b>
<b>PUN</b>	1,7%	6,1%	4,4%
<b>AD</b>	5,7%	3,5%	<b>18,7%</b>
<b>UNDERTIM</b>	1,6%	1,8%	3,2%

**Northern Coast**

	<b>Dili</b>	<b>Liquiçá</b>	<b>Manatuto</b>
<b>FRETILIN</b>	<b>22,4%</b>	12,0%	<b>17,5%</b>
<b>CNRT</b>	<b>45,2%</b>	<b>39,0%</b>	<b>33,1%</b>
<b>ASDT-PSD</b>	<b>14,8%</b>	<b>19,8%</b>	<b>17,3%</b>
<b>PD</b>	6,7%	<b>12,4%</b>	12,7%
<b>PUN</b>	1,7%	2,3%	2,4%
<b>AD</b>	1,7%	3,6%	3,2%
<b>UNDERTIM</b>	2,4%	2,2%	2,1%

**Eastern Coast**

	<b>Lautém</b>	<b>Viqueque</b>	<b>Baucau</b>
<b>FRETILIN</b>	<b>45,5%</b>	<b>59,9%</b>	<b>62,6%</b>
<b>CNRT</b>	<b>14,6%</b>	<b>12,6%</b>	<b>13,4%</b>
<b>ASDT-PSD</b>	12,5%	<b>5,9%</b>	4,6%
<b>PD</b>	<b>13,7%</b>	3,8%	2,7%
<b>PUN</b>	0,5%	0,9%	0,8%
<b>AD</b>	1,1%	2,7%	1,4%
<b>UNDERTIM</b>	4,0%	4,0%	<b>8,7%</b>

**Oecusse**

	<b>Oecusse</b>
<b>FRETILIN</b>	<b>27,5%</b>
<b>CNRT</b>	<b>34,7%</b>
<b>ASDT-PSD</b>	11,5%
<b>PD</b>	<b>11,7%</b>
<b>PUN</b>	1,1%
<b>AD</b>	1,3%
<b>UNDERTIM</b>	1,4%

### Annex 3. Complaints\*

Types of Complaints	1 <sup>st</sup> Round	2 <sup>nd</sup> Round	Parliamentary
Campaign Issues	14	2	24
Intimidation	5	1	16
Violence	5	--	15
Late or Interrupted Polling	2	--	--
Lack of Ballots/Equipment Problems	9	1	--
Refused Ballots	7	3	2
Multiple Voting	9	--	--
Ballot Fraud or Other Corruption	9	19	6
Counting Issues	30	42	6
Invalid or too Uncertain	4	--	--
Polling Procedure Errors	79	29	23
Unclassified	23	35	25
<b>Total</b>	<b>154</b>	<b>128</b>	<b>83</b>

Classification of Complaints	1 <sup>st</sup> Round	2 <sup>nd</sup> Round	Parliamentary
Affecting the results			--
Alleged offences			30
Procedural Problems			53

\* This data comes from the CNE's record of complains received.