



National Parliamentary Bulletin

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Section 1: Summary of Parliamentary Activities during the months of May and June 2010

1. Parliamentary activities during the two month period

a. Legislative activities of National Parliament

In May and June 2010, National Parliament only had general discussion on a number of draft laws and approved only a small number of draft laws or resolutions, because members of parliament were busy ratifying the rectification to the budget for 2010. In the aforementioned two month period 16 plenary sessions were held including an extraordinary plenary for two days to discuss the rectification of the 2010 budget. Plenary sessions were lengthy, which is usually the case, and the extraordinary plenary on the rectification budget took a long time and required a significant effort on behalf of all members of parliament to quickly and efficiently complete this legislative process.

The following draft resolutions were approved by the National Parliament:

- Draft Resolution No 43/II, *Solidarity and Support for the People of Cuba*, approved by vote with 40 in favor, 0 against and 0 abstain, on the 11 May 2010; and
- Draft Resolution No 34/II, *Basic Agreement on the Relationship between the Democratic Republic of Timor-Leste and Spain*, approved by vote with 37 in favor, 0 against and 0 abstain on 25 May 2010.

In addition the following draft law was discussed in general sessions:

- Draft Law No. 30/II, *Civil Code*, which has passed general discussion in the plenary with votes in favor: 32, against: 0 and abstain: 2, on 31 May 2010.

Members of parliament fully participated in discussion on the amended budget as well as members of the AMP government, and this was broadcast live to the people of Timor-Leste through RTL and TVTL. The details of the draft law are as follows:

- Draft Law No. 37/II which supersedes *Law No. 15/2009 23 December 2010 and was approved pursuant to the 2010 State Budget for the Democratic Republic of Timor-Leste (debated on 7-8, 14-18, 21-25 June 2010)*; the law was approved by the following vote: 39 in favor, 17 against and 3 abstain.

A number of news draft laws were submitted in the plenary to be discussed in detail by the relevant committees;

- Draft Law No. 17/II on *Organic Law for a Timor-Leste Central Bank* (Parliament gave this draft to Committee C)
- Draft Law No. 38/II on *Private Investment* (given to Committee A on 7 June 2010)
- Draft Law No. 18/II on *Legal Rules on Preventing and Combating Money Laundering and Financing of Terrorism* (given to Committee A on 7 June 2010)
- Draft Law No. 37/II on *Approval of Protocol for Interaction between Portuguese Speaking Nations and Defense* (National Parliament received it on 22 June 2010 but it wasn't debated)
- Draft Law No. 43/II on *Visit by the President of the Republic to the Federal Republic of Brazil* (17 May 2010) (This draft was included in the agenda but it was not debated or voted on in a plenary, because the President did not end up making the visit to Brazil).

b. Other additional information about the National Parliament

In addition to discussing draft laws in plenary sessions, every Monday and Tuesday the members of parliament discuss the results of monitoring, which is known as discussion of 'additional information/other' which constitutes other information that has been gathered by all members of parliament whilst discharging their duties in order to carry out monitoring in each district as well as observations carried out in Dili.

The following issues were raised during discussion on 'additional information/other' during the last two months:

- The Referendum Package does not consider members of the community as land owners, this mistake made in the Referendum Package could be used as a lesson for drafting the new program known as the Development Package
- Teachers went on strike in Baucau;
- The Ministry of Education does not have effective planning in place;
- Debate about email from Minister of Finance, Emilia Pires, that states that if the government fell into the hands of former Prime Minister Mari Alkatiri, it would be better for Australia to take over;

- Natural disasters in Ainaro and Suai;
- Poor conditions in the Comoro Market;
- Medical staff in hospitals do not provide care in a fair manner, because they provide services that are discriminative in nature;
- Ministry of Industry and Trade purchased maize from Lospalos residents at the cheapest price;
- Some members of parliament are unhappy because some people issued a statement or opinion saying that the President of the Republic Ramos Horta was not injured and the President had to show his scars to the media;
- Economic growth at 12% in Timor Leste;
- National Priorities for 2010 such as infrastructure, security, food and resources;
- Allocation of funds for Civil Society including the church;
- Education and Health is a crucial sector that needs to be addressed;
- Budget allocated for construction of port and navigation component;
- Complex bureaucracy in each ministry;
- Scholarships for university students who are continuing their studies overseas and in Timor-Leste;
- Problem with distribution of tractors;
- Distribution of MTCI rice;
- Problem of highways;
- How to use government vehicles;
- Budget for members of government to make overseas trips;
- Housing for the Former Prime Minister as well as the proclaimer of independence;
- Salaries for government officials;
- System of oversight for the government;
- Provision of goods for local business people;
- Members of National Parliament asked for detailed clarification on the budget to be used by Ministries during the third quarter of 2010; and
- Strategic plan of the Prime Minister which has its supporters/opponents.

c. Political statements from National Parliament

Some information from the monitoring and observation process carried out by members of National Parliament was raised in plenary sessions in the form of political statements. These political statements are political opinions and members of parliament are protected by parliamentary privilege which allows them to issue a specific opinion on a certain issue.

The following political statements were observed during the last two months in plenary sessions:

- Political statement on the development of Greater Sunrise, made by MP Adriano do Nascimento from the Democratic Party (presented on 11 May 2010);
- Political statement on an agreement between the Ministry for Economy with the Ensul Company made by MP Lucas da Costa from the Democratic Party (presented on 18 May 2010);

- Political statement related to the statement made by Minister Emilia Pires who claimed it would be better for Timor-Leste to integrate with Australia, which was given the title “*putting things into practice is the better way of proving the righteousness of our intentions*”. This declaration originated from the Fretilin Party (presented on 18 May 2010);
- Political statement on the construction of a physical project that was drafted by the AMP government in general, and by the Ministry of Justice in particular. This declaration was made by MP Inácio Moreira from the Fretilin Party (presented on 25 May 2010);
- Political statement and debate that emerged in relation to the security situation in Ermera District. This declaration was made by MP Arsénio Bano Paixao from the Fretilin Party (presented on 31 May 2010).

d. Analysis of the Amended Budget 2010

The amended budget of 2010 totaling US\$ 837.981 million was debated for nine days between 22 June – 2 July 2010 and in the end it was approved by Parliament, voting with 39 in favor, 17 against and 3 abstain. The Fretilin party chose not to agree to the amended budget. All members of AMP agreed with the amended budget while PUN and PPT-KOTA chose to abstain.

During the discussion there were amendments made to goods and services and minor capital transfers or additions to development capital, however there were no significant changes to the total value of the proposed budget. This is because 1.752 million from the goods and services section under No. 0.022 from minor capital was added to development capital. This means that no change was made to the amended budget from the government.

Based on JSMP monitoring at the Parliament, approximately 10 amendments were made to the budget after the discussion and debate, however this did not change the total value as amendments were made to individual items, as mentioned above.

The 10 amendments were based on requests made by members of AMP, with a request made from Mr. Duarte Nunes from the CNRT bench and Mr. Domingos Mesquita from PUN, and another 5 requests were made by the opposition, namely from Ms. Fernanda Borges-PUN, Cipriana Pereira-Fretilin and Antoninho Branco-Fretilin, Francisco Branco-Fretilin and Arsénio Paixao Bano-Fretilin.

While conducting its parliamentary monitoring JSMP noted that 126 amendments were requested during the specific discussion of the 2010 amended budget. However most of these proposals were not approved because the majority of members of parliament are affiliated to AMP and they defended the draft amended budget put forward by Prime Minister Kay Rala Xanana Gusmão and Minister of Finance Emilia Pires during the plenary discussion in parliament.

JSMP values the hard work and progress achieved by the members of parliament during the aforementioned two month period. JSMP hopes that in the future these representatives of the people will continue to improve their work arrangements, so that the community can truly see the development and progress being achieved in this newly independent nation.

2. JSMP analysis on activities of the national parliament during the last two months

a. Members of parliament from the Parliamentary Majority Alliance (AMP) criticize the government

JSMP congratulates the Members of Parliament for their improved performance and their active participation in plenary sessions and within their respective committees, JSMP also feels proud of the democratic processes taking place in the National Parliament. On 18 May 2010, a member of parliament from the Democratic Party (PD), Lucas da Costa, criticized the AMP government in a political statement presented before the plenary. This statement related to an agreement made by the Minister of Economics and Development, Joao Goncalves, with the ENSUL company to hand over community land, that was given the name “old facilities of the *Sosiedade Argrikula Patria Traballu*”, to be used by ENSUL for 99 years with taxes totaling \$ 6,790. The land in question is 22.635 meters squared.

JSMP believes that the criticism made by the AMP bench against the policy of the AMP government demonstrates the new atmosphere in the National Parliament. The members of Parliament need to criticize the government when it is necessary. This is a true demonstration of political maturity as politicians don't just prioritize the interests of the government in power, but rather it is critical for them to challenge or criticize any government policy that does not correspond with the common interest. JSMP hopes that this process will continue to be protected as a positive trait of parliamentarians to strengthen the democratic process and development in Timor-Leste.

b. Portuguese language prevents several members of Parliament from debating the draft Civil Code

Through its parliamentary watch project, JSMP observed positive developments during the last two months, however JSMP also noted that members of parliament faced difficulties in conducting their daily activities in relation to the legislative process in parliament.

On 31 May 2010, National Parliament started debating the draft civil code. A member of parliament from the CNRT bench, Natalino dos Santos, raised the issue of Portuguese language which continues to prevent some members from fully contributing or being involved in the debate on the draft civil code, a piece of legislation that will have wide ranging applications in the day to day lives of the community.

However, another member of parliament from the Fretilin bench, David Ximenes, felt quite differently, he believed that in order to carry out legislative analysis properly it is necessary for Members of Parliament to study Portuguese.

JSMP is happy to see representatives of this sovereign body also raising language as a crucial issue that can improve their participation in the legislative process. It is

especially important for them to be involved in producing pieces of legislation that are of high quality that reflect the cultural context of Timor-Leste. JSMP believes that if Members of Parliament, who have been assigned to this sovereign organ and mandated to produce legislation, find it hard to present their ideas and discuss a draft law, then what about ordinary citizens who don't understand Portuguese at all? What can they do to contribute and participate in the drafting of a legal product that closely corresponds with their rights and their lives?

JSMP hopes that in the future this sovereign organ and all layers of society can work together to promote Tetum as a language that is ready to be used as a national language. This is part of the obligation established in Article 13 of the Timor-Leste Constitution which stipulates that Tetum and Portuguese are the national languages of Timor-Leste. Article 13.2 also states that the state is obliged under the Constitution to develop and value Tetum and other national languages. JSMP feels that what is most important is to ensure that Tetum can become a language of legislation, so that everyone can share their view and contribute to the production of quality legal products that reflect the social and cultural context of Timor-Leste.

c. Analysis of the 2010 Amended Budget

As set out in Article 145.1 of the RDTL Constitution, the State Budget shall be prepared by the Government and approved by the National Parliament. Furthermore, Article 145.2 states that the Budget law shall provide, based on efficiency and effectiveness, a breakdown of the revenues and expenditures of the State, as well as preclude the existence of secret appropriations and funds.

There are two pieces of legislation that deal with budget issues:

- Law No. 8/2007 on the budgetary period. Article 1 of this law states that the budgetary period shall commence on 1 January and end on 31 December of every year. This means that the state budget should only be debated and approved once a year.
- Another law is Law 13/2009 on Budget and Financial Administration. Article 34 of this Law specifies that the government may present amendments to the government budget in force whenever circumstances require. Article 34.2 states that the structure and content of laws concerning budget changes comply with the provisions of the present law, the terms of which are applicable thereto with the necessary amendments.

On 22 June Committee C submitted a report or opinion to the chair of the Parliament. Committee C recommended that only US \$ 52.3 million be approved for new expenditure from the US \$ 178 million proposed by the government. According to Committee C, the government could only justify a total of US \$ 52.3 million, not US \$ 178 million. On the next day in front of the plenary, the Prime Minister said in English "*bullshit*" which for English speaking communities is a term that is very disrespectful to others, and is never used in formal communications or debates at this level. Nevertheless, JSMP also values the honesty and humility of the Prime Minister who then apologized to the members of the council and also to the people of Timor-Leste for using inappropriate language. Then on 24 June the Parliament voted on the passing of the Draft Amended Budget in a full plenary session and rejected the draft

proposed budget from Committee C.

JSMP believes that this incident can be understood as an event that threatens the democratic process in parliament. JSMP noted that ideally there should only be one period of debate on the budget each year, and the budget should only be increased in extraordinary circumstances, because this increase will be part of a new program. JSMP is concerned that perhaps the government is trying to use this amendment process like they use debate on the state budget. JSMP believes that if there are two separate budgeting processes in Parliament this will prevent the members of parliament from carrying out their other core activities, such as debating and approving laws which is also part of their mandate.

JSMP also believes that the Parliament and government should also consider recommendations from Committee C, because this Committee has specific knowledge about state finances.

Section II: Analysis of Draft Law on a Memorial Institution and Reparations

1. History of how draft laws on a Memorial Institution and Reparations were developed

a. CAVR and CTF

The Commission for Reception, Truth and Reconciliation (CAVR) was established during the time of the UNTAET transitional government in 2002 at the initiative of the national leaders from CNRT. This Commission was mandated to carry out research and write a report on human rights violations that occurred within the territory of Timor-Leste between 25 April 1975 and 25 October 1999.

This commission then produced its final report entitled “*Chega!*” which set out a number of recommendations including a recommendation that victims of human rights violations that occurred between 1974-1999 should receive reparations and that the National Parliament should establish an institution to “follow up” the recommendations of the CAVR.

On 31 October 2005 the Commission delivered its final report to the President of the National Parliament.

On 9 March 2005 Indonesia and Timor-Leste agreed on the terms of reference for the establishment of a Commission for Truth and Friendship (CTF) with the aim of revealing the truth about violence that occurred in 1999 in Timor-Leste with an aim of strengthening reconciliation and friendship between the two countries.

This Commission then received a lot of attention and a harsh response from civil society groups in Timor-Leste and Indonesia, as well as the international community, because it was considered to be in conflict with principles of international human rights on serious crimes such as genocide, war crimes and serious violations of human rights.

However the CTF continued to carry out its task and finished its report containing recommendations which was launched and published in March 2008 in Bali, Indonesia. The CTF only recommended reparations for human rights violations that occurred in 1999.

Over a period of approximately four years, with reports being produced from these two commissions (CVAR-CVA), the government and national parliament have still not managed to carry out the recommendations contained in these two reports.

b. CAVR Working Group activities to lobby parliament

In 2009 a working group demanding justice for victims of human rights violations that occurred in 1999, comprised of members from organizations such as ATP-CAVR, JSMP, Fokupers, HAK, ICTJ JPC Dili and NCD, started conducting activities to lobby National Parliament to initiate a draft law on an institution to follow up the recommendations of CAVR and CTF. This working group for justice conducted a range of activities, of which the largest was organizing a Consensus Dialogue Conference in October 2009 and also submitted a draft law to Parliament for consideration.

On 14 December 2009 the Parliament passed a resolution to implement the recommendations contained in the CAVR and CTF reports. In this resolution the Parliament acknowledged the work of the two aforementioned commissions. This resolution also emphasized the need to acknowledge the suffering of victims through a process of reparation and the most important issue was to implement the recommendations of the two reports.

Then in June 2010 Committee A of Parliament considered and attempted to discuss the draft law submitted by the working group. Two draft laws were produced, namely a draft law on a Memorial Institution and a draft law on Reparations. According to the parliamentary resolution, Committee A had been given three months to study these two reports and make preparations to implement the recommendations from the two reports.

c. Activities of Committee A in relation to these two draft laws

In June 2010 Committee A of National Parliament prepared two draft laws on a Memorial Institution and Reparations.

Then on 6 July Committee A held a public consultation with civil society in the national parliament with support from members of the working group. JSMP and other NGOs also were given an opportunity to make presentations in this public meeting. At that time members of NGOs made comments about the two draft laws, in particular focusing on the independence of the institution that would be implementing the mandate established by law.¹ Then on 7 July 2010, Committee A continued the public consultation with the victims of human rights violations from the 13 districts, which was organized by the members of the working group. JSMP was entrusted to organize 5 representatives of victims to travel from Oecusse District to Dili to attend

¹ For further information relating to JSMP analysis of the draft law on reparations, please refer to a JSMP justice update issued in March 2010.

the public consultation. The victims also recommended that it is crucial to guarantee the independence of the follow up institution. They were concerned that the Ministry of Social Solidarity has a lot of work and this will hamper the ability of the officers tasked to implement this mandate. The victims thought it would be better to establish an independent institution to take responsibility for these matters.

On the same day Committee A also organized a meeting with members of the Council of Ministers between 8-13 July 2010 to prepare a report with reference to the results of the public consultations held with the victims. This report recommended the establishment of an institution independent from the Ministry of Social Solidarity. The Council of Ministers is currently considering this report.

Furthermore on 14 July 2010 Committee A of Parliament organized a vote on the report and sent it to the President of Parliament to be discussed in the plenary.

Now we are waiting for the members of the National Parliament to return from their recess to hold high level and specific discussions

2. Summary of the Draft Law on an Autonomous Institution to implement the recommendations of CAVR

The aim of preparing this draft law is to hold discussions with civil society, victims groups, government, members of Committee A itself and members of parliament before this law is approved and promulgated. Most of the entities mentioned above expressed their concern about the independence of such an institution if it is under the purview of the Ministry of Social Solidarity. Therefore an amendment was proposed by Committee A to change the name of the Memorial Institution to ‘Autonomous Institution’ and to place the institution under the direct supervision of the National Parliament. This proposed amendment received 5 votes in favor, 2 against and 0 abstain. This vote was held at the Committee level on 14 July 2010.

The law is intended to respond to the recommendations contained in the CAVR and CTF which obliges the state to implement these recommendations in accordance with the spirit of the constitution and the law. This law has also been proposed to recognize the suffering of the Timorese people during the conflict that took place between 1974-1999, and to prevent human rights violations in the future.

The draft law consists of provisions relating to general rules, an organic structure, a steering committee, establishment of different units, including a finance unit, the scope of activities, the access and use of files, collaboration with the Autonomous Institution, symbolic and material reparations, missing persons, management of finances and property and other support, parliamentary oversight, jurisdictional oversight, concluding regulations and terms for revision. This is all set out in 11 chapters, 3 sections and 57 articles.

This law substantially deals with the legal basis for establishing a body/institution to implement the recommendations of CAVR and CTF with other financial and technical administrative issues to be entrusted to the state of Timor-Leste, namely with direct oversight from the National Parliament. This institution consists of a Steering Committee, Units and a Finance Unit

In reference to the version of the draft law currently in the possession of JSMP, the Steering Committee consists of three people, one who is the chairperson and two members who are to be appointed in accordance with the conditions and their status as administrative and financial managers. They shall fulfill their mandate for four years and will be assessed by the relevant ministry as deemed necessary. However, JMSP does not yet have clear information about whether this will be the same if the Autonomous Institution will be under the purview of the National Parliament.

In addition, the Research and Documentation Unit, Reparations Unit and Missing Persons Unit will be integrated into one body that will have the competence and responsibility for filing and documentation, organizing data on missing persons and implementing information programs, education and training.

Members of the finance unit will be appointed for a period of three years which will be assessed by the supervising ministry. This unit will be authorized to provide oversight and financial management, execution of the budget/financial procedures and institutional activities as a whole under the direction of the Steering Committee.

This institution must submit a report every year to the national parliament on all of its activities and accounts that will be debated by the competent Parliamentary Standing Committee, namely Committee A. Any person suspected of committing an improper act or omission in the discharge of his duties can be held liable in civil, criminal or disciplinary proceedings, and can be liable to a financial penalty, if deemed necessary.

3. Analysis on the contents of the Draft Law on an Institution

a. Tutelage

JSMP welcomes the democratic steps and efforts taken by Committee A of the National Parliament to organize consultations with civil society, victims' groups and members of parliament in relation to the draft law to establish and institution to implement the recommendations of CAVR and CTF. JSMP respects Committee A for taking these steps, as well as its consideration of the proposals and comments provided, especially concerns over supervision that was to be provided by the Ministry of Social Solidarity. As a result, now mention is made of an Autonomous Institution under the supervision of the National Parliament. JSMP believes that this amendment can help to ensure that this institution can perform in line with public interest, especially the interests of victims, as the institution will be independent in carrying out its role. At this opportunity JSMP also wishes to express its opinion that other government bodies and relevant institutions have to continue to provide technical, financial and material support in accordance with the constitution and applicable law, as well as institutional goals and interests, as well as national interests.

b. Composition and appointment of the Steering Committee

Article 9.1 discusses the composition of the Steering Committee. JSMP believes that it is necessary to clarify Article 9.1 in relation to gender equality, in order to ensure that women can be appointed as president or member of Steering Committee. JSMP believes that at least one of these positions (chairperson and two members of the Steering Committee) should be occupied by a woman.

JSMP also notes Article 9.2 which deals with appointment by the supervising ministry without a selection process. This situation will raise doubts in the community about the credibility and ability of those appointed to carry out their function as chairperson or member of the Steering Committee. JSMP believes that appointment that takes place without a clear selection process will make it possible for people to be nominated along party lines. A change has been made so that the Autonomous Institution will be supervised by the National Parliament, but JSMP doesn't yet know who will make appointments under the supervision of the national parliament.

c. Autonomous Institution needs 4 Units to carry out activities

Article 7 (b) of the law deals with research and documentation, reparations and missing persons. JSMP is not certain about the intention of this article, if there will only be one unit, or if work will be a split into several units when the institution starts implementing its role. JSMP believes that the Autonomous Institution should establish a number of internal units. The law should provide further clarification to prevent various interpretations. JSMP believes it will be easier and more structured if the work of the Autonomous Institution is carried out by respective units with their own responsibilities.

In addition to establishing a Research and Documentation Unit, Reparations Unit and Missing Persons Unit, it is also necessary to establish a unit for Training, Education and Outreach. JSMP believes this is so because Article 21 (g) deals with education and training which requires the existence of a unit to carry out this work. Article 27 also deals with the distribution of information and Article 28 deals with education. It is important that there is consistency from one article to the next.

JSMP believes that the Autonomous Institution should establish the following units:

1. Research and Filing Unit,
2. Reparations Unit,
3. Missing Persons Unit, and
4. Research, Education and Outreach Unit

d. Report of Autonomous Institution to Parliament

JSMP considers Article 49 to be vague because it only states that the National Parliament will hold discussion and debate when it receives reports from the Autonomous Institution. However it is unclear what follow up will be taken after this debate. JSMP is sure that the National Parliament has its own rules to take certain steps in relation to such reports after debate has taken place, however to avoid confusion and potential problems there should be a subsection added to this article that refers to the rules of the national parliament.

4. Summary on the contents of the Draft Law on Reparations

Reparations are a means to acknowledge or consider the suffering of victims as a consequence of war and the violation of principles set out in international human

rights law and serious crimes under international humanitarian law. Therefore, the draft law on reparations generally states that there will be a national program for reparations to give respect for the dignity of victims.

This law on reparations applies to those considered to be ‘victims’ as defined in the law. Pursuant to Article 3.1(a), *victim* means any person who suffers physical or psychological harm, or emotional suffering, substantial financial loss, or who is prevented from enjoying his rights as a consequence of a human rights violation in the context of the political conflict that occurred in Timor-Leste between 1974-1999. Article 3.1(b) states that victims also include family members or those mentioned in Article 3.1(a).

The law on reparations also contains specific rules for *vulnerable victims*. Pursuant to Article 4, Vulnerable Victims are victims who live in Timor-Leste and continue to suffer physical or psychological consequences or financial difficulties as the result of the following human rights violations:

- Victims of torture
- Victims of human rights violations who consequently suffer a permanent physical or mental disability;
- Spouses of a victim, or close relatives, of a person who is missing or was summarily executed;
- Victims who were ordered by troops to leave the country when they were still minors, and have been absent for a long period; and
- Victims who experienced sexual violence or slavery, or those born as the result of sexual violence or slavery.

The law on reparations includes three types of reparations programs:

- A national reparations program which will be applied to all victims and includes a program to honor and dignify victims and increase education about human rights and the history of Timor-Leste. This program will include: commemoration ceremonies, the construction of monuments, search for missing persons, identifying and dignifying burial sites and detention centers. These provisions are pursuant to Article 9.1 (a) of the Law on Reparations.
- The second type is an individual reparations program for vulnerable victims. This program will provide various forms of rehabilitation for vulnerable victims, including providing health care, mental health care, counseling and social services.
- The third is a program of collective reparations for members of the communities that suffered significantly from the conflict. This program will be implemented through community infrastructure projects, subsistence projects and projects paying respect to victims at the community level. The contents of this program will be established through consultation with beneficiary communities.

Based on the draft law in the possession of JSMP, the Autonomous Institution will have joint responsibility with the MSS to implement reparations programs. As the name has been changed from Memorial Institution to Autonomous Institution, JSMP

does not know how the institution will share its implementation responsibilities with Parliament and the Ministry.

5. Analysis on the contents of the Draft Law on Reparations

a. Reparations should prioritize girls, women and children

JSMP is concerned that the current draft law does not contain specific provisions for girls, women and children. JSMP is certain that this law should provide benefits and avoid discriminating against victims of human rights violations such as girls and women who suffered sexual violence or torture committed by Indonesian police and military. It is crucial that their needs are met, so that girls, women and children will be given special protection. Efforts must be made to ensure that girls are provided with health services and rehabilitation for mental health issues, including counseling and social services, including professional training and non-formal education for the illiterate. JSMP is also concerned that the current draft law does not give specific attention to intellectually handicapped children or those suffering from mental illness. These types of children have the right to services that meet their needs.

The process for identifying vulnerable victims should also consider how to identify vulnerable girls and women. The process used for identifying male victims may not be effective for identifying female victims.

b. Implementation

Based on monitoring conducted by JSMP, even though the law on reparations is relatively simple, it is important that it is implemented effectively with public awareness programs that have an adequate reach. It is crucial that everyone can understand who are victims and vulnerable victims. It is also important that everyone understands that the programs set out in this law are not the same as a pension and do not include giving money to people.

JSMP also believes that in parts this law uses language and terminology that is vague and inconsistent. For example, it is unclear how the Autonomous Institution will identify communities to receive collective reparations or identify vulnerable victims.

c. Indonesia's Responsibility

Although JSMP feels that it is important for Timor-Leste to give support to the victims of human rights violations, it is also important to acknowledge that the Indonesian government committed many violations and the Indonesian government has a responsibility to provide reparations for victims who suffered from their invasion of Timor-Leste which subjected the entire population to direct and indirect violence.

JSMP acknowledges that the UN General Assembly has adopted a special resolution on reparations, namely Resolution 60/147 on 'Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law'. This resolution states that when individuals or entities who are responsible are not

available, then the state members of the UN have a responsibility and obligation to ensure that each state member adheres to these principles.

Therefore JSMP remains concerned that even though the state, via the government, is implementing a program of reparations for victims through the construction of memorials, granting of scholarships, use of symbols etc, however in reality many victims of human rights violations have not benefitted from this process. Therefore JSMP demands for Indonesia to take responsibility for granting reparations to the victims in accordance with the terms of reference between Timor-Leste and Indonesia based on the report and recommendations of the Commission for Truth and Friendship that was issued in March 2008 in Bali, Indonesia.

d. There must be justice

JSMP also believes that the law on reparations does not mean that victims do not need justice. In accordance with UN General Assembly Resolution 60/147, victims have the right to the following remedies:

- Access to equal and effective justice;
- Reparations that are adequate and effective for those who have experienced suffering; and
- Access to relevant information on violations and reparations mechanisms.

This means that reparations constitute only one part of the remedy for victims. Victims continue to have the right to justice for the violations they suffered as a result of Indonesia's invasion of Timor-Leste. JSMP wishes to underline that the CAVR in its report also recommended that justice and the truth must be upheld for victims in Timor-Leste.

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