



TIMOR - LESTE

**FINAL REPORT
Parliamentary Election 2012**

**EUROPEAN UNION
ELECTION OBSERVATION MISSION**

www.eueom.eu/timorleste2012

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I. EXECUTIVE SUMMARY

On 7 July 2012 Timor-Leste held its second parliamentary election since the country gained independence in 2002. Twenty one parties and party coalitions competed in the 2012 parliamentary election, an increase from the 14 which took part in the last parliamentary elections in 2007. Having successfully held a two-round Presidential election in March-April, the country approached the Parliamentary election with some confidence, bolstered by the fact that they took place in conditions of overall stability and with the East Timorese electoral bodies taking the lead in their administration and supervision.

The two main contenders were the CNRT, led by Xanana Gusmão, who had been Prime Minister in a coalition government over the previous five years, and Timor-Leste's best-organised and longest-established pro-independence party, Fretilin. CNRT hoped to emerge from the election with an overall majority. To do so it would have to make inroads into the 30% of the electorate on whose support Fretilin has been able to rely in recent years. Of the other 19 parties and party coalitions that took part in the election, few were expected to cross the 3% threshold that would qualify them for seats in parliament.

In the event, only four of the 21 parties and party coalitions competing in the election crossed this threshold: CNRT, Fretilin, Partido Democratico (PD) and Fretili-Mudansa (F-M). With 36.7% of the national vote, CNRT received the highest number of votes, emerging as the largest party in nine of the country's 13 districts and winning 30 seats in Parliament, only three seats short of a majority. Fretilin's 29.9% vote share earned it 25 seats, while PD with 10.3% of the vote took eight seats. F-M just managed to breach the 3% threshold with a 3.17% share of the vote, but thereby picked up two seats. After a week of uncertainty during which any of several permutations of the parties looked possible, including ones involving both CNRT and Fretilin, a special CNRT conference held on 15 July unanimously rejected a coalition with Fretilin and unanimously resolved that the party should go into coalition with PD and F-M. Hopes that Timor-Leste's peaceful election would be followed by a peaceful process of government formation were upset when violence broke out in the wake of the CNRT conference.

The laws governing parliamentary elections have been extensively amended since the 2007 election, and CNE has approved a substantially revised set of election-related regulations and codes of conduct proposed by STAE. The resulting, improved legal framework for elections now incorporates a substantial part of the 2007 EU EOM's recommendations, including those on the uniformity of provisions for the different types of elections, the enforcement of regulations, voting procedures, the strengthening of CNE's autonomy and the increase in the women's quota on the candidate lists. Overall, the EU EOM considers that the stability of the current legal framework for elections and the familiarisation of citizens with it during the next electoral cycle could contribute decisively to enabling democratic elections to take root in the political culture of Timor-Leste. However, some areas still need further legislation or the reform of existing laws, especially with regard to aspects of the election campaign, including party funding and spending during this period.

In line with the 2007 EU EOM recommendations, the two election management bodies (EMB) in Timor-Leste, the National Electoral Commission (CNE in Portuguese) and the Technical Secretariat for Electoral Administration (STAE), have been considerably strengthened since the 2007 elections. Despite a somewhat difficult working relationship, both STAE and CNE were able to perform their complementary duties. STAE organised all stages of the election in an efficient and generally timely manner, despite the logistical challenges posed by Timor-Leste's communications and transport infrastructure. For its part, CNE actively supervised STAE's election preparations,

adjudicated complaints in the prescribed manner and ensured that a remarkably transparent national tabulation process took place. CNE, therefore, fulfilled its constitutionally-mandated task of independently supervising the activities of STAE. More importantly, the neutrality of neither institution was seriously challenged by the candidates running in the parliamentary election.

Throughout the electoral process the CNE and STAE carried out intensive programmes of civic and voter education, although citizens' interest in such activities visibly declined during the parliamentary election campaign. This was mainly the result of the knowledge and experience of electoral procedures they had acquired during the recent Presidential election and their involvement in government-sponsored public works projects and in the coffee harvest.

The importance of the voter register maintained by STAE goes far beyond its electoral functions. As the most comprehensive inventory of the adult population available in the country, it serves in many respects as a *de facto* civil register. The voter register appears to be over-inclusive, especially after the latest updating conducted just before the parliamentary election, and is only sporadically cleansed of deceased people. However, the electoral administration, as well as the political parties and other stakeholders, were comfortable with the inclusiveness of the registration process and did not seem to view the surprisingly large increase in the voting population with concern.

The general atmosphere of calm surrounding the campaign was attributed to the political context, in which a consensus among the political elite that a peaceful election was necessary to ensure the withdrawal of the UN and the International Stabilization Force played a part, but also to the way that the election was administered and supervised, including the implementation of well-established routines to allay fears of electoral violence.

During the month-long campaign the candidates and political parties and coalitions were not constrained in their freedom of assembly, expression and movement. Their exercise of these rights contributed to an environment which was genuinely competitive. The language of the campaign was generally restrained and complaints were few and for the most part relatively minor. Incidents involving serious violence were few, the police and the political parties were quick to describe them as non-political and they had no further repercussions during the campaign. Largely for financial reasons, most parties held community dialogues and campaigned door-to-door, and held relatively few large rallies. The exception to this general rule was CNRT, visibly the best financed of the parties, which held a series of set-piece rallies addressed by its leader Xanana Gusmão.

There is a lack of clarity in legislation governing the financing of political parties and the regulations specifically covering campaign finance, particularly with regard to public funding. There was a large discrepancy between the amount of funds available to CNRT and those available to the other parties. Existing legislation does not set a ceiling on the amount of money that parties and party coalitions may raise. The most serious complaint raised during the campaign concerned the financing of the CNRT campaign, which appears to have broken the law forbidding donations from national and foreign companies.

There were well-founded allegations that the CNRT (and to a lesser extent other parties in the AMP government) made use of the advantages of incumbency during the campaign. Two in particular stood out, involving the disbursement of long-awaited veterans pensions and an exceptionally well-funded work programme covering every *suco* in the country.

An increase in women's representation occurred in this year's election as a result of an amendment to the electoral law passed in June 2011 which stipulates that one in every three candidates on the party lists must be a woman. None of the parties included more women higher up the list than they had to in order to meet their legal obligations. Because of the distribution of seats between the parties, this more or less mechanical application of the new requirements resulted in just 20 women emerging in the 65 positions on the lists of the parties that won seats.

Civil society contributed actively to the transparency of the electoral process. Accreditation was issued, without arbitrary restriction, for over 3,200 national and international observers.

Freedom of expression in the media was respected during the campaign period. Radio and Television of Timor-Leste (RTTL) provided balanced coverage by giving reasonably proportional access to all the 21 parties and party coalitions running in the elections, demonstrating a strong commitment to fulfilling its obligations as the public broadcaster. Newspapers provided large amounts of coverage and gave access to all 21 parties and coalitions running in the election, although they gave more coverage to the three main parties, with by far the greatest focus on the Prime Minister and his party, CNRT. On the privately-owned STL TV there was a less diverse range of coverage but fairly balanced access was given to most of the political parties. For the most part, non-state radio stations devoted minimal attention to the campaign and a number of parties and coalitions did not receive any coverage in their news programming.

Despite the extensive access to the media given to all political parties and coalitions running in the election, occasionally inaccurate reporting, particularly in the print media, may have misled readers, viewers and listeners. The television channel of the RTTL tended to cover political activities unmediated by journalistic comment or interpretation and by doing so sometimes failed to take into account the need of the public to be informed in an enlightening and responsible way, in accordance with the obligations established in the law that regulates the public broadcaster.

In general, voting took place in a very calm atmosphere free from intimidation or disturbances, and attracted large number of voters. No security related incidents were registered. EU observers noted that the experienced polling staff performed their tasks during polling in an efficient and competent manner. Women represented almost half of all polling officials, although they were much less well represented among voting centre presidents and polling station secretaries. The procedures for checking voters' identities and their inclusion on voter lists and for inking voters' fingers were rigorously followed, but the fingers of voters entering polling stations were generally not checked for ink, as they should have been under the relevant STAE regulation. The decision of the electoral administration to place voting booths facing the interior of polling stations was evaluated by EU observers as detrimental to the secrecy of vote in only a few cases. Overall the conduct of polling operations and of closing and counting procedures was evaluated as positive or very positive in the overwhelming majority of the polling stations observed. The closing and counting procedures were evaluated as outstanding or good in 70% of the observed voting centres and the generally smooth and confident performance of the polling staff was only occasionally compromised by insufficient numeracy skills and inconsistent ballot reconciliation. Oversight of voting and counting procedures was facilitated by a strong presence of party agents and domestic observers in the vast majority of polling stations observed.

District tabulation was assessed in most cases by EU observers as transparent or very transparent and generally the political parties manifested a high level of trust in STAE. CNE national tabulation was unanimously

considered as very transparent and efficient. Apart from minor arithmetical corrections in the results forms, required due to inaccuracies that occurred during data entry or to decisions on contested ballots, CNE ordered recounts at only two polling centres. In order to carry out the recount, CNE had to overcome STAE's initial reluctance to cooperate, as it had during the Presidential election. National tabulation introduced only minor changes to the district results, with no impact on seat allocation.

Final results were declared by the Court of Appeal on 16 July. The Court certified the national, provisional results published by CNE and rejected two minor petitions filed by KHUNTO and Fretilin.

Finally, this report contains a number of recommendations for the consideration of national and international stakeholders. Their implementation could, in the opinion of the EU EOM, contribute to the improvement of future elections. Among those, the most relevant are the following:

- The advisability of introducing legally-binding provisions on party funding and spending during election campaigns, including ones establishing ceilings on donations and expenditure and sanctions for breaches of the law that are severe enough to act as a deterrent to illegal funding.
- The EU EOM recommends that the National Parliament amend existing legislation so as to extend the authority of STAE, which already maintains the most comprehensive inventory of the voting age population, to allow it to assume the additional responsibility of maintaining a permanent civil register. This measure would not only simplify the current practice of maintaining two parallel databases and two different types of identification document, but would also, after an initial quite costly registration drive, provide a more reliable and cost-effective system for maintaining a register of Timorese citizens.
- The EU EOM considers it of the highest importance for the democratic quality of future elections that the government of Timor-Leste and donors continue to organize and support training programmes for journalists so as to bring their level of competence into line with journalistic best practice.

II. INTRODUCTION

Following an invitation from the government of Timor-Leste to observe the Parliamentary Election on 7 July 2012, the European Union Election Observation Mission (EU EOM) was deployed on 26 May and remained in the country until 24 July. The Mission, led by Ms Fiona Hall, Member of the European Parliament, deployed 70 observers from 26 European Union member states, as well as from Norway and Switzerland, throughout the 13 districts of the country. Its task was to assess the electoral process in the light of international standards and the laws of Timor-Leste, in accordance with the EU methodology and the *Declaration of Principles for International Election Observation*, adopted under the auspices of the United Nations in October 2005.

A delegation from the European Parliament, led by Mr Nuno Melo and composed of another six members of the European Parliament, joined the EU EOM to observe election day. The EU EOM observed the process until its conclusion, including the consolidation and publication of results, and the appeals and complaints process. The EU EOM published a preliminary statement on 9 July, which is available (in Tetum, Portuguese and English) on the Mission website (www.eueom.eu/timorleste2012). This report seeks to present a more detailed assessment of the Mission's findings on the various stages of the electoral process, as well as presenting a series of recommendations based on these findings.

The EOM wishes to express its thanks to the CNE, STAE, the Foreign Ministry of Timor-Leste, and the country's other authorities, as well as to the political parties, national and international observation missions and other civil society organisations, for their approachability and cooperation throughout the busy period of the Mission's observation. In addition, the EU EOM much appreciated the support of the European Union Delegation in Timor-Leste, the diplomatic missions of the European Union Member States, and of UNMIT and UNDP.

III. POLITICAL BACKGROUND

A) Political Context

The elections held on 7 July 2012 for the National Parliament of Timor-Leste were the second legislative elections to be held since the country gained independence in 2002. An election had been held in 2001 during the period of the UN transitional administration for a Constituent Assembly, which became the National Parliament when Timor-Leste's independence was recognized in May 2002. Twenty one parties and party coalitions competed in the 2012 parliamentary election, an increase from the 14 which took part in the last parliamentary elections in 2007. Under Timor-Leste's closed list proportional representation system, all parties wishing to participate in the election are required to present national party lists of 65 candidates (corresponding to the number of seats in the National Parliament) and no fewer than 25 alternate candidates, resulting this year in the names of more than 1,900 East Timorese being entered as candidates on the party lists. In the election the CNRT, the party with the largest number of parliamentary seats in the AMP coalition that governed Timor-Leste during the 2007-2012 Parliament, and its leader, the Prime Minister Xanana Gusmão, were seeking to win enough seats to allow them to govern with a majority or near majority in the new Parliament. Its main challenger was Fretilin, which had formed the first post-independence government in 2002 and had remained in power until 2007. The 2012 elections, both Presidential and Parliamentary, were often described as Timor-Leste's first normal elections. Unlike the 2001 Constituent Assembly election, which was hurriedly organized to meet a UN deadline for withdrawal and was the first nationwide ballot since the violence-scarred referendum on independence in 1999, and the 2007 Presidential and Parliamentary elections, which took place under the shadow of nation-wide crisis, this year's elections were held in conditions of stability and for the first time with the East Timorese electoral bodies taking the lead in their administration and supervision.

B) Key Political Actors

CNRT was formed just three months before the 2007 parliamentary election around the charismatic figure of Xanana Gusmão, who had led the second phase of resistance to the Indonesian occupation from the early 1980s until the final Indonesian withdrawal in October 1999 and was the first President of the newly independent state of Timor-Leste from 2002 to 2007. In the 2007 election CNRT was the second-placed party, winning 24.1% of the national vote, but was able to build a majority coalition, initially with three other parties, PD, PSD and ASDT, which were later joined by a fourth, UNDERTIM.

The coming to power of the AMP government coincided with the beginning of large inflows of oil and gas revenues from the Timor Sea. These revenues transformed the country's growth prospects and allowed a massive increase in government spending. Government spending commitments and, to a lesser extent, the wider policy issues surrounding them dominated this year's Parliamentary election. During this year's campaign both CNRT and its partners in the AMP government expressed considerable frustration at the restraints coalition

government had placed on their ability to achieve their objectives. CNRT set itself a target of winning 45 or more seats in the election, which would have given it a clear majority in the 65-seat Parliament.

As the only party with a pro-independence platform to have had a continuous existence since Portugal first permitted political parties to form in 1974, CNRT's main challenger, Fretilin, has a unique place in Timor-Leste's history. Largely because of this historical role, Fretilin won the election to the Constituent Assembly 2001 easily, taking 65 of the 88 seats in the Assembly. On independence in 2002, when the Constituent Assembly became the National Parliament, Fretilin formed what was known as the First Constitutional Government. The government was overwhelmed by crisis in 2006, which briefly threatened to engulf the country in violence and exposed serious weaknesses in its institutions, including the police and the military. The crisis pitted the then President, Xanana Gusmão, against the then Prime Minister, Mari Alkatiri, eventually forcing the resignation of Alkatiri, although Fretilin remained in power until the parliamentary election of 2007.

After the 2007 election, Fretilin challenged the legitimacy of the AMP government, claiming that the Constitution required that the President should have first asked it, as the party that had received the most votes, to form a government. Throughout the period of the 2007-2012 Parliament, Fretilin referred to the AMP government as the *de facto* government, although it did not carry out a threatened boycott of Parliament, and instead acted as an effective opposition together with the much smaller PUN.

Of the other 19 parties and party coalitions that took part in this year's election, few were expected to cross the 3% threshold that would qualify them for seats in parliament. The party that ran third in the 2007 Parliamentary election, the Partido Democratico (PD), hoped that its efforts to create a nationwide organization would enable it to improve on its 2007 showing. The performances of the remaining members of the AMP coalition, PSD, ASDT and UNDERTIM, and the other parties with parliamentary representation, PUN and the KOTA/PPT alliance, were expected to be affected by the fact that they had suffered from splits, defections and (in the case of ASDT) the recent death of a revered leader.

IV. LEGAL ISSUES

a) Legal Framework

The legal framework of Timor-Leste provides an adequate basis for the conduct of democratic elections. The constitution enshrines the separation of powers, the independence of the judiciary and the review of the constitutionality of laws. The constitution also guarantees fundamental freedoms and political rights in line with the principles upheld in the most relevant international instruments for democratic elections, to which Timor-Leste has adhered. These include the International Covenant on Civil and Political Rights (ICCPR), the International Convention on the Elimination of Racial Discrimination (ICERD) and the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW).

The laws governing parliamentary elections have been extensively amended since the 2007 election, and CNE has approved a substantially revised set of election-related regulations and codes of conduct proposed by STAE. The resulting, improved legal framework for elections now incorporates a substantial part of the 2007 EU EOM's recommendations, including those on the uniformity of provisions for the different types of elections, the enforcement of regulations, voting procedures, the strengthening of CNE's autonomy and the increase in the women's quota on the candidate lists. Overall, the EU EOM considers that the stability of the current legal

framework for elections and the familiarisation of citizens with it during the next electoral cycle could contribute decisively to enabling democratic elections to take root in the political culture of Timor-Leste.

However, some areas still need further legislation or the reform of the existing laws, especially with regard to aspects of the election campaign. Party funding and spending during election campaigns still lack specific legal regulation, while the law on the financing of political parties fails to establish ceilings on donations and expenditure and lacks sanctions sufficiently severe to act as a deterrent to illegal funding. EU EOM also noted that despite the fact that the STAE regulation on parliamentary elections (03/STAE/X/2011) prohibits the use of state property for campaigning purposes, there is no equivalent provision in the electoral law or the section of the Penal Code where electoral offences are defined. Similarly, the same regulation upholds the principle of impartiality of public servants and requires that they should not engage in any form of electoral propaganda (Article 27), but again, there are no legal penalties associated with this proscription. Public servants wishing to campaign during an election may seek leave to do so from the Public Service Commission, though it is unclear what the consequences are of failing to do so.

b) Government System

Timor-Leste's system of government is set out in a Constitution that is closely modeled on the amended Portuguese Constitution of 1976, and like the latter it belongs in the broad category known as "semi-presidentialism". Under the Timorese variant of this system, the head of state is a president elected by popular vote every five years. Formally the powers of the President of Timor-Leste are more limited than is normal among his counterparts in other Lusophone countries. However, in practice his powers to appoint the Prime Minister, to maintain the normal functioning of government institutions during a crisis and to order the review of budgets, and to exercise a temporary veto over legislation have had real political impact. After a parliamentary election, the President appoints the leader of the majority party or a majority coalition as Prime Minister. As head of government, the Prime Minister presides over the Council of Ministers. The Council of Ministers has decree making powers, but is ultimately accountable to the Parliament, to which is reserved specific legislative powers. The Constitution provides for an elaborate judicial system based on the Portuguese model. In practice it consists only of four District Courts and a Court of Appeal. Among the courts provided for in the Constitution but not yet established are the Supreme Court and the Audit Court.

c) Electoral System

The National Parliament is elected every five years. The Constitution provides that normally the Parliament should have at least 52 members and at most 65¹. The Law on National Parliament Elections provides for the election of all its 65 members in one single national constituency, through a closed and blocked-list proportional representation system. The law also requires that parties win at least 3% of valid votes to gain representation in Parliament. The D'Hondt highest average formula is used for the allocation of seats. A new provision in the law requires parties to have at least one woman in every three places on their candidate lists.

¹ The country's first Parliament had 88 members because that was the number of seats in the Constituent Assembly that was elected in 2001 during the UN transitional administration to draft and approve a Constitution for an independent Timor-Leste. When the country gained independence in May 2002 the Constituent Assembly became the Parliament and retained its 88-seat membership until the 2007 Parliamentary elections.

V. ELECTION ADMINISTRATION

Election Management Bodies: CNE and STAE

In line with the 2007 EU EOM's recommendations, the two election management bodies (EMB) in Timor-Leste, the National Electoral Commission (CNE in Portuguese) and the Technical Secretariat for Electoral Administration (STAE), have been considerably strengthened since the 2007 elections, which were the first to be conducted by the Timorese authorities. STAE was given technical, administrative and financial autonomy under a 2011 amendment to the 2006 law on EMBs, and both institutions were given more funds allowing them to recruit more national staff and to train them better. Although the UN has been progressively taking a back seat, it still provided substantial technical and logistical support to the Timorese EMBs, especially through the United Nations Electoral Support Team (UNEST), an ad hoc UN entity created to coordinate the electoral sections of UNDP and the United Nations Integrated Mission in Timor-Leste (UNMIT) in the country.

Relations between the CNE, an independent, collegial body, tasked with supervisory and regulatory duties, adjudicating election-related complaints, and national tabulation, and the STAE, an administrative structure within the Ministry of State Administration in charge of the administration of elections, have often been difficult, although to a much lesser extent than they were in 2007. During this year's Presidential election CNE had, in two instances, to seek legal remedy in the Court of Appeal because it felt that STAE was preventing it from performing its supervisory role. These tensions re-emerged during the final stage of the parliamentary election as a consequence of STAE's refusal, only overcome after the intervention of the Court of Appeal, to provide CNE with the originals of all polling centre results forms. STAE's Director was also reluctant to allow CNE to carry out recounts of the ballots from two polling centres.

The different roles, work experience and operating styles of the two bodies, personality conflicts between their directors, and an institutional relationship that is still ill-defined in practice may be at the basis of such disagreements. However, despite this somewhat difficult working relationship, the EU EOM concludes that both STAE and CNE managed to perform their complementary duties well. STAE organised all steps of the election in an efficient and generally timely manner, despite the logistical challenges posed by Timor-Leste's communications and transport infrastructure. For its part, CNE actively supervised STAE's election preparations, adjudicated complaints in the prescribed manner and ensured that the national tabulation process was fully transparent. CNE, therefore, fulfilled its constitutionally-mandated task of independently supervising the activities of STAE. More importantly, the neutrality of neither institution was seriously challenged by the candidates running in the parliamentary election.

Voter Education

The division of tasks between the two bodies charged with electoral administration is mirrored in the assignment of responsibility for civic education to CNE and for voter education to STAE. In the pre-election period, CNE stopped its ongoing civic education programme and STAE resumed its voter education sessions at village level. Using PowerPoint presentations, instruction videos and sample ballots, STAE explained in Tetum and sometimes also in local languages the differences between the Presidential and the Parliamentary elections, and the procedures for marking and casting ballots. EU observers reported only limited interest among Timorese voters, owing mainly to the knowledge and experience of electoral procedures they had acquired during the recent Presidential election and their involvement in government-sponsored public works projects and in the coffee

harvest. Voter education sessions often had to be postponed or cancelled due to low attendance. Several civil society organisations offered voter education programmes specifically targeted at women. In addition, CNE adopted the innovative approach of informing voters by SMS about such matters as their right to file complaints and the prohibition on further campaigning during the two days leading up to the election. Despite the apparent lack of interest in voter education programmes, on Election Day voters' understanding of voting procedures was evaluated by EU observers as good or outstanding in 86% of the polling stations observed, a finding that was supported by a sizeable decrease in the share of invalid votes compared to the first round of the Presidential election whose complexity was similar to that of the Parliamentary election.

VI. VOTER REGISTRATION

Right to vote

Voters in Timor-Leste are not hindered in the exercise of their right to vote by any discriminatory or unreasonable restrictions. All Timorese citizens over 17 years of age are eligible to vote, providing they are registered in the Voter Register, and are thus in possession of a valid voter's card. Registration is compulsory. The article of the Law on Elections to the National Parliament that made citizens sentenced by criminal courts and mentally incapacitated persons ineligible to vote was revoked shortly before the Parliamentary election of June 2007. This provision is however still in force for Presidential elections. In line with international best practice, the electoral law allows for mobile voting for voters in hospital or prison on election day. The law also allows for Timorese citizens living abroad to vote. A January 2012 amendment to the Law on Elections to the National Parliament suspended the application of this provision to this year's Parliamentary election.

Registration of voters

The importance of the Voter Register maintained by STAE goes far beyond its electoral functions. As the most comprehensive inventory of the adult population available in the country, it serves in many respects as a *de facto* civil register. For example, a list of people aged over 60 who are entitled to old age pensions is extracted from the electoral roll for the Ministry of Social Solidarity; similarly veterans' organisations consult the register to confirm data on individual claimants. Moreover, STAE frequently responds to requests for information from the police, the courts and financial institutions. A voter's card is commonly used to obtain a national identity card or a passport.

In principle, the register is updated continuously in the so-called routine voter register update. At the 13 permanent district STAE offices, people can request a first-time voter's card, exchange damaged ones, renew lost ones and report changes of residence.

The Timorese constitution mandates that the register be thoroughly updated before every election. Usually these intensive update campaigns begin six to eight months before the expected date of the election. Temporary registration posts are opened in each of the 65 sub-districts². For the 2012 elections the main update period lasted from July 2011 to 11 January 2012. In total, around 32,000 persons who were either already older than 17

² Upon request registration officers can suspend operations at the sub-district post and carry out registration in more remote communities.

or would be turning 17 in 2012 entered the register, an increase of 5.3%, bringing the total number of eligible voters for the first round of the Presidential election to 626,503.

Surprisingly, the additional 25-day update period after the second round of the Presidential election produced a net increase of another 19,121 persons or 3.1%, raising the total number of eligible voters for the Parliamentary election to 645,624.

Due to CNE's agreement to a one-week extension of the update period from its original closing date of 18 May, and contrary to the provisions laid out in the regulation on the Voter Register update (45/STAE/II/08), this period was not followed by a ten-day period of public display of the provisional register, during which voters or political parties could have challenged changes to the list. Consequently, no complaints could be filed. However, despite bypassing this stage of the process, publication of the updated register did not take place on 7 June, the originally scheduled date. Instead STAE continued to accept minor changes until 22 June, 15 days before E-day, when the Voter Register was closed. CNE approved the final figures on 28 June.

The unexpectedly large increase in the number of eligible voters produced by the update might have been caused by any of a number of factors:

- There were supposedly non-election-related incentives for people to obtain voter cards during the short update in May (e.g. reportedly in the period following the update students needed to have identification documents to apply for Indonesian scholarships).
- Older people, who for health or financial reasons had never registered, but who qualified for the veterans' payments that began to be disbursed on 15 June, were strongly motivated to register.
- Some members of groups which had traditionally boycotted elections, such as CPD-RDTL (Conselho Popular Democrático da República Democrática de Timor-Leste), finally decided to register themselves or did not discourage others from doing so.
- As a result of the global economic recession, many Timorese working overseas lost their jobs and returned home.
- The capture rate of those expecting to reach 17 in 2012 appears to have been rather low during the main update period as indicated by the negligible increase of the number of eligible voters between the first and the second round of Presidential elections. Indeed, only 492 out of the total increase of 792 between the two rounds were people reaching 17 (the remaining 300 had been included on the so-called additional lists in the first round), which is far below the expected natural increase³.
- Interest in Parliamentary elections which decide on the composition of the future government is higher than in Presidential elections.⁴

³ The 2010 census data reveal that in 2012 there should be around 25,600 persons reaching 17 years, i.e. some 2,130 each month.

⁴ This assumption was actually not corroborated by the 2007 turnouts which were more or less the same on all three election days.

Another possible explanation might be the mistaken inclusion as new voters of people who requested replacement of their voter cards (due to changes of residence or other personal data, or because they lost their old voter card). Two facts support this hypothesis. In some overviews of the Voter Register update produced by STAE which feature a gender breakdown, the categories of new entries and renewed cards are put together and the gender breakdown derived from their sum, even though there is no logical basis for such a breakdown.

In addition, and more importantly, comparison of the 2010 census data and the number of eligible voters for the 2007 Parliamentary elections shows that the Voter Register captured a voting age population some 2% higher than the census (after taking into account the presumed number of deceased people). Extrapolating from the census data and ignoring the above-mentioned exceptional factors that might have increased the number of people registering, the number of eligible voters should have been around 632,000. This seems to be a more realistic figure than the official number which is more than 13,000 higher. Meanwhile STAE reported a total of 11,589 re-issued voter cards (8,072 changes of residence, 162 changes of personal data, and 3,355 replacements of damaged cards), which is reasonably close to our estimate of the over-count.

It is difficult to ascertain which explanation of the unexpectedly high increase in the number of registered voters is more likely to be correct. Be that as it may, the electoral administration, as well as the political parties and other stakeholders, appear to have been comfortable with the inclusiveness of the registration process and do not seem to view the surprisingly large increase in the voting population as worrying.

The Voter Register is cleaned only sporadically, based primarily on information received from the Ministry of Social Solidarity (which conducts regular checks on old age pension benefit receivers in the field) and, secondarily, from the *sucos* chiefs. According to STAE's IT department, the most recent cleaning of the register took place in December 2011. In addition, for the identification of potential duplicates the database is searched for name, birth date, father's name and mother's name, as well as voter card number.⁵

EU observers reported significant delays in the printing of new or renewed voter cards due to a shortage of blank plastic cards. Nevertheless, the district STAE offices did manage to distribute the overwhelming majority of newly-issued voter cards before Election Day.

As amended in 2011, the Law on Elections to the National Parliament now allows voters to cast their vote anywhere in the *suco* in which they have registered. For that reason, the voter lists are produced and printed for the 442 individual *sucos*. While this is certainly an improvement on the 2007 election when voters could vote anywhere in the country, and is in itself a step towards a standardisation of voting procedures, the considerable variation in the size of *sucos*⁶ does not make them ideal as the smallest unit of voter registration. Moreover, in large *sucos* containing several voting centres, the only safeguard against multiple voting remains the proper application of indelible ink to voters' fingers and proper scrutiny to check for the presence of ink.

⁵ Among 17 year olds, who represent the most populous age-group included in the VR, there were on average 70 people born a day. It is, therefore, quite unlikely that any duplicates even with slightly modified data would escape the control, if properly executed.

⁶ The size of the electoral population of *sucos* varies from 199 in Foholau, Manufahi to 26,860 in Comoro, Dili.

Polling stations could have up to four different voter lists: a printed list of all voters in the given *suco*; a printed list of persons on election-related duties such as polling staff and police⁷; a blank additional list for people with a voter card showing them to be registered in the *suco* in question, although they are not on the *suco* voter list; and, sometimes, a printed list of voters qualified for mobile voting procedures.⁸

The allocation of ballot papers to polling stations was based on the number of people registered in the vicinity of individual polling centres (within an *aldeia* or *bairo*), reflecting the turnouts in the 2009 *suco* elections, but including a reasonably high reserve. Thus, in total 720,000 ballot papers were distributed.

VII. CANDIDATE REGISTRATION

The criteria for candidate eligibility for the parliamentary election are in line with international standards for democratic elections and do not include discriminatory or excessive restrictions. On 22 May, CNE announced that it had approved lists from all 21 of the parties and party coalitions that had submitted them. A number of minor irregularities in some of the lists and the documentation supporting them had been easily resolved. However, in the case of two parties, ASDT and UNDERTIM, CNE had received separate lists from rival factions within the party and had ruled in favour of one of them. The losing factions of both parties exercised their right to appeal the CNE's decision in the Court of Appeal. In both cases the Court of Appeal overturned the CNE's decision. In the case of ASDT, the Court ruled in favor of the faction that had appealed. In the case of UNDERTIM, the Court directed the party's leadership to seek agreement on a unified list. After much further deliberation within the party mediated by CNE, a list was agreed among the party leadership and, even though it was agreed after a deadline set by the Court, that list was approved by the Court and subsequently by CNE.

VIII. ELECTION CAMPAIGN

a) Overview of the Election Campaign

The Parliamentary election of 2012 took place in a much calmer context than the previous one and was seen as an important test of the country's institutional maturity. The 2007 Presidential and Parliamentary elections had been held under the shadow of the then still-unresolved national crisis of 2006, which had compelled the East Timorese leadership to request the reintroduction of a large UN mission, UNMIT, including UN Police with executive powers, and an Australian-led military International Stabilization Force (ISF). Both the UN and the ISF are scheduled to leave at the end of 2012. After five years of a coalition government which had large amounts of oil and gas revenues at its disposal, the most obvious symptoms of the 2006 crisis, including large-scale population displacement and a rebellion by disaffected soldiers and police, had been overcome. Moreover, in March-April 2012 Timorese had already gone to the polls to vote in the two-round Presidential election, in a process that was generally well-conducted and peaceful.

The general atmosphere of calm surrounding the campaign was attributed to a variety of factors related to the

⁷ STAE also decided to include on these lists party agents deployed to *sucos* other than those of their residence. This is an accommodating measure on the part of STAE, yet it is one without any legal backing.

⁸ The electoral framework includes provision for mobile voting to be conducted in all the country's five hospitals (Dili, Baucau, Maubisse, Suai and Pante Macassar) and two prisons (Dili and Gleno).

political context, including a consensus among the political elite that a peaceful election was necessary to ensure the withdrawal of the UN and the ISF, a zero tolerance security policy, election fatigue and a growing conviction that a victory for Xanana Gusmão and CNRT was inevitable. But the way that the election was administered was also conducive to a peaceful process. Well-established routines are now in place to allay fears of electoral violence. The parties are required to submit detailed campaign calendars and to negotiate a final consolidated calendar with the National Election Commission (CNE) to avoid clashes of venues. Campaigning may take place only between the hours of 8 am and 6.30 pm. Almost all parties signed a Code of Conduct for Political Parties and Party Coalitions (the exceptions being those parties which had not been formed in January when the Code was signed). As the beginning of the campaign approached, calls for a peaceful campaign came from the new and the outgoing President, Parliament, the Church, the police and the defence force, and the contestants themselves.

For all these reasons, the month-long campaign that began on 5 June and ended on 4 July went smoothly. The candidates and political parties and coalitions were not constrained in their freedom of assembly, expression and movement. Their exercise of these rights contributed to an environment which was genuinely competitive. The language of the campaign was generally restrained and complaints were few and for the most part relatively minor. Fretilin and the other parties whose flags and symbols were routinely on display at CNRT rallies were generally reluctant to press what in the past had been a highly contentious issue. Some parties felt that the general mood of restraint was too restrictive, and that CNE was too quick to condemn them for criticizing other parties and was not always even-handed in doing so. CNE received reports of the holding of campaign events that had not been scheduled on the campaign calendar and of events, both scheduled and unscheduled, that took place outside the prescribed hours. In one case, a man was killed at a supposed campaign event held outside the prescribed hours. This was one of a handful of incidents involving serious violence during the campaign period, but the police and the political parties were quick to describe them as non-political and they had no further repercussions.

A “third-force” strategy that was the brainchild of the former President, José Ramos-Horta, quickly unravelled. In the wake of the Presidential election, José Ramos-Horta and Fernando Lasama Araújo, President of PD and Speaker of the National Parliament, who had both been eliminated in the first round but had won a combined 35% of the vote, joined forces and established a loose alliance with another former member of the AMP coalition, ASDT, in an apparent attempt to create a bloc with the power to act in the aftermath of the election as king-maker, by throwing its support behind either CNRT and Fretilin. The real question then became that of whether CNRT could make inroads into the Fretilin vote, which had shown remarkable stability between the 2007 elections and this year’s Presidential election.

Often for financial reasons, most parties held community dialogues and campaigned door-to-door, and held relatively few large rallies. The exception to this general rule was CNRT, visibly the best financed of the parties, which held a series of set-piece rallies addressed by its leader Xanana Gusmão. While CNRT had developed a sophisticated organization at the centre, however, its local-level cadres were often less impressive. The party’s campaign relied on a centrally-run “mass mobilization section” and centrally-based district coordinators reporting to a General Coordinator and his deputy, on veterans organizations some of which had already been tested during Taur Matan Ruak’s successful bid for the presidency in March-April and some of which had been created especially for this election, and, above all, on the person of Xanana Gusmão.

b) Campaign Finance and Use of State Resources

There is legislation governing the financing of political parties and a STAE regulation specifically covering campaign finance. The two laws that address the question of party financing, Law No. 3/2004 on Political Parties and Law No. 6/2008 on the Legal Regime for the Financing of Political Parties, and the current STAE regulation on the financing of electoral campaigns (Regulation/03/STAE/2011) are not entirely consistent in their coverage. While Law 6/2008 refers to three possible sources of party funding – funding from the party's own sources, such as membership fees, fund-raising activities and loans, private funding, such as individual donations, and public subventions – neither Law No. 3/2004 nor the STAE regulation refers to the third of these sources, public funding, an important area requiring special treatment. As things stand, under Article 11 of Law No. 6/2008, parties with representation in Parliament are entitled to an annual subvention fixed by Parliament and included under CNE's allocation in the state budget, 50% of the total amount being divided equally among all parties with MPs and 50% being divided between the parties in proportion to the number of seats each holds. In the 2012 budget, \$3m was allocated for this purpose. Although not covered by the laws or the STAE regulation, all parties and party coalitions running in Parliamentary elections receive a fixed amount of public money for campaigning purposes granted by the Council of Ministers. This year, under a decree dated 13 June, eight days into the campaign period, the Council of Ministers granted \$20,000 for parties and \$35,000 for party coalitions registered for the campaign.

Existing legislation does not set a ceiling on the amount of money that parties and party coalitions may raise. This year's election was notable for the large discrepancy between the funds available to CNRT and those available to the other parties. Law No. 6/2008 requires that party financing should adhere to principles of legality, transparency and full accountability. Breaches of some of these principles have occurred. Moreover, the CNRT, and to a lesser extent other parties in the governing coalition, appear to have exploited the advantages of incumbency. Parties often used state resources, such as government cars and public buildings, during the campaign.

The most serious complaint raised during the election period concerned the financing of the CNRT campaign. The party itself confirmed that at a single fund-raising dinner in May, attended by Xanana Gumão and his family, \$2.35m was publicly pledged, although the actual pledges made that evening may have been much higher. Among companies making the highest pledges of between \$50,000 and \$250,000 were several Timorese and Indonesian companies and two from China which had received large government contracts. There appeared to have been breaches of the provisions on party financing set out in Law No. 3/2004 and Law No. 6/2008 and of Regulation/03/ STAE/2011 on campaign financing. All these instruments forbid parties from receiving donations from companies, whether national or foreign, or from foreign individuals. They also require those making donations to obtain a receipt and for those donating more than \$1,000 to assign their contribution to the party through a bank cheque. There may also have been breaches of the conflict of interest and transparency provisions of the UN Convention against Corruption, which Timor-Leste has ratified and which therefore, under Section 9 (2) of its Constitution, applies in the country. In her capacity as chair of the local branch of the Global Organization of Parliamentarians against Corruption (GOPAC), the leader of PUN, Fernanda Borges, referred these allegations to the CNE, the Commission Against Corruption and the Prosecutor-General's Office. The Prosecutor-General confirmed that they were under investigation by her Office.

Aside from the question of the party's funding and relatively minor allegations of the use of government resources, CNRT (and to a lesser extent other parties in the AMP government) made use of the advantages of

incumbency during the campaign. Sometimes, such as when ministers attended ceremonies inaugurating infrastructure projects during the campaign period and in the two-day silent period immediately before the election or when towns used to frequent blackouts experienced several days of uninterrupted electricity in the week or so before the election, these involved relatively minor acts. But, among the ways in which the advantages of incumbency were used two in particular stood out.

On 6 June, the day after the campaign began, the Secretary of State for Veterans Affairs, Marito Reis announced that the government would begin paying the pensions due to more than 27,000 veterans of the resistance and their families on 15 June. The payments were to be backdated to the beginning of 2011 and would involve the disbursement of \$46.7m in three tranches between 15 June and 15 August. The decision to disburse this large sum of money nine years after a long process of registration and verification had begun and while it was still admitted to be incomplete, but shortly before an election, suggests that the government may have been using the advantages of incumbency to win over to CNRT a constituency which had been identified as crucial to the success of the party's campaign. The CNRT campaign relied heavily on non-party structures, but particularly on veterans' structures, some of which appear to overlap with the state agencies handling veterans' affairs, including their pensions, and are run by individual veterans who have benefited from government contracts. Although legal in Timor-Leste, this is not in line with international best practice for democratic elections.

On 30 May, the Secretary of State for Vocational Training and Employment (SEFOPE), Bendito Freitas, who is also a member of the CNRT National Directive Council (CDN) and was appointed Deputy General Coordinator for the party's election campaign, announced the launch of a month-long \$3/day work programme with a budget of \$20m. The programme covered every *suco* in the country and focused on road improvement and the maintenance of drains. The government had implemented similar programmes in previous years. Usually, however, these programmes had been launched later in the dry season and had not been allocated such large sums (in 2010, for example, the corresponding line item in the SEFOPE budget was allocated \$895,000). EU observers reported that because the timing of this year's programme coincided with the harvest, there were instances where people received the payment without doing any work. Both its timing and the amount of money allocated to it raise the question of whether this year's programme was used to enhance the political prospects of those implementing it.

IX. THE MEDIA DURING ELECTIONS

Media Environment

In the ten years since independence there has been a significant development in the direction of increased diversity and plurality of the media environment in Timor-Leste. However, scarce resources and weak journalistic skills and competencies remain a constraint preventing some media outlets from keeping the public informed in accordance with journalistic best practice. Radio has the widest reach and remains an important source of information but television seems to be capturing new audiences country-wide. Newspaper readership is low due to high costs, illiteracy and limited distribution. The districts are served by a network of 14 community radio stations which come under the umbrella of the CRC (Community Radio Centre). The CRC is integrated into the Secretariat of State of the Council of Ministers (SECM), which exercises supervision over the state-owned media. Funding for the public broadcaster Radio and Television of Timor-Leste (RTTL), which is also the main broadcaster, comes mostly from the state budget. In the current budget, RTTL received approximately US\$3m. The Chairman of the Board of Directors of the RTTL is appointed by the government following a proposal by the

Secretary of State of the Council of Ministers. To finance its activities the private media rely on advertisements, much of them placed by government institutions. Moreover the government buys a significant number of copies of newspapers every day.

Since 2007 media industry regulation and the setting of guidelines has developed significantly with the aim of strengthening the sector. A National Policy on Mass Communications, approved in 2010, sets out the steps to be taken to ensure the development of a free, independent and pluralistic media and the training of qualified and ethically responsible journalists with a focus also on the community radio stations. Legislation regulating the public broadcaster RTTL has been in place since 2008 and a law regulating advertising on public radio and television was approved in 2010.

The creation of a degree course in journalism by the National University of Timor-Leste (UNTL) aims to increase skills and develop professional ethics among young journalists. However a long-standing disagreement between journalists' associations and the government about the nature of appropriate media regulation has delayed legislation regulating the rights and duties of the media, setting out the qualifications needed to become a journalist, and providing for the protection of journalists. A team of five journalists (*Team Lima*), representing each of the Timorese media associations, jointly with the SECM, finalized a new draft press law in June 2012, which is expected to be put out for public consultation. The National Policy on Mass Communication also foresees the establishment of a media regulatory body (Conselho Nacional para a Comunicação Social) to supervise the media and ensure an independent and pluralistic media environment.

Legal Framework for the Media and Elections

Freedom of expression and freedom of the press are guaranteed by the Articles 40 and 41 of the Constitution. Article 41 establishes that "freedom of the press shall comprise...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". The 2011 STAE Regulation on the campaign for the presidential and parliamentary elections outlines the obligation of the public media to abide by the principles of impartiality, equal opportunity and a balanced coverage of the candidates, political parties and party coalitions. It also requires the public and private, electronic and print media to provide equal access to political candidates, parties and coalitions. An equal amount of airtime has to be provided to all participants in the election. CNE must be informed in advance about the broadcasting schedule.

The media are allowed to broadcast and to publish political advertisements, according to the regulation, which establishes that rates charged for political advertisements must be the same for all candidates. The rates have to be published and reported to the CNE. There is also a provision prohibiting campaign activities as well as publishing or broadcasting opinion polls and surveys two days before or on Election Day. Laws regulating the public broadcaster RTTL⁹ guarantee its editorial independence and non-interference by political, economic, religious and other interests and place a specific obligation on public radio and television channels to inform the public and broadcast news and current affairs programmes that are comprehensive, accurate and independent.

⁹ "Decreto-Lei No 42/2008, de 26 de Novembro, Transforma a Rádio e Televisão de Timor-Leste em Empresa Pública" and "Contrato de Concessão do Serviço Público de Rádio e Televisão entre o Governo da República Democrática de Timor-Leste e a Rádio e Televisão de Timor-Leste, EP, de 13 Março 2012"

It also requires public radio and television to allocate free airtime to political candidates and to ensure the right of reply and right of correction. Furthermore, the Code of Conduct for media professionals for the presidential and parliamentary elections approved by CNE in 2011 stresses that the media has a right of access to information on the election process. It also establishes a responsibility to grant equal opportunity and treatment to all candidates and to provide fair and independent coverage. There is also a requirement for journalists and media organisations to report election news in an accurate and unbiased manner and to reject the use of inflammatory language.

Monitoring of Media Coverage of the Elections

Freedom of expression in the media was respected during the campaign period. The mass media monitored by the EU EOM¹⁰ covered the campaigns intensively and all 21 parties and party coalitions received access to the state-owned Radio and Television of Timor-Leste (RTTL) in accordance with the regulations. They also had access to the privately-owned television channel STL, to the newspapers and to a few non-state and community radio stations. Debates on state-owned RTTL TV, on privately-owned STL TV, on state-owned radio RTL and also on a few community radio stations, namely Radio Mauloko Maubisse in Ainaro and Radio Comunidade Café in Ermera, gave candidates additional free exposure. In terms of overall coverage, the right of voters to have access to a broad range of news about the elections so as to be able to make an informed choice was generally respected. However, occasionally inaccurate reporting, particularly in the print media, may have misled readers, viewers and listeners, as newspapers were the most frequently cited sources of radio stations' news. Despite the extensive access to media provided to the parties and party coalitions, the television channel of the RTTL tended to cover political activities unmediated by journalistic comment or interpretation and by doing so sometimes failed to take into account the need of the public to be informed in an enlightening and responsible way, in accordance with the obligations established in the law that regulates the public broadcaster.

RTTL aired on its radio and television channels a daily programme inserted into its primetime news bulletins covering the campaign activities of the different political parties. RTTL also provided ten minutes of free airtime daily to each party and party coalition, during which a pre-recorded presentation of their electoral programme was shown. All registered parties and party coalitions used the free airtime to which they were entitled with the exception of UNDERTIM. The government increased RTTL's budget by US\$500,000 to allow it to cover the elections. RTTL used these funds to assign 21 teams of journalists to follow the campaigns of all the parties and coalitions running in the election.

RTTL managed therefore to offer a diverse range of coverage and provided reasonable balance by giving access to all 21 parties and party coalitions, on both television and radio, demonstrating a strong commitment to fulfil its obligation as the public broadcaster to ensure equal access and equal airtime to all participants in the election.

¹⁰ The EU EOM's media monitoring began on 5 June 2012 and closed on 4 July. The sample consisted of two television channels (the public RTTL and the private STL TV); five radio stations (the public RTL, two Church-owned radio stations, Radio Voz and RTK, the Dili-based community radio station, Radio Klibur, and the FRETILIN-owned radio station, Radio Maubere); and four daily newspapers and one weekly (*Suara Timor Lorosae* (STL), *The Timor Post*, *Jornal Nacional Diário* and its weekly version *Jornal Nacional Semanário*, and *Independente*).

On RTTL's TV channel the allocation of airtime among the parties and party coalitions in the news ranged from 6.53% for CNRT to 3.58% for ASDT. Aliansa Demokratiku received a 5.08% share of coverage in the news, followed by PUN and APMT, which each received 5.03% of coverage, and PDL and PDN, which each obtained 4.99% shares. UNDERTIM stood in seventh place with 4.98% of airtime; Fretilin in eighth place with 4.92% of airtime. PSD received 4.79%, Fretili Mudansa 4.72% and PD 4.44%. Among non-party political figures shown on the RTTL TV news, the former president, José Ramos-Horta, received a 1.27% share of coverage, while the new president, Taur Matan Ruak, received a 0.38% share.

Coverage on the the state-owned Radio de Timor-Leste (RTL) followed a similar pattern to that on RTTL's television station. The allocation of time on RTL ranged from 5.55% share of coverage for CNRT to 3.98% for Khunto. RTL allocated 5.49% of airtime to UNDERTIM, 5.23% to Fretilin, 4.63% to PUN, 4.29% to Fretili Mudansa, 4.48% to PD and 4.40% to PSD. On RTL, former president Jose Ramos-Horta received a 0.63% share of coverage in the news, while the new president Taur Matan Ruak received a 0.42% share of coverage. On both the radio and television channels of RTTL, the tone of the news was mostly neutral.

The volume of coverage of the campaign was much smaller in the private and non-state electronic media but the tone of coverage in these sectors was also mostly neutral. On the privately-owned STL TV there was a less diverse range of coverage but fairly balanced access was given to most of the political parties. In its news programming STL TV allocated 16.06% of airtime to PD, 12.22% to CNRT, 11.56% to PSD, and 4.71% to Fretilin. STL TV also allocated 8.59% of airtime in its news programming to PR, which was granted more extensive coverage not just than all the other smaller parties but also than Fretilin, presumably because the party's President is a brother of the *Suara Timor Lorosae* (STL) newspaper's editor-in-chief and the STL Media Corporation Chairman and CEO. Former president José Ramos-Horta received 5.55% of coverage, while the new president Taur Matan Ruak obtained a 9.86% share of coverage. A range of other parties each received shares of less than 5% in the STL TV news.

Non-state radio stations devoted minimal attention to the campaign. A number of parties and coalitions did not receive any coverage in the radio stations' news programming. The church-owned RTK, whose reach is country-wide, gave access to a very limited number of parties and candidates, allocating time in its news reporting only to CNRT, PD and to former president José Ramos-Horta. The main access allocated to Fretilin on RTK was through interviews with Fretilin candidates. ASDT and Aliansa Demokratiku candidates also had access to RTK in its programming in the form of interviews. The church-owned and Dili-based radio station, Radio Voz, also gave access to only a few of the participants, although their treatment was relatively balanced. Radio Voz allocated airtime in its news programming to PDN (9.36%), CNRT (8.84%), PUN (8.11%), PD (7.59%) and PST (4.99%). The Dili-based Radio Klibur, which targets the student community, offered a wider range of coverage, allocating 24.47% of airtime to CNRT, 13.52% to Fretilin, 9.33% to PSD, 5.85% to PD, 3.88% to UNDERTIM and 3.54% to ASDT. Fretilin received extensive coverage through its radio station, Radio Maubere, whose reach is country-wide, obtaining an 88.4% share of coverage in its news programming. Radio Maubere also aired news about other parties, although its coverage of them was highly selective and tended to favour Fretilin.

Privately-owned newspapers provided large amounts of coverage of the campaign. Access was given to all 21 parties and party coalitions running in the election but the amount of coverage newspapers gave to them was not balanced. In respect to volumes of news devoted to parties and coalitions most of the coverage of the campaign in the printed media was allocated to the three main political parties, CNRT, Fretilin and PD, with by far the greatest focus on the Prime Minister and his party CNRT. The tone of coverage in all newspapers was

mostly neutral and positive, although there were some instances where a negative tone was adopted towards some of the major parties, including PSD, Fretilin, Frenti Mudansa, PD, UNDERTIM, PDN and CNRT.

Jornal Nacional Diário, founded in March 2005 by a local businessman, devoted 29.70% of its news and editorial space in square centimetres (cm²) to CNRT, 15.14% to Fretilin, and 10.77% to PD. The space allocated to all other parties ranged from 5.56% to 0.51%. *Timor Post*, founded in 2000 by a cooperative of 14 journalists, devoted 24.07% of space in its news and editorials to CNRT, 16.56% to Fretilin and 8.32% to PD, while a range of other parties each received a share below 5%. *Independente*, the newest daily newspaper, founded in April 2011, was the least balanced of the print media, showing a clear bias towards CNRT, which received a 41.29% share of space in its news and editorials, followed by Fretilin with a 19.38% share of coverage, PD with 7.99% and PSD with 6.10%, while a range of other parties each received a share below 4%. *Suara Timor Lorosae* (STL), the oldest newspaper, which has been published since 1993, demonstrated similar trends to those displayed by the STL Media Corporation's television station. STL also allocated 9.59% of news and editorial space to PR, which again was granted more extensive coverage not just than all the other smaller parties but also than Fretilin, which received 6.68%. STL newspaper, however, granted more space to CNRT to which it devoted 26.16% of the space in its news and editorials, while PD received 16.08%. The space allocated to all other parties ranged from 4% to 0.60%.

Only a few of the participants purchased airtime and space in the public or private media. The public broadcaster RTTL set equal rates for political advertisements and announced them to the political parties, some of which considered them to be too high. Newspapers charged for political adverts at the same rates as applied to commercial advertising. The incumbent Prime Minister and President of CNRT, Xanana Gusmão, received extensive paid access to both print media and state-owned RTTL TV in the form of birthday greetings announcements placed by businesses and state bodies on and after his birthday on 20 June. PR and its President João Saldanha also received extensive paid coverage on STL TV. Fretilin, UDT, PSD, PD and PUN took smaller amounts of paid advertising in the print and electronic media.

The two-day period of pre-election day campaign silence was generally respected by the media monitored by EU EOM. However, on 5 July the public broadcaster RTTL devoted extensive Tetum- and Portuguese-language coverage in its television primetime news to ceremonies held to inaugurate government projects, which were attended by the Prime Minister Xanana Gusmão and ministers and secretaries of state belonging to CNRT and PD. Among the inaugurations reported were those of a power plant in Maliana, Bobonaro, which had been announced at CNRT rallies during the campaign period, the newly-constructed Ministry of Social Solidarity building in Dili and the opening of a new border check-point in Covalima. The timing of the inaugurations and the extensive coverage provided by the public broadcaster were inappropriate and could be seen as a breach of the "silent period". On 15 July the public broadcaster aired live the entire conference held by CNRT to decide the future government's composition unmediated by journalistic comment or interpretation which was manifestly not consistent with journalistic best practice. The coverage was perceived by the Fretilin Secretary-General, Mari Alkatiri, to be a deliberate misuse of the state-owned television channel by CNRT to convey inflammatory, anti-Fretilin messages.

X. GENDER EQUALITY

In the sphere of women's representation, Timor-Leste has taken seriously its obligations under the Constitution and the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), which it has

ratified. The Constitution states that all citizens are equal before the law, but goes further by 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. Despite these commitments, gender discrimination is widespread in practice, and domestic violence is a particular problem.

The electoral law approved in 2006 introduced a gender quota requiring that one of every four candidates on the party lists be a woman. In the 2007 election, under these new rules, the proportion of women elected to the new Parliament rose to 27.7%. Women's representation was above this average in ASDT/PSD (36.4%), CNRT (33.3%) and PUN (33.3%). An increase in women's representation occurred in this year's election as a result of the amendment to the electoral law passed in June 2011 which stipulates that one in every three candidates on the party lists must be a woman. The parties complied with the new legal requirements. However, they did so almost invariably by placing a woman in every third place on their lists, and none of them went beyond meeting these obligations by including more women higher up the list than they had to in order to meet their legal obligations. Party officials frequently acknowledged that to make up the numbers, parties often put family members on their lists. Because of the distribution of seats between the parties, the more or less mechanical application of the stipulation that one in every three people on party lists should be a woman resulted in just 20 women emerging in the 65 positions on the lists of the parties that won seats, putting the proportion of women elected to Parliament at 30.1%, and varying by party between CNRT's 33.3% and Fretilin's 0%. The percentage will almost certainly change once people on the CNRT, PD and Fretilin party lists are nominated to the Council of Ministers and are replaced by substitutes. Unlike in 2007, when PUN won three seats, all three parties whose lists were headed by women (PUN, KHUNTO and PTD) failed to cross the 3% threshold.

XI. CIVIL SOCIETY AND ELECTION OBSERVATION

Civil society contributed actively to the transparency of the electoral process. STAE issued accreditation for over 3,200 national and international observers. A total of 46 national observer groups, comprising 2,618 national observers were accredited. Some 24 of these groups were national NGOs which requested accreditation through the NGO umbrella organization FONGTIL. Other national NGOs, such as the Alola Foundation, Associação HAK, and BELUN, operated autonomously. The Catholic Church's OIPAS (*Observatorio da Igreja para os Assuntos Sociais*) had by far the largest number of accredited national observers (1,896), followed by BELUN (93), the National University of Timor-Lorosa'e (UNTL) (43) and the Ombudsman's Office, Provedoria dos Direitos Humanos e Justiça (PDHJ) (41).

Thirty-three international, governmental and non-governmental observer teams with a total of 586 observers were also deployed. They included teams as diverse as the ASEAN Regional Forum (ARF), the CPLP, the Australia Timor-Leste Friendship Network, the East-West Center and the International Republican Institute (IRI). Locally-based embassies, including those of Indonesia, Thailand, France, Australia and the USA, also deployed staff to observe, in some cases with independent observers from their countries joining them.

XII. POLLING, AGGREGATION AND PUBLICATION OF RESULTS

All the required materials were delivered to polling centres one day before Election Day where they were guarded by the police. All 30 polling stations observed at the opening were therefore able to begin their operations on time. In general, voting took place in a very calm atmosphere free from intimidation or disturbances, and attracted large number of voters. No security related incidents were registered. EU observers noted that the experienced polling staff performed their tasks during polling in an efficient and competent manner. Women represented almost half of all polling officials, although they were much less well represented among voting centre presidents and polling station secretaries. The procedures for checking voters' identities and their inclusion on voter lists and for inking voters' fingers were rigorously followed, but the fingers of voters entering polling stations were generally not checked for ink, as they should have been under the STAE regulation on voting procedures.

EU observers reported the widespread use of additional voter lists, which indicates some deficiencies in the printed voter lists. However, the procedures for adding voters were followed correctly and assured that voters could exercise their right to vote. The recent decision of the electoral administration to place voting booths facing the interior of polling stations was evaluated by EU observers as detrimental to the secrecy of vote in only a few cases. Overall the conduct of polling operations and of closing and counting procedures was evaluated as positive or very positive in the overwhelming majority of the 215 polling stations observed. The closing and counting procedures were evaluated as outstanding or good in 70% of the observed voting centres, and the generally smooth and confident performance of the polling staff was only occasionally compromised by insufficient numeracy skills and inconsistent ballot reconciliation.

Oversight of voting and counting procedures was facilitated by a strong presence of party agents and domestic observers in the vast majority of polling stations observed. However, the mostly passive conduct of party agents indicates that there is considerable room for improvement in preparing them for their duties. EU observers reported the sometimes intimidating presence of large numbers of uniformly dressed Fretilin supporters in polling centres across Dili district. Throughout the Election Day only a very limited number of complaints concerning minor issues were registered by the EU EOM.

District tabulation was assessed in most cases by EU observers as transparent or very transparent and generally the political parties manifested a high level of trust in the EMBs. Only in Bobonaro, Baucau and Oecusse districts did observers consider that party agents were obliged to be located too far from the tables where arithmetical verification of the polling centres' results forms was carried out and their data entered in computers by STAE staff and UN volunteers. Data entered in the districts were available on line at STAE headquarters in Dili, from where they were broadcast live by RTTL from 8:30 pm on Election Day. As early as the morning of 8 July, STAE was able to announce provisional results.

Tensions between STAE and CNE re-emerged during the CNE's national tabulation, which could start only on 10 July as a consequence of STAE's refusal to provide CNE with all the original polling centre results forms. The Court of Appeal upheld a CNE request for the originals and ordered STAE to comply with this request. The national tabulation was assessed by EU observers as very transparent. All the original polling centre results forms were checked for arithmetical inconsistencies and crosschecked with the electronic data entered for each polling centre. Contested votes were also adjudicated. The whole process was carried out in the presence of party agents and observers. The CNE President held daily press conferences to inform the public about the progress of

the tabulation. Apart from minor arithmetical corrections in the results forms, required due to inaccuracies that occurred during data entry or to decisions on contested ballots, CNE ordered recounts at only two polling centres, one in Oecusse and one in Ainaro. In order to carry out the recount, CNE had again to overcome STAE's initial reluctance to cooperate. National tabulation introduced only minor changes to the district results, with no impact on seat allocation.

Final results were declared by the Court of Appeal on 16 July. The Court certified the national, provisional results published by CNE and rejected a petition filed by KHUNTO, a party which had obtained 2.93% of valid votes, thus narrowly failing to cross the 3% threshold which would have entitled it to seats in Parliament.

XIII. COMPLAINTS AND APPEALS

Election law and regulations provide for a comprehensive system for presenting complaints to the CNE at every stage of the electoral process, from voter registration to national tabulation. All decisions made by the CNE may be the object of an election petition with the Court of Appeal. Three judges of the Court of Appeal were appointed to deal with such petitions. The 2011 amendment to the election law on Parliamentary Elections repealed the provisions on electoral offences, which had been incorporated into the Penal Code in 2009.¹¹ At the beginning of the electoral period, the Prosecutor-General instructed her prosecutorial staff to give electoral offences the highest priority, above such other high-priority offences as corruption and offences committed by members of the police and the armed forces.

CNE received two complaints relating to candidate registration, while a dozen more, all minor in nature and mostly related to the destruction of campaign materials, were filed during the campaign period. Of these, three were deemed electoral offences and were forwarded to the Prosecutor-General's Office. A petition alleging illegal fund-raising by CNRT was also under investigation by the Prosecutor-General's Office when this report was finalised.

The polling and counting processes on Election Day resulted in 95 complaints and appeals being lodged with CNE, which deemed three of the complaints to be electoral offences and passed them on to the Prosecutor-General's Office. Among the complaints were allegations of breaches of the secrecy of vote mainly arising from the positioning of the ballot booths, of misconduct by polling staff and of the unlawful use of election propaganda materials. A total of 43 appeals were made challenging decisions made by electoral officials during the counting process on the validity or invalidity of individual votes. The CNE adjudicated all these types of representations during the national tabulation period. Seven of the complaints were deemed to constitute electoral offences and were forwarded to the Prosecutor-General.

The amendments to the Law on the Election to the National Parliament made in June 2011 extended the deadline for challenges to the provisional results published by CNE after national tabulation from 24 to 48 hours, in line with the 2007 EU EOM recommendations. After the publication of the national provisional results by CNE, two parties, KHUNTO and Fretilin, filed appeals with the CNE, which were immediately forwarded to the Court of Appeal. The Court rejected KHUNTO's complaint (which claimed that 19 votes received by the party had not

¹¹ Penal Code, Title III, Chapter IV, Arts. 229-242, and Title VI, Art. 296.

been recorded in the national results form) and upheld Fretilin's (which claimed that a vote declared invalid should have been counted as a valid vote for it).

XIV. ANALYSIS OF THE RESULTS

The provisional results of the election published by STAE on 8 July were not substantially altered by CNE's national tabulation, which in turn was certified by the Court of Appeal on 16 July. Only four of the 21 parties and party coalitions competing in the election crossed the 3% threshold to win seats in Parliament: CNRT, Fretilin, Partido Democratico (PD) and Fretilin-Mudansa (F-M). With 36.7% of the national vote, CNRT received the highest number of votes, emerging as the largest party in nine of the country's 13 districts. However, it did not win the decisive victory that it was hoping for. In only one district did its share of the vote exceed 50%, and in only four did it surpass 40%. It was therefore nowhere near breaking the 60% barrier that would have been necessary to win the 45 seats that it had set as its target at its National Conference in January 2012. Nonetheless, once the 20% of the votes received by the 17 parties and party coalitions that did not pass the 3% threshold were eliminated and the D'Hondt method for calculating the allocation of seats applied, its 36.7% share of the national vote translated into 30 seats or 46.2% of the 65 seats in Parliament, only three seats short of a majority. Fretilin's 29.9% vote share earned it 25 seats, 38.5% of the total, while PD with 10.3% of the vote took eight seats, the same number it had had in the 2007-12 Parliament. F-M just managed to breach the 3% threshold with a 3.17% share of the vote, but thereby picked up two seats. After a week of uncertainty during which any of several permutations of the parties looked possible, including ones involving both CNRT and Fretilin, a special CNRT conference held on 15 July unanimously rejected a coalition with Fretilin and unanimously resolved that the party should go into coalition with PD and F-M.

CNRT won its victory at the expense of its former coalition partners in the AMP - PD, ASDT, PSD and UNDERTIM - and other non-Fretilin parties, such as PUN, but it did not make inroads into the Fretilin core vote. ASDT, PSD and UNDERTIM fell well short of the 3% threshold, while PD's vaunted organization proved unable to prevent a decline in its share of the vote from 11.3% in 2007 to 10.3% this year. Fretilin held on to its support (slightly increasing its share of the vote from 29.0% in 2007 to 29.9% this year). Although CNRT did better in the three eastern districts than it had done in the 2007 parliamentary election, this year, rather than improving on Taur Matan Ruak's performance, as it had hoped, it did markedly worse than he had done in the first round of the Presidential election.

Hopes that Timor-Leste's peaceful election would be followed by a peaceful process of government formation were upset when violence broke out in the wake of the CNRT conference. The violence appears to have been a brief spasm but with CNRT and Fretilin blaming each other for provoking it, it could have a more permanent impact on relations between the two main parties.

XV. RECOMMENDATIONS

Campaign Regulations and Electoral Offences

1. In several respects the STAE regulations governing the conduct of parliamentary elections (Regulation/03/STAE/2011) do not have the backing of law. Thus, the STAE regulation on parliamentary elections prohibits the use of state property for campaigning purposes (Article 28), but there is no equivalent provision in the electoral law or the section of the Penal Code where electoral offences are defined. Similarly, the regulations uphold the principle of impartiality of public servants and require that they should not engage in any form of electoral propaganda (Article 27). Again, however, there are no legal penalties associated with this proscription. Public servants wishing to campaign during an election may seek leave to do so from the Public Service Commission, though it is unclear what the consequences are of failing to do so. It is therefore recommended that the Government undertake a review of existing electoral legislation with a view to assessing its compatibility with the Penal Code and STAE regulations and with the aim of closing any gaps that may exist between the provisions contained in these instruments governing the conduct of elections and specifically giving legal effect to prohibitions contained in the regulations.

2. The announcement during the elections campaign of major spending programmes and the inauguration of strategically important infrastructure projects, such as ones for the distribution of electricity for the first time to rural populations, can only be construed as an inappropriate attempt by the government to use the advantages of incumbency to influence the outcome of the election. It is highly recommended that such practices be outlawed during the campaign period.

Electoral register and provision of identity cards

3. The EU EOM recommends that the National Parliament amend existing legislation so as to extend the authority of STAE, which already maintains the most comprehensive inventory of the voting age population, to allow it to assume the additional responsibility of maintaining a permanent civil register. This measure would not only simplify the current practice of maintaining two parallel databases and two different types of identification document, but would also, after an initial quite costly registration drive, provide a more reliable and cost-effective system for maintaining a register of Timorese citizens. To facilitate the cleaning of the register, *suco* and *aldeia* chiefs could be instructed to inform STAE district offices periodically about newborn and deceased persons as well as those who have changed their residence. Voter lists extracted from such a unified civil register would undoubtedly be more up-to-date, accurate and complete than the present electoral register.

Voting Procedures

4. It is advisable that STAE analyse the impact of the repositioning of voting booths during the 2012 Parliamentary election with a view to striking a balance between the transparency of voting procedures and the right to secrecy of the vote which must be guaranteed under all circumstances.

5. The EU EOM recommends that STAE devote more attention during polling staff training to the importance of thoroughly checking for traces of ink on voters' fingers, since this operation is the only safeguard against multiple voting, especially in larger *sucos* with several voting centres.

Results aggregation and publication

6. It would greatly increase the transparency of the counting process if STAE allowed copies of results sheets signed by the Voting Centre Presidents and Polling Station Secretaries to be given to all party agents present during the counting. An explicit requirement in the regulations that party agents and observers present in the district tabulation centres have access to the reception, verification, reconciliation and digitisation of the voting centre results sheets would diminish the scope for arbitrary rulings on the layout of tabulation centres and would greatly enhance the credibility of the tabulation. The EU EOM suggests that the electoral authorities adopt the practice of publishing on its website the election results broken down to voting centre level, or polling stations in the future, as soon as the final results are certified by the court, to enhance the transparency of the electoral process. More generally, STAE and CNE could increase public awareness and oversight if they devoted more resources to the prompt publication on their websites of new regulations, decisions and initiatives.

Election Campaign Funding

7. The distinctions made in the existing laws between legal and illegal sources of funding seem adequate. However, effective enforcement depends on the extent to which parties are prepared to cooperate with CNE in meeting the standards of transparency and accountability also required by the law, and the extent to which existing penalties act as a deterrent to illegal fund-raising. In fact, neither of these conditions is being met at present. A review of CNE's auditing practice and the outside capacity that it relies on to examine political parties' accounts would seem to be called for, as would a reassessment of the rather light fines that are currently the only penalties available for breaches of the rules on campaign financing. The adoption in law of spending ceilings during campaigns could also contribute to establishing something closer to balance between the parties competing in elections.

Political parties

8. The EU EOM recommends that CNE intensify its training and workshops for prospective party agents, with a special focus on counting and tabulation procedures and the filing of complaints at polling stations and tabulation centres.

The media

9. A regulatory and self-regulatory framework for the media, setting out their rights and duties, and provisions for the protection of journalists, as well as a Code of Ethics, has been under discussion for several years. An independent media regulatory body that would ensure compliance with the law and the Code of Ethics, as well as observance of the rights and duties of journalists is also envisaged in the National Policy on Mass Communication. The EU EOM endorses the joint efforts of journalists, media organizations and the government to reach a consensus on establishing appropriate regulatory and self-regulatory mechanisms aimed at improving the quality, professionalism, accountability and independence of the media.

10. The creation of a degree course in journalism by the National University of Timor-Leste (UNTL) represented an important step towards increasing the skills and developing professional values among young journalists. The government of Timor-Leste and the donors should continue organizing and supporting training programmes for journalists to strengthen their competence in line with journalistic best practice.

11. Properly-qualified and independent organisations should be encouraged to conduct professional opinion polls. Reliable and unbiased analytical studies on voter intention could help to enhance public confidence in the electoral process and to dissipate eventual post-electoral tensions.

Gender equality

12. The formal steps taken by successive governments of Timor-Leste to increase the representation of women in Parliament are commendable and fully in line with commitments contained in the Constitution and in the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), which Timor-Leste has ratified. The prominent role played by women in Parliament and other spheres of public life since independence are evidence that this and similar policies have had a positive effect. However, an element of formality still attaches to the legal requirement that women fill every third place on party candidate lists. A more concerted and systematic effort by government and civil society to inform women of the opportunities that are open to them and how they can take advantage of them could give real momentum to this initiative.