



PRELIMINARY STATEMENT

The Timorese people have expressed their democratic choice in peaceful and open elections. Conducted by Timorese authorities for the first time, the challenge ahead is to strengthen national institutions

Dili, 11 April 2007

The European Union Election Observation Mission (EU EOM) has been present in the Democratic Republic of Timor-Leste since 15 March following an invitation from the government of Timor-Leste. The Mission is led by Chief Observer, Mr. Javier Pomés Ruiz, Member of the European Parliament (Spain). In total, the EU EOM deployed 34 observers from 17 EU Member States. The observers were deployed across all 13 districts of Timor-Leste to assess the whole electoral process in accordance with the United Nations Declaration of Principles for International Election Observation of 27 October 2005. The EU EOM was joined by a 4 member delegation from the European Parliament, led by Mrs. Ana Gomes MEP from Portugal, which endorses this Statement. On election day, the observers visited 160 polling stations out of the total of 705 in all 13 districts to observe voting and counting. The EU EOM is currently observing the results tabulation procedures and will remain in country to observe the complaints and appeals process and all aspects of the post-election process. The EU EOM will publish a final report, containing detailed recommendations, within two months of the conclusion of the entire process.

Executive Summary

- The 9 April presidential elections in Timor-Leste are the first national-level polls to be held since independence in 2002, and they mark an important step on the road to nation-building. The elections saw a high degree of voter participation and so far they were generally peaceful and smoothly conducted by the Timorese authorities in spite of the difficult terrain and logistics challenges. They came a year after the young nation's most serious internal crisis and their success would help improve the institutional uncertainty that emerged from the crisis. These elections and the parliamentary elections that will follow are an indispensable step toward strengthened and more accountable democratic institutions.
- Eight presidential candidates ran in this election, as individuals rather than party representatives, although all were backed by parties. President Xanana Gusmão did not seek re-election but created a new party, the National Congress for Timorese Reconstruction (CNRT), which will compete in the coming Parliamentary elections due later this year. The presidential race was entangled in party politics, as new coalitions emerged and squabbles over party symbols resonated throughout the pre-electoral debate.
- Displaying once again their hope in democracy, the Timorese people have shown their eagerness to have a say in the resolution of the country's problems. Voters turned out in high numbers, and were patient and peaceful. Voting procedures were generally efficient and smooth, with over 4,000 polling staff working hard for long hours. Shortages of ballot papers in some places led to delays. Counting was peaceful, although there were procedural problems. The start of district tabulation was delayed in many places by technical and transport difficulties.

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- The legal framework for these elections is broadly in accordance with international standards for democratic elections, but it contains significant gaps and was finalised late. Problematic aspects that need to be addressed include voter registration, and the lack of enforcement powers and sanctions to ensure compliance with the law.
 - The elections are administered by the Technical Secretariat for Election Administration (STAE), which falls under the Ministry of State Administration, leading some candidates to question its impartiality. The independent supervisory National Election Commission (CNE) was created in January 2007, but its effectiveness was hampered by its late creation and its lack of enforcement powers. Both electoral bodies need capacity building. They are provided with advice and support by the United Nations Integrated Mission in Timor (UNMIT), with several hundred staff.
 - There is a lack of clarity in the law on the division of labour between the two electoral management bodies, which has led to some difficulties in the relationship between them, disputes and delays.
 - Over 500,000 voters were registered to take part in these elections, the majority having registered for the *suco* (local) elections of 2004-5, and 65,000 new voters were registered during the registration period early this year. There are shortcomings in the process of registration and in ensuring the accuracy of the register, in part caused by the desire to enfranchise as many people as possible. There should be a public display and challenge period.
 - Contrasting with the violence of last year's crisis and general concerns about security, the pre-electoral period was generally peaceful and inclusive. Campaigning was held under effective security arrangements provided by United Nations Police (UNPOL) and the National Police (PNTL), with International Security Force (ISF) back-up. Despite a generally calm environment, occasional acts of politically motivated violence between rival groups of supporters took place during the campaign. The most serious incidents took place in four of the 13 districts of the country, and on 4 April in the capital, Dili, when five presidential candidates staged simultaneous rallies.
 - The electoral campaign focused on personalities, and party symbols, rather than political programmes. When candidates did make substantive policy proposals, these often went beyond presidential functions. Campaigning was mainly carried out through rallies in the district capitals.
 - During the campaign, some public officials took political positions – from village chiefs up to the highest national authorities. One serious instance was the CNE spokesperson's public statement in favour of candidate Fernando Lasama. Local administration staff, dominated by ruling party FRETILIN, were observed on occasion providing support to FRETILIN rallies.
 - The media has a limited reach throughout the country, so their impact in this campaign was modest. The fact that no media except radio has national coverage is a hindrance to the dissemination of information throughout the country.
 - Impressively large numbers of national observers were present across the country, contributing to the transparency of the process. The largest coalition KOMEG was present in 85% of polling stations visited by the EU EOM during voting, and 93% of those visited during counting.
 - Women participated in large numbers in all aspects of these elections, although not always in proportion to their numbers in the population. Women make up 48.7% of registered voters. One

woman candidate stood, and raised women's issues in the national debate, although other candidates' campaigns had little coverage of gender issues. Women were well-represented at all levels of the CNE and in STAE at polling station level, although few women were in leadership positions. KOMEK fielded 50% women observers.

Statement of Preliminary Findings and Conclusions

Background

The first round of the presidential election in Timor-Leste on 9 April, 2007, was the first national-level popular ballot since the country's independence in 2002 and the first run by Timorese authorities. Organised one year after the young nation faced its most serious internal crisis, this election is considered to be a necessary step towards strengthened and more accountable democratic institutions. It will be followed by parliamentary elections later this year. Along with necessary reforms of the judicial, governance and security sectors it is hoped that this electoral cycle will help resolve institutional uncertainty at the top of the country's political system. The electoral process received significant United Nations technical advice and support which played an important part in the conduct of the elections.

The security situation throughout the country has improved, in large part due to the presence of international forces; United Nations Police (UNPOL), responsible for security in the country since September 2006 and the International Security Force (ISF), a joint Australian and New Zealand military presence. The National Police (PNTL), working under international command, also played a significant role. However, the underlying grievances that led to the collapse of Timor-Leste's security apparatus and the subsequent violence in spring 2006 remained largely unaddressed.

Eight presidential candidates ran in this election as individuals rather than party representatives, although all were backed by political parties. President Xanana Gusmão did not seek re-election, but created a new party, the National Congress for Timorese Reconstruction (CNRT) which will compete in the Parliamentary elections due later this year. The candidates included the Speaker of the Parliament and President of the ruling FRETILIN (Revolutionary Front for an Independent Timor-Leste) Francisco Guterres "Lú-Olo", the Prime Minister and Nobel Laureate José Ramos Horta who was backed by President Gusmão, and former student leader Fernando Lasama of the Democratic Party.

This first round of presidential elections became increasingly infused with the political stakes of the subsequent parliamentary elections. The pre-electoral climate was polarised between both parties and individuals. In particular, tension remained acute between the two main protagonists of the 2006 crisis, the presidency and FRETILIN, that holds an absolute parliamentary majority. The debate became increasingly dominated by campaigning by alliances set to run in the parliamentary elections, raising tensions over perceived attempts by political parties to secure 'ownership' of names and symbols viewed by some as matters of national heritage. In particular, FRETILIN's rejection of the use of the 'FRETILIN' and 'CNRT' acronyms by sympathisers of the president and the prime minister contributed to continued political controversy. In a deeply divided political landscape, this election represented a first step in the direction of national reconciliation and peace, but will need to be complemented with a long term institution-building effort with prolonged international involvement.

Legal Framework

New election laws were adopted late, in December 2006, in part due to parliamentary delays caused by the 2006 political crisis. The Presidential Election Law provides for the President to be elected by a

majority of the valid votes. In case no candidate obtains an absolute majority in the first round, a run-off would be held between the top two candidates on 9 May. The Election Law contained a number of gaps and shortcomings, only some of which were filled by Regulations and Codes of Conduct, often at a late stage of the process. The Voting and Counting Regulation came into force only four days before the elections, creating a lack of certainty over the procedures for all involved.

Parliament passed an amendment to the Election law at the end of March that remedied some shortcomings in procedures but that also contained a controversial provision allowing candidates to include any symbol of their choice on the ballot paper. This issue resulted in two appeals to the Court of Appeal (Tribunal de Recurso), and became highly politicised, with four candidates opting to use the national flag, two using their party symbol and two using no symbol. As a result, the practical question of providing illiterate voters with recognisable symbols on the ballot paper was lost.

One of the principal omissions in the law is the National Election Commission's (CNE) lack of enforcement powers. Responsible for supervising the elections, the CNE has no power to sanction violations of the laws or regulations, and little power to order matters to be remedied, or to obtain information from the Technical Secretariat for Election Administration (STAE) and other bodies. The CNE has written letters to those reported as violating the law or regulations, but there is little more they can do. The CNE's powers need to be increased before the parliamentary elections.

Another important area that was under-regulated was the use of state resources and campaigning by public officials. A prohibition exist in the Campaign Regulation, but since there was no sanction for its breach, it only had moral force. These were criminal offences in the local elections law, but are not in the Presidential Election Law. It is especially important where one party dominates the public administration, that there are effective controls on the abuse of this position. Campaign finance was also under-regulated: there was no limit on candidate funding. However, in-kind assistance for each candidate from UNDP (campaign materials) and a USD 20,000 lump sum per candidate from the government contributed to leveling the playing field.

A dispute between the CNE and STAE over the power to issue a complaints regulation led to the delayed approval of a complaints procedure just before election day, leaving little time for this to be made public. Very few complaints were received prior to election day, and details about them and their resolution have yet to be made public. The procedure for making complaints needs to be widely-disseminated to the population before the next elections.

The deadline of only 24 hours to file appeals to be made against the preliminary results was extremely short, and raises questions as to whether there will be a meaningful right of appeal.

Election Administration

Both of the election management bodies, the STAE and the CNE, are in the early stages of their existence (STAE was created in 2003 and administered local elections in 2004/5, CNE was not created until January 2007). Both STAE and CNE have limited human and material resources, and are still in the process of developing their institutional capacity. They rely on significant support from UNMIT, both at headquarters and in the districts.

The CNE is tasked with supervising the electoral process, and also approving regulations, adjudicating complaints, and preparing the preliminary results. The CNE was not present in the districts until the end of February, so through no fault of its own, its supervision of registration and some electoral preparations was incomplete. Without increased powers, its supervisory role risks remaining limited. The 15 CNE commissioners are appointed by a number of different bodies, from parliament and the president to civil

society, so represent a broad spectrum of views. The law requires CNE decisions to be made public after each meeting, and the new body made efforts to be open and transparent, but resource constraints limited this.

The CNE is working hard to maintain its independence, so it was unfortunate that the CNE spokesman made comments to the press that in his personal capacity he supported one of the candidates. This demonstrated a lack of understanding of the importance of CNE's utter impartiality. The CNE received a letter from the Minister of State Administration concerning a disputed procedural issue and advising them of the limits of their functions. The CNE rejected this intervention. It is not appropriate for a government minister to intervene directly in the work of an independent institution such as the CNE.

There were a number of late changes made to STAE's operational plans, in particular relating to the delivery and retrieval of materials, and to the number of ballots to be printed, in which the Minister of State Administration became closely involved. Although not contrary to the law, it is unusual for a Minister to become involved in such operational questions. It may inhibit the growth of STAE as an institution if its decision-making is subject to frequent revision.

Some institutional weaknesses became apparent at STAE, such as their lack of clear criteria for appointing polling staff. The law requires that they be literate local voters, but STAE issued no guideline (for example seeking previous election experience or seeking schoolteachers), and EU EOM observers in many districts reported that staff were recommended by local administration officials, raising questions as to their (perceived) independence and impartiality. STAE failed to follow correct procedures in the accreditation of candidate agents, leading to many cards being produced at the very last moment (up until the eve of the elections), and making delivery of the cards to the districts difficult. Due to errors in the process, agents were registered by party rather than by candidate, and it was difficult for polling staff to enforce the rule of only one agent per candidate in each polling station. An additional category of "free access" (*livre acesso*) passes was created outside the law or regulations, and 88 such cards were issued by STAE to government ministers and their staff, an inappropriate practice.

There have been disputes between the two electoral bodies as to their respective functions, in particular the regulation-making power, which caused a delay in the approval of the polling and counting regulation and the complaints procedure. The law needs to be clarified.

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

Voter Registration

Due to the 2006 crisis, the Electoral Law allows a voter to vote at any polling station, and so there were no voters' lists in the polling station, making the ink a crucial guarantee against double voting.

The legal provisions on voter registration reflect the desire to enfranchise as many people as possible, at the expense of some anti-fraud measures. 522,933 people were registered to vote, which is estimated to be 102% of the eligible population¹ (aged 17 or over on election day). This high number reflects both the

¹ National Statistics Directorate projected population figures.

inclusiveness of the process, and some shortcomings in the system (including the fact that dead people have not been removed from the register).

Due to the lack of adequate identity documents, photocopied documents or witness testimony could be used to register as a voter. It was problematic that registrants were issued with a voter card on the spot, before checks against duplicate entries could be made. Around 3,500 duplicate entries were removed from the register following central checks, but by then these people were already in possession of their second card. There is no mechanism for removing dead people from the register, other than on relatives' request, and to date no such removals have been made.

Regrettably, there was no opportunity for the public or the candidates to verify the register's accuracy, as due to time constraints there was no display and challenge period. This needs to be rectified before the coming parliamentary elections.

Candidate Registration

Candidate registration was completed on 13 March, and no candidates were rejected by the Court of Appeal, tasked with approving the candidacies. Some candidates were given the opportunity to rectify errors in their lists of supporting signatures, but details of this process have not been made public. The Electoral Law should require transparency in this. An appeal was made to the Court of Appeal against the registration of Lú-Olo and Ramos Horta on the grounds that they continued to hold public office. The appeal was rejected, but nonetheless both of them suspended their public office mandates during the campaign period.

Campaign Environment

In accordance with the elections calendar, the two-week electoral campaign took place from 23 March to 6 April, followed by a two-day silence period. Campaign activities were generally calm and few incidents marred the period. International security arrangements played a critical role in ensuring an adequate environment, receiving advance notice of campaign events and providing escorts and security to the candidates. All eight presidential candidates campaigned in a similar way, staging rallies in most district capitals and occasionally in sub-districts.

The emergence of parties and coalitions expected to run in the parliamentary elections have affected debates in this electoral campaign. They revived the dividing lines of the spring 2006 unrest which was one of the main issues in political speeches, in particular during Lú-Olo's rallies. Campaign rallies were also used as an opportunity to present diverse campaign promises, although these often reached well beyond the constitutional powers of a president.

The limited number of violent incidents mostly took place when campaign caravans travelled through a politically hostile area or when two of them crossed paths. Several clashes took place in Dili on 4 April, resulting in at least 31 injured people, caused by the simultaneous staging of five rallies. Other incidents occurred in four districts, Viqueque, Ermera, Lautem and Liquiçá. FRETILIN supporters were involved every time, although not always as aggressors.

The campaign period was marred by reports of some official interference in the process. Ramos Horta was criticised by FRETILIN for receiving support from the president, who attended his closing campaign rally in Dili, despite the legal prohibition. Outside the capital, the local administration, dominated by FRETILIN representatives from the district down to the village level, was often accused of supporting the majority party: district officials were occasionally spotted at FRETILIN rallies, as were, official vehicles.

Media Environment

Media is not considered the primary source of information in Timor-Leste. The coverage of the electoral campaign reflected the state of the media, limited professional expertise, poor working conditions and low rates of circulation. In a country with high rates of illiteracy and poverty, only the radio channel of the public Radio Television of Timor-Leste (RTTL) has national coverage, the television channel is limited to Dili area, and the private newspapers, three daily and one weekly, hardly go beyond the capital, with very few copies reaching some districts. News is produced in three languages, Tetum, Bahasa Indonesia and Portuguese, cases of inaccurate news due to poor translation are common. The media broadly reflected the political divisions in Timorese society, with some candidates complaining of unfair treatment, but none of them filed a formal complaint with the CNE.

The state-owned RTTL deployed teams of journalists to follow each candidate to the districts, but the lack of telecommunication facilities and transportation difficulties prevented the equitable daily coverage of all candidates. The same problem affected newspapers, campaign activities were reported with a delay of two or three days in some cases. The Commission sent one warning letter to the public television for not reporting the activities of all the candidates on a specific day.

Civil Society

Civil society participated actively in contributing to the transparency of the democratic process, with impressively large numbers of observers. According to STAE's figures, a total of 1,854 civil society members were accredited to observe the elections within 56 different observer groups. The largest organisation and the only one with capacity to cover all 705 polling stations was KOMEG (Coalition to Monitor the General Elections), with 1,065 observers accredited. KOMEG is made up of 17 NGOs led by a Catholic Church organisation. KOMEG observers were present at 85% of polling stations visited by the EU EOM during voting and 93% of those visited during counting.

Participation of Women

Women participated in large numbers in all aspects of these elections, although not always in proportion to their numbers in the population. Women make up 48.7% of registered voters. EUEOM observers estimated that women made up approximately 25% of the audience at the 74 campaign rallies they observed. The law requires a proportion of the CNE commissioners to be women, and 5 of 15 are, with a similar proportion at district level. There is no such requirement for STAE, but at polling station staff level, EU EOM observed 35% women, although in only 12% of cases were they the chairperson.

Candidates scarcely targeted women voters or addressed gender issues in their campaign messages. Lucia Lobato, the woman candidate, raised women's issues in the national debate, and the media gave some coverage to these issues. The televised debate among presidential candidates included a question on gender issues, and candidates emphasised the need to fight domestic violence and to economically empower women, although with few concrete proposals.

Voting

The election day proceeded smoothly and peacefully with a high turnout of voters. The vast majority of polling stations observed opened on time, dispelling concerns about the logistical feasibility of late material deliveries during the rainy season.

STAE's efforts at voter education, in particular targeting women and internally displaced people, despite its delays and limited logistical reach, may have contributed to the high turnout. The large influx of voters

was generally smoothly handled by polling staff. There were ballot paper shortages in about 10% of 129 polling stations observed, but helicopter flights from Dili and transfers from other stations resolved the problem in almost all cases, although sometimes after a considerable delay.

In some cases, not all ballots were stamped or signed on the back, rendering their validity problematic. More widespread was the lack of any prior control of ink on voters fingers or of voter's age verification, although obviously underage voters were barred from voting in several instances. There was strict respect for inking procedures in nearly all polling stations (93% of these observed) and the new voter's card was punched in 81% of stations observed, leaving limited scope for double voting.

Candidate agents were present in high numbers, with Lú-Olo's agents predominant (90% of stations observed), followed by Fernando Lasama's, Lucia Lobato's and Xavier do Amaral's. In many cases agents of the best-represented candidates were present in groups of two or more per candidate, sometimes large numbers, in a clear breach of the code of conduct. Isolated occurrences of inappropriate interference by FRETILIN or local administrators, for example writing down voters' card numbers, were reported by EU EOM observers. At every stage of the process, security was provided by PNTL or UNPOL in all observed polling stations.

There was no provision made for prisoner or hospital voting, although the law allowed this and prisoners were registered to vote.

Counting

Counting started on time in most polling stations, although earlier in some stations where the ballot papers had run out or where staff assumed that no-one else would come to vote. National observers were present in almost all cases observed by the EU EOM (96%), and Lú-Olo's agents were present in similar proportions, while Lucia Lobato's were in 86.6% and Lasama's in 73.3%.

PNTL (frequently backed up by UNPOL) was present outside all observed polling stations. In 80% of stations observed the number of voters noted on the list matched the number of cast ballots, while in 85% of cases observed the number of ballots issued matched the number of ballots cast, cancelled and spoiled. This left a percentage of stations with reconciliation problems. Problems in the determination of invalid votes were reported in 35% of observed cases, and there were 6% invalid votes in stations observed by the EU EOM. An important transparency measure, posting the results outside the polling station, was not complied with in 21% of cases observed.

The district tabulation process, held at every district capital under the command of a CNE commissioner, began slowly. In some districts it began on the evening of polling day, while in other districts it started the following day. Computer and transport difficulties, together with some uncertainty as to procedures, caused delays.

The rectification of mathematical errors and the resolution of closing complaints have not yet taken place, and will be dealt with at the CNE national tabulation centre in Dili. The announcement of the preliminary results by the CNE is set by the Electoral Calendar for 14 April at the latest. EU EOM observers will continue to observe the process until after final results are declared.

The EU EOM wishes to express its appreciation to the *Minister of Foreign Affairs* and other Timor-Leste authorities, political parties and civil society, and to the United Nations Integrated Mission in Timor-Leste for their cooperation and assistance during the course of the observation. The EU EOM is also grateful to the Office of the European Commission to Timor-Leste and to the *International Organisation of Migration* for their operational support throughout.

An electronic version of this Preliminary Statement is available on the Mission website
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