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Timor-Leste's Petroleum Fund

Many Third World countries rich in petroleum* resources face numerous economic, social, political and security problems. Although their people hope that petroleum development will bring economic miracles, it often brings misery. This is sometimes called the "Paradox of Plenty" or the "Resource Curse."

In 2005, Timor-Leste's government established a Petroleum Fund to try to keep Timor-Leste from following this path toward disaster. This Act prioritizes sustainable management of Timor-Leste's petroleum income to benefit both current and future generations, a perspective essential to avoiding the "resource curse." *La'ó Hamutuk* believes that the Petroleum Fund is a positive step toward creating a strong foundation for our nation. The Petroleum Fund Act defines the relationships and responsibilities of public institutions including the Government, Parliament, Central Bank (BPA) and Consultative Council, and implements measures for transparency, oversight and accountability. These will help reduce the risk of our petroleum wealth becoming a curse.

* *Technical terms in this article are defined in a glossary on page 8 and are underlined the first few times they are used.*



La'ó Hamutuk's João Sarmento tried to visit the bank in New York where Timor-Leste's Petroleum Fund is deposited, but he was not allowed inside.

However, the Petroleum Fund Act alone cannot solve the whole problem. There are many causes of the "resource curse" (see *La'ó Hamutuk Bulletins* Vol. 6 No. 4 and Vol. 5, No. 3-4), and the Petroleum Fund only deals with some of them. It will take more than this to put our impoverished, oil-rich nation on the road to prosperity.

During the Petroleum Fund's first year of operation, some positive things have been done, although not everything has been implemented perfectly. This article will discuss the structure and mechanisms of the Fund, how it has operated up to now, and some of the problems in its design. We will explore how the Fund will help Timor-Leste avoid the resource curse, and suggest some improvements and additional measures which could be taken.

The problem

The resource curse results from many factors: greed, corruption and cronyism in the national government and international oil companies, the desires of powerful countries to control the oil supply to facilitate the flow of oil from Third World countries to advanced industrial countries, weak state institutions and limited transparency and accountability within the government. To compound the problem, worldwide selling prices for oil and gas fluctuate wildly, which means that oil revenues vary from year to year and are impossible to predict.

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The natural tendency of most governments (and most people) is to spend all available money. This means spending oil revenues each year as they come in, so that the government has a balanced budget, without a surplus. Income from selling petroleum reserves (sometimes called “rent”) comes so easily that policy-makers often neglect more difficult economic development and revenue sources from other sectors.

Furthermore, petroleum is a non-renewable resource. Timor-Leste’s oil and gas will be used up in one or two generations, and if other parts of our economy have not developed, including human and physical infrastructure, we could be worse off than we are today. The country’s self-sufficiency will have been reduced, with less agricultural capability and economic development, but a greater need for imported goods. Today’s government must develop sectors in addition to oil and gas to reduce our dependence on oil revenues and prepare for the future.

Timor-Leste is a young, impoverished country, and our limited economic development thus far has relied on aid from donor countries. For the next few decades, revenue from petroleum will be the Government’s primary source of funds, providing about 95% of Timor-Leste’s government revenues. Although the petroleum income could make it easier to finance government programs, the experiences of other countries suggest that Timor-Leste must be very careful.

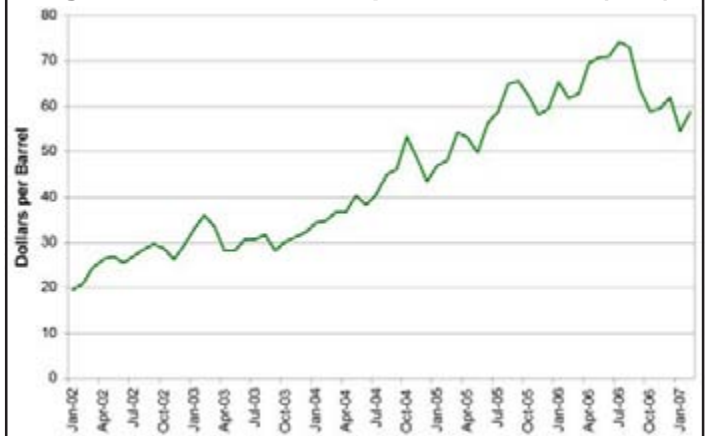
Timor-Leste’s domestic security is threatened by soaring unemployment, but oil extraction creates almost no jobs for local people. We need to use oil revenues to fund programs to put people to work, stimulating economic activity which will enhance people’s lives not only in Dili but also in rural areas where most people live.

This is particularly problematic given the social and economic reality in Timor-Leste, where economic activity outside the oil and gas sector is extremely low. Unemployment in Dili, a cause of the current crisis, is about 40%. Our population grows at more than 3% every year, and the Census projects it to double in 25 years. This is important because government expenses – health, education, internal security, etc. – must increase in proportion to the population to provide the same level of services.

Furthermore, Timor-Leste has several limitations related to management of petroleum projects and revenues. Our state institutions are small and powerless in comparison with international oil companies and global economic forces. After centuries of Portuguese neglect and Indonesian corruption and occupation, our people have limited experience with public access to information and the rule of law.

Timor-Leste’s recent crisis demonstrates how difficult it is for both our people and our leaders to make the transition from resistance against a repressive foreign occupation to participation in an independent democracy which serves the people’s interests. During the Indonesian period, it was patriotic for civil servants to steal from or subvert the occupation government in order to support the resistance. Corruption and abuse of power was pervasive, with no consistent application of the rule of law. A Timorese person had no rights and no voice in government policies, which were decided by autocratic Indonesian generals.

Figure 1: Worldwide oil price variations (WTI)



Source: www.economagic.com, Monthly NSA price of West Texas Intermediate Crude

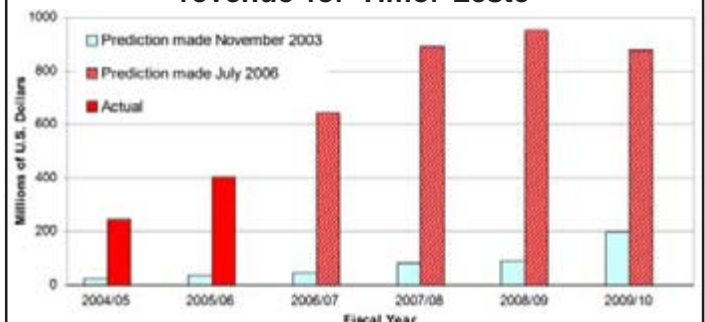
Today, government officials and civil servants often lack experience or knowledge about transparency and accountability, which are essential to prevent corruption and abuse of power. We cannot rely on the good intentions of our leaders, but must have legal checks and balances, as well as transparency, so that civil society can ensure that the government serves the interests of the people.

Although world oil prices are currently high, they fluctuate unpredictably over a very wide range, having tripled in the first four years of Timor-Leste’s independence, and then fallen 30% over the last six months. Although they will probably increase over decades, they could drop significantly for periods lasting several years. This makes it impossible to predict what Timor-Leste’s oil revenues will be even one year from now.

Timor-Leste’s own planning process demonstrates this problem. In November 2003, the Government projected that petroleum revenues in 2004-5 would be \$25 million, rising to \$34 million in 2005-6 and \$58 million in 2006-7.

Today we know that petroleum revenues in 2004-05 were \$243 million, 10 times the projection made less than two years before. In 2005-6 they were \$403 million (12 times the projection). In July 2006, the Government projected that they will be \$643 million for 2006-7 and about \$900 million during each of the next three years (see graph). Every month, Timor-Leste’s Government receives more petroleum money than had been expected for this entire year just three years ago.

Figure 2: Predictions of annual petroleum revenue for Timor-Leste



Sources: RDTL Background Paper (mid-year budget update) for December 2003 Development Partners meeting; RDTL Budget 2006-7

Although this windfall will help Timor-Leste during its current crisis, our planners and our citizens must not expect it to continue indefinitely. Around the world, countries often overspend when oil revenues are high, and have to borrow to continue government programs when oil prices drop. A Petroleum Fund can help us avoid this trap.

Since 1999, many foreign countries and international institutions advised Timor-Leste on how to manage oil and gas revenues. Although this advice is often helpful, much of it seems motivated by the desire of oil-consuming countries (Timor-Leste's customers in rich, industrialized nations like Japan, Europe and North America) to ensure stability for their supplies of oil and gas. These supplies are endangered when an oil-exporting country (such as Iraq or Nigeria) collapses into conflict or if their government or citizens become so frustrated at not receiving a fair share of oil benefits that they take their anger out on oil projects.

Timor-Leste's people will also benefit if our country avoids these problems, but we should remember that our primary purpose for exporting oil and gas is to benefit our own citizens. Therefore, we must analyze and adapt advice from the World Bank and other rich-country-directed organizations to ensure that it meets Timor-Leste's needs.

Petroleum for Timor-Leste's economy

Timor-Leste has large petroleum reserves, but our oil and gas production relative to our population is only about one-eighth as much as Norway, Kuwait or Brunei Darussalam. Timor-Leste's oil and gas are finite and will be depleted during the lifetimes of many people alive today.

Beginning in 2008 and for the next few decades, Timor-Leste will be one of the most petroleum-dependent countries in the world. Based on Government and IMF figures, *La'o Hamutuk* calculates that 89% of our total economy (Gross Domestic Product or GDP) and 94% of Government revenue will come from oil and gas exports (see *La'o Hamutuk Bulletin*, Vol. 6 No. 4, November 2005).

With soaring oil prices, Timor-Leste's Government currently receives more than US\$80 million every month in revenues from the Bayu-Undan oil and gas field in the Timor Sea. If the Greater Sunrise field is developed, Timor-Leste will receive even more income starting in 5-10 years, although Australia will take more than its legal share. (See *La'o Hamutuk Bulletin*, Vol. 7, No. 1, April 2006). Although Bayu-Undan revenues will end around 2025, Greater Sunrise production could last until 2050.

Third World countries which depend on non-renewable resources like oil and gas almost always ex-

perience disaster, including poverty, militarism, economic polarization, corruption, environmental destruction and unemployment. This should be a warning to the Government and people of Timor-Leste. A number of measures need to be taken, and the creation of a Petroleum Fund can reduce some of these dangers. The Government of Timor-Leste is learning from others' experiences, but the lessons are difficult and complicated.

Timor-Leste's Petroleum Fund?

A Petroleum Fund is a mechanism for making petroleum income more consistent and predictable from year to year, and for saving some of the revenue from petroleum for the time when all Timor-Leste's oil and gas has been extracted. At that time, interest from investing the Petroleum Fund can continue to pay for Government operations. On the one hand, this is good for financial survival, but on the other hand, this will prolong the period of Timor-Leste's dependence on oil income, which facilitates neglecting other sectors of our economy.

In principle, Timor-Leste's Petroleum Fund Act implements Article 139 of the RDTL Constitution, which says that natural resources are owned by the state and are to be used in the national interest, including the establishment of financial reserves. This Act is based on several principles, including wise management for the benefit of both current and future generations, and sound fiscal policy.

All revenues from petroleum development, including royalties (FTP) and taxes, are deposited directly into the Petroleum Fund account as they are received. The Fund is invested in low-risk securities abroad, and all interest received is redeposited into the Petroleum Fund.

Each year, the Parliament will transfer (withdraw) money from the Petroleum Fund to fill any shortfall in the Government budget, making up the difference between expected Government expenses and revenue from other sources. For the Fund to continue into the future, the amount withdrawn each year should be less than the Estimated Sustainable In-

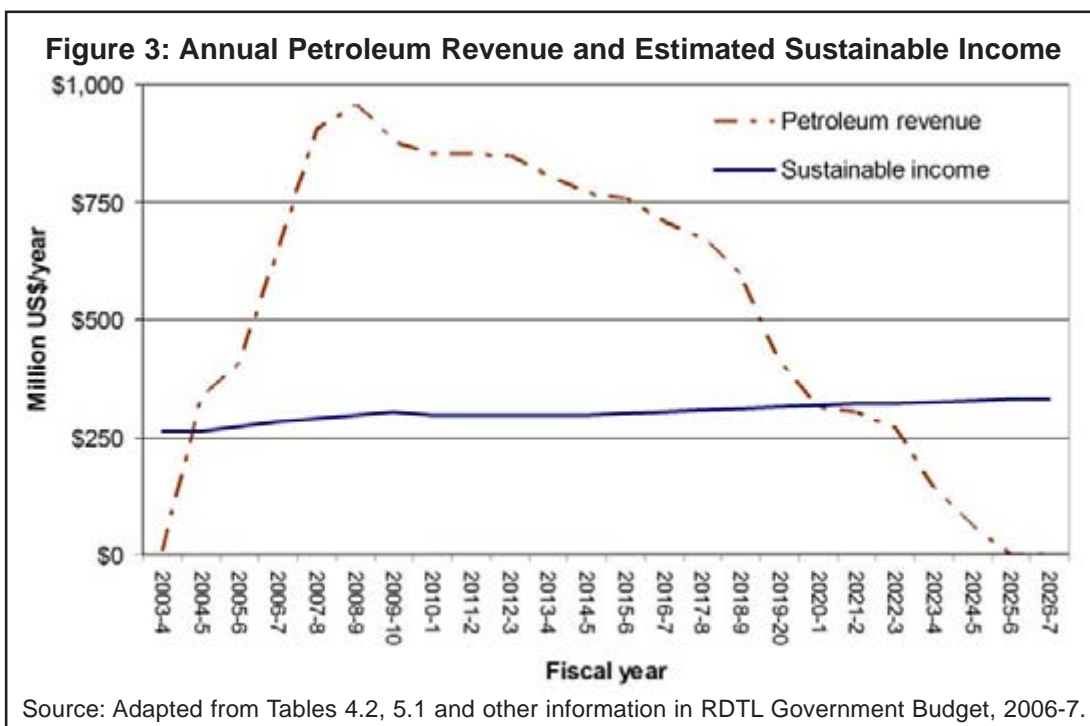
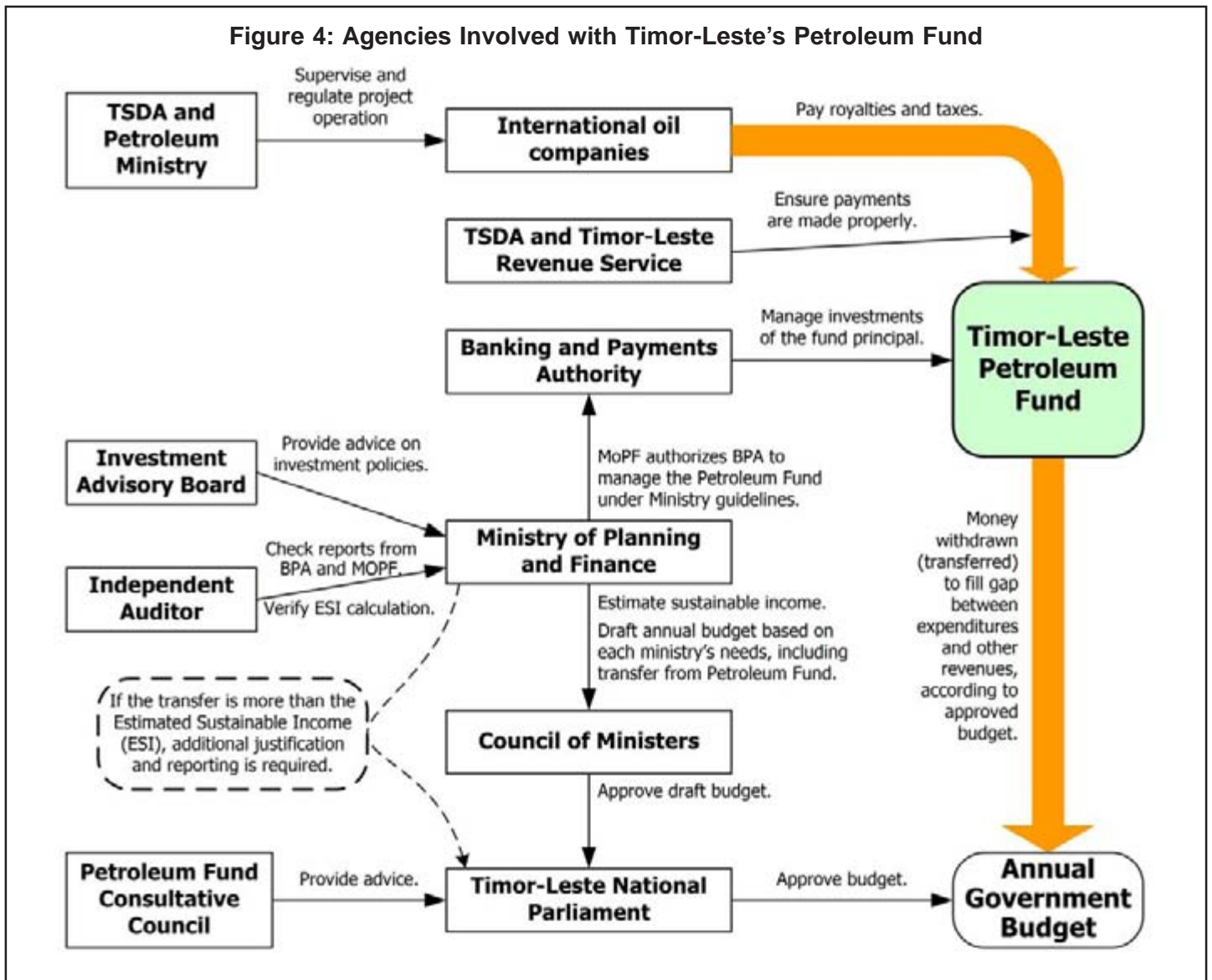


Figure 4: Agencies Involved with Timor-Leste's Petroleum Fund



come (ESI) which is calculated as the amount which could be taken out each year without depleting the long-term balance of the Fund. For the current fiscal year (2006-7), the Government has estimated the sustainable income at \$283.3 million, more than the \$259.7 million budgeted to be withdrawn from the Fund.

This graph shows projected revenues from the Bayu-Undan field (dashed line) and ESI (solid line) for the next twenty years. These are approximate estimates, since nobody knows what global oil prices or global interest rates will be in the future. However, we can see that even though petroleum revenues end by 2025, the Fund will continue to yield a sustainable income of more than \$300 million per year.

On the advice of the World Bank and the IMF, the Government established a petroleum savings policy, even before the Petroleum Fund was designed. Public consultation on the Petroleum Fund concept and proposed law began in October 2004, and Parliament passed the act on 20 June 2005. It was soon promulgated by the President, and the Fund began operating in September.

Timor-Leste's Petroleum Fund is modeled on the success of Norway in managing its own petroleum revenues, although Timor-Leste and Norway have great social, economic, political and historical differences (see table, page 11). Since the Timor-Leste Petroleum Fund Act has additional provisions

for transparency and accountability, the Timor-Leste Government refers to it as "Norway Plus." However, Timor-Leste's fund lacks some of the best features of Norway's, such as requirements that the fund be invested ethically (avoiding socially harmful investments) and having a specific legislative process for spending money from the Fund..

Former Prime Minister Mari Alkatiri, who led the creation of the Petroleum Fund, called its enactment an extremely important step for the future of the nation: "Good management of the revenue from petroleum is very important in order to ensure sustainable economic growth, the reduction of poverty and political stability in the future for the people of Timor-Leste. This policy will make it easier for us to use these funds responsibly as well as to save for the future."

The World Bank also views the creation of the Petroleum Fund as a success of the Government of Timor-Leste, and is optimistic that revenue from oil and gas will not be wasted and will continue to provide a guarantee for future generations.

The Petroleum Fund Act defines the management and roles of various actors, including the Government, Parliament, auditing agency, Investment Advisory Board and Central Bank (Banking and Payments Authority). (See figure 4.) This Act also provides for mechanisms for transparency and accountability, such as a way that people outside government can participate via the Petroleum Fund Consultative Council.

The Petroleum Fund Consultative Council (PFCC) provides oversight by the people of Timor-Leste about how the money is used. Before Parliament can approve Government plans to withdraw money from the Petroleum Fund, it must seek advice from the PFCC. This Council includes representatives from various sectors of our society. Civil society elected its two representatives in February 2006 — Thomas Freitas from Luta Hamutuk and Maria Dias from Rede Feto. In August 2006, Parliament chose Antero Benedito da Silva and Nuno Rodrigues as their representatives, and others on the Council include Francisco Monteiro (nominated by President of the Republic Xanana Gusmão), Aurelio Guterres, (nominated by President of Parliament Lu-Olo), Oscar Lima (nominated by the business sector), and Reverend Francisco Vasconcelos (nominated by religious institutions). Mari Alkatiri serves on the Council in his capacity as a former Prime Minister.

Although the Council should have begun operating in March 2006, many of the appointments were late, delaying the start until November. As a result, the Council could not provide the legally-required advice in August, when Parliament approved the state budget for the current fiscal year 2006-2007.

Another important aspect of the Petroleum Fund Act is defining how the money will be invested and who is responsible to manage it. The Government is required to manage the Petroleum Fund prudently, based on principles of good governance and for the benefit of both current and future generations.

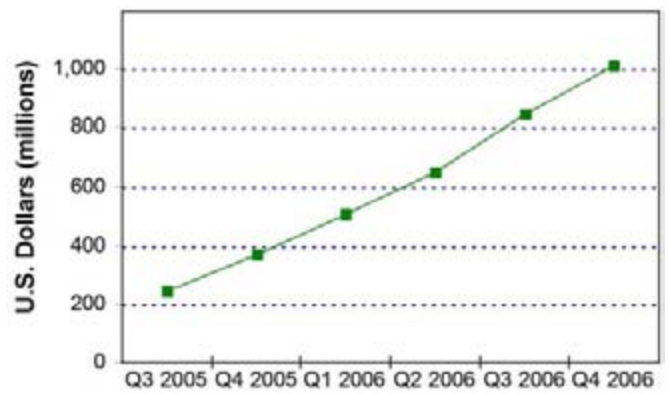
The Government is responsible for all aspects of management, carried out by the Ministry of Planning and Finance (MoPF). In July 2005, this Ministry signed a management agreement with the Banking and Payments Authority (BPA) giving the BPA responsibility for operational management of the Fund.

Before setting investment policies, the Finance Ministry must request input from the Investment Advisory Board (IAB). This board includes the Treasury Director (Manuel Monteiro), the BPA Head (Abraão Vasconcelos), two investment experts appointed by the Finance Minister (Sigurd Klakeg, BPA Fiscal and Petroleum Fund Advisor, and Tørres Trovik, Norwegian Petroleum Directorate) and one other Ministerial appointee (Cristino Gusmão, MoPF Director of Macroeconomics).

The management agreement authorizes the BPA to manage the Fund and to make arrangements for investments under guidelines and policies established by the Ministry of Planning and Finance. The BPA has to submit a report on the Petroleum Fund every three months. The report goes to the Minister within 20 days of the end of the quarter, and is published within 20 days after that.

For now, the Government of Timor-Leste has adopted an investment strategy of investing all Petroleum Fund money in United States government securities, through the Federal Reserve Bank of New York. This means that Timor-Leste does not have to deal with currency exchange rates or enter into competitive international financial markets. We accept a lower rate of return to avoid risky investments. As the BPA acknowledges, international financial markets are very complex and Timor-Leste does not yet have the human resources to understand them, so we should wait before diversifying how the Fund is invested.

Figure 5: Balance in the Petroleum Fund



Source: Petroleum Fund Quarterly Reports from the BPA.

Every year, the Government must provide Parliament with an annual report concerning the Petroleum Fund. This includes the results of the financial audit, receipts and withdrawals, the balance sheet, the development and activities of the Petroleum Fund and the advice of the Investment Advisory Board. As of this writing, this report has not been published.

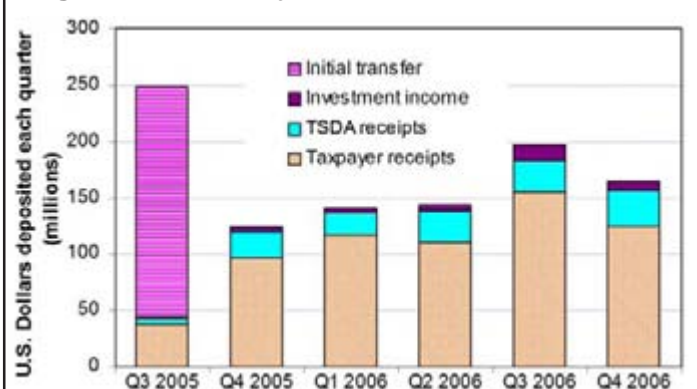
Petroleum receipts and the government budget

The people of Timor-Leste hope that revenue from Timor Sea oil will be used wisely for national development, helping to eradicate poverty. Although we have already received a thousand million dollars from this sector, it has had little real impact on development. Nearly all the money has been invested in the United States, and very little has been spent to support Timor-Leste. In Fiscal Year 2005-6, the Government spent \$84.6 million of petroleum revenues, and it plans to spend \$260 million from the Petroleum Fund this year, but during the first half of this fiscal year (July–December 2006), no money was transferred from the Petroleum Fund.

Figure 5 above shows the total balance of the Petroleum Fund at the end of each quarter through 2006, when it contained just over one billion U.S. dollars (\$1,011,763,807). Revenues increased significantly starting in December 2006, after the Bayu-Undan project had paid back the oil companies' investment in the project and began paying "profit oil" taxes.

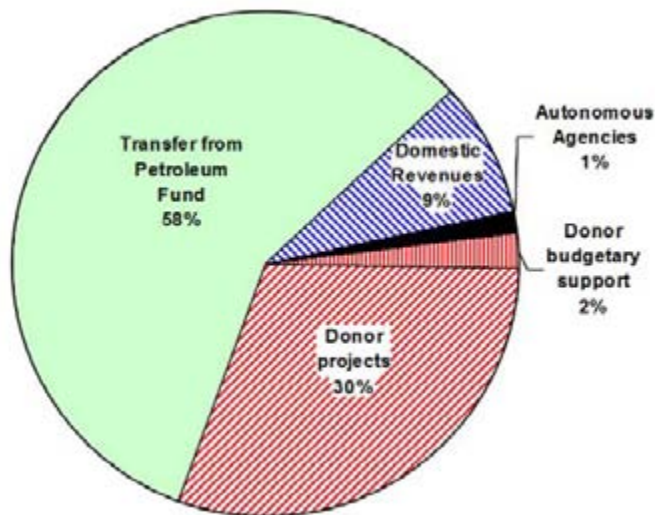
Figure 6 illustrates where the revenue deposited into the Petroleum Fund during each quarter comes from. Most of the revenue comes from taxes paid by petroleum companies to the Timor-Leste Government, while some is from royalties

Figure 6: Quarterly Income to Petroleum Fund



Source: Petroleum Fund Quarterly Reports by the BPA.

Figure 7:
2006-7 RDTL Combined Sources Budget
 (\$452 million total)



Source: RDTL Government Budget, 2006-7

paid to the Timor Sea Designated Authority (TSDA), 90% of which go to Timor-Leste. Investment earnings are an increasing part of the Fund's income.

Donor support for Timor-Leste is declining, although it increased somewhat in 2006-7 because of the current crisis. This year donations will total \$146 million (most of which goes for projects run by agencies from the donor countries), and it is expected to drop off sharply over the next few years. Since Timor-Leste's non-oil economy is not yet well-developed, domestic taxes provide only \$39 million, so that revenues transferred from the Petroleum Fund are the primary source of income (\$260 million of the \$452 million Combined Sources Budget).

If we compare the current year with last year and plans for the next three, we can see that the budget has almost doubled, with the increase being funded by a transfer from the Petroleum Fund. However, since the Estimated Sustainable Income for this year is \$283 million, even this large transfer is allowed under the Petroleum Fund Act.

Independent of the Petroleum Fund, the Government has problems with budget execution, and has been unable to spend much of the money approved to implement its programs, and the population at large does not receive planned services. This problem will get harder as revenues and budget grow.

Before Timor-Leste had a Petroleum Fund, the Government spent tax revenue from petroleum directly, although some was saved in a "Timor Gap Account" established for this purpose in 2001. This account received FTP (royalty) receipts from Elang-Kakatua and Bayu Undan, accumulating \$205 million which was transferred into the new Petroleum Fund in September 2005, and the Timor Gap Account was closed. Between 2002 and 2005, the Government spent \$247 million in petroleum income, plus \$85 million in fiscal year 2005-6 which did not go through the fund.

The Government's savings policy, written into the Petroleum Fund Act, is to limit annual expenditures of petroleum money to no more than the *Estimated Sustainable Income* (ESI). Each year, the ESI is estimated at 3% of the value of

the Petroleum Fund plus future revenues which will come from selling oil and gas from fields which already have an approved development plan. This derives from considering the nation's "petroleum wealth" as including both dollars in the Fund and oil and gas still in the ground. In this view, extracting and selling the oil (and collecting oil revenues) is a process of converting Timor-Leste's assets from one form to another, rather than the creation of new wealth.

However, Timor-Leste's population (and the need for government services) is currently growing at 3.2% per year, and the available money *per capita* will drop by half in 25 years. In 2050, when Greater Sunrise and Bayu-Undan have all been extracted, the sustainable income from the Petroleum Fund for each of Timor-Leste's three million citizens will be less than it is today, even though today's ESI calculation does not include Greater Sunrise (because it does not yet have a development plan). By 2100, it is projected to be half of its 2050 level.

Under the Petroleum Fund Act, Parliament must approve the amount transferred by the Government from the Petroleum Fund each year, as part of the national budget. Before this approval is given, Government must provide Parliament with a report calculating the ESI for the previous and current year, verified by an independent auditor. Parliament must consult with the Petroleum Fund Consultative Council. If the transfer recommended is larger than the ESI, the Government must provide a detailed justification.

For this fiscal year, which started in July 2006, the new Government headed by José Ramos-Horta increased the budget to carry out crisis recovery programs. The total budget (excluding \$136 million in donor-managed projects) is \$316 million, of which \$260 million will be transferred from the Petroleum Fund (see Figures 7 and 8).

Although this is the first year the Petroleum Fund Act has been in effect, the budget approval process has already violated the procedures in the Act. This is a result of the ongoing crises in Timor-Leste and Dili, because the Petroleum Fund Consultative Council was not yet functioning, and because the Government failed to provide Parliament with audited estimates of the sustainable income.

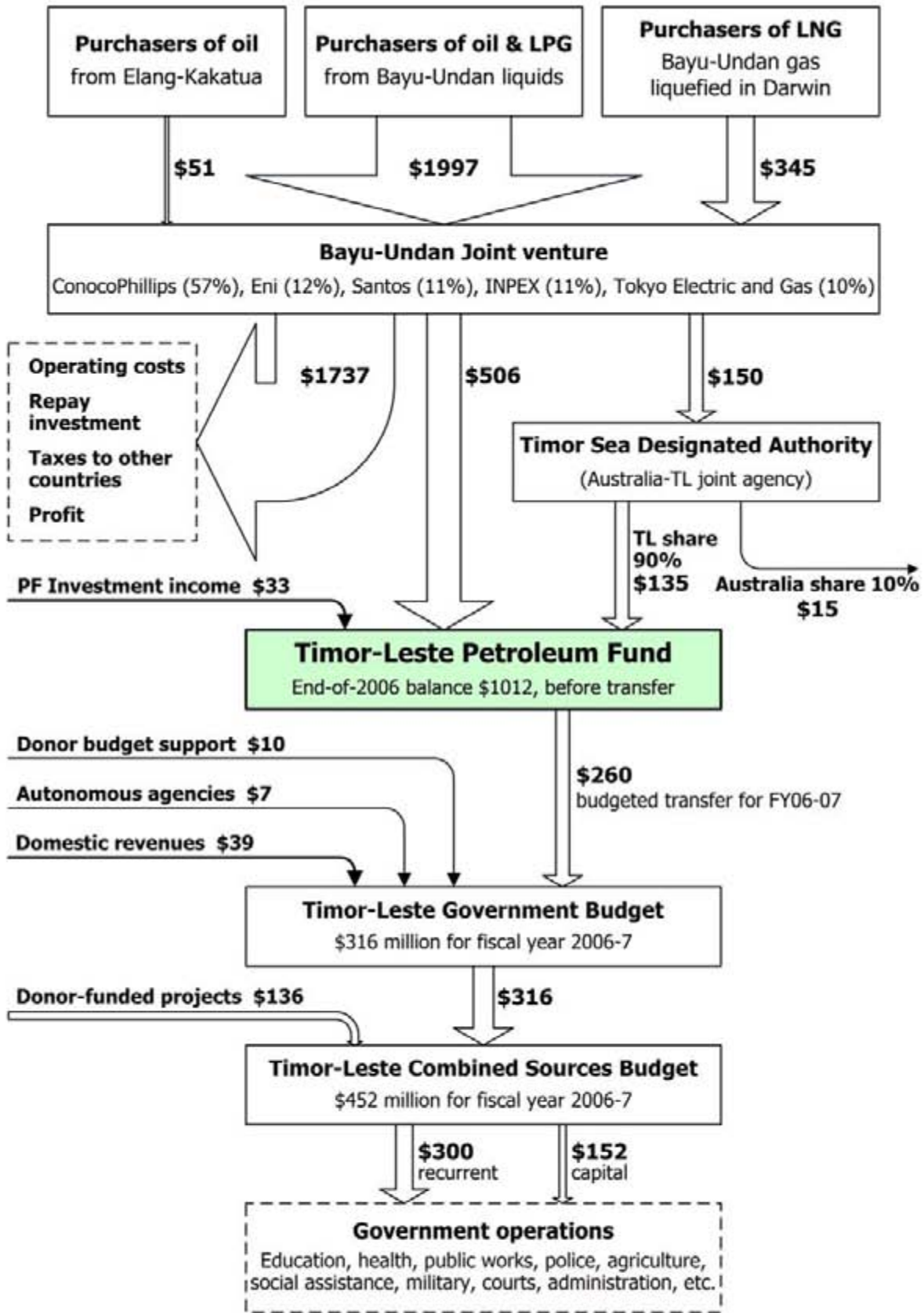
Partial Transparency

Transparency and accountability are essential to democracy. Transparency includes the right of citizens to obtain information about the Petroleum Fund and other petroleum activities. In managing revenue from petroleum, transparency and accountability are key because the large amounts of money invite misuse that could deprive Timor-Leste's people of their money, so that it benefits only local elites and international oil companies. The Petroleum Fund Act moves our nation toward accountability and transparency in managing our oil revenues.

This problem is recognized internationally. Over the last few years, global civil society has initiated the Publish What You Pay (PWYP) campaign to demand that oil companies make public the payments they make to governments. At the same time, the British government and the World Bank began the Extractive Industries Transparency Initiative (EITI), which says governments should publish what they receive from the companies and require the companies to do the same.

Figure 8: Timor-Leste's Petroleum Revenue Streams

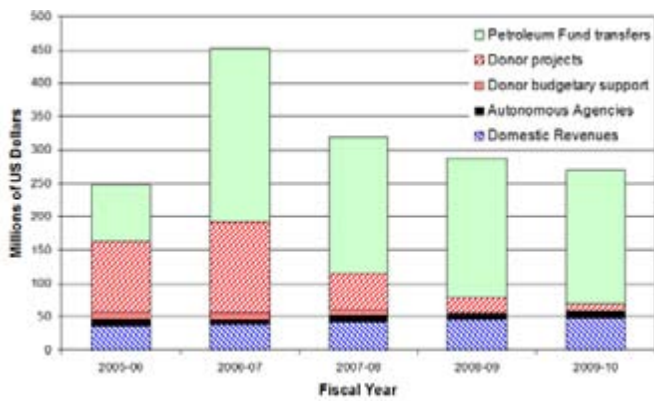
Totals for 2006. All figures in millions of U.S. dollars.



Note: Figures for petroleum operations and income to the Petroleum Fund (numbers above the Petroleum Fund box) are actual amounts for calendar year 2006. Figures for expenditures (numbers below the Petroleum Fund box) are budgeted (projected) for fiscal year 2006-7, which started on 1 July 2006.

Sources: Petroleum Fund Quarterly Reports, RDTL government budget, Santos filings with the Australian Stock Exchange, revenue data on TSDA website

Figure 9: Where the Combined Sources Budget Revenue Comes from



Source: 2006-7 RDTL Government Budget

Prime Minister Mari Alkatiri addressed EITI conferences in Europe in 2003 and 2005, and *La' o Hamutuk* sent representatives to these conferences in 2005 and 2006. (See Extractive Industries Transparency in Timor-Leste: Limitations in Practice, *La' o Hamutuk Bulletin* Vol. 6 No. 1, April 2005).

Although Dr. Alkatiri and Petroleum Minister José Teixeira have repeatedly expressed the Government's support for EITI principles, these principles have not been incorporated into the Petroleum Fund Act or any other RDTL law. Neither the Government nor the oil companies are required to publish the date, amount and reason for each payment, and the Petroleum Fund reports from the BPA only list each quarter's total "taxpayer receipts."

In Timor-Leste, civil society has worked hard to monitor and advocate for transparency and to prevent the misuse of these funds. Nevertheless, so far the public in Timor-Leste has only received information from one source, the Government, as the oil companies are not required to make this information public and decline to do so voluntarily. Even worse, the Government's new model Production Sharing Contract

makes it illegal for companies to release such information without asking the Government's permission. Section 15.2(e) of the contracts just signed with Eni and Reliance says that "Except with the consent of the Ministry, or as required by law or the rules of a recognised stock exchange, a Contractor may not sell or disclose any such data, information and records."

Separate reporting from two sources is critical, so that they can be checked against each other. As we have suggested before and as EITI recommends, Timor-Leste should require oil companies operating in our territory to publish how much they pay in taxes, royalties and other fees to the government. The government needs to implement its promise to EITI with legal requirements, following the process that EITI has developed.

The BPA has already published six Petroleum Fund quarterly reports in Tetum, Portuguese and English. This is an important part of transparency, although these reports contain the minimum information required by law and do not spell out the payers or details of petroleum revenue. So far the Government has not produced any annual reports or audit reports for the Petroleum Fund, even though it is been in operation for more than a year and the Petroleum Fund Consultative Council has requested this information.

Both Government and civil society need to continue and expand public education about petroleum revenues across the entire country, especially to the rural population. So far, most information is limited to Dili, and people in the districts do not have access to accurate information about the Petroleum Fund. This gives rise to some suspicions about where the money is going.

In summary, the Petroleum Fund is an important and visionary step towards helping Timor-Leste avoid the resource curse and protecting our petroleum birthright for future generations. But it is only one of many necessary steps, and it needs continuing close attention both from those responsible for managing it and from all the Timorese people. ❖

Glossary

Audit: An examination of financial records or analysis carried out by an expert (**auditor**) who is independent of the people who prepared the records. The Auditor certifies that the records are accurate, and reports on any inconsistencies or differences from accepted accounting practices. Audits can be internal (done by the agency which prepared the records) or external (done by someone from outside the agency). Audit reports are often made public.

Banking and Payments Authority (BPA): The Central Bank of Timor-Leste, a semi-independent government agency which is responsible for managing Government assets and regulating the banking sector. The BPA also manages investments and operations of the Petroleum Fund, reporting on its activities.

Estimated Sustainable Income (ESI): A projection of the maximum amount of money can be withdrawn from the Petroleum Fund each year for the indefinite future (that is, **sustainably**). The ESI is calculated by adding the total value of the Petroleum Fund and the petroleum reserves still in the ground (only those with an approved development plan are counted) and estimating how much interest will be earned by investing that amount.

Federal Reserve Bank of New York: Part of the Federal Reserve system which serves as the central bank of the United States. The Timor-Leste Petroleum Fund is deposited in this bank, which is the equivalent of lending the money to the United States Government.

Fiscal Year: A twelve-month period used for budgeting and financial management purposes, which may or may not be the same as the calendar year. Timor-Leste's fiscal year runs from 1 July to 30 June.

Government bond: A type of investment which involves lending money to a government. Bonds can be short or long term, and can return fixed interest rates or fluctuate over time in response to market forces.

Investment: Financial investment is lending money to a government or company (such as by depositing in a bank or purchasing a stock or bond), in order to receive a return on investment (interest or dividends). For some investments, the value of the principal (the amount invested) may also increase or decrease over time. It is also possible to invest in the human or physical capital of a country, such as through education, preventive health care or infrastructure, but the Timor-Leste Petroleum Fund is restricted to financial investments.

Investment Advisory Board (IAB): Advises to the Ministry of Planning and Finance regarding investment policies for the Petroleum Fund money.

Non-Renewable Resource: A natural resource, such as petroleum, which is not replaced as it is used and will eventually run out. This is different from a renewable resource, such as water or fish, which can replenish itself.

Petroleum: Liquid or gaseous hydrocarbons found in the ground. For this article, we use the words "oil" and "petroleum" to include crude oil, natural gas, condensate and other marketable substances which are found with them.

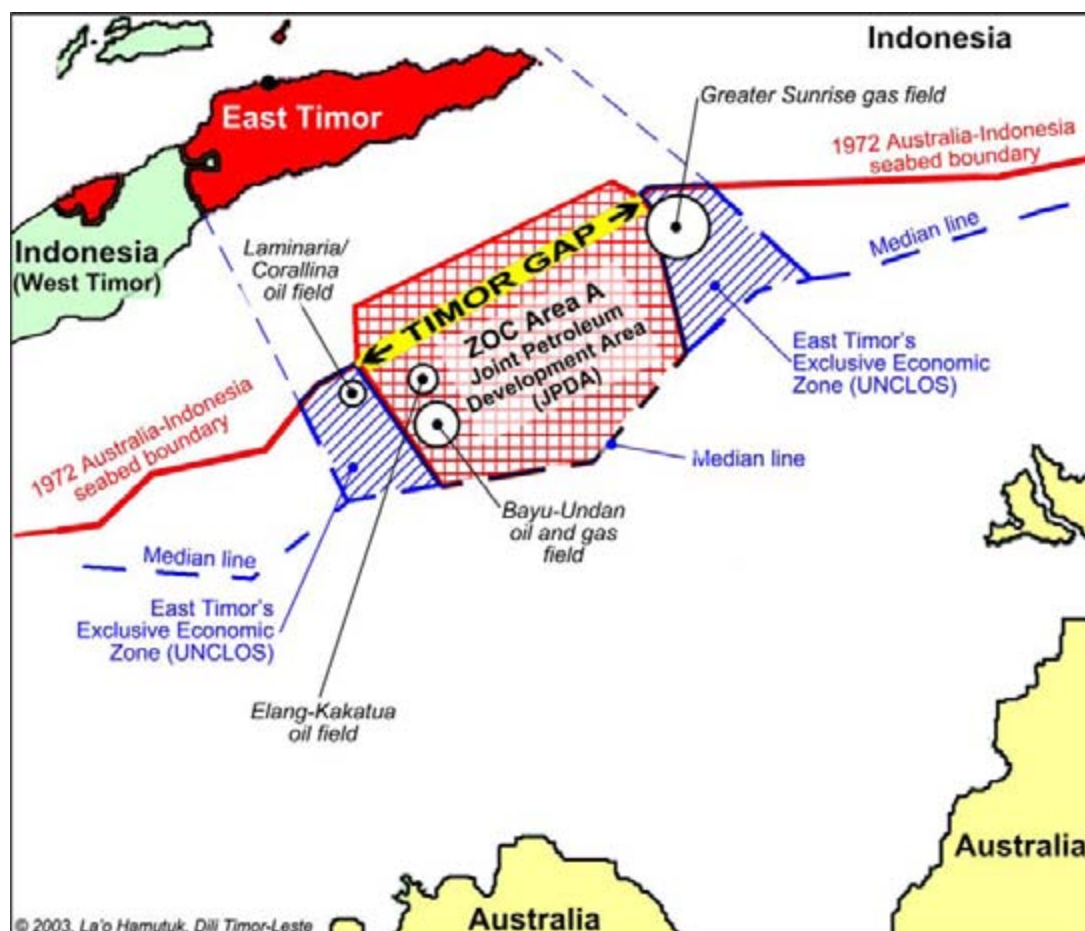
Petroleum Fund Account: An account in the Federal Reserve Bank of New York that was opened on 9 September 2005 with a transfer from the Timor Gap Account. Oil companies and others responsible for making payments into the Petroleum Fund make deposits directly into this account.

Petroleum Fund Act: The law regulating how the Government manages petroleum-related income using the Petroleum Fund.

Petroleum Fund Consultative Council (PFCC): An advisory body which includes former Government leaders and representatives of various sectors of society. It provides advice to the Parliament concerning the Petroleum Fund before Parliament makes any decisions about withdrawing money from the Fund.

Principal: An amount of money used for investment, on which interest is paid.

Timor Sea Designated Authority (TSDA): A bi-national Australia/Timor-Leste government agency established by the 2002 Timor Sea Treaty to regulate petroleum projects within the **Joint Petroleum Development Area (JPDA)** of the Timor Sea, including the **Bayu-Undan** oil and gas field (in production since 2004), part of the larger **Greater Sunrise** field (which could begin production in about five years), and the smaller **Elang-Kakatua** oil field (in production since 1998, almost depleted). The TSDA is two-thirds controlled by Timor-Leste and acts like a government for purposes of contracting with and managing oil company operations in the JPDA.



Timor-Leste and Norway Petroleum Funds

Timor-Leste officials and the World Bank claim that our Petroleum Fund is one of the best one in the world, based on the Norwegian model. They call it “Norway Plus.” This box summarizes some of the similarities and differences between the Timor-Leste and Norway Petroleum Funds.

	Timor-Leste’s Petroleum Fund	Norway’s “Government Pension Fund” (formerly the “Government Petroleum Fund”)
Transparency	Timor-Leste requires the Central Bank to report on the Petroleum Fund operation every quarter, plus an annual report to the Ministry of Finance and to the public. Timor-Leste obliges the Finance Ministry to publish the audit report.	Norway publishes audited quarterly and annual reports of the Petroleum Fund, prepared by Norges Bank and “certified by Central Bank Audit.”
Deposits	All petroleum revenues to the Government are deposited directly into the Petroleum Fund by the petroleum companies and the TSDA.	Some revenues are deposited directly to the Fund, but most are paid into a government account, with the surplus after filling the budget deficit transferred from the government to the Fund.
Ethical Guidelines for investment	Timor-Leste doesn’t have Ethical Guidelines. To date, all fund money has been invested in the Federal Reserve Bank of the United States.	Ethical Guidelines prohibit investing fund money in companies that produce nuclear weapons, landmines, or anti-personnel weapons, or which contribute to gross violations of human rights or environmental damage. The Guidelines barred the Fund from investing in an oil company operating in illegally occupied Western Sahara, although it still invests in companies operating in Burma. A Council on Ethics advises the Ministry of Finance on investments to avoid for ethical reasons.
Petroleum Fund Consultative Council	The Petroleum Fund Consultative Council advises Parliament about transfers from the Fund. The Council includes eminent persons and representatives of different sectors of society.	Norway has no Consultative Council although the Norwegian Parliament is more responsive to citizens than Timor-Leste’s, so there are many ways for people, including eminent persons, to give input into how the fund money is spent.
Investment Advisory Board	The Investment Advisory Board advises the Ministry of Finance in designing the investment strategy.	The Investment Strategy Council is similar to the IAB.
Decision to withdraw money	Timor-Leste does not require a specific resolution of Parliament to withdraw money from the Fund. The withdrawal is approved automatically when the Government budget is passed.	Parliament must pass a specific resolution for each withdrawal from the Petroleum Fund. However, some oil revenues are deposited directly into a government account and may be spent before the surplus is transferred into the fund.
Amount to be withdrawn	Timor-Leste transfers money from its Petroleum Fund to the government budget each year to meet the deficit between planned expenditures and non-oil income. If this amount is greater than the Estimated Sustainable Income of the Petroleum Fund, additional information and procedures must be followed. The ESI is based on the expected investment income (3%) on the combined total of the fund balance and petroleum reserves under contract but not yet extracted.	Norway also uses money from its Fund to fill the annual government budget deficit. Budget Policy Guidelines require that no more than the expected real return (4%) of the Fund’s investment should be spent in a given year. This is lower than Timor-Leste’s ESI, but would not work for Timor-Leste today because Norway’s fund has had much more time to accumulate principal.
Rationale for fund	Timor-Leste’s Petroleum Fund allows the money earned from selling oil and gas to finance government services for current and future generations, yielding the same amount of money every year even after the petroleum is exhausted. Timor-Leste’s population is young and growing rapidly.	Like Timor-Leste, Norway is receiving revenue from petroleum faster that it can be usefully spent. However, Norway’s population is stable and aging. The government intends to use the fund to pay retirement pensions for older people as they leave the work force, an expense which is expected to triple over the next 35 years as petroleum production declines. Norway’s slow rate of population growth and long life expectancy means that fewer workers will be paying into the pension fund to cover the increased number of retirees.
History	Timor-Leste started its petroleum development when the country had just restored its independence, the public institutions and officials are inexperienced, democracy is fragile, rule of law is weak and non-oil economic development is very limited. This will cause Timor-Leste to depend on petroleum for most of our economy and over 90% of our government budget as donations decline.	Norway started its petroleum development after decades of peaceful, democratic rule and with a well-developed, diversified economy and strong state institutions. Norway’s petroleum revenues, although much larger than Timor-Leste’s, pay for less than 10% of the government budget.

Comparison of Timor-Leste and Norway

(currency amounts in U.S. dollars)

	Timor-Leste	Norway
Current population (2006)	1.1 million	4.6 million
Estimated population in 2050	3.0 million	5.4 million
Percent of population under age 15 (2004)	43%	20%
Average life expectancy for people born in 2004	59 years	80 years
Number of years of peaceful, democratic self-government	4	102 (except for Nazi occupation 1940-45)
Gross Domestic Product (GDP)	\$370 million	\$207,000 million
GDP per capita	\$340	\$45,000
UNDP Human Development Index Rank (2006)	142 of 177 countries	1 of 177 countries
Data below is projected for the current year's budget	Fiscal year 2006-7	Calendar year 2007
Expected petroleum revenues (net) during this year	\$644 million	\$59,600 million
Percentage of GDP from petroleum	63%	22%
Non-petroleum gov't revenues (including donor budgetary support)	\$56 million	\$104,000 million
Government expenditures (excluding donor-managed projects)	\$316 million	\$113,000 million
Petroleum money used for government expenditures	\$260 million	\$9,300 million
Percentage of government budget paid with petroleum money	82%	8%
Petroleum revenues deposited into petroleum fund (net)	\$384 million	\$50,300 million
Interest earned on petroleum fund investments (redeposited)	\$40 million	\$12,900 million
Increase in petroleum fund during the year	\$424 million	\$63,200 million
Balance in petroleum fund at end of year	\$1074 million	\$418,000 million

Sources: UN World Population Prospects 2004, CIA World Factbook, RDTL Budget FY 2006-7, Norway Budget 2007, UNDP Human Development Report 2006, Timor-Leste Petroleum Fund quarterly reports, RDTL Census 2004 Population Projections

Who is La'ó Hamutuk?

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Return Our Natural Resources

In October 2006, Santina Soares from La'o Hamutuk's staff attended the International Oilwatch Forum in Coca, Ecuador. The meeting was organized by the Secretariat of Oilwatch International in Ecuador, and participants came from 22 natural resource-rich countries from every continent, as well as Ecuadorian indigenous people. Oilwatch is an international network which was founded in 1996 in Quito, Ecuador as a network of groups in tropical forest countries who are resisting oil industry activities, fighting against the greed of oil hegemony, challenging abysmal underdevelopment accompanied by a rich elite, and opposing environmental damage and social degradation which results from human greed and companies and individuals who exploit people's natural resources.

The 2006 Oilwatch Forum activities began with a "Toxic Tour" to visit and learn about the negative impact of oil and gas exploitation. The Tour started from Lago Agrio in the Amazon jungle, one of the areas of oil exploitation in Ecuador.

After the Toxic Tour, participants held a three-day conference in Coca to examine issues around oil exploitation in tropical countries and listen to testimony from people with direct experience of the social, economic and environmental damage and human rights impacts of oil operations. The indigenous people in the conference described their protests to the company; the government usually cooperates with the company and responds with much violence. When participants arrived in Coca, they started with a march to the city with indigenous people and other activists saying "give back our natural resources." They continue to protest because they believe that oil does not improve their lives, so they want to stop oil industry activity. At the conference, La'o Hamutuk's representative shared information about the development of petroleum in Timor-Leste.

The following important issues were discussed in the conference, and are strategies of the global Oilwatch movement in each country and region, as well as the international secretariat.

The negative impact of oil development on economic social, environmental and human rights

Ecuador is a country rich in natural resources. In the Amazonia area there are still many forests and protected areas, although there are also many oil activities. Since the 1970s the oil industry has extracted more than two thousand million barrels of crude oil from the Ecuadorian Amazon. Texaco (now ChevronTexaco) was the main company here. When they pulled out many years ago and transferred their operations to the state company PetroEcuador, they left an environmental disaster, and local people and Oilwatch activists continue to demand that they clean up and remediate their mess.

During the Toxic Tour we learned that natural resources do not always bring social and economic wealth to the people and the country as promised. Around the areas of operation, education facilities, health care facilities and infrastructure remain poor and there is obvious damage of technology and bad practices like flaring gas, pollution, contamination, and abandoned equipment and facilities. The evaluation teams are not independent, and often have bias and manipulated results. Remediation of environmental damage is insufficient.

The environment, air, and other ecosystems around oil activities have been destroyed, and nearby communities have asked the company to clean up the water which has been contaminated by oil and gas which they just throw everywhere. During the conference in Coca, many affected people gave speeches and testimonies. For instance, Marina from

Susufindi, who works with indigenous communities, said "we found it very difficult to deal with the company; our water was contaminated but the community drank it, and they got sick; our animals also died. Then we asked the company to remediate, but the company lied about the toxic effects of their contamination. We can do nothing because we are afraid of the company."

These is the reality which faces people who live in areas rich in natural resources, because their economic development remains poor, while they suffer from the exploitation of their resources.



Indigenous people

Indigenous people are often marginalized from development activities. It is often difficult for them to relocate, adapt and survive with a new situation. But they have to leave because the company and government have signed a contract for oil and gas extraction without consulting with local people. If there is consultation it does not include two-way communication. The compensation often does not meet the people's needs. The people cannot demand their rights because they lack knowledge and information,

Militarization

Militarization is a tool often used by companies to provide security around the oil facilities; usually the company cooperates with government to protect the company, not the people. The involvement of military is often justified to ensure national stability. Resource-rich countries like Ecuador and elsewhere in Latin America, Indonesia and Malaysia have also experienced militarization. Many local people have been killed when they get angry with the company or when they demand that the company take responsibility for any disaster. The Oilwatch participants experienced it when one group of us rode bicycles from Quito to Lago Agrio, and were hassled when they met the military. Because the military makes visitors go through a long process of investigation and inquiry before they enter Lago Agrio, another group who flew into Lago Agrio airport also encountered soldiers who were providing security. When we visited the oil sites in Amazonia, near the border with Colombia, there was also tight military security.

Environmental Reparation

Environmental reparation was an important topic discussed by Oilwatch members. Particularly, environmental reparation is very important to local people who are directly affected by oil and gas exploitation. We agreed that environmental reparation should be obligated by contract, and we



have written a legal paper to advocate for a mechanism to compensate those who suffer damage to their environment, health, water, pollution, waste disposal and decommissioning. In some people's experience, the oil exploitation has been finished, but the community still cannot use their land and water, and the company just leaves the gas flaring.

Alternative Energy

Alternative energy is important, so that we do not depend only on oil and gas; it can also minimize the negative risk. Alternative energy is promoted by one Oilwatch member based in Thailand, the Campaign for Alternative Industry Network (CAIN).

What can Timor-Leste learn from other Oilwatch members?

Timor-Leste is a new nation which just gained its independence, therefore we need to learn a lot from other countries' experiences, so we will make wise policy decisions to benefit all Timorese people. These experiences can also teach us how to avoid some of the negative impacts. We have not yet experienced these consequences from oil activities because the projects are far out to sea in the Joint Petroleum Development Area (JPDA), but we should be careful with other areas in Timor-Leste's exclusive maritime jurisdiction which will be exploited soon under new contracts between companies and our government. In the future, onshore activities will be even more dangerous.

Timor-Leste civil society should be proactive and continue to organize ourselves and encourage our government to manage our resources properly to benefit all people of Timor-Leste. The power of local movements from other countries is a valuable reference for our own future. ❖



Public Meeting on CMATS Treaty

On 18 January 2007, *La'ó Hamutuk* organized a public discussion on the CMATS Treaty between the government of Timor-Leste and the government of Australia. The panelists were Mr. José Teixeira (Minister for Natural Resources), Mr. Elizário Ferreira (Member of Parliament, FRETILIN), Mr. Francisco Monteiro (Natural Resource Adviser in the President's Office) and Ms. Santana Soares (*La'ó Hamutuk*).



In his presentation, Mr. Teixeira highlighted some important points of the Treaty alongside with certain reasons or considerations behind the Treaty. Ms. Soares responded that the Treaty brings more benefits to the government of Australia and international oil companies rather than Timor-Leste. Mr. Monteiro pointed that certain sections of the Agreement are really bad for Timor-Leste. One of the weak points of the Treaty is that CMATS has no provision whatsoever to establish a maritime boundary between the two countries. In the end, Ms. Soares and Mr. Monteiro urged the National Parliament to cautiously review the Agreement before ratifying it.

The meeting was attended by more than 53 people from local NGOs, universities, the National Parliament, local media, the TSDA, and foreign diplomats. It was obvious that many people were not well-informed about the CMATS Treaty.

Since oil and gas in the Timor Sea is a national issue, *La'ó Hamutuk* suggests that every part of Timor-Leste society

should be informed about the issue and encouraged to participate in the processes of negotiation and legislation by the government of Timor-Leste and the government of Australia. *La'ó Hamutuk* believes that before Timor-Leste's parliament ratifies this arrangement, the Government and Parliament should conduct socialization and consultation with people of this country to solicit their ideas regarding the Treaty.

On 14 February, *La'ó Hamutuk* wrote an open letter to Timor-Leste's National Parliament, urging them to study the CMATS Treaty carefully before signing it, and recommending that Parliament ask the Prime Minister to renegotiate parts of it with Australia. The following week, Parliament ratified the Treaty after very little discussion, with 48 votes in favor. On 23 February, Timor-Leste and Australia formally exchanged notes to put the CMATS Treaty and the Sunrise International Unitization Agreement into force, although Australia's Parliament is continuing to inquire about the Treaty. ❖

Public Meeting on PNTL-UNPOL Cooperation

On 19 December 2006, *La'ó Hamutuk* held a public discussion on cooperation between UNMIT and the Government of Timor-Leste in relation to the reconstruction of the National Police Force (PNTL). The discussion was held in the Auditorium of the National University of Timor-Leste, with a panel that consisted of Allison Cooper and Donna Cusumano (UNMIT), José Agostinho Sequeira (Vice-Minister of the Interior) and José António, member of the Technical Team for the PNTL screening process.

The objective of the public discussion was to hear from people directly involved in cooperation between the government and UNMIT concerning the assessment process and plans to reactivate the PNTL.

The public discussion unfortunately did not elicit necessary information about the cooperation agreement which UNMIT

and the Government signed on 1 December, as the document was still being translated. Moreover, the information given by both sides was too general, not specific about the screening process and how the agencies were working together.

Many of the participants' questions were left unanswered as the speakers had very little time for the meeting. In the meeting, the *chefe de aldeia* of Surik Mas made several proposals regarding security concerns in his area, including that PNTL be immediately reactivated, with PNTL members working together with the UNPOL to restore and maintain security, law and order in the capital.

La'ó Hamutuk views this kind of discussion as extremely important for Timor-Leste's people, and we hope that UNMIT and government officials will be more receptive to the Timorese public's need for accurate information. ❖

Lessons for the UN from Timor-Leste

On 13 June 2006, Secretary-General Kofi Annan told the UN Security Council

“The violence and unrest that Timor-Leste has experienced in recent weeks is particularly painful because, in many respects, Timor-Leste is a child of the international community. Through four successive missions ... the United Nations has played a key role in laying the foundation for Timor-Leste’s democratic institutions and processes. Today, those institutions and processes stand exposed. The sad events of recent weeks reflect shortcomings not only on the part of the Timorese leadership, but also on the part of the international community in inadequately sustaining Timor-Leste’s nation-building process. We have learnt, at a painful price for Timor-Leste, that the building of institutions ... is not a simple process that can be completed within a few short years. Clearly, tremendous work lies ahead, both for the Government of Timor-Leste and for the international community, but, as I told the Timorese people in a video message on 1 June, the United Nations is determined not to abandon them at this critical time of need.”

La’o Hamutuk, together with others in Timor-Leste, has monitored United Nations activities in Timor-Leste since 2000. Over the past seven years, we have identified numerous problems with the UNTAET, UNMISSET and UNOTIL missions, and have made many recommendations. In June 2006, we submitted a memo to the United Nations staff and Security Council about lessons we have learned from the UN experience in Timor-Leste, with suggestions about how they could do better in their next mission.

UNMIT has now completed its first six months in Timor-Leste, and was just extended by the Security Council until February 2008. Nevertheless, *La’o Hamutuk*’s recommendations are still valid and relevant, and we would like to share them with readers of our *Bulletin*.

Sovereignty and respect

Many diplomats refer to Timor-Leste as a “child” of the international community. Although we agree that the international community should continue to assist Timor-Leste’s development as a member of the community of nations, we caution against the intrinsic paternalism of the parent-child analogy. In addition to recognizing the sovereignty of Timor-Leste’s government, the international community should heed the needs and desires of the Timorese people.

We are particularly troubled by Australia’s desire for exceptional status in the international community’s involvement in Timor-Leste. Australia’s government repeatedly demonstrated its lack of respect for Timor-Leste’s sovereign rights and the rule of law during negotiations over Timor Sea oil and gas reserves. More recently, Australia sent inappropriately trained soldiers and only reluctantly coordinated its security operations with other international agencies, insisting that they be under Australia’s direct command. The United Nations should not accept involvement by Australia or any other nation except as a full partner in a multilateral United Nations force, under UN command.

In June, Presidents Xanana Gusmão and Lu Olo and Prime Minister Mari Alkatiri wrote to the UN Secretary-General, that “a robust United Nations police, military and civilian mission is indispensable in order to assist the people of Timor-Leste to consolidate our hard won peace and freedom.” On 4 August, Prime Minister Ramos-Horta wrote to the Security Council that “along with a strong civilian component, the new mission should have a police force of considerable strength to allow for adequate deployment throughout the districts and

subdistricts, backed by a small military force, under the command and control of the United Nations.” The UN Secretary-General, Malaysia, Portugal and others agreed, as did Timor-Leste’s parliament and civil society organizations. But over the next three weeks, Australia and Japan pressured the Timor-Leste government, which changed its position and consented to Australian command of international soldiers in Timor-Leste. When UNMIT was established on August 25, Australia remained in charge of the military component, a structure the Council reaffirmed two months later.

The UN and other foreign governments and agencies in Timor-Leste must do better than this. They should respect the decisions of Timor-Leste’s sovereign government, and coordinate with it and other Timorese institutions at national and district levels.

Staying the course

Many agree that the UN withdrew prematurely from Timor-Leste in 2004, and understand that nation-building takes time, and cannot be rushed to meet financial or political priorities of Security Council member states. As the UN prepares to re-engage in Timor-Leste, the quality as well as the duration of the international presence must be evaluated and improved. If UNTAET and UNMISSET had lasted twice as long but used the same methods, personnel and priorities, Timor-Leste might well have evolved into a crisis similar to the present one.

Over the last six years, international institutions have learned much about nation-building. Timor-Leste, as the first sovereign UN transitional government, experienced many trial-and-error experiments. Our people suffered from a learning process which will hopefully benefit citizens of other emerging nations. Both the Timorese people and the international community can gain some small satisfaction that there will now be a second chance. We hope that lessons learned since 1999 will be applied in Timor-Leste this time – but even more we urge the United Nations to think outside the box to avoid repeating mistakes from structural or political limitations of UN Missions.

In 2000, the UN Security Council adopted Resolution 1325 on Women, Peace and Security. This recognizes the unique consequences of armed conflict on women, and the benefits of increased participation by women in peacekeeping, other UN operations and decision-making. As the UN designs its next mission in Timor-Leste, a gender perspective is essential, with more women involved at every level. Although nearly

all of those responsible for the crisis are male, women and children are suffering the main burden of displacement from their homes.

The next UN mission is being designed in an emergency atmosphere. Although immediate humanitarian and security concerns must be dealt with, deeper-seated causes of the current crisis will recur if they are not addressed. We hope that the UN will find ways to attend to these – economic development, broad civic education, trauma recovery, transparency, capacity-building and justice – in comprehensive and effective ways. As in UNTAET, security and emergency relief may be under control within 12 months, but these more fundamental issues should be the main foci of the UN in Timor-Leste for the next several years.

The resurrected UN mission should be planned to last five years or more. Although international facilitation and support for the 2007 elections is important, the responsibility of the international community must not end with free and fair elections and the installation of the new elected government. These are steps on the journey toward stability and constitutional democracy, not the final destination.

Past UN Missions in Timor-Leste have been authorized for one year or less at a time. This process removes many of the best international personnel from Timor-Leste. As contracts near their end, UN staff and Volunteers begin looking for their next postings; the most capable and experienced people will find new jobs. We strongly encourage the Security Council to give the new mission a mandate of at least two years, with a presumption of renewal rather than of termination when the time is up.

Justice

The government of Indonesia, the international community, and the government of Timor-Leste have failed to secure justice for crimes against humanity committed during the 24-year illegal Indonesian occupation of Timor-Leste, or even the small percentage of those crimes committed in 1999. This memo will not describe the deep frustration felt by victims over the lack of accountability. The CAVR Final Report describes its legacy: “Impunity has become entrenched” and “Respect for the rule of law and the organs of the state responsible for its administration, a fundamental pillar of . . . nation building in Timor-Leste, will always be extremely fragile in this context.”

We do not agree with the repeated advocacy of “reconciliation” and “amnesty” by high Timor-Leste officials. However, most of our leaders remember 24 years of serious crimes committed against our people, when the international community turned a deaf ear to our cries for help. We should not be surprised that our government feels unable to single-handedly take up the burden for prosecuting crimes by Indonesians who acted under orders from their government. The international community has an unfinished obligation, and the responsibility should not be left to Timor-Leste alone. These were, after all, crimes against *humanity*.

The current crisis vividly demonstrates two results of the absence of accountability: perpetrators anticipate impunity for serious crimes, and victims, lacking confidence in the justice system, take matters into their own hands. The weak-

nesses of Timor-Leste’s court system is an obstacle, but the abandonment of justice responsibilities by UNTAET and its successors is the larger problem, and both should be addressed by the next UN Mission. Reconstructing the police force will deal with only part of Timor-Leste’s security deficit. Until there is widespread confidence in the judicial system and the rule of law, Timor-Leste’s peaceful and constitutional government will remain in danger.

In addition to securing justice and establishing the rule of law, the United Nations itself should set a better example. Secret Status of Mission Agreements, which grant UN personnel and contractors immunity from Timor-Leste laws, should not be perpetuated. The UN must promise to follow Timor-Leste’s laws, breaking precedents exemplified by the UNTAET-approved illegal tax exemption for the *Amos W* floating hotel and the lack of accountability for violent demonstrations and police killings in Dili on 4 December 2002. Timor-Leste’s government has failed to publish its findings about the latter incident, but the United Nations also has a responsibility for transparency because UN police were largely responsible for the Timor-Leste National Police (PNTL) at that time.

Security forces

The design and creation of the Falintil-FDTL military force during UNTAET were heavily influenced by international advice. Among the major considerations were providing dignified employment to FALINTIL veterans and deterring incursions from West Timor. In 1999, fear of militia attacks motivated the CNRT to abandon its position that Timor-Leste did not need a military, opting instead for an armed force to provide external security. However, the border with West Timor was to remain under police jurisdiction, provided that Indonesia also demilitarized the border.

Indonesia now accepts Timor-Leste’s sovereignty, and Dili’s reconciliatory approach to Jakarta has substantially reduced the security threat. Any threat from Timor-Leste’s other neighbor, Australia, will be dealt with by diplomacy. Hence the F-FDTL, with no clear purpose and no external enemies, is left looking for something to do, creating intelligence units to find enemies, and occasionally engaging in unauthorized or unconstitutional internal actions. Short-term decisions made by UNTAET, CNRT, and the Constituent Assembly may have contributed to a long-term nightmare.

Many F-FDTL soldiers, including all of its higher-level officers, developed their skills in the guerilla resistance to the Indonesian occupation. As such, they are used to taking initiative in a highly-decentralized structure, operating secretly and independently, distributing weapons clandestinely from black-market sources. Distinctions between soldiers and civilians were blurred, as individuals alternated between the armed resistance and the civilian underground, often assuming multiple roles. Although these tactics are essential for an underground resistance, they are deadly in a defense force directed by an elected civilian government.

During the last few years, F-FDTL received support from many international sources, but the trainers and donors did not adequately recognize these contradictions. Furthermore, since F-FDTL has no constitutional responsibility for internal security, they were not trained to interact with the civilian

population, respect human rights, use firearms appropriately, coordinate with PNTL or perform policing tasks. The disastrous consequences became apparent in April and May, although many were aware of them long before. It's a sad irony that Falintil virtually never killed Indonesian noncombatants during 24 years of resistance to military occupation, but after four years of independence and international training they have turned their guns on their own people.

The Timor-Leste government, together with the UN and other international advisors, should give careful thought to the future role of military forces. This should be planned for the long-term, focused on the needs of the nation rather than historical inertia, rivalries or role models. There are better ways to honor the heroes of Timor-Leste's liberation than preparing them to fight a war they have already won and which will never happen again.

La'o Hamutuk has reported about problems with international police training and the difficult transfer of authority from the UN police (UNPOL) to the Timor-Leste National Police (PNTL), which was spotlighted on 4 December 2002. Although some of the most egregious shortcomings have since been addressed, operational and command problems remain. We are also concerned about paramilitary units of the police, and inappropriate, large weapons issued to PNTL which have leaked into the population. As with F-FDTL, clandestine habits have no place in a democracy's security forces.

The current crisis illustrates the need for better training about PNTL's public service role and the need for independent civilian oversight of police operations, as well as problems from inconsistent training by advisors from different countries. The police should not be turned into a political instrument at the beck and call of particular politicians. But this does not mean it should be under a foreign commander, as Australia has suggested. Rather, it should be run as part of the civil service, with a professional, neutral commander acceptable to all components of Timor-Leste society. The Interior Ministry should be kept free of politics, perhaps with an independent oversight board similar to the advisory councils for the Petroleum Fund and other sensitive government functions.

Economic development and capacity-building

Traditionally, sustainable economic development has not been part of UN missions, but there is an unbreakable link between economic development and security. As Dili has graphically illustrated, a society with thousands of unemployed, alienated young men can easily spin out of control if institutions responsible for law and order are disrupted. Sporadic riots of such people occur occasionally even in long-established, prosperous democracies.

Much has been written about the temporary "bubble economy" created by the fraction of the UNTAET and UNMISSET budgets that entered the Timor-Leste economy. In fact, less than 1% of the money spent on these missions paid salaries of Timor-Leste workers, and the bulk of the money received by international staff never came to Timor-Leste. Furthermore, these UN administrations were among the most militarized in history, with most of their personnel and the majority of their dollars allocated to armed forces.

As the UN increases its presence in Timor-Leste, it should stimulate Timor-Leste's impoverished local economy. In the

past, the UN imported supplies and services from overseas, foregoing the opportunity to use money designated for Timor-Leste within the country. Priority was given to water, electricity and communications to support UN operations, rather than residents of the capital or nation. If the UN had given more thought to this, with a longer-term orientation, Timor-Leste's economic development would be stronger now, as businesses and public services jump-started with UN expenditures would continue to provide jobs.

Another area where the UN and aid agencies can help is by promoting public employment. For ideological reasons, the World Bank and other institutions have urged Timor-Leste to minimize public-sector jobs. But since unemployment creates instability, and since Timor-Leste's petroleum revenues could pay for many more government workers, there is no logical reason not to hire people to perform necessary functions, such as road construction and repair, school construction, health care delivery and rural electrification. When countries like the United States experienced unemployment levels in the 1930s similar to Timor-Leste's today, they created government agencies to employ people for public works and infrastructure. The UN Mission could hire large numbers of unemployed Timorese on temporary contracts, putting their skills to productive use, improving their sense of participation in the society, imparting work skills and experience, and leading to some longer-term jobs.

Timor-Leste's government has had difficulties administering programs and projects, partly because of inadequacies in capacity building, over-zealous anti-corruption procedures and excessive centralization. The UN could assist with expanded public works programs by providing training and advice and by helping to design improved, decentralized procedures.

All such activities must be undertaken in close coordination with the Timor-Leste government, and the international civil servants and consultants who implement them should have appropriate teaching and mentoring skills. They must be accountable to Timor-Leste's needs, rather than to UN organizational structures and distant supervisors.

Previous UN Missions had structural weaknesses which undercut their efforts to strengthen state institutions: short-term contracts and delays in recruiting international advisors. In a stable government, it takes a decade or more for a civil servant to gain enough experience to manage a department, learning from his or her superiors and co-workers throughout. But in Timor-Leste, mentors and advisors come and go several times a year, without enough time to fully understand the institutions or people they work with. Significant time is lost to recruitment delays, and advisors nearing the end of their short contracts are distracted searching for their next assignment.

Civic Education and Democracy

One of the root causes of the crisis is that neither the Timorese people nor government officials have confidence in constitutional methods for resolving disputes. This is not surprising, as most Timor-Leste citizens never lived in a functioning democracy where issues are debated peacefully. Broad-based civic education is necessary not only to teach the mechanisms of electoral processes, but to convince people that such processes serve the long-term interests of the entire society, regardless of who wins in the short term.

The ineffectiveness of past internationally-provided civic education and political party development in Timor-Leste can be seen from the results. Political debates are conducted *ad hominem*, rather than on substantive issues. Politicians attack their adversaries' integrity, rather than suggesting alternative policies. Dissatisfied voters insult or give up on their elected representatives, rather than persuading them to change their views. Political leaders are beholden to their party or patron, rather than the electorate. Media coverage amplifies personal charges and counter-charges, without analysis or facts to help the reader or viewer decide what is true. These are fundamental problems, which cannot be fixed by training in election law. But they must be addressed if Timor-Leste is to endure as a stable nation, where human rights are respected and contentious questions are resolved peacefully and democratically.

As the UN works to re-establish the rule of law, it must also give attention to developing a consciousness in both leaders and the general public that healthy political debate, focused on issues and conducted respectfully and nonviolently, is an essential part of democracy. Civic edu-

cation should remind government officials that their power derives from the consent of the governed, and that they should use the power of the state to serve the people, not themselves. Reconciliation between formerly polarized individuals and institutions is essential, but it must incorporate compromise and mutual interests, not only apology, compensation and forgiveness. And it cannot substitute for justice.

Conclusion

Nation-building is always difficult, and Timor-Leste began with huge handicaps resulting from international criminality and deliberate ignorance prior to 1999. The millennium's first new nation was a "poster child" for successful (albeit belated) international intervention, but it has also been a guinea pig for experimental projects. We hope that the current crisis serves as a wake-up call, and that the next UN mission will prioritize the long-term needs of the million people who live in Timor-Leste, overcoming institutional practices and customary constraints to support their efforts to live in stability, democracy and peace. ❖

Editorial: Greedy Pension Laws

(continued from page 20)

These privileges are given to every former member of Parliament who was in office for at least 3½ years and to each ex-official who was in office for at least four years. Officials who served less than four years will receive benefits proportional to how long they were in office.

Other countries

Members of Parliament often says that these laws are similar to those applied in other countries. However, in most developed countries, there are much less generous rules about how much pension former Parliamentarians will receive, when they can get it, how many years of service they need and how much they have to pay into the pension fund while they are receiving salaries.

A member of the U.S. Congress can get a maximum of 80% of her/his salary, if she or he has been in office for twenty years or more. But they do not get their pension until they are old enough to retire. Those who held office for only five years, like ours, will get less than 10% of their salaries, and will not start receiving it until they are 62 years old. Since the term of office for a U.S. Congressperson is two years, he or she will have to be elected three times to be in office for five years. Someone who was elected only once, like Timor-Leste's Parliamentarians, will serve two years and will not receive a pension.

In most countries with pension systems, members of parliament have to contribute a significant percentage from their salaries while there are working, paying into the fund which will pay their pensions when they retire.

For example, in Portugal the members of the Assembly of the Republic contribute 6% of their salaries into the pension

fund, and become eligible receive a pension similar to that for other public servants after five years service. In Australia the contribution is 11.5% of salary for the first 18 years service, and then 5.75% of salary. If they leave office with less than eight years of service they receive no pension; after that it starts at 50% of salary up to a maximum of 75% if they served 18 years. They begin to receive the pension at age 55.

In a rich country like Norway, with a strong social welfare system, retired members of parliament receive up to 66% of salary (after 12 years of service), starting at age 65. Denmark requires 8 years of service, and starts paying at age 67.

In 1998, the Mozambique Parliament enacted a very generous pension law for itself. President Joaquim Chissano vetoed it, saying "the bill should be re-examined by the Assembly since it seems to me that it could have negative socio-economic impact and will be difficult to comply with financially." Chissano urged deputies to study "the economic and financial sustainability" of their proposals and how to apply them "within the principles of social justice." Four years later Parliament passed another pension law, which provides that any deputy who has served for two terms (ten years) is entitled to a retirement pension of 100% of salary when they reach the age of 60 for men or 55 for women. Deputies who only served one term of office (five years) do not receive a pension, but are entitled to a "reintegration subsidy" of 50 per cent of their basic parliamentary wage for each year that he or she sat in Assembly. While in Parliament, Deputies pay 13% of their wages into a pension fund – although the fund only covers about one-eighth of the cost of their pensions. If the deputies pay an additional 1.5% of their basic wage, they can receive free medical treatment on the Mozambican National Health Service, or to evacuation abroad.

Who does Parliament work for?

After looking at other countries, *La' o Hamutuk* believes that Timor-Leste's Members of Parliament have given themselves one of the most generous pensions in the world. They took advantage of the uncertainty in the current situation, rather than following a fair and transparent process. While most people are struggling to protect themselves and their families from violence and arson, Parliament's members passed laws to benefit themselves and ex-office holders who have been office for less than five years.

We all know that Timor-Leste is the most impoverished country in the region. Most Timorese families earn only 50 cents per person per day, and many do not even have daily income. Our living standard is below poverty. Many people in Timor-Leste can only afford one meal a day.

It is a stark reality that Timor-Leste has one of the highest infant and maternal mortality rates in the world. According to the 2006 UNDP Human Development Report, our infant mortality is 64 per 1,000, and maternal mortality is 660 per 100,000. If we want Timor-Leste to have a strong future, we have to invest in our children and our mothers, improving their nutrition and health care. Our health facilities in rural areas are still insufficient, we should develop this to benefit all people of Timor-Leste. Although Parliament may have forgotten, this is the promise of Section 17 of our Constitution, which says that women and men have the same rights and duties in all areas of family, political, economic, social and cultural life.

Many children have no access to education because their parents have no jobs and no money to send their children to school. In rural areas, most schools still do not function well. Even in our capital, the education system is not well developed, and only a few people have the chance to go to other countries to study. The government has no mechanism to provide scholarships to capable children who do not have money to go school, or continue their study to university. Our young people have no jobs, which has significantly contributed to the current conflict in Timor-Leste.

Last December, a member of the Technical Team which is conducting an assessment of Timor-Leste's police officers told a *La' o Hamutuk* public meeting that PNTL members cannot perform their duties effectively because they lack facilities. They too have very low salaries, nowhere near enough to support their families, which pushes them to be involved in illegal activities. Certainly this will affect law enforcement in our nascent nation.

If these pension bills are passed, Parliament and Government will no longer be places to make and implement public policy; they will be places for a few people to join the upper class. People will become members of Parliament or Ministers because they want to increase their status, to be elite, doing nothing but receiving money and special privileges.

This law shows us that our politicians misuse democracy. Democracy means that sovereignty resides in the people, and the political power we delegate to the parliament should be used to serve the interests of the people – not an elite group. What our representatives have done with this law shows no consideration or respect for the owners of our state sover-

eignty, the people of Timor-Leste. **That is why we consider this to be political corruption, as it is a law to benefit private interests.** This shows us that this democracy is just a charade, and that in reality parliamentarians have returned to “**Baino-crazy**” (rule of an elite few).

La' o Hamutuk's research found that these laws are greedier than prevailing international standards for pension laws. In nearly all countries, pensions are less than 100% of salary, and aren't paid until the person reaches retirement age. Also, people have to work in their jobs for many years before they are eligible to receive significant pensions, and they pay part of their salary into a pension fund.

Under Timor-Leste's proposed law, people who are not working, not contributing to the development of the country, will be stealing money from our state's coffers. Many members of Timor-Leste's Parliament have other careers – they also work as businessmen, lecturers and consultants – and there is no logic for them to receive a state pension while they are still in their productive years.

La' o Hamutuk recommends

- √ The National Parliament should re-examine and review the laws with consideration to our social, economic and financial sustainability principles.
- √ There should be a public discussion on every law drafted by Parliament, which should consider recommendations from civil society.
- √ Parliament must listen to the voices of those who elect them, and respond to our people's needs to develop our local economy, including agriculture, irrigation, marketing of local products, education for all, and sufficient support for the PNTL.
- √ Instead of paying for special health care for former Parliamentarians and office-holders overseas, *La' o Hamutuk* thinks that the money should be used to develop health facilities in our country, especially in rural areas, which will serve many more people. When most Timorese people have little access to decent health care, former officeholders should not have special privileges.
- √ Evaluate and enact a pension scheme for all public servants, including civil servants, Parliamentarians, high office-holders and other workers in Timor-Leste, rather than enacting special pensions for themselves and a privileged few;
- √ For all pension schemes, healthy people should not collect while they are young enough to be economically productive.

The President of the Republic should not promulgate these laws, which would allow a small number of people to harvest the bounty of this country while the majority lives in unspeakable poverty. If this is not stopped, then it is corruption by the national parliament, abusing the state's money.

We still hope that members of Parliament will serve the interests of the people who elect them. But if Parliament continues to promote these laws, we are confident that voters will lose their trust in current members of parliament, and not re-elect them in the coming election. ❖

Editorial: National Parliament, Don't Pass Greedy Pension Laws

Timor-Leste's National Parliament recently passed two laws establishing very generous pensions for former members of parliament and former officials (*ex-titulares de Órgãos de Soberania*), such as the President of the Republic, the President of the National Parliament, the Prime Minister, and members of the government. These laws are being created while the country is engulfed in a political and security crisis which has victimized hundreds of thousands of people, displacing them across the nation. The motivation for the laws is clear: the five-year term of members of the parliament is about to expire. As this article is written in February, the President of the Republic has vetoed the law and sent the law back to the Parliament for revisions.

The draft of these laws did not draw much attention until the President vetoed the law for former Parliamentarians in early December. Civil society organizations then took several actions, including public meetings, to inform the wider community about the laws. The drafts of these laws had no public hearings, as Parliament did not want to hear the opinions of the people. Members of parliament also declined to participate in discussions or share information on the law with civil society, saying that the law had already been passed by the National Parliament, so discussions should wait until after president promulgated it. Just two weeks later, Parliament sent another pension law, for former high government officials, to the president. The Timor-Leste NGO Forum and the National University faculty of social and political sciences organized a seminar in early January about both laws, including Member of Parliament Manuel Tilman from KOTA.

The pension law for former officials was vetoed by the President of Republic on 22 January. According to *Suara Timor Lorosa'e*, Xanana Gusmão rejected that law because "there is no basic reason to draft that law, the law is unconstitutional." They should draft the statute defining who the officials (*titulares*) are before proceeding with the pension law. The President's veto letter was read in a plenary session of Parliament, chaired by Vice President of Parliament Jacob Fernandes.

The contents of both laws show that the members of parliament think only about how to make laws to provide for their own futures and those of other members of government who have only served for five years. It also shows that they are insensitive to the current crisis — they do not feel the suffering of hundreds of thousands of people who were displaced and living in IDP camps, or of the people who lost their lives because of the conflict.

Very generous – to themselves

The pension law for former parliamentarians says that:

- They will receive 100% of their salaries for the rest of their lives, starting as soon as they leave office, and increasing as parliamentary salaries go up in the future.
- The government will pay for their medical treatment in or outside of Timor-Leste if a doctor recommends it.
- Without paying import duties, they can import one car for personal use and all materials to build one private home.

- They are entitled to diplomatic passport for themselves and their families, and "free passage" when they have travel within the country and abroad.

The pension law for former government officials says:

- They also will receive 100% of their salary every month, free medical care at home or abroad, and diplomatic passports.
- Duty-free imports of a car every five years, and all materials to build a private home.
- In addition, the state will provide them with
 - ◆ a private car, with driver and fuel
 - ◆ a house with security
 - ◆ an assistant and a personal secretary
 - ◆ a private office equipped with internet, two telephones and a mobile
 - ◆ two overseas trips every year, accompanied by two people.

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What is La'ó Hamutuk?

La'ó Hamutuk (*Walking Together* in English) is an East Timorese non-governmental organization that monitors, analyzes, and reports on the principal international institutions present in Timor-Leste as they relate to the physical, economic, and social reconstruction and development of the country. *La'ó Hamutuk* believes that the people of Timor-Leste must be the ultimate decision-makers in this process and that this process should be democratic and transparent. *La'ó Hamutuk* is an independent organization and works to facilitate effective Timorese participation. In addition, *La'ó Hamutuk* works to improve communication between the international community and Timor-Leste society. *La'ó Hamutuk's* Timorese and international staff have equal responsibilities, and receive equal pay. Finally, *La'ó Hamutuk* is a resource center, providing literature on development models, experiences, and practices, as well as facilitating solidarity links between Timorese groups and groups abroad with the aim of creating alternative development models.

La'ó Hamutuk welcomes reprinting articles or graphics from our *Bulletin* without charge, but we would like to be notified and given credit for our work.

In the spirit of encouraging greater transparency, *La'ó Hamutuk* would like you to contact us if you have documents and/or information that should be brought to the attention of the Timorese people and the international community.