

FORUM ONG TIMOR LESTE THE TIMOR LESTE NGO FORUM



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FONGTIL SUBMISSION FOR THE THIRD ROUND OF UNITED NATIONS UNIVERSAL PERIODIC REVIEW ON CIVIC SPACE AND FUNDAMENTAL FREEDOMS ONLINE AND OFFLINE.

Introduction

As a post-conflict country that experienced gross human rights under a military colonial regime for a long period of time, Timor-Leste's foremost challenge is to build strong democratic order and governance systems which respect all human rights.

During the nearly twenty years of its independence, Timor-Leste has always been led by its people who led its struggle and former combatants who fought against the Indonesian military regime. However, in that period of time, political decisions often contradict with democratic principles enshrined by the country's constitution.

This Third Round of the Universal Periodic Review submission from Timorese civil society perspective was prepared by FONGTIL (Forum ONG Timor-Leste). This report aims to measure the state's commitment to guaranteeing people's fundamental freedoms--in terms of freedom to use the internet, freedom of expression, access to information, civic space, and the privacy rights of citizens—both online and offline.

The information contained in this submission is based on a compilation of reports, policy review and analysis, documentation of incidents and trends over the past five years, and interviews of representatives of organizations, institutions and people who work on internet freedom, media freedom and freedom of expression.¹

Internet connectivity

The use of the internet in Timor-Leste may be characterized as very free. To date, there is no law governing internet connectivity in Timor-Leste. Almost the entire territory of country receives internet access services from three telecommunications operators, namely Timor Telecom (with Government of Timor-Leste as majority shareholder), Telkomsel (an Indonesian operator), and Telemor (owned by the Vietnamese company Viettel).

Perhaps, the biggest obstacles faced by the people are the slow internet speeds and the relatively expensive tariffs, which make access difficult for people live below the poverty line. Timor Telecom, for example, charges US\$0.10/150 MB for daily internet service, while for monthly packages cost from US\$15 to \$20 for a 10.5 GB service capacity and up to US\$60 for a data allocation of 45 GB.

¹ The lists of interviewees and participants of the consultation seminar are attached

In other words, internet access and the freedom it provides depends on the economic capacity of the users. There is a markedly different access capacity for the poor compared with the rich, who actually comprise only 10% of Timor-Leste's population .²

Access to online information is generally unimpeded with one exception that we found during the research for this report. A Dili-based telecommunication expert said that one operator unilaterally blocks negative information about the Indonesian military and human rights violations in West Papua, making these inaccessible to the people in Timor-Leste. Unfortunately, this information control by this operator ultimately limits the rights to access information related to human rights in another country, which can be said to be a suppression of civic space in the form of expressing solidarity.

During verification of this information, a representative of Timor-Leste telecommunications regulatory body³ said it did not have a mandate to control the unilateral restrictions by operators. It also appears that the body has little understanding about citizens' rights to information in relation to its regulatory competence and mandate.

Freedom of Speech, Press freedom and freedom of expression online

In the 2016 UPR reports, the United Nation Country Team⁴ and Amnesty international⁵ urged the government of Timor-Leste to ensure the implementation of recommendations on the Media Law in accordance with human rights principles that have been ratified by the state, including for a revision of the said law so that it can be in accordance with international standards and laws that guarantee the rights for freedom of expression and access to information.

Unfortunately, these recommendations were not implemented by the government of Timor-Leste, as the media law remains the same.

In terms of cases, two local journalists were brought to court in 2016 by then-Prime Minister Rui Maria Araujo for writing a story⁶ about his involvement in a corruption-tainted project for computer equipment for the finance ministry in 2014. The journalists were charged under Article 285 (1) of the Timor-Leste Penal Code for defamatory false information. After a long process, the Dili Court Judge decided in June 2017 to acquit the journalists, saying that this case was legally closed because the *Timor Post*, where the two journalists worked, had apologized to the Prime Minister in accordance with the legal mechanism regulated in article 34 of the Timor-Leste Media Law.⁷

The government also issued a decree (*DECRETO-LEI No. 43/2016 de 14 de Outubro*)⁸ to regulate access to government official documents, after several documents related to government contracts had been

² Timor-Leste DHS, 2016: <https://www.dhsprogram.com/pubs/pdf/FR329/FR329.pdf>

³ Autoridade Nacional de Comunicações <http://anc.tl/index.html>

⁴ Guarantee implementation of the Media Law is in line with Timor-Leste's obligations under international human rights treaties, and Investigate and take necessary action in incidents of threats and intimidation against human rights defenders.

⁵ revise the Media Law and bring it into line with international law and standards, in particular to ensure that it will not restrict the legitimate work of journalists and the right of people in Timor-Leste to freedom of expression, including the right to receive information.

⁶ <https://globalvoices.org/2016/02/23/journalist-hit-with-defamation-suit-from-timor-lestes-prime-minister-over-corruption-reporting/>

⁷ <http://www.mj.gov.tl/jornal/?q=node/6488>

⁸ http://www.mj.gov.tl/jornal/public/docs/2016/serie_1/SERIE_I_NO_40a.pdf

leaked and published by media. This decree law limits access to public information by journalists, and public policy researchers, including NGOs. While until today this decree law has not been fully implemented by the government, it remains a threat to press freedom and the people's right to information.

During 2017 general election and 2018 early election campaign periods, the intense rivalry between political parties saw a massive rise of attacks in social media by supporters of the two sides. Bullying, harassment, racism and political character assassination have become common campaign material on social media. According to media reports, several Facebook users were summoned and interrogated for allegedly attacks on political leaders of both groups. Although no one was detained/convicted, the actions by the police showed that the criticism through social media of any political leaders is criminalized.⁹

Relatedly, the government's response to reduce criticism of public figures was a proposal in 2020 by the Ministry of Justice to expand the coverage of "defamation" in the Criminal Code.¹⁰ However, because there were many protests from the media and activists saying that the draft law could be a powerful weapon by the government to suppress freedom of the press and freedom of expression, the proposal was discontinued.

A recent case related to expression in social media happened in June 2021, when a human rights activist voiced a protest on his Facebook page against the use of military and police personnel in the government's eviction of a fine art school and culture center including several families for the office of the Veteran's Association.¹¹ The Commander of the Armed Forces responded by telling civil society not to speak out about this eviction.¹² This militaristic statement reflects the tendency of powerful officials to threatens the rights and freedom of expression of citizens.

Freedom of assembly and association

Since the Demonstration Law was enacted in 2006,¹³ public freedom of assembly has been regulated and controlled by the police. Article 5 of this law prevents trade unions, students, and activists or any political group from directly protesting public policies. This law contradicts the Constitutional principles regarding freedoms of expression and assembly,¹⁴ as well as international standards.

In 2019, during the signing of the maritime boundary agreement between Timor-Leste and Australia in Dili, the Police banned any protest action by activists from MKOTT¹⁵ (Movimento Kontra Okupasaun Tasi Timor, The Movement Against Occupation of Timor Sea) against the Australian Prime Minister. Protests were regarding criminal proceedings against two Australians, lawyer Bernard Collaery and "Witness K", who provided legal assistance and information against the Australia's intelligence services for tapping and spying the office of the prime minister of Timor-Leste during the Timor Sea negotiations in 2004.

⁹ <https://www.thediliweekly.com/tl/tdw-in-english/41-jornal/labarikjoventude/15375-polisia-viqueque-kaptura-ona-jovens-nain-3-uza-id-falsu>

¹⁰ <http://www.laohamutuk.org/Justice/defamation/2020/DraftDefamationLaw5Jun2020EnTePt.pdf>

¹¹ <https://lalatak.com/arte-moris-imi-atu-ba-neebe>

¹² <https://www.tempotimor.com/seguransa-defesa/6758-jlo-ofende-komandu-ffdtl-lere-sosiedade-sivil-ko-alia-sukat-liafuan>

¹³ <http://www.mj.gov.tl/jornal/?q=node/894> *LEI DO PARLAMENTO 1 /2006, LIBERDADE DE REUNIÃO E DE MANIFESTAÇÃO*

¹⁴ http://www.mj.gov.tl/jornal/public/docs/ConstituicaoRDTL_Portugues.pdf

Article 42.1 : A todos é garantida a liberdade de reunião pacífica e sem armas, sem necessidade de autorização prévia.

¹⁵ <https://www.laohamutuk.org/Oil/Boundary/2019/Collaery/TempoTimorMKOTTSea30Aug2019.pdf>

In 2019, the Police also did not allow students to protest against the Parliament's policy to buy new cars for its members.¹⁶ In addition, in 2020, the Police also did not give permission to a group called *Resistencia Nasional Defende Justisa no Konstituisaun*¹⁷ to carry out their protests. In addition, in September 2020, several active military members conducted patrols near the residence of the coordinator of this group, a few days after the Commander of the Armed Forces threatened several people in charge of this group via the mass media.¹⁸

However, these restrictions does not seem to apply to members of the political elite. In 2021, when Xanana Gusmao protested alone in front of the Covid-19 isolation place at Vera Cruz hospital,¹⁹ the Police did not prohibit his actions as they did against previous cases.

Internet freedoms of disadvantaged groups

Although the internet in Timor-Leste is very free, inadequate media and digital literacy often results in proliferation of negative online content that are not sensitive to women, children, LGBTIQ+, and persons with disabilities.

Such content includes online gender-based violence, those that violate privacy, and racist writings. This content has been widely available to the public especially during the period of political campaigns. Recently, a member of Parliament issued a public statement discrediting a person with-disability group.²⁰ These reports of Facebook users who promote service ads from several companies, and issue content that are offensive to women.²¹

Overall, women, children and persons with disabilities do not get the same level of legal protection from the government compared political leaders of the country. For example, in 2017 when an activist was detained by the Police for demonstrating against Parliament, his family picture was published on social media. They were then bullied heavily. After being released from jail, he reported the bullying against his family to the authorities, but did not receive a response.

In the Topo Honis case,²² where a former priest was accused of pedophilia in the orphanage he manages, political groups used social media to defend this priest by threatening and bullying witnesses, his victims, and organizations that defend the rights of victims. Media reports of former President and Prime Minister Xanana Gusmao defending²³ this priest only served to intimidate the victims and witnesses from coming forward.

Internet freedoms in relation to Covid-19

During the COVID-19 Pandemic, misinformation was spread through social media and greatly influenced the opinions of many people regarding the pandemic. AJTL, the Timor-Leste Journalist Association said

¹⁶ <http://rttletp.tl/en/radio-news/read/20191001/010631/74565/komandu-pntl-la-autoriza-mutl-halo-manifestasaun.html>

¹⁷ <https://neonmetin.info/buletin/2020/07/17/pntl-manifestasaun-organiza-hosi-angela-freitas-la-tuir-prosedimentu-sei-la-autoriza/>

¹⁸ <http://www.tatoli.tl/2020/08/31/jeneral-lere-sei-lori-forsa-kaptura-angela-freitas-ho-antonio-aitahan-matak/>

¹⁹ <http://www.tatoli.tl/2021/04/13/xanana-gusmao-kontinua-toba-iha-sentru-izolamentu-vera-cruz/>

²⁰ <https://tempotimor.com/politika/6939-ahdmtl-kondena-deputada-olinda-diskrimina-defisiente-matan>

²¹ <https://www.facebook.com/MyTimor/videos/795493221299475>

²² <https://www.laohamutuk.org/Justice/2021/RD/21Daschbach.htm>

²³ <https://www.tempotimor.com/politika/4030-xanana-prontu-defende-eis-padre-ne-ebe-alega-komete-pedofilia>

that fake news during the pandemic prevented vulnerable people from getting the right information so that they could not make an adequate response plan to deal with it.

In addition, misinformation using short messages also created panic in society, including on alleged deaths after being vaccinated. Also, some people even had to hide the identity of family members who had just come out of COVID-19 isolation for fear of being bullied and discriminated against by local residents.

Some political party media also carried out political agitation against the Astrazeneca and Sinovac vaccines. News coverage from the national media that only focuses on the views of politicians and the lack of ability of journalists to verify information add to the public uncertainty about COVID-19 and vaccination.

The Asosiasaun HAK said that the lack of attention from the Office of the Ombudsman for Human Rights and Justice (PDHJ) and the National Parliament in addressing misinformation disseminated by the media and sometimes from the government make people confused. Some political parties politically benefited from the misinformation that circulates and try maintain it for a long time.

Also, bullying against vulnerable groups such as LGBTI+ during the pandemic has also increased, especially if someone from this group is infected. Similarly, vulnerable groups such as persons with disabilities do not have the space to express regarding the impact of the state of emergency and lockdown on them, as well as the government's lack of assistance for this group when they are infected with COVID-19.

In addition, the National Police Investigation Unit (PNTL-SIC)²⁴ is currently investigating the advocacy coordinator of FONGTIL for advocating a street vendor rights who were beaten by the police during the implementation of the state of emergency and lockdown in Dili. FONGTIL is accused of publishing the result of the victim's medical examination which according to the police can only be done by the court. The legal process against FONGTIL is a means to criminalize human rights defenders to cover up evidence of violations committed by the police.

Recommendation

- We recommend that the government ensure that all telecommunications operators support the public right to access correct information and strive for a lower cost of internet usage.
- We recommend that the senior government and armed forces officials respect the freedom of expression of citizens regulated by the Constitution.
- We recommend that the police and military do not criminalize human rights defenders.
- We recommend to revise the Decree Law No 43/2016 of 14 of October to conform to the principle of freedom of the press and access to information.
- We recommend to the government to revise the demonstration law, Law No 1/2016, to conform with international standards.
- We recommend that the government to undertake a digital literacy program by prioritizing the development of the education sector.

²⁴ <https://tempotimor.com/politika/6350-fongtil-prontu-hatan-notifikasaun-psik-tuir-dalan-legal>

- We requested to all political leaders do not to interfere the legal processes related to the paedophile case in the court or any cases related to children's, women's and other vulnerable groups rights.
- The government must guarantee the right of citizens to get credible information about COVID-19 and vaccinations, by improving coordination and depoliticizing information.
- PDHJ and Parliament must assist the public against misinformation by ensuring that that hoaxes and misleading information are adequately addressed and corrected.
- Person of disabilities and other vulnerable groups infected with COVID-19 must get inclusive service from the government

Dili, July 15, 2021

Daniel dos Santos Carmo
Executive Director

ANNEX 1

Stakeholders and targets for interview

Government:

- ANC
- Konsellu Imprensa
- PDHJ

Parliamentarians

- President of Committee E of National Parliament

NGOs

- JSMP
- HAK Association
- CGT-TL
- FONGTIL

Academia

- IOB – Departementu informatica
- UNPAZ- Faculdade Direitu

Journalist associations

- AJTL
- TLPJ

ANNEX II

List of consultation seminar participants

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6	Vidal Gomes	ANC			
7	Alcino Freitas	Conselho de Imprensa			
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