

FORUM ONG TIMOR LESTE THE TIMOR LESTE NGO FORUM



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CSO Volunteer National Review (VNR) 2.0 The Civic Space Report

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Freedom of Association,

- There is no state's systemic repression take place in Timor-Leste, the CSOs in Timor-Leste enjoying their freedom of association. Unlike other undemocratic countries, the government of Timor-Leste provide funding to CSOs, particularly NGOs, to monitor, evaluate and advocate for change of the government policies, laws and programs that are not addressing the needs of vulnerable citizens. Funding that is provided to CSOs called Fundo ba Sociedade Civil or Civil society fund, it delivered through an quasi government organization called Serviço de Apoio à Sociedade Civil e Auditoria Social (SASCAS) based on the Decree Law no. 25/2021 of 17 November¹. Total fund allocated to CSOs in 2023 is USD 8 million. There is no conditions attached to access the fund. CSOs does not obscured to criticise the government or to remain silent about government development programs or policies.
- There is no restriction to freedom of association instead the government promote it through various means. Registration of NGOs are provided in Timor-Leste's law No.5/2005 of 3 of August². CSOs can either be registered as an association or foundation under this law in the Ministry of Justice provided that they are recommended by FONGTIL (Forum ONG Timor-Leste), an independent umbrella body of NGOs in Timor-Leste. So far FONGTIL already recommend over 200 NGOs for registration. International NGOs are also registered through the same system and it has never been any restriction on the registration process. The law does not limit the work of NGOs and also the government does not interfere any activities of the NGOs. NGOs and other civil society organizations never prosecuted by state institutions or any government entity. NGOs have their freedom to raise funds and implement programs in Timor-Leste. However, there is no specific law protecting NGOs from suspension which means government can any time with political motivation can dissolved NGO that is not follow government decision. This has had happen to CSOs namely martial art organizations, namely IKS (Ikatan Kera Sakti), PSHT (Persaudaraan Setia Hati Terate), and KORK (Klibur Oan Rai Klaran) in 2013 where by government resolution put them into extinction³. They just re-activated their organization 2020 but recently suspended again by the government for six months through government resolution only with no proper legal justification⁴.
- There is a continuous critic towards the civil society law because there is no proper mechanism to monitor and regulate CSOs that is not conduce itself according to the law. For example, Topu Honis Foundation is an NGO in Oecusse, the Timor-Leste's special enclave region. It founded by a Priest with dual citizenships, Indonesia and US. This NGO provide shelter and education support to orphans in Oecusse, however, in 2018 onwards the Priest allegedly committed sexual violence against children under his care. He was reported to

¹ https://www.mj.gov.tl/jornal/public/docs/2021/serie_2/SERIE_II_NO_49_C.pdf

² https://www.mj.gov.tl/jornal/public/docs/2002_2005/decreto_lei_governo/5_2005.pdf

³ <https://e-global.pt/noticias/lusofonia/timor-leste/timor-leste-governo-revogou-resolucao-de-extincao-de-grupos-de-artes-marciais/>

⁴ <http://timor-leste.gov.tl/?p=35076>

the authority and imprisoned for 12 years⁵. This NGO was never monitored by the relevant government institution to ensure that the NGO conducted its work according to Timor-Leste's laws. Another example is the martial art organizations such as PSHT, IKS, and KORK. Few members of these three organizations sometimes involved in public violence but Ministry of Justice who registered the organization does not have proper mechanism to evaluate them.

- Three years ago (2020), government through Ministry of Justice publicly launched a discussion to amend defamation law which already in the penal code and it considers defamation as solely civil code violation. The intention of the amendment is to make defamation become criminal law. However due to public criticism and CSOs advocacy this law is currently pending for discussion. This is because CSOs, particularly journalists associations looked at the draft law as the intention to protect members of government, to criminalize freedom of expression and to shut down civic space⁶. After the failure to bring forward the criminalization of defamation the government then proposed a Cybercrime law. Though proposed law considered as ways to democratically regulate online space still CSOs suspected that the proposed law may also developed with the intention to narrow down civic space. According to Timor-Leste Journalists Association, the proposed law is now in the National Parliament for further development.
- In relation to the tax law, the CSOs in Timor-Leste is not paying any taxes when receiving funds but they are required by law to pay taxes when importing goods to the country. Income tax law applied widely and it is required for staff of CSOs who ear over \$500 need to pay 10 precents tax. However, international NGOs are better of in terms of organizing themselves and their staff for paying taxes and the same to Dili based NGOs, but not much with municipal based NGOs.
- Right to assemblies or demonstrations are protected in the Constitution of the Republic Democratic of Timor-Leste. Provision in the Article 42 stated that every person have the rights to assemble peacefully and unarmed, without prior authorization and recognized the rights of citizens to conduct assembly according to the law. Timor-Leste Law No.1/2006 on Freedom of Assembly and Demonstration⁷ grant the rights of citizens for peaceful assembly or demonstration but given that the assemblies do not take place within less than 100 metres away from organs of sovereignty, residences of officeholders of organs of sovereignty, military and militarised installations, prison buildings, offices of diplomatic missions and consulates, and offices of political parties.
- CSOs has been protesting the development of the law and also implementation of the law. The law does not match the context of Timor-Leste, particularly the capital town of Dili where most of public offices and organs of sovereignty offices are not so distance from each other. The implementation of the law have put the freedom of expression into a challenging space. Student's movement from National University and students from various other university used to have demonstration in the area where nearby the National University, and it is also close to the National Parliament, to the Police HQ, close to the main government

⁵ <https://asiapacificreport.nz/2021/12/22/former-priest-82-jailed-for-12-years-over-timor-leste-child-abuse/>

⁶ <https://tatoli.tl/2020/06/16/ajtl-kontra-ezbosu-lei-kriminaliza-difamasaun/>

⁷ <https://www.mj.gov.tl/jornal/?q=node/894>

building as well as the Ministry of Justice. The distance from where the demonstration take place is less than 100 metres from all the public buildings therefore police are always presence often pushed the demonstrators to stop by using the law.

- Recently, in the celebration of Human Rights Day, a movement *Frente Maubere ba Solidaridade Internacional* gathered in a beach side nearby Malaysian Embassy and also nearby US Embassy with the plan to have peaceful march to show their solidarity with Palestine and West Papua. But the gathering was stopped by the Police because the movement have no prior authorization. According to the organizer they have submit their request for having a peaceful assembly but they have not received the authorization from the police as per required by the law. Also according to the organizer, cited in their Facebook page, the gathering was provoked by a member of Police Intelligence Unit by telling demonstrators to stop their action, calling them dog, also telling them not to do demonstration because Timor-Leste is Catholic country⁸. This clearly indicated that even peaceful assemblies is protected by the law but people in the authority may use the law to prohibit freedom of assembly and using power or authority to stop freedom of assembly.

Freedom of expression,

- It is enshrined in the Timor-Leste Constitution (2002) in the article 40 and 41 about freedom of the press and freedom of expression (Constituent Assembly, 2002). Subsequent to the provision of the Constitution, Timor-Leste also passed Media Law in 2014 (Law no. 5/2014)⁹, it is called the Law of Social Communication (Media Law), to ensure freedom of the press and freedom of information is implemented. There are some limitations in the Media Law nonetheless it protect the work of journalists and public to access and impart information. Timor-Leste media law also stated that violation of journalists' duties could be fine up to US\$1,500. This is too much for Timor-Leste journalists who earned mostly less than USD 200/month.
- Online news media currently flourishing though access to internet is the most expensive one, US\$2.15 per GB, in Southeast Asian countries . Currently there are over 20 online news media established and mostly operated in voluntary basis, meaning providing news for free. However, the Law of Social Communication does not specifically cover online media and also online freedom of expression. The Law only said in the Article 2 "*the dissemination of information through written text, sound or image and made available to the public, regardless*

⁸https://m.facebook.com/story.php?story_fbid=pfbid0soYRayoBw2qJLfpp3HVVaGgdPp8nXcJWfLD3gMDUNHrT4z4p2Zfxd4a8SQR6d4BZl&id=100015376746089&mibextid=Nif5oz

⁹ https://www.mj.gov.tl/jornal/public/docs/2014/traducao/Traducao_Lei_Comunicacao_Social.pdf

of the means for its reproduction or dissemination". With this broad provision can put online media journalists in great danger when publicizing critical information online. Only online media owners are advocating for inclusion of online media in the Social Communication Law but so far there is no response from the Timor-Leste's Press Council also from the Secretary of State of Communication. As mentioned above the draft of Cybernetic Law is currently being develop and it may table to the National Parliament sometime next year. According to International Center for Not For Profit Law (ICNL) there are issues in the content of the draft law, including permits to temporary or permanent closure of the online media organizations or other similar organizations that doing work online¹⁰.

- Intimidation and pressure against journalists and online citizens are continues to take place. This year, Timor-Leste Journalist Association (AJTL) registered 6 cases where public authorities (President of the Republic, Members of Government, High Level Public Officials, Security Actors) committed against journalists. A journalist from TVE was arrested after returning home from covering a political party campaign during parliamentary election in May this year. The journalist was detained for 72 hours for being alleged as one of martial arts members whom involved the clashes nearby his neighbourhood. During his captured he wore TVE uniform and also showed the police his journalist ID card but still detained. It is suspected that police arrest based on fake information provided irresponsible citizens on social media against the journalist. This police act is clearly affect the journalists work and affect press freedom.
- Two journalists have had called for investigation by the called by the PCIC (Policia Cientifico de Investigacao Criminal) for reporting a news about an Ex-Police Commissioner, a civilian that keeping guns in his house. The journalists (an Editor and a reporter of INDENPENTE DAILY) accused for violating the secrecy of the judicial process. This case was actually failed by the President of Timor-Leste Jose Ramos Horta to the Prosecutor Office, and the Prosecutor General follow up the case handed to PCIC and National Criminal Investigation Unit for investigation¹¹. Both, Timor-Leste Journalists Association and Timor-Leste Press Union protested the case. This case clearly pointed out how public officials restrict and threaten freedom of the press¹².
- Also there is a case where an online media Diligente publicized news about maltreatment and unsafe food supplies for a boarding school in a seminary

¹⁰http://www.laohamutuk.org/Justice/defamation/cybercrime/ICNL%20Comments%20on%20Draft%20Law%20Cybercrime%20Law_Timor-Leste_March2021.pdf

¹¹<https://tatoli.tl/2023/11/30/xefe-redasaun-jornal-independente-jorgino-presta-deklarasaun-ih-pcic/>

¹²<https://sapnewstl.com/ajt-ltpu-lamenta-pcic-notifika-jornalista-jornal-independente/>

(SENOFA – Catholic Convent)¹³. The news only reported about facts on what took place in the SENOFa but then spawned negative reactions from leaders of the convent and alumni which mostly saying that news was based fictitious sources and denied the truth. Strong reactions also echoed by public which mostly condemned the news as unethical and against catholic teaching¹⁴. In fact Diligente protecting the source of information in order not to endanger the life of the sources. Diligente's act is based on the Timor-Leste Code of Ethic for Journalists.

Right to participate in public affairs,

- Threats and impediment against press freedom mostly commit by people in power or people who have close relationship with those in power. In February 2023, a daughter of current Prime Minister Xanana Gusmão, Zenilda Gusmao tried to smash camera of RTTL (Public Broadcasting Service) reporters and obstructed the work of the journalist. The reporters tried to capture video's of Zenilda's husband whom allegedly involved in sexual violence against minor¹⁵. Also just few months ago few Timorese journalists stopped by protocol officers when tried to interview Minister of Finance, Santana Cardoso. This is happened just after discussion about General State Budget for the year 2024 at the Government Palace. This act is showing disrespectful of public officials to the work of journalist and impediment of press freedom.
- CSOs, including NGOs in Timor-Leste either local nor national, and international organizations that deliver social services, conduct research on the changing development context, advocate on key public policy issues. There are variety of channels existed for influencing development programs, policy and law making. For the State Budget discussion, government provided road map about process how the government prepare budget starting from ministerial level up to the National Parliament for final approval. This road map is publicly available and it is calendarized which provide to civil society organizations, interests group to allow themselves to decide the best route to influence state budget. FONGTIL (the umbrella of NGOs) usually provided platform for influencing to take place by bridging NGOs with relevant government ministries. There is a government and NGOs initiatives called Social Audit where NGOs can access Civil Society Fund to do social audit to the government development programs and projects and to ask government accountability for things that go wrong or not according to the

¹³ <https://www.diligenteonline.com/agressoes-e-alimentacao-ma-ex-seminaristas-denunciam-maus-tratos-no-seminario-menor/>

¹⁴ <https://www.diligenteonline.com/diligente-e-alvo-de-ameacas-depois-de-denunciar-maus-tratos-no-seminario-menor/>

¹⁵ <https://youtu.be/LexRh01hQT0>

approved plan. In relation funding the State Budget through Timor-Leste Sovereignty Fund, FONGTIL would organize influencing space through Petroleum Fund Consultative Council where NGOs representative also present. There are venues that CSOs and citizens can participate as shown in the table below¹⁶.

Table 1. Matrix of Existing Mechanisms of CSO Engagement with the Government

| Mechanism | Objective | Focus Area | Level | Actor and Network | Strategies and Instruments | Frequency |
|---|---|--|-------------------|--|--|------------------------------------|
| National Retreat financed by the Office of Prime Minister | National forum for dialogue between government and CSOs in all sectors | Health, agriculture, education, and infrastructure | National | Prime Minister's Office and line ministries, development partners, donors, community, and CSOs | Dialogue, reporting | Annual |
| FONGTIL Health Sectoral Dialogue financed by the Office of Prime Minister | Improve CSO and MoH engagement, and provide space for civil society and government to discuss health issues, and for CSOs to present their findings and recommendations to the government for consideration | Health budgeting and resource allocation | National | CSOs, MoH, Office of Prime Minister, National Parliament, community | Meeting, presentations, dialogue | Quarterly |
| Social Audit Mechanism financed by the Office of Prime Minister | Facilitates dialogue between CSOs, community-based organizations (CBOs), and line ministries, and their access to government decision-making, policies, and strategy. | Social audit focuses on all sectors that the state budget finances | National | CSOs, CBOs, local authorities and government (line ministries) | Transmittal of recommendations from CSOs to government; follow-up; and reporting | Daily basis depending on the issue |
| Municipal Consultative Council financed by Ministry of State Administration | Consultative body of the municipality that promote socioeconomic development within it | All sectors in the local development (Municipality) | Municipal | Municipal authority, chief of village, women's group, youth group, intellectual representative, veteran representative, political party representative, Lia Nain, private sector | Meeting, information sharing, reporting to the MSA | Biannual |
| Conselho do Suco Meeting Financed by Ministry of State Administration | Consultative body of the Suco (Village) that promote development in the Suco | All sectors in the local development (Suco) | Village level | Chief of village, chief of sub-villages, delegates, youth representative | Meeting, information-sharing, reporting to municipal authority | Biannual |
| Thematic working group of MoH financed by various Donors | Technical coordination between the MoH and other development partners to align with government programs and avoid overlapping | Health | Ministerial level | MoH, development partners, donors, and CSOs implementing health projects | Meeting, presentations, discussion | Quarterly |

- There are also other mechanism where citizens and CSOs participated for influencing decision on programs or policies that affect their life. For example, members of National Parliament are regularly communicate with electorate on weekly basis. There is also a mechanism in the National Parliament called public hearing for members of parliament to listen to CSOs representatives also other interest group. However, very often participation mechanism created by the government or the parliament only to justify that act of consultation does take place and citizens or their representatives participated in the decision making process but the actual change does not happen. This has had happened to a very recent case of Clemency Law. It was silently developed by the National Parliament, suddenly two NGOs were called for public hearing namely JSMP (Justice System Monitoring Program) and HAK Association (a human rights NGO). HAK and JSMP advocated for the law to respect human rights, not to provide clemency for corrupt cases, sexual abusers, and the law should complement the justice process. However, it happened that the Parliament did

¹⁶ <https://www.lhssproject.org/resource/civil-society-engagement-mechanisms-timor-leste>

not considered what JSMP and HAK presented. The Clemency Law provided to the President of Timor-Leste greater power to make decision, like what President Ramos Horta just did pardoning a corrupt ex-finance Minister who was a fugitive. So even though hearing did take place but there was no change to the Clemency Law.

- For young people aged between 12 – 17 there is a program called Youth Parliament (Parlamentu Foinsae Nian) where young people, specially teenagers, are having their change to participate and echoing their voices and learning about democracy and leaderships. The election and selection process for members of the Youth Parliament organized at the sub-districts level to elect 2 representatives, a boy and a girl. They represented their sub-district and have a change to seat in the youth parliament for the period of 3 years. Youth Parliament has sessions which conducted by mirroring national parliament process. Youth parliament also reporting issues concerning development programs that affecting their lives.

Civil and Political rights and the SDGs,

- One of the key enabling environment of SDGs is the Timor-Leste alignment of SDGs with its National Strategic Development Plan. Particularly, SDG 16 is highly considered as part of two major priorities, social capital development and strengthen the institutional framework. Ensuring participatory, fair and just institutional structures, and promote peace and inclusive societies are the key words in the SDG 16. Within the scope of SDG 16 Timor-Leste government continuously showing good progress in promoting civil and political rights through its policies, laws and development programmes. Up to this day there is no grave violations of civil and political rights take place. Number of journalists were threatens but protests from the public, including from journalists association and union still freely conducted. Timor-Leste Ombudsman Office has been playing crucial role in monitoring the implementation of policies, laws, and programmes.
- There was a channel established under previous Prime Minister's Office which ANAPMA (National Planning, Monitoring and Evaluation Agency) for CSOs representative to participate and voice their concerns. Since the time of changing to the new Government there is no clear formal channel being established to further allow smooth implementation of SDG and ANAPMA's functions and operation is also changed.