

# ANTI-CORRUPTION HELPDESK

PROVIDING ON-DEMAND RESEARCH TO HELP FIGHT CORRUPTION

## TIMOR-LESTE: OVERVIEW OF CORRUPTION AND ANTI-CORRUPTION

### QUERY

Can you please provide an overview of corruption and anti-corruption in Timor-Leste, with a special focus on public financial management and service delivery?

### CONTENT

- 1 Overview of corruption in Timor-Leste
- 2 Nature of corruption challenges
- 3 Corruption in public financial management
- 4 Legal and institutional anti-corruption framework
- 5 References



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### SUMMARY

In little more than a decade since achieving independence, Timor-Leste has made significant progress in the fight against corruption, establishing part of the required legislative framework and a number of institutions dedicated to combating the issue.

Despite these successes, the process of state-building is still on-going, and most state agencies and independent watchdog bodies continue to lack the necessary human resources and capacity to tackle corruption effectively. This problem is particularly acute in the public financial management sector, with mounting concerns about the country's over-dependence on the massive financial inflows from the oil extraction sector.

Indeed, while the growth in oil revenues has allowed the government to invest in much needed infrastructure and human development initiatives, it has also created new opportunities for corruption and administrative malpractice, as reflected in the increasing number of high-level corruption cases being brought before the courts.

## 1 OVERVIEW OF CORRUPTION IN TIMOR-LESTE

### Background

Timor-Leste is one of the newest states in the world, having achieved independence in 2002. After the end of Portugal's colonial rule in 1975, the country was militarily occupied by Indonesia, which committed widespread human rights abuses to assert its control in the face of popular resistance and conflict with the armed insurgent group Fretilin. Between 100,000 and 250,000 people died as a direct consequence of the conflict and of the famines which it provoked (Benzing 2005).

After a successful referendum on independence in 1999, a United Nations transitional administration was established to run the country in what has been described as “the most radical state-building exercise the United Nations has engaged in to date” (Benzig 2005). After another surge of military violence, Timor-Leste eventually achieved full independence in 2002. However, the country struggled to reach political stability, and in 2006 rioting and armed clashes erupted again, but the presence of international peace-keeping forces helped to prevent the escalation of the crisis (Freedom House 2012).

Direct international involvement in Timor-Leste continued until 2012, when, in light of the significant progress achieved by the country in the state-building process, the mandate of the United Nations Integrated Mission in Timor-Leste was finally concluded (UNMIT 2012). While the country's political situation has remained relatively stable since then, Timor-Leste still faces a number of major structural challenges.

Timor-Leste ranked 128 out of 187 countries included in the last Human Development Report, with a life expectancy of 67.5 years and 4.4 mean years of schooling (UNDP 2014). Almost 50 per cent of the population was estimated to be in poverty and 70 per cent of total employable workforce is considered vulnerable (World Bank 2013a). Timor-Leste also obtained the third-worst score on the 2014 Global Hunger Index, which characterised the level of hunger in the country as

“extremely alarming” (International Food Policy Research Institute 2014).

### Extent of corruption

Corruption and wider good governance issues have begun to attract increasing attention from both institutional actors and public opinion in Timor-Leste. This is partly the result of a significant number of high-profile corruption cases involving politicians and government office-holders that have been brought to court in recent years (see below).

In Transparency International's 2014 Corruption Perceptions Index, Timor-Leste obtained a score of 28 on a scale from 0 (highly corrupt) to 100 (very clean), continuing the negative trend of the last two years (the score was 33 in 2012 and 30 in 2013). Thus, the country ranked 133 out of 175 included in the survey, sharing its position with Nicaragua and Madagascar. In the whole of the Asia-Pacific region, only Laos, Papua New Guinea and Cambodia performed worse than Timor-Leste (Transparency International 2014).

The country has also obtained consistently poor results on the World Bank's Worldwide Governance Indicators. In 2014, Timor-Leste scored 21.5 out of 100 with respect to control of corruption, showing no substantial improvement since 2006. Rule of law and government effectiveness were highlighted as areas of particular weakness, with the country scoring around 10 out of a 100 on both indicators. Voice and accountability appeared, on the other hand, to be relatively strong areas, with Timor-Leste receiving a score of 51.7 out of 100 (World Bank 2014a).

With regard to citizens' perceptions of corruption, a survey commissioned by the Timorese Anti-Corruption Commission in 2011 reported that 57 per cent of respondents viewed corruption as a serious or very serious problem. Of those interviewed, 55 per cent stated that the phenomenon was increasing, but a similar percentage also believed that the government had a sincere interest in combating corruption (International Crisis Group 2013).

The World Economic Forum's 2014 Global

Competitiveness Report – which asks respondents to rate their country on a scale from 1 to 7 (best) on a series of institutional dimensions – also revealed particularly negative perceptions with regard to the frequency of irregular payments and bribes in the awarding of public contracts (2.7), favouritism in the decisions of government officials (2.5), and wastefulness of government spending (2.7).

## 2 NATURE OF CORRUPTION CHALLENGES

The weakness of very young and immature state institutions in Timor-Leste represents a major stumbling block in the fight against corruption in the country, compounded by low levels of education and specialised technical knowledge. The presence of important oil reserves within the country, as well as significant levels of public expenditure required in order to sustain the post-conflict state-building effort and meet ambitious development objectives, also create opportunities for the diversion of public funds.

### Weak public administration

Timor-Leste's state institutions are little more than a decade old, and only began operating without direct international involvement in 2012. The challenges raised by the state-building process continue, therefore, to characterise the present situation in the country.

Lack of both financial and human resources is perhaps the most acute issue across the board. The number of civil servants employed by the state has grown from 18,518 in 2008 to 27,000 in 2010, and salaries have increased by 33 per cent in the same period (Everett 2012). Nevertheless, a survey of public servants by the Timorese Anti-Corruption Commission (2013) reported that 75 per cent of respondents agreed that they sometimes do not have enough resources and time to appropriately carry out their tasks, and that 67 per cent agreed fully that salaries for junior staff are not sufficient to sustain a family.

Another pervasive problem is the lack of well-educated personnel, particularly within the areas of public administration that require specific technical

knowledge and financial expertise. Thus, a survey of public servants by the Timorese Anti-Corruption Commission (2013) found that 98 per cent of public servants reported that they would be interested in receiving further training, and about half of them said they would like to have training in their specific subject area (Anti-Corruption Commission 2013).

Corruption, nepotism and cronyism are present at various levels of the government administration: 36 per cent of respondents had witnessed corruption, collusion, nepotism or a conflict of interest at their workplace within the last year; 15 per cent experienced receiving money or other gifts for providing a service; and 13 per cent observed false reports and documentation being produced. A sense of impunity was prevalent, particularly among higher level officials, only 44 per cent of whom fully agreed that senior managers are held to account. Therefore, 78 per cent of public servants agreed that, in their workplace, anti-corruption processes and regulations could be improved significantly or greatly.

Undue political influence in the selection of civil servants, as well as the decision-making process within the public administration has also been reported to be widespread. Thus, while the recruitment of state officials is handled by a supposedly independent Public Service Commission on the basis of merit, candidates have sometimes reportedly been employed due to personal or family connections (Global Integrity 2013). Moreover, in many government agencies, "technical" civil servants are overseen by "political" appointees. This, combined with a strong cultural emphasis on hierarchical deference, means that higher-ranking superiors often disregard technically-informed advice for their own private benefit (La'o Hamutuk 2014b)

### The 'resource curse'

The very considerable financial inflows generated by oil extraction activities can contribute substantially to the social and economic development of the host country. However, particularly in transitional contexts characterised by low institutional capacity and poor accountability mechanisms, they can also create opportunities for excessive rent-seeking, thereby fuelling large-scale

corruption, as well as poverty, injustice and conflict (Natural Resource Governance Institute 2014).

In Timor-Leste, income from exporting petroleum wealth is channelled into a Petroleum Fund, established in 2005 to help the country preserve resource revenues for future generations in the face of the complex challenges posed by transition and state-building (La'o Hamutuk 2007). According to its latest quarterly report (2014), the Petroleum Fund has a capital of US\$16.5 billion<sup>1</sup>. However, according to experts consulted within the framework of this query, as oil revenues have started to decline due to the depletion of oil and gas reserves and drop in oil prices, there are concerns over the sustainability of the Petroleum Fund in the future.

Considering the country's level of development, Timor-Leste's natural resource governance framework appears to be remarkably strong. Indeed, the country ranked 13 out of the 58 states and territories included in the latest Resource Governance Index (Revenue Watch 2013). Timor-Leste obtained very high scores in the areas of institutional and legal setting (with the exception of freedom of information law, and environmental and social impact requirements), reporting practices, and safeguards and quality controls (with the exception of conflict of interest disclosure requirements). On the other hand, it performed rather poorly in the enabling environment component, with government effectiveness, rule of law, and control of corruption identified as the main areas of weakness.

Since 2010, Timor-Leste has also been certified to be compliant with the Extractive Industries Transparency Initiative (EITI), whose aim is to promote better natural resource governance and to reduce the risk of misappropriation of funds generated by the extractive industries through joint cooperation between governments, private sector companies, civil society groups, investors and international organizations.

Despite these remarkable achievements in natural wealth governance, the "resource curse" remains a source of concern for Timor-Leste, one of the most oil-dependent countries in the world. Indeed, the

extraction sector accounts for roughly three-quarters of its GDP per capita: US\$3,728 out of a total US\$4,840 (International Monetary Fund 2014). This has particularly troubling implications for the long-term sustainability of the country's non-oil domestic production, as well as its revenue strategy (see below).

### 3 CORRUPTION IN PUBLIC FINANCIAL MANAGEMENT

#### Budget

The Timorese government budget for 2015 was set at US\$1,570m, marking a 2.1% increase from the previous year (Ministry of Finance 2014). This is in line with the remarkable upward (but declining) trend driven by increasing oil revenues in the last few years. Thus, in 2012, the budget was estimated to have grown 245 per cent compared to 2006 (Everett 2012). However, there are concerns over the sustainability of such growth, as oil revenues are dropping sharply due to the combined effect of declining production and global drop in oil prices. In 2014, oil revenues to Timor-Leste dropped 42% (Scheiner 2015).

Some reforms have been undertaken, notably the creation of a [budget transparency e-portal](#) providing access to financial information on how the budget is being spent, and on the government's record for budget execution.

However, in the Open Budget Survey, Timor-Leste obtained a score of 36 out of 100, which placed it below the survey average of 43. Compared to its neighbours, Timor-Leste fared better than Cambodia, Myanmar and Vietnam, but worse than Indonesia, Malaysia and the Philippines (International Budget Partnership 2012). The ensuing report recommended Timor-Leste to increase the comprehensiveness of the executive's budget proposal by providing missing information on expenditures for individual programmes, actual expenditures and revenues for the year prior to the budget year, extra-budgetary funds, transfers to public corporations, quasi-fiscal activities, earmarked revenues, financial and non-financial assets, and percentage of the budget devoted to secret items.

While the government is required to submit the

<sup>1</sup> Transparency International takes "billion" to refer to one thousand million (1,000,000,000).



annual state budget to parliament for discussion and approval, a number of factors undermined the effectiveness of this measure. The report by the International Budget Partnership (2012) recommended that the government have a formal pre-budget policy debate prior to tabling the budget proposal; to consult with members of the legislature as part of its process of determining budget priorities; and to establish a requirement to seek approval from the legislature prior to shifting funds between administrative units and budget lines as well as prior to using contingency funds.

More recent reports suggest that no progress has been achieved on these issues. Thus, more than one-quarter of the proposed 2015 budget consisted of "special funds" which the executive can still freely shift among different large infrastructure projects, including ones which were not mentioned in the budget (Global Integrity 2013). Moreover, in both 2013 and 2014, the parliament merely rubber-stamped the budget proposed by the executive without substantial open debate (see below, section on parliament).

Timor-Leste does not have a citizen's budget. There is a provision for parliamentary hearings covering key administrative units, in which testimony from the public has been sought in the past. The parliament has also previously invited input for budget discussion from civil society organisations. However, this did not happen in 2014, when public involvement in the process was particularly limited (Global Integrity 2013).

## Spending

The sustained growth in oil revenues enabled a five-fold increase in public spending between 2006 and 2012. This was also a response to domestic pressure on the government to invest in development and infrastructures, transfer wealth to previously disenfranchised groups, and counter declining incomes and stagnant employment (World Bank 2014b).

The allocation of expenditures for the 2014 annual budget reflects these priorities, with goods and services accounting for the largest part of the budget (US\$476m), followed by infrastructure

(US\$425m) and public transfers (US\$292m) (La'o Hamutuk 2014c).

Social assistance expenditure has also been criticised for disproportionately favouring veterans of the independence struggle at the expense of a more equitable distribution. Households that fell into the bottom quintile accounted for 27 per cent of all beneficiaries of social assistance programs, compared to 14 per cent accounted for by the richest group (World Bank 2013b).

The transparency of the process of allocation of "public transfer" expenditure is particularly low, as much of this information is not included in the detailed budget submitted to parliament by the government (La'o Hamutuk 2014d).

## Procurement

The laws regulating procurement are complex and fragmented. On the Ministry of Finance's webpage relating to procurement, a non-exhaustive list of 10 different decrees is provided, highlighting the potential risk of confusion and uncertainty.

Since 2011, Timor-Leste has an [eProcurement portal](#), where all open tenders and related contracts are publicly accessible. However, in 2013, 3,019 of the 4,117 tenders posted on the portal during the year were not open, and the related contracts of award – some of which were for a value of several millions of US dollars – were not accessible to the public (La'o Hamutuk, 2013a). This also points to the very weak implementation of regulation limiting single-source procurement in order to ensure openness and competitively in the allocation of government contracts.

Existing conflict of interest laws have been blatantly by-passed in a number of cases involving high-profile office holders. In one such case, in 2012, the minister of finance was accused of having approved a procurement contract for a company founded, owned and directed by her husband (Tempo Semanal 2012). In the same year, an ex-minister of justice and ex-director of procurement were also both convicted for their undue involvement in the allocation of a contract to the company of the former's husband (Millennium Challenge

Corporation 2012).

A number of other key pieces of legislation have still not been adopted. For example, there is no single system to track companies that have been convicted of corruption-related crimes in order to prevent them from participating in future procurement bids. In practice, such “blacklists” are reportedly kept, both by parliament and by the National Procurement Commission. However, due to a lack of transparency in their compilation, observers have cast doubt on their exhaustiveness, as well as the extent to which they are actually enforced (Global Integrity 2013).

In 2013, for instance, the government received public criticism after granting a contract to a Chinese state-owned company that in 2008 had failed to fulfil the terms of a US\$300m contract – the largest in Timor-Leste history at the time. In light of the Chinese government's record of generous aid donations, suspicions were voiced that undue influence had been exercised in the assignment of a new contract to the company (Benner 2013).

The process of appeal by unsuccessful bidders is also considered to lack the necessary transparency because the process is handled within the ministries and agencies, rather than by an independent judicial organ (Global Integrity 2013).

### Tax administration

While the International Monetary Fund's (2014) data showed a modest increase of non-oil domestic revenue (from 2.3 to 3.5 per cent of GDP) between 2010 and 2015, this was still dwarfed by petroleum revenue (estimated at 52.5 per cent of GDP in 2015). The World Bank (2013a) also noted with concern that the government was drawing double the estimated sustainable income from the Petroleum Fund to address pressing development needs.

The issue is made all the more pressing as projections from fields currently under production suggest that reserves may not last beyond 2025 at current rates of extraction. Consequently, both the World Bank (2013) and the International Monetary Fund (2014) have called upon Timor-Leste to take

measures to ensure long-term fiscal stability by cutting expenditure and implementing projects that build a sufficient non-oil revenue base.

In order to do so, a rapid and sustained growth of the private domestic sector is necessary. The World Bank's Doing Business (2015) data, however, provide some measure of the obstacles that must be removed in order to meet that objective. Timor-Leste ranked 172 out of the 189 included in the survey, registering no change in score since 2013, but with a relative loss of three positions in the rank. In three categories, namely registering property, enforcing contracts and resolving insolvency, the country was classified in last position.

With specific reference to revenue collection, paying taxes in Timor-Leste took 276 hours per year, compared to an Asia-Pacific average of 204 and an OECD average of 175 (World Bank 2014). Moreover, respondents interviewed for the World Economic Forum's Global Competitiveness Index (2014) assigned their country a mean score of 3.3 on a scale from 1 to 7 (best) on the question of the frequency of irregular payments and bribes in annual tax payments.

## 4 LEGAL AND INSTITUTIONAL ANTI-CORRUPTION FRAMEWORK

Most of the key anti-corruption mechanisms and institutions have been established under the auspices of the United Nations Integrated Mission in Timor-Leste, which, together with the wider international donor community, provided not only the political impetus, but also indispensable financial and technical assistance to the initial state-building effort.

The recent surge in the number of corruption cases involving high-level politicians and government office-holders indicates both an improvement in the court system's effectiveness, and the widespread incidence of corruption among the political and administrative elite of the country.

A number of independent watchdog institutions have been created. In particular, the Anti-Corruption Commission has played an active role in monitoring and holding public officials to account, obtaining

important results in terms of investigations and successful prosecutions. However, most of these bodies suffer from a pervasive lack of financial and human resources. The legislative framework is also deficient in a number of important respects, and these would have to be amended to enable a more effective fight against corruption.

## Legal framework

### *International conventions*

The Government of Timor-Leste signed and ratified the United Nations Convention against Corruption in 2008. However, Timor-Leste is not a party to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

### *National legislation*

The Timorese penal code criminalises acts of active and passive corruption, which are punishable with up to three years imprisonment and/or the payment of a fine (Articles 292 and 293). Embezzlement is punishable with 3 to 10 years of imprisonment (Article 295); misappropriation of public assets with up to 2 years (Article 296); abuse of public power with 1 to 4 years (Article 297).

Political party financing is an area of particular regulatory weakness. The law does not establish limits on private donations to political parties or individual candidates, nor does it provide for a disclosure requirement. While there is a complete ban on corporate donations to parties, this does not extend to individual candidates. Moreover, the ban is systematically disregarded.

Before the 2012 elections, for instance, several companies that had been awarded lucrative government tenders were reported to have pledged a total of US\$2.6 million for the electoral campaign of the prime minister's party (Murdoch 2012). The prime minister did not deny the reports, but merely responded that the money was essential for the campaign and rejected the accusations of "politically motivated" corruption.

A number of other key legislative safeguards

against corruption is also absent. The supreme court does not have judicial review powers vis-à-vis the executive, but only over legislative acts by parliament. While the head of state and ministerial-level officials (but not members of the legislature) are required to submit asset disclosures to the court of appeal, these are neither independently audited, nor made publicly available. There is no norm prohibiting members of the executive to accept gifts and hospitality; no limits on parties' expenditure; no legislation to prevent "revolving doors" between public administration and the private sector. Conflict of interest laws for public servants do exist, but their implementation is regarded as very ineffective (Global Integrity 2013).

Timor-Leste also lacks specific whistle-blower protection laws. A report by the Anti-Corruption Commission (2013) found that a quarter of the civil servants interviewed in the study did not report transgressions they had witnessed due to fear of revenge or retaliation.

Currently, there is no law giving citizens the right to request government information and records. The government has declared its intent to pass a freedom of information act, but this has not yet been presented (Global Integrity 2013).

Some government agencies already publish online information of public interest on a discretionary basis. Thus, as already mentioned, the Ministry of Finance webpage gives public access to various e-portals on the subjects of budget transparency, procurement and aid transparency. However, it must be underlined that, in 2012, only 0.2 per cent of the population had access to the internet (UNIMT 2012), which raises doubts about the practical effectiveness of such initiatives. In addition, according to experts consulted within the framework of this query, the user-friendliness of these portals could be improved such as the timeliness and comprehensiveness of data publication.

## Institutional framework

### *Anti-Corruption Commission*

Law no. 8/2009 established an Anti-Corruption Commission (CAC) consisting of a commissioner,

deputy commissioners and support staff, and entrusted with a mandate “to undertake preventive action and criminal investigation action against corruption in any of its forms”. CAC does not have the power to arrest or prosecute, but passes its findings over to the prosecutor general who, together with the police and the courts, decide whether to continue the case.

The law confers to the CAC “a legal personality with technical independence and administrative and financial autonomy”, and makes available to it a yearly budget “sufficient to cover its operational costs and adequate to maintain its independence, impartiality and efficiency”.

The commission is generally believed to be an independent and fairly effective institution. Under its first commissioner, a previous advisory board member of the local anti-corruption NGO, La’o Hamutuk, CAC has opened several investigations on allegations of corruption against high-level government officials, a number of which ultimately resulted in convictions (Global Integrity 2013). A new commissioner, a former judge and prosecutor, was appointed in July 2014 (Anti-Corruption Commission 2014b).

While the CAC can be credited to have achieved some progress, some observers argue that its mandate limits its effectiveness, as it lacks power to prosecute (La’o Hamutuk 2009).

The CAC has on occasion been attacked by politicians, including recent accusations of undue interference by the prime minister (East Timor Law and Justice Bulletin 2013). In October 2014, both parliament and government passed resolutions terminating the contracts of a number of international legal officials on the basis of an unspecified “national interest”. Some of these were advisors to the Anti-Corruption Commission (La’o Hamutuk 2014g).

Despite the president of the court of appeal’s statement that the acts were unconstitutional, the personnel targeted by the resolution eventually had to leave the country. It is widely speculated that the decision was connected with ongoing corruption investigations involving current and former

members of the government. Concerns have also been voiced that the decision will have a negative impact on the capacity of the CAC and other anti-corruption institutions to effectively carry out their functions (Marx 2014).

### *Provedoria for Human Rights and Justice*

Established in 2004, the Provedoria for Human Rights and Justice (PDHJ) has a two-fold mandate in the areas of human rights and good governance. Its functions include receiving and investigating complaints from the public against the public administration. PDHJ is also required to refer complaints potentially involving criminal charges to the CAC or the Office of the Prosecutor General. Next to that, the PDHJ also plays a broader role, which includes promoting awareness-raising initiatives and making recommendations for government on good governance practices (UNDP 2010).

The PDHJ is regarded as sufficiently protected, both in law and in practice, from political interference. However, concerns have been raised that PDHJ staff mostly lacked the necessary analysis and investigative skills, limiting the institution’s effectiveness on issues requiring in-depth technical or financial knowledge (Global Integrity 2013).

### *High Administrative, Tax and Audit Court*

An independent High Administrative, Tax and Audit Court (HATAC) was only established in 2012 (UNDP 2012). Its mandate is to “monitor the lawfulness of public expenditure and to audit state accounts”. Due to a lack of qualified personnel, however, the HTAC is currently functioning as part of the court of appeal, whose judges are appointed on a rotational basis (Global Integrity 2013).

The institution was initially charged with carrying out audits on any public expenditure exceeding US\$500,000, but this threshold was subsequently raised to US\$5m. While this was justified as a consequence of the objective lack of resources and staff, some observers have speculated that the decision might also reflect a political desire to limit the activities of the HATAC.



By the end of 2014, the HATAC was not yet operational, but some of its functions have been carried out on an interim basis by the Court of Appeals. The Chamber of Accounts (Camara da Contas) will be placed under HATAC is functioning and has only concluded a number of reports. These were published online, but are only available in Portuguese, which most Timorese citizens do not speak. In the future, the institution is expected to publish annual reports and make other information available online (La'o Hamutuk 2014f).

### *Office of the Prosecutor General*

The Office of the Prosecutor General is mandated with the investigation and prosecution of criminal offences, including corruption-related crimes. By the end of 2012, 372 serious crimes had been investigated since 2007, and 61 were pending. The backlog of cases was said to be due to the difficulty in undertaking special investigations requiring specialised instruments, skills and techniques, as well as witness issues (UNDP 2013).

The link between the prosecution and the police is also not yet well-established: “the responsibilities of each body of criminal police working in the field of criminal investigation” in order to “guarantee the functional stability of criminal investigation, clarify, rationalise and operationalise the organisation of criminal investigation, establish the boundaries of technical and tactical autonomy of police forces and distribute responsibilities between the different bodies of criminal police” (Government of Timor-Leste 2015).

With specific reference to the issue of corruption, 40 new cases were brought to court in 2013 alone, bringing the total count of cases under investigation to 75 (US Government 2013). In 2014, the former minister of finance was also indicted for alleged abuse of power and corruption, generating a significant political crisis in the executive (Australian News 2014).

### *Judiciary*

After 22 years of Indonesian military occupation, the new state of Timor-Leste inherited a virtually non-

existent justice system, and building local institutional capacity was therefore a key priority of successive UN peace-keeping missions and donors alike. International jurists continued to perform both advisory and line functions until October 2014.

While significant improvements in the formal justice system has been made, a majority of Timor-Leste’s citizens were more confident with local justice mechanisms, with a risk of contradiction and confusion between the two levels. Lack of human resources, infrastructure, and legal awareness were cited as persisting challenges (Asia Foundation 2013).

Despite these shortcomings, a number of judgments on high-profile corruption cases involving government officials and office holders have been delivered in recent years. In 2012, for instance, a former minister of justice was sentenced to five years’ imprisonment for her involvement in the improper award of a government contract (East Timor Law and Justice Bulletin 2012). In 2013, a former secretary of state for the environment and two of his former staff members were also found guilty of corruption and embezzlement, and sentenced to five years (US Government 2013).

Since no supreme court has yet been established, the Timorese Court of Appeal has to perform a dual role, which, according to critics, does not ensure the necessary independence of judicial review. Recently, judges of the appeal court have disqualified their president from taking part in the proceedings concerning an appeal by the former minister of justice convicted of corruption (see above), due to bias in favour of the defendant. The affair was perceived by observers as a blow to the credibility of the court (East Timor Law and Justice Bulletin 2013b).

### *Director of public prosecutions*

The director of public prosecutions is solely responsible for deciding whether to initiate court proceedings against those accused of a crime, including corruption. This decision is made on the basis of information presented to the director by either the CAC or the police, who prepare the case files (Transparency International 2007). The director

is completely independent and not accountable to anyone.

### *Parliament*

Elected representatives have two main functions in the fight against corruption. On the one hand, they carry the main responsibility for taking the legislative actions required to establish an effective anti-corruption regulatory framework. On the other hand, parliament has a crucial role to play in the system of checks and balances designed to ensure oversight of the executive.

The track record of the Timorese legislature on the issue of corruption is mixed. While a comprehensive anti-corruption bill has been presented to parliament by the Public Prosecutor, no further action has been taken to date (Anti-Corruption Commission 2014b). Some anti-corruption activists have also complained of the scarce attention paid by most elected officials to good governance issues.

Concerns have also been raised with regard to the ability of parliament to properly hold the government to account. As already mentioned, the annual budget must be reviewed and approved by parliament. However, in both 2013 and 2014 the discussion of the budget was moved out of an open, televised plenary debate into a closed-door ad hoc committee, whose recommendations were approved by the plenary without substantive discussion (La'o Hamutuk 2013c and 2014a). The International Budget Partnership Open Budget Survey (2012) also called into question the parliamentary Budget Research Office's effectiveness due to under-funding and lack of staff.

### **Other actors**

#### *Civil society*

Civil society organisations (CSOs) played a significant role in the path toward Timor-Leste's independence, and have since gradually shifted their focus toward "active citizenship" in the context of the on-going process of nation building (Wigglesworth 2012).

Freedom of association is protected under Article

43 of the Timorese constitution. In 2013, there were 323 national and 57 international NGOs actively operating in Timor-Leste. Some of them – notably La'o Hamutuk, and CEPAD – which, although not per se anti-corruption NGOs, play a very active role in holding the government to account, exposing cases of administrative malpractice and lobbying for legislative or policy reforms.

In 2014, there were no reports of anti-corruption activists or NGOs having been shut down by the government, imprisoned or physically harmed (Global Integrity 2013). However, civil society organisations are not required to disclose their sources of funding, which can undermine trust in their independence. Some representatives of anti-corruption NGOs also complained that they had little access to, and were not taken seriously by, policy-makers (Global Integrity 2013).

#### *Media*

The Timorese constitution guarantees freedom of the press as well as "the right to inform and be informed impartially" (Article 40).

A 2013 study reported that, both in law and in practice, Timorese media is free to operate without government censorship or other undue restraints. The Press Freedom Index also ranked Timor-Leste 90 out of the 179 countries included in the study, making it one of Asia's freest media environments (Reporters Without Borders 2013).

However, a new media regulation law approved by parliament in 2014 was heavily criticised for its stifling effect on freedom of information. The act sought to create a mechanism to control who can qualify as a journalist by establishing a press council, partly staffed by parliament-appointed members with the power to deny and revoke licenses (Economist 2014). The law was ruled unconstitutional by the Timorese court of appeal, but concerns persisted over the government's attempts to interfere with freedom of press (Global Voices Advocacy 2014). Although some changes were made following the court of appeal's opinion, the media law was enacted and came into force in December 2014, with some repressive provisions on freedom of expression.

Lack of funding also remains a serious issue, leading to a perceived lack of strict professional standards. Capacity for investigative journalism is particularly scarce. Moreover, major societal factors also hamper the ability of the media to effectively exercise their function. In 2011, 16 per cent of the population did not access any form of media, and most people still said they relied on community leaders for information (UNMIT 2011).

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