



Timor-Leste

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**Submission by CIVICUS: World Alliance for Citizen Participation,  
NGO in General Consultative Status with ECOSOC**

**The Asian Forum for Human Rights and Development (FORUM-ASIA),  
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## **1. Introduction**

- 1.1** CIVICUS is a global alliance of civil society organisations (CSOs) and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, CIVICUS has members in more than 180 countries throughout the world.
- 1.2** The Asian Forum for Human Rights and Development (FORUM-ASIA) is a network of 81 members in 21 countries that works to promote and protect human rights, including the right to development, through collaboration and cooperation among human rights organisations and defenders in Asia and beyond.
- 1.3** The Judicial System Monitoring Program (JSMP) was established in 2001 to monitor the processes of the Ad Hoc Human Rights Tribunal in Jakarta, Indonesia, and the Special Panels for Serious Crimes in Timor-Leste. JSMP now exists as a Timorese-led CSO working to improve the judicial and legislative systems in Timor-Leste through advocacy to promote legality, transparency, accountability and the rule of law.
- 1.4** The Timor-Leste Institute for Development Monitoring and Analysis (La'o Hamutuk, 'Walking Together' in English) is an independent, non-partisan CSO in Timor-Leste that analyses, educates and advocates on government policy to encourage better human rights, equity and sustainability. Since its founding in 2000, it has produced hundreds of articles, web pages, submissions, testimonies, radio programmes and presentations relating to human rights, petroleum dependency and social and economic justice, with the objective of helping the people of Timor-Leste have the knowledge and tools needed to ensure that policy decisions reflect their needs and interests.
- 1.5** In this submission, the authors examine the Government of Timor-Leste's compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyse Timor-Leste's fulfilment of the rights to the freedoms of association, peaceful assembly and expression and unwarranted restrictions on human rights defenders (HRDs) since its previous UPR examination in December 2016. To this end, we assess Timor-Leste's implementation of recommendations received during the 2<sup>nd</sup> UPR cycle relating to these issues and provide a number of follow-up recommendations.
- 1.6** During the 2<sup>nd</sup> UPR cycle, the Government of Timor-Leste received eight recommendations relating to the space for civil society (civic space). All eight

recommendations were accepted. An evaluation of a range of legal sources and human rights documentation addressed in subsequent sections of this submission demonstrates that the Government of Timor-Leste has partially implemented seven recommendations and fully implemented one relating to civic space. While the government has respected and protected the freedom of association and HRDs, the government has also attempted to introduce or has imposed restrictions in law on civic space relating to the freedoms of peaceful assembly and expression since its last UPR examination.

- 1.7** We are concerned by attempts by the government to introduce draft laws related to criminal defamation and the failure to revise the Media Law to bring it into line with international law and standards.
- 1.8** We are further alarmed by reports of restrictions on the right to peaceful assembly and the arbitrary arrests of protesters.
- 1.9** As a result of these issues, civic space in Timor-Leste is currently classified as 'obstructed' by the CIVICUS Monitor, indicating the existence of multiple civic space restrictions.<sup>1</sup>
  - Section 2 of this submission examines Timor-Leste's implementation of UPR recommendations and compliance with international human rights standards concerning the freedom of association.
  - Section 3 examines Timor-Leste's implementation of UPR recommendations and compliance with international human rights standards related to the protection of HRDs, civil society activists and journalists.
  - Section 4 examines Timor-Leste's implementation of UPR recommendations and compliance with international human rights standards concerning the freedom of expression, media freedom and access to information.
  - Section 5 examines Timor-Leste's implementation of UPR recommendations and compliance with international human rights standards related to the freedom of peaceful assembly.
  - Section 6 contains recommendations to address the concerns raised and advance implementation of recommendations under the 2<sup>nd</sup> cycle.
  - An annex on the implementation of 2<sup>nd</sup> cycle UPR recommendations related to civic space is in Section 7.

## **2. Freedom of association**

- 2.1** During Timor-Leste's examination under the 2<sup>nd</sup> UPR cycle, the government did not receive any recommendations on the right to the freedom of association and

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<sup>1</sup> CIVICUS Monitor: Timor-Leste, <https://monitor.civicus.org/country/timor-leste>.

creating an enabling environment for CSOs.

- 2.2** Article 43 of the Timor-Leste Constitution guarantees the right to the freedom of association. Moreover, article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Timor-Leste is a state party, also guarantees the freedom of association. The government has generally respected and protected the right to the freedom of association. CSOs in Timor-Leste have played a critical role in strengthening democracy in the country through active engagement with the government to influence legislation and policy and monitor government projects and expenditure, as well as in implementing services.
- 2.3** CSOs in Timor-Leste operate under a relatively enabling legal environment. Most CSOs are registered under Decree Law 5/2005 On Non-Profit Making Corporate Bodies.<sup>2</sup> The law recognises ‘the role played by associations in the exercise of democracy and of citizenship’. CSOs may be constituted under the form of either an association or foundation and must be registered with the Ministry of Justice. International CSOs are also governed by Law No. 5/2005 and are required to register through the same process as local CSOs.<sup>3</sup>
- 2.4** The majority of CSOs in Timor-Leste depend on funding from international donors and the government.<sup>4</sup> The government allocates funds for which CSOs can apply on an annual basis. While the capacity of CSOs has increased since independence, major sustainability and operational challenges remain for civil society in Timor-Leste as donor funding and requirements tighten. Donor funding for local CSOs has also shifted towards addressing the COVID-19 pandemic in 2020 and 2021.
- 2.5** Workers are permitted to form and join labour unions and bargain collectively and political parties are also generally free to form and operate.<sup>5</sup>

### **3. Harassment, intimidation and attacks against human rights defenders, civil society activists and journalists**

- 3.1** During Timor-Leste’s previous UPR examination, the government received one recommendation on the protection of HRDs, journalists and civil society representatives which it accepted. The government committed to ‘recognize the

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<sup>2</sup> ‘Decree Law No.5/2005 on Non-Profit-Making Corporate Bodies’, International Center for Not-for-Profit Law, 3 August 2005, <https://www.icnl.org/research/library/timor-lestedeecree-law-2005-5>.

<sup>3</sup> ‘2019 Civil Society Organization Sustainability Index’, FHI 360, December 2020, <https://www.fhi360.org/sites/default/files/media/documents/csosi-asia-2019-report.pdf>.

<sup>4</sup> ‘Civil Society Brief: Timor-Leste’, Asian Development Bank, 2019, <https://www.adb.org/sites/default/files/publication/498631/civil-society-brief-timor-lestede.pdf>.

<sup>5</sup> ‘Timor-Leste: Freedom in the world 2020’, Freedom House, <https://freedomhouse.org/country/timor-lestefreedom-world/2020>.

legitimacy of the work of human rights defenders and provide them with protection, and avoid arbitrary arrests and reprisals, investigate threats or attacks against them and bring those responsible to justice.’ For the most part, HRDs, journalists and civil society personnel are able to work without fear of reprisals in Timor-Leste. However, as examined in this and the following section, the government has failed in some instances to operationalise this recommendation and has only partially implemented it.

- 3.2** Article 12 of the UN Declaration on Human Rights Defenders mandates states to take the necessary measures to ensure the protection of HRDs. The ICCPR further guarantees the freedoms of association, peaceful assembly and expression. However, in spite of these protections, HRDs have faced threats and harassment when speaking up.
- 3.3** According to the Human Rights Defenders Network (Rede Defensór Direitos Umanus), on 21 April 2020 HRD Amandio dos Santos was threatened by police intelligence personnel from the criminal investigation unit, including threats to harm his family, after he criticised the planned purchase of vehicles for parliamentarians. In April 2021, Ivo Colimau, an HRD from the Timor Leste NGO Forum (Forum ONG Timor Leste), was called up by the police he published a medical report on national media of victim in relation to police violence against small roadside traders.

#### **4. Freedom of expression, media freedom and access to information**

- 4.1** Under the 2<sup>nd</sup> UPR cycle, the government received six recommendations relating to the freedom of expression, media freedom and access to information. For example, the government pledged to ‘uphold its international human rights obligation and constitutionally provided rights of freedom of expression’ and ‘bring the Media Law in line with international standards’. All six recommendations were accepted. However, as discussed below, the government is yet to take effective measures to implement these recommendations and has only partially implemented them.
- 4.2** Article 19 of the ICCPR guarantees the right to the freedoms of expression and opinion. Article 40 of the Constitution of Timor-Leste also guarantees the right to the freedom of expression. It states that ‘all persons have the right to freedom of expression and the right to inform and be informed impartially’ and that ‘the exercise of freedom of expression and information cannot be limited by any type of censorship’. Further, article 41 states that ‘freedom of the press and other means of social communication is guaranteed’ and this comprises, ‘the freedom of expression and creativity for journalists, the access to information sources, editorial freedom, protection of independence and professional confidentiality, and the right to create

newspapers, publications and other means of diffusion.’<sup>6</sup>

- 4.3** Timor-Leste has been one of the more encouraging countries in the region for media freedom over the past decade. A fairly lively media environment has developed since independence in 1999.<sup>7</sup> This includes print media, radio stations, television stations and online media outlets.<sup>8</sup>
- 4.4** However, the government has yet to revise the Media Law that was passed in 2014, which contains provisions that can undermine the freedom of expression and media freedom. While explicitly recognising the rights to the freedom of expression and press freedom, the Media Law stipulates that in order to work as a journalist, individuals are required to have undergone a six-month internship in a media organisation and be accredited by a Press Council. These provisions mean that freelance media workers, citizen journalists, student journalists, bloggers and others could be barred from carrying out journalistic work. The law also bars individuals who work for political parties, CSOs or government departments from being registered and accredited as journalists. Such criteria are inconsistent with international standards that an accreditation procedure should impair the right to gather news as little as possible and that accreditation decisions should be based on non-discriminatory criteria.<sup>9</sup> The law also requires the media to promote ‘the national culture, values and identity’ of Timor-Leste and ‘social stability and harmony’, and to ‘encourage and support economic policies’. Any breaches of these provisions could trigger fines against journalists and media outlets.<sup>10</sup>
- 4.5** Article 285(1) of the Timor-Leste Criminal Code criminalises ‘defamatory false information’ (otherwise known as slanderous denunciation). While it has rarely been used, in 2016, journalists Raimundos Oki and Lourenco Vicente Martins were prosecuted under this provision on charges of criminal defamation over a 2015 article they published about irregularities during the tendering process for a government IT project. In January 2016 the Prime Minister filed criminal charges under article 285(1) and they were charged and tried.<sup>11</sup> On 1 June 2017, the courts

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<sup>6</sup> ‘Timor-Leste’s Constitution of 2002’, Constitute Project, [https://www.constituteproject.org/constitution/East\\_Timor\\_2002.pdf?lang=en](https://www.constituteproject.org/constitution/East_Timor_2002.pdf?lang=en).

<sup>7</sup> ‘Underneath The Autocrats: South East Asia Media Freedom Report 2018’, International Federation of Journalists, December 2018, [https://www.ifj.org/fileadmin/user\\_upload/Underneath\\_the\\_Autocrats\\_-\\_IFJ\\_SEAJU\\_2018\\_-\\_SP\\_HR.pdf](https://www.ifj.org/fileadmin/user_upload/Underneath_the_Autocrats_-_IFJ_SEAJU_2018_-_SP_HR.pdf).

<sup>8</sup> ‘Holding the Line: Southeast Asia Media Freedom Report 2019, International Federation of Journalists, November 2019, [https://www.ifj.org/fileadmin/Holding\\_the\\_Line\\_2019.pdf](https://www.ifj.org/fileadmin/Holding_the_Line_2019.pdf).

<sup>9</sup> ‘International standards: Regulation of media workers’, Article 19, 4 April 2012, <https://www.article19.org/resources/international-standards-regulation-media-workers>.

<sup>10</sup> ‘Proposed Law on Media’, La’o Hamutuk, 6 June 2020, <http://www.laohamutuk.org/misc/MediaLaw/14MediaLaw.htm>; ‘Timor-Leste: Still No Justice for Past Human Rights Violations’, Amnesty International, March 2016, <https://www.amnesty.org/download/Documents/ASA5745132016ENGLISH.pdf>.

<sup>11</sup> ‘Urgent Action: Two Journalists May Face Imprisonment’, Amnesty International, 23 May 2017, <https://www.amnesty.org/download/Documents/ASA5762902017ENGLISH.pdf>.

cleared them of the charges.<sup>12</sup>

- 4.6** While the number of violent attacks against journalists is low, concerns by journalists about the fear of being threatened for their reporting or physical attacks against them or their families have been increasing.<sup>13</sup> Some media workers practise various forms of self-censorship to deal with such intimidation.<sup>14</sup>
- 4.7** In February 2018, the President of the Authority for the Special Region of Oecusse-Ambeno, Arsenio Paixao Bano, threatened and banned journalists from the daily STL (Suara Timor Lorosa'e) newspaper from covering stories relating to a land dispute between the local authority and the local residents.<sup>15</sup>
- 4.8** In 2020, Reporters Without Borders reported that journalists from two media outlets came under attack from the Catholic clergy after they published an investigative article about Richard Daschbach, a US priest accused of sexually abusing many young girls in Timor-Leste.<sup>16</sup> At least 15 women and girls have come forward and the now defrocked priest is currently on trial facing 14 counts of sexual abuse of children younger than 14 years old, as well as one count each of child pornography and domestic violence.<sup>17</sup>
- 4.9** There have also been concerns about political interference in the media. In January 2019, Gil da Costa, chairperson of the Board of Directors of the state broadcaster Timor-Leste Radio and Television (RTTL), was fired and swiftly replaced. The official reason for Gil da Costa's dismissal was an audit that discovered 'irregularities at RTTL' during his tenure. Gil da Costa said he had been sacked for political reasons as he had acted directly to stop several attempts at political interference in the newsroom. In the same month, five RTTL journalists led by Nuno Saldanha reported to the Press Council that Shinta Hanjan, adviser to the former RTTL board chairperson Francisco da Silva, had asked for the removal of content from news stories.<sup>18</sup>
- 4.10** In a worrying move, in June 2020, Timor-Leste's Minister of Justice presented a proposal to revive criminal defamation in the country's penal code. Criminal

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<sup>12</sup> Ibid.

<sup>13</sup> International Federation of Journalists, December 2018, op. cit.

<sup>14</sup> International Federation of Journalists, November 2019, op. cit.

<sup>15</sup> 'Elections Held In Timor-Leste After Months Of Political Gridlock', CIVICUS Monitor, 24 July 2018, <https://monitor.civicus.org/updates/2018/07/24/elections-held-timor-leste-after-months-political-gridlock>.

<sup>16</sup> 'Timor-Leste', Reporters Without Borders, <https://rsf.org/en/timor-leste>.

<sup>17</sup> 'Ex-Priest Richard Daschbach charged with sexually abusing children', La'o Hamutuk, 6 July 2021, <http://www.laohamutuk.org/Justice/2021/RD/21Daschbach.htm>.

<sup>18</sup> 'Political Interference and Intimidation of the Press In Timor-Leste', CIVICUS Monitor, 12 June 2019, <https://monitor.civicus.org/updates/2019/06/12/concerns-about-media-interference-and-press-intimidation-timor-leste>.

defamation was removed from the penal code in 2009. The proposal (articles 187-A to 187-F) stipulates that ‘whoever, publicly and in the absence of the victim, orally or using any other means of communication, imputes/asserts to another person a fact or utters an offensive opinion of his/her honour and prestige, or transmits that imputation/ assertion or opinion to a third party when it has not been produced by the agent’ can be held liable for criminal defamation.<sup>19</sup> The penalty is one year’s imprisonment or a fine, but violators face up to three years in prison if the defamed person is someone who has ‘performed or are performing public, religious or political functions’, or if the offensive statement is made through traditional or social media.<sup>20</sup> According to local sources, following criticism from the media<sup>21</sup> and civil society,<sup>22</sup> it is understood that the proposal is now on hold.

**4.11** In January 2021, the public prosecutor drafted a cybercrime bill to govern the use of social networks and to prevent the spread of ‘falsehoods, slander and defamation’. The bill could be used to stifle the freedom of expression online and the right to privacy. An analysis by the International Centre for Not-for-Profit Law found a number of concerns with the bill. While the bill requires the authorities to obtain a warrant prior to accessing information or data, or prior to searching computers and other electronic communications, it does not set out the evidentiary threshold that must be proven before a judge issues a warrant. Further, there is no limit for the duration of the warrant. International human rights law requires that periods of interception should be limited, should not be extended indefinitely and the necessity of interception must be continually demonstrated. The proposed law also imposes criminal liability on legal entities for cybercrimes committed ‘in their name and in the collective interest of the people who occupy a leadership position’. This could result in the closure of a CSO or media company that employs a whistle-blower who exposes human rights abuses or other scandals by ‘illegally accessing’ a computer system.<sup>23</sup> The bill was submitted for consideration by ministers and parliament in January 2021 but is not on the parliamentary agenda until after the parliamentary recess in mid-September 2021. According to information received from local civil

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<sup>19</sup> ‘Criminal defamation law under discussion in the Government’, La’o Hamutuk, 6 June 2020, <http://www.laohamutuk.org/Justice/defamation/2020/DraftDefamationLaw5Jun2020EnTePt.pdf>.

<sup>20</sup> ‘Criminal Defamation Proposal Will Weaken Democracy In Timor-Leste, Says Civil Society’, CIVICUS Monitor, 18 August 2020, <https://monitor.civicus.org/updates/2020/08/18/criminal-defamation-proposal-will-weaken-democracy-timor-leste-says-civil-society>.

<sup>21</sup> ‘Timor-Leste: Proposed defamation law petitioned by media rights groups’, International Federation of Journalists, 11 June 2020, <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/timor-leste-proposed-defamation-law-petitioned-by-media-rights-groups.html>.

<sup>22</sup> ‘Proposed Amendment to the Penal Code to Criminalize Defamation’, La’o Hamutuk, 15 June 2020, <https://www.laohamutuk.org/Justice/defamation/2020/LHsubMJDefamasaun15Jun2020en.pdf>.

<sup>23</sup> ‘Summary Legal Analysis: Timor-Leste’s Draft Cybercrime Law’, International Centre for Not-for-Profit Law, March 2021, [http://www.laohamutuk.org/Justice/defamation/cybercrime/ICNL%20Comments%20on%20Draft%20Law%20Cybercrime%20Law\\_Timor-Leste\\_March2021.pdf](http://www.laohamutuk.org/Justice/defamation/cybercrime/ICNL%20Comments%20on%20Draft%20Law%20Cybercrime%20Law_Timor-Leste_March2021.pdf).



society, there are consultations being undertaken on the bill at the time of writing.<sup>24</sup>

**4.12** The right to freedom of information is protected under the Constitution and the Decree-Law 43/2016, Rules Relating to Access to Official Documents, facilitates access to information. However, the implementation of the law is severely hampered by secrecy provisions in other statutes. There are also concerns about procedures, with too much information needing to be supplied on a request, limited requirements to provide assistance to applicants and undue charges for requests. There are also no sanctions imposed on those who wilfully act to undermine the right to information.<sup>25</sup> Civil society and journalists continue to face challenges in accessing public documents as there is a tradition of official secrecy inherited from the colonial period and the Indonesian occupation, as well as lack of awareness of the law and the right to access information.<sup>26</sup>

## 5. Freedom of peaceful assembly

- 5.1** During Timor-Leste's examination under the 2<sup>nd</sup> UPR cycle, the government received and accepted one recommendation on the right to the freedom of peaceful assembly. The government committed to 'adopting measures to prevent arbitrary detention and to avoid excessive use of force by security forces. However, as evidenced below, the government has failed to implement this recommendation fully.
- 5.2** Article 42 of the Timor-Leste Constitution guarantees the right to the freedom of peaceful assembly, without a need for prior authorisation. Article 21 of the ICCPR also guarantees this right. However, in practice there have been a number of instances where the exercise of this right has been unduly restricted.
- 5.3** The Law on Freedom of Assembly and Demonstration (No. 1/2006) governs the management of assemblies.<sup>27</sup> While the law only requires organisers to notify the police of planned protests, the National Police of Timor-Leste (PNTL) continue to interpret the law as requiring the organisers to obtain permission. The police have used this as a basis to restrict or disrupt several protests of students and activists.
- 5.4** Law No 1/2006, in article 5, also places unreasonable restrictions on the right to the freedom of peaceful assembly by prohibiting assemblies and demonstrations 'within less than 100m from offices of organs of sovereignty, residences of officeholders of organs of sovereignty, military and militarised installations, prison buildings, offices

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<sup>24</sup> 'Proposed Criminal Code additions to Criminalize Defamation and Cybercrime', La'o Hamutuk, 15 June 2021, <http://www.laohamutuk.org/Justice/defamation/2020/20DefamLaw.htm#Cybercrime>; 'Bill Governing Cyberspace Threatens to Restrict Freedoms As State Of Emergency Extended', CIVICUS Monitor, 3 May 2021, <https://monitor.civicus.org/updates/2021/05/03/bill-governing-cyberspace-threatens-restrict-freedoms-state-emergency-extended>.

<sup>25</sup> 'East Timor', RTI-Rating, 2016, <https://www.rti-rating.org/country-data/East%20Timor>.

<sup>26</sup> Interview with civil society and journalists in Timor-Leste, June 2021.

<sup>27</sup> 'Law On Freedom of Assembly And Demonstration', International Labour Organization, 16 January 2006, <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/89744/103165/F-724782724/TMP89744.pdf>.

of diplomatic missions and consulates, and offices of political parties'. Civil society has argued that this restriction prevents them from holding effective protests against the government and is inconsistent with international law.<sup>28</sup> The Human Rights Committee has stated that the designation of the perimeters of places such as courts, parliaments, sites of historical significance or other official buildings as areas where assemblies may not take place should generally be avoided. Further, participants must as far as possible be enabled to conduct assemblies within sight and sound of their target audience.<sup>29</sup> Because of the close proximity of government buildings and diplomatic missions in the capital, Dili, and its location close to the sea, the requirement under the Law on Freedom of Assembly and Demonstration makes it virtually impossible for protesters to organise a demonstration within sight and sound of their target.<sup>30</sup>

**5.5** There have been reports of arbitrary arrests of peaceful protesters by the Timor-Leste police. In August 2019, the PNTL arrested 46 students at a solidarity protest in Dili for West Papuan independence. Those arrested included members of the Progressive Student Movement, who police claim failed to obtain permission for holding protests, obstructed traffic and breached the peace.<sup>31</sup> In December 2019 at least five protesters were arrested and detained at the police station for two hours after they organised a solidarity protest for West Papua outside the Indonesian embassy in Dili.<sup>32</sup> In June 2020, a group of peaceful protesters was detained for calling for the release of West Papuan activists in front of the Indonesian embassy. They were detained for 72 hours before being released.<sup>33</sup> In August 2020, several protesters were arrested for a protest against a proposed draft law to criminalise defamation. The arrests occurred after police alleged that the protesters had not observed the 100-metre rule.<sup>34</sup>

**5.6** Other concerns raised by civil society on the Law on Freedom of Assembly and Demonstration relate to article 6, which imposes time restrictions on protests, and article 7, which allows the police to disrupt a protest if it is diverted from its original objective by actions contrary to the law or if it violates the restrictions provided in

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<sup>28</sup> 'Implementation of the International Covenant on Civil and Political Rights (ICCPR) in relation to Law No. 1/2006 on the Freedom of Assembly and Demonstration', Judicial System Monitoring Programme, 26 October 2018, <https://jsmp.tl/wp-content/uploads/Implementation-of-the-International-Covenant-on-Civil-and-Political-Rights-ICCPR-in-relation-to-Law-No.-12006-on-the-Freedom-of-Assembly-and-Demonstration.pdf>.

<sup>29</sup> 'General comment No. 37 (2020) on the right of peaceful assembly (article 21)', UN Human Rights Committee, 2020, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CCPR%2fC%2fGC%2f37&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CCPR%2fC%2fGC%2f37&Lang=en).

<sup>30</sup> Amnesty International, November 2016, op. cit.

<sup>31</sup> 'Authorities Disrupt Peaceful Protest In Timor-Leste', CIVICUS Monitor, 13 September 2019, <https://monitor.civicus.org/updates/2019/09/13/authorities-restrict-peaceful-protest-timor-leste>.

<sup>32</sup> 'Timorese Students Detained for Protest On West Papua Outside Indonesian Embassy', CIVICUS Monitor, 28 January 2020, <https://monitor.civicus.org/updates/2020/01/28/timorese-students-detained-protests-west-papua-outside-indonesian-embassy>.

<sup>33</sup> CIVICUS Monitor, 18 August 2020, op. cit.

<sup>34</sup> Interview with civil society activist, June 2021.

article 5. These restrictions seem inconsistent with article 21 of the ICCPR and article 24 of the Constitution. Additionally, unlawful acts committed by some protesters must not cause other individuals to be deprived of the right to protest, as long as they remain peaceful in their own intentions or behaviour. Further, article 15 imposes excessive penalties for violations of the law.

- 5.7** There have also been reports of excessive force during protests. In November 2018 police used excessive force to disperse several hundred students associated with Movimentu Universitariu Timor-Leste, a student movement that organised a demonstration in front of Dili's Parliamentary Palace to protest against parliament's decision to sell former parliamentary cars at knock-down rates. According to a report by civil society group Fundasaun Mahein, members of the public order police, Batalhão de Ordem Pública (BOP), used teargas and physical force to disperse the group. The police and BOP arrested and detained 22 students. One participant stated that security personnel threw one of the protesters on the ground and punched and kicked him repeatedly in the stomach before transporting him to a cell.<sup>35</sup>
- 5.8** In March 2020, the PNTL fired teargas at a crowd denouncing a planned COVID-19 quarantine site in Tibar, 17 kilometres west of Dili. Local protesters called on the government to relocate the quarantine site to Jaco Island. Protesters peacefully blocked Ministry of Health vehicles. After a four-hour standoff, police used teargas to disperse the protesters.
- 5.9** There are also concerns about the involvement of the military, rather than local police, in preventing protests. In September 2020, Timor-Leste Defence Forces commander Major General Lere Anan Timur threatened to arrest the leaders of a newly formed movement, the National Resistance in Defence of Justice and Constitution of Timor-Leste, which had planned a peaceful march to call for the resignation of President Francisco Guterres Lu-Olo.<sup>36</sup> Military personnel were posted around the movement's headquarters and Angela Freitas, one of the spokespeople of the movement, was threatened with arrest.

## **6. Recommendations to the Government of Timor-Leste**

CIVICUS, FORUM-ASIA, JSMP and La'o Hamutuk call on the Government of Timor-Leste to create and maintain, in law and in practice, an enabling environment for civil society, in accordance with the rights enshrined in the ICCPR, the UN Declaration on Human Rights Defenders and Human Rights

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<sup>35</sup> 'FM's Take on the Prado Demonstrations and Police Response', Fundasaun Mahein, 15 November 2018, <http://www.fundasaunmahein.org/2018/11/15/fms-take-on-the-prado-demonstrations-and-police-response>.

<sup>36</sup> The group claimed that the President had disrespected the Constitution and acted in favour of his political party after he refused to swear in several members of the largest party in the winning coalition of the 2018 elections, the National Congress of Timorese Reconstruction CNRT, of Xanana Gusmão. See 'Protests Restricted And Criminalised In Timor-Leste', CIVICUS Monitor, 8 January 2021, <https://monitor.civicus.org/updates/2021/01/08/protests-restricted-and-criminalised-timor-leste>.

Council resolutions 22/6, 27/5 and 27/31.

At a minimum, the following conditions should be guaranteed: the freedoms of association, peaceful assembly and expression, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state's duty to protect. In the light of this, the following specific recommendations are made:

### **16.1 Freedom of association**

- Foster, in law and practice, a safe and enabling environment for civil society in line with international human rights standards.

### **16.2 Protection of human rights defenders**

- Ensure a safe, secure and enabling environment, in law and in practice, for civil society members, HRDs and journalists to carry out their legitimate work.
- Conduct impartial, transparent, thorough and effective investigations into all cases of attacks, harassment, intimidation or reprisals against HRDs, civil society members and journalists and bring the perpetrators of such offences to justice.
- Ensure that HRDs are able to carry out their legitimate activities without fear or undue hindrance, obstruction, or legal and administrative harassment.
- Publicly condemn at the highest levels of government instances of harassment and intimidation of CSOs and activists.
- Adopt a specific law to ensure the protection of HRDs in accordance with Human Rights Council resolution 27/31 and the UN Human Rights Defenders Declaration

### **16.3 Freedom of expression, media freedom and access to information**

- Ensure the rights to freedom of expression and media freedom by bringing all national legislation into line with Timor-Leste's international obligations and other international standards.
- Revise the Media Law to ensure it is in line with international standards and best practices related to the exercise of the right to the freedom of expression.

- Decriminalise defamation in the Penal Code and refrain from introducing new laws or provisions limiting either offline or online expression.
- Ensure that journalists, writers and civil society can work freely and without fear of retribution for expressing critical opinions or covering topics that the government may deem sensitive. Further, adopt a framework for the protection of journalists from persecution, intimidation and harassment.
- Revise Decree-Law 43/2016, Rules Relating to Access to Official Documents, or adopt a new law on access to information, in line with international standards, to promote the full exercise of the right to access information.
- Refrain from adopting any laws providing for censorship or undue control over social and conventional media content.

#### **6.4 Freedom of peaceful assembly**

- Adopt best practices on the freedom of peaceful assembly, as put forward by the 2012 report of the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, which calls for simple processes for the notification of assemblies being held rather than permission being required.
- Amend the Law on Freedom of Assembly and Demonstration (No. 1/2006), in particular articles 5, 6, 7 and 15, to guarantee fully the right to the freedom of peaceful assembly in line with international law and standards. Ensure that protests can be held within sight and sound of their targets.
- Conduct immediate and impartial investigations into all instances of arbitrary arrests and use of excessive force by security forces in the context of protests.
- Review, and, if necessary, update existing human rights training for police and security forces, with the assistance of international experts and independent CSOs, to foster more consistent application of international human rights standards, including the UN Basic Principles on the Use of Force and Firearms.
- Publicly condemn at the highest levels all instances of arbitrary arrests and the use of excessive force by security forces in response to protests, launch formal investigations into such instances and bring the perpetrators to justice.
- Provide recourse to judicial review and effective remedy, including compensation, in cases of unlawful denial of the right to the freedom of peaceful assembly and use of excessive force by state authorities.

## **6.5 Access to UN Special Procedures mandate holders**

- Facilitate official missions by UN Special Procedure mandate holders and prioritise official visits by the: 1) Special Rapporteur on the situation of human rights defenders; 2) Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression; 3) Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association.

## **6.6 State engagement with civil society**

- Implement transparent and inclusive mechanisms of public consultations with CSOs on all issues mentioned above and enable the more effective involvement of civil society in the preparation of law and policy.
- Ensure effective participation of CSOs in the UPR process, including in the development of the national report as well as in the implementation of UPR recommendations.
- Incorporate UPR recommendations in all government plans and policies for the promotion and protection of all human rights, taking into account the proposals of civil society, and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.

## CIVICUS Joint UPR Submission Timor-Leste Annex: Assessment of implementation of civic space recommendations under the 2<sup>nd</sup> cycle

Recommendation	Position	Assessment/Comments on level of implementation
<p><b>89.37</b> Implement the Media Law in line with all obligations under international human rights law (Norway);</p> <p><b>Source of position:</b> A/HRC/34/11/Add.1</p>	Accepted	<p>Status: Partially Implemented</p> <p>Source: Section 4</p>
<p><b>89.79</b> Recognize the legitimacy of the work of human rights defenders and provide them with protection, and avoid arbitrary arrests and reprisals, investigate threats or attacks against them and bring those responsible to justice (Uruguay);</p> <p><b>Source of position:</b> A/HRC/34/11/Add.1</p>	Accepted	<p>Status: Partially Implemented</p> <p>Source: Section 3</p>
<p><b>89.80</b> Adopt measures to prevent arbitrary detention and to avoid excessive use of force by security forces (Costa Rica);</p> <p><b>Source of position:</b> A/HRC/34/11/Add.1</p>	Accepted	<p>Status: Partially Implemented</p> <p>Source: Section 5</p>
<p><b>89.123</b> Uphold its international human rights obligation and constitutionally provided rights of freedom of expression, including freedom of the press, to all persons in Timor-Leste (United States of America);</p> <p><b>Source of position:</b> A/HRC/34/11/Add.1</p>	Accepted	<p>Status: Partially Implemented</p> <p>Source: Section 4</p>
<p><b>89.124</b> Take the necessary political and legal provisions to ensure that the implementation of the Media Law of 2014, particularly the requirement of accreditation of journalists and their obligation to defend the public interest and the democratic order, will not be translated into limitations on freedom of expression and the press (Costa Rica);</p> <p><b>Source of position:</b> A/HRC/34/11/Add.1</p>	Accepted	<p>Status: Fully Implemented</p> <p>Source: Section 4</p>
<p><b>89.125</b> Bring the new Media Law in line with international standards, and particularly ensure that it does not undermine the work of journalists, freedom of expression and the right to information of the population (France);</p> <p><b>Source of position:</b> A/HRC/34/11/Add.1</p>	Accepted	<p>Status: Partially Implemented</p> <p>Source: Section 4</p>

<p><b>89.126</b> Take further measures to ensure freedom of expression (Japan);</p> <p><b>Source of position:</b> A/HRC/34/11/Add.1</p>	<p>Accepted</p>	<p>Status: Partially Implemented</p> <p>Source: Section 4</p>
<p><b>89.127</b> Continue to take measures to ensure freedom of the press and media (Namibia);</p> <p><b>Source of position:</b> A/HRC/34/11/Add.1</p>	<p>Accepted</p>	<p>Status: Partially Implemented</p> <p>Source: Section 4</p>