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Balibo's ghosts and East Timor's media law

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Australia's stake in East Timor's media freedom is rooted in that country's hillside town of Balibo. It was there on October 16, 1975 that invading Indonesian military forces [killed, execution-style](#), five journalists - Greg Shackleton, Tony Stewart, and Gary Cunningham from Melbourne's Channel Seven and Brian Raymond Peters and Malcolm Rennie from Sydney's Channel Nine - to prevent them from reporting on the invasion.

The Australian Government should make it clear that media freedom is an indispensable component of a prosperous and stable society and demand that East Timor nurture a free media, not undermine it.

Indonesian troops on December 8, 1975 killed [Roger East](#), an Australian reporter drawn to East Timor to determine the fate of the [Balibo Five](#).

Four decades later, East Timor's journalists and foreign correspondents are again under threat. A new media law that East Timor's [parliament passed](#) on May 6 has the power to stifle the country's still-fragile media freedom. East Timor's Court of Appeal is [reviewing](#) the law's constitutionality in response to a July 14 request by president Taur Matan Ruak.

Although the Media Act explicitly enshrines "freedom of the press", "freedom of expression", and "prohibition of censorship", elements of the law will give the government a free hand to gag journalists and the organisations they work for.

Exhibit A of the Media Act's intrinsic hostility to media freedom is its creation of an official Press Council. While the law tries to describe the Press Council as a benign five-member "independent administrative entity", its key functions and reliance on state funding make it a potentially serious threat. The Press Council would

have the power to "grant, renew, suspend and revoke" the journalists' credentials under a new licensing system.

That licensing system imposes minimum periods of work internship for prospective journalists of six to 18 months depending on their education level. It also would give the Press Council effective power over who media organisations can hire by prohibiting them from employing any journalists "not duly certified with their [Press Council] credentials".

The licensing system would apply equally to domestic and foreign media organisations and their staff, giving the Press Council the power to approve or deny foreign correspondents' access to the country. Many of the world's most respected journalists never went to journalism school, yet these requirements would make it impossible for independent journalists lacking formal journalistic training to work.

The law's narrow definition of a journalist also ignores the value of a new generation of citizen journalists and bloggers who constitute a growing source of news in global media markets. The United Nations Human Rights Committee, the independent body that monitors compliance with the International Covenant on Civil and Political Rights, agrees.

The committee has [stated](#) that, "journalism is a function shared by a wide range of actors, including professional full-time reporters and analysts, as well as bloggers and others who engage in forms of self-publication in print, on the internet or elsewhere, and general state systems of registration or licensing of journalists are incompatible" with the full realisation of freedom of expression "essential for the promotion and protection of human rights".

The Media Act does more than just dictate who can aspire to be a journalist in East Timor. It also imposes ambiguous "functions" and "duties" that could make journalists vulnerable to retaliation for reporting critical of the government.

Journalists would be obligated, along with reporting the news, to "promote the national culture", and "encourage and support high quality economic policies and services". Another provision requires journalists to "promote public interest and democratic order".

The danger for journalists lies in the law's omission of any specific explanation or clarification of what these obligations actually entail. As a result, the government has dangerously wide latitude in interpreting the law to the detriment of journalists' ability to report without fear of violating these ambiguous requirements.

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The government could, for example, interpret reporting on corporate malfeasance or environmental pollution by a local factory as a violation of journalists' legal obligation to "support high quality economic policies and services". Media reporting exposing graft, corruption or threats to public health might prompt the government to respond with legal action on the basis that such reports were a threat to "public interest and democratic order".

Not surprisingly, Timorese human rights activists have raised serious [concerns](#) about the new law's impact on media freedom. [Journalists](#) and activists have [criticised](#) the drafting and passage of the Media Act for a lack of transparency and consultation, with little or no formal opportunity for the public to comment.

They have good reason to fear that elements of the government and security forces want to intimidate

<https://www.hrw.org/news/2014/08/04/balibos-ghosts-and-east-timors-media-law>

journalists. The national police commissioner, Longinhos Monteiro, in March 2012 [warned](#) that police would arrest journalists who published "inaccurate" news articles.

In October 2012, the public prosecutor in Dili, the capital, [imposed](#) house arrest on two journalists who had written critically about an investigation of a fatal traffic accident.

East Timor's journalists and foreign correspondents - who spent decades under the boot heel of an oppressive Indonesian military occupation - deserve better. Journalists, including freelancers, took great risks and made enormous sacrifices to report the truth during the darkest days of Indonesia's occupation.

The government should recognise that the Media Act in its current form would betray those sacrifices.

The Australian Government has stated its "strong interest in a prosperous and stable Timor-Leste" and has budgeted [\\$112.3 million](#) in development aid in 2013-2014. The Australian Government should make it clear that media freedom is an indispensable component of a prosperous and stable society and demand that East Timor nurture a free media, not undermine it.

In a moving [final broadcast](#) three days before his death in October 1975, the Australian journalist Greg Shackleton recounted the desperation of East Timorese at the apparent lack of concern of the international community to their country's plight.

"Why, they asked, are the Australians not helping us?" an emotional Shackleton said into the camera. East Timor's journalists shouldn't have to ask that same question in 2014.

Australian Government silence on the threat posed by East Timor's Media Act would be a betrayal of those journalists and a disservice to the memory of the Balibo Five.