



## The Asia Foundation

July 11, 2014

Excellency Taur Matan Ruak  
President, Democratic Republic of Timor-Leste (RDTL)  
Dili, Timor-Leste

cc: Sr. Fidelis Magalhães – Chefe da Casa Civil da Presidencia da Republica  
Sr. Tiago Amaral Sarmiento – Legal Advisor to the President  
Research Department – Office of the President

**RE: Concerns regarding the proposed Media Law**

Dear Excellency Taur Matan Ruak:

Please accept the compliments of The Asia Foundation and thank you for considering our concerns regarding the Media Law currently under review by Your Excellency's office. As an international development organization working in 19 country offices, The Asia Foundation is committed to a peaceful, just, and thriving Asia. The Foundation has been engaged in Timor-Leste since 1992 supporting good governance, justice, security, and democracy. We also appreciate the close working relationship that we have with the Office of the President, with specific reference to recent collaborations regarding evidence-based research projects in the areas of literacy and public transport.

The intent of this letter is to share with you some of the concerns which the Foundation has regarding the recent Media Law which has been sent to Your Excellency for promulgation by the National Parliament. Our view is not one of criticism nor disrespect, rather one of constructive engagement.

It is true that the journalism industry in Timor-Leste requires significant professionalization and development. As such, the Foundation believes that investment in support of the press, including education of local journalists, support to foreign journalists, and encouraging a free press would accomplish these objectives more effectively than restrictive legislation. Most developed countries in the world do not have specific legislation regulating the press. However, if Timor-Leste wishes to establish regulations, it may make sense to structure any future legislation around the basic guarantees of freedom of speech; right of reply; dispute mediation; historical archive and the allocation of radio/TV spectrum, rather than the emphasis on credentialing, definition of 'journalist' and the government's engagement in the code of ethics.

In our work throughout Asia, we have witnessed first-hand the importance of a vibrant press and believe it to be a fundamental component of a thriving society. As such, we are concerned by the content of the Media Law. Analysis of the law indicates certain fundamental flaws, placing it in explicit violation of the Constitution of Timor-Leste and international law.

As Your Excellency is aware, freedom of expression is a universal principle of democratic nations and a basic human right, as guaranteed by Article 19 of the International Covenant on Civil and Political Rights, which

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Timor-Leste has ratified, as well as by Articles 40 and 41 of the Constitution of Timor-Leste. The main area of our concern is the impact which this law is bound to have on the evolution of expression for Timorese and those engaged in Timor-Leste, be it NGOs, academics, journalists or other entities. If the law is enforced, even against a few, it will have a chilling effect on free speech for everyone. In particular, this law would not only curb the activities of individuals working as journalists for commercial media outlets, but would also curb the exchange of ideas between ordinary citizens.

From a more personal perspective, we are particularly concerned that, under this law, the Foundation (and others like it) would be in violation of Article 13.5 which precludes people who do not meet the law's definition of a "journalist" from publishing information. This would therefore bar us from writing and publishing research, surveys and polls and other information for the use by government, development agencies, academics and the public. More concerning to us however is the potential impact which this law could have on the *public's* ability to participate in the policy making process. Under this law, interested parties would be barred from publishing research, contributing to analysis, blogs, or to even engage in dialogue on social media.

Given Your Excellency's proven track record and commitment to evidence-based research, we respectfully urge Your Excellency to carefully consider the law and protect free speech, free media, and a free and vibrant press.

Once again, please accept our compliments and appreciation for consideration of our concerns. We appreciate the opportunity to submit this letter with deep respect and humility. As an organization, we continue to work hand-in-hand with governments, civil society, academics and private sector across Asia and in Timor-Leste to improve policy making processes to lead to effective and responsive policies for citizens. If we can in any small way assist with analysis, consultation, or to facilitate a public engagement in this process, we stand ready to assist.

If Your Excellency requires any clarification or further information, we would be honored to meet or discuss this matter.

Respectfully,

A handwritten signature in black ink, appearing to be 'SM' with a flourish extending to the right.

**Susan Marx**

**Country Representative**

The Asia Foundation

Dili, Timor-Leste

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