



Submission to Committee A of the National Parliament
from
La'ó Hamutuk
about
the Proposed Amendment to the Penal Code:
Rejecting Criminalization of Defamation and
Supporting Protection of Victims of Sexual Violence
June 6, 2026

Contents

Introduction	2
La'ó Hamutuk's Main Concerns	2
The Bill Criminalizing Defamation Violates International Human Rights Conventions.....	3
Criminalizing Defamation Reawakens the Trauma of the Indonesian Occupation.....	3
We Need a Whistleblower Protection Law rather than Criminalization of Defamation	4
Public Figures should be Ready to Accept Criticism, not to Hide Behind this Law	4
Means to Prosecute Defamation Already Exist	4
Lack of Public Consultation	4
Contradiction with the Principle of Public Justice	5
Conclusion.....	5
Recommendations	5

Introduction

La'o Hamutuk expresses its appreciation to the National Parliament for giving civil society a chance to contribute to the discussion on the bill amending the Penal Code. This bill is important because it deals with two sensitive issues that need to be clearly separated with clarity, the protection of victims of sexual violence and the criminalization of crimes against honor.

In May 2020, a bill amending the Penal Code and criminalizing defamation was introduced in Parliament. Historically, the draft law amending the Penal Code to criminalize defamation was initiated by the Ministry of Justice in June 2020. At that time, La'o Hamutuk wrote a submission¹ to the Ministry of Justice and an open letter² to the National Parliament to reject the proposal, because the proposal violates the RDTL Constitution (articles 6, 40, 41), contravenes international human rights standards (article 19 of the Universal Declaration of Human Rights), will eliminate the freedom of civil society to express criticism and will prevent journalists, activists, and the public from expressing opinions.

La'o Hamutuk also issued a press release, discussed the issue with other civil society organizations, journalists' associations and human rights defenders, and asked the National Parliament and the Government to stop the process. Due to strong resistance from the public, civil society, journalists and human rights organizations at that time, the Government suspended the proposal in August 2020. However, it was not officially cancelled. The 2020 bill expired and the Ministry of Justice did not present it to Parliament.

Now this year, Members of the National Parliament are proposing this bill, which again tries to criminalize defamation. Therefore, La'o Hamutuk is concerned, and warns Parliament that defamation should not be criminalized, but it would be better to improve the process under the civil code. If Parliament wants to revive the law criminalizing defamation in 2026, it should hold a full public consultation and listen to everyone's voices. If Parliament does not consult, then Parliament makes the same mistake as the Ministry of Justice did in 2020 and ignores the recommendations of the Universal Periodic Review (UPR) for Timor-Leste.

Currently, democracy and freedom of expression are better in Timor-Leste than in every other ASEAN country. We should be proud of this distinction, and we must not create laws that devalue the sovereign democracy that we won through a long struggle. Timor-Leste must continue to be a model of freedom of expression for our neighbors.

La'o Hamutuk's Main Concerns

La'o Hamutuk supports criminalization of sexual harassment, non-consensual sexual acts and incest. This area responds to a gap that for many years prevented the justice system from protecting victims, especially women, children, youth and vulnerable persons. However, the approval of these articles must be accompanied by implementation measures, training for the PNTL, the Public Prosecutor's Office, the Public Defender's Office and the court, victim interview protocols, psychosocial support, witness protection, interpreters, health referrals and adequate funding. A good law will be weak unless the victims can access safe, speedy and trauma-sensitive justice.

¹ <https://www.laohamutuk.org/Justice/defamation/2020/LHsubMJDefamasaun15Jun2020en.pdf>

² <https://www.laohamutuk.org/Justice/defamation/2020/LHbaPN15Jun2020te.pdf>

La 'o Hamutuk agrees that freedom of expression is not an absolute right. But limitations on freedom of expression must follow the principles of legality, necessity and proportionality. When there are civil mechanisms, the right of reply, rectification, proportional compensation and media ethics, prison sentences for defamation are unnecessarily severe and dangerous.

La'o Hamutuk recognizes that the State has a constitutional duty to protect human dignity, personal integrity, sexual freedom, family, honor and reputation. However, in a democratic state, the protection of dignity and reputation must not sacrifice freedom of expression, freedom of the press, public participation, the right to criticize authority, and the people's right to receive information on public issues.

The Bill Criminalizing Defamation Violates International Human Rights Conventions.

Timor-Leste, as a party to the International Covenant on Civil and Political Rights, has an obligation to respect freedom of expression and ensure that any restriction of this right is legal, necessary and proportionate. The proposed law criminalizing defamation is against Human Rights, especially Article 19 of the Universal Declaration of Human Rights and Article 23 of the RDTL Constitution, because it criminalizes freedom of expression and access to information.

La'o Hamutuk totally rejects the criminalization of defamation because this proposal threatens freedom of expression and justice for vulnerable people. The law should protect everyone's rights, not penalize criticism or limit access to information. Our position is that the remedy must be proportionate, civil, reparative and compatible with freedom of expression, not prison sentences that can intimidate journalists, activists, whistleblowers, academics, affected communities and citizens.

La'o Hamutuk also wants to warn about the risk of Strategic Lawsuits Against Public Participation (SLAPP), judicial proceedings that can be used to silence public discussion. In Timor-Leste, the power differences between public figures, large companies or state contractors and journalists, NGOs, rural communities and ordinary citizens is very large. Defamation laws with prison sentences can exacerbate this imbalance, as people with economic and political power can use criminal prosecution to intimidate those who share information about corruption, public contracts, environmental impacts, debt or regulatory capture.

Defamation laws which threaten imprisonment can be instruments to protect extractive companies, large infrastructure contracts and collective entities from public scrutiny. Affected communities and civil society should be free to have discussions and share information on environmental impacts, unfair contracts, public debt, conflicts of interest and regulatory capture. Criminal law should not be an instrument to protect extractive power by suppressing community voices.

Criminalizing Defamation Reawakens the Trauma of the Indonesian Occupation Because it Resembles Suharto's Repression.

Timor-Leste is part of a world that is committed to bringing the country to a democratic environment with respect for human rights; we must not undermine our integrity and the value of popular resistance. The bill criminalizing defamation could reactivate the trauma that Timorese people experienced during the Indonesian occupation. This type of intergenerational trauma can be passed on to the next generation if we do not heal it now. If we opposed the repressive occupation, we ourselves must not repeat the oppressive policy of the Indonesian military that arrested and killed

anyone who mentioned, criticized, defamed or cursed the Suharto regime at that time. For this reason, La'o Hamutuk totally rejects this criminalization bill in the past, present and future.

La'o Hamutuk does not compare Timor-Leste's democratic Parliament with the occupation regime, but we would like to remind you that historical memory obliges us all to be careful of any law that limits public speech. We all trust that Timor-Leste did not build its independence so that the people would return to a culture of fear; our independence was built on freedom, dignity, solidarity and the courage to speak the truth. Strong democracy is not uncritical democracy; a strong democracy is a democracy that listens to criticism, responds with evidence, corrects mistakes and respects the people as the source of its sovereignty.

We Need a Whistleblower Protection Law rather than Criminalization of Defamation.

Timor-Leste does not yet have an effective law to protect whistleblowers (people who report crime, corruption, or abuse within an institution). If the law criminalizing defamation is approved and there is no law to protect whistleblowers, then people who disclose information about corruption, abuse of power, violence or environmental risks will be more threatened. Therefore La'o Hamutuk thinks it is more necessary to make a law that provides security for people who disclose information about crimes related to the public interest.

Public Figures should be Ready to Accept Criticism, not to Hide Behind this Law.

Article 2.1 of the RDTL Constitution states: "Sovereignty rests with the people, who shall exercise it in the manner and form laid down in the Constitution." Public figures, public companies, state contractors and entities that manage people's resources should receive greater oversight or control.

People deserve strong reputational protection, but public authorities and entities acting in the public interest should not use criminal law to avoid criticism. If information is false, the appropriate response is correction, right of reply, public clarification, proportionate civil compensation or media ethics mechanisms -- not prison. When a public figure feels offended by criticism, they may resort to civil means or public retraction. There is no need to send people to prison.

Timor-Leste already has Ways to Prosecute Defamation.

There are already many articles in the Civil Code (articles 67 to 78) that talk about other means to process the problem of defamation, which describe a civil allegation by the victim against the defamer. In addition, if a person falsely makes a complaint to the authorities against someone who is "accused" of a crime, article 285 of the penal code considers the action as the crime "*Denúncia Caluniosa*".

The Media Law also includes mechanisms to suppress defamatory false news and to require the publication of news in self-defense.

Lack of Public Consultation

This bill creates new serious crimes and affects the fundamental freedoms of all people. La'o Hamutuk appreciates that Parliament has initiated public consultation with some entities, however we encourage national consultation before the final debate and vote.

Consultation should not only be done in Dili, but needs to reach the municipalities and needs to have a document in clear legal Tetun; it also needs to hear the perspectives of journalists, the Press

Council, women and children's organizations, youth, people with disabilities, PDHJ, the Public Prosecutor, PNTL, the Public Defender, Church, local authorities, academics, survivors of sexual violence and rural communities. Consultation reports should be published before the final discussion and vote.

Contradiction with the Principle of Public Justice

Proposed articles would criminalize defamation, insult, offense to the memory of the deceased, offense to the collective entity with a system in which the initiative to prosecute depends on the victim's complaint, not on the public prosecutor (*particular accusation*). The victim must file a case and follow the process, not the State through the Public Prosecutor's Office. The articles on sexual harassment and sexual disturbance use a mixed system, depending on the complaint (*particular accusation*), but the process is handled by the public prosecutor when the victim is under the age of 17 or vulnerable.

The *particular accusation* system for defamation in this proposal is logical (it protects victims' autonomy and prevents abuse by the State), but it has a major weakness in that 'small' victims who are poor and rural will find it difficult to access justice because they have to pay lawyer fees, complicated court fees, time and energy during the long process. Increased protection for vulnerable victims and prevention of abuse by *particular accusation* are needed, to ensure that justice is not only for those who have money.

Conclusion

La'o Hamutuk as an organization which has worked for 26 years to promote democracy and human rights in Timor-Leste supports the positive step to criminalize sexual harassment, sexual assault and incest.

However, the criminalization of defamation with imprisonment is a serious threat to freedom of expression, democracy and human rights. Public figures should be willing to accept factual criticism. Timor-Leste is not a dictatorship, but a democratic nation where sovereignty lies with the people. Whistleblowers need protection not imprisonment. Parliament should hold a public consultation before deciding on this law.

La'o Hamutuk asks Parliament to separate the two issues in the Bill. The section on sexual harassment, non-consensual sexual acts and incest could continue with victim-centered public consultation. The part about defamation with imprisonment should not be added to the Penal Code. If Parliament wants to regulate reputation, the matter should be dealt with through separate civil law, right of reply, rectification, proportionate compensation, mediation, the Press Council, media ethics and anti-SLAPP mechanisms.

For these reasons, La'o Hamutuk urges that the approval process be suspended, and that a full public consultation be held and that the criminalization of defamation be removed from the draft law. It should only enact new crimes that protect the victim (harassment, importunate sex acts and incest).

Recommendations

Based on the above analysis, La'o Hamutuk recommends to the National Parliament:

1. Remove articles 187-A to 187-H from the draft law amending the Penal Code. If Parliament insists on regulating defamation, it should remove all prison sentences and regulate it

through separate civil law with safeguards for truth, good faith, public interest, political criticism, journalistic criticism, opinion, criticism with humor, irony or artistic form, academic research, denunciation of corruption, anti-SLAPP and whistleblower protection.

2. Consult the people of Timor-Leste. La 'o Hamutuk asks Parliament to suspend the approval process until there has been public consultation open to civil society organizations, journalists' associations, women's and children's organizations, human rights defenders and local communities. Democracy requires participation, not top-down decision-making.
3. Continue to discuss the article on sexual harassment, non-consensual sexual acts and incest, but with public consultation. Parliament must also ensure the budget and institutional capacity for the law to be effectively implemented.
4. Strengthen the right of reply, correction, media ethics, media literacy, independent fact-checking and civil mechanisms that are quick, lower cost and accessible to the poor. Reputation protection should serve the people, not be a weapon for the powerful.

This is what we would like to say, and we hope that these recommendations will help the Honorable Members of Parliament to weigh and analyze the impact of the bill on the people of Timor-Leste, especially to guarantee that the law represents everyone's interests and protects "little people." We are ready to participate in discussions or public hearings in the National Parliament whenever possible. Finally, democracy is not to shut people's mouths but democracy is to listen, discuss and decide with the citizenry. Thank you very much for your consideration and attention.

Sincerely,



Marta da Silva



Celestino Gusmão



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