

# Timor-Leste plans to restore criminal defamation law amid concerns about its free speech impact

[<https://globalvoices.org/2020/06/20/timor-leste-plans-to-restore-criminal-defamation-law-amid-concerns-about-its-free-speech-impact/>]

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[[https://commons.wikimedia.org/wiki/File:2019-08-07\\_Computerkurs\\_in\\_Osttimor.jpg](https://commons.wikimedia.org/wiki/File:2019-08-07_Computerkurs_in_Osttimor.jpg)]

Computer course in Timor-Leste. Photo by José Fernando Real. Wikimedia Commons. (CC BY-SA 4.0). [<https://creativecommons.org/licenses/by-sa/4.0/deed.en>]

Media and civil society leaders in Timor-Leste have expressed concern about the possible reintroduction of a criminal defamation law in the country.

On June 5, the Minister of Justice said that the [draft law](http://www.laohamutuk.org/Justice/defamation/2020/DraftDefamationLaw5Jun2020EnTePt.pdf) [<http://www.laohamutuk.org/Justice/defamation/2020/DraftDefamationLaw5Jun2020EnTePt.pdf>], which he plans to present to the Council of Ministers, will restore to the country's penal code the offence of criminal defamation that was removed when the government adopted a new Press Code in 2014.

According to the draft, any person who “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” can be held liable for criminal defamation. The penalty is one-year imprisonment or a fine, but violators face up to three years in prison if the plaintiff is a public official, or if the offensive statement is made through traditional or social media. Any person who defames a company, a former government official, or a deceased individual also faces a penalty under the law.

The document cites [<http://www.laohamutuk.org/Justice/defamation/2020/DraftDefamationLaw5Jun2020EnTePt.pdf>] the widespread use of social media as one of the reasons for the amendment to the penal code:

*...through the media and social networks, the offenses against honour, good name and reputation are amplified, thus causing repercussions that affect more seriously the dignity of those targeted, and also the dignity of the State, who should also be responsible for protecting its own dignity.*

But Nobel Laureate and former president of Timor-Leste José Ramos-Horta cautioned [[https://www.facebook.com/officialramoshorta/posts/3177122472339615?\\_tn\\_=-K-R](https://www.facebook.com/officialramoshorta/posts/3177122472339615?_tn_=-K-R)] the government about the possible impact of the proposed law on freedom of expression. He also doubted [<https://asiapacificreport.nz/2020/06/09/ramos-horta-slams-criminal-libel-plan-threat-to-rights-in-timor-leste/>] whether the country's problems could reasonably be blamed on the widespread use of social media:

*I do not see that over the years the proliferation of social networks has affected in any way, the security, peace or development of the country and the dignity or prestige of the government.*

*If we do not want the media and social networks to report embarrassing things that do not dignify, let us behave with greater civility.*

The last sentence refers [<https://asiapacificreport.nz/2020/05/19/chaos-in-timor-leste-parliament-as-politicians-try-to-gag-deputy-speaker/>] to a violent confrontation that took place among members of parliament during a sitting in May.

Civil society group La'o Hamutuk asserted in a June 15 statement to the government that “people should not be afraid to speak the truth.” The group warned [<http://www.laohamutuk.org/Justice/defamation/2020/LHsubMJDefamasau15Jun2020en.pdf>] about the potential effects of the proposed law on ordinary citizens:

*This draft law threatens everyone, particularly vulnerable people without political connections or financial resources. The law has the potential to silence women who have experienced violence or sexual assault, and prevent them from writing or talking about their experiences without hard evidence.*

La'o Hamutuk added that the authorities could possibly use the defamation law to undermine the work of civil society groups:

*If we suggest that policies promoted by politicians to spend hundreds of millions on roads and airports rather than on health and education endanger the lives of ordinary people, could the Government file a case against us? If we oppose military leadership using armed force to limit election campaigning, will the state put us in prison?*

Virgilio Guterres, president of the Timor-Leste Press Council, criticized the “hasty public consultation” and the untimeliness of introducing this measure “in the midst of a state of emergency when the majority of the population concentrates their worries on the measures to prevent Covid-19.” He also reminded [<http://www.laohamutuk.org/Justice/defamation/2020/KonselluImprensaKI9Jun2020PtEn.pdf>] the authorities about the suppression of free speech during the country's fight for independence when it was occupied by Indonesia from 1975 to 1999:

*Over the years of occupation, many have been jailed for free speech. In order to value and dignify sacrifices, we have to ensure that there can no longer be a citizen imprisoned for expressing himself or for having a different opinion.*

Timor-Leste Press Union accused [<https://www.ifj.org/media-centre/news/detail/category/press-releases/article/timor-leste-proposed-defamation-law-petitioned-by-media-rights-groups.html>] the government of trying to silence critics:

*The government is trying to use a national emergency opportunity to endorse this bill with the aim of punishing those who berate leaders and politicians, but in our opinion this is to criminalize journalists and all citizens not to criticize the government.*

Jane Worthington, the Asia-Pacific director of the International Federation of Journalists (IFJ) highlighted [[https://www.ifj.org/fileadmin/user\\_upload/200610\\_Timor\\_Leste\\_Defamation\\_Law.pdf](https://www.ifj.org/fileadmin/user_upload/200610_Timor_Leste_Defamation_Law.pdf)] an alarming provision in the proposed law.

*This proposed law contains ill defined 'offences' and switches the focus of any complaint to the journalist and/or publisher to 'prove' the subject to the complaint. Put simply, it places the legal burden of proving that a story is true upon the journalist and/or publisher.*

Jim Nolan, IFJ's legal expert in the Asia Pacific, noted [<https://www.ifj.org/media-centre/blog/detail/category/covid-19-report-safely/article/timor-leste-the-stink-of-criminal-defamation-stirs-again.html>] that Timor-Leste already has a mechanism on how to address complaints against media reporting without criminalizing free speech.

The government assured [<http://www.laohamutuk.org/Justice/defamation/2020/LusaDefamation6Jun2020EnTePt.pdf>] stakeholders that it will review the comments and suggestions of all those both in favor of and opposed to the measure.