

ASSESSMENT OF MEDIA DEVELOPMENT IN TIMOR-LESTE

BASED ON UNESCO'S MEDIA DEVELOPMENT INDICATORS



United Nations
Educational, Scientific and
Cultural Organization

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Introduction

Timor-Leste, or East Timor as it is known in English, is the youngest member of the United Nations, having been admitted on 27 October 2002. This followed on from it regaining effective independence from Indonesia in October 1999 and formally declaring its independence on 20 May 2002. It has had a somewhat turbulent history, including decades of struggle against Indonesian occupation.

Timor-Leste was a Portuguese colony until that country withdrew unilaterally in 1975. Indonesia invaded within days, annexing the territory by force. The Indonesian occupation was never recognised by the United Nations and international pressure, as well as a local military struggle by guerrillas of Falintil, the armed wing of Fretilin, the main independence movement, led to a referendum on independence in 1999. The expression of overwhelming support for independence in the referendum triggered a rampage by local pro-Indonesian militias, which in turn prompted the intervention of an international peacekeeping force. This led to the establishment of the United Nations Transitional Administration in East Timor (UNTAET), with a mission to help reconstruct the country and put in place a democratic system of governance.

In elections in August 2001 for the 88-member Constituent Assembly, the Fretilin party won a clear majority, taking 55 seats. In April 2002, Xanana Gusmão, the former leader of Falintil who had been imprisoned in Indonesia, was elected as President, a semi-executive post. These UN supervised elections, followed by the approval, in February 2002, of a new draft constitution by the Constituent Assembly, laid the way for the declaration of independence in May 2002.

A serious outbreak of factional violence, as well as widespread looting and arson, in 2006 represented a serious setback, and prompted the United Nations Security Council to approve a new peacekeeping mission, United Nations Integrated Mission in Timor-Leste (UNMIT.) Peace was quickly restored, but the incident has cast a long shadow over progress towards stable democratic status. Shortly after the violence, sitting Prime Minister Alkatiri resigned and Jose Ramos-Horta, a Nobel Peace Prize winner, was named as premier.

Shortly thereafter, in April 2007, Ramos-Horta won the presidential elections with a large majority of the vote, defeating Fretilin movement candidate Francisco Guterres. In the meantime, Gusmão set up a new party, the National Congress of East Timor's Reconstruction (CNRT), with a view to standing against Fretilin in the upcoming parliamentary elections in June 2007. In those elections, Fretilin won 21 seats in the 65-member Parliament, well short of a majority. Gusmão's party won only 18 seats but managed to form a coalition which together held 37 seats. When

President Ramos-Horta appointed Gusmão Prime Minister in August 2007, breaking the political impasse that followed the parliamentary elections, this sparked violent protests from Fretilin supporters.

Instability continued after that and, in February 2008, Ramos-Horta was seriously injured in an attack by a group of rebel soldiers and, as a result, asked the United Nations to maintain a security force in the country for another five years. The rebels eventually surrendered and, in a trial concluded in March 2010, were convicted and sentenced to long terms of imprisonment. Ramos-Horta later pardoned some of the rebels and commuted the sentences of the others.

Timor-Leste has a population of just 1.2 million people, spread over some 14,609 square kilometres of territory. Geographically, it lies to the Southeast of most of Indonesia, and just Northeast of Darwin, Australia. It is part of the island of Timor, the western half of which is part of Indonesia. Oecussi, part of Timor-Leste, is an enclave which is entirely surrounded by the Indonesian province of West Timor. It was the original landing place of the Portuguese, who retained control over it when the Dutch ruled Indonesia.

The economy of Timor-Leste has rapidly come to be dominated by the vast offshore oil and gas fields in the Timor Sea, which it shares with Australia. This is contributing billions of dollars to an offshore account, the Petroleum Fund, which is being used to fund local development efforts. According to the information we received, there is now about US\$5.5 billion in the Fund, of which some US\$1.3 billion is proposed to be spend in the 2011 budget.¹ Unemployment remains high as these resources, particularly the oil and gas fields, create few local jobs.

The official languages of Timor-Leste are Portuguese and Tetum. However, only a minority of the population speak Portuguese and many do not speak Tetum either. As a result of this, and due to the easy availability of media from that country, use of Indonesian remains widespread. There are, however, official efforts to promote Portuguese and Tetum. For example, Portuguese is set to become the sole language of instruction at the university level in 2012.

Timor-Leste ranks 120th out of 169 countries in the most recent (2010) UNDP Human Development Report (HDR), which reports a Gross National Income (GNI) of just over \$5300 in purchasing power parity (PPP) terms, a life expectance of 62 years, and a very low 2.8 mean years of schooling. Its Human Development Index (HDI) rank jumped 11 spots between 2005 and 2010, but remained level in 2009 and 2010.

The HDR contains no information about the rate of access to telephones or the Internet in Timor-Leste. However, a very extensive survey conducted by UNMIT²

¹ See <http://www.transparency.gov.tl/public/index>.

² The draft *Timor-Leste Communications and Media Survey Report*, produced by UNMIT and due to be

reports that 55% of households have mobile phones, while only 0.5% have access to the Internet.³ Only 7% of the population have ever used the Internet. The survey also reports that 34% of households have radios run on batteries, and 21% radios run on (mains) electricity. 25% have television sets, and 7% can access television via satellite dishes. 37% have no access to any media. The HDR does not include statistics on adult literacy rates, but the evidence suggests that these are quite low, and that 43% of the population over 15 years old cannot read.⁴

In terms of press freedom, Timor-Leste was ranked 78th out of 196 countries globally by Freedom House in their *Freedom of the Press 2010* report,⁵ with a score of 35 out of 100 (lower scores are better), earning it a ranking of partly free.⁶ This was its best score during the years 2006-2010, but was still 5 points worse than its score for 2005. The report attributed the improvement to a drop in violence against journalists and the repeal of the criminal defamation rules.

The media environment in Timor-Leste is quite rich for such a small country, and some interviewees even expressed the view that there were too many media for the country, given the slim financial base to support them. There are three main dailies, *Timor Post*, *Suara Timor Lorosae* (STL) and *Diario Nacional*, along with a number of weeklies, including *Jornal Nacional Semanario* and *Tempo Semanal*. Of these, STL is the most widely read, at 44% of all newspaper readers, followed by *Timor Post* at 38%, with *Diario Nacional* lagging far behind at 8%.⁷

The main broadcasters are the public stations, Televisiao Timor-Leste (TVTL) and Radio Timor-Leste (RTL). There are a few commercial radio stations, including Radio Timor Kmanek (RTK) and a radio run by STL. STL also runs a television station. There are also some 16-18 community radios across the country,⁸ including one in each of the 13 districts in the country.

Early on in its administration, UNTAET adopted regulations governing telecommunications,⁹ including setting up an independent regulatory authority, and public service broadcasting, establishing the Public Broadcasting Service of East

finalised later in 2011 (UNMIT Media Survey), pp. 7 and 58.

³ This is consistent with data from the National Statistics Office, which reported that in 2008 there were 926 Internet subscribers, rising to 2022 in 2009. Mobile phone usage was 125,022 in 2008 and 350,867 in 2009. See Timor-Leste in Figures, 2009, pp. 50-51. Available at: http://dne.mof.gov.tl/upload/Publication%20Stored%20Room%202008/Timor_Leste_%20in_%20Figures_2009.pdf.

⁴ UNMIT Media Survey, note 2, pp. 4 and 10. The Survey reports that 45% of the population have no schooling whatsoever, while another 30% have only low levels of education (some secondary schooling completed).

⁵ Available at: <http://www.freedomhouse.org/uploads/pfs/371.pdf>.

⁶ Table available at:

<http://www.freedomhouse.org/images/File/fop/2010/FOTP2010Global&RegionalTables.pdf>.

⁷ UNMIT Media Survey, note 2, p. 48.

⁸ It is not absolutely clear which are still active today, hence the range.

⁹ Regulation No. 2001/15 on the Establishment of an Authority for the Regulation of Telecommunications in East Timor.

Timor.¹⁰ In 2003, the new independent government adopted three laws amending, replacing or extending these decrees, on public service broadcasting,¹¹ on telecommunications,¹² and on the Communications Regulatory Authority.¹³

Apart from a Decree adopted in 2008 to give the public broadcaster corporate form,¹⁴ and any provisions in the new 2009 Penal Code¹⁵ that may affect the media, no legislation on the media has been adopted since that time. In accordance with Section 3.1 of Regulation No. 1999/1 on the Authority of the Transitional Administration in East Timor, “the laws applied in East Timor prior to 25 October 1999 shall apply in East Timor” inasmuch as they do not conflict with international human rights standards or subsequent rules adopted by either UNTAET or the democratically elected government.

By virtue of this rule, the Indonesian Press Law, No. 40 of 1999, adopted on 23 September 1999, applies in Timor-Leste. This law is generally considered to be a progressive piece of legislation which has protected the rights of journalists and the media well in the Indonesian context. However, a central element of this law is the establishment of the Indonesia Press Council, which serves to mediate disputes between the media, society and the government. It seems clear that, even if the Press Law itself applies, the structures that it establishes, namely the Press Council, cannot apply to Timor-Leste. Since 2009, when the parliament of Timor-Leste adopted a new Penal code, the Indonesian Penal Code no longer applies in Timor-Leste, but until Timor-Leste adopts a new civil code, which is now being considered by parliament, the Indonesian Civil Code will continue to apply.

The failure of post-independent Timor-Leste to put in place a wider legal framework for the media is not for lack of trying. Indeed, there have been almost continuous efforts by both civil society and the government to fill various lacunae in the legal system governing the media. All of these have foundered for one reason or another, leaving significant gaps in the overall regulatory environment, which are highlighted in detail in the body of this Report.

The most recent effort in this direction was a project of the government supported by UNDP, under the rubric of the Timor-Leste Media Development Initiative, which, among other things, worked on developing draft media legislation. A set of five laws was presented to the parliament early in 2009 (recent package of media laws). The five laws were the Statute of the Media Council, the Freedom of Information and the

¹⁰ Regulation No. 2002/6 on the Establishment of the Public Broadcasting Service of East Timor.

¹¹ Law No. 2/2003 of 10 March Amending UNTAET Regulation No. 6/2002, on the Establishment of the Public Broadcasting Service of East Timor.

¹² Decree-Law No. 11/2003 of 29 July Establishing the Bases for the Telecommunications Sector.

¹³ Decree-Law No. 12/2003 of 29 July Establishing the Communications Regulatory Authority and Approving the Statutes Thereof.

¹⁴ See Decree-Law No. 42/2008 on Transforming Timor-Leste Radio and Television Into a Public Company.

¹⁵ Decree Law No. 19/2009.

Conduct of Media Activity, the Statute for the Professional Activity of Journalists, the law on Community Radio Stations and the Right of Access to Administrative Documents or Documents Which May be Considered of Interest to the State of Timor-Leste.

Together, these draft laws seek to establish a broad framework for regulation of the media, journalists and access to information held by public bodies in Timor-Leste. However, they address neither the all-important issue of licensing of broadcasters, nor the question of ensuring that the public broadcaster is truly a public service broadcaster, both important legislative needs in the country.

When the draft laws were made public, they were strongly criticised by both local civil society organisations and members of the international community.¹⁶ A number of problems with these draft laws were highlighted by different actors. An overarching problem was the undue complexity of the laws, as well as the fact that they included significant overlap and repetition, leading to confusion and difficulty of application.

Otherwise, the laws appear to draw heavily on the Portuguese rules regarding the media and journalists, which may not be appropriate for Timor-Leste, given its very different culture, history and development challenges. Specific criticisms included the lack of independence of the Media Council, along with its excessive powers over the media, the system of accreditation/licensing of journalists, the imposition of extensive duties on journalists, stringent commercial limitations on media outlets, an unduly broad right of reply, unduly prescriptive rules on community broadcasters, the regime of exceptions to the right to access information held by public bodies, and the regime of sanctions.

The draft laws were never formally tabled in parliament and their future remains unclear. It seems unlikely, however, that they will be revived at this point. There was some attempt to redraft the laws to take into account the criticisms that had been made, but this does not appear to be moving forward at present.

The government has, however, made progress on the policy front, adopting the National Policy for Social Communications by Government Resolution No 21/2010 of March 31st (Media Policy). The Policy has also been criticised, in part because it reflects some of the problematical provisions found in the draft laws.¹⁷ It would

¹⁶ Analyses of the laws were produced by a number of international actors, including ARTICLE 19 and SEAPA. See ARTICLE 19's Memorandum on a set of Draft Laws Regulating Journalists, the Media and the Right to Information in Timor Leste of March 2009, and SEAPA's A Flawed Process: Drafting Media Laws in Timor-Leste, of 21 April 2009. Available, respectively, at: <http://www.article19.org/pdfs/analysis/timor-leste-draft-laws-regulating-journalists-the-media-and-the-right-to-inf.pdf> and http://www.ifex.org/east_timor/2009/10/07/seapamissionstatement-timor-leste-apr09.pdf.

¹⁷ See, for example, ARTICLE 19's Comment on the Draft National Policy on Mass Communication for Timor Leste, of September 2009. Available at: <http://www.article19.org/pdfs/analysis/comment-on-the->

appear that an important motivation for this is to allow the government to move forward with various initiatives aimed at supporting the development of the media, including through providing financial support and training.

A number of other key media development needs are highlighted in this Report. There has been a significant growth in the importance of government funds being channelled to the media – for example in the form of direct subsidies, advertising revenues and support for wider distribution of newspapers – with an attendant risk that this may, or already is, leading to excessive dependence on, and a reluctance to criticise government. Structures and systems to ensure that these benefits are not subject to political control should be established.

Community radio forms a very important part of the overall broadcasting ecology in Timor-Leste. But in at least some cases these broadcasters appear to have lost touch with the communities they are supposed to serve. Some effort to reaffirm this link is needed.

An enormous amount of training has been provided to the media in Timor-Leste in various ways, including by NGOs, the international community and at universities. However, there is a general consensus that the quality of media output has not improved significantly since independence or at least in the last five years. There is a need to assess why this is and to adjust training programmes based on this.

Finally, telecommunications costs, in the areas of both telephony and the Internet, remain extremely high in Timor-Leste. There are probably a number of reasons for this, including the fact that the country lacks a physical link to the global Internet backbone and the monopoly enjoyed by Timor Telecom in the provision of most telecommunications services. Ongoing efforts to address these problems need to be continued.

This Report assesses the overall state of media development in Timor-Leste, based on UNESCO's *Media development indicators: a framework for assessing media development*.¹⁸ The indicators are based on five main Media Development Categories, broken down into more detailed Issues and Key Indicators. This Report follows the same format, providing key recommendations at the end of each of the five main sections. The assessment of Timor-Leste relative to the indicators takes into account the special challenges facing the country, including its relative poverty, small population, geographic isolation and the wider challenges associated with its recent emergence from colonial rule and foreign occupation.

The primary methodology used in preparing this Report was a series of unstructured interviews conducted during a mission by the author to Timor-Leste,

draft-national-policy-on-mass-communication-for-timor-leste.pdf.

¹⁸ Available at: http://portal.unesco.org/ci/en/ev.php-URL_ID=26032&URL_DO=DO_TOPIC&URL_SECTION=201.html.

with support from the UNESCO Antenna Office in Dili and the Cluster Office in Jakarta, from 27 January to 3 February 2011. These interviews were, in some cases, followed up by further questions submitted by email. A list of those met during the mission is provided in the Annex. This was supplemented by an extensive literature review, including of the many studies and other products developed with support from the donor community, which has been very active in the area of media development in Timor-Leste since 1999.

Key Recommendations

Detailed recommendations are provided at the end of each of the five main chapters of this report, based on the Media Development Categories of the MDIs. The following are the key recommendations arising from this Report:

- The government should make it a priority to adopt legislation giving effect to the right to information in accordance with international standards.
- A complete framework should be put in place for the regulation of broadcasting which ensures that such regulation is overseen by an independent body and that licensing is done in the public interest, according to clear criteria that promote media diversity and through a process that is transparent and involves civil society.
- No conditions should be placed on who may practise journalism.
- Support should be provided to community radio stations to help them to renew their relationships with their host communities and to become more financially viable.
- The various modalities by which public funds are being provided to the media should be reviewed and systems should be put in place to ensure that the allocation of these benefits is not subject to political interference.
- The legal framework for Rádio e Televisão de Timor-Leste should be reviewed, in particular with a view to promoting its independence from government and its operational independence.
- Support should be provided to the media to help them adopt a code of conduct and put in place a self-regulatory system for processing public complaints.
- The system of training programmes for media workers in Timor-Leste should be reviewed to assess its impact and, based on this assessment, the programme should be adjusted so as to maximise its potential.
- Priority should be given to increasing the accessibility of quality access to the Internet and other communications technologies, including by providing a physical connection to the international Internet backbone and by addressing telecommunications pricing regimes through appropriate regulation.

I. Regulatory System

A system of regulation conducive to freedom of expression, pluralism and diversity of the media

A. LEGAL AND POLICY FRAMEWORK

1.1 Freedom of expression is guaranteed in law and respected in practice

Section 40 of the Constitution of the Democratic Republic of Timor-Leste guarantees “Freedom of speech and information”. It states that everyone has the right to freedom of speech and the right to “inform and be informed impartially”. This right may not be limited by censorship. Limitations on the right are allowed, in accordance with the following rule, set out in section 40(3):

The exercise of rights and freedoms referred to in this Section shall be regulated by law based on the imperative of respect for the Constitution and the dignity of the human person.

This is a strong guarantee of the right to freedom of expression, although it does fail to conform fully with international standards. The reference to the right to be informed ‘impartially’ is problematical, as it may be taken to suggest that expressions which are not impartial are not protected. It is quite clear under international law that there is no obligation on speakers to be impartial, outside of very limited circumstances. The primary guarantee is also more limited than international guarantees, inasmuch as it only protects the right to inform and be informed, but not the rights to seek and receive information and ideas, as provided for under international law.

The regime of restrictions does not provide the necessary protection for the right, in accordance with international standards. It allows for restrictions that are provided for by law, as long as these are based on the “imperative of respect for the Constitution and the dignity of the human person”. This leaves very wide scope for interpretation compared to international rules, which require restrictions to be necessary to serve one of the interests listed, namely the rights or reputations of others, national security, public order, or public health or morals.

The problems with section 40(3) may in part be mitigated by section 24, on ‘Restrictive laws’, which provides that rights may only be limited in order to safeguard other constitutionally protected rights or interests. Furthermore, laws restricting rights are required to be general in nature and may not trench on the essential content of the right. While welcome, this does not provide very clear guidance on restrictions on rights, since the rights and interests protected in the Constitution are broad in nature.

Section 41 of the Constitution contains detailed provisions on media freedom. This section guarantees freedom of the media, defined as freedom of speech for journalists, access to and confidentiality of information sources, editorial freedom, protection of media independence, and the right to found newspapers, broadcasters and other media. The section also prohibits media monopolies.

In terms of public broadcasting, the Constitution guarantees the independence and freedom of the public media from both political and commercial players. It also guarantees that there will be an impartial public radio and television service, with a mandate, among other things, of protecting and disseminating the culture and traditional values of the country, and of ensuring the dissemination of different views and perspectives. Finally, section 41 provides that broadcasters shall only operate under a licence, “in accordance with the law”.

These are, for the most part, extremely welcome protections. The definition of protected media freedom is very wide. Similarly, both the guarantee of the independence of the public media, as well as the definition of core elements of its mandate, provisions that are not often found in constitutions, are welcome. It would have been useful if the rule on independence had also been extended to any body that exercises regulatory powers over the media and, in particular, the body that licenses broadcasters.

Since it gained independence, Timor-Leste has ratified seven international human rights treaties, including the key treaty guaranteeing the right to freedom of expression, the *International Covenant on Civil and Political Rights* (ICCPR). The others are the *International Convention on the Elimination of All Forms of Racial Discrimination*, the *International Covenant on Economic, Social and Cultural Rights*, the *Convention on the Elimination of All Forms of Discrimination against Women*, the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, the *Convention on the Rights of the Child* and the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*.

It was difficult to assess with any precision the extent to which the public are aware of and exercise their right to freedom of expression. But speaking to people in Timor-Leste, especially those working in the media field, one has the impression that they have a strong sense of being vested with rights, and the willingness to assert them. At the same time, these same individuals did not necessarily always demonstrate a strong understanding of the precise scope and nature of the right to freedom of expression, which is quite a complicated right.

1.2 The right to information is guaranteed in law and respected in practice

There is no right to information law in Timor-Leste, providing for the right to access information held by public bodies. This was included in the recent package of media

laws, as described above, but, as noted, there does not appear to be much chance that these laws will be passed. The Indonesian Press Law does include a very general provision on the right of the media to seek and acquire information and ideas (Article 4(3)), but this does not specifically protect the right to access information held by public bodies. There is also no guarantee of the right to information in the Constitution. This, then, is a significant lacuna in the system of protection for freedom of expression in Timor-Leste.

The inclusion of the right to information in the recent package of media laws does signal a willingness on the part of the government to consider such legislation. Furthermore, the National Policy for Social Communications, adopted in March 2010, commits the government to adopting access to information legislation, at least for journalists (Clause 1.1). Timor-Leste has also ratified the UN Convention Against Corruption, Article 10 of which has been interpreted as placing an obligation on States Parties to adopt right to information legislation.

According to the information we received, only a limited amount of information is disclosed on a proactive basis. A quick browse of government websites appears to confirm this. For example, a central portal to government information – <http://www.gov.east-timor.org/> – lists Gusmão as President, while the website of the Ministry of Foreign Affairs and Cooperation¹⁹ lists Ramos-Horta as being the Minister. The tabs for Portuguese and Tetum both lead to sites under construction. However, a new web portal, <http://www.transparency.gov.tl/public/index>, does provide good access to budget information, although it is still under development.

Several interviewees indicated that it was difficult in practice to get information from public bodies, although at least some media outlets appear to have good information sources within government.

1.3 Editorial independence is guaranteed in law and respected in practice

As noted above, editorial independence is explicitly guaranteed in the Constitution, although this guarantee is not elaborated upon in law. Editorial independence would also have been covered in the recent package of media laws. It would appear that, in practice, there are few direct attempts to influence editorial content. There are also no formal requirements to allocate broadcasting time to the government.

Section 25 of the Constitution provides for the suspension of rights during a state of emergency which is declared in accordance with the Constitution. This may happen only where there is an “effective or impending aggression by a foreign force”, a serious disturbance or threat thereof to the constitutional order, or a public disaster. In this case, the declaration shall specify which rights are being suspended. A suspension shall only last for 30 days, but may be renewed, and the suspension shall be lifted as soon as possible. Certain rights may not be suspended, but freedom

¹⁹ See <http://www.mfac.gov.tp/>.

of expression is not one of them.

Procedurally, a state of emergency is declared by the President, upon authorisation of the parliament, and after consultation with the Council of State, the government and the Supreme Council of Defence and Security (section 85(g) of the Constitution). The parliament, in turn, is given the power to authorise a declaration of a state of emergency (section 95(3)(j)), as well as to make laws regarding this (section 95(2)(n)). The government, for its part, may make a proposal to the President suggesting that he declare a state of emergency (section 115(2)(c)).

These rules provide some protection against abusive suspension of rights, but the grounds for declaring a state of emergency are unduly broad. These may be contrasted with the rules under international law, which permit derogations from rights only in the context of an emergency which “threatens the life of the nation” (ICCPR, Article 4(1)). There are also no limitations on the extent of suspension of those rights which may be suspended, once an emergency has been declared. It would thus appear that broadcasters might possibly be seized in an emergency. International law only allows limitations which are “strictly required by the exigencies of the situation”.

1.4 Journalists’ right to protect their sources is guaranteed in law and respected in practice

Journalists’ right to safeguard the confidentiality of their sources finds direct protection in the Constitution. The conditions for this are not spelt out in a statutory law of Timor-Leste, although this right was included in the recent package of media laws. The right is protected in Article 4(4) of the Indonesian Press Law. Clause 4.3 of the National Policy for Social Communications recognises the right to “professional secrecy”, and calls for this matter to be regulated by the Penal Process Code. This suggests a somewhat limited notion of the right, since it should apply in all legal proceedings, not just criminal ones.

In practice, journalists have not been required by courts to disclose their confidential sources of information. In at least one case, courts have upheld the right to source confidentiality, during a prosecution relating to the February 2008 attack on Ramos-Horta. In December 2009, a journalist from *Tempo Semanal* was ordered to appear as a witness, based on an interview he had held with one of the defendants. However, the court upheld the right to protect his confidential source and he was not forced to testify.²⁰

1.5 The public and civil society organisations (CSOs) participate in shaping public policy towards the media

There appears to be general acceptance by the government that CSOs have a right to participate in the development of laws and policies which affect the media, although

²⁰ Freedom House, *Freedom of the Press 2010*, note 5, p. 99.

the manner in which this is put into practice can be improved.

When the media laws were being developed, for example, they were submitted directly to parliament, without civil society having been involved. The development of this legislation was done under an agreement between the government and UNDP, and different views were suggested by interviewees as to exactly how and why the drafts were submitted to parliament when they were. Parliament did hold a consultation with civil society once it had received the drafts, which were in any case never formally tabled in parliament. At the same time, something as important as the collective issues addressed in the recent package of media laws should have been subject to a process involving extensive consultation with civil society even before any drafts were produced.

Another example of a problematical consultation relates to the National Policy for Social Communications, adopted in March 2010. A draft of the policy was circulated widely in different languages in July 2009 for comment until December 2009. Apparently no submissions on the Policy were received from local civil society groups, although comments were received from a number of government ministries and some international NGOs. Several interviewees from civil society, however, complained about the process and felt that there should have been some sort of face-to-face meeting to discuss the proposals. In the end, the result was that there was no formal input into the policy by local civil society, which is clearly unsatisfactory.

B. REGULATORY SYSTEM FOR BROADCASTING

1.6 Independence of the regulatory system is guaranteed by law and respected in practice

Decree-Law No. 12/2003 of 29 July, along with its Annex, establishes the Communications Regulatory Authority, known as ARCOM by its Portuguese initials, as an independent public corporation (see sections 1 and 4 of the Statutes contained in the Annex). ARCOM's responsibilities include the management of the electromagnetic spectrum and conducting "compliance evaluation of equipment and materials" (sections 6(1)(c) and (j) of the Statutes). Neither the primary law nor the Statutes mention broadcasting, television or radio. However, by virtue of its control over the spectrum and equipment, ARCOM effectively serves as the licensing body for broadcasters (this role is discussed in more detail below).

Pursuant to section 19 of the Statutes, ARCOM has three main structures – the Board of Directors, the President of the Board of Directors and the Monitoring Committee – from among which the Board of Directors is the main oversight body (section 26). The Board is composed of a President and two voting members, appointed by the Prime Minister, on the basis of a proposal from the Minister of Transport, Communications and Public Works, from among people with "recognised reputation, independence, and technical and professional competence". There are

rules on conflicts of interest, preventing those with financial interests or a previous history of employment in regulated companies from serving on the Board (section 21).

Members serve for three years and may be reappointed. They may also be dismissed by the Prime Minister, on the basis of a proposal from the Minister of Transport, Communications and Public Works, “in case of a serious fault, proved to have been committed by the incumbent in the exercise of his or her functions or while fulfilling any obligation attached to his or her office” or for disability or a “supervening incompatibility” (sections 21 and 23). Pursuant to section 24, the Board as a whole may be dissolved by the Prime Minister, on the basis of a proposal by the Minister of Transport, Communications and Public Works, or an opinion issued by the ARCOM advisory board, in case of serious irregularities in the functioning of the Board or considerable unjustified overspending.

Funding for ARCOM, pursuant to section 40, comes mainly from fees, along with supplementary sources. Section 25 states that members of the Board are “independent in the exercise of their functions, and are not subject to any specific instructions or directives”.

The section 25 rule would formally prevent the government from directly intervening in a decision-making process by ARCOM. But the overall structure of the Board lacks the sorts of structural guarantees for independence that international law requires of bodies which exercise regulatory powers over the media. These guarantees go beyond simple decision-making autonomy and include systems designed to ensure that the individuals who are appointed are themselves not only subject to financial conflict of interest rules, but also subject to what may be described as political conflict of interest rules. To achieve this, international law requires members to be appointed in a manner that involves different social players, so as to avoid a situation where the governing party effectively decides who governs the body.

1.7 Regulatory system works to ensure media pluralism and freedom of expression and information

ARCOM is generally required to operate in a fair and impartial manner. For example, pursuant to section 11, it is required, in exercising regulatory powers, to observe the principles “of legality, of necessity, of clarity, of participation and of publicity”. In imposing penalties, it must comply with the “fundamental principles of Administrative Law” (section 10). ARCOM is also accountable to the public, through the Minister, for example, in relation to its expenditures and activities (see, for example, section 26).

As noted above, ARCOM’s role regarding broadcasters is simply to allocate spectrum. It therefore does not have any mandate to promote media pluralism, or freedom of expression and information. It does have limited powers to ensure that

broadcasting operates in a fair and efficient manner, at least as regards spectrum usage.

C. DEFAMATION LAWS AND OTHER LEGAL RESTRICTIONS ON JOURNALISTS

1.8 The state does not place unwarranted legal restrictions on the media

The law of Timor-Leste does not currently place any restrictions on the practice of journalism. Articles 7 and 8 of the Indonesian Press Law are widely understood as preventing any limitations on who may practise journalism. However, the National Policy for Social Communications does envisage imposing internship or professional requirements on journalists (clause 4.2), although so far this has not been reflected in law. There were a number of constraints on joining the journalistic profession in the recent package of media laws. These provisions were considered to be particularly problematical by local stakeholders.

There is also no formal system of accreditation for journalists, perhaps because of the small population and the lack of a need for any such system. However, there is a practice of government inviting journalists to accompany them on missions into the country outside of the capital city, Dili. These are of substantial benefit to journalists in at least two ways. First, there is a practice of paying journalists per diems for these trips, which exceed the direct costs incurred. These trips therefore represent a financial benefit to individual journalists, who are often poorly paid.

Second, these trips allow journalists to cover events to which they would not otherwise have had access. None of the media outlets in Timor-Leste have extensive travel resources and all, including the public broadcaster, struggle to cover events around the whole country. Having a journalist participate in an official trip is therefore an important benefit to the media outlet.

It is not clear how decisions about allocating these trips to journalists are made. Several interviewees, however, claimed that media outlets which are less critical of the government received a greater allocation of trips than those which were more critical. No one had heard of any established system for allocating these trips, and it seems quite unlikely that any system is in fact in place.

1.9 Defamation laws impose the narrowest restrictions necessary to protect the reputation of individuals

Timor-Leste should be congratulated for being one of a relatively small, if growing, number of countries that have entirely decriminalised defamation. The new Penal Code, adopted in 2009, contains only one provision that refers to defamation, Article 285, entitled Defamatory false information. However, the crime is based on an intention to have a criminal prosecution initiated against the person, rather than simply to lower their reputation, so it is not really a defamation rule.

Given that no new civil code has yet been adopted in Timor-Leste, this leaves the Indonesia provisions on defamation in place. The Indonesian Civil Code does not include explicit provisions on defamation but its general tort provisions apply to defamatory acts. Article 1365 provides that a “party who commits an illegal act which causes damage to another party shall be obliged to compensate therefore”. The link to defamation is forged by Article 1372, which provides that a legal claim “with respect to an offence shall extend to compensation of damages and to the reinstatement of good name and honour that were damaged by the offence.”

At least some court decisions in Indonesia have held that the references in these rules to illegal acts and offences pertain to criminal offences. This would mean that the right to civil compensation for defamation is engaged only when the crime of defamation has been made out. If this is correct, Timor-Leste would currently lack any form of defamation law.

We understand that parliament has already discussed and agreed the provisions on defamation in the draft Civil Code. We further understand that these provisions are largely compliant with international standards in this area, in particular inasmuch as they provide a wide latitude to criticise public figures.

In practice, there have only been a few cases of defamation against the media since independence. A widely criticized defamation case against Jose Belo, editor of *Tempo Semanal*, was dismissed after the reform of the Penal Code. Justice Minister Lucia Lobato brought the case against Belo for publishing information from an investigation into the improper awarding of government contracts.²¹

It would appear that, in practice, those who have been subject to criticism in the media tend to use other methods to respond. We were informed that, in some cases, public figures may call a press conference to rebut the allegations, and give their side of the story. This would seem to be an ideal way of responding to such criticism, a sort of ‘more speech’ approach to potentially ‘bad speech’. Some interviewees suggested that another, perhaps less legitimate approach, was for senior officials to simply cut off the supply of information to the ‘offending’ media outlet.

1.10 Other restrictions upon freedom of expression, whether based on national security, hate speech, privacy, contempt of court laws and obscenity should be clear and narrowly defined in law and justifiable as necessary in a democratic society, in accordance with international law

The new 2009 Penal Code of Timor-Leste contains a number of criminal proscriptions that relate to expression, over and above accepted crimes such as fraud, forgery, perjury and the like. Article 135 is a ‘hate speech’ provision, pursuant to which it is a crime, punishable by up to 12 years of imprisonment, to incite or encourage religious or racial discrimination, hatred or violence. It also makes it a crime, punishable by up to 8 years of imprisonment, to provoke violence, with the

²¹ Freedom House, *Freedom of the Press 2010*, note 5, p. 99.

intent to encourage racial or religious discrimination, against a person or group on the basis of their race, colour, ethnic origin or religion.

The second part of this offence is in line with international standards. The first, however, is excessively wide – covering mere encouragement instead of just incitement and lacking any requirement of intent or advocacy of hatred.

The Penal Code includes a few provisions relating to the disclosure of secrets. Pursuant to Article 183, it is a crime, punishable by up to one year of imprisonment, to disclose private facts about another person without their consent. Pursuant to Article 184, the same applies to any secret of a third party, obtained by virtue of one's "status, occupation, employment, profession or art". The penalty is increased to two years where the disclosure causes actual loss to another person or the State. Article 200 applies to State secrets and makes it a crime, punishable by up to ten years of imprisonment, to make public any fact, document, plan and so on that should remain secret because its disclosure would harm Timor-Leste's foreign security or the conduct of its foreign policy. The penalty increases to 15 years if the perpetrator holds any political, public or military office.

According to international standards, rules on privacy should be civil in nature, and provide for compensation as opposed to imprisonment. Article 200 is relatively narrow in scope, applying only to security and foreign policy. But it is problematical in part because it applies to anyone, as opposed to just officials. International standards make it clear that the burden lies with officials to guard secrets and that should third parties come into the possession of secrets without otherwise committing an offence, they should be free to disseminate them. Furthermore, it seems unreasonable to expect individuals to know whether or not the disclosure of information might harm security or foreign relations. Instead, the rule should apply only to documents which have been properly classified on these grounds. It is not clear whether or not the crime requires intent to cause harm, but it would appear not to. Finally, the penalties are excessively harsh for this crime.

D. CENSORSHIP

1.11 The media is not subject to prior censorship as a matter of both law and practice

There is no system of prior censorship, either in law or in practice, in Timor-Leste and any penalties or sanctions for the dissemination of illegal statements are applied only after publication. There is also no system of registration for the print media, over and above the rules for registering any commercial enterprise. All profit and non-profit entities do need to be registered with the Ministry of Justice. The former simply need to demonstrate that they have a bank account, but they may be inspected to ensure that they meet rules relating to buildings, location, employment practices and the like. Registration may be refused where the proposed name is already in use or for breach of other rules of general application (for example

relating to ownership).

Non-profit entities also need to be registered, although it would appear that in many cases they operate without having completed this formality. We were informed that, because they are 'new', the system for registering community radios is not really in force.

Media outlets are not generally threatened with closure for breach of the law, and none have so far been closed. However, there was at least one incident where MPs threatened to close a media outlet because it had insulted veterans (described below). It seems unlikely that the MPs actually had the power to close the media outlet, but threats of this nature coming from powerful members of society such as MPs exert a serious chilling effect on media freedom.

We heard about a couple of incidents where community radios have come under pressure of one sort or another. For example, there was reportedly an attempt to close Radio Oecussi in 2010 when the local chief wanted to transform it into a local government station and to use its premises for an Indonesian Government Diplomatic House. According to the information we received, this led to negotiations in which the local community came out in support of the station. In the end, a new board was appointed and the station was left in place. We were told of other cases where local officials have sought to take over community radios with a view to transforming them into local public stations, but so far no such attempt has been successful.

The community radio station in Liquica recounted an incident in 2004 where the government wished to repossess the building it had rented to them. Once again, the matter was resolved through negotiation and the government ended up giving them the building.

There are no restrictions on access to newsprint, which is mostly imported from Indonesia at reasonable prices, printing facilities or distribution networks, although access to the Internet is expensive (see below).

1.12 The state does not seek to block or filter Internet content deemed sensitive or detrimental

There is no blocking or filtering of the Internet by either the State or commercial providers, such as Timor Telecom. We were informed, however, that in at least some government offices pornographic and other sites, such as Facebook, are blocked. There is also no special registration system for Internet service providers, over and above the rules that apply to all businesses, although Timor Telecom does have a monopoly on the primary provision of Internet connectivity (i.e. linking to the global Internet backbone) (see below). There are also no special sanctions for accessing 'sensitive' material over the Internet, over and above rules of general application. The Penal Code only prohibits child pornography and not pornography more generally, or even obscenity.

Recommendations

- In due course, the constitutional guarantees for freedom of expression should be amended to bring them fully into line with international standards, including by further limiting restrictions on the right and by adding a guarantee of the right to information. The power to limit rights during an emergency should be limited to cases of extreme severity.
- A comprehensive law on the right to information should be adopted and implemented.
- The right of journalists to protect their confidential sources should be spelt out in law.
- The government should ensure that effective consultations are undertaken when it is developing laws or policies affecting freedom of expression.
- If a media law is adopted, it should respect international guarantees of freedom of expression, while also responding to local needs.
- A more comprehensive framework for broadcast regulation should be put in place. If, in this new framework, ARCOM is to continue to have regulatory powers over broadcasters, it should be made more independent of government.
- No conditions should be imposed on who may practise journalism. Systems should be put in place to ensure that the issuance of invitations to accompany government officials on trips is not subject to a risk of political manipulation.
- Defamation rules in the new Civil Code should conform to international standards.
- The limitations in the Penal Code on freedom of expression should be reviewed and brought into line with international standards.
- The rules on registration of media outlets, both commercial and non-profit, should be reviewed to make sure they do not present a barrier to establishing a media outlet.
- Officials should refrain from ever making statements threatening media outlets with closure.

II. Media Diversity

Plurality and diversity of media, a level economic playing field and transparency of ownership

A. MEDIA CONCENTRATION

2.1 State takes positive measures to promote pluralist media

The legal system does not yet include any measures to limit concentration of media ownership, although media monopolies are, as noted above, prohibited by the Constitution. There is no reference to the issue of concentration of ownership or monopolies in the general law on telecommunications or in the law establishing ARCOM. There are also no rules requiring media ownership to be transparent. Thus, there is no requirement for media outlets to make public their ownership structures. As far as we are aware, there is no requirement for media owners to disclose their ownership even when applying for registration or a frequency.

The system for licensing broadcasters, as also noted above, is not fully developed and mainly involves the allocation by ARCOM of a broadcasting frequency, along with some minimal rules relating to equipment and location, linked to the use of the frequency. There is no mechanism in place for promoting diversity through the licensing process (such as through the allocation of licences to broadcasters based on the contribution the service is expected to make to diversity).

2.2 State ensures compliance with measures to promote pluralist media

Given that there are no legal rules relating to concentration of media ownership, there is no possibility for the regulator to apply such rules. According to the information we received, it does not seem that either State actors or civil society groups are monitoring concentration of media ownership or the wider phenomenon of media diversity.

It does not appear that concentration of ownership is presently a serious problem in Timor-Leste, but it is precisely at this stage, before concentrations emerge, that the issue is best dealt with. There are the beginnings of concentrated ownership in the form of the integrated STL media group which runs a daily newspaper, along with radio and television broadcasters. On the other hand, the overall system of media in Timor-Leste is diverse at least at the level of types of media ownership, comprising commercial, public and community broadcasters. Both the government and civil society have been active in promoting diversity at this level.

According to the information we received, there are not yet any concrete plans for the transition from analogue to digital television broadcasting. This is probably not

a priority given the many other pressing needs of the media in Timor-Leste.

B. A DIVERSE MIX OF PUBLIC, PRIVATE AND COMMUNITY MEDIA

2.3 State actively promotes a diverse mix of public, private and community media

As noted above, Timor-Leste has promoted a mix of commercial, public and community media, in particular community radios. This process has been supported by both civil society actors and donors. Dili and to some extent Baucau are served by all three types of media in the radio sector, while there is a community radio in each one of the 13 districts of Timor-Leste, along with fairly widespread distribution of the public broadcaster, both radio and television.

It is not clear whether or not the State discriminates among the media in the provision of information. Some interviewees certainly claimed that media which were more friendly to the government received preferential access to information, including in the form of invitations to accompany officials on trips. We were informed that the public broadcaster, and particularly TVTL, is invited on these trips very frequently.

2.4 Independent and transparent regulatory system

In practice, the regulator, ARCOM, has allocated frequencies to all three types of broadcasters, apparently in quite a fair and equitable manner. It would appear that the frequency licensing process is undertaken largely internally within ARCOM and we are not aware of the possibility of civil society or other external participation in these processes. At the same time, there does not yet appear to be any shortage of availability of frequencies in Timor-Leste, even in Dili, due to the relative under-development of the media sector.

2.5 State and CSOs actively promote development of community media

Community media, in particular community radio, has been significantly promoted in Timor-Leste to the point where there is at least once community radio in each of the 13 districts and some 16-18 community radios across the country. The Association of Community Radios (ARKTL) has 16 members countrywide.

It is relatively simple for these radio stations to obtain a frequency from ARCOM, although due to their limited human capacity they often rely on ARKTL to assist them in this process. Licences to use a frequency are free for community radios, as they are for commercial broadcasters. ARCOM indicated to us that this system will be reviewed in future and broadcasters might be charged for the use of a frequency, as is the case in most countries. There is no specific reservation of radio frequencies for community broadcasters but, due to a lack of pressure on frequencies overall, this does not appear to be an issue.

From the information we received, it is clear that, in a number of cases, the links between community radios and the community they are supposed to serve are weak. There seem to be many reasons for this. The original structures of board oversight have in many cases not been maintained over time and we heard allegations that in some cases these structures were not properly established at the outset. A few interviewees were of the opinion that the international groups which initially established these radios had not bothered to ensure that their structures were sufficiently robust.

Sometimes board members think that their position is a reward based on their status in the community, and expect to be paid for it on a largely ceremonial basis, rather than serving as sounding boards for community views. In some cases, the withdrawal of donor support from community radios has substantially weakened them. We were told, for example, of some stations where managers have left, sometimes years ago, but have not been replaced. In some cases, community radio managers by-pass the board and speak directly to village heads or other local leaders, thereby contributing to undermining the formal structures. Wider meetings with the community appear to have fallen by the wayside for some stations, where they have not been held for years. This has, in turn, resulted in a situation where the board no longer provides support for the radio, in terms of promoting it within the community and ensuring that it remains relevant.

There also appear to be a number of related structural problems at some community radios. We were told of situations where managers effectively treat the station as their own, managing the finances and other matters largely free of external oversight. This problem may be compounded by unclear rules on systems for remuneration, with 'volunteers' being compensated in different ways, for example by keeping some proportion of advertising and other revenues.

In an analogous fashion, we heard about volunteers who participate in a community radio, thereby gaining experience and, in particular, formal training, which is widely available. They can then move on to paid jobs, for example as PR officers for companies or government. This results in the structural undermining of the station as it cannot build up expertise and experience over time. Some interviewees suggested that this problem became more serious the closer the radio was to Dili, which seems to make sense since the capital is no doubt a magnet for those seeking better jobs.

All of this points to a need to reaffirm or perhaps even re-establish the local structures of some community radios. This will probably require a process with external involvement, perhaps by the Community Radio Center (CRC), which has a mandate to provide support to community radios, or the Association of Community Radios (ARKTL). Some interviewees suggested that a process of organised discussions in the communities would be a useful place to start.

Some financial support from government for community radios is available. There is

no system of cross-subsidisation from commercial media, which would probably not work very well in Timor-Leste given that the commercial media are still not very commercially robust. There are also no positive structural measures, such as preferential pricing for purchases or reduced tariffs. But community radios do receive some direct support from government, for example in the form of fuel subsidies or repairs to equipment, and also support in the form of purchasing of radio time for advertisements and public service announcements (development partners also 'contribute' in this way).

There are some other sources of support for community radios. Timor Telcom indicated that it provides free Internet access to community radios, although the information we received makes it clear Internet is not effectively available at all stations. CSOs also assist community radios in various ways, mostly through the provision of training but also access to equipment (such as cameras, recording devices and the like) and to the Internet (for example, through the International Center for Journalists' (ICFJ) media houses).

Despite these forms of support, most community radios operate on a fairly shoestring budget which leaves them quite exposed to financial risks, such as equipment failure.

C. LICENSING AND SPECTRUM ALLOCATION

2.6 State plan for spectrum allocation ensures optimal use for the public interest

ARCOM has worked with the International Telecommunication Union (ITU) to develop a general plan for frequency spectrum allocation, which is presumably in accordance with the overall ITU plan for the Asian region. It is not clear whether or not there were any consultations with civil society in the process of developing this plan, or whether it is publicly available, but none of the groups or individuals we talked to had heard about it.

The plan does not, however, go beyond general allocations of frequency ranges to types of broadcasters, such as indicating which part of the spectrum will be allocated for FM radio uses. It thus does not, for example, reserve parts of the spectrum for future community or even public broadcasting uses, or for broadcasters of different geographical ranges.

Even though the lack of pressure on the spectrum has so far rendered planning unnecessary, pressure will increase, particularly in Dili, in the near future. Experience in other countries demonstrates that it is far better to plan early than to try to sort out problems later on, when most of the frequencies have already been allocated.

2.7 State plan for spectrum allocation promotes diversity of ownership and content

As noted above, the general plan for allocation of frequencies is not specific in the sense of indicating which type of broadcaster frequencies are to be allocated to. It thus does not serve to ensure that the spectrum is allocated equitably among public, commercial and community broadcasters. So far, frequencies have not been auctioned off, and they are allocated on an ad hoc basis, as applications for them are made.

No plans for the digital transition are yet in place, so it is not clear whether or not all or part of the digital dividend will be returned to broadcasting uses.

2.8 Independent and transparent regulatory system

There is no real process for licensing broadcasters, just a process for allocating frequencies to them. ARCOM does not appear to have a clear set of criteria for assessing licence applications, over and above some technical criteria relating to frequency usage. The licences themselves are very simple documents of just one page or so, setting out a few technical parameters (for example regarding transmitter power). At the moment, ARDCOM does not charge for frequency licences, although it has indicated that it might consider this in the future.

According to ARCOM, it does monitor compliance with technical parameters. However, it also indicated that the equipment required for this is very expensive, so that it has limited capacity in this area. We heard from some broadcasters that they suffered from some interference with their signals, in particular from RTL.

D. TAXATION AND BUSINESS REGULATION

2.9 State uses taxation and business regulation to encourage media development in a non-discriminatory manner

Media outlets are subject to the same rules regarding taxation and business regulation in Timor-Leste as are all other businesses. They do not benefit from any preferential rules, for example in the form of tax breaks on media equipment or supplies, but neither do they suffer from any discriminatory or prohibitive rules either.

E. ADVERTISING

2.10 State does not discriminate through advertising policy

The State is a major advertiser in Timor-Leste, as is the case in many poorer countries. The proportion of advertising by the State is probably set to increase, as more funds come into the country through its oil and gas holdings. We heard from a number of interviewees that the State sometimes uses advertising as a way of

providing support to the media sector, for example by leaving advertisements in place longer, and in more outlets, than is commercially necessary.

The State also provides a number of other benefits to media outlets. It has recently put in place a system to subsidise the distribution of newspapers to villages, or *sucos*, throughout the country, something the weekly newspaper *Tempo Semanal* had already been doing. The programme appears to be well-funded and to both increase newspaper circulation (the government buys the copies it distributes) and channel some funding to them in the form of generous distribution contracts. For at least some newspapers, the government had already been providing a sort of subsidy in the form of purchasing copies. We were told, for example, that this is a major element of *Diario Nacional's* business approach, as the newspaper is not widely available on the streets of Dili.²² Community radios already receive some direct benefits in the form of fuel subsidies, as noted above, and some interviewees suggested that plans were in place to expand this. And there is also the system of invitations to accompany officials on trips, along with the *per diems* that this entails, which has been noted above.

These measures of support for the media are welcome, given that the media in Timor-Leste currently operate on a very narrow commercial base. At the same time, there are significant risks associated with media outlets relying too heavily on government sources of funding. An important function of the media in a democracy is to act as watchdog of government, monitoring its activities and criticising them where appropriate. But the media, like anyone else, cannot 'bite the hand that feeds it'. Some interviewees suggested to us that the media had become less critical as government support had increased.

Put differently, where the media are heavily reliant on income flows from government, there is always a risk that there will be some sort of political interference in the allocation of this income, unless measures are put into place to prevent this. It is not clear whether or not there has already been some form of pressure associated with these benefits, but several interviewees suggested that there had been.

In most cases, these benefits are allocated directly by government offices (ministries). To prevent any discrimination in the allocation of these benefits, clear systems and policies should be put into place. Benefits should be allocated by a body that is independent of government, just as media regulators should be independent. In addition, clear, non-discriminatory and public criteria should be established for the allocation of benefits, so that media outlets can understand what they are due under the system. Consideration might also be given to establishing a code of conduct governing the allocation of State benefits to media outlets.

²² The UNMIT Media Survey shows that only 8% of the newspaper readers have ever read *Diario Nacional*. Note 2, p. 48.

The public broadcaster, Rádio e Televisão de Timor-Leste (RTTL), does not carry advertisements so has not engaged in unfair advertising competition with private broadcasters (i.e. price dumping).

2.11 Effective regulation governing advertising in the media

There are no formal limits on the amount of advertising that media can carry, either in law or in a self-regulatory agreement or code. In practice, the amount of advertising can be quite high, sometimes even on the front page of newspapers. There is also no code governing the content of advertising, or the separation of advertising from other content. The government has, however, adopted a Decree regulating advertising on RTTL, which addresses content and other issues.²³

Recommendations

- Rules should be put in place to implement the constitutional prohibition on media monopolies and these should be actively applied in practice.
- The allocation of frequencies to broadcasters should be done in a transparent manner which allows for the participation of civil society.
- Measures should be taken to strengthen the link between community radios and the communities they serve, including by re-affirming the role of the governing boards.
- Efforts should be made to try to ensure more structural and adequate financial support is provided to community radios. This might include taxation and business regulation measures, such as reduced tariffs for media equipment.
- A more detailed spectrum allocation plan, reserving parts of the spectrum for different types of broadcasters in the public interest, should be developed in consultation with interested stakeholders.
- A comprehensive framework for broadcast regulation should be put in place that includes clear criteria for allocating frequencies, in accordance with the plan.
- ARCOM should ensure that broadcasters, and in particular large and powerful broadcasters like RTTL, respect the technical conditions in their licences.
- Independent structures and systems should be put in place for the allocation of all public benefits to the media, to ensure that there is no political interference in these processes.
- Standards should be adopted, on either a self-regulatory or statutory basis, governing advertising in the media.

²³ Decree No. 3/2010 of 16 June.

III. Platform for Democratic Discourse

Media as a platform for democratic discourse

A. MEDIA REFLECTS DIVERSITY OF SOCIETY

3.1 The media – public, private and community-based – serve the needs of all groups in society

Timor-Leste is a small country with a small population, but up to 16 different languages are spoken there in addition to the official local language, Tetum, along with a larger number of dialects and sub-dialects. Many of these languages are, by definition, spoken only by a small number of people, ranging from a few thousand to a few hundred thousand.²⁴ There is no completely shared language in the country; the UNMIT Media Survey reports that 52% of the population stated that they could read Tetum, 33% Indonesian and 18% Portuguese.²⁵

Newspapers are mainly in Tetum, with some English, Indonesian and Portuguese content. Commercial broadcasters also operate mainly in Tetum with some English, Indonesian and Portuguese. There are no magazines focusing on women's issues, and some interviewees suggested that issues of importance to women – such as health issues or violence against women – were not covered well in the media.

RTTL operates largely in Tetum for its local production, although some news is also presented in Portuguese and Indonesian. TVTL streams content from RTP International (Rádio e Televisão de Portugal) throughout much of the day, to supplement its own programming of approximately two hours daily. It also carries some content from other Portuguese-speaking countries, such as Brazil. There is some effort to ensure that the news covers issues relevant to all parts of the country, although the cost of transportation to the more remote parts of the country makes this difficult.

Many of the community radios operate largely in Tetum. However, they also offer programming in other local languages. It is not clear how well they serve the interests of the different minorities in the country.

3.2 Media organisations reflect social diversity through their employment practices

According to the information we received, women appear to be reasonably well represented in the media. At TVTL, there are 15 women among 51 staff members, and eight of 14 reporters are women. Some community radios have few women on staff, while at others they are a majority. At the same time, it would appear that

²⁴ See, for example, http://www.ethnologue.com/show_country.asp?name=tl. The UNMIT Media Survey, note 2, lists nine languages spoken by 3% or more of the population. See p. 8.

²⁵ P. 10.

women tend to be employed in less senior positions within the media. Interviewees indicated that there was little discrimination and that different linguistic groups were represented in the media. At the same time, language skills and proximity to Dili have probably led to some structural biases in media employment.

B. PUBLIC SERVICE BROADCASTING MODEL

3.3 The goals of public service broadcasting are legally defined and guaranteed

The Public Broadcasting Service of East Timor was originally established by UNTAET through a Regulation adopted in 2002.²⁶ The Board of Directors has a mandate to ensure that the broadcaster responded to the needs and interests of the people (section 7(2)). The Regulation protected the editorial independence of the broadcaster itself from the Board (section 7(3)). The Regulation also set out in some detail the functions and responsibilities (mandate) of the public broadcaster (section 5), its objectives (section 3) and the principles that should govern its behaviour (section 4). Funding came largely from the national budget (section 13).

This approach was radically amended in 2008, when the government adopted a Decree-Law and set of Statutes, which replaced the UNTAET Regulation and established Rádio e Televisão de Timor-Leste as an autonomous public corporation.²⁷ The new rules do not refer to editorial independence in the same clear way as the old rules, but this notion is somehow implicit in the Decree-Law and Statutes. For example, Article 24, on revenue, makes it clear that commercial activities should not undermine editorial independence.

The purposes of RTTL are set out in Article 6 of the Decree-Law and these include a variety of items commonly found in the mandates of public service broadcasters, such as providing accurate and objective news, promoting educational programming, and fostering local culture and languages. Article 7 of the Decree-Law adds to these obligations, calling on public broadcasters to cater to the needs of different communities, to carry broadcasts whose dissemination is legally required, and to respect the right of reply. This is a relatively detailed mandate for a public service broadcaster, which includes clear rules of accountability to the public.

In terms of funding, it is clear from Articles 4 and 24 of the Statutes that RTTL can undertake a wide variety of commercial activities, including carrying commercial advertisements. We were informed, however, that at least TVTL does not carry such advertisements, although it does carry public service announcements.²⁸ In practice, most of the funding for RTTL comes from the public budget. RTTL proposes a budget for the upcoming year to the Minister of Finance, who then approves or

²⁶ Regulation No. 2002/6 on the Establishment of the Public Broadcasting Service of East Timor.

²⁷ Decree-Law No. 42/2008 on Transforming Timor-Leste Radio and Television Into a Public Company.

²⁸ We tried on two occasions to meet with RTL but were unsuccessful in both cases, so much of the information in this section is more focused on TVTL.

amends it. In 2010, TVTL received approximately \$3 million in public funding.

3.4 The operations of public service broadcasters do not experience discrimination in any field

Timor-Leste does not operate its own broadcasting satellite and most satellite dishes in the country, of which there are a good number, point towards Indonesian satellites. Timor-Leste is not in a position to impose must-carry obligations on these satellites. TVTL is carried on Asia Satellite, although it is not known how many local dishes pick up this satellite, as there are a number of available satellites which provide free downloads.

3.5 Independent and transparent system of governance

The 2002 UNTAET Regulation established a Board of Directors for the public broadcaster consisting of five individuals, appointed by the Transitional Administrator, of whom two were nominated by the government, one by the Constituent Assembly, and one each by journalists working for the radio and television sections of the broadcaster (see section 7). The independence of the Board was specifically protected (see sections 4(1) and 9(1)).

In 2003, the new government amended the system of appointments to the Board slightly, by granting power of appointment to the nominating bodies and transferring one of the government's selections to the President.²⁹ Otherwise, this law left the original UNTAET regulation in place.

Under the new rules adopted in 2008, the Board of Directors consists of seven persons, four "appointed and dismissed" by the minister responsible for the media, one representing the Ministry of Finance, one elected by staff from among themselves, and a chair, who is "appointed and dismissed" by the Council of Ministers (Article 8 of the Statutes).

Civil servants, party officials, elected officials and individuals with financial interests in the media may not be appointed to the Board (Article 13). Members may be dismissed by the appointing entity, for a serious failure in the exercise of their duties (Article 14(1)(d)). The whole Board may be dismissed by the Council of Ministers, upon the recommendation of the relevant minister, for serious irregularities or problems (Article 15).

The structures of RTTL include a Board of Auditors, appointed by the government (Article 16), to supervise the finances of RTTL. There is also an Advisory Council, consisting of nine members, two appointed by each of the President, National Assembly, government and staff of RTTL and one by the National University of Timor Lorosae (Article 19). The role of the Advisory Council is to oversee financial

²⁹ See Law No. 2/2003 Of 10 March Amending UNTAET Regulation No. 6/2002, on the Establishment of the Public Broadcasting Service of East Timor, amending section 7 of the UNTAET Regulation.

and other planning documents. We were informed that the Advisory Council has not yet been appointed. The responsible minister also has an oversight role, including to develop guidelines for RTTL “in accordance with the Government’s programme”, but somehow consistently with the principle of editorial independence (Article 4(1)(a) of the Decree-Law).

It is clear that, pursuant to the new legislation, the public broadcaster is far less independent than was previously the case. Of the seven directors, six are appointed by ministers, including the chair. Furthermore, there is relatively little protection for tenure, as the appointing bodies have the power of dismissal on rather vague grounds. Taken together, the new structures seriously fail to conform to international standards in this regard.

In addition to the legal framework, in practice the staff of RTTL are recruited through the public service commission, like civil servants, and they are also on civil service salaries and benefits. Procurement is also done through central government channels. In theory, this should have changed with the transformation of RTTL to a public company, but this part of the transformation has not yet taken place. This is another way in which the independence of RTTL is undermined, and it also undermines the ability of the organisation to recruit and retain qualified staff.

3.6 PSBs engage with the public and CSOs

RTTL does not have a public complaints system or even its own written code of conduct. It also does not carry out regular activities to engage the public in assessing its work, such as surveys or meetings. There are some forms of public engagement, for example in the form of public phone-in opportunities and the like. There also does not appear to have been any public engagement in the appointment of members of the Boards.

C. MEDIA SELF-REGULATION

3.7 Print and broadcast media have effective mechanisms of self-regulation

There are currently no active self-regulatory systems in place in Timor-Leste, either at the level of a media industry (e.g. print or broadcast media) as a whole, or at individual media outlets. This is a serious lacunae in the overall framework for the media in the country.

The Timor-Lorosa Journalists’ Association (TLJA or AJTL in its Portuguese acronym) did develop a code of conduct which was adopted by its congress in 2001. No proper system for implementing this code was ever put into place, however, and it does not appear to be relied upon in practice. None of the media outlets we visited had a copy of the code on hand. ARKTL members, along with other community radios, worked together to promote broad support for a Code of Practice which they

developed together with all community radio stations in 2003. No system for complaints was ever developed for this Code, however, and it also appears to have largely fallen by the wayside.

There have been some efforts recently to try to move forward with the development of a self-regulatory system. A meeting among the different media and journalists' associations was held in November 2010, and agreement was reached in principle that the content of the TLJA code was a good starting place. However, further discussions were needed both to have a code formally adopted by the wider journalistic community and to put in place a system for processing complaints. There are some plans in place for members of journalists' associations to visit other countries to see how complaints are dealt with abroad.

There is a clear need to put in place some sort of complaints system, as an alternative to going to court and to provide some redress against unprofessional journalism. Furthermore, although the recent package of media laws does not appear to be moving forward, there is always a risk that the government may seek to impose a statutory complaints system if the media fails to develop a self-regulatory one.

The Media Policy adopted by the government in March 2010 expresses support for the creation by law of a National Council for Social Communications, which would have a role in protecting freedom of expression but also of protecting the public, in establishing the rights and duties of journalists, in preparing a 'Deontological Code' and in supervising the rights of "reply, correction, antenna and political rebuttal" (clause 2.1). The Policy also sets out a number of specific duties of journalists, which resembles the beginnings of a code of conduct (clause 4.4)

Some inspiration might be drawn from the approach taken in establishing the Indonesian Press Council. This is working well in Indonesia both as a system of redress but also as a way of promoting and protecting press freedom. And the law which establishes this Press Council is formally in force in Timor-Leste. The structure of the Council might be used in Timor-Leste the basis for a self-regulatory body.

3.8 Media displays culture of self-regulation

The situation in Timor-Leste is characterised by a large number of journalists' associations and NGOs working on media issues. Despite this, and perhaps partly because of it, little progress has been made so far towards putting in place a self-regulatory complaints system, as noted above.

We were informed that in some cases, media do provide a right of reply to readers/viewers/listeners, and there was a legal case some years ago where a court penalised STL newspaper for refusing to provide such a reply, based on the Indonesian Press Law. At the same time, understanding about the right is limited.

For example, we were told of a case where a full two pages was allocated to a reply, and we were also informed that some editors believe they have the right to edit replies, since they are responsible for the content of the media outlet.

D. REQUIREMENTS FOR FAIRNESS AND IMPARTIALITY

3.9 Effective broadcasting code setting out requirements for fairness and impartiality

There is currently no legislation specifically governing broadcasting, apart from the laws on telecommunications and establishing ARCOM as a licensing body for frequencies. As a result, there is no broadcasting code or other conditions on broadcasters, over and above some limited technical rules, for example relating to coverage area and transmitter power. This means that broadcasters are not under any general obligation to respect rules of fairness, balance and impartiality. It is not clear whether such rules are in place during election periods, but none of those interviewed were aware of such a system.

We were informed that, in practice, most media are politically aligned one way or another, or at least most journalists are. The same applies to the public media, although we were informed that this is far more the case for TVTL than for RTL. At one level, this is partly a question of professionalism and experience. We were often informed that many media outlets engage in 'straight' reporting (or, as one person put it, doing PR rather than media reporting), meaning that they simply cover events, without providing analysis or critical perspectives. If, as is often the case, the media cover government activities extensively, including because they have been provided with transportation to the relevant events by the government, this may appear to reflect a pro-government bias. Certainly it has the effect of providing support to the government. However, many interviewees also suggested that at least TVTL was specifically biased in favour of the government.

3.10 Effective enforcement of broadcasting code

As noted above, there is neither a code of conduct for broadcasters nor any other specific obligations on them in the legislation, so the issue of enforcement of such a code does not arise. There is also no system for public complaints regarding broadcasters.

E. LEVELS OF PUBLIC TRUST AND CONFIDENCE IN THE MEDIA

3.11 The public displays high levels of trust and confidence in the media

The UNMIT Media Survey assessed levels of trust in the media and found that community leaders scored highest at the most trusted source of information, at

33%, followed by radio (20%) and television (11%).³⁰ It is difficult to assess the extent to which the public feel that the media report on the issues that concern them, and in a fair and impartial manner. As noted above, most interviewees expressed the view that the media are not politically balanced and/or that they report uncritically on what the government shows them, rather than matters of public concern.

The UNMIT Media Survey logged very positive results overall for both RTL and TVTL on a range of questions such as promoting Tetum, educating the people, understanding the people and, interestingly, being governed by an independent board (the last question had 58% agreeing and only 12% disagreeing). However, only 11% of those polled disagreed with the statement that these broadcasters are controlled by the government, compared to 59% who agreed.³¹

From the information we gathered, there did not seem to be a high level of citizen engagement in the media. There are a number of participatory programmes, such as vox pop programmes or call-in shows, and engagement with these programmes seems active. But there seems to be little public participation outside of these programmes. The UNMIT Media Survey reports that only 21% of all radio listeners had heard of public participation programmes and only 6% had engaged in any form of participation. In a large majority of cases (70%), listeners were aware only of participation in the form of making requests for music. Only 2% of all listeners were aware of the possibility of participation in a debate programme.³²

According to most interviewees, although there is some local reporting in the media, the focus is on national stories and Dili. This is to be expected, given the inaccessibility, including for reasons of cost, of reporting on the districts. This is supported by at least some monitoring results carried out by ICFJ. For example, in their monitoring of election stories in the three main dailies, *Timor Post*, *Suara Timor Lorosae* (STL) and *Diario Nacional*, from 7 September to 4 November 2009, they found that, respectively, 20 of 32 stories (63%), 17 of 36 stories (47%) and 26 of 34 stories (76%) were focused on Dili.³³ This does, however, show a marked difference in this regard between STL and *Diario Nacional*.

3.12 Media organisations are responsive to public perceptions of their work

It is not clear how well the media know their audience but there seem to be few specific activities by media outlets to gauge audience perception. As noted above, in at least some cases, community radios appear to have lost touch with the communities they serve.

³⁰ UNMIT Media Survey, note 2, p. 17.

³¹ *Ibid.*, p. 65.

³² *Ibid.*, p9. 32-33.

³³ ICFJ, *Monitoring result of TP, STL, JND newspapers, about election stories of community leadership in Timor Leste*. On file with the author.

We were informed by several interviewees that financial management systems in many media outlets are not rigorous and this is supported by direct questioning in a number of cases. A number of interviewees stated that some community radios were rather opaque regarding their finances, with only the station manager really knowing what was going on. We are not aware of any media outlet that has put in place systems for external transparency.

F. SAFETY OF JOURNALISTS

3.13 Journalists, associated media personnel and media organisations can practice their profession in safety

The violence in 2006 affected the media, as it did all social actors in Timor-Leste, and we were told of a number of cases where media workers were threatened or beaten during this period of serious unrest, although the reasons for this are not clear. There have been few if any prosecutions of these crimes.

Since that time, however, there do not appear to have been many incidents of threats, harassment, attacks or surveillance. There have been a few incidents where the media have been threatened due to misunderstanding, such as the case involving a police officer's comments on veterans, related just below, but these are relatively rare.

As a result of the perceived lack of risk to media workers, few media outlets have in place policies or systems for providing protection against this risk. The level of social protection available to most media workers – for example in the form of pension contributions, sick leave or insurance against work-related risks – is low or non-existent in most media outlets. As noted above, the staff of RTTL are civil servants, and so receive the benefits due to all civil servants.

3.14 Media practice is not harmed by a climate of insecurity

Although the media are not subjected to threats of violence or actual attacks, self-censorship would appear to be practiced widely so that there is limited direct criticism of wrongdoing, although issues may be raised indirectly. The reasons for this are not entirely clear but a number of factors may contribute. Timor-Leste is a very small country, so that people tend to know each other. As in other small countries, it can be controversial to engage in direct criticism of others, and especially leaders. Some interviewees also suggested that this was partly due to the local culture, and it can of course take time to change such practices.

We were also informed by a few interviewees that journalists are fearful of legal cases, even though there have been relatively few of these. Lack of awareness of the law, and the legal limits on what may be reported, may exacerbate this problem.

The Weekly Synopsis on National Parliament for 22-25 February reports that MPs requested STL newspaper not to make up stories regarding what happens in the Plenary Sessions. No action was taken on this, but it reflects an approach to the media which does not appear to be in line with better practice.

There appear to be a number of 'redline' issues which it is not considered socially acceptable to discuss in public. Examples given of this included issues relating to sex, including HIV/AIDs, and drugs. It also appears to be difficult to engage in criticism of veterans and their associations of the independence conflict, who are naturally held in high esteem in society. In a recent incident, a media outlet quoted 'off the record' comments by a senior police officer regarding veterans. In response, certain veterans, including some who were MPs, made public calls for the media outlet to be banned. The matter was later dealt with through a process of negotiation, but this sort of incident can have a profound impact on self-censorship.

A number of traditional media operate blogs, and there are also a number of blogs run by other operators. Although these do address some issues which are avoided in the mainstream media, several interviewees indicated that they do not really serve as a platform for discussion about alternative issues.

Recommendations

- The system of governance for RTTL, and in particular the legislative framework, should be substantially revised so as to provide far more protection for the independence of the governing board and other oversight bodies, as well as to give the broadcaster freer reign, within its approved budget, in relation to staff and procurement.
- RTTL should put in place more robust systems for engaging with the public and soliciting audience feedback.
- Support should be provided to the media to help them adopt a code of conduct, including rules on impartiality and balance for broadcasters, and put in place a self-regulatory system for processing public complaints. This should apply to RTTL as well as other media. The government, in turn, should not seek to put in place a statutory system of content regulation.
- The media should make more of an effort to engage their readers/listeners/viewers and to be responsive to their feedback.
- Officials and other social leaders should not seek to use their influence to intimidate the media so that they do not report on sensitive issues.

IV. Professional Capacity Building

Professional capacity building and supporting institutions that underpins freedom of expression, pluralism and diversity

A. AVAILABILITY OF PROFESSIONAL MEDIA TRAINING

4.1 Media professionals can access training appropriate to their needs

Media workers in Timor-Leste have benefitted from extensive exposure to training, due in part to the strong degree of donor engagement in the country, along with the relative ease, from a programmatic perspective, of providing training programmes. Many of the journalists we interviewed, from both the community radio and commercial media sectors, had been through multiple training programmes. At least some groups offering training indicated that they make a specific attempt to ensure that there is a reasonable participation of women in the training they offer.

These programmes are offered mostly by NGOs, both local and international, along with some inter-governmental organisations, and by both local and international trainers. They are provided in a variety of locations, in Dili but also in the various media houses which are established around the country. Mobile training is also available, whereby trainers travel to more remote parts of the country and offer training on location. The main language used in training is Tetum, although other languages – Indonesian, English and Portuguese – are also used. Exchange programmes opportunities appear to be relatively rare, although these are offered by RTTL to its staff.

According to the information we received, the training addresses a wide range of professional issues, from basic training, to investigative journalism training, to IT skills, albeit mostly focusing on the technical aspects of using new technologies (computer literacy), as opposed to engaging in computer assisted reporting.

In terms of style, we were informed that many training programmes offer practical production components, to supplement the more academic or theoretical aspects of the training. On the other hand, it is not clear how much follow-up or support is provided after the training has been completed to anchor the skills learned.

RTTL does not participate in these training programmes, and instead runs its own programmes which involve both formal training and exchange programmes, for example with media outlets in Portugal and Brazil.

Despite the ready availability of training programmes, we were informed by several interviewees that the quality of media output has not improved much over the last five or even more years. A number of theories as to why this may be were put

forward. The problem of revolving staff at community radios and perhaps other media outlets, noted above, so that skills acquired during training do not remain with the media, is clearly part of the problem. As a result, the intense focus on training may actually undermine some media, as it contributes to loss of experienced staff.

Resource constraints at media outlets, so that it is difficult to put into practice what has been learned at the training, may also be a problem. We were also told that wider structural problems within media outlets, such as weak editorial processes, mean that natural processes of learning on the job are limited. Further assessment of the training programmes offered in the country, and what their real impact has been, is needed.

The new media Policy includes the idea of an Instituto de Formação de Jornalistas or Journalist Training Institute (clause 4.1). The idea is that this would be a private company, or perhaps hosted in one of the NGOs that works on media issues, but that it would receive support from government, including budgetary support.

4.2 Media managers, including business managers can access training appropriate to their needs

According to the information we received, courses on management of media outlets, including in the area of finances, are provided, and at least some media workers we interviewed had received such training. We were also informed that training was being offered on how to attain financial sustainability, for example through increasing advertising revenue.

4.3 Training equips media professionals to understand democracy and development

We were informed that the training that is available includes modules on the wider role of the media in society, including in promoting human rights and democracy. It is not clear, however, how much of a focus these topics receive in the training. As noted above, training in investigative reporting is provided, although it is not clear whether many media workers actually have the opportunity to apply these skills in their work.

B. AVAILABILITY OF ACADEMIC COURSES IN MEDIA PRACTICE

4.4 Academic courses accessible to wide range of students

The National University of Timor Lorosa'e has offered a four-year undergraduate degree programme in social communications since at least 2009, so that the first class will graduate at the end of 2012. Recently, however, there have been significant changes in the programme, including all new teaching staff starting in 2011, a complete redesign of the curriculum and the transfer of the programme from the faculty of education to political science. We were informed that, because of

the title of the programme, many students do not associate it with the media but, rather, with a much wider conception of social communication.

The University has available to it quite modern broadcast media production facilities, provided by the International Center for Journalists, along with their own printing press. They produce a regular radio show of between 30 minutes and one hour on Monday to Friday, as well as weekly and monthly newsletters. However, this activity does not seem to be linked to the academic programme in communications, and only very few students from the programme participate in the media work. Instead, the main focus seems to be on the potential of these media as information dissemination tools.

There are no textbooks available in Tetum which, along with Indonesian, is the main *lingua franca* of the University. Textbooks on media and other forms of social communication are widely available in both Indonesian and Portuguese. By 2012, all courses are supposed to be taught exclusively in Portuguese, which will be a major challenge since many lecturers are far from fluent in that language.

4.5 Academic courses equip students with skills and knowledge related to democratic development

ICFJ has been working on a new curriculum for the social communications course, and it provided a preliminary version of this, with some 27 modules covering a wide range of topics, to the University in December 2010. The new draft curriculum is apparently being reviewed by the new Rector of the University and the lecturers are currently using an interim curriculum that they have developed themselves. According to ICFJ, it does cover ethics, as well as the role of the media in promoting human rights and democracy.

Very little is being done in Timor-Leste to promote media literacy among the general population. Given the level of development of the country, and its wider challenges, this may not be seen to be a major priority at the moment. For example, the challenge of promoting basic literacy may be seen to be more urgent.

C. PRESENCE OF TRADE UNIONS AND PROFESSIONAL ORGANISATIONS

4.6 Media workers have the right to join independent trade unions and exercise this right

People in Timor-Leste, including media workers, have the right to form trade unions and to affiliate with international groups. Both the Timor Lorosae Journalists' Association (TLJA) and the Sindicato dos Jornalistas de Timor Leste (SJTL), for example, are members of the International Federation of Journalists (IFJ).

Despite this, journalists in Timor-Leste, as in many developing countries around the world, are very poorly paid. Several interviewees suggested to us that journalists

working for the commercial media are paid very little, while those working for community radios often operate mainly as volunteers. This creates a number of structural problems for the independence, impartiality and quality of the media, including the difficulty of attracting good people to the profession in the first place, the loss of better staff to more lucrative positions (such as working in PR), and the attractiveness of external inducements, such as the per diems paid to travel on mission with the government.

4.7 Trade unions and professional associations provide advocacy on behalf of the profession

Although there are a number of associations catering to journalists (up to six), none are journalists' unions in the proper sense of that term and they are not formally recognised as bargaining units by employers. There are no employers' associations. There is a degree of debate within these groups about media issues, although this tends to focus more on freedom of expression than on media ethics and standards; as noted above, there are no agreed codes of conduct or other ethical standards. These groups do, however, actively defend freedom of expression and they played an important role in ensuring that the recent package of media laws was not passed.

D. PRESENCE OF CIVIL SOCIETY ORGANISATIONS

4.8 CSOs monitor the media systematically

At least one civil society organisation, ICFJ, regularly monitors the media, although this monitoring is limited to the main daily newspapers, *Timor Post*, *Suara Timor Lorosae* (STL) and *Diario Nacional*. The monitoring covers issues such as balance, coverage of relevant issues, advertising, clarity of reporting, accuracy and so on. ICFJ produces regular reports on the results of the monitoring.

It is unclear to what extent civil society organisations engage in critical analysis of the media. The focus of groups working around media issues is more on providing support in various forms to the media than on oversight. Very little, if any, work is being done on media literacy.

4.9 CSOs provide direct advocacy on issues of freedom of expression

Civil society organisations, including the many journalists' associations, do actively promote and defend freedom of expression and the right to information. There is, as noted above, reasonably significant, if somewhat *ad hoc*, engagement of these groups around media law and policy issues. There is less of a focus on safety, given that it is not perceived to be a major risk.

4.10 CSOs help communities access information and get their voices heard

It is not clear how much effort is being made in Timor-Leste by civil society organisations to help people access the media. We were unfortunately unable to

assess this fully as part of the assessment exercise.

Recommendations

- The entire programme of training for media workers in Timor-Leste should be reviewed to assess the wider impact it has had on the media, including at the level of staffing. Based on this assessment, the programme should be adjusted so as to maximise its potential.
- Support should continue to be provided to the National University of Timor Lorosae to improve its curriculum and other aspects of its degree programme in social communications. The media equipment available at the University should be more closely linked into this programme.

V. Infrastructure

Infrastructural capacity is sufficient to support independent and pluralistic media

A. AVAILABILITY AND USE OF TECHNICAL RESOURCES BY THE MEDIA

5.1 Media organisations have access to modern technical facilities for news gathering, production and distribution

Most media outlets do have some access to the Internet. Timor Telcom indicated that it provides free Internet access to community radios. It also provides free Internet access to RTTL, and to the directors of the three main dailies. In practice, we were informed that many media do use the Internet for their reporting, although often this is in the form of downloading stories directly, for example through international wire services.

There are adequate printing facilities available in Dili. The National University of Timor Lorosa'e has its own printing press, there is an independent printing press which was jointly supported by ICFJ and UNESCO, and printing facilities are also available on a commercial basis. Most community radios seem to have reasonable equipment, including computers for producing programmes and FM transmitters. The various media houses around the country also operate lending programmes including equipment for use by media workers. There does not, however, appear to be much in the way of reference or archival material available to the media. There is also a capacity problem in terms of maintaining media archives.

Multi-platform delivery of media products in Timor-Leste is limited. Most media, including the public broadcaster, do not distribute their content via their own developed websites, but several operate blogs. This appears to be the main way in which ICTs are used to engage citizens, although there is also some use of mobile phone technologies. TVTL does, as noted above, go out on satellite.

B. PRESS, BROADCASTING AND ICT PENETRATION

5.2 Marginalised groups have access to forms of communication they can use

TVTL indicated to us that its terrestrial signal is available in 60% of the territory of the country, including through a transmitter in each of the 13 provincial capitals, so that it presumably reaches quite a large percentage of the population in the country. Their reach is significantly extended, however, through the presence in every one of the 442 villages or sucos in Timor-Leste of a government-provided satellite dish and television in the government office. RTL covers most of the country through a system of AM transmitters.

Tempo Semanal has been distributing two copies of its weekly newspaper to the village head in each suco in Timor-Leste for some time. The government is now sponsoring this programme and other newspapers are also being distributed in this way.

According to the UNMIT Media Survey, 70% of the population have listened to the radio, with the weekly reach being 55%. The greatest barriers to access were cost (mostly radio sets and batteries).³⁴ Television is not far behind, with a total reach of 64% and a weekly reach of 48%, representing significant increases since the last survey was conducted in 2007. 60% of television viewers watch it at friends' or neighbours' homes, 38% watch it at home, while fully 31% watch it at a community or suco centre. 92% of television viewers have watched TVTL, followed by RTP International at 22% and then a number of Indonesian channels.³⁵ 36% of the population reported having read a newspaper at some point, with the weekly reach being 21%, with a heavy concentration in Dili.³⁶

There is at least one community radio in every province of Timor-Leste. Given the nature of the terrain, these probably do not reach all of the territory. This is still an important achievement for the country. Furthermore, the UNMIT Media Survey suggests that the reach of at least some community radios is significant.³⁷

Only 7% of the population of Timor-Leste have ever used the Internet, a low percentage. Most of those who do use it access it via Internet cafés (79%), followed by workplace users (72%), with only 10% using it from home.³⁸

5.3 The country has a coherent ICT policy which aims to meet the information needs of marginalised communities

From the information we received, there does not appear to be any formally adopted, central ICT policy. However, elements of a policy, or at least of a plan of action in this area are emerging. A key challenge for Timor-Leste is that it does not yet have a physical connection to the Internet backbone, so that Internet connectivity is provided in the country via satellite. This significantly increases the cost of connectivity, while also presenting capacity constraints. Establishing a physical connection is thus a major priority for enhancing Internet access in the country.

Another feature of the telecommunications system is that Timor Telecom, which is a partnership between the government of Timor-Leste, Portugal Telecom and private

³⁴ *Ibid.*, p. 29.

³⁵ *Ibid.*, pp. 39 and 41. This data is not consistent with the feedback provided by some interviewees, who suggested that Indonesia television was extremely popular in Timor-Leste.

³⁶ *Ibid.*, p. 46.

³⁷ Several, for example, have reached an overall audience of 10% or more of the population. *Ibid.*, p. 31.

³⁸ *Ibid.*, p. 58.

actors, has a 15-year monopoly on providing most telecommunications services, running from 2002 to 2017. The monopoly covers mobile and fixed line telecommunications services, and it also covers the provision of primary Internet connectivity, but not Internet or value added services.³⁹

Internet can be accessed through ADSL lines in the major centres, via wireless technologies in some places and via 3G mobile phone technology. The latter is available in some 65-70% of the territory, including in all provincial capitals, covering around 85% of the population.

Telecommunications services – including both Internet and mobile telephone services – are expensive in Timor-Leste, far more so, for example, than in neighbouring Indonesia. At the same time, mobile phones themselves are available extremely cheaply: formerly for just \$10 and in January 2011 for \$20.⁴⁰ These phones, however, work only on the Timor Telecom network. We understand that there are a few service providers in Timor-Leste who bring in connectivity via their own satellite dishes, even though this is formally illegal. We also understand that these very small operators provide Internet access to customers at a lower cost than Timor Telecom. In terms of barriers to accessing the Internet, from among those who have used it, the UNMIT Media Survey listed the cost of Internet cafés as the leading barrier, at 64%, while, significantly, 43% indicated that they owned a computer but that connectivity was too expensive.⁴¹

Several interviewees noted that the government has a policy of liberalisation and that it had been in some kind of talks with other telecommunications companies, perhaps with a view to putting some pressure on Timor Telecom. Timor Telecom has recently embarked on a programme of establishing Internet community centres in different parts of the country. These will provide free Internet, fax and photocopy services, and will also have their own generators to ensure electricity supply. Some five or six have already been built, and there are plans to develop 100 countrywide.

There is thus some evidence that more government oversight of the pricing structures for telecommunications services in Timor-Leste might be warranted, especially given the monopoly status of Timor Telecom. More research is needed both to establish this need and to identify possible policy options. The latter might, however, include imposing certain price or practice constraints on Timor Telecom.

There appear to be three possible options for establishing a physical connection to the international Internet backbone: via Australia, Singapore or Indonesia. Australia is apparently not a viable option. Given the geography, Indonesia seems to make far

³⁹ See Decree-Law No. 11/2003 of 29 July Establishing the Bases for the Telecommunications Sector, section 12.

⁴⁰ Interestingly, the UNMIT Media Survey, note 2, states that 56% of the population listed the cost of mobile phone services as being a barrier to entry, while 45% listed the cost of the phone itself. p. 56.

⁴¹ *Ibid.*, p. 59.

more sense than Singapore. Several interviewees stated with some authority that the Indonesian option is already being developed and that an agreement with Indonesia Telecom has been signed which will link Kupang, in West Timor, with Oecussi.

The government of Timor-Leste will then need to link Oecussi into a network in Timor-Leste. A major system of heavy oil power generating plants is being planned for Timor-Leste, part of which involves a nationwide high voltage distribution system, the physical towers for which have already been built in some places (for example between Baucau and Dili). There are discussions about, and perhaps also plans to, use these towers to distribute connectivity via fibre-optic cable to all 13 districts in the country, providing the main distribution network for the country.

Recommendations

- Media outlets should be encouraged to make more use of the Internet to disseminate their output.
- The government should make it a priority to establish a physical connection between Timor-Leste and the international Internet backbone, in line with measures already taken in this direction.
- The government should assess the need for more regulatory intervention regarding the pricing structures for monopoly telecommunications services, as well as possible options in this area.

List of People Met

1. Antonio Dias, Director, TV Timor-Lester
2. Bikila Merga, Senior Media Consultant, International Center for Journalists
3. Bob Howarth, Teaching Fellow in Journalism, Bond University, Australia
4. Brian Kelly, Senior Media Advisor, United Nations Integrated Mission in Timor-Leste (UNMIT)/Communications and Public Information Office
5. Candida Belo, Manager, Baucau Media House
6. Celito Cardoso, Director, Human and Citizen Rights, Ministry of Justice
7. Darian Clark, First Secretary, Development Cooperation, Australian Agency for International Development (AusAID)
8. Edgar Xavier, SAPO Timor Leste, Timor Telecom
9. Eduardo Exposto, Manager, Tokodede Community Radio, Liquisa.
10. Elvis da Cruz, Manager, Print Media, Universidade Nacional de Timor-Leste (UNTIL)
11. Fernanda Borges, Member of Parliament
12. Fernando da Cruz, Director General of Transport, Assets and Communication, Ministry of Infrastructure
13. Francisco da Silva, Director, Timor Leste Media Development Centre (TLMDC)
14. Germano da Costa Boavida, Project Management Specialist, United States Agency for International Development (USAID)
15. Hugo Fernandes, Program Manager, The Asia Foundation
16. Jose Belo, Director, Tempo Semanal
17. Julio Jil da Siva Guterres, Director, Centru Jornalista Investigativu Timor Leste (CJITL)
18. Lemi Soares, ICT Unit, NGO Forum
19. Manuel da Costa, Director, Institutional Relations, Timor Telecom

20. Manuel Ximenes, UMR National Coordinator, International Center for Journalists
21. Otelio Ote, Director, Timor Post
22. Pedro Aquinto, Program Officer, AusAID
23. Prezado Ximenes, Director, Asosiasaun Radio Komunidade Timor-Leste (ARKTL)
24. Raimundo Soares, Member, ICT Timor Leste Association
25. Ray Silva, Member, ICT Timor Leste Association
26. Roland Kayanja, Governance Advisor, United Nations Integrated Mission in Timor-Leste (UNMIT)
27. Sandra , Manager of Broadcast Media, Universidade Nacional de Timor-Leste (UNTL)
28. Sandra McGuire, United Nations Integrated Mission in Timor-Leste (UNMIT)/Communications and Public Information Office
29. Sarah Harmelink, Media Legal Adviser, International Center for Journalists
30. Sofia Calado, Legal and Media Advisor, Secretariat of State of the Council of Ministers
31. Stephen Malloch, United Nations Integrated Mission in Timor-Leste (UNMIT)/Communications and Public Information Office