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Press Release

## **Rejection of the Court Decision Threatens the Principles of Rule of Law and Democracy**

The Association for Law, Human Rights and Justice (HAK) considers the polemics some of the country's leaders are raising in public since the Appeals Court decision on the unconstitutionality of the Economic Stabilization Fund (ESF), which is part of the 2008 mid-year budget, do not contribute to the development of the rule of law and democracy. They create precedent and foster the attitude that people do not have to respect the law and they glorify power.

According to José Luis de Oliveira, Director of HAK Association, "comments from Prime Minister Xanana Gusmao portray a negative image to the public in Timor-Leste and internationally. Mr. Gusmao, who said that he would not follow the court's decision, is a bad example for the people, by not respecting the sovereignty of the court, especially the principle of rule of law, as regulated in Article 1 of the Constitution of the Democratic Republic of Timor-Leste (RDTL)."

According to HAK's perspective, in a modern democratic state respect for law and court decisions are fundamental principles of democratic life. The power comes from the people (democracy), and those in power must follow the law and not rule with force according to one's own desire. That time has passed! In the past our leaders discovered their power and ruled according to the capacity they had; this is no longer acceptable. In some countries monarchies still reign, in which kings and queens lead, such as England, Japan, Thailand, and the Netherlands, among others. But those kings and queens no longer have absolute authority (power). They exercise their power according to the constitution, and follow the decisions of the court. Thus it is ironic indeed that Timor-Leste, which adopted a republic (of the people), has leaders with the attitude or mentality of the kings of old.

No one denies the Prime Minister's preoccupation with the people's suffering. However the need to develop programs that address people's suffering does not justify sacrificing the important principles that do guarantee reduction of the people's suffering now and in the future. "Just imagine! If people do not respect the law or the court decisions now, the AMP government's commitment to combat corruption has no value (it does not mean anything) because the AMP government itself will have weakened the organ that has the competency to stop corruption," said José Luis.

The court is the only organ that can judge corruption cases, not the Commission Against Corruption. There are different kinds of corruption, from simple behavior of taking state funds for private interests, manipulating facts to get benefit from public resources, giving tenders without following approved rules, to sophisticated acts such as creating legislation contradictory to the constitution for the benefit of private entities. Such as the decision to establish the ESF that did not follow the constitution and the Petroleum Fund Law that already existed. The potential is great that the large amount of money (USD 250 million) will not benefit the population, but will go to businesses "privileged" to import goods. The facts reveal as fiscal year 2008 comes to a close that prices of goods are still high. The questions remain, what was the money spent on, and why hasn't the public yet had any benefit? The money from the ESF is to stabilize whose economy, the

people's or the businesses? And which businesses received funds?

We have experienced sophisticated corruption, or as they say in Indonesia "corrupt policies" (corruption that originates from policy decisions) twice in Timor-Leste. The first time, the previous Parliament issued legislation on lifetime pensions for former members of parliament and former government ministers. Because this law gives special benefits for a group of people who worked without any particular standard for only five years, they and their families will benefit from state facilities for their whole lives.

José Luis also stated that currently political leaders are astounded by the money from the country's oil, and consequently develop arbitrary spending policies that do not follow legal principles nor consider the future, such as the ESF, purchasing many cars, spending on per diems without doing any work. The political leaders have perhaps forgotten that at some point the oil will dry up, and at the same time that the population is increasing.

Although José Luis de Oliveira is preoccupied with attitudes which disrespect the court decision and constitution, this is not the first time it has occurred. The leaders have violated the constitution and disregarded court decisions many times. For example, several years ago when the court's Serious Crimes Panel mandated the arrest of former General Wiranto as a suspect in serious crimes that occurred in 1999, some top leaders interfered in the implementation of the court decision. Consequently, the mandate from RDTL's Constitution Article 160 stating that serious crimes against humanity must be resolved by either a national or international court has not been followed by Timor-Leste's leaders; on the contrary they established the Truth and Friendship Commission with the intension of giving amnesty to the principle authors of the 1999 serious crimes. "Such behavior can create a bad-mannered or a "culture" for the country as well as contradicting the objective of the state as regulated in Article 6 of the RDT Constitution," according to José Luis.

José Luis recognizes that behavior that is not in accordance with the law or court decision is not limited to leaders of the current government, but also the previous government. "In 2002, when the Dili District Court decided a case against the government in which Customs had confiscated cigarettes, and ordered it to compensate the owner, the Prime Minister at the time, Mr. Mari Alkatiri demonstrated an attitude that did not respect the court decision. At that time, Mr. Alkatiri said that the court's decision was meaningless," José Luis reflected.

In reality, according José Luis, democracy and the principle of rule of law in Timor-Leste faces a big challenge if only because our leaders are still in transition from the old mentality to the new values consecrated in our constitution. "Our constitution is modern, but those implementing it lag behind," said José Luis.

José Luis hopes that the people will remain vigilant and face such experiences with good conscience and continue their efforts to stop such negative behavior that has bad consequences for our people and future generations. "If the principles of law and democracy are not implemented, the consequences for poor people and all of our children and grandchildren will be a life of suffering and injustice," said José Luis.

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