

Images of the following letter were printed in several Dili newspapers on Friday, 29 April 2016. La'o Hamutuk has converted it to text for legibility, trying hard to preserve formatting and spelling.

For more information on threats to press freedom in Timor-Leste, see <http://www.laohamutuk.org/misc/MediaLaw/14MediaLaw.htm>

Dili, Timor-Leste, 28 April 2016

To: Committee to Protect Journalists (CPJ) Freedom  
Freedom House  
International Federation of Journalists (IFJ)  
South East Asia Journalist Unions (SEAJU)

Thank you very much for sending me your unsigned letter dated 22 April 2016, which I received as an attachment to an email sent on the same day by Ms Alexandra Hearne, Projects and Human rights Coordinator, IFJ Asia Pacific.

Let me from the outset (a) congratulate your respective organizations for being strong advocates of the press freedom and the freedom of expression in Timor-Leste, and (b) underline the fact that I presented evidence to the Prosecutor's Office in relation to publicly disseminated false accusations made by Timor Post against myself on the 10<sup>th</sup> of November 2015, as a common Timorese citizen, and not as Prime Minister of the Democratic Republic of Timor-Leste.

Allow me now to respond to the main concerns raised in your letter:

- I. On your concern that **"The case against Oki and Timor Past is based on a published report from November 10, 2015, which contained a factual error on a government tendering process"**

I hope that you had access to the whole facts related to the referred published report, which had:

- 1) As its title *"Deskonfia Eis Asesor MF 'Fo Projetu' ba Kompania Indonesia"* (my translation: It is suspected that former adviser of MoF 'gave a project' to Indonesian Company/firm).
- 2) The following caption to the picture of a one-page-recommendation letter signed by myself and two other advisors. *"Ida ne'e maka pareser eis asesor Ministériu Finansas atuál Primeiru-Ministru Rui Maria de Araújo ba kompañia PT. Packet System Indonesia"* (my translation: This is the advice of former Ministry of Finance adviser Rui Maria de Araújo the current Prime-Minister in relation to the company/firm PT. Packet System Indonesia). It is noteworthy that this caption was written in the report despite the fact that in the published picture of the one-page-recommendation letter the name of the firm/company was PT Sistemindo Teknomata Mandiri and not PT Packet System Indonesia. Yet, the journalist acknowledged himself in the same report that Timor Post had a copy of the one-page-recommendation letter.
- 3) Statements such as: (a) *"Tuir karta rekomendasaun ne'ebé Timor Post iha indika emain tolu maka halo asinatura ba karta ne'e hakerek ho lia Ingles hodi sujere ba parte kompetente atu fo'o projetu datacenter ba kompañia PT Packet System Indonesia maka bele manan ho razaun kompañia ne'e priense duni prosesu tenderizasaun nian. Maibé*

*parte balun konsidera ne'e hanesan fo ba malun deit", (my translation: according to the recommendation letter in the hands of Timor Post, it shows that 3 people had signed the letter in English recommending to the competent party to give the datacenter project to PT Packet System Indonesia with the reason that this company fulfills the tendering process. However some parts/people consider it a mere "dolling out" of projects).*

*(b) "Rezultadu ha tenderizasaun ba projetu datacenter ne'e hamosu polemika barak, tamba antes ne'e eis asesor Ministeriu Finansas atual Primeiru Ministru Rui Maria de Araujo sujere ba governu atu bele desidi kompañia PT Packet System Indonesia hodi bele kaer projetu Datasenter ne'e ho razaun profile kompañia ne'e priense duni kriteria, maibe mosu komentariu oin seluk husi parte balun katak sujestan ne'e hanesan dalam atu fó projetu ba malu de'it" (my translation: the results of the tendering of this datacenter project created a lot of polemics because before this the former adviser of the Ministry of Finance, the current Prime Minister Rui Maria de Araújo suggested to the Government to decide in favor of awarding this project to PT Packet System Indonesia with the reason that this company's profile fulfills the criteria, but there was commentary from some party/people that the recommendation was a means to give projects to each other).*

Please note that these statements were written despite the fact that the one-page-recommendation letter, which Timor Post had access to mentions PT Sistemindo Teknomata Mandiri and not PT. Packet System Indonesia.

**With all due respect to the press freedom and freedom of expression, are these "a factual error on a government tendering process"? Can journalist write, and newspapers publish these types of reports just because of press freedom and freedom of expression?**

- II. On your statement **"In accordance with Timor Leste's own Press law, the outlet subsequently published a correction and right of reply from the Prime Minister's office in relation to the story"**, I have two comments:
- 1) There was no correction published by Timor Post. There was indeed a report by Timor Post on a press conference in which I denied the false accusations, and an apology was published mentioning "technical error", but not a single word 'correcting' the patently baseless accusations as seen in the statements presented above. I must add that this was patently more than a factual or technical error. The whole article was premised on an allegation that an award on a tender had been recommended with respect to a company that was not even supported on the basis of the document published in the newspaper.
  - 2) Timor-Leste's press law stipulates the right to reply of any person affected by news reports, and the right to correction as the rights of the affected person, as well as the obligation by the publishing agency, but not as means of sanctioning any wrongdoing by journalists or publishing agencies.
  - 3) Additionally, please refer to Article 38 of Timor-Leste's press law, where civil and criminal responsibilities are stipulated.
- III. Turning to your concern **"in spite of this, you have filed a criminal defamation lawsuit that carries potential prison sentences against Oki, Vincente and Timor Post"**

Let me share with you that:

- 1) There is no such thing as “criminal defamation” in Timor-Leste’s penal code as you eloquently stated in a subsequent part of your letter. Moreover, it is not true that I “have filed a criminal defamation lawsuit”. What I did was to present the facts to the Prosecutor’s Office of a publicly disseminated false accusation against me. It is up to the Prosecutor’s Office to file or not to file a lawsuit.
- 2) I presented the facts to the prosecutor’s office because article 38 of the press law gives me the right to do so. Moreover, given that such matters as allegations of corruption are also public crimes, which the Prosecutor’s Office can take notice of and initiate investigations, it is prudent for citizens against whom public accusations are made to present the facts to the Prosecutor’s Office. That is what I did, as not to do so may be interpreted as having acquiesced to the allegations.

**IV. Finally, on your statement “the international media community is both disappointed and concerned that such an action is being pursued and strongly urge for you to unconditionally drop the charges and stop using legal threats to harass Timor Leste’s journalists”,**

I regret to say that:

- 1) As you seem to know well Timor-Leste’s legal framework in general, and particularly Timor-Leste’s penal code, you might have also noticed that the type of crime described in article 285 (1) of Timor-Leste’s penal code (which you called “slandorous denunciation” but I would prefer to use its Portuguese name “Denúncia Caluniosa”) is a public crime, and regardless of any offended person filing or not filing a lawsuit, the Prosecutor’s Office has the duty to uphold justice, and make the decision to file or not to file a lawsuit in accordance to this article. Furthermore, the offence could also be committed if a person makes a calumnious denunciation directly to the investigative or prosecutorial authorities without making the statements publicly at all. It is a provision in the criminal law to prevent false accusations of criminal conduct being made. It can also be brought against police or prosecutors who breach the provision in the law. It exists to protect the integrity of the criminal investigation and prosecutorial process. It exists in a number of developed democracies, especially those of the civil law persuasion.
- 2) As such, as an offended person I have no control over the decision of the Prosecutor’s Office. In fact it would be impossible for me to in any way intervene with the Prosecutor’s Office in the exercise of its function in investigating and prosecuting the law in Timor-Leste as they see fit according to the law.

I hope I have addressed the main concerns raised in your letter.

Please rest assured that as a common Timorese citizen, who endured harassment during 24 years of Indonesian occupation, acquiesced by all major western powers, included by some of the worldwide free press advocates, I will not trade press freedom and freedom of expression with “press irresponsibility” and “irresponsible expression of freedom”.

Sincerely,

/s/

Dr Rui Maria de Araújo