

**Marianne Kearney
Bebonuk, Dili
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**Senhora Carmelita Caetano Moniz
President Commission A,
Parliament National
Timor Leste**

Dear Senhora Carmelita,

I'm writing to you about the proposed media law. I hope you will consider my submission, not just as an outsider who has never worked here, or understood the challenges of local media. I've worked in Timor Leste both as a foreign correspondent and as a media trainer / journalist trainer and communications specialist. I'm writing to you as someone who has trained journalists and editors from a variety of media and lectured on media and democracy at UNTL and who understands the difficulties and challenges journalists in Timor Leste face.

I understand that one of the reasons that this law proposed establishing a Press Council, is because there still are, and will continue to be a lot of ethical challenges with the way many journalists work; many media outlets use the media as ways to criticise or slander, political opponents or people in power who have offended them. However journalists shouldn't be forced to join this council, and it should be independent of the government. In fact it would be better if the Press Club played the role of a council, with elected members who could issue some kinds of punishments, i.e. small fines, banning from publication for an amount of time; otherwise, the council will not be a neutral organisation but one which is just enforcing the views of the government. There is already a problem with the state-run and commercial media lacking independence, and reportedly regularly requesting fees to cover events; a state-run Press Council would only encourage nepotism.

Also as a media trainer, I know that the government and various government departments should also be held responsible for the quality of reporting and public information available. Journalists face an uphill battle getting any information out of government officials and ministries. Government ministries violate Constitution articles 40-41 on a daily basis when they refuse to provide basic information, for instance the number of dengue cases in the national hospital (and the minister bans the hospital director from talking to the media), or the status of a legal case, or the police refuse to answer questions about a murder or series of crimes. This information is important information which the public has a right to know, but ministers frequently order their staff not to answer journalists' questions, and only permit the minister or vice-ministers to talk to the media. Clearly a minister or vice-minister has limited time to answer journalists' questions, and this often hinders' journalist ability to report in a balanced way.

Also, given that the provision of important information and holding the government accountable is a basic pillar of democracy, journalists shouldn't be

jailed for performing this role, even if they do it badly. Slander, or *pencemaran nama baik* should not be under the criminal code, as it was under Indonesian law. It should be a civil offense or else mediated by journalists' Press Club, with perhaps an agreed fine for offenders. When journalists write articles for publication, it is their editors and media outlets which should be responsible for the content, ensuring that they don't slander people. However under the proposed law, individual journalists are held responsible for slander or *pencemaran nama baik*. This removes the incentive for editors and the media outlet to control and ensure that articles and/or news stories abide by certain standards.

The media play a key role to ensure that there is transparency, and to reduce corruption in a democracy. Therefore they as individuals should not have to defend themselves against the state, or a commercial company for instance. If individual journalists are held accountable, then why would any journalist report critically on a country or a company's performance? Why would journalists reporting on say the Iraq war, or Afghanistan expose the lies of President George Bush, or crimes committed by the American military if they could be sued as individuals, and given a heavy prison sentence or heavy fine? Why would any foreign journalists prior to 1999 have reported on their governments' sale of weapons to the Indonesian military, or turning a blind eye to the military training the militia, if they could have been sued by their government, or the company selling the weapons? This section of the law can and would be used by powerful interests, ministers, the state, or companies for instance oil companies, to target and shut down journalists trying to report on wrong doings.

As a former journalism trainer, and journalist who worked hard to improve the standard of journalism in Timor-Leste and ensure there is a free and independent press, I'm also concerned about journalism standards. However it should not be a state communications body which provides trainings or tries to ensure journalists work reaches certain standards. **Instead of providing funds to a state body to provide training, the parliament should allocate proper resources for the Social Communications course at UNTL.** A lot of money has already been spent developing the curriculum for this course, however there is a lack of funds / resources for students to practice the craft of journalism and develop good investigative skills; there are hardly any books in the library, and limited or intermittent internet access. It's been several years since I taught there, but I understand there is a lack of lecturers as well, especially lecturers or courses which focus on the craft of writing or producing a news story. How much money has been allocated to fund Radio Akademia, which is a great training ground for upcoming radio journalists? For journalists already practicing it would be better for them to enrol in post-graduate courses, or take particular subjects such as journalism ethics and or social communication and society, or maybe courses for journalism editors.

I understand that you're concerned that when journalists report on corruption it allows corruptors to hide the evidence. **But journalists should raise questions about whether ministers or government representatives are corrupt, as it is part of the public right to know and it hopefully increases social pressure on ministers etc. not to behave corruptly.** In addition, CAC doesn't rely only on media stories to investigate corruption cases but gets lots of tip-offs from the public. And the answer to this dilemma is to strengthen the investigative powers of CAC or the prosecutor's office,

for instance the faster issuing of bans on overseas travel when a suspect is under investigation.

Another aspect of this law, which I find alarming is that only registered media outlets can produce media. This will mean that bloggers and freelancers are not allowed to publish, unless they have permission from the government. This seems very backwards-looking in an age where so many people are using social media, blogs and twitter to express their opinions, share ideas with friends, or in effect write their own articles and opinion pieces. Now with many people in Timor having access to 3G mobiles, the rate of people communicating and spreading their ideas via Facebook, Twitter and other social media will expand rapidly. What is probably important is that journalists who report for media organisations have accredited identification and freelancers can identify themselves as freelancers working for a particular media, or their own blog post. Please remove Articles 6-8 from the Media Law and use Constitution Articles 40 and 41 as the legal basis for “journalistic activity.”

Also as a country whose struggle for independence gained worldwide sympathy; largely due to foreign reporting, particularly foreign coverage of the Santa Cruz massacre and foreign coverage of the abuses of the militia and TNI in 1998-1999, it appears to be very contradictory, that foreign media will not be able to report in Timor Leste without special permission. Until now the foreign media has been free to come and go on a tourist visa, and that has served the country well. Why make it difficult for the foreign media to report on the developments in Timor Leste and why make Timor Leste, more like Singapore and less like other democratic countries, such as Australia where visiting media don't need any special visas?

Regards,

Marianne Kearney

Former foreign correspondent & communications trainer / consultant