

URGENT ACTION

TWO JOURNALISTS MAY FACE IMPRISONMENT

In the case of two Timorese journalists, the lead prosecutor has recommended imprisonment of one year for Raimundos Oki, and a two year suspended sentence for Lourenco Vicente Martins if they are convicted of “defamatory false information.” The court will read its verdict – and sentence, if it is a conviction – on 1 June 2017.

Raimundos Oki and Lourenco Vicente Martins are on trial on criminal “defamatory false information” charges filed by Timor-Leste’s Prime Minister over a 2015 article they published about irregularities during the tendering process for a government IT project. Amnesty International believes that the article was written in good faith. The article was later withdrawn and an apology issued. Nevertheless the Prime Minister filed criminal charges on 22 January 2016 for “defamatory false information” or “slandorous denunciation” under Article 285(1) of the Timor-Leste Criminal Code.

On 17 May 2017, the lead prosecutor submitted the final charge sheet against the pair. The prosecutor called for Raimundos Oki to be jailed for one year and for Lourenco Vincente Martins to be given two years ‘probation with the threat of one year imprisonment’ if he commits the same offence during that time. A court in Dili, the capital of Timor-Leste, is due to announce the verdict, as well as their sentence, if the pair are convicted, on 1 June 2017.

The human right to freedom of expression, including the right to receive and impart information, which covers media freedom more generally, is provided in the International Covenant on Civil and Political Rights, to which Timor-Leste is a state party. The freedoms are also guaranteed in Articles 40 and 41 of the Timor-Leste Constitution. Further, Article 8 of the Timor-Leste Media Law, which was passed by the National Parliament on 6 May 2014, stipulates that “the right of journalists to report shall be exercised on the basis of constitutional powers and may not be subjected to interference that threatens the independence and objectivity, freedom of establishment, and freedom of conscience.”

Please write immediately in English, Portuguese, Tetum or your own language urging authorities to:

- Drop immediately all criminal defamation charges against Raimundos Oki and Lourenco Vicente Martins under the Timor-Leste Criminal Code or any law;
- Refrain from bringing criminal charges or any other proceedings against journalists or any other person for peacefully exercising their right to freedom of expression which includes freedom to seek, receive and impart information and ideas of all kinds through any media and ensure journalists are able to carry out their work without fear of intimidation or harassment;
- Ensure that the Criminal Code is applied in full accordance with international human rights law and standards, in particular so that the peaceful work of journalists is not criminalised.

PLEASE SEND APPEALS BEFORE 4 JULY 2017 TO:

Minister of Justice
Ivo Jorge Valente
Ministry of Justice
Avenue Jacinto Candido
Dili, Timor-Leste
Email: gabinete@mj.gov.tl
Salutation: Minister

Permanent Representative of Timor-Leste to the UN in Geneva
Mr. Marciano Octavio Garcia Da Silva
Rue Pestalozzi 7
1202 Geneva
Switzerland
Fax: +41 22 788 3564
Email: info@timor-lestemission.ch
Salutation: Dear Ambassador

And copies to:
Chairperson of the Office of the Provedor for Human Rights and Justice
Silverio Pinto Baptista
Estrada de Caicoli
Dili, Timor-Leste
Fax: +670 723 0177
Email: provedoriatl@gmail.com

Also send copies to diplomatic representatives accredited to your country. HIS EXCELLENCY MR JOAQUIM ANTÓNIO MARIA LOPES DA FONSECA, Embassy of the Democratic Republic of Timor-Leste, 4 Cavendish Square, Paddington W1G 0PG, 020 3440 9025 / 0203 440 9026

Please check with your section office if sending appeals after the above date. This is the first update of UA 230/16. Further information: <https://www.amnesty.org/en/documents/asa57/4957/2016/en/>

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ADDITIONAL INFORMATION

On 10 November 2015, Raimundos Oki, then a journalist for the Timor Post, published in the newspaper an article alleging irregularities during the tendering process for a project to supply and install IT equipment in a new Ministry of Finance building in 2014. The article alleged that Prime Minister Rui Maria de Araujo, in his former position as advisor to the Finance Minister, had recommended a company before the process had begun, and that company won the tender. On 17 November 2015, the Prime Minister issued a reply to the article denying the allegations which were published on the newspaper's front page. On 18 November the Timor Post published a clarification and correction to a factual error in the article, as well as an apology. Lourenco Vicente Martins, the editor of the Timor Post at the time, also resigned. On 22 January 2016, Raimundos Oki received notice that defamation charges were being filed against him and Lourenco Vicente Martins.

In 2013, Raimundos Oki and another journalist were convicted of "defamatory false information" under Article 285 of the Criminal Code for exposing alleged corruption in their country's judicial system but were later acquitted of violating this Article. However, the court fined each journalist and their informant US\$ 150 for causing psychological distress to the defendant. Article 285 of the Timor-Leste Criminal Code criminalises "defamatory false information," providing that "any person who, by any means, before authorities or publicly, and aware of the falsity of the accusation, informs or casts suspicion on a certain person regarding the commission of a crime, with the intent of having criminal proceedings initiated against said person, is punishable with up to three years' imprisonment or a fine".

The use of criminal defamation laws with the purpose or effect of inhibiting peaceful criticism violates Timor-Leste's legal obligation to respect and protect the right to freedom of expression under Article 19 of the International Covenant on Civil and Political Rights, to which Timor-Leste is a state party. Defamation should be treated as a matter for civil litigation by injured parties. The UN Human Rights Committee has encouraged states to consider decriminalizing defamation and has underlined that defamation laws must be: crafted with precision to ensure that they comply with states' international human rights obligations and do not in practice stifle freedom of expression; a public interest in the subject matter of the criticism should be recognised as a defence; and, states should take care to avoid excessively punitive penalties. Further, it is well established under international law that public officials must tolerate more, rather than less, criticism than private individuals.

Further information on UA: 230/16 Index: ASA 57/6290/2017 Issue Date: 23 May 2017