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Timor-Leste: Unconstitutional media law threatens freedom of expression

Amnesty International urges the Timor-Leste parliament to revise the new Media Law and bring it into line with international law and standards in accordance with the recent ruling of the Court of Appeal which found that provisions in the law are unconstitutional.

The organization is concerned that parliament may push ahead with ratifying the law, which could stifle freedom of expression in the country.

Many local activists in Timor-Leste believe the law was enacted to impede local and foreign journalists from reporting on alleged corruption, nepotism and financial mismanagement in Timor-Leste. In 2013, two journalists were convicted for exposing alleged corruption in their country's judicial system.

While the Media Law explicitly recognizes the rights to freedom of expression and press freedom, it stipulates that in order to work as a journalist, individuals are required to have undergone a six month internship in a media organization and be accredited by a Press Council, which is also provided for in the law. This restriction means that freelance media workers, citizen journalists, student journalists, bloggers and others could be barred from carrying out journalistic work. The law also bars individuals working for political parties, non-governmental organizations (NGOs) or government departments from being registered and accredited as journalists. The legislation also applies to foreign journalists, who would require Press Council accreditation to work in the country although they would not be required to undergo an internship.

Further, the law requires the media to promote 'the national culture, values and identity' of Timor-Leste, 'social stability and harmony' and 'encourage and support economic policies.' Amnesty International is concerned that such vague language could be used to prevent media outlets from being critical of the government. Breaches of provisions of the law could trigger fines against journalists and media outlets.

Despite protests against the proposed law by journalists and civil society groups, the Timor-Leste parliament passed the Media Law on 6 May 2014. However, President Taur Matan Ruak refused to promulgate the law and subsequently submitted it to the Court of Appeal.

On 21 August the Court of Appeal ruled that certain provisions in the law are in breach of

the Constitution. These provisions include those specifying the 'duties' of the media (Article 20), foreign ownership (Article 24) and fines for journalists violating the law (Article 40). The law was returned to the parliament to be revised; however, there are concerns that parliament may push ahead and ratify the law without revisions.

Amnesty International calls on the Timor-Leste parliament and President to ensure that the law is revised to bring it in line with international human rights law on freedom of expression, and in particular to ensure that it will not restrict the legitimate work of journalists and the right of everyone in Timor-Leste to exercise the right to freedom of expression, including the right to receive information.

Background

Amnesty International considers the Media Law to be incompatible with Timor-Leste's human rights obligations, particularly the International Covenant on Civil and Political Rights (ICCPR) which Timor-Leste ratified in 2003. Article 19 of the ICCPR guarantees the right to freedom of expression which includes freedom to seek, receive and impart information and ideas of all kinds through any media. Freedom of expression and of the press is also guaranteed in Articles 40 and 41 of the Timor-Leste Constitution.

The Human Rights Committee – the expert body that oversees the implementation of the ICCPR – has stated that “journalism is a function shared by a wide range of actors, including professional full-time reporters and analysts, as well as bloggers and others who engage in forms of self-publication in print, on the internet or elsewhere”. It has in particular stated that general state systems of registration or licensing of journalists are incompatible with such restrictions on the exercise of the right to freedom of expression as are consistent with international human rights law, which permits only such restrictions as are demonstrably necessary and proportionate for respect of the rights of others or for protection of national security or public order, or public health or morals.

Media and journalists play a key role in the effective realization of all aspects of freedom of expression, and restrictions imposed on them can have a negative impact on the exercise of these rights by all individuals. Accordingly, any restrictions placed on the media must be compatible with international law with regard to freedom of expression and the enjoyment of other human rights. Journalists and the media played a key role in exposing human rights violations by Indonesian security forces when it occupied East Timor from 1975 to 1999, and have continued to be important voices since independence in raising human rights related issues.