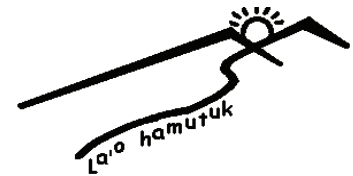


## La'o Hamutuk

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## The Defamation Case against *Tempo Semanal*

Dili, 4 March 2009

At present, Minister Lucia Lobato has charged journalist Jose Belo because his newspaper, *Tempo Semanal*, has published allegations of corruption in the Ministry of Justice. Based on reports in *Tempo Semanal*, Lucia Lobato brought a case to the Prosecutor against *Tempo Semanal* because, according to her, *Tempo Semanal* has defamed her privacy and journalist Jose Belo has violated the journalism code of ethics. La'o Hamutuk is concerned that this process will damage democracy in Timor-Leste.

The Indonesian Penal Code (KUHP/Kitab Undang-Undang Hukum Pidana), which Timor-Leste is still using, dates from the Dutch colonial rule over Indonesia, when it was used to defend the monarch in the Netherlands by criminalizing colonial subjects who spoke out against the Dutch government. After Indonesia became independent, Suharto's New Order dictatorship punished many people using the defamation articles in the Penal Code.

Articles 310-321 of the Indonesian Penal Code Indonesia (KUHP) should no longer be applied in democratic Timor-Leste, a state governed under the rule of law, because they restrict freedom of the press and violate UN conventions Timor-Leste has ratified, including the International Convention on Civil and Political Rights (ICCPR). UNTAET tried to remove these defamation articles from the Penal Code, but they were unsuccessful because they used an executive order. However, according to legal hierarchy, they should have used a regulation, which had the same level as law. Timor-Leste's judicial system has begun a new phase, when these articles are used only to help powerful people threaten other citizens, or to keep them quiet about wrongdoings committed by the powerful. Practices like this will create huge injustice in Timor-Leste.

Justice Minister Lucia Lobato's accusation against journalist Jose Belo, as director of the newspaper *Tempo Semanal*, creates an ugly picture which can kill freedom of an independent and impartial press. The media will be afraid to circulate clear and accurate information when they know that such information will bring down threats against them.

We believe that everyone should comply with the law, and that the information published in *Tempo Semanal* is evidence that the Prosecutor General should use to open an investigation about alleged corruption in the Ministry of Justice. But in reality, the Prosecutor is investigating Jose Belo, accusing him of defamation. La'o Hamutuk sees this reversal as criminalization of a free press which provides true and factual information to the public.

RDTL Constitution Article 41.4 "Freedom of the press and mass media" says that "The State shall guarantee the freedom and independence of the public mass media from

political and economic powers.” Actions like the one confronting *Tempo Semanal* can also happen to other media and organizations if publishing is considered as a crime. This is a big threat to social justice in Timor-Leste.

La’o Hamutuk believes that to strengthen the rule of law, everyone should be treated equally by the justice system. This is an important step in developing our judicial process, and for everybody’s human rights and access to information. Our nation’s goals will not be achieved when judicial processes are used to defend only people with power.

La’o Hamutuk asks:

1. The Prosecutor General to cancel the defamation case against *Tempo Semanal* immediately.
2. Lucia Lobato to stop the defamation accusation before the court.
3. National Parliament to rapidly revoke the Indonesian criminal defamation law, and not include it in the new Penal Code. When a person defames someone else, only a civil process should be used.
4. All parts of government, and everyone, to respect the freedom, independence and impartiality of the press, as is guaranteed by the RDTL Constitution.
5. National Parliament, with its legislative powers, to quickly debate the Media Law, to guarantee that the press can do their work without interference from anyone, and to end the use of power to criminalize journalists.
6. The Prosecutor General also to investigate Lucia Lobato, starting with the evidence which was published in *Tempo Semanal*. Lucia Lobato, as Minister of Justice, has an important responsibility for the judicial system, and she should give a good example by cooperating with the judicial process.
7. Civil society, including media, NGOs, the church and all citizens should encourage Timor-Leste, as a democratic state under law whose people have achieved independence, needs accurate information, and should support journalists’ right to conduct investigations and publish what they find.

La’o Hamutuk is a civil society organization which has been monitoring and analyzing development in Timor-Leste since 2000. We believe that it is very important for everyone to understand and participate in all development processes in this country, and that the processes must be democratic, transparent and accountable. Although La’o Hamutuk does not specifically monitor the judicial system in Timor-Leste, we are worried by this alleged defamation case and we try to defend the democratic rule of law, and to distribute information and conduct advocacy to protect the rights of all of Timor-Leste’s people.

For more information on this case, see

[www.laohamutuk.org/Justice/defamation/09LHTempoSemanal.htm](http://www.laohamutuk.org/Justice/defamation/09LHTempoSemanal.htm)

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