



**JUDICIAL SYSTEM MONITORING PROGRAMME  
PROGRAMA MONITORIZASAUN SISTEMA JUDISIAL**

***Press Release***

05 March 2013

**Article 285 of the Penal Code threatens the development of democracy in  
Timor-Leste**

On 28 February 2013 the Dili District Court tried the defendants MS, RO and OS who were accused by the public prosecutor of committing slander against the victim JBS. This case allegedly occurred on 31 December 2011 and 2 January 2012, when the defendants, who are journalists, published their article in the daily newspapers *Suara Timor Lorosa'e* and *Independente*.

The public prosecutor charged the defendants with committing the crime of slander in accordance with 285 of the Penal Code, for publishing an article in the daily newspapers *STL* and *Independente*, regarding the suspected involvement of the Oecusse District Prosecutor in a traffic accident. The incident allegedly occurred on 18 October 2011. The incident resulted in three family members of the defendant MS losing their lives and suffering serious injuries.

The hearing was conducted to hear testimony from the three defendants and to allow them to produce material evidence in relation to the article that they wrote in the two aforementioned newspapers.

*“JSMP believes that the provision on slander in the Timor-Leste Penal Code will set a dangerous precedent and will threaten democracy in Timor-Leste because it will shut people up and stop them from revealing their suspicions about the misuse of authority involving government authorities,”* said the Executive Director JSMP, Luis de Oliveira Sampaio.

JSMP believes that although Article 285 of the Penal Code does not refer to ‘damaging the good name’; this article implies the same thing as the notion of tarnishing someone’s reputation. This conflicts with the obligation of the government of Timor-Leste under Article 19 of the International Convention on Civil and Political Rights (ICCPR) and Article 41 of the Timor-Leste Constitution, that are intended to protect the right of every person to express their opinion without interference as well as to protect freedom of expression. The State should create a balance between protecting an individual’s reputation/privacy against a false accusation and the right to expression, especially the freedom of journalists to criticize government institutions.

In the aforementioned trial, the three defendants admitted a number of facts in the charges and rejected others. The defended themselves by presenting arguments and proof to the court. The defendant MS strongly rejected the evidence and the dates written in the indictment. The defendant also showed the court evidence and a chronology of the case that he gave to the defendants RO and OS to be published in the newspapers.

This case was registered as Case No. 0201/2012/TDDIL. The trial was presided over by single judge Antonio Helder do Carmo. The Public Prosecution Service was represented by Ivonia Maria Guterres, and the defendant was represented by Cândia Xavier and Laura Valente Lay from the Office of the Public Defender.

For more information, please contact:

Luis de Oliveira Sampaio

Executive Director of JSMP

Email: [luis@jsmp.minihub.org](mailto:luis@jsmp.minihub.org)

Landline: 3323883 / 77810637

website: [www.jsmp.tl](http://www.jsmp.tl)