

## Teacher in Brazil Charged for Defamation for Reporting on Jail Problems

Contributed by Newsroom  
Thursday, 28 February 2008

Brazilian Maria da Glória Costa Reis, a human rights activist and retired teacher in Brazil who coordinates the edition of a small newspaper written by detainees in the town of Leopoldina, in the Brazilian southeastern state of Minas Gerais, was sentenced to four months in prison.

Her crime: publishing an article criticizing the conditions of a jail and the negligence of judges and lawyers regarding the rights of detainees.

"Sentencing to imprisonment someone reporting on possible human rights violations is profoundly tragic. Prison conditions constitute clear public interest and public policy issues. They must be investigated, reported, debated and ultimately transformed and improved. They must not be silenced. The defamation suit against Maria da Glória Costa Reis and the sentencing are shameful," said Agnès Callamard, Executive Director of Article 19, a London-based human rights organization.

The article was published by "Recomeço", a newspaper with a circulation of 200 copies written by detainees in Leopoldina and circulated among them, as well as in churches, local courts and some public buildings in Leopoldina.

In August 2005, Reis published an editorial classifying as unacceptable "the connivance of judges (. . . ) and lawyers" with "such a barbarity", referring to the conditions of the detainees.

According to the editorial, the jail was not meeting the guarantees for humane conditions that the Brazilian Constitution grants to prisoners.

Although the article did not mention any names or specific posts, Reis had to respond to a criminal inquiry for allegedly offending judge José Alfredo Jünger de Souza Vieira, who was responsible for the Criminal Court in Leopoldina and in charge of overseeing the local prisons at the time when the article was published.

In a decision issued in January 2008, judge Tânia Maria Elias Chain, from Leopoldina, convicted Reis of criminal defamation against judge Vieira. The decision was based on the Brazilian Press Law (Law 5250/67). The four month prison sentence was converted to a fine.

Article 19 says that it urges the courts in Minas Gerais to abide by Brazil's international obligations in the area of freedom of expression and revise its decision.

"International best practices in the area of defamation," argues Article 19, "dictate that nobody can be convicted for defamation unless the accusing party proves, beyond a reasonable doubt that the statement in question was false; the person making the statement knew it was false or showed reckless disregard as to its truthfulness; and the statement was made with the intention of causing damage to the reputation of the person concerned.

"The editorial published by Reis made no personal reference to the judge and it is therefore difficult to see how it could have explicitly damaged his reputation, especially when considering the newspapers limited circulation. There has been no attempt to further investigate the allegations in the editorial or indeed to prove beyond any reasonable doubt that they were false."

International bodies such as the UN or the OAS have recognized the threat posed by criminal defamation laws and have recommended that they be abolished.

For instance, the UN Human Rights Committee has repeatedly expressed concern about criminal defamation laws, and has called on States to ensure that defamation is no longer punishable by imprisonment.

The Inter-American Court of Human Rights has also found a breach of the right to freedom of expression in two leading cases involving criminal defamation being applied to statements on matters of public interest, largely ruling it out in such cases.

"I believe the judge wanted to frighten me because of the newspaper," Maria da Glória Costa Reis told reporters. "We have reached a point in which the lawsuit was initiated by the Judiciary, which is exactly the institution that should make sure that justice is made," she said.

"The case against Maria da Glória Costa Reis demonstrates defamation's dangers to democracy. The overuse and abuse of defamation laws, and particularly the existence of criminal defamation discourage debate about official institutions, prohibit criticism and encourage self-censorship," said Callamard.

Article 19 reiterated that it strongly condemns judge Chain's decision and urges the Minas Gerais courts to reverse it. The organization also says that it considers as unacceptable the high number of criminal defamation lawsuits filed against human rights defenders and journalists in Brazil, as well as disproportionate sentences granted by some judges against them. Article 19 equally called on the Brazilian government to review its Press Law and decriminalize defamation.

Article 19 takes its name from Article 19 of the Universal Declaration of Human Rights, which guarantees freedom of expression.