



Analysis of the Role of the State in Protecting Child Rights in Accordance With the Constitution of the Republic Democratic of Timor-Leste

Maria Soares de Araujo^{1*}, Lourenco de Deus Mau Lulo²
University of Peace Graduation

Corresponding Author: Maria Soares de Araujo
lourencodedeusmaulo@gmail.com

ARTICLE INFO

Keywords: Analysis,
Protecting Child,
Constitution

Received : 15, August

Revised : 20, September

Accepted: 25, October

©2023 Araujo, Lulo (s): This is an open-access article distributed under the terms of the [Creative Commons Atribusi 4.0 Internasional](https://creativecommons.org/licenses/by/4.0/).



ABSTRACT

The Democratic Republic of Timor-Leste, as a Democratic State of Law, as set out in the RDTL Constitution, states that the Democratic Republic of Timor-Leste, the rule of law, the Democratic, the sovereign, the unitary, the self-governing and the self-governing of the will of the people and in respect for the dignity of each person.

This is the fundamental principle of citizens under the concept of the rule of law itself, therefore, the state of Timor-Leste has a full obligation to protect the human rights of its citizens, including children, in accordance with the objectives set out of the RDTL Constitution, to guarantee and promote the fundamental rights and freedoms of its citizens, and respect the principle of the state in relation to democratic rights. In view of the reality of the above, the writer has created three aspects that are essential in this research, namely;

The first legal aspect; the writer sees and analyser in more detail the legal system in Timor-Leste, which is mostly an alternative for the state to adapt and exist from the legal framework in Timor-Leste.

Second, Sociology; the writer focuses on social problems that always involve children in any activity, such as political activities, juvenil conflicts, education and workers, taking into account these situations, the writer is also concerned about the current situation in Timor-Leste.

INTRODUCTION

1.1 Background of the Problem

The Democratic Republic of Timor-Leste, as a Democratic State of Law, as set out in the RDTL Constitution, article 1 (1) which states that the Democratic Republic of Timor-Leste, a State of Law, Democratic, sovereign, unitary, self-determination and one that is established by the will of the people and in respect of the dignity of the individual, is a fundamental principle of the citizens in accordance with the concept of the rule of law itself. Which is set out in the Preamble of the Constitution of Timor-Leste, in paragraph X, which is of course the need to build an institutional Democratic Culture of the rule of law, where the constitution, the law and the institution chosen by the people themselves will be respected. In addition, the state of Timor-Leste is fully obliged to provide protection of human rights to citizens, including the rights of the child in accordance with the purpose of the state set out in the RDTL Constitution, article 6 (1) point (b), to guarantee and promote the fundamental rights and freedoms of the citizen, and respect the principle of the state in terms of democratic rights.

According to observations in the training, many children are not treated well because many parents explore the following rights of their children:

- 1) Mother father explores the right of children to send their children to find money through the sale of goods on the side of the road to support the family in the house;
- 2) Children's parents are more concerned with culture than their future children, and children become abandoned and alphabet;
- 3) Children do not go to school, because parents do not have the financial capacity to help their children go to school;
- 4) Many children are malnourished, because parents do not have the job to facilitate nutrition-enhancing food for their children's health;
- 5) Some early parents are not willing to be responsible for their children, and even children are not given the maximum attention of their parents.

In view of the problems mentioned above, the role of Government and society in Timor-Leste is very important, for the protection of the rights of the child in accordance with the RDTL Constitution, Article 18 on the protection of the boys, paragraph (1), (2) and (3), states that: (1) children have the right to special protection by the family, community and even the state, namely against all acts such as non-

In view of the reality of the above, the writer has created three aspects that are essential in this research, namely;

The first legal aspect; the writer sees and analyser in more detail the legal system in Timor-Leste, which is mostly an alternative for the state to adapt and exist from the legal framework in Timor-Leste, remains dependent on the international law instrument that the writer specifically considers the rights of the children in accordance with the RDTL Constitution.

Second, Sociology; the writer focuses on social problems that always involve children in any activity, such as political activities, child conflicts, education and workers, taking into account these situations, the writer is also concerned about the current situation in Timor-Leste. The social conflicts that most affect communities include the government dealing with child-specific issues in Timor-Leste.

Third Aspect of Theory, the writer focused on the policy of legislation in the legal system of Timor-Leste which has always created conflicts between national and international policies that deal with specific issues of the rights of the East Timorese child and adaptations in accordance with international law instruments that have been ratified by East Timor, most of which do not reflect the real situation and conditions in East Timor.

Therefore the researcher intends to formulate the following research topic:
ANALYSIS OF THE ROLE OF THE STATE OF TIMOR-LESTE IN PROTECTING CHILD RIGHTS.

1.2 Problem Formulation:

In relation to the previous mentioned above, the writer also formulated the following problems that the expert in conducting the research:

1. What is the role of the State of Timor-Leste in protecting the rights of the child?
2. What mechanism does the State of Timor-Leste use to protect the rights of the child in Timor-Leste.?

1.3 Research Objectives

The relationship with the research objectives that will be obtained by the researchers in this analysis is as follows:

1.3.1 Objectives generated.

1. To learn and analyse the role of the Government in protecting the rights of the child in accordance with the Constitution of the Democratic Republic of Timor-Leste
2. To learn and analyse the mechanisms used by the government to protect the rights of the child in Timor-Leste.

1.3.2 specific objectives

The relationship with the specific objectives of this research is as follows:

1. The results of this research are a requirement to obtain a Masters of Law in the Masters Program of the University of Peace
2. The research results were a reference for the Government Institutions to be used as a guide for the protection of the rights of the child in Timor-Leste.

The research results will also be a reference for other researchers who will follow, with the same research topics to further research on the same problem.

1.4 Theory Foundation

1. Theory of the State of Law

The State of Law or the *Rechtsstaat* established in Article 1 of the RDTL Constitution, which states that the Democratic Republic of Timor-Leste is a democratic country that is in accordance with the people's free will with respect for freedoms, which states that the democratic country, in accordance with Articles 1 and 2 of Article 2 of the Constitution and the law.

2. The theory of constitution

Historically the country was developed according to the conditions of its people. In Greece, the philosophers formulated the same. Aristotle, born 384 - 322 AM in his opinion about the nation in his book *Political*, which is called the country of law, which

at that time would be seen as a small region In his opinion, the nation became a country of law, which accumulates many people's opinion.

3. *Government Theory*

The Government is an Organization composed of State Institutions or bodies that have the competence and function of each State body. According to Aristotle, political behaviour is organized into three parts, which are important; 1) Exercise your authority and authority Social, economic and political life is a country or part; (2) group of people who are together responsible for the use of authority; and (3) the governor of a country.

4. *Theory of competence*

Competence is a basis that does not turn away from the theory of competence here. It teaches about evolution and its roots. Type of leave to access the right to freedom of association and freedom. Sources of Law, among others: attributes, delegation and mandate. Under the concept of Constitutional Law, Competency or authority The term "the right authority" is defined as "the right of the Authority (the right of competence) public legitimacy, the authority in relation to power has a small difference between the Authority is called formal authority, the authority that comes from the law or legislation.

5. *The Theory of Human Rights*

Human rights are the basis of human dignity. Dignity is the quality that is defined for each person or value that each person has, although it is simple but it is the part that exists in this life. Human rights guarantee special dignity before the state with the power of citizenship to ensure the balance between the rights and duties of individuals in relation to society and to society as well as in relation to individuals.

6. *Child Protection Theory*

Protection is something that involves positive action. Directly and not directly from actions that threaten the physical or psychological well-being of children. This obligation must be fulfilled through law enforcement or security equipment to provide security, physical and mental benefits. The theory of integral protection contains an understanding of the norms that care for children and 1 adolescent needs to be considered as equal citizens for the development of fish, psychological and life

METHODOLOGY

Understanding The method is very important because through the results of this research, we can find out the methods we are going to use. Scientific research aims to study the problems we are going to carry out in depth to obtain the right results in society or in the community. In addition, the type of research on the State Role for the Protection of the Rights of the Child According to the RDTL Constitution, this type of research uses the normal type of research and the type of analysis of this research is descriptive and prospective analysis.

RESEARCH RESULT

The Role of the State for the Protection of the Rights of the Child

According to the research findings and analysis of the Government's role in protecting the rights of the child in Timor-Leste the following are:

1. **Legislation and Public Policy:** It is the responsibility of the Government to create and implement legislation and policies that protect the rights of the child. This could include a law on child protection against violence,
2. **Education:** Education is a fundamental factor in protecting the rights of the child. The Government should provide inclusive and quality education for children. This includes ensuring that children with disabilities have access to adequate education.
3. **Health:** The Government should ensure that children have access to adequate health care, including preventive health services and medical treatment.
4. **Protection against Violence and abuse:** The Government should create mechanisms to prevent and deal with cases of violence against children, including sexual abuse and child abuse.
5. **Access to Justice:** Children must have access to a fair and inclusive justice system. This includes access to lawyers, legal advice, and child-sensitive justice mechanisms.
6. **Child Protection with Special Needs:** Children with special needs should be given appropriate protection and support, including access to inclusive education and special health care.
7. **Data and Research:** Government should collect relevant data on the condition of the country's children. Data is important to know the problems that affect children and to develop effective interventions.
8. **Cooperation with the International Organization:** The Government can cooperate with international organisations and NGOs to obtain financial, technical and capacity building support in the area of child rights protection.

1.6.2 Child Rights Protection mechanism in Timor-Leste

The research findings and analysis of the mechanisms used by the Government to protect children's rights in Timor-Leste show that; In Timor-Leste, the government establishes mechanisms to promote and protect children's rights.

- 1) At the constitutional level, the Constitution of the Democratic Republic of Timor-Leste guarantees children's rights and establishes important principles for child protection and development. In addition, Timor-Leste also entered the Convention on the Rights of the United Nations (UN Convention on the Rights of the Child) and participated in international mechanisms to ensure child rights protection.
- 2) At the practical level, the government promotes activities to ensure children's education, health, and safety.
- 3) In the implementation of policies focused on child development and protection, Access to Justice: Children must have access to a fair and inclusive justice system. This includes access to lawyers, legal advice, and child-sensitive justice mechanisms.
- 4) Child Protection with Special Needs: Children with special needs should be given appropriate protection and support, including access to inclusive education and special health care.

CONCLUSIONS AND RECOMMENDATIONS

1. *For the Government*

For the parties related to the protection of the Rights of the Child, through the Research Results and this analysis, it is intended to be recommended to the Government to protect the rights of the child in Timor-Leste as follows:

- 1) **Implementing the Law and the Public Policy:** Establish and implement laws and regulations that protect the rights of the child, including the law against violence against the child, the accommodation and protection of the orphan and abandoned, and the law that promotes access to education and health. Public policy should reflect commitment to children's rights and create strategies to successfully implement these policies.
- 2) **Promote inclusive and quality education for children:** Invest in inclusive education systems and provide training to educators to understand and support children with special needs. Ensure that children have access to quality and inclusive education.
- 3) **Strengthening Health Systems and Access to Health Care:** Enabling adequate budget allocation for the health sector and services to run and prevent diseases, especially for children. And Promote pre-natal consultation and pre-conception health services. Ensure that children are given adequate immunization and health care.
- 4) **Prevent and bat violence against children:** Strengthen systems to prevent and combat violence against children, including the promotion of sexual abuse and domestic violence.
- 5) **Capacity building and awareness:** Promote training and awareness of professionals, including police, justice, and transitions, on child rights protection. Educate local communities and families about the importance of protecting child rights.
- 6) **Promote Children's participation:** Stimulate the participation of children in decision-making processes that affect their lives, including in schools, communities, and public policies.
- 7) **Establish monitoring and reporting mechanisms:** Create mechanisms to monitor the implementation of laws and policies that protect child rights. The report on progress can help in the correction and development of other policies.
- 8) **Cooperation with International Organizations and NGOs:** Establish cooperation with international organisations, NGOs, and local communities to gain technical, financial, and capacity building support in the area of child rights protection.
- 9) **In implementing these recommendations,** it is important to involve the local community, including their families, and to promote inclusive culture that respects and protects the rights of the child.

2. *For the Father and the Family*

Recommendations for parents and families to protect the rights of children are as follows:

- 1) Protection and Support for Children: parents and families should protect children from violence, abuse, and neglect. Educate families about the rights of children and responsibilities in protecting their safety and welfare.
- 2) Education and awareness: Promote community concentration on the importance of children's rights. Families need education on issues such as inclusive education, child health, and violence prevention.
- 3) Create a safe and affective environment: Create a safe and affective family environment for children. Emotional assistance and support for children's emotional and psychological development are important.
- 4) Promote Access to Education and Health: Allocate time and effort to access quality education and adequate health services for children. Parents and parents should ensure that children are given medical care and access to adequate education and opportunities.
- 5) Family participation in Education and Children's Growth: parents and families can actively participate in children's education and growth. Interact regularly with children to find out their needs, unemployment, and academic and social progress.
- 6) Prevention Sexual abuse and abuse: educate families about the danger of sexual abuse and neglect. Teach children about their bodies in a healthy and safe manner. Promote the opening of communication on issues of sexuality and security.
- 7) Controlling the Use of Technology and the Internet: educate children about reasons and safe use of technology and the internet. Control the use of technology in adequate times and fall into rules for internet use.
- 8) Technical consultation: If the family feels that the child is in social, social, social problems, they can consult experts who know the needs of the child and provide adequate guidance.
- 9) active participation in the Community: parents and families can participate in community activities, including activities related to education, health, and child rights protection. This participation can promote support and resources for families.

These recommendations strengthen the role of parents and families in ensuring that children are provided with a safe, affective environment and with opportunities for their maximum potential development.

REFERENCES

Committee on the Rights of the Child, *Consideration of Reports Submitted by States Parties Under Article 44 of the Convention - Concluding Observations : Timor Leste*, 47th session, February 2008

Committee on the Rights of the Child, *General Comment No. 12 - The right of the child to be heard*, 51st session, July 2009 UNICEF & The Ministry of Social Solidarity, *Mapping and assessment of the child protection system in Timor-Leste*, 2011 Masalah Perlindungan Anak. Akademika Pressindo. Jakarta.

Irwanto. 1997. *Perlindungan Anak, Prinsip dan Persoalan Mendasar*, Makalah Seminar Kondisi dan Penanggulangan Anak Jermal. Medan. Prakoso, Abintoro. 2016. *Hukum Perlindungan Anak*. LaksBang PRESindo. Yogyakarta.

Soeaidy, Shole S.H., Dan Zulkhair Dra. 2011. *Dasar Hukum Perlindungan Anak*. CV.NOVINDO PUSTAKA MANDIRI. Jakarta. Undang-Undang No 23 Tahun 2002 jo Undang-Undang Nomor 35 Tahun 2014. Tentang Perlindungan Anak

Effendy , Onong Uchjana. 2003. *Ilmu, Teori dan Filsafat Komunikasi*. PT.Citra Aditya Bakti. Bandung

Gosita, Arif. 1985. *Masalah Perlindungan Anak*. Akademika Pressindo. Jakarta.
Irwanto. 1997. *Perlindungan Anak, Prinsip dan Persoalan Mendasar*, Makalah Seminar Kondisi dan Penanggulangan Anak Jermal. Medan. Kusumaningrat, Hikmat dan Purnama Kusumaningrat. 2005. *Jurnalistik, teori dan praktek*. Remaja Rosda Karya. Bandung.

Muhtadi, Asep Saepul. *Jurnalistik Pendekata Teori dan Praktek*. 1999. Logos Wacana Ilmu. Jakarta Prakoso, Abintoro. 2016. *Hukum Perlindungan Anak*. LaksBang PRESindo. Yogyakarta.

Soeaidy, Shole S.H., Dan Zulkhair Dra. 2011. *Dasar Hukum Perlindungan Anak*. CV.NOVINDO PUSTAKA MANDIRI. Jakarta.

Soekanto, Seorjono & Sri Mamudji. 2001. *Penelitian Hukum Normatif (Suatu Tinjauan Singkat)*. Rajawali Pers. Jakarta

Lourenço de Deus Mau Lulo, (Disertasi) *Kewenangan Lembaga Negara dalam Pembentukan Undang-undang berdasarkan Konstitusi Republika Demokratik Timor-Leste*, Universitas Udayana Denpasar Bali, 2018.

Lourenço de Deus Mau Lulo; *Konsep Negara hukum Timor-Leste*, Unpaz, 2018 *Concept of the law of Timor-Leste based on Constitution of Timor-Leste*, Faculty of Law Unpaz-Timor-Leste, 2017