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## About this paper

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# STATE AND RELIGION IN TIMOR-LESTE SEPARATION, COOPERATION, FREEDOM AND (IN)EQUALITY

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**Abstract:** The paper analyses Timor-Leste's Law of Religion, i.e., the ensemble of legal provisions which govern the relations between the state and religious groups, as well as the exercise of freedom of conscience, religion and worship by individuals and groups in the country. For context, the paper briefly looks into Timor-Leste's "singular historical experience", the *travaux préparatoires* of the 2002 Constitution – where the "religious question" took on a significant role –, the international human rights standards to which the state is bound, and examples from foreign legal systems where Portuguese is an official language and from where Timor-Leste's lawmakers are known to often borrow.

**Keywords:** Religious freedom; Timor-Leste; secularism; equality

## 1. Introduction

The importance of religion in Timor-Leste is unmistakable. In this regard, the young state – celebrating the 20<sup>th</sup> anniversary of its independence on 20 May 2022 – resembles its Southeast Asian neighbours, "where religious identities are as strong as nationalist impulses"<sup>1</sup>, even though Timor-Leste's template for (nation-)state building has largely been derived from other parts of the world. As often pointed out in the literature, Timor-Leste's 2002 Constitution (*Constituição da República Democrática de Timor-Leste*) reflects the overlapping influences of different "Lusophone Constitutions" (i.e., Constitutions of states where Portuguese is an official language), as attested by its structure, its treatment of key subjects (fundamental rights, sovereign powers, constitutional review and amendment), and even the phrasing of many of its provisions.<sup>2</sup> When it comes to religion, however, Timor-Leste's Constitution sets itself apart from the rest of the Lusophone legal world by its references to God and to the Catholic Church, in particular, its acknowledgement of the Catholic Church's role in the fight for independence and the mention of God in the oath to

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<sup>1</sup> Joseph Chinyong LIOW, *Religion and Nationalism in Southeast Asia*, Cambridge, Cambridge University Press, 2016, p. 3.

<sup>2</sup> See, e.g., Patrícia JERÓNIMO, "East Timor (Timor-Leste)", in Olivier Vonk (ed.), *Nationality Law in the Eastern Hemisphere: Acquisition and Loss of Citizenship in Asian Perspective*, Oisterwijk, Wolf Legal Publishers, 2018, pp. 434-437; Hilary CHARLESWORTH, "The Constitution of East Timor", *International Journal of Constitutional Law*, Vol. 2, 2003, pp. 325-334; Laura GRENFELL, "Realising rights in Timor-Leste", *Asian Studies Review*, Vol. 39, No. 2, 2015, pp. 267, 269-274.

be sworn by the President of the Republic at inauguration.<sup>3</sup> Side-by-side with these idiosyncratic provisions, we find the principle of separation between church and state, the right to freedom of conscience, religion and worship, the guarantee of equal protection and the prohibition of discrimination based on religion.<sup>4</sup> The coexistence of the two types of provisions (confessional-leaning v. secular-leaning) has translated into contradictory legal developments in areas such as religious instruction in public schools, recognition and registration of religions present in the country, and conscientious objection to military service.

According to the official discourse in Timor-Leste, the separation between church and state enshrined in the Constitution may not be taken to mean that the East Timorese are to follow “modern European models of so-called secularism or *laïcité*”, as that would disturb the “Animist-Christian symbiosis” prevalent in the country. The explanation was given by the Government, in 2006, soon after a clash with the Catholic Church over the teaching of Religious and Moral Education in public schools, which ended with the Government abandoning the plan to treat the course as optional and acknowledging the value of the Catholic Church and of Catholicism for the construction of East Timorese national identity.<sup>5</sup> Encapsulating what became the official narrative on the subject from then on, the Government invoked Timor-Leste’s “singular historical experience” as one which is deeply intertwined with the history of the Catholic Church.

Timor-Leste has a singular historical experience which is intertwined with the history of the Church. The East Timorese people is a deeply spiritual people whose day-to-day is inspired and influenced by the spirits of the past and by otherworldly beliefs which are intertwined with Christian beliefs. We may not therefore import or impose modern European models of so-called secularism or *laïcité* and thereby disturb that East Timorese Animist-Christian symbiosis. The Government will invite the Catholic Church to take on an even bigger role in the education and training of our people, on human development, in the fight against poverty. The state must provide the Church institutions, namely the Dioceses, with the financial means that are necessary to implement this partnership.<sup>6</sup>

The privileges of the Catholic Church were cemented by the signature, in 2015, of an international agreement between Timor-Leste and the Holy See, in which Timor-Leste recognises the legal personality of the Church and other ecclesiastical bodies, and commits to ensure the teaching of Catholic Religion in public schools, to pay the

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<sup>3</sup> Articles 11(2) and 77(3) of the Constitution, respectively. Timor-Leste’s Constitution and other legal acts mentioned throughout this paper are available in Portuguese (and, occasionally, in Tetum) from the official journal’s website at <<http://www.mj.gov.tl/jornal/>>.

<sup>4</sup> Articles 45(1) and 16 of the Constitution.

<sup>5</sup> The I Constitutional Government (2002-2006), led by Mari Alkatiri (a practicing Muslim), had put forward a reform of the primary school curriculum in which the course Religious and Moral Education was treated as optional. The Prime Minister justified the reform by reference to the principle of separation established in the Constitution, referring to the Constitution as “his Bible”, to which the Catholic Church reacted by calling out to all Catholics to demonstrate against the proposed reform. Five thousand Catholics arrived in Dili from different parts of the country and demonstrated in front of the Government Palace for 19 days, with the demands escalating to the point of calling for the Prime Minister’s resignation. The crisis ended with a joint declaration, signed on 7 May 2005, in which the Government committed to keep the course of Religious and Moral Education in the school curriculum, but also to criminalise abortion and prostitution in the Criminal Code being drafted at the time. Two days later, the Prime Minister gave a press conference where he called on East Timorese parents to enrol their children in Religious and Moral Education, “given the course’s importance for the moral upbringing of individuals and for the future of the nation”. Throughout this episode, the Catholic Church showed no qualms about taking on a political role and making a strategic use of the memory of the liberation struggle to ensure its privileged position in Timorese society. For a detailed account of the events, see Kelly Cristiane da SILVA, “A Bíblia como Constituição ou a Constituição como Bíblia? Projetos para a construção do Estado Nação em Timor-Leste”, *Horizontes Antropológicos*, Vol. 13, No. 27, 2007, pp. 214-232.

<sup>6</sup> Excerpt from the Programme of the II Constitutional Government, inaugurated in 2006 and led by Ramos Horta. The original (Portuguese) version reads as follows: “Timor-Leste tem uma experiência histórica singular que se confunde com a história da Igreja. O povo timorense é um povo profundamente espiritual cujo dia a dia é inspirado e influenciado pelos espíritos do passado e por crenças sobrenaturais que se confundem nas crenças cristãs. Não podemos por isso mesmo importar ou impor modelos modernos do dito secularismo ou *laïcité* europeus e assim perturbar essa simbiose animista-cristã timorense. A Igreja Católica Timorense é a única instituição secular aglutinadora do tecido social timorense. O Governo vai convidar a Igreja Católica a assumir um papel maior ainda na educação e formação do nosso povo, no desenvolvimento humano, na luta contra a pobreza. O Estado deve disponibilizar para as Instituições da Igreja, nomeadamente as Dioceses, os meios financeiros necessários para que essa parceria com o Estado seja materializada.” The Government Programme, as reviewed by the National Parliament on 1 August 2006, is available at <<http://www.mj.gov.tl/jornal/?q=node/2133>>.



Church an annual financial contribution, to consult the Church on legislative proposals concerning worship, teaching, charity and related subjects, and to recognise the Church's right to acquire, own, sell and administer real estate assets in Timor-Leste, among other prerogatives.<sup>7</sup>

The signature of the agreement – as such – is not problematic. Many states – including most Lusophone states – have entered into agreements with the Holy See. It is worth noting, in any case, that Timor-Leste's obligations vis-à-vis the Holy See are further-reaching than those taken on by its Lusophone counterparts in their respective agreements, if we consider, for example, that Angola, Brazil, Cape Verde, Mozambique and Portugal do not grant the Catholic Church the right to be consulted on draft legislation, and also do not commit to ensure the teaching of Catholic Religion in all public schools as part of the standard school curriculum from which the parents or guardians may only opt out.<sup>8</sup>

More significant and problematic is the acknowledgment of Catholicism as part of East Timorese national identity, something which is arguably at odds with the principles of equality and separation enshrined in the Constitution, as well as with international human rights standards to which Timor-Leste is bound. As noted by the UN Special Rapporteur on Freedom of Religion and Belief, Ahmed Shaheed, whenever a state explicitly associates itself with a particular religion, members of unaffiliated groups invariably suffer various forms of discrimination, either directly and/or indirectly, as is the case, for instance, with ineffective opt-out options for compulsory religious education in public schools and with the observance of days of rest.<sup>9</sup> Considering that 97,5% of the population in Timor-Leste identifies as Catholic<sup>10</sup> – a percentage much higher than that which we find in Southeast Asia and also among Lusophone states<sup>11</sup> –, there is a non-negligible risk of Timor-Leste becoming a regime of state religion, with mere tolerance for minority religions, instead of a true regime of separation with full recognition to all of equal freedom of conscience, religion and worship.<sup>12</sup>

In its interactions with the UN monitoring bodies and mechanisms, Timor-Leste has never been criticised for conflating the East Timorese national identity with Catholicism or for privileging the Catholic Church. This may soon change, since the Human Rights Committee has requested that Timor-Leste comments on allegations of acts of violence committed against members of religious minority groups, and discriminatory treatment of non-Catholic religious organisations by the Government and public officials, such as unequal budget allocations to those organisations and the rejection of marriage or birth certificates issued by them.<sup>13</sup> Although Timor-Leste is often characterised as a tolerant society in the comparative reports that map the state of religious freedom in the world every year, there have been some notes of concern about the influence exerted by the Catholic Church and how it may affect policy

<sup>7</sup> Articles 3, 9, 11 and 12 of the Agreement between Timor-Leste and the Holy See, of 14 August 2015, ratified by Parliamentary Resolution No. 18/2015, of 11 November 2015. The recognition of the Church's right to acquire, own, sell and administer real estate assets in Timor-Leste is arguably in breach of Timor-Leste's Constitution, which prescribes that only national citizens have the right to ownership of land [Article 54(4) of the Constitution].

<sup>8</sup> The agreements with the Holy See that include provisions on the teaching of Catholic Religion in public schools (those of Brazil, Cape Verde and Portugal) treat Catholic Religion as an optional course, which attendance is premised on an explicit declaration of interest on the part of the students' parents or guardians.

<sup>9</sup> The Special Rapporteur recognises that a differential treatment between different groups based on religion may not always amount to unlawful discrimination, but stresses that it will only not be the case if the criteria for such differentiation are reasonable and objective, and that the burden is always on the state to provide sufficient proof that the aim of such treatment is to achieve a legitimate purpose. See *Report of the Special Rapporteur on Freedom of Religion and Belief*, 28.02.2018, A/HRC/37/49, §§ 34-35 and 61, available at <<https://undocs.org/A/HRC/37/49>>.

<sup>10</sup> According to the latest census, conducted in 2015, the distribution of the population among the different religious groups is the following: Catholics (97,5%); Protestant/Evangelicals (1,9%); Muslims (0,2%); traditional religion (0,07%); Buddhists (0,04%); Hindus (0,02%); and Other (0,08%). Information available at <<https://www.statistics.gov.tl/wp-content/uploads/2017/02/Timor-Leste-em-Numeros-20151.pdf>>.

<sup>11</sup> In South-East Asia, Catholics are the majority only in the Philippines and there they represent 79,5% of the population. The Lusophone state where Catholics represent a larger chunk of the population is São Tomé and Príncipe (85%), followed by Portugal (81%), Cape Verde (77%), Brazil (50%), Angola (41%) and Mozambique (26,2%). Data from the US Department of State Office of International Religious Freedom, *2020 Report on International Religious Freedom*, available at <<https://www.state.gov/reports/2020-report-on-international-religious-freedom/>>.

<sup>12</sup> To borrow from the distinction made by Portuguese Constitutional Law scholar Jorge Miranda between the regime that existed in Portugal under the Monarchy and the first formal Constitutions, and the regime instituted by the 1976 Constitution. Jorge MIRANDA, "Liberdade religiosa, Igrejas e Estado em Portugal", *Nação e Defesa*, Vol. XI, No. 39, 1986, p. 119.

<sup>13</sup> *List of Issues Prior to Submission of the Initial Report of Timor-Leste*, 18.08.2021, CCPR/C/TLS/QPR/1, § 18, available at <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fTLS%2fQPR%2f1&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fTLS%2fQPR%2f1&Lang=en)>.

makers' decisions,<sup>14</sup> about the difficulties faced by some religious groups in registering as civil society organisations,<sup>15</sup> and about the social pressure felt by many East Timorese to remain in the Catholic faith,<sup>16</sup> for example.

This paper takes stock of the legal framework that makes up Timor-Leste's Law of Religion, i.e., the ensemble of legal provisions that govern the relations between the state and religious groups, as well as the exercise of freedom of conscience, religion and worship by individuals and groups in the country. At present, these provisions are scattered over a large number of legal acts and there are still significant gaps, such as the absence of rules on the exercise of conscientious objection, arguably a breach by omission of Article 45(3) of the Constitution. The paper reviews the current legal framework against the backdrop provided by the international human rights treaties to which Timor-Leste is a party and by comparison with foreign examples taken from Lusophone legal systems, which are frequent sources of inspiration or "legal transplants"<sup>17</sup> for the East Timorese lawmakers. For context, the paper starts by looking into the country's "singular historical experience," often invoked to justify the privileged status granted to the Catholic Church, and into the *travaux préparatoires* of the 2002 Constitution, during which the "religious question" took on a considerable role.

## 2. Timor-Leste's "singular historical experience"

It has been argued that it was the Indonesian occupation that made Timor-Leste a Catholic nation,<sup>18</sup> but the entanglement of the Catholic Church with the history of Timor-Leste goes much further back in time, as is the case with other territories that were once subject to Portuguese colonial rule. The missionaries arrived with the navigators and evangelisation was, for a long time, the main (if not the sole) form of contact with the local populations. According to the official narrative in Timor-Leste, Portuguese navigators and missionaries arrived in Lifau, Oe-Cusse, in 1515, an event celebrated in 2015 as a milestone in the affirmation of the East Timorese identity and the construction of the nation.<sup>19</sup>

At the time of the missionaries' arrival, the peoples of Timor were already monotheistic, as they believed in the existence of a supreme being (*Maromac*), creator of all things, although they did not perform any special form of worship in its regard.<sup>20</sup> The Animist beliefs that are often attributed to the East Timorese – and recognised in the official discourse, as noted earlier – come from the importance that the East Timorese have always ascribed to the ancestors and their belief that the spirits of the dead inhabit mount Ramelau and can also choose to inhabit a rock, a tree, a spring or any element of nature, giving it a soul or "spiritual potency" (*lulik*).<sup>21</sup>

The first records of evangelisation campaigns date back to 1556, the year when a Dominican friar is said to have baptised more than five thousand persons in the island of Timor. The missionaries do not seem to have encountered much resistance from the local populations, but contemporary accounts suggest that the evangelisation process was hurried and superficial, with the newly baptized soon returning to their ancestral practices. The missionaries

<sup>14</sup> See AAVV, *Relatório 2014: Liberdade Religiosa no Mundo*, Lisbon, Fundação AIS, 2014, p. 517.

<sup>15</sup> See AAVV, *Relatório 2014...*, cit., p. 517.

<sup>16</sup> See US Department of State Office of International Religious Freedom, *2020 Report on International Religious Freedom: Timor-Leste*, available at <<https://www.state.gov/reports/2020-report-on-international-religious-freedom/timor-leste/>>.

<sup>17</sup> To use the expression coined by Alan Watson to refer to the "moving of a rule or a system of law from one country to another, or from one people to another." Alan WATSON, *Legal Transplants: An Approach to Comparative Law*, 2<sup>nd</sup> ed., Athens, The University of Georgia Press, 1993, p. 21.

<sup>18</sup> See, e.g., Roberta AMATO, "Language as a sign of the times in East Timor: Portuguese as a language of salvation in politics and religion," in Artemij Keidan (ed.), *The Study of South Asia Between Antiquity and Modernity: Parallels and Comparisons*, Rome, Fabrizio Serra Editore, 2014, p. 210.

<sup>19</sup> As explained in Government Resolution No. 17/2015, of 15 April 2015, which established the Organising Committee for the Celebration of the 500 years of the Affirmation of the New Timorese Identity (*Comissão de Organização das Comemorações dos 500 anos da Afirmação da Nova Identidade Timorense*).

<sup>20</sup> See António Duarte de Almeida e CARMO, "Religiões de Timor", *Anuário Janus*, 2002, available at <[https://www.janusonline.pt/arquivo/2002/2002\\_2\\_5.html](https://www.janusonline.pt/arquivo/2002/2002_2_5.html)>.

<sup>21</sup> See Judith BOVENSIEN, "Spiritual landscapes of life and death in the central highlands of East Timor", *Anthropological Forum*, Vol. 19, No. 3, 2009, p. 324. The author distinguishes the spiritual potency known as *lulik* from the spirits of the ancestors and the land spirits, while noting that they are closely interconnected and that sometimes the boundaries between them become blurred (pp. 326-327).

established missions in different kingdoms, built chapels and churches, schools and seminaries, and posted catechists in several missionary settlements. From 1875 onwards, evangelisation was entrusted to secular priests, who, besides establishing missions and building churches and schools, produced dictionaries of several local languages (Tetum, Galoli, Macassai) and prayer books in those languages.<sup>22</sup>

All this time, the presence of the Portuguese colonial administration was barely felt. Things started to change by the end of the nineteenth century, but the Government of the colony continued to be very dependent on support and collaboration from the Catholic missions, particularly in the field of education.<sup>23</sup> The schools, seminaries and colleges founded by the Catholic missions continued meanwhile to train teachers and catechists, and to contribute to the upbringing of the Timorese elite.<sup>24</sup> The number of conversions rose considerably in the twentieth century, largely due to the fact that baptism and the practice of Catholicism were among the “civilizational criteria” used by the colonial administration to determine who, among the indigenous population, was apt to rise to the status of assimilated (*assimilado*) and enjoy civil and political rights on a par with full citizens (*cidadãos*), i.e., the Portuguese who originated from the metropolis and their descendants.<sup>25</sup> Despite the rise in conversions, however, on the eve of the Portuguese departure from the territory, in 1975, only 25% of East Timorese were registered as Catholic,<sup>26</sup> and among these many continued to worship *lulik* objects and places, in spite of the Church’s admonitions.<sup>27</sup> Starting in the 1960s, the Catholic Church had in any case ceased to fight traditional practices and had even begun to incorporate some *lulik* elements in its celebrations, as aspects of the “local culture”.<sup>28</sup> Nevertheless, the Catholic Church continued to be largely perceived as a foreign institution, not only for its ties to the colonial administration, but also because the languages of liturgy (Latin and Portuguese) were foreign for most of the population.<sup>29</sup>

In the period between the end of the *Estado Novo* regime in Portugal (25 April 1974) and the Indonesian invasion of East Timor (7 December 1975), the Catholic Church – through the Bishop of Dili, the Portuguese José Joaquim Ribeiro – did not hide its scepticism as to the viability of Timor-Leste’s independence nor its preference for the UDT party (*União Democrática Timorense*), which argued for a federative solution with Portugal, instead of the immediate independence demanded by FRETILIN (*Frente Revolucionária de Timor-Leste Independente*).<sup>30</sup> In the eyes of the Catholic Church, FRETILIN’s rise to power in an independent Timor-Leste was a particularly alarming prospect, as it meant the loss of its privileges and influence in Timorese society.<sup>31</sup> At the time, FRETILIN advocated the complete separation between church and state, following the example of similar leftist liberation movements in Angola and Mozambique. FRETILIN was outspoken against the privileges that the Catholic Church had enjoyed

<sup>22</sup> See Carlos Filipe Ximenes BELO, “Lendas e narrativas da história da Igreja em Timor-Leste”, *Povos e Culturas*, Vol. 19, 2015, pp. 78-80, 82-89 and 97-101.

<sup>23</sup> In 1935, the Government of the colony entrusted the Catholic missions with the direction and management of primary education. See Carlos Filipe Ximenes BELO, “Lendas e narrativas...”, *op. cit.*, p. 107. Also, the Government ensured only a small fraction (about 15%) of the salaries of the teachers working in Timor. According to Kelly Cristiane da Silva, between 1960 and 1961, for example, of the 229 teachers posted in Timor, 134 were paid by religious missions, 61 by private institutions, such as the Chinese Trade Association, and only 34 by the state. See Kelly Cristiane da SILVA, “A Bíblia como Constituição...”, *op. cit.*, p. 215.

<sup>24</sup> See Kelly Cristiane da SILVA, “A Bíblia como Constituição...”, *op. cit.*, pp. 232-233; Daniel PASCOE, “The role of the Catholic Church in support or opposition to the Indonesian occupation of East Timor (1975-1999)”, *Cross-Sections*, Vol. II, 2006, p. 121.

<sup>25</sup> See Cristina Nogueira da SILVA, “Da «Carta de Alforria» ao «Alvará de Assimilação»: A cidadania dos «originários de África» na América e na África portuguesas, séculos XIX e XX”, in Márcia Berbel & Cecília Helena de Salles Oliveira (eds.), *A Experiência Constitucional de Cádiz: Espanha, Portugal e Brasil*, São Paulo, Alameda, 2012, pp. 109-135.

<sup>26</sup> See Elaine CAPIZZI, Helen HILL & Dave MACEY, “FRETILIN and the struggle for independence in East Timor”, *Race and Class*, Vol. XVII, No. 4, 1976, p. 385.

<sup>27</sup> See Peter CAREY, “The Catholic Church, religious revival, and the nationalist movement in East Timor, 1975-98”, *Indonesia and the Malay World*, Vol. 27, No. 78, 1999, p. 79.

<sup>28</sup> See Daniel Schroeter SIMIÃO, Henrique Romanó ROCHA & Sarah Victória Almeida RODRIGUES, “Sacralidades timorenses”, *Cadernos de Arte e Antropologia*, Vol. 4, No. 1, 2015, p. 103.

<sup>29</sup> See Peter CAREY, “The Catholic Church, religious revival, ...”, *op. cit.*, p. 79; Daniel PASCOE, “The role of the Catholic Church...”, *op. cit.*, p. 121.

<sup>30</sup> See Roberta AMATO, “Language as a sign of the times...”, *op. cit.*, p. 209. Some sectors of the Catholic Church with ties to the Church in Indonesian West Timor supported the third political party formed after the end of the *Estado Novo* regime, APODETI (*Associação Popular Democrática Timorense*), which argued for integration in Indonesia. See Elaine CAPIZZI, Helen HILL & Dave MACEY, “FRETILIN and the struggle...”, *op. cit.*, pp. 386-387.

<sup>31</sup> See Roberta AMATO, “Language as a sign of the times...”, *op. cit.*, p. 209; Daniel PASCOE, “The role of the Catholic Church...”, *op. cit.*, pp. 121-122.



in colonial times and planned to place it on the same level as the Animist religion professed by the majority of the population and the Muslim community then no bigger than 500 believers.<sup>32</sup> The Bishop of Dili warned repeatedly against the dangers of Marxist materialism and atheism, claiming that the Church forbade Catholics from voting for socialist or communist parties, and refused to mediate talks between UDT and FRETILIN during the brief civil war that opposed the two political forces in August 1975.<sup>33</sup>

The rapprochement between the Catholic Church and FRETILIN – which in time would become a “Catholic nationalist-based party”<sup>34</sup> – started in the first years of the Indonesian occupation, as a result of the proximity between FRETILIN leaders and a few priests who were forced to escape to the mountains with the population, in 1975 and 1976.<sup>35</sup> The Bishop of Dili continued to have reservations about FRETILIN and, in line with the Vatican’s official stance, tried to keep a public image of neutrality vis-à-vis the Indonesian presence, but is said to have counselled the resistance in private.<sup>36</sup> His successors, the Timorese Martinho da Costa Lopes and Carlos Filipe Ximenes Belo, Apostolic Administrators of Dili between 1977 and 1983 and between 1983 and 2002, respectively, were more outspoken in their support, while continuing to advise FRETILIN leaders against Marxism.<sup>37</sup> Both men denounced the human rights violations committed by the Indonesian army and made repeated public appeals for respect for the East Timorese people’s right to self-determination, which put them in Indonesia’s crosshairs, but also contributed to cement the trust of the East Timorese in the Catholic Church.

This trust was built in many ways throughout the 24 years of Indonesian occupation. From the start, the Catholic Church provided refuge to the persecuted and wounded, took care of the families of members of the resistance, distributed food, medication and other assistance to the whole population, while keeping charge of most schools in the territory.<sup>38</sup> In 1981, when the Indonesian authorities banned the use of Portuguese, the Catholic hierarchy decided to use Tetum as the language of Church services and liturgy.<sup>39</sup> In response to Indonesian attempts at cultural assimilation, through transmigration and birth control policies, the Catholic Church championed the protection of East Timor’s cultural, religious, linguistic and ethnic identity.<sup>40</sup> In response to Indonesia’s disfavour for Timorese Animistic beliefs and practices, the Catholic Church incorporated *lulik* elements in its celebrations, including by holding open-air masses and prayer meetings at *lulik* sites,<sup>41</sup> as it had started to do in the 1960s. Furthermore, the Catholic Church also suffered directly at the hands of the Indonesian military, which did not spare Church buildings and personnel.<sup>42</sup> In the eyes of the population, the Church was sharing in their suffering, a view reinforced by the feeling of abandonment experienced by the Timorese priests vis-à-vis the Indonesian Church and the Vatican, which remained silent in the face of the reports of human rights violations taking place in East Timor.<sup>43</sup>

<sup>32</sup> See Peter CAREY, “The Catholic Church, religious revival, ...”, *op. cit.*, p. 81. The Constitution of the Democratic Republic of Timor-Leste, adopted by FRETILIN to enter into force on the day of its unilateral declaration of independence from Portugal (28 November 1975), did not explicitly enshrine the principle of separation between church and state. The only provision of relevance to this matter was Article 21, which recognised equal rights and obligations to all citizens irrespective of religion. The 1975 Constitution is published in José Carlos Guerreiro ADÃO, *A Formação da Constituição de Timor-Leste*, Lisbon, Universidade Católica Portuguesa, 2009, annex VI, available at <<https://repositorio.ucp.pt/handle/10400.14/2651>>.

<sup>33</sup> See Peter CAREY, “The Catholic Church, religious revival, ...”, *op. cit.*, p. 81.

<sup>34</sup> See Daniel PASCOE, “The role of the Catholic Church...”, *op. cit.*, p. 121.

<sup>35</sup> See Peter CAREY, “The Catholic Church, religious revival, ...”, *op. cit.*, pp. 81-82.

<sup>36</sup> See Roberta AMATO, “Language as a sign of the times...”, *op. cit.*, p. 209; Daniel PASCOE, “The role of the Catholic Church...”, *op. cit.*, pp. 122-124.

<sup>37</sup> See Carlos Filipe Ximenes BELO, “Lendas e narrativas...”, *op. cit.*, p. 120.

<sup>38</sup> See Daniel PASCOE, “The role of the Catholic Church...”, *op. cit.*, pp. 120, 122-123; António Duarte de Almeida e CARMO, “Religiões de Timor”, *op. cit.*

<sup>39</sup> A decision deemed crucial in bringing the Church closer to the community and in fostering East Timorese nationalism. See Peter CAREY, “The Catholic Church, religious revival, ...”, *op. cit.*, pp. 85-86; Roberta AMATO, “Language as a sign of the times...”, *op. cit.*, p. 208.

<sup>40</sup> See Vicente PAULINO, “Os média e a afirmação da identidade cultural timorense”, in Vicente Paulino, *Timor-Leste nos Estudos Interdisciplinares*, Dili, UPDC-PPGP, 2014, p. 146.

<sup>41</sup> See Peter CAREY, “The Catholic Church, religious revival, ...”, *op. cit.*, p. 84. In its willingness to accommodate *lulik* elements, the Catholic Church proved to be more tolerant than many Protestant missions, which continued to actively fight against “local customs”. See Judith BOVEN-SIEPEN, “Spiritual landscapes of life and death...”, *op. cit.*, pp. 330-331.

<sup>42</sup> See Daniel PASCOE, “The role of the Catholic Church...”, *op. cit.*, p. 123.

<sup>43</sup> See Peter CAREY, “The Catholic Church, religious revival, ...”, *op. cit.*, p. 82.

The Vatican's official stance for the duration of the Indonesian occupation was that the international status of East Timor was yet to be settled. It did not recognise the annexation of Timor Timur as the 27<sup>th</sup> province of Indonesia, but at the same time tried to remain equidistant and in good terms with the Indonesian authorities. The Vatican refrained from openly criticising the invasion or the abuses that ensued, and occasionally bowed to pressure from Jakarta to silence the critics in the territory, as was the case with the dismissal of Dili's Apostolic Administrator, Martinho da Costa Lopes, in 1983.<sup>44</sup> Nevertheless, some decisions by the Vatican helped the East Timorese cause, starting with the decision to place the Dili Diocese under direct administration from Rome, instead of attaching it to Indonesia's Episcopal Conference, which allowed the Church in East Timor to offer the population a public space largely free from Indonesian interference.<sup>45</sup> In 1996, a change in the Vatican's stance was signalled by the visit to East Timor of the President of the Pontifical Council for Justice and Peace, Cardinal Roger Etchegaray, who criticised the human rights abuses committed by the Indonesian military and argued for the need to put an end to the conflict in the territory through a solution that would satisfy the legitimate aspirations of the Timorese people for the recognition of their special cultural and religious identity.<sup>46</sup>

By the mid-1990s, East Timor's "special religious identity" had become synonymous with Catholicism. Catholics were more than 90% of the population, as a result of "mass conversion to Catholicism,"<sup>47</sup> largely prompted by Indonesia's requirement that all individuals identify with one of the five religions recognised by the state under the *Pancasila* doctrine – Islam, Catholicism, Protestantism, Hinduism, and Buddhism –, and by fear that being labelled as "without religion" would tipoff the Indonesian authorities for possible communist ties.<sup>48</sup> Catholicism had the further advantage of setting the East Timorese apart from the majority Muslim population in the Indonesian archipelago, as well as from the Indonesian military and transmigrants in the territory, who were either Muslim or Protestant.<sup>49</sup> With the end of the Indonesian occupation, in September 1999, the number of Muslims and Protestants decreased significantly, which contributed to a new rise in the percentage of Catholics in the overall population of the country.

Most Catholics in Timor-Leste maintain their reverence for *lulik* objects and sites, and continue to engage in traditional religious practices, which are increasingly perceived as being more cultural than religious.<sup>50</sup> Since independence, immense efforts have been invested in the reconstruction of *lulik* houses that were destroyed during the Indonesian occupation,<sup>51</sup> and many East Timorese recently returned from exile were pressured by their families and local communities to marry again in compliance with *barlakis* and traditional rituals.<sup>52</sup> The two sacralities – Catholic and *lulik* – coexist and are used by the same people in different circumstances, often allowing the simultaneous evocation of aesthetic elements of different origins.<sup>53</sup> It is not possible to "draw a clear distinction between the Catholic landscape and the «traditional» landscape, as these two are not opposed but creatively combined and to some extent

<sup>44</sup> See Peter CAREY, "The Catholic Church, religious revival, ...", *op. cit.*, pp. 82-83.

<sup>45</sup> Other important decisions include the Vatican's endorsement of the choice of Tetum as language of liturgy, in 1981, and the appointment in 1995 of a Timorese priest (Basílio do Nascimento) to the newly-created Baucau Diocese, despite Jakarta's pressure for the Vatican to appoint an Indonesian priest. See Peter CAREY, "The Catholic Church, religious revival, ...", *op. cit.*, p. 85.

<sup>46</sup> See Peter CAREY, "The Catholic Church, religious revival, ...", *op. cit.*, p. 90. East Timor's special cultural and religious identity had already been symbolically acknowledged by the Vatican when, in 1989, it insisted on a visit to the territory as a condition for the Pope's visit to Indonesia. See Roberta AMATO, "Language as a sign of the times...", *op. cit.*, p. 210. On the importance of the Pope's 1989 visit to the international visibility of the East Timorese people's strife, see, e.g., Vicente PAULINO, "Os média e a afirmação da identidade cultural timorense", p. 135; José Carlos Guerreiro ADÃO, *A Formação da Constituição de Timor-Leste*, *op. cit.*, pp. 58-59.

<sup>47</sup> See Judith BOVENSIEPEN, "Spiritual landscapes of life and death...", *op. cit.*, p. 324.

<sup>48</sup> See Kelly Cristiane da SILVA, "A Bíblia como Constituição...", *op. cit.*, p. 216.

<sup>49</sup> See Kelly Cristiane da SILVA, "A Bíblia como Constituição...", *op. cit.*, p. 216; Vicente PAULINO, "Os média e a afirmação da identidade cultural timorense", *op. cit.*, p. 146.

<sup>50</sup> See Judith BOVENSIEPEN, "Spiritual landscapes of life and death...", *op. cit.*, p. 331.

<sup>51</sup> See Judith M. BOVENSIEPEN & Frederico Delgado ROSA, "Transformations of the sacred in East Timor", *Comparative Studies in Society and History*, Vol. 58, No. 3, 2016, pp. 664-693.

<sup>52</sup> See Ivo Carneiro de SOUSA, "The Portuguese colonization and the problem of East Timorese nationalism", *Lusotopie*, No. 8, 2001, p. 193.

<sup>53</sup> See Daniel Schroeter SIMIÃO, Henrique Romanó ROCHA & Sarah Victória Almeida RODRIGUES, "Sacralidades timorenses", *op. cit.*, p. 109.

mutually reinforcing.<sup>54</sup> This is not necessarily a form of syncretism, since both sacralities continue to operate in their own universes, with their distinct social and symbolic hierarchies. It is instead a cohabitation of different (albeit intertwined) sacralities,<sup>55</sup> similar to what can be found in other Southeast Asian countries, such as Indonesia, and in some Lusophone countries, such as Guinea-Bissau and Mozambique, where traditional religions creatively coexist with Catholicism and with Islam.

### 3. Religion and Timor-Leste's Constituent Assembly

Timor-Leste's Constituent Assembly was elected on 30 August 2001, under the supervision of the United Nations Transitional Administration in East Timor (UNTAET).<sup>56</sup> FRETILIN won by an absolute majority, with 57,3% of the votes, electing 43 national representatives and 12 district representatives.<sup>57</sup> Religion does not appear to have been a factor in the voters' choices, since the two Christian parties (PDC and UDC/PDC) performed poorly. It may also be that – as suggested by Lurdes Silva-Carneiro de Sousa – the Catholic Church's close ties with the resistance resulted in a combination of religious with nationalist factors that worked in favour of FRETILIN.<sup>58</sup>

As was to be expected, the Catholic Church played a very active role during the transition period. It had a seat in the National Consultative Council (NCC), a joint consultative forum of representatives of the East Timorese people and UNTAET, which was established in 1999 to provide advice to the Transitional Administrator.<sup>59</sup> It also had a seat in the National Council, which replaced the NCC half a year later, and which was designed to act as a forum for all legislative matters and be a sort of “pre-parliament” of Timor-Leste before the Constituent Assembly.<sup>60</sup> Here, however, the Catholic Church was not the sole religion represented, since the Protestant church denominations and the Muslim community were each granted a seat.<sup>61</sup> It is also worth mentioning that one of the four East Timorese cabinet officers in the Cabinet of the Transitional Government, which was established in 2000,<sup>62</sup> was a Catholic priest, Filomeno Jacob, in charge of Social Affairs.<sup>63</sup>

The Catholic Church was also directly involved in the proceedings in the Constituent Assembly. Constitutional Committee No. I invited three representatives of the Catholic Church – Dom Ximenes Belo, Bishop of Dili,

<sup>54</sup> Judith BOVENSIEPEN, “Spiritual landscapes of life and death...”, *op. cit.*, p. 333. Consider, for example, that the word *lulik* is currently used in Catholic and non-Catholic settings as synonymous with “sacred”, with Catholic priests being called *amu lulik*. See Judith M. BOVENSIEPEN & Frederico Delgado ROSA, “Transformations of the sacred in East Timor”, *op. cit.*, pp. 664-693.

<sup>55</sup> See Daniel Schroeter SIMIÃO, Henrique Romanó ROCHA & Sarah Victória Almeida RODRIGUES, “Sacralidades timorenses”, *op. cit.*, p. 104.

<sup>56</sup> The election was held in accordance with UNTAET Regulation No. 2001/2, of 16 March 2001. Of the 88 representatives in the Constituent Assembly, 75 were elected on a nationwide basis, while the remaining 13 were elected by each of the existing administrative districts. FRETILIN, which presented candidates for all districts except Oe-Cusse, elected all its district candidates. Oe-Cusse elected an independent candidate, but he came to exercise his mandate in line with FRETILIN. See José Carlos Guerreiro ADÃO, *A Formação da Constituição de Timor-Leste*, *op. cit.*, pp. 83-84 and 204.

<sup>57</sup> The other political parties that elected representatives to the Constituent Assembly were the PD (*Partido Democrático*), with 8,72% of the vote and seven representatives; the PSD (*Partido Social Democrata*), with 8,18% of the vote and six representatives; the ASDT (*Associação Social Democrata Timorense*), with 7,8% of the vote and six representatives; the UDT (*União Democrática Timorense*), with 2,36% of the vote and two representatives; the PNT (*Partido Nacionalista Timorense*), with 2,21% of the vote and two representatives; the PPT (*Partido Povo de Timor*), with 2,21% and two representatives; the KOTA (*Klibur Oan Timor Asuwain*), with 2,13% of the vote and two representatives; the PDC (*Partido Democrata Cristão*), with 1,98% of the vote and two representatives; the PST (*Partido Socialista de Timor*), with 1,78% of the vote and one representative; the PL (*Partido Liberal*), with 1,1% of the vote and one representative; and the UDC/PDC (*Partido Democrata Cristão de Timor-Leste*), with 0,66% of the vote and one representative. See José Carlos Guerreiro ADÃO, *A Formação da Constituição de Timor-Leste*, *op. cit.*, pp. 83-100. As pointed out by Dennis Shoesmith, despite the win, FRETILIN fell short of the 80% goal set during the campaign and of the two-thirds majority required to ratify the Constitution without the support of other parties. See Dennis SHOESMITH, “Timor-Leste: Divided leadership in a semi-presidential system”, *Asian Survey*, Vol. 43, No. 2, 2003, p. 242.

<sup>58</sup> See Lurdes Silva-Carneiro de SOUSA, “Some facts and comments on the East Timor 2001 Constituent Assembly election”, *Lusotopie*, No. 8, 2001, p. 311.

<sup>59</sup> UNTAET Regulation No. 1999/2, of 2 December 1999 (Section 2.2.).

<sup>60</sup> See José Carlos Guerreiro ADÃO, *A Formação da Constituição de Timor-Leste*, *op. cit.*, p. 72.

<sup>61</sup> UNTAET Regulation No. 2000/24, of 14 July 2000 (Section 3.2.).

<sup>62</sup> UNTAET Regulation No. 2000/23, of 14 July 2000.

<sup>63</sup> See José Carlos Guerreiro ADÃO, *A Formação da Constituição de Timor-Leste*, *op. cit.*, p. 74.



Dom Basílio do Nascimento, Bishop of Baucau, and Priest José António da Costa, General-Vicar of the Dili Diocese – to the public hearing on fundamental rights, held on 22 October 2001. Priest José António da Costa was later invited by Constitutional Committee No. IV to the public hearing on the separation between the state and religion, held on 27 October 2001. On this occasion, the Catholic Church was not the sole religion heard, as Committee No. IV also invited Francisco Vasconcelos, for the Protestant church denominations, and Imam Moeslin, for the Muslim community.<sup>64</sup>

Religion turned out to be a recurring topic of discussion during the consultations that were conducted in the districts, between 24 February and 2 March 2002, to present the constitutional draft that had been approved by the Constituent Assembly in first reading, on 9 February 2002. For the most part, the opinions and recommendations put forward by the populations during these consultations were more conservative than the constitutional draft under discussion. It was suggested, for example, that Catholicism should be established as the official state religion and as an eligibility requirement for the offices of President of the Republic and of Prime Minister; that the inauguration of the President of the Republic be presided by the Bishop; and that polygamy, polyandry, divorce and abortion be explicitly prohibited in the Constitution. These more extreme suggestions did not make it into the final text approved by the Constituent Assembly on 22 March 2002, but others did pass, as was the case with the reference to God in the oath to be sworn by the President of the Republic at inauguration and with the addition of the word “Catholic” to the provision that commends the Church’s participation in the national liberation process.<sup>65</sup>

The constituent debates brought to light the distance that separates(ed) the population from the political leaders on the subject of the role of religion and of the Catholic Church in the construction of the new state. Of the six political parties which submitted constitutional drafts (FRETILIN, PD, PSD, UDT, PPT and KOTA), only one – the PPT – proposed the adoption of Catholicism as official religion.<sup>66</sup> The other drafts which included provisions on the subject prescribed the separation between church and state and the protection of freedom of conscience, religion and worship in line with international human rights standards. It is also worth noting that the draft initially submitted by FRETILIN – which was chosen by the parliamentarians as the basis for the debates in the Constituent Assembly – made no mention to the role of the Church in the national liberation process and listed the principle of separation between church and state among the material limits for constitutional amendment.<sup>67</sup> Here, as in many other aspects, FRETILIN’s draft reflected the influence of the Portuguese 1976 Constitution, an influence which was also visible in the drafts submitted by other parties.<sup>68</sup> Religion was furthermore treated in a similar way by the other foreign constitutions which, together with the Portuguese Constitution, served as inspiration to the East Timorese constituent lawmakers, i.e., the 1990 Mozambican Constitution, the 1988 Brazilian Constitution and the 1992 Cape Verdean Constitution.<sup>69</sup> The laic nature of these foreign influences was criticised by different sectors of East Timorese civil society, which stressed the need to ensure that the Constitution reflected the will and the customs of the people. Even after the concessions made by the constituent lawmakers following the consultations in the districts, the text approved by the Constituent Assembly was still viewed by many as not reflecting the East Timorese reality.<sup>70</sup>

<sup>64</sup> See José Carlos Guerreiro ADÃO, *A Formação da Constituição de Timor-Leste*, op. cit., pp. 101, 177-178 and annex XVI.

<sup>65</sup> See José Carlos Guerreiro ADÃO, *A Formação da Constituição de Timor-Leste*, op. cit., pp. 164-171, 184 and 210.

<sup>66</sup> The PPT draft had several specificities in form and substance, as it at times resembled an open letter or a manifesto, not the text of a Constitution. See José Carlos Guerreiro ADÃO, *A Formação da Constituição de Timor-Leste*, op. cit., p. 123.

<sup>67</sup> See José Carlos Guerreiro ADÃO, *A Formação da Constituição de Timor-Leste*, op. cit., pp. 115-123.

<sup>68</sup> That was clearly the case with the draft submitted by PSD, which was authored by Portuguese Constitutional Law scholar Jorge Miranda, and which was the most influential draft after the one submitted by FRETILIN. See José Carlos Guerreiro ADÃO, *A Formação da Constituição de Timor-Leste*, op. cit., p. 207.

<sup>69</sup> José Carlos Guerreiro ADÃO, *A Formação da Constituição de Timor-Leste*, op. cit., p. 157, notes that the constituent lawmakers considered other foreign influences, such as the 1996 Constitution of South Africa and the 1998 Constitution of the Fiji Islands, *a propos* the treatment of the rights of the child, but that did not change the fact that the main foreign influences were Lusophone. The Constituent Assembly relied on logistic support from the Portuguese Parliament, as well as on a large number of foreign legal experts from other Lusophone countries (Brazil, Cape Verde and Mozambique). *Idem, ibidem*, p. 104.

<sup>70</sup> That was the case with the organisers of the debate held on 20 February 2002 to discuss the constitutional text that had by then been approved by the Constituent Assembly in final reading. The debate was promoted by the association East Timor Study Group, together with UNTAET, Timor-Leste’s Television (TVTL) and the association Suara Timor Lorosáe. Priest José António da Costa took part in the debate and a message from Dom Ximenes Belo (recalling the role of the Catholic Church during the transition process) was read during the proceedings. See José Carlos Guerreiro ADÃO, *A Formação da Constituição de Timor-Leste*, op. cit., pp. 157-159.



#### 4. Religion in Timor-Leste's Constitution and its Lusophone counterparts

Concessions to popular demand explain the singularities of Timor-Leste's Constitution vis-à-vis its Lusophone counterparts<sup>71</sup> in matters of religion. Unlike no other Lusophone constitution, Timor-Leste's Constitution includes a provision recognising the historic role of the Catholic Church in the fight for independence [Article 11(2)] and requires that the President of the Republic swear by God in his/her oath of office at inauguration [Article 77(3)]. Other singularities are visible in the preamble, where we find three mentions to religion, first, to commend the role of the Catholic Church in the defence of the rights of the East Timorese people, then to stress the East Timorese people's religiosity (their faith in God) and finally to take on the commitment to fight against all forms of religious segregation. The only other Lusophone constitutional preamble that comes somewhat close to this is the preamble of the Brazilian Constitution, which ends with the statement that the constituent lawmakers promulgated the Constitution under God's protection.<sup>72</sup> The remaining Lusophone constitutional preambles make no mention to religion, God or the Catholic Church.

Also uncommon among Lusophone constitutions are the references to the people's spiritual well-being, even though here the choices made by the East Timorese constituent lawmakers have easily traceable Lusophone influences. Article 6(e) of Timor-Leste's Constitution lists the promotion of the well-being of the East Timorese people among the state's fundamental objectives, taking inspiration from the 1990 Mozambican Constitution,<sup>73</sup> whereas Article 12(2) of Timor-Leste's Constitution acknowledges the contribution of the different religious groups to the well-being of the East Timorese people, with a phrasing very close to that which we found, in 2002, in the Cape Verdean Constitution,<sup>74</sup> and that today is also found in the 2004 Mozambican Constitution.<sup>75</sup>

The state's obligation to recognise, respect and cooperate with religious groups is more common, being present, with slight variations, in the constitutions of all Lusophone states in Africa.<sup>76</sup> In Timor-Leste, this obligation is established by Article 12 of the Constitution, with a phrasing that suggests the valorisation of religious pluralism – “The state recognises and respects the different religious groups” and “promotes cooperation with the different religious groups”. This openness to cooperation with religious groups has been interpreted as indicative of a rejection by the East Timorese constituent lawmakers of a radical understanding of the principle of separation between church and state that would amount to a total indifference to religion on the state's part. That is, for example, the view held by Portuguese Constitutional Law scholar Jorge Bacelar Gouveia, who goes on to defend a privileged cooperation with the Catholic Church, on the grounds that the Catholic Church is explicitly named in the Constitution and has more “sociological strength” than the other religions present in the country<sup>77</sup> – a reading that we find to be highly problematic in view of the principle of equality.

<sup>71</sup> The constitutional texts in comparison are the following: (i) for Angola, the 2010 Constitution, as amended by Law No. 18/21, of 16 August 2021; (ii) for Brazil, the 1988 Constitution, as amended by Constitutional Amendment No. 114, of 2021; (iii) for Cape Verde, Constitutional Law No. 01/IV/92, of 25 September 1992, as amended by Constitutional Law No. 1/VII/2010, of 3 May 2010; (iv) for Guinea-Bissau, the 1984 Constitution, as amended by Constitutional Law No. 1/96, of 27 November 1996; (v) for Mozambique, the 2004 Constitution, as amended by Law No. 1/2018, of 12 June 2018; (vi) for Portugal, the 1976 Constitution, as amended by Constitutional Law No. 1/2005, of 12 August 2005; (vii) for São Tomé and Príncipe, the 1990 Constitution, as amended by Law No. 1/2003, of 29 January 2003. When relevant, we will also mention the constitutional texts in force in 2002, at the time of the adoption of the Timorese Constitution.

<sup>72</sup> The Brazilian Constitution is, after the Timorese Constitution, the Lusophone constitutional text which more clearly signals the importance of religion and of the Christian worldview in its provisions, if we consider that the workers' weekly rest is preferably on Sunday (Article 7-XV) and that the members of the clergy are explicitly exempted from military service in time of peace (Article 143 § 2).

<sup>73</sup> Article 6(c), replicated in Article 11(c) of the 2004 Mozambican Constitution.

<sup>74</sup> Article 48(3) of the Cape Verdean Constitution, now Article 49(3).

<sup>75</sup> Article 12(4) of the 2004 Mozambican Constitution.

<sup>76</sup> Article 10(2) and (3) of the Angolan Constitution, Article 49(3) of the Cape Verdean Constitution, Article 6(2) of the Bissau-Guinean Constitution, Article 12(4) of the Mozambican Constitution, and Article 8 of the Constitution of São Tomé and Príncipe.

<sup>77</sup> The Author further argues that the mentions to the Catholic Church in the Constitution may be interpreted as a constitutional mandate for the ordinary lawmaker to legitimately favour the Catholic Church vis-à-vis other religious groups which did/do not have a similar role in the country's past and present. See Jorge Bacelar Gouveia, “Timor-Leste no constitucionalismo de língua portuguesa”, *Revista da Faculdade de Direito*, Vol. I, No. 1, 2018, pp. 171-172.

Like its Lusophone counterparts, Timor-Leste's Constitution establishes the principle of equality and prohibits discrimination based on religion (Article 16).<sup>78</sup> Its only singularity in this regard is that the prohibition of discrimination based on religion is reaffirmed in the context of labour relations, with Article 50(3) prohibiting the dismissal on religious grounds, a provision which only finds some parallel in the Portuguese Constitution.<sup>79</sup> As noted by Bárbara Nazareth Oliveira *et al.*, the treatment of religion as a suspect category is particularly important in the East Timorese context given the fact that the overwhelming majority of the population professes the same religion.<sup>80</sup> The UN Human Rights Committee has long explained that the right to freedom of thought, conscience and religion established in Article 18 of the International Covenant on Civil and Political Rights must be interpreted in light of Articles 2(1) and 26 of the Covenant, which affirm the principle of equality and prohibit discrimination based on religion, as well as of Article 27 of the Covenant, which requires states to ensure that persons belonging to religious minorities are not denied the right, in community with the other members of their group, to profess and practice their own religion. Also, although the Covenant permits restrictions on the freedom to manifest religion or belief, such restrictions may not be based on principles deriving exclusively from a single religious tradition, nor be imposed for discriminatory purposes or applied in a discriminatory manner.<sup>81</sup>

In its recognition of the right to freedom of conscience, religion and worship, Timor-Leste's Constitution stays close to the pattern set by the Portuguese Constitution,<sup>82</sup> which has also influenced most Lusophone constitutions currently in force, except for Brazil and Guinea-Bissau. A combined reading of Articles 45, 12, 16 and 38 of Timor-Leste's Constitution gives us several dimensions of the right to freedom of conscience, religion and worship that Article 45(1) recognises to all persons: (i) the right not to be persecuted or discriminated against because of one's religious convictions [Articles 45(2) and 16(2)]; (ii) the right to conscientious objection, under terms to be prescribed by law [Article 45(3)]; (iii) the freedom to teach any religion in the framework of one's respective religious group [Article 45(4)]; (iv) the right to not have personal data on religious faith processed without the consent of the interested person [Article 38(3)]; and (v) the right of religious groups to freely organise and exercise their own activities, with due observance of the Constitution and the law [Article 12(1)].

When compared with its Lusophone counterparts, Timor-Leste's Constitution is neither the most laconic nor the most detailed in the presentation of the content of the right to freedom of conscience, religion and worship. Other Lusophone constitutions explicitly recognise, for example, the right not to profess any religion or belief,<sup>83</sup> the right not to be asked by any authority about one's religious beliefs or practices,<sup>84</sup> the right to religious assistance in the hospital, prison and the army,<sup>85</sup> the right of religious groups to use their own media outlets for the conduction of their activities,<sup>86</sup> the right to protection of places of worship, religious symbols and rites,<sup>87</sup> the right of religious groups to own and acquire goods in pursuance of their objectives,<sup>88</sup> the right of religious groups to be exempted from

<sup>78</sup> The treatment of religion as a "suspect category" for purposes of prohibiting discrimination follows the usual model adopted by international human rights treaties and is identical in almost all Lusophone constitutional texts, with the exception of the Brazilian Constitution, which establishes the principle of equality without adding a set of prohibited grounds for discrimination. There are no doubts, in any case, that the Brazilian Constitution prohibits discrimination based on religion, since Article 5 prescribes that all are equal before the law, without distinction of any nature, and the rights to freedom and equality are recognised in terms that include the inviolability of freedom of conscience and belief.

<sup>79</sup> Where the list of workers' rights is preceded by the phrasing "all workers without distinction of... religion... are entitled to:" (Article 59 of the Portuguese Constitution).

<sup>80</sup> See Bárbara Nazareth OLIVEIRA *et al.*, *Os Direitos Fundamentais em Timor-Leste: Teoria e Prática*, Coimbra, Coimbra Editora, 2015, p. 400.

<sup>81</sup> Human Rights Committee, *General Comment No. 22 (48) (art. 18)*, 27.09.1993, CCPR/C/21/Rev.1/Add.4, §§ 8-9, available at <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.4&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.4&Lang=en)>.

<sup>82</sup> Article 41 of the Portuguese Constitution.

<sup>83</sup> Explicitly recognised by Article 49(1) of the Cape Verdean Constitution.

<sup>84</sup> Explicitly recognised by the Constitutions of Angola [Article 41(4)], Cape Verde [Article 29(3)], Portugal [Article 41(3)], and São Tomé and Príncipe [Article 27(3)].

<sup>85</sup> Explicitly recognised by the Constitutions of Angola [Article 67(4)], Brazil (Article 5-VII), and Cape Verde [Article 49(5)].

<sup>86</sup> Explicitly recognised by the Constitutions of Cape Verde [Article 49(6)], and Portugal [Article 41(5)].

<sup>87</sup> Explicitly recognised by the Constitutions of Cape Verde [Article 49(7)], and Mozambique [Article 54(4)].

<sup>88</sup> Explicitly recognised by Article 54(3) of the Mozambican Constitution.

paying taxes on their temples,<sup>89</sup> and the right of religious groups to free airtime.<sup>90</sup> The fact that the East Timorese constituent lawmakers left these dimensions out of the Constitution does not mean that they did a worse job than their fellow Lusophone lawmakers, since a more detailed constitutional framework is not necessarily synonymous with a stronger protection for fundamental rights.<sup>91</sup> It is up for each national constituent legislator to determine which dimensions of a right deserve explicit recognition in the constitution, with the understanding that constitutionalisation signals their importance in the national legal system and contributes to shield them against legislative volatility, since all state acts must comply with the Constitution, per the constitutionality principle [Article 2(3) of the Constitution], and there are restrictions on the possibility to enact constitutional amendments (Articles 154 to 157 of the Constitution).

Similarly, the fact that the East Timorese Constitution does not explicitly recognise dimensions of the right to freedom of conscience, religion and worship found in other Lusophone constitutions does not mean that these dimensions are not (or may not be) recognised and protected in Timor-Leste. Religious assistance in prison and in the army, for example, is already provided for in ordinary legislation, as we will see below. Other dimensions of the right derive directly from the international human rights treaties ratified by Timor-Leste – e.g., the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child<sup>92</sup> –, which apply in Timor-Leste and trump domestic ordinary legislation per Article 9 of the Constitution. One such dimension is the right not to profess any religion or belief, which some sectors of Timor-Leste's society chose to ignore during the 2005 clash between the Catholic Church and the Government on the subject of religious instruction. In one of its public pronouncements during the crisis, the Catholic Bishops of Timor-Leste argued that the state could not evade its responsibilities in the development of the citizens' identity, culture and religion, because religion is a citizen's right.<sup>93</sup> The Bishops' view seems to be that Article 45 of the Constitution only protects the right to profess a religion and that it is this right that creates the state's obligation to provide religious instruction in public schools. However, if we consider that the right to freedom of religion also protects the right not to profess any religion or belief, a better way to ensure the right enshrined in Article 45 is arguably to prevent the state from imposing the teaching of religion on anyone. In its General Comment on Article 18 of the Covenant, the UN Human Rights Committee made very clear that the right to freedom of thought, conscience and religion protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief.<sup>94</sup> In its 2021 report on freedom of thought, the Special Rapporteur on Freedom of Religion or Belief, Ahmed Shaheed, added that:

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<sup>89</sup> Explicitly recognised by Article 150-VI(b) of the Brazilian Constitution.

<sup>90</sup> A possibility opened by Article 58(3) of the Cape Verdean Constitution for the religious groups that are legally recognised in Cape Verde.

<sup>91</sup> It is questionable, for example, that the Cape Verdean constituent lawmakers took the best course when they decided to explicitly prohibit the imitation or ridicule of religious symbols, emblems and rites [Article 49(7)], as it seems hard to reconcile with the freedom of expression protected by Article 48 of Cape Verde's Constitution.

<sup>92</sup> Article 18 of the International Covenant on Civil and Political Rights (ratified by Parliament Resolution No. 3/2003, of 22 July 2003) reads as follows: "1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching. 2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice. 3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. 4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions." The phrasing is replicated by Article 12 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ratified by Parliament Resolution No. 23/2003, of 26 September 2003). Article 14 of the Convention on the Rights of the Child (ratified by Parliament Resolution No. 16/2003, of 17 September 2003) has a partly coinciding phrasing, establishing the right of the child to freedom of thought, conscience and religion, recognising the rights and obligations of the parents to guide children in the exercise of this right and allowing restrictions to the freedom to manifest religion in terms similar to those of Article 18(3) of the Covenant.

<sup>93</sup> See Kelly Cristiane da SILVA, "A Bíblia como Constituição...", *op. cit.*, p. 220.

<sup>94</sup> The Committee also clarified that the religions and beliefs protected by Article 18 of the Covenant are not only traditional religions, but also newly established religions and/or religious minorities. Human Rights Committee, *General Comment No. 22 (48) (art. 18)*, *cit.*, § 2.



[R]eligious and non-religious people alike may cherish freedom of thought as a vehicle for reason, the search for truth and individual agency, engaging both freedom of religious choice (namely, the right to have, adopt or change religion or belief, and to interpret one's religion or belief) and "freedom from religion" to think freely on all matters without the influence of religion or belief systems.<sup>95</sup>

The importance of the right to freedom of conscience and religion in Timor-Leste is such that it is included in the list of fundamental rights which may not be derogated from in time of public emergency [Article 25(5) of the Constitution],<sup>96</sup> a safeguard replicated from Article 4(2) of the International Covenant on Civil and Political Rights and found in most Lusophone constitutions,<sup>97</sup> with the exception of Brazil and São Tomé and Príncipe.<sup>98</sup> This special protection does not extend to freedom of worship, which is due to the fact that freedom of conscience and religion – i.e. the freedom to have and to not have a religion, and to change religion – is understood as absolute, while the freedom of worship – being a modality of the freedom to manifest religion – may be subject to restrictions per Article 18(3) of the Covenant.

Finally, it remains to be seen how Timor-Leste's Constitution deals with the principle of separation between church and state. The principle is stated in Article 45(1) *in fine*, which suggests that it is conceived of as being a dimension or safeguard of the right to freedom of conscience, religion and worship. The only other Lusophone constitution that deals with the issue in a similar way is the Portuguese Constitution.<sup>99</sup> Cape Verde's Constitution also mentions the separation between church and state in the provision on freedom of conscience, religion and worship, but the principle of separation is first listed as one of the fundamental features of the Cape Verdean state as a democracy under the rule of law.<sup>100</sup> The other Lusophone constitutions establish the principle in separate provisions, as part of fundamental principles (Angola, Guinea-Bissau and Mozambique),<sup>101</sup> state objectives (São Tomé and Príncipe)<sup>102</sup> or state organisation (Brazil).<sup>103</sup> Unlike Timor-Leste's Constitution, some Lusophone constitutions restate the principle *a propos* specific subjects, as is the case when they prescribe that public education is non-confessional and/or prohibit the state from programming education and culture according to any religious guidelines,<sup>104</sup> when they prohibit political parties from adopting names that include expressions associated with any religion and symbols likely to be mistaken for religious symbols,<sup>105</sup> and when they establish that unions are independent vis-à-vis religious groups.<sup>106</sup>

<sup>95</sup> *Interim Report of the Special Rapporteur on Freedom of Religion or Belief, Ahmed Shaheed: Freedom of Thought*, 05.10.2021, A/76/380, § 24, available at <<https://www.ohchr.org/EN/Issues/FreedomReligion/Pages/freedom-of-thought.aspx>>.

<sup>96</sup> There are two types of public emergency in Timor-Leste's Constitution, the state of siege (*estado de sítio*) and state of emergency (*estado de emergência*). Article 25(5) only safeguards fundamental rights in case of state of siege, but it is commonly understood that the provision is to be interpreted extensively to also cover the state of emergency. See, e.g. Pedro Carlos Bacelar de Vasconcelos (ed.), *Constituição Anotada da República Democrática de Timor-Leste*, Braga, Direitos Humanos – Centro de Investigação Interdisciplinar, 2011, pp. 101-102. That was also the view taken by the ordinary legislator when adopting Law No. 3/2008, of 22 February 2008, which prescribes that the declaration of state of siege or of state of emergency in no event may hinder the right to freedom of conscience and religion [Article 2(f)].

<sup>97</sup> Article 58(5)(g) of the Angolan Constitution, Article 274 of the Cape Verdean Constitution, Article 31(2) of the Bissau-Guinean Constitution, Article 286 of the Mozambican Constitution, and Article 19(6) of the Portuguese Constitution.

<sup>98</sup> The first, because it only lists the derogations which are allowed (Articles 136 to 139 of the Brazilian Constitution) and the second because it uses a generic phrasing without singling out any fundamental rights [Article 19(2) of the Constitution of São Tomé and Príncipe].

<sup>99</sup> Article 41(4) of the Portuguese Constitution.

<sup>100</sup> Articles Article 49(3) and 2(2) of the Cape Verdean Constitution.

<sup>101</sup> Article 10(1) of the Angolan Constitution, Articles 1 and 6 of the Bissau-Guinean Constitution, and Article 12 of the Mozambican Constitution.

<sup>102</sup> Article 8 of the Constitution of São Tomé and Príncipe.

<sup>103</sup> Article 19-I of the Brazilian Constitution.

<sup>104</sup> Article 50(2)(c) and (d) of the Cape Verdean Constitution, Article 49(4) of the Bissau-Guinean Constitution, Article 113(3) and (5) of the Mozambican Constitution, Article 43(2) and (3) of the Portuguese Constitution, and Article 31(2) of the Constitution of São Tomé and Príncipe.

<sup>105</sup> Article 57(3) of the Cape Verdean Constitution, Article 4(5) of the Bissau-Guinean Constitution, Article 76 of the Mozambican Constitution and Article 51(3) of the Portuguese Constitution.

<sup>106</sup> Article 45(3) of the Bissau-Guinean Constitution, Article 86(3) of the 2004 Mozambican Constitution, and Article 55(4) of the Portuguese Constitution.

Timor-Leste's Constitution is, furthermore, one of the few Lusophone constitutions (together with Brazil and Cape Verde) that does not list the separation between church and state among the material restrictions to constitutional amendments (Article 156), i.e., the subject matters that are off-limits in case of enactment of an amendment to the Constitution.<sup>107</sup> As mentioned earlier, the draft submitted by FRETILIN (and also the one submitted by PSD) included the principle of separation in the list of material restrictions, but this was eventually dropped. The lack of an explicit mention, while signalling a clear intent on the part of the constituent lawmakers, does not mean that a future constitutional amendment may simply repeal the principle of separation and establish Catholicism as the official religion of Timor-Leste, even if this would possibly be in line with popular sentiment. The principle of separation is after all established in a fundamental rights provision (Article 45), and fundamental rights are a material restriction to constitutional amendments per Article 156(1)(b). While it is true that this does not place fundamental rights totally outside the reach of the democratic debate,<sup>108</sup> we are of the opinion that, under the current constitutional framework, the principle of separation is not to be reversed, since it is an integral part of the constituent lawmakers' decision to recognise the right to freedom of conscience, religion and worship and to prohibit discrimination based on religion.

## 5. Developments in ordinary legislation

In this section, we look at the provisions in ordinary legislation that govern the exercise of freedom of conscience, religion and worship, and the status of religious groups in Timor-Leste. Many of the relevant statutory provisions are the product of legal transplants from other Lusophone legal systems, due to the frequent involvement of Lusophone foreign lawyers (most often Portuguese, Brazilian and Cape Verdean) in the legislative drafting process, as advisors to Timor-Leste's Parliament and Government. For brevity, these influences will not be pointed out in detail. Suffice to say that the mix-and-match of the different foreign influences, combined with the Constitution's specificities and the singularities of Timor-Leste's social and political context, often lead to contradictions in the statutory framework and to provisions that are difficult to interpret and to apply in practice.<sup>109</sup>

### 5.1. Equality and non-discrimination

The principles of equality and non-discrimination based on religion are often restated in ordinary legislation. In the impossibility of making an exhaustive inventory, we limit the present mapping to a few most relevant instances. The Labour Act establishes a general principle of equality of all workers and job applicants, prohibits dismissals on religious grounds, and treats as forced or compulsory labour the work enacted from any person as a form of religious discrimination.<sup>110</sup> The Statute of Timor-Leste's Defence Force (F-FDTL) prescribes that officers may not be hindered or privileged because of their religious beliefs, namely in the selection for promotion.<sup>111</sup> The Media Act establishes that all are free to express and disseminate their opinions in the media, without being harassed for their religious beliefs, and requires that media outlets do not make discriminatory remarks about religion, and that journalists uphold pluralism of opinions and do not systematically hide information of public interest pertaining to a specific religion.<sup>112</sup> The Criminal Code criminalises religious discrimination and the acts practiced with the intent to destroy, in whole or in part, a religious group, besides treating hate and discriminatory sentiments based on the victims' religion or beliefs as general aggravating circumstances, and as elements of the definition of aggravated homicide.<sup>113</sup>

<sup>107</sup> The separation between church and state is an explicit material restriction to constitutional amendments in Article 236(g) of the Angolan Constitution, in Article 130(b) of the Bissau-Guinean Constitution, in Article 292(1)(c) of the Mozambican Constitution, in Article 288(c) of the Portuguese Constitution, and in Article 154(b) of the Constitution of São Tomé and Príncipe.

<sup>108</sup> See Pedro Carlos Bacelar de VASCONCELOS (ed.), *Constituição Anotada da República Democrática de Timor-Leste*, op. cit., pp. 488-489.

<sup>109</sup> See Patrícia JERÓNIMO, "Para uma reforma do Direito timorense da nacionalidade: Caracterização do regime e sinalização de aspetos críticos", *ELJ e-Boletim Lei & Justiça*, Vol. 2, No. 3, 2019, pp. 38-41.

<sup>110</sup> Articles 6, 45(1), and 8(2)(d) of Law No. 4/2012, of 21 February 2012.

<sup>111</sup> Articles 20(2) and 49(3) of the F-FDTL Statute, approved by Decree-Law No. 7/2014, of 12 March 2014.

<sup>112</sup> Articles 9, Article 4(c), and Article 20(1)(c) of Law No. 5/2004, of 19 November 2004.

<sup>113</sup> Articles 135, 123, 52(2)(e) and 139(e) of the Criminal Code adopted by Decree-Law No. 19/2009, of 8 April 2009.

## 5.2. Separation and cooperation between the state and religious groups

The constitutional principle of separation between church and religion is, first of all, reflected in the ineligibility of ministers of religion for public office. That is clearly prescribed for local elections at *Suco* level,<sup>114</sup> and for parliamentary<sup>115</sup> and presidential<sup>116</sup> elections. However, the Municipal Electoral Act, adopted in 2021, does not list ministers of religion among those who are ineligible for the municipal representative bodies,<sup>117</sup> which, if interpreted as meaning that they are indeed eligible, sits oddly with the principle of separation and with the regime set for the elections conducted at local level for the *Suco* bodies.

The principle of separation is also reflected in the regulation of political parties, as they are prohibited from adopting names of religious groups and symbols that are likely to be mistaken for religious symbols, as well as from accepting donations from entities engaged in religious activities.<sup>118</sup> Similarly, the Labour Act prohibits any interference by religious institutions in the functioning and funding of workers' unions and employers' organisations, as a condition for their independence.<sup>119</sup>

As noted earlier, separation goes hand in hand with collaboration between the state and religious groups, which the state is required to promote per Article 12(2) of the Constitution. The role of the Catholic Church and other religious organisations (in particular, their contribution to pre-schooling and extra-curricular education) has been repeatedly praised by Timor-Leste's authorities and the Government has been very willing to establish partnerships and to include religious organisations in its educational advisory bodies.<sup>120</sup> Entities representing the Catholic Church and religious groups are entitled to a seat in the National Committee for Education, the advisory body of the Ministry of Education.<sup>121</sup> Religious groups are also entitled to a seat in the Ombudsman Advisory Council<sup>122</sup> and in the National Committee for the Rights of the Child.<sup>123</sup> The Catholic Church enjoys, furthermore, the right to be consulted by the Government and the Parliament on legislative bills concerning worship, teaching, charities and related activities,<sup>124</sup> a prerogative which may be justified as part of a broader effort to hear civil society organisations in preparation of new legislative acts, but which should be extended to other religious groups present in Timor-Leste for the sake of equality.

## 5.3. Registration and recognition of religious groups

Except for the Catholic Church, which has its legal personality granted by the 2015 Agreement between Timor-Leste and the Holy See,<sup>125</sup> religious groups must register as non-profit organisations (associations or foun-

<sup>114</sup> Article 74(1)(o) of Law No. 9/2016, of 8 July 2016. *Suco* is a local jurisdiction with traditional roots, which is roughly the equivalent of a parish. The ineligibility of ministers of religion had already been established in the two prior laws on the subject, Law No. 2/2004, of 10 February 2004 [Article 10(e)], and Law No. 3/2009, of 8 July 2009 [Article 19(e)].

<sup>115</sup> Article 7(g) of Law No. 6/2006, of 28 December 2006.

<sup>116</sup> Article 7(f) of Law No. 7/2006, of 28 December 2006.

<sup>117</sup> Article 6 of Law No. 22/2021, of 4 November 2021.

<sup>118</sup> Articles 12(2) and 22(d) of Law No. 3/2004, of 10 February 2004.

<sup>119</sup> Article 83(1) of Law No. 4/2012, of 21 February 2012.

<sup>120</sup> Consider, for example, Articles 10(2) and 22(5) of the Framework Education Act, approved by Law No. 14/2008, of 29 October 2008.

<sup>121</sup> Article 17(2)(e) of Decree-Law No. 22/2010, of 9 December 2010. The phrasing of the provision suggests that all religious groups are entitled to a seat on the Committee, but of course admission will be dependent on their prior recognition by the state, which is far from straightforward, as we will see below.

<sup>122</sup> Article 17(3)(d) of Decree-Law No. 25/2011, of 8 June 2011.

<sup>123</sup> The Advisory Council includes nine civil society representatives: two from non-governmental organisations and four from religious groups [Article 10(1)(b) of Ministerial Decree No. 10/2014, of 14 May 2014].

<sup>124</sup> Article 23 of the 2015 Agreement between Timor-Leste and the Holy See.

<sup>125</sup> Under the Agreement, Timor-Leste recognises public legal personality to the Catholic Church, the Timorese Episcopal Conference, the dioceses, parishes and other ecclesiastical jurisdictions, pursuant to Canon Law, requiring only that for dioceses, parishes and ecclesiastical jurisdictions the constitutive act of their canonical legal personality be notified to the competent state body [Article 3(2) *in fine*]. For ecclesiastical associations and foundations, it is required that the constitutive act of canonical legal personality be registered with the competent state body (Article 5).

dations) to be granted legal personality and the right to pursue their activities in the country. To register, religious associations must have a minimum of ten associates, their by-laws must comply with the law, and they must prove that they have the necessary resources to operate in Timor-Leste.<sup>126</sup> Registration may be denied if the East Timorese authorities find that the association does not comply with the law, offends the rights of others, or contradicts public morals and public order.<sup>127</sup>

Foreign religious groups must register as foreign non-profit organisations, which requires that they (i) prove their legal existence in the country of origin, (ii) have a permanent representative with powers of attorney in Timor-Leste, (iii) have the necessary resources to operate, and (iv) submit an authenticated copy of their by-laws.<sup>128</sup> The Ministry of Justice, through the National Directorate of Registries and Notaries, may order the cancellation of the registration of foreign non-profit organisations, after hearing their representatives, if they engage in illegal activities, offend the rights or cause damages to others or to the state.<sup>129</sup>

The tenor of the regime is clearly restrictive and, as mentioned earlier, there have been reports of religious groups facing bureaucratic hurdles when trying to register in Timor-Leste. This is a recurring problem in many parts of the world, which has led the UN Human Rights Council to call on states to review existing registration practices and to ensure that the freedom to establish and maintain religious, charitable or humanitarian institutions is fully respected and protected.<sup>130</sup> We should also keep in mind that freedom of religion is not limited to traditional religions with institutional characteristics, as explained by the UN Human Rights Committee, so the fact that a religious group fails to register as a non-profit organisation should not be used as reason to restrict the right to freedom of religion of the individual members of the group, namely their right to express their religion through worship, individually or in community with others.

Subjecting religious groups to the general rules applicable to all non-profit organisations is a questionable legal course of action, as it fails to account for the specificities of religious groups and organisations. It is also far from clear how this registration system correlates with the recognition of religions for a number of different purposes, such as the provision of religious assistance to F-FDTL officers,<sup>131</sup> the granting of seats in advisory bodies, and the population census, considering, for example, that the 2015 census identified as possible religious affiliations Catholicism, Islam, Buddhism, Hinduism, Protestant/Evangelical, traditional religion, and other.

#### **5.4. Conscientious objection**

Although Article 45(3) of Timor-Leste's Constitution establishes the right to conscientious objection, under terms to be prescribed by law, the exercise of this right is still to be regulated in key sectors. So far, only health professionals' conscientious objection to abortion is in the books.<sup>132</sup> Article 141(12)(13)(14) of the Criminal Code entitles doctors and other health professionals to invoke conscientious objection in all procedures pertaining to abortion,

<sup>126</sup> Article 3(1) of Decree-Law No. 5/2005, of 7 September 2005.

<sup>127</sup> Article 2 of Decree-Law No. 5/2005, of 7 September 2005.

<sup>128</sup> Furthermore, the authenticated copy must include the translation into one of the official languages of Timor-Leste of the section of the by-laws where it is mentioned the name, headquarters, objectives, duration, essential requirements for admission and exclusion of associates, and the translation must be approved by Timor-Leste's National Institute of Linguistics (Articles 39 and 41 of Decree-Law No. 5/2005). Foreign non-profit organisations which were operating in Timor-Leste at the time of the entry into force of Decree-Law No. 5/2005 were given a six-month period to adapt to the new rules (Article 43).

<sup>129</sup> Article 42 of Decree-Law No. 5/2005. The Immigration and Asylum Act – Law No. 11/2017, of 24 May 2017 – added, in the meantime, that if the association obtained the registration by means of false statements or engaged in illegal activities, the member of the Government overseeing migration reports those facts to the Public Prosecutor for possible dissolution of the association and criminal procedure against those responsible [Article 8(2)].

<sup>130</sup> Human Rights Council, Resolution 6/37, 14.12.2007, § 9(f) and (h), available at <[https://ap.ohchr.org/documents/E/HRC/resolutions/A\\_HRC\\_RES\\_6\\_37.pdf](https://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_6_37.pdf)>.

<sup>131</sup> Article 25(1) of the F-FDTL Statute recognises the right to religious assistance only to F-FDTL officers who profess a "religion legally recognised in the country".

<sup>132</sup> The Media Act protects journalists' freedom of conscience without using the phrase "conscientious objection". Per Article 19(5), journalists may not be constrained to express or endorse opinions or perform professional tasks that conflict with their conscience, nor be sanctioned for refusing. It is up to the Editorial Board to take position on the use by journalists of their right to freedom of conscience under the law [Article 31(3)(d)].



requiring only that they express their objection in writing to the clinic director of the health facility and that they ensure their immediate replacement by another health professional. There is no provision on the assessment of the seriousness of the reasons invoked by the objector, nor a clear indication as to the consequences of the objector's inability to secure his or her immediate replacement by another health professional without conscientious objections to abortion. Here, the right to conscientious objection is very strongly protected and is allowed to supersede the pregnant woman's right to life, since abortion is only legally performed in cases where there is a clear danger to the mother's life.<sup>133</sup>

Timor-Leste's lawmakers' readiness to regulate the exercise of conscientious objection by health professionals clearly contrasts with the delays in the regulation of conscientious objection to military service, which is probably not unrelated to the fact that the former is likely to be exercised by Catholics whereas the latter is commonly associated with members of religious minorities, such as Jehovah's Witnesses. The first Military Service Act, adopted in 2007, did not include conscientious objection in the list of grounds for exemption from military service, an omission that was particularly problematic given that the same Act blocked access to employment in the public sector for citizens who did not meet their military obligations.<sup>134</sup> It was only in 2009 that the Government foresaw the creation of the "Status of Conscientious Objector and Civic Service", for citizens who, due to ideological, political, religious or philosophical reasons, are unable to render mandatory military service.<sup>135</sup> The National Defence Act, adopted in 2010, prescribed that the performance of military service would be regulated by a special legislative act, that would cover a number of topics including conscientious objection,<sup>136</sup> but it was subsequently decided that conscientious objection would be regulated separately.<sup>137</sup> When Timor-Leste's lawmakers finally regulate conscientious objection to military service, it is important that they do so in a manner that is consistent with the way conscientious objection is protected in other areas (such as health services) and that does not discriminate against reasons of conscience or belief invoked by religious minorities.

It is also worth mentioning that all citizens rendering military service are required to swear by God in the military oath of enlistment,<sup>138</sup> irrespective of whether or not they believe in God, with is problematic in light of the "negative dimension" of the right to freedom of conscience and religion, i.e., the right not to profess any religion or belief. The same applies to the reference to God in the President of the Republic's oath of office, prescribed by Article 77(3) of the Constitution, which will amount to a breach of the freedom of conscience of the holder of the office whenever he or she is a non-believer, something which the East Timorese constituent lawmakers seem to think is outside the realm of possibility. Similarly, the ordinary legislator seems to assume that all military officers will have one religion or another, since by law military officers are only exempted from attending or taking part in religious ceremonies if these are of a religion different from the one they profess.<sup>139</sup> Prison inmates, on the other hand, may not be forced to take part in any religious act or ceremony, nor to receive visits from representatives of any religion,<sup>140</sup> which means that they enjoy a stronger protection to their freedom of conscience than that which is enjoyed by military officers and the President of the Republic.

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<sup>133</sup> In the original version of Article 141(4) of the Criminal Code, it was foreseen that criminal responsibility would not apply also in case of severe and irreversible lesion to the body or to the physical or mental health of the pregnant woman or the foetus. This was clearly not enough in the eyes of the Catholic Church, and shortly after its adoption by the Government the Criminal Code was amended by Parliament with Law No. 6/2009, of 15 July 2009, which limited the cases where there will be no criminal responsibility to those where it is established that the mother's life is at risk. Timor-Leste's Criminal Code never allowed abortion on grounds of rape or incest.

<sup>134</sup> Articles 19 and 30 of Law No. 3/2007, of 28 February 2007.

<sup>135</sup> Article 3(2) of Decree-Law No. 17/2009, of 8 April 2009.

<sup>136</sup> Article 41(1) of Law No. 3/2010, of 21 April 2010.

<sup>137</sup> Article 93 of the Military Service Regulation, adopted by Decree-Law No. 3/2021, of 13 January 2021.

<sup>138</sup> Article 33 of Law No. 3/2007, of 28 February 2007, and Article 7 of the F-FDTL Statute.

<sup>139</sup> Article 25 of the F-FDTL Statute.

<sup>140</sup> Article 46(4) of Decree-Law No. 14/2014, of 14 May 2014.

### 5.5. Religious instruction in public schools

According to the Education Framework Act, one of the objectives of basic education is to provide students with civic, moral and religious notions, while respecting their freedom of conscience. This objective is pursued through the inclusion, in primary and secondary education curricula, of an area of social and personal development, which comprises civic participation, sexuality, environment, religion and morals, among other subjects.<sup>141</sup> Religious and Moral Education is part of the standard curriculum for the third year of primary school and the whole of secondary school, including technical vocational training.<sup>142</sup> The Government has clarified that religious instruction in basic education is designed to teach students about religious diversity, contributing to their moral development in a spirit of tolerance.<sup>143</sup>

The Government's stress on religious diversity suggests that Timor-Leste's education system complies with international human rights standards, since these "permit instruction in subjects such as the general history of religions and ethics if it is given in a neutral and objective way".<sup>144</sup> It should be noted, however, that the training of teachers in Timor-Leste is still largely in the hands of Catholic institutions, such as the Catholic Institute for Teacher Training (*Instituto Católico para a Formação de Professores*), and that the training provided by Saint Thomas Aquinas' Institute for Religious Sciences (*Instituto de Ciências Religiosas São Tomás de Aquino*) is for the teaching of "Catholic Religion and Morals". Furthermore, the 2015 Agreement with the Holy See foresees "the teaching of Catholic Religion, by the Catholic Church, to all Catholic students in all public primary and secondary schools, as part of the school curriculum",<sup>145</sup> which raises questions as to how this course relates to the Religious and Moral Education that has been part of the standard school curriculum and which the Government defined in broad inclusive terms.

For reasons already given, the two courses are not to be treated as synonymous, which requires that the East Timorese lawmakers revise the terminology adopted in the legislation governing the school curricula to avoid confusion and, more importantly, that they create effective exemptions and pedagogical alternatives for parents who do not want their children to attend either of the courses. The Agreement with the Holy See seeks to accommodate the parents' wishes by prescribing that they may, when registering their children, exercise the right not to benefit from the teaching of Catholic Religion, without being discriminated.<sup>146</sup> However, the fact that Catholic Religion is the *standard* to which one has to opt-out is in itself problematic. An opt-in – i.e., the requirement of a declaration from those who wish to attend Catholic Religion – would have been preferable in light of the right to freedom of conscience and religion. The possibility to opt-out will, in any case, continue to be insufficient while the East Timorese authorities do not create effective pedagogic alternatives for the students who do not attend the course. As pointed out by the UN Human Rights Committee, public education that includes instruction in a particular religion or belief is inconsistent with Article 18(4) of the International Covenant on Civil and Political Rights unless provision is made for non-discriminatory exemptions or alternatives that would accommodate the wishes of parents and guardians.<sup>147</sup>

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<sup>141</sup> Articles 12(1)(j), 13(3)(b) and 35(2) of Law No. 14/2008, of 29 October 2008.

<sup>142</sup> Government Resolution No. 24/2011, of 7 September 2011, Decree-Law No. 47/2011, of 19 October 2011, and Decree-Law No. 8/2012, of 15 February 2012, respectively.

<sup>143</sup> Articles 13(2)(d) and 17(2) of Decree-Law No. 4/2015, of 14 January 2015.

<sup>144</sup> Human Rights Committee, *General Comment No. 22 (48) (art. 18)*, cit., § 6.

<sup>145</sup> Article 9 of the 2015 Agreement between Timor-Leste and the Holy See.

<sup>146</sup> Article 9(5) of the 2015 Agreement between Timor-Leste and the Holy See.

<sup>147</sup> Human Rights Committee, *General Comment No. 22 (48) (art. 18)*, cit., § 6. The Special Rapporteur on Freedom of Religion or Belief, in his 2021 report on freedom of thought, expressed concern for the fact that it is oftentimes difficult for the parents and the students to opt out of religious education due to the social stigma associated with the request for an exemption. *Interim Report of the Special Rapporteur on Freedom of Religion or Belief...*, cit., § 60.

## 5.6. Marriage

The importance of Catholicism is clearly visible in the legal regulation of marriage. Timor-Leste's Civil Code recognises three forms of marriage: Catholic, civil and traditional.<sup>148</sup> If we consider that the traditional marriage is a form of religious marriage, which is far from a given,<sup>149</sup> we have two religions whose marriage rites are officially recognised by the state, whereas the believers of all other faiths will only have their marriages recognised if they celebrate a civil marriage. In light of the importance that Timor-Leste places on its people's religious sentiments – as stated in the Constitution –, a fairer solution would be to recognise civil effects to religious marriages of other religions instead of privileging Catholic and traditional marriages. There is no substantive reason to justify the discrimination of persons of other faiths, particularly when the religions are legally recognised in Timor-Leste.

To make matters worse, there is yet no Civil Registration Code to establish the procedure for the celebration of civil marriages, which means that they are not yet available to couples who are unable or unwilling to celebrate a Catholic or a traditional marriage.<sup>150</sup> After a prolonged public consultation process, the Government eventually approved the Civil Registration Code on 29 September 2021, but, at the time of writing, the Code had not yet been published in the official journal and was therefore not yet in force. This affects, in particular, the believers of other faiths and the non-believers, who are unable to formalise their marriages. However, as pointed out by the UN Committee on the Elimination of Discrimination against Women, in 2015, the lack of civil registration is also affecting traditional and church marriages, which are rarely registered with the Civil Registry Office, with negative consequences for the women's right to inheritance or property upon separation or as a result of bereavement.<sup>151</sup>

## 5.7. National holidays

In 2005, Timor-Leste's lawmakers instituted 15 public holidays and seven official commemorative dates, of which ten public holidays and three commemorative dates have a religious character. Most are Catholic holidays, such as Christmas, All Saints and Good Friday, but two are Muslim holidays, the Eid al-Fitr (end of Ramadan) and the Eid al-Adha (day of sacrifice).<sup>152</sup> Two public holidays were added in 2016, to pay tribute to the veterans and national heroes, but the religious holidays remained the same.<sup>153</sup>

Workers and employers are not at liberty to add other holidays to individual work contracts, but the workers who profess a religion whose holidays are not recognised by law may apply for a paid excused absence for the celebration of a religious holiday, to be granted at the discretion of their employer or principal.<sup>154</sup> Under the Labour Act, workers may take up to three days of paid excused absence each year in case of marriage, death of family members and community or religious events.<sup>155</sup> Also, the Immigration and Asylum Act grants foreigners the right to take part in commemorative gatherings in observance of their national holidays.<sup>156</sup>

## 5.8. Religious assistance

Religious assistance is granted by law to F-FDTL officers and to prison inmates, albeit with a different level of normative detail. The F-FDTL Statute merely prescribes that the officers who profess a religion legally recognised

<sup>148</sup> Article 1475 of the Civil Code, adopted by Law No. 10/2011, of 14 September 2011.

<sup>149</sup> As noted earlier, religion and culture are often conflated and traditional *lulik* rites are relegated to the cultural sphere. Article 1478(1) of the Civil Code defines the traditional marriage (*casamento barlaqueado monogâmico*) as that which is celebrated between two persons of opposite sex and according to the usages and customs of a given region.

<sup>150</sup> On the subject, see Bárbara Nazareth OLIVEIRA *et al.*, *Os Direitos Fundamentais em Timor-Leste...*, *op. cit.*, pp. 400-401.

<sup>151</sup> Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Combined Second and Third Periodic Reports of Timor-Leste*, 24.11.2015, CEDAW/C/TLS/CO/2-3, §§ 38(g) and 39(g), available at <<https://undocs.org/CEDAW/C/TLS/CO/2-3>>.

<sup>152</sup> Articles 2 and 5 of Law No. 10/2005, of 10 August 2005.

<sup>153</sup> Law No. 3/2016, of 25 May 2016.

<sup>154</sup> Articles 6 and 7 of Law No. 10/2005, of 10 August 2005.

<sup>155</sup> Article 33(3) of Law No. 4/2012, of 21 February 2012.

<sup>156</sup> Article 7(1) of Law No. 11/2017, of 24 May 2017, as amended by Law No. 10/2021, of 16 June 2021.

in the country are entitled to religious assistance.<sup>157</sup> The rules on the execution of prison sentences are much more detailed in this regard. They clarify, for example, that the inmates' right to religious assistance includes the possibility to receive visits from representatives of their religious groups and to keep in contact and exchange correspondence with them, and that it can only be restricted on grounds of security reasons.<sup>158</sup> The visits by representatives of the inmates' religious groups take place outside the regular visiting hours and, if the inmate is seriously ill, may also take place outside the regular visiting days. When warranted by the number of inmates professing the same religion or belief, religious assistance may be provided on a regular basis and acts of worship may be performed in group. The right to keep in contact and exchange correspondence with religious representatives is not hindered by the inmate's mandatory permanence in lodging or internment in disciplinary cell.<sup>159</sup> Furthermore, prisons are required to ensure that inmates are able to satisfy their religious, spiritual and moral needs, by providing them with adequate resources, including the facilities and equipment necessary for acts of worship, and by respecting their religiously imposed dietary restrictions, for example.<sup>160</sup>

The Immigration and Asylum Act bans foreigners from providing religious assistance to officers of Timor-Leste's security and defence forces, except in case of urgency or if duly authorised by the Government,<sup>161</sup> a restriction which does not apply to the provision of religious assistance to prison inmates. The 2015 Agreement with the Holy See grants the Catholic Church the right to provide religious assistance to the members of the security and defence forces, as well as in prisons and similar institutions, in hospitals, clinics and orphanages, and foresees the signing of an agreement between the competent state body and the Timorese Episcopal Conference on the modes of exercise and organisation of said assistance.<sup>162</sup> Ideally, East Timorese lawmakers would regulate the modes of exercise and organisation of religious assistance in a single legislative act, applicable to all religious groups "legally recognised" by the state and to all settings where the provision of religious assistance is foreseeable, including hospitals and orphanages, which are not yet covered by existing legislation.

### **5.9. Protection to places of worship and religious ceremonies**

Places of worship and religious ceremonies are protected by the Criminal Code, which criminalizes attacks and damages to buildings used for religious worship during armed conflict, acts committed with the intention of disrupting worship or funereal ceremonies or processions by means of violence or coercion, the desecration of places or objects of worship, offenses against persons because of their beliefs or religious functions, and the destruction, theft, concealment or desecration of corpses. The crimes of theft and damage to property are aggravated when the stolen or damaged objects are used in religious worship or in the cult of the dead and are placed in a place of worship or in a cemetery.<sup>163</sup>

Consideration for places of worship is also present in the rules governing political and electoral campaigns, which establish that political gatherings and demonstrations organised in the vicinity of religious buildings will only be permitted if they take place at a distance that does not interfere with the conduction of religious activities, and which ban the posting of election posters on religious buildings without the owners' prior permission.<sup>164</sup> Advertising which makes a negative or undignified use of religious symbols is prohibited, and television broadcasting companies may not interrupt the broadcast of religious services to run advertisements nor insert advertisements as a footnote or in subtitles during religious services.<sup>165</sup>

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<sup>157</sup> Article 25(1) of the F-FDTL Statute.

<sup>158</sup> Articles 15(2), 46, 47, 96 and 97 of Decree-Law No. 14/2014, of 14 May 2014.

<sup>159</sup> Articles 47(2)(3), 96(2) and 97(2) of Decree-Law No. 14/2014, of 14 May 2014.

<sup>160</sup> Articles 46(2), 36(1) and 38(2) of Decree-Law No. 14/2014, of 14 May 2014.

<sup>161</sup> Article 9(1)(c) of Law No. 11/2017, of 24 May 2017, as amended by Law No. 10/2021, of 16 June 2021.

<sup>162</sup> Article 8 of the 2015 Agreement between Timor-Leste and the Holy See.

<sup>163</sup> Articles 129, 222, 223, 224, 252(1)(c) and 259(e) of the Criminal Code.

<sup>164</sup> Articles 12(1) and 13(2) of Government Decree No. 5/2017, of 27 November 2017.

<sup>165</sup> Articles 10(3)(a) and 24(2) of Decree-Law No. 51/2011, of 21 December 2011.



### **5.10. Prerogatives of religious groups and of their representatives**

As noted earlier, the 2015 Agreement with the Holy See establishes a series of special prerogatives for the Catholic Church. Here, we briefly look at some of the prerogatives established by Timor-Leste's lawmakers for all religious groups and their representatives. Religious institutions are exempted from paying taxes on the donations that they receive.<sup>166</sup> The ministers of religion enjoy the right to refuse to testify to facts covered by the secret of confession, both in criminal and civil procedures,<sup>167</sup> while the high-ranking representatives of religious communities enjoy the right to start by giving testimony in writing, in civil procedures, if they so wish.<sup>168</sup> Members of religious orders are entitled to refuse to take on the guardianship of underage children.<sup>169</sup> Citizens enrolled in ecclesiastical institutes, members of religious orders and ministers of religion for any of the legally recognised religions are entitled to postpone the military draft examinations.<sup>170</sup> The Regulation of the Military Service Act foresees, furthermore, the possibility of launching public tenders for the recruitment of priests for F-FDTL's permanent staff, without requiring that applicants be previously admitted via the regular recruitment procedure.<sup>171</sup>

## **6. Final remarks**

Without being exhaustive, the legal framework just mapped allows us to signal several aspects in need of urgent legislative attention, such as the exercise of conscientious objection, the organisation of religious assistance, the criteria for legal recognition of religious groups, the pedagogical alternatives to the courses of Religion and Moral Education and Catholic Religion in public schools, the content of the freedom of organisation enjoyed by religious groups under Article 12(1) of the Constitution,<sup>172</sup> and the construction of cemeteries and places of worship. Other subjects requiring specific regulation – as explicitly acknowledge by the East Timorese lawmakers in several instances – are the organisation of religious gatherings and demonstrations,<sup>173</sup> the legal status of religious entities,<sup>174</sup> and the slaughter of animals in traditional or religious ceremonies.<sup>175</sup>

Timor-Leste's Law of Religion is not only far from complete, but is also scattered around several different legislative acts, which, combined with the overlap of different foreign influences, often leads to inconsistencies in the regime. In our view, the enjoyment and exercise of freedom of conscience, religion and worship in Timor-Leste would benefit from the adoption of a dedicated legislative act – a Freedom of Religion Act – that would address all aspects in need of regulation (e.g., recognition, individual and collective rights, status of ministers of religion and other representatives, building and protection of places of worship, state funding, tax benefits, inter-religious fora), and that would grant similar rights to all religious groups present in the country, on a par with those currently enjoyed by the Catholic Church, as required by Articles 12, 16 and 45 of Timor-Leste's Constitution.

<sup>166</sup> Article 29(b) of the Tax Act, approved by Law No. 8/2008, of 30 June 2008.

<sup>167</sup> Article 126 of the Code of Criminal Procedure (approved by Decree-Law No. 13/2005, of 22 November 2005) and Article 548 of the Code of Civil Procedure (approved by Decree-Law No. 1/2006, of 21 February 2006). The protection of the secret of confession is stronger than that which is granted to other forms of professional privilege covered by these provisions, since the legitimacy to invoke the secret of confession may not be questioned.

<sup>168</sup> Article 557(2)(h) of the Code of Civil Procedure.

<sup>169</sup> Article 1818(1)(b) of the Civil Code.

<sup>170</sup> Article 86 of the Regulation of the Military Service Act, adopted by Decree-Law No. 3/2021, of 13 January 2021.

<sup>171</sup> Article 97 of the Regulation of the Military Service Act, adopted by Decree-Law No. 3/2021, of 13 January 2021.

<sup>172</sup> The 2015 Agreement with the Holy See provides some indication of what freedom of organisation entails, but it only applies to the Catholic Church. Under Articles 4 and 8 of the Agreement, freedom of organisation encompasses: (i) free exercise of worship, teaching and governance of the faithful, charity work, education, management and administration of the Church's assets; (ii) freedom to appoint Bishops and their equivalents under Canon Law; and (iii) the right to establish, change and suppress dioceses, parishes and other ecclesiastical jurisdictions.

<sup>173</sup> Per Article 1(3) of Law No. 1/2006, of 8 February 2006, on freedom of assembly and demonstration, where it is prescribed that gatherings and demonstrations of a religious character do not fall under the provisions of Law No. 1/2006 and are to be governed by specific legislation.

<sup>174</sup> More specifically, the determination of which institutions within each religious entity have autonomous legal personality. See the preamble of Government Resolution No. 18/2015.

<sup>175</sup> Article 5 of Decree-Law No. 10/2014, of 14 May 2014 (Licencing of Slaughterhouses).

In the twenty years since independence, Timor-Leste's lawmakers have tried to balance the right to freedom of religion and the principles of equality and separation between church and state with the reality that Catholicism is deeply rooted in East Timorese society. The result is mixed, with good practices in the Media Act and the provision of religious assistance in prison, but also with problematic solutions in the field of public education, marriage registration, and the exercise of freedom of conscience in the military, to name just a few. Even though Timor-Leste is generally regarded as a tolerant country and there are very clear signs of inter-religious cooperation, we should not underestimate the negative impact that the conflation of Catholicism with Timor-Leste's national identity and the great influence exerted by the Catholic Church in all aspects of society has for East Timorese citizens who are either non-Catholic or non-believers. The stronger the influence of the Catholic Church in Timor-Leste, the higher is the need to ensure that religious minorities and non-believers enjoy freedom of conscience, religion and worship, and are protected against discrimination based on religion, as required by international human rights standards. The importance of the religious sentiments of the East Timorese people – clearly stated in the Constitution – must be true for all East Timorese citizens and not only for those who identify as Catholic. It is not a matter of contesting the rights enjoyed by Catholics and the Catholic Church, but instead of arguing for the extension of those rights to all East Timorese, under conditions of equality and respect for diversity.

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