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Introduction to the Laws of Timor-Leste

Constitutional Rights

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Preface to the Series: *Introduction to the Laws of Timor-Leste*

Timor-Leste has enjoyed a decade of formal independence. The country's democratic institutions have grown during this period. But, as thoughtful Timorese are quick to point out, much remains to be done. Building viable and professional state institutions takes time. And growing the human resource capacity within those institutions is always a major challenge to new states.

The capacity building imperative in Timor-Leste is both striking and compelling. Establishing state agencies in the first instance is relatively much easier than filling those agencies with effective professionals that uphold their duties and responsibilities. Building the capacity of a pool of Timorese who hold, or may hold, positions within legal and other state institutions is crucial. Likewise, building an educated understanding and awareness of the obligations and responsibilities of key actors within legal institutions, and government institutions more broadly, contributes to setting demands and expectations for performance among the polity. Encouraging professionalized capacity within state institutions, on the one hand, and thoughtful and calibrated demands for performance by citizens, on the other hand, are essential dynamics for the development of the rule of law and a democratic state in Timor-Leste. Institutions of higher learning, such as universities and professional training centers, can and should play a key role in stimulating and sustaining this dynamic. Indeed, education is foundational.

This paper is part of the *Introduction to the Laws of Timor-Leste* series of papers produced by the Timor-Leste Legal Education Project (TLLEP). This series seeks to critically engage the reader in thinking about the laws and legal institutions of Timor-Leste, and is based on a model of educational writing first introduced in TLLEP's *Introduction to Professional Responsibility in Timor-Leste* textbook, published in 2011. Founded in March of 2010, TLLEP is a partnership between The Asia Foundation and Stanford Law School. Working with local actors in the Timor legal sector, the project's goal is to positively contribute to the development of domestic legal education and training in Timor-Leste. USAID provided funding for this series through its Timor-Leste Access to Justice Program.

The authors of the legal working papers focused on writing in clear, concise prose, and on using hypothetical legal situations, discussion questions, and current events. Through this style of writing and pedagogy, the aim is to make these texts accessible to the largest possible audience. The texts are designed to be broadly accessible to experienced Timorese lawyers and judges, government officials, members of civil society, Timorese students in law, and the international community. They cover topics ranging from constitutional law to inheritance law to the Petroleum Fund Law.

These working papers represent the dedicated efforts of many individuals. Stanford Law School students authored the texts and subjected each working paper to an extensive editing process. The primary authors for this series were Peter Broderick, Daniel Cassman, Margaret Hagan, Brian Hoffman, Lexi Shechtel, and Anne Johnson Veldhuis, all Class of 2013, Jessica Fox, Hamida Owusu, and Samuel Saunders (all Class of 2014) edited the series under the guidance of Stanford Rule of Law Fellow Megan Karsh ('09). The students benefitted from the substantial and extensive guidance provided by Brazilian lawyer Dennys Antonialli (LLM '11) and Geoffrey Swenson ('09), TLLEP's former in-country director and legal advisor to the Asia Foundation's Dili office.

The program has also received extensive support from Kerry Brogan, previous Country Representative Silas Everett, current Country Representative Susan Marx, Juliao de Deus Fatima, and a host of other Asia Foundation staff. USAID Timor-Leste provided vital financial and programmatic support to the program. We especially thank USAID Director Rick Scott and USAID staff Ana Guterres and Peter Cloutier. The US Embassy in Dili, especially Ambassador Hans Klemm and Ambassador Judith Fergin, have been incredibly supportive. I would be remiss if I did not thank the former and current deans of Stanford Law School, Deans Larry Kramer and Liz Magill, for their unwavering support of this project.

Finally, this series of papers simply would not have been possible without the many thoughtful and critical insights from Timorese judges, educators and lawyers, and those who work within Timorese institutions. Prosecutor General Ana Pessoa, Public Defender General Sergio de Jesus Hornai, and President of Court of Appeals Cláudio Ximenes were extremely gracious in clarifying issues related to their respective organizations and offering constructive suggestions. The textbooks received vital input from National University of Timor-Leste (UNTL) faculty and staff throughout the drafting and review process including comments from Rector Aurelio Guterres, Law Deans Tome Xavier Geronimo and Maria Angela Carrascalão, Professor Benjamin Corte Real, and Vasco da Cruz of the Portuguese Corporation. Feedback from UNTL students themselves on draft text was immensely helpful for the final text. The Judicial Training Center (CFJ) has also been a source of wisdom throughout the drafting process, particularly CFJ Director Marcelina Tilman, Erika Macedo, and Bernardo Fernandes. The text benefited as well from the contributions of Charlie Scheiner and La'õ Hamutuk, the staff of the Ministry of Justice Legislation Unit, AALT Executive Director Maria Veronika, Judge Maria Netercia, Judge Jacinta Coreia, JSMP Executive Director, Luis de Oliveira, JSMP Legal Research Unit Coordinator, Roberto da Costa, ECM director Lino Lopes, and Sahe Da Siliva. We are also grateful to Gualdinho da Silva, President of the National Petroleum Authority, for two wonderfully engaging meetings.

In addition to this series and the already-published texts on professional responsibility, constitutional rights, and contracts, TLLEP has plans to complete the first edition of a new textbook in 2013 entitled *An Introduction to Criminal Law in Timor-Leste*. All texts are updated as the legal landscape changes. The most recent versions of all published texts are always available for download online free of charge on TLLEP's website: www.tllep.law.stanford.edu.

To the students, educators, legal and government professionals that use this book, we sincerely hope that it sparks study and debate about the future of Timor-Leste and the vital role magistrates, prosecutors, public defenders, private lawyers, and government officials will play in ensuring the country's future is bright.

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CONSTITUTIONAL RIGHTS

CHAPTER OBJECTIVES

- To introduce the concept of ‘rights’ and ‘duties’, and explain how to analyze them like a lawyer.
- To overview the rights and duties that the Constitution of Timor-Leste creates.
- To present the three main categories of individual rights granted by the Constitution of Timor-Leste: fundamental rights, civil and political rights, and economic and social rights.
- To explore in depth several of the most important rights in the Constitution, including their benefits and limitations.

CHAPTER OVERVIEW

- Rights are legitimate claims an individual can make to behave in a certain way or to be treated in a certain way.
- Every right creates a duty, which is an obligation to act in or to refrain from acting in a certain way.
- Rights are important to protect individuals, restrain the government, and develop society.
- A remedy is the process by which the violation of a right is prevented or redressed.
- The Constitution of Timor-Leste provides many rights to individuals in Timor-Leste.
- There are three main categories of individual rights in the Constitution: fundamental rights, civil and political rights, and economic and social rights.
- Each of the three categories of rights contains many specific rights and duties that empower individuals to live freely, equally, and with dignity.

I. AN INTRODUCTION TO RIGHTS AND DUTIES

SECTION OBJECTIVES

- To introduce the sections of the Constitution of Timor-Leste that define individuals' rights and duties.
- To define what a 'right' and a 'duty' is, and why they are important.
- To provide a framework to analyze rights and duties like a lawyer.

What are you allowed to do as a citizen of Timor-Leste? The Timorese Constitution provides each citizen with 'rights' to behave in certain ways, and it prohibits the government or anyone else from stopping them. Because of your right to free speech, you can walk outside right now and talk about which politician you dislike. Because of your right to free association, you can go join a labor union at work. Your economic rights allow you to sell your farm. Can you convert to a different religion?

Why can you do all of these things? The reason is the Constitution of Timor-Leste. The Constitution provides each citizen with 'rights' to behave in certain ways, and it prohibits the government or anyone else from stopping them.

Now let's turn to a second set of questions. **What does the government of Timor-Leste owe you as a citizen?** The Timorese Constitution puts duties on the government. The Constitution requires the government to provide health care and free education education. Because of the right to be informed of charges, if the police arrest you they must tell you why. Your civic participation rights require the government to give you a way to complain about its laws.

Why can you do all of these things? The reason, once again, is found in the Constitution. In addition to 'rights' of actions citizens are allowed to take, it also creates 'rights' to things citizens can expect from the government. The citizen has a 'right' to be treated in specified ways by the government. The government has a corresponding 'duty' to treat its citizens in these specified ways.

Finally, let us look at a third set of questions. **What do you, as a citizen of Timor-Leste, have to do?** As a citizen, you must pay taxes, you must help defend Timor-Leste against attacks, you must respect your neighbors' privacy, and you must protect the environment.

Why can you do all of these things? The reason, once again, is because of the Constitution. The Constitution does not only give you 'rights', it also puts 'duties' upon you. Duties are actions that you are required to take. They could be actions towards the government or towards other citizens. The Constitution defines what duties citizens of Timor-Leste have.

In this chapter, you will learn what main categories of rights and duties the Constitution creates. You will also explore some of the most important and challenging rights in depth. But before we focus on the rights and duties in Timor-Leste, first we will define the basic concepts of 'right' and 'duty', discuss why they are important, and learn a framework for analyzing them like a lawyer would.

1. What is a 'Right'? What is a 'Duty'?

A right is an entitlement that an individual has that lets her act in a certain way, or that lets her demand certain treatment from the government, or that prevents others from acting towards her in a certain way. A right affects what you are able to do, and what other people can do to you. Some examples of rights are a 'right to speak freely', a 'right to be treated equally by all other people', and a 'right to a lawyer if you are charged with a crime.'

Every right creates a duty. A duty is the obligation that a person or the government has to take a certain action or refrain from a certain action. For example, if you have a 'right to speak freely', then the government has a duty to not stop you from speaking freely. If you have a 'right to be treated equally by all other people', then your boss has a duty to not discriminate against you. If you have a 'right to a lawyer if you are charged with a crime', then the government has a duty to provide you with a lawyer in this situation. If they do not fulfill their duty to you, then the right gives you a claim that you can use to make them fulfill their duty.

Questions

João and Maria are both citizens of Timor-Leste. For each right they have listed below, determine (a) who has a corresponding duty and (b) what this duty is.

1. João has a right to vote.

2. Mary has a right to marry only a person that she wants to marry.
3. Mary has a right to not work but still be paid when she is pregnant.

Answers

1. If Joao has a right to vote, then (a) the government of Timor-Leste has a duty to him. Its duty (b) is to provide him with access to elections in which he can exercise his right to vote.
2. If Mary has a right to marry only whom she chooses, then (b) other people in Timor-Leste have a duty to her. It is their duty (b) to not force her to marry against her will.
3. If Mary has a right to receive compensation while she is pregnant, then (b) her employer has a duty to her. Her employer's duty is to (b) allow her to not work and to pay her compensation while she is on maternity leave.

Rights have limits. Just because you have a right to something, does not mean that you can always enjoy this right to its full extent. One limitation on your rights is other people's rights. Your right may end where another person's begins. For example, if you have a right to freedom of speech, it might be limited if you speak in a way that violates another person's right to privacy. You cannot freely speak about the details of another person's life, if it violates their right to privacy. A second limitation on your rights can be the laws the government makes. The government may pass a statute that limits the rights the Constitution gives you. For example, you may have a right to assemble in public peacefully. But the government may pass a law that restricts all public assemblies to certain times in order to maintain public order. This law would limit your right to assemble. But, as will be discussed in the Section II of this chapter, the Constitution also limits to government's ability to pass laws that violates rights. A final limitation on your rights is your own behavior. If you violate a law, this may affect your other rights. For example, if you are convicted of a serious crime, then the government may legitimately limit your right to move freely and your right to vote.

Reading Focus

Can you think of any rights that are so important that should never be limited?

As mentioned, when you commit a crime, you may lose many of the rights that the Constitution gives you.

As you are reading about the rights individuals have in Timor-Leste, think of which ones are so important that no one should lose them – even convicted criminals. If someone purposefully kills someone else, what rights should they lose? What rights should they still retain?

Another reading focus is this question: what rights should the government never be able to take away, even in times of public emergencies? In the following section of the chapter, you will learn about the government's power to suspend rights during states of exception. Please keep in mind why individual rights are important, when you think of the government's power to take them away from citizens.

For example, if there are riots or violent conflict in the country, what rights would you agree that the government can suspend? Which rights should the government not be able to suspend? Why should some rights never be taken away from individuals, while it is okay to take other rights away?

2. Why Have Rights?

Rights are important for many reasons. Some of the main reasons include the following:

1. protection of the individual,
2. restraint of the government's power, and
3. development of the country.

This section will explore why rights contribute to each of these purposes. It will also ask you to think about why rights are important to you in your life and your future.

Rights are important for the protection of the individual, and to empower the individual to live the kind of life that she wants to. A right can protect a person from the power of the government and other people in the society. Many rights give people protections that let them feel safe in their environment and choose how they want to live. The right prevents other actors from interfering with an individual's human dignity, individual liberty, and well-being. Rights may also guarantee an individual access to the resources necessary to live with dignity and liberty.

Rights also have other benefits for the individual. Rights give an individual predictability about what they are allowed to do in their society. A right tells a person that they can legitimately expect to be able to do something, because they can rely on the right to protect their chosen action. For example, Santana, a woman in Timor-Leste, can legitimately expect to be able

to move from the countryside to Dili, because she has a right to freedom of movement in the Timor-Leste. Also, a right lets a person expect that others will have to treat them in a certain way. In the same example, Santana can expect that none of her neighbors, nor the government, can stop her from moving to Dili, because she has a right to do so. Rights act as a code of conduct for life in society. Rights give a person guarantees about how others will treat them. For example, if a person has a legal right to be free from torture, then he can live knowing that others are not allowed to torture him without facing legal consequences. Rights provide a set of rules that tell individuals how they can expect to behave and be treated in society.

The second main purpose of individual rights is to restrain the power of the government. Restraint of government power is important to strengthen a democratic government. Rights set limits on what the government can do, and they require the government provide access and resources to individual citizens. Rights give individual citizens the power to claim that the government must stop doing something to them, or that the government must provide them with something. Writing rights down in the Constitution or in laws gives individuals legitimate expectations of the government's power over them and what they owe to the government. It is important for rule of law in the country that citizens have an ability to restrain the power the government has over them, and have reliable expectations of what protections and duties they have.

The final main reason that rights are important is that they contribute to the development of the society. As mentioned, rights provide individuals with predictability about how they can behave and how they can be treated. This predictability is important for economic development. For example, if the Constitution says that a person has the right to own private property, then the person can buy property and reliably know that their ownership is protected by the Constitution. Without this right, the person could not be certain that the property would not be taken away from him. With this right, the person can more easily invest in his property, develop it, and resell it, feeling secure in his ownership. Rights provide stable rules for behavior and expectations, which contributes to economic development. Rights also help build a secure environment. Because rights protect human dignity and liberties, they protect her from abuse. Rights guarantee that a person should be physically secure and free to live as she chooses. Thus, if rights are respected and enforced, they help build a society in which people can live safely and freely.

3. What Are the Sources & Remedies of Rights?

Positive law created by the government is the main source of law in Timor-Leste. This main category of rights is called *legal rights*. Legal rights are rights given to individuals by law. Legal rights may be created by several different institutions. The most important legal rights that exist in Timor-Leste will come from:

1. the Constitution of Timor-Leste,
2. statutes and other laws made by the government of Timor-Leste, and
3. international treaties the government of Timor-Leste signs.

The Constitution is the fundamental document for governance in Timor-Leste. It has an entire section, Part II, which lays out individuals' rights and duties in the country. In addition to these rights, the government can also pass new laws which change, add to, or limit these rights and duties. Furthermore, the government can sign and execute treaties with other countries and institutions, which add to the rights and duties of citizens in Timor-Leste. For example, when the Timor-Leste government signed and ratified the Convention on the Elimination of All Forms of Discrimination against Women, which is a treaty sponsored by the United Nations, the Timor-Leste citizens also enjoy the rights created by the treaty.

Many international treaties enshrine rights which are considered *human rights*. Human rights are those rights which are considered so fundamental to human dignity and well-being that every person should possess these rights. No actor, not even the government, should ever violate human rights, because they are fundamental. Human rights are not given by a government or another institution. Every human possesses them innately, or simply because they are human. Human rights are inalienable, meaning a person cannot give them away or have them taken away. Some examples of human rights are the right to be free from torture, the right to freedom of movement, and the right to free expression.

Reading Focus

As you read about the rights created by the Constitution of Timor-Leste, think about which rights are so important that they should be classified as *human rights*.

Which rights are so fundamental to a person's life and respect, that they should be included in this important group of rights? Remember, there is no definitive list of what rights are considered human rights.

If you had to write the final list of human rights for people in Timor Leste and around the world, what would you include? Which rights do you think that all people, no matter what their country or background, absolutely need to have to live with dignity?

Human rights are codified in UN treaties, most importantly the United Nations Declaration of Human Rights. Many human rights are also included in the rights provided by the Constitution of Timor-Leste. This is important because in order for rights to be protected, they need to be enforced. Even if you have many human rights, unless you have a government or other body to enforce them, then you cannot fully enjoy them. Legal remedies, in which a government enforces a right, are the most important kind of rights enforcement.

A *remedy* is the process that redresses a right's violation, or prevents it from being violated. If one of your rights is violated, a remedy is the process that will redress this violation. A legal remedy is a legal measure that prevents or redresses a violation of a right. Legal remedies include civil remedies (in which the rights-holder will get compensation for the violation she has suffered) and criminal remedies (in which the rights violator will be punished).

If one of your legal rights is violated, what remedies are available to you? One option is the remedies provided by the laws of Timor-Leste. You can pursue a private action in the courts in Timor-Leste to redress your rights violation. Or, the government may take a public action, in which it tries to enforce several people's rights at once. For example, the government could create a special body or commission that is dedicated to remedying rights violations. Alternatively, if the right that was violated was one that was included in an international treaty, you can seek a remedy under international law. You could pursue an action in a national or an international court, seeking redress for the violation.

Legal remedies can vary in quality. Even if you have a legal right to something, which means that the government *should* provide a remedy to you, this is not a guarantee that your right *will* be enforced. In order for a legal remedy to be effective, the institution providing the remedy must be functional and strong. The institution should be:

1. accessible to individuals who want to allege a rights violation,
2. not biased or corrupted as it assesses this allegation, and
3. able to enforce its decision about how to remedy the violation.

If your government institutions (such as your police, courts, and lawyers) do not meet these standards, then you may not obtain a remedy for a right violation.

Why is it important that you have remedies for your rights? First, it is important because if a right is not enforced with a remedy, then it does not truly exist. A right without a remedy is merely an aspiration. An individual cannot rely on having this right protected, unless it will be enforced by others. Second, remedies are important because they motivate others to not violate your rights. If a right is enforced by a remedy, then people in the society will take it more seriously. They may not violate it out of fear that they will be punished if they do. Third, remedies are important because it will provide victims with compensation. If a person's right is violated, they should be given something that will help make them whole again. A legal remedy can provide them with a means to redress their violation. Finally, a remedy is important to punish the actor who violated the right.

4. Summary

Rights and duties are important elements in how a society functions, and how an individual relates to society and to the government. A right gives a person a legitimate claim to do something, or to stop someone else from treating him in a certain way. Duties are behaviors that are required of a person or an institution. Every right that an individual enjoys creates a duty upon another actor, whether it be the government or other people in the society. Rights can be limited in some circumstances, like when they conflict with other people's rights or when the government passes a new law that limits them. It is important that individuals have rights to ensure their dignity and liberty is protected, the government's power is restrained, and the society can become more stable and secure. Legal rights are rights enshrined in law, including the Constitution, statutes, and treaties. Human rights are fundamental rights that every person has, simply by being a human. Rights can be meaningless unless they have a remedy that is enforced by a functional, fair, and robust institution. Remedies are important to ensure that rights are upheld, those who violate them are punished, and victims are compensated.

II. INDIVIDUAL RIGHTS IN THE CONSTITUTION OF TIMOR-LESTE

SECTION OBJECTIVES

- To introduce the main categories of individual rights enshrined in the Constitution of Timor-Leste.
- To explore some of the most important of these rights in detail, using a legal analytic framework.
- To think through some controversial rights conflicts that are currently going on in Timor-Leste.

In Timor-Leste, there are three main sources of legal rights: the Constitution, statutes, and treaties. This section focuses just on the rights provided by the Constitution. It will present the main categories of individual rights in the Constitution: fundamental rights, civil and political rights, and economic and social rights. You will learn about the significance of each of these categories of rights, and you will learn in detail about some of the most important and controversial rights. By the end of the chapter you should know the basic types of individual rights the Constitution of Timor-Leste provides, as well as some of the limitations and controversies around these rights.

1. Rights in the Constitution

This chapter focuses on rights created by the Constitution of Timor-Leste. The rights and duties that the Constitution of Timor-Leste creates can be found in Part II, entitled “Fundamental Rights Duties Freedoms and Guarantees.” It has three sections which identify three different groups of rights. Title I, “General Principles” specifies the fundamental rights that every citizen has, and identifies special groups within the society whose rights the government has a special duty to protect. Title II identifies “Personal Rights, Freedoms and Guarantees,” which focus on civil and political rights. Title III identifies “Economic, Social and Cultural Rights and Duties.”

These sections of the Constitution provide a useful set of three categories of Constitutional rights.

1. Fundamental Rights
2. Civil and Political Rights

3. Economic and Social Rights.

Each of these broad categories contains many specific individual rights. If you look through Part II of the Constitution, you will see that it contains 73 Sections, each of which contains several rights within it. The table here provides a basic summary of individual rights provided by the Constitution. Then in each of the three sections about the rights, there is a more detailed chart of Constitutional rights. We cannot discuss each of the rights in detail, but you should familiarize yourself with these basic categories of rights.

Basic Categories of Individual Rights in the Constitution	
Fundamental Rights	Equality before the law
	Freedom from discrimination
	Bodily Integrity & Freedom
Civil and Political Rights	Access to Justice & Defense
	Detainees' and Criminal Defendants' Rights
	Civic Participation
	Expression and Speech
	Conscience and Belief
	Privacy and Personality Rights
Economic, Cultural, and Social Rights	Consumer Rights
	Education, Culture, and Intellectual Property
	Family Rights
	Labor Rights
	Private Property
	Well-Being & Health

2. The importance of Constitutional Rights

Do you have a copy of the Constitution of Timor-Leste? Have you ever read through it? Find a copy of it, and take a quick look through it. It is the most important document in Timor-Leste. It was created by Timor-Leste's Constituent Assembly in 2001, and entered into force in May 2002 as the country became independent. The Constituent Assembly modeled it after the Constitution of Portugal. As you look through a copy of the Constitution, you should pay close attention to the principles, laws, rights, and duties that it lays out.

The laws that the Constitution establishes are the supreme law in Timor-Leste. That means the rights enshrined in the Constitution are very important.

Reading Focus

If any statute violates a Constitutional right, it is invalid. The statute can be struck down as unconstitutional.

If the government otherwise behaves in violation of the Constitution, this behavior can be declared unconstitutional. This means that the Constitution should stop the government from acting this way.

The Constitution is more important than any other law or government action. If the Constitution prohibits a certain act or gives citizens a certain right, then statutes or government actions cannot deviate from what the Constitution says. It is illegal to behave in contradiction with the Constitution.

Certain members of the government can ask the Supreme Court of Justice to review whether a statute or action is unconstitutional, and citizens may ask the Ombudsman to request review of unconstitutionality. The Supreme Court of Justice may rule that the government has behaved in violation of the Constitution, and provide a remedy for those who have been affected by this violation. The provisions for constitutionality review are in Title I in Part VI of the Constitution, entitled “Guarantee of the Constitution.”

It is possible for new statutes to amend the Constitutional rights or give them greater clarification. If the Parliament takes the proper steps to pass an amendment to the Constitution, then the laws and rights that are currently contained in the document could be altered. You can find the ways that Parliament may amend the Constitution in Part VI of the Constitution, in Title II, “Constitutional Revision.”

The legislature, executive, or judiciary officials may also take actions that interpret precisely what the Constitution’s words means. Though the document is the most important law in the country, it may change during your lifetime depending on how society’s principles and priorities change. The Constitution is meant to be an embodiment of the people’s fundamental principles on how the country should be and the government should behave. If the people decide

that they want additional rights, or that some of their current rights and duties are inappropriate, they may be able to change the Constitution to increase or change the current rights it enshrines.

3. Limitations on Constitutional Rights

Though Constitutional rights are generally protected from being violated, the government can suspend the rights in some circumstances. During a period of a “state of exception,” the government may legitimately curb individual Constitutional rights. The Constitution specifies when such a special period can occur in Part II, Title I, Section 25, entitled “State of Exception.” A state of exception may occur if the government declares a state of emergency or a state of siege. You can read this provision of the Constitution yourself, to understand when the government can suspend individuals’ rights.

The Constitution of Timor-Leste

Part II, Title I, Section 25, “State of Exception”

1. Suspension of the exercise of fundamental rights, freedoms and guarantees shall only take place if a state of siege or a state of emergency has been declared as provided for by the Constitution.
2. A state of siege or a state of emergency shall only be declared in case of effective or impending aggression by a foreign force, of serious disturbance or threat of serious disturbance to the democratic constitutional order, or of public disaster.
3. A declaration of a state of siege or a state of emergency shall be substantiated, specifying rights, freedoms and guarantees the exercise of which is to be suspended.
4. A suspension shall not last for more than thirty days, without prejudice of possible justified renewal, when strictly necessary, for equal periods of time.
5. In no case shall a declaration of a state of siege affect the right to life, physical integrity, citizenship, non-retroactivity of the criminal law, defense in a criminal case and freedom of conscience and religion, the right not to be subjected to torture, slavery or servitude, the right not to be subjected to cruel, inhuman or degrading treatment or punishment, and the guarantee of non-discrimination.
6. Authorities shall restore constitutional normality as soon as possible.

During the extraordinary time of a state of exception, the government may suspend many of the rights that individuals enjoy in the Constitution. In order to do this, the government must

clearly explain which rights will be suspended. They are also obligated to restore normal constitutional rights as soon as possible. However, the government can never suspend some of the Constitutional rights. Rights which are designated as absolutely fundamental cannot be suspended, even during a state of emergency or siege. These rights are listed in Section 25.5. They include the rights to life, physical integrity, citizenship, non-discrimination, freedom from torture, and defense in a criminal case.

Questions

1. Can the government suspend individuals' Constitutional rights whenever it wants to?
2. If the Prime Minister came on television and declared that he is suspending Constitutional rights because Timor-Leste is in a state of siege, is that constitutional?
3. If the government has legitimately declared that Timor-Leste is in a state of siege, can government forces arrest all people who are not Catholic in the country? Can they torture suspected members of paramilitary groups, to get more information from them? Can they sentence a person for a crime without letting the person have a lawyer at his trial?

Answers

1. No. According to Section 25, the government can only suspend individuals' Constitutional rights when a state of emergency or a state of siege has been declared in Timor-Leste.
2. Maybe. The answer to this question depends on the circumstances around the announcement. It is unconstitutional for the Prime Minister to simply declare a state of exception without appropriate circumstances. Section 25.2 requires that a state of exception can only be declared "in case of effective or impending aggression by a foreign force, of serious disturbance or threat of serious disturbance to the democratic constitutional order, or of public disaster." Thus, in order for the Prime Minister's declaration to be constitutional, one of these three circumstances must be occurring. Timor-Leste must be facing aggression by a foreign force, serious threat to the constitutional order, or a public disaster. If none of these three circumstances is occurring, then it is unconstitutional for the Prime Minister to declare a state of exception.
3. No, no, and no. Even during a state of exception, the government still can never violate some individual rights. These include the freedom to choose and practice a religion, freedom from torture, and the right to have defense at a criminal trial. Each of the scenarios listed above violate these fundamental rights. Section 25.5 prohibits the government from suspending these fundamental rights, even if the country is under attack, at war, or facing an emergency. All three of these scenarios would be unconstitutional.



4. Summary

Constitutional rights are important guarantees to individuals in Timor-Leste. The Constitution contains many rights – including those in the categories of fundamental rights, civil and political rights, and economic and social rights – which let individuals claim protection from government and society’s interference. These rights also empower individuals to live with freedom and well-being. The Constitution also puts limits on these rights. Rights are limited to respect the security of the country and other people in the society. During times of emergency or war, the government can legitimately take some of individuals’ rights away from them, though only for a short time and on a legal basis.

III. FUNDAMENTAL INDIVIDUAL RIGHTS IN THE CONSTITUTION

The first broad category of individual rights in the Constitution of Timor-Leste is the group of fundamental rights. These are rights that are the most essential to human dignity. They are the foundational rights, which the other groups of rights – civil and political rights, and social and economic rights – rely upon. Fundamental rights are often classified as human rights, because they are crucial to basic human dignity. They are also the rights that the Constitution makes it difficult for the government to suspend, even during states of exception.

The table here summarizes what fundamental rights the Constitution provides. There are two main categories of fundamental rights. First, there are rights that provide for equal treatment of individuals by the law and the government. Second, there are rights that provide individuals protection for their body, to make sure that its integrity and security is not harmed. Most of the fundamental rights are located together in Title I of Part II of the Constitution.

Fundamental Individual Rights in the Constitution of Timor-Leste	
Equality before the law	Universality of the law (Section 16, Clause 1) Equality of all people (Section 16, Clause 1) Guarantee of non-discrimination (Section 16, Clause 2) Protection of special groups (Sections 17 – 21)
Bodily Integrity & Security	Right to Life (Section 29) Personal Freedom (Section 30, Clause 1) Personal Security & Integrity (Section 30, Clause 1) Freedom from torture and cruel, degrading treatment (Section 30, Clause 4)

1. The Rights to Universality, Equality, and Non-Discrimination

The Constitution sets out many fundamental rights that are related to equality before the law. These include that all citizens are equal before the law. In Section 16, Clause 1, the Constitution says that “All citizens are equal before the law, shall exercise the same rights and shall be subject to the same duties.” Another way to phrase this right is that the law will apply equally to all citizens. The law is universal, it applies to everyone and everyone should be treated equally by it. In the language of rights, this means that each individual has a right to have the law

apply to them, and that they have the right to be treated equally to other people in Timor-Leste. These are fundamental rights because they guarantee that all the other rights in the Constitution will be applied to everyone universally and equally.

The Constitution identifies several other rights that are related to these fundamental rights of universality and equality. The right to be free from discrimination is connected to universality and equality. This right specifies that an individual should not be treated differently by the law or the government based on her color, race, gender, language, religion, or many other factors. This provision against non-discrimination is listed here in full. It gives more specific detail to the basic right of universality and equality. This right gives individuals in Timor-Leste protection from being treated differently because of these factors. If the government or the law discriminates against them based on any of these factors, then it is unconstitutional. It is more important that the individual is protected from discrimination.

The Constitution of Timor-Leste

Part II, Title I, Section 16 (Universality and Equality)

2. No one shall be discriminated against on grounds of color, race, marital status, gender, ethnical origin, language, social or economic status, political or ideological convictions, religion, education and physical or mental condition.

Some groups of people are more at risk of discrimination and inequality than others. The Constitution identifies some special types of people who may be treated with less respect, and who might be denied their rights. It emphasizes that these people should be treated equally and with dignity by the government and by everyone in society. One group of people that deserve special attention are women. The Constitution emphasizes this in Part II, Title I, Section 17, declaring that “women and men shall have equal rights and duties in all areas of family, political, economic, social and cultural life.” Another group whose equality deserves special attention is disabled people. Citizens who have disabilities still have the same rights and duties of all other citizens, except for those which their disability stops them from exercising. These provisions reinforce the rights of universality and equality. All citizens, including women and disabled people, should be treated equally by the law, and they should not be discriminated against in society.

The Constitution gives even more special attention to groups like children and senior citizens, who need special protection for their dignity and rights. In Sections 18 through 20, the Constitution emphasizes that children and senior citizens should be given special protection by the government and by society.

The Constitution of Timor-Leste

Part II, Title I, Sections 18-21

Section 18 (Child protection)

1. Children shall be entitled to special protection by the family, the community and the State, particularly against all forms of abandonment, discrimination, violence, oppression, sexual abuse and exploitation.
2. Children shall enjoy all rights that are universally recognised, as well as all those that are enshrined in international conventions commonly ratified or approved by the State.
3. Every child born inside or outside wedlock shall enjoy the same rights and social protection.

Section 19 (Youth)

1. The State shall promote and encourage youth initiatives towards the consolidation of national unity, reconstruction, defence and development of the country.
2. The State shall promote education, health and vocational training for the youth as may be practicable.

Section 20 (Senior Citizens)

1. Every senior citizen has the right to special protection by the State.
2. The old age policy entails measures of economic, social and cultural nature designed to provide the elderly with opportunities for personal achievement through active and dignified participation in the community.

Section 21 (Disabled citizens)

1. A disabled citizen shall enjoy the same rights and shall be subject to the same duties as all other citizens, except for the rights and duties which he or she is unable to exercise or fulfill due to his or her disability.
2. The State shall promote the protection of disabled citizens as may be practicable and in accordance with the law.

Because these groups are vulnerable, they deserve special protection. They should still be treated equally, and the Constitution creates a duty upon the state to make sure that they can live in dignity and with rights. In the case of children, the Constitution creates a duty for the state and society to protect children from “abandonment, discrimination, violence, oppression, sexual abuse, and exploitation.” The Constitution also emphasizes that children who are born outside of wedlock should be treated equally to children born inside wedlock. In the case of senior citizens, the Constitution creates a duty for the government to give them special protection, to ensure that they can stay active and live with dignity in their old age.

In these sections, the Constitution provides detail for its fundamental rights of universality and equality. In order for these rights to be meaningful, even the most vulnerable and at-risk people in Timor-Leste must be treated equally. All citizens, including women, children, disabled citizens, and senior citizens, should enjoy equal rights and duties.

2. Rights to Bodily Security, Integrity, and Personal Freedom

The other category of fundamental rights relate to bodily security and integrity. These rights are fundamental because it is necessary to have your life and physical well-being in order to enjoy all of your other rights, and to live with dignity. If your life is taken away from you, if you are tortured, or you do not feel secure that you will not be killed or tortured, then you do not have the freedom necessary to exercise your other civil, political, social and economic rights.

The rights in this category include the right to life, the right to be free from torture and degrading or cruel treatment, the right to personal freedom, and the right physical security. They are detailed in Part 2, Title II, Sections 29 and 30.

The Constitution of Timor-Leste

Part II, Title II, Sections 29-30

Section 29 (Right to life)

1. Human life is inviolable.
2. The State shall recognise and guarantee the right to life.

3. There shall be no death penalty in the Democratic Republic of East Timor.

Section 30 (Right to personal freedom, security and integrity)

1. Every one has the right to personal freedom, security and integrity.

2. No one shall be arrested or detained, except under the terms clearly provided for by applicable law, and the order of arrest or detention should always be presented for consideration by the competent judge within the legal timeframe.

3. Every individual who loses his or her freedom shall be immediately informed, in a clear and precise manner, of the reasons for his or her arrest or detention as well as of his or her rights, and allowed to contact a lawyer, directly or through a relative or a trusted person.

4. No one shall be subjected to torture and cruel, inhuman or degrading treatment.

What do these rights mean in practice for people in Timor-Leste? Ideally, they give everyone the right to live free from physical abuse, violence, and other degrading bodily treatment. It also means that no person can be subject to the death penalty. Even if a person has committed a crime, they cannot be killed by the government or other people in society. Nor can they be tortured or treated cruelly. These would be violations of their fundamental rights to life and bodily security. If an individual is forced to suffer any such physical mistreatment, these rights give them claims that they deserve reparations or other remedies for having suffered them.

The right of personal freedom also guarantees people the basic right to have choices about their life. This is the right to personal freedom, security, and integrity. It gives people the liberty to maintain their personal freedom. In practice, it means that no one can detain you, arrest you, or deprive you of your freedom to live as you choose. The right to personal freedom has its limits. Some of these limits include, that if you commit a crime, the government may legitimately limit your personal freedom by arresting and jailing you. Another limitation is that your right to live as you choose is limited by other people's rights. If your choices to live as you choose would violate other individuals' rights, then your right must be limited to accommodate their rights. You have a fundamental right to personal freedom, but it will be limited by your behavior and other individuals' rights.

Questions

Let us take an example from recent events in Timor-Leste, and then examine it from a critical legal perspective to see what fundamental rights are involved.

“A 62-year-old woman was murdered in the easternmost region of Los Palos in December, 1999. According to the prosecution, the woman was tortured and left for dead by four men after having been accused of killing children by witchcraft.

On 7 January, 2007, three women accused of being witches were killed and burned along with their house in East Timor. The three women, aged 70, 50 and about 25, were killed at Maubaralisa. They were Bui-dau, 70, Flora, 50, and another (unidentified) woman about 25 years old. They had been accused of being witches.”

(Warren L. Wright, 2009 ETLJ 6 “Witchcraft and Murder in East Timor”)

1. If the alleged incidents in the above article are true, what fundamental individual rights have been violated? Explain how the rights were violated.
2. What articles of the Constitution protect these rights?

Answers

1. There are four people whose fundamental rights were violated. They are the 63 year-old woman in Los Palos, 70 year-old Bui-dau, 50 year-old Flora, and the 25 year-old woman in Maubaralisa. After they were accused by other people in society of practicing witchcraft, they were tortured and killed.

The specific fundamental rights violations that these four women suffered include: (1) their right to life, (2) their right to be free from cruel treatment and torture; (3) their right to personal freedom; and (4) their right to universality before the law.

The first right, the right to life, was violated when the women were killed. The right to life guarantees that no one can take a person’s life. When the men killed the women, this violated each of the women’s right to life. Even if the women had committed crimes, they have an inalienable right not to be killed. The death penalty is unconstitutional in Timor-Leste.

The second right, the right to be free from cruel treatment and torture, was violated when the men burned and tortured the women before they killed them. This abuse of their bodies violated their right to be free from torture. It is unconstitutional to subject a person’s body to physical abuse like torture or burning. Even if the person had committed a crime, they still have a right to be free from cruel or torturous treatment.

Third, their right to personal freedom was violated when the men detained them before killing them. The women had rights to not be arrested or detained, unless it was done legitimately under Timor law. It is very doubtful that the men who detained them did so legitimately.

They were not police, military, or other representatives of the government, so they had no right to restrict the women's personal freedom. Thus, these men behaved unconstitutionally by infringing on the women's right to not be detained and live as they choose.

Finally, their right to equal treatment before the law was violated when they were not given access to legal protections or rights during the men's examination of whether they had committed crimes or not. If a person in Timor-Leste is accused of a crime, they should have access to the law, which guarantees that they should have a fair trial, legal representation, and no death penalty. You will learn about these parts of the law in the next section, civil and political rights. When the women were not given access to the law, but instead were accused of crimes and then tortured and killed, this was a violation of their fundamental right to equal and universal application of law. The men deprived them of their right to have the law protect them and regulate how criminal charges against them are decided.

This violation of the women's right to equal and universal treatment is especially problematic, because the Constitution specifically emphasizes that women's equality should be upheld. In Section 17, the Constitution states that women and men shall be equal in all their rights. These four women were deprived of several fundamental rights. They were not treated equally.

2. These fundamental rights are located in the following sections of the Constitution. The right to life is located in Section 29, Clause 1. The right to be free from torture or cruel treatment is in Section 29, Clause 4. The right to personal freedom, including not to be arrested illegitimately, is located in Section 30, Clause 1 and 2. The right to universal and equality is found in Section 26, Clause 1.

3. Summary

The Constitution of Timor-Leste guarantees individuals many fundamental rights. These include the right to be treated equally to all other citizens, and to have access to the law. Every person in the country can have access to the law and should be treated equally according to it. The Constitution emphasizes that special groups -- including women, children, senior citizens and disabled citizens -- should be treated equally and with access to the law as well. The Constitution also grants all individuals fundamental rights in their bodily security and their personal freedom. Everyone in Timor-Leste has a right not to be killed, not to be tortured, and not to be restricted in their choices of how to live their life, as long as it does not offend the law or other individuals' rights.

IV. CIVIL AND POLITICAL RIGHTS

SECTION OBJECTIVES

- To introduce the category of civil and political rights provided by the Constitution.
- To explain why these rights are important for the development of the individuals and the country.
- To describe in detail some of the rights, including the right to belief, right to expression, the right civic participation, and criminal defendants’ rights.

The second category of individual rights in the Constitution of Timor-Leste is the category of civil and political rights. These rights relate to how a person can participate in the public sphere of life, including politics, civil society, the media, and religion. They also relate to how a person who is suspected of having committed a crime will be treated by the government and by society. Finally, these rights relate to how a person can be free from interference in his personal matters, like where he lives, what religion he practices, what he says in private, and what he does inside his home. Civil and political rights are located mainly in Title II, “Personal Rights, Freedoms, and Guarantees”, of the Constitution. They are summarized in the following table.

Civil and Political Rights in the Constitution of Timor-Leste	
Civic Participation	Freedom of Association (Section 43) Right to Vote (Section 47) Right to petition the government (Section 48) Right to assemble peacefully (Section 42) Right to be elected (Section 47) Right to participate in politics and public life (Section 46, Clause 1) Right to defend the country (Section 49) Duty to serve in the army (Section 49)
Expression and Speech	Right to Freedom of speech (Section 40) Freedom from censorship (Section 40, Clause 2) Right to inform (Section 40, Clause 1) Freedom of press (Section 41, Clause 1) Freedom of mass media (Section 41, Clause 3) Right to public radio and television (Section 41, Clause 5) Right to express different opinions on public media (Section 41, Clause 5) Freedom from monopoly of mass media (Section 41, Clause 3)

Movement and Citizenship	Right to citizenship Freedom of Movement (Section 44, Clause 1) Right to emigrate (Section 44, Clause 2)
Conscience and Belief	Freedom of religion (Section 45, Clause 1) Right to be a conscientious objector (Section 45, Clause 3) Freedom to teach a religion (Section 45, Clause 4)
Privacy and Personality Rights	Right to protection of your public image (Section 36) Right to privacy of your personal and family life (Section 37) Rights of privacy in your home and your private communications (Section 37) Rights to privacy in your personal data (Section 38)
Access to Justice & Defense	Right to Resistance and self-defense (Section 28) Right to counsel (Section 26) Right to access courts (Section 26)
Detainees' and Criminal Defendants' Rights	Right to Habeas Corpus (Section 33) Right to be informed of charges (Section 30, Clause 3) Right to timely appearance in court (Section 30, Clause 2) Right to be tried before a judge (Section 30, Clause 2) Right to counsel (Section 34, Clause 2) Right of defense (Section 34, Clause 3) Presumption of Innocence (Section 34, Clause 1) Right to fair compensation if convicted unjustly (Section 31, Clause 6) Freedom from double jeopardy (Section 31, Clause 4) Freedom from life imprisonment and death penalty (Section 32) Freedom from extradition (Section 35) Freedom from ex post facto laws (Section 31, Clause 2)

Civil and political rights are important because they empower the individual to believe and act as he chooses, as long as this does not violate other individuals' rights or break the law. These rights protect a person from government or society from intruding in her personal beliefs, actions, and communications.

Civil and political rights are also important because they guarantee that the individual can participate in politics as he chooses, and that he can speak freely about what he believes, including criticisms of the government. This means that people have freedom to express and act upon their own political beliefs, and they do not have to conform to the beliefs and values of the government. These rights are important for a healthy democracy, because people in a democracy should be able to develop their own political beliefs and challenge the government, if they do so peacefully. Democracy relies on different people having different political opinions, expressing them in public, and debating which are best for the future of the country. Individuals need to

have civil and political rights to ensure that they can develop different opinions and express them without being punished.

Finally, civil and political rights are important because they protect individuals who have been accused of a crime. It is important that criminal suspects are given access to justice and to legal counsel. When a person is convicted of a crime, many of his rights will be taken away from him. It is important that before the government takes away these rights, it gives him the opportunity to defend himself, and also full access to resources that will help him to understand the situation he is in and how to defend himself. Even arresting a suspect deprives him of his rights to personal freedom. The government can legitimately arrest people who are suspected of committing a crime, but in order to do so, they must respect his civil and political rights so that he can properly defend himself.

1. Rights to Freedom of Belief, Speech & Media

One important group of civil and political rights is the group of rights to freedom of belief. These rights guarantee that individuals can hold a viewpoint, opinion, religion, or thought of her own. Her own belief is independent of other people. She cannot be punished for what she believes. Even if other people in society think differently from her, the right to freedom of belief lets her think independently. And even if her beliefs are contrary to what the government is doing, she still has this right. The right to freedom of belief lets a person have her own viewpoint, even if they are not popular or critical of the government.

The Constitution of Timor-Leste

Part II, Title II, Section 45 (Freedom of conscience, religion and worship)

1. Every person is guaranteed the freedom of conscience, religion and worship and the religious denominations are separated from the State.
2. No one shall be persecuted or discriminated against on the basis of his or her religious convictions.
3. The right to be a conscientious objector shall be guaranteed in accordance with the law.
4. Freedom to teach any religion in the framework of the respective religious denomination is guaranteed.

One right in the category of freedom of belief is the right to have freedom of religion. Individuals can believe any religion they wish. They have the right to practice and teach any religion they believe in. The Constitution specifies that religion is separated from the government, meaning that the government cannot decree what religion citizens must believe in. Every individual in Timor-Leste can choose which religion they believe in, and they have a right not to be punished for this belief.

It is not only religious beliefs that are protected by the Constitution. Individuals have rights which protect their beliefs about politics, society, and other matters in the public sphere. These rights allow an individual to participate in political process, military, and public life. One of the most important rights for civic participation is the right to freedom of speech. An individual has the right to say whatever they want, within two limits. A person's speech cannot offend the dignity of other people, and it cannot disrespect the Constitution. But in general, a person has a freedom to hold any political, religious, or social beliefs, and to speak about them. The Constitution gives the individual this right to freedom of speech, and it also imposes a duty on the government not to censor individuals' speech.

In addition to regular speech, individuals also have a right to publish their opinions and other materials in the press. This is given by the right to a free press. This right imposes a duty on the government to keep the mass media free from political and economic powers. It also imposes the duty on the government to prevent a monopoly on the mass media. Finally, it also imposes a duty on the government to guarantee that there is public radio and television, which provide opportunities for the expression of different opinions in the media. These rights and duties are meant to allow individuals to express their different views to a wider audience. They also protect individuals from censorship by the government or by a monopoly company that could own all the media outlets. The duty to maintain a public radio and television station is intended to ensure that individuals can express their beliefs in the media, even if a commercial media outlet does not want to give them an opportunity for expression.

These rights and duties around freedom of press are meant to ensure that Timor-Leste society has a rich public sphere. It is important for democracy that people are able to communicate different opinions to a wide audience, to allow for public debate. It is also important that people are allowed to express opinions that are critical of the government and

other powerful institutions, like businesses and religions, in order to ensure that these institutions do not abuse their power.

If we think of these rights of freedom of belief, freedom of speech, and freedom of the press together, they all relate to civic participation. They ensure that individuals can think critically, and that their beliefs are not controlled by the government or society. These rights also guarantee that individuals can freely express what their political, social, religious, and other personal beliefs are. They can say their beliefs to other people directly, they can use the media to broadcast and publish their beliefs more widely. They have a right to say and write what they think, and they have a right to do so using newspapers, books, pamphlets, radio, television, Internet, and other forms of media. The Constitution creates duties on the government to protect individuals' rights to freedom of belief, speech, and press.

2. Rights to Civic Participation

Closely associated with the rights to freedom of belief, speech, and press are the rights to civic participation. These rights guarantee that individuals can take actions to express their political and social opinions. These rights include the freedom of association, the right to participate in politics, the right to establish a political party, the right to vote, the right to be elected, the right to petition, and the right to assemble. All of these rights relate to actions an individual might take if she wanted to peacefully advance her own political and social beliefs, even if they are different from the current government's beliefs.

The Constitution of Timor-Leste

Part II, Title II, Sections 42-43, 46-48

Section 42 (Freedom to assemble and demonstrate)

1. Everyone is guaranteed the freedom to assemble peacefully and unarmed, without a need for prior authorisation.
2. Everyone is recognised the right to demonstrate in accordance with the law.

Section 43 (Freedom of association)

1. Everyone is guaranteed freedom of association provided that the association is not intended to promote violence and is in accordance with the law.

2. No one shall be compelled to join an association or to remain in it against his or her will.
3. The establishment of armed, military or paramilitary associations, including organizations of a racist or xenophobic nature or that promote terrorism, shall be prohibited.

Section 46 (Right to political participation)

1. Every citizen has the right to participate in the political life and in the public affairs of the country, either directly or through democratically elected representatives.
2. Every citizen has the right to establish and to participate in political parties.
3. The establishment and organization of political parties shall be regulated by law.

Section 47 (Right to vote)

1. Every citizen over the age of seventeen has the right to vote and to be elected.
2. The exercise of the right to vote is personal and constitutes a civic duty.

Section 48 (Right to petition)

Every citizen has the right to submit, individually or jointly with others, petitions, complaints and claims to organs of sovereignty or any authority for the purpose of defending his or her rights, the Constitution, the law or general interests.

The right to freedom of association gives an individual the right to be a part of a group. The right is limited to legal, peaceful groups. It does not give an individual the right to belong to a group that is terrorist, against the Constitution, or otherwise illegal. The right also lets individuals be free from being compelled to join a group. With this right, an individual can participate in any legal group she wants to, and she is protected from being forced to join any group. This right is associated to the right to participate in politics. This right gives individuals the opportunity to freely join political parties, create them, and participate in them. The right is limited, because the political parties must be regulated by law and abide by it. The political party cannot be involved in anything illegal. In general, though, an individual enjoys the right to choose whichever political party she wants to belong to, or any other group she wants to belong to, and participate in it without interference by the government or society.

Another right in the category of civic participation is the freedom to assemble. Individuals have a right to assemble peacefully, if they are not armed with weapons. This means that they can meet in large groups, and also demonstrate in protest against the government, a business, an institution, or another kind of group. As long as the demonstration is in accordance with the limits the government has set in laws, then individuals have a right to gather together and demonstrate. This is important for democracy, because assembly and demonstration can be important in organizing groups, advancing different political and social beliefs, and mobilizing new movements that advocate different opinions. The right to assemble and demonstrate protects individuals' rights to publicly display their beliefs, even if they are contrary to the government or society.

The right to petition is another related right. It allows individuals to create and sign petitions that ask the government to change a policy or take an action. If, for instance, John feels that his rights have been violated by the government or someone in society, he has a right to petition the government and ask it to redress his rights. John can submit a petition with claims that the government must defend his rights, or that it must uphold the Constitution, or that it must obey the law. This is important because it gives individuals the power to make sure that the government upholds the law and individual rights. This can be a constraint on government power, and a mechanism by which individuals can ensure that there is rule of law.

A final right in the civic participation group is the right to vote. One limitation on this vote is that an individual must be over 17 years old to vote. A related right is the right to be elected. It too has an age limit of 17. These rights guarantee that any citizen in Timor-Leste, even if they are a woman, elderly, disabled, or of a different race or religion, can vote for who runs the government. Similarly, any citizen can run for office. This right is universal, so any individual over 17 years old can run as a candidate for office.

One final point to mention on civic participation is that it includes a duty for all individuals. Every individual has a duty to contribute to the defense of Timor-Leste's independence, sovereignty, and territorial integrity. Every individual also has the right to contribute to the defense of the country. This means that people have a duty to serve in the army, according to the law. If the government decides that certain individuals should serve in the military, then the Constitution puts a duty on every individual to obey this order and serve to defend the country. The Constitution places an emphasis on maintaining the independence of

Timor-Leste, and this is why individuals' rights and duties to serve in the defense of the country are important.

3. Criminal Defendants' Rights

A final group of rights that are very important in civil and political rights are those that relate to criminal defendants. These rights protect a person who has been accused of a crime. They place limits on how the government or society can treat this person, and what rights can be taken away from this person. There are also rights that protect individuals who have been convicted of crimes. These rights regulate how a person can be punished even if they are a criminal.

These rights are important to protect people who are being deprived of their rights. When someone is accused of a crime, the government can legitimately take away many of their rights. They can limit their freedom of movement, by detaining them in jail. They can limit their personal freedom while they are in jail. They can also prevent the individual from leaving the country. But an accused person still has many rights to ensure that they are not mistreated, and that they have full opportunities to defend themselves against the criminal charges. The Constitution makes sure that even if individuals are accused of a crime, they are not convicted and punished until they have the opportunity to receive counsel, to know what they are charged with, and to present a defense.

The Constitution of Timor-Leste

Part II, Title II, Sections 30, 33 and 34

Section 30 (Right to personal freedom, security and integrity)

1. Everyone has the right to personal freedom, security and integrity.
2. No one shall be arrested or detained, except under the terms clearly provided for by applicable law, and the order of arrest or detention should always be presented for consideration by the competent judge within the legal timeframe.
3. Every individual who loses his or her freedom shall be immediately informed, in a clear and precise manner, of the reasons for his or her arrest or detention as well as of his or her rights, and allowed to contact a lawyer, directly or through a relative or a trusted person.

4. No one shall be subjected to torture and cruel, inhuman or degrading treatment.

Section 33 (*Habeas corpus*)

1. Everyone who illegally loses his or her freedom has the right to apply for habeas corpus.
2. An application for *habeas corpus* shall be made by the detainee or by any other person in the exercise of his or her civil rights, in accordance with the law.
3. The court shall rule on the application for *habeas corpus* within 8 days at a hearing in the presence of both parties.

Section 34 (Guarantees in criminal proceedings)

1. Anyone charged with an offence is presumed innocent until convicted.
2. An accused person has the right to select, and be assisted by, a lawyer at all stages of the proceedings and the law shall determine the circumstances for which the presence of the lawyer is mandatory.
3. Every individual is guaranteed the inviolable right of hearing and defense in criminal proceedings.
4. Evidence is of no effect if obtained by torture, coercion, infringement of the physical or moral integrity of the individual, or wrongful interference with private life, the home, correspondence or other forms of communication.

There are many rights in this category. One set of rights protects people who have been legally arrested or detained. These rights provide that a person must be given immediate notification of his right to contact a lawyer, as provided in Part II, Title II, Section 34. Individuals in custody also have a right to habeas corpus. This is from Part II, Title II, Section 33. This right means that they have a right to know on what charges they are being held. Also, it states that the courts must provide the person with a hearing in front of a competent judge within a legal timeframe. This ensures that even though a person is suspected of having committed a crime, and their rights to movement and freedom are limited, they are given a chance to get advice and a hearing. Particularly if a person has been detained mistakenly, these rights are important to ensure that an innocent person is not deprived of his rights. The Constitution also emphasizes that people who have been arrested still retain their right to bodily security. This

right is in Part II, Title II, Section 32. They cannot be tortured or killed while they are in custody, no matter what crime they have been accused of.

Another set of rights apply when a person is at trial for a crime. At trial, an individual has a right to the presumption of innocence, from Part II, Title II, Section 34, Clause 1. This means that the person should be considered innocent until convincing proof is presented that he committed the crime. If that proof is not presented, then he is considered innocent, because the presumption of innocence gives him that right. A person on trial also has the right of defense from Part II, Title I, Section 28. This right means he can present arguments about why he is innocent. He also has the right to legal counsel at all stages of the trial that the law allows. This is from Part II, Title I, Section 26. This right means he can talk to a lawyer whenever he wants to, though subject to the limits that the law may set. A person on trial also has a right to strike evidence used against him that was obtained through illegal means. This includes evidence that was obtained through abuse or torture, or through other wrongful methods. This right comes from Part II, Title II, Section 34, in the text box above. This right protects the person from being found guilty based on statements or other evidence that were obtained when he was under extreme physical duress, and which may not be truthful because of the circumstances of abuse.

These rights also put limits on what the government can put a person on trial for. Every person has a right not to be subject to double jeopardy, due to Part II, Title II, Section 31. If you were found innocent of a criminal charge, you cannot be tried again on this same charge. Also, you cannot be put on trial for an action that was not a crime when you committed it. This is a right to be free from ex post facto charges. This right is located in Part II, Title II, Section 31. If the government changed the law to make the action a crime, but only after you took this action, then it was not a crime when you did it and you cannot be charged for it. Moreover, if you are convicted of a crime unjustly, then you have a right to fair compensation for the violation of your rights.

The Constitution provides individual rights to people who have been convicted of a crime as well. Convicts may lose many of their rights while they are being punished, but they still retain some rights. No one can be sentenced to life in prison or the death penalty, due to Part II, Title II, Section 32. All people have a right to be free from these infringements on their fundamental rights. If a convict poses a danger due to mental illness, the judges may be able to extend security measures to keep him detained, but he should not be sentenced to life in prison.

Also, convicts have a right not to be deported. This right is found in Part II, Title II, Section 35. If a convict is a national of Timor-Leste, then he can never be expelled from the country. If a convict is not a national of Timor-Leste, then he can only be expelled if a court orders it. Still, he should not be deported if it is based on politics or if he might face severe punishment, like the death penalty, torture, or life in prison, in the country he is sent to. These rights against extreme punishments and extradition provide some protection to those convicted of crimes.

4. Summary

Civil and political rights are very important. Every person can enjoy the right to think differently, to express their beliefs, to publish and broadcast them, to form groups with others who think similarly, to run for office, and to vote for who they choose. These rights also guarantee some protections for people whose rights are being deprived because they are suspected of having committed a crime. The Constitution gives rights to ensure they are treated fairly, that their fundamental dignity is not violated, and that they are given reasonable opportunity to defend themselves. This is important because innocent people might be accidentally charged with crimes, and the accused should not be deprived of their rights unless they have a chance to defend themselves and the government can present substantial evidence that they are guilty. Rights are too important to take away easily. A person is given protection before the government is allowed to take away his rights for having committed a crime.

V. ECONOMIC AND SOCIAL RIGHTS

SECTION OBJECTIVES

- To introduce the category of economic and social rights and explain why they are important.
- To describe in detail some of the rights, including the right to work, the right to health, the right to a family, and the right to education.

The third and final category of individual rights in the Constitution is that of economic and social rights. It is a smaller category of rights than civil and political rights. This third category is important because it guarantees individuals protection in their work, home, and personal life. Civil and political rights largely applied to how a person's participation in political and civic matters, and protected how individuals would be treated by the government if they had been convicted of a crime. Economic and social rights, on the other hand, apply more to individuals' rights to work, have a family, get an education, own property, and have medical care. This right category concerns individuals' quality of life. The rights guarantee that individuals will have means to live with dignity and in good conditions, so they will have choice about how to live their lives. Economic and social rights should provide individuals with good work, health, and home conditions, so that they have the resources to exercise their other individual freedoms. The Constitution creates duties on the government to provide citizens with these resources.

Economic and social rights provided by the Constitution are aspirational. Aspirational rights are not likely to be enforced. There are not remedies for citizens whose aspirational rights are violated. These rights are not as strong as the fundamental, civil, and political rights discussed in the previous sections. They are of lower priority. It is unlikely that these rights will be enforced, letting the citizens of Timor-Leste enjoy them fully.

There are several factors that explain why economic and social rights are aspirational rights. One main reason is that the duty these rights put on the government is very high. There is a large difference between how people currently live in Timor-Leste and how the Constitution sets the standard for living. Substantial time, money and changes are required before Timor-Leste's citizens will have the opportunities to enjoy the economic and social rights the

Constitution lays out. This means that for the time being, these rights are more aspirational than enforceable. As you read about economic and social rights in this section, remember that they are different from the previous rights we discussed and should be considered as aspirational.

Economic and Social Rights in the Constitution of Timor-Leste	
Labor Rights	Right to work (Section 50, Clause 1) Right to choose profession freely (Section 50, Clause 1) Right to labor safety, remuneration, and rest (Section 50, Clause 2) Freedom from dismissal on unjust or ideological grounds (Section 50, Clause 3) Freedom from compulsory work (Section 50, Clause 4) Right to strike (Section 51) Right to establish and join a trade union (Section 52)
Education, Culture, and Intellectual Property	Right to equal opportunities for education (Section 59, Clause 2) Right to cultural enjoyment and creativity (Section 59, Clause 5) Right to free public education (Section 59, Clause 1) Protection of copyrights (Section 60)
Family Rights	Right to establish and live in a family (Section 39, Clause 2) Special protection for pregnant women (Section 39, Clause 4) Equality of spouses (Section 39, Clause 3) Freedom from non-consensual marriage (Section 39, Clause 3) Right to maternity leave (Section 39, Clause 4)
Private Property	Right to own private property (Section 54, Clause 1) Right to transfer property (Section 54, Clause 1) Freedom from public expropriation without compensation (Section 54, Clause 3)
Well-Being & Health	Right to health and medical care (Section 57) Right to housing (Section 58) Right to a healthy environment (Section 61) Right to social security (Section 56)
Consumer Rights	Rights truthful information about products (Section 53, Clause 1) Rights to goods and services of quality (Section 53, Clause 1) Freedom from concealed, indirect or misleading advertising (Section 53, Clause 2) Right to reparation for damages for services of bad quality (Section 53, Clause 1)

1. Labor Rights

One group of social and economic rights is the group of labor rights. They are located in the Constitution's Part II, Title III, Sections 50-52. These rights provide an individual protections regarding work. They are meant to empower and individual to be able to work to his full power and to be compensated and protected at work. Labor rights also guarantee that individuals can

create or join a union to defend their rights and interests at work. These rights also guarantee that no individual can be forced to work against his will, and he should have a free choice in what profession he works.

The group of labor rights includes the right to work. Every individual in Timor-Leste, regardless of their gender or background, has the right to have a job and receive a salary for it. The Constitution also imposes a duty to work on Timor-Leste citizens. This means that the Constitution orders that everyone in the country work, and that no one deny others the right to work. If a person wants to work, no one can stop them from working, or this would be a violation of their Constitutional right to work.

A connected right is the right to freely choose a profession. Every individual can decide for herself what profession she works in. No one can compel an individual to work in a certain kind of job. This right is connected to the right to be free from compulsory work. No one can compel an individual to work against her will. She must agree to the work in order for it to be legal under the Constitution. In effect, this right is against slavery. No one in the government or in society can compel an individual to work against her will, and no one can force her to choose a profession against her will.

Labor rights also provide for rights in the workplace. Workers have the right to safety and hygiene at their workplace. This right creates a duty on employers, to provide that they do not put their employees' in unsafe or unhygienic working environments. Employers have a duty to employees to protect the employees' right to a safe and clean workplace. Workers also have a right to remuneration and compensation. This also creates a duty on the employers. Employers must provide monetary compensation to employees for their work, and they must allow employees to take vacation. These duties protect the workers' right to work with dignity and respect.

If individuals want to defend their rights at work, the Constitution gives them the right form trade unions and to strike. Individuals are free to join and participate in professional associations that are peaceful. This includes trade unions. Individuals in trade unions have a right to organize their unions independent of the government or their employers. Trade unions should be free and independent, and individuals have the right to set the unions' internal structure freely. Independent trade unions are important to allow individuals to organize with other workers to

collectively defend their interests and their rights. It is important that they are independent so that they reflect the individuals' interests and not the employer's or the government's interests.

Individuals have the right to strike. If they feel that their employer is not respecting their rights or interests, employees can refuse to work in protest. The Constitution creates a duty that during a strike, the employer still has to maintain equipment and provide for safety. Individuals' right to strike is limited by the law. The Constitution states that the right to strike is conditional on the strike being compliant with legal regulations that the government creates. This means that the government can pass laws that limit when and how individuals can exercise their right to strike. The right to strike is important to give individuals the power to defend their labor rights.

2. Education and Cultural Rights

The Constitution also gives individuals in Timor-Leste the right to education and culture. These rights are provided in Part II, Title III, Sections 59-60. Every individual has right to equal opportunities in education and vocational training. This means that every person should be able to receive education equal to all other citizens. This right to educational opportunities creates a duty on the government. The government has a duty to ensure that every individual has access to the highest level of education and training that she can achieve. This right means that everyone should be able to get as much education as they can achieve. In addition, the government has the duty to establish a public system of education. The Constitution creates an obligation that the state provides education that is universally accessible, free, and compulsory for citizens. Every citizen has a right to free basic education. It is a universal right, meaning that it cannot be denied to girls, or people of different religions, or people of different races. All people can attend state basic schools equally and for free.

In addition, the Constitution creates rights to culture. Every individual has the right to cultural enjoyment and creativity. They can write books, create art, make movies, and do other creative works freely. The Constitution puts a connected duty on the government to protect creative work with copyrights. Every individual who creates a work of culture, art, or science, will receive protection of this work against others' using it or copying it without their authorization. The state also has a duty to preserve and protect Timor-Leste's cultural heritage. These rights and duties are intended to ensure that Timor-Leste's population has local culture and is well-educated.

3. Rights to Health and Well-Being

Another very important group of social and economic rights are individuals' rights to well-being and health. These rights are intended to ensure that a person can live safely, healthily, and fully in her private life. These rights are located in Part II, Title III, Sections 56-61. This group of rights includes the right to health and medical care, the right to social assistance, the right to housing, and the right to a good environment. These rights are important because they can enable a person to live with the guarantee of health, comfort, and social protection. In case a person faces problems in their personal life, these rights provide some protection that the government and society will offer support to help her.

The right to health and medical care gives an individual a guarantee that the state will provide them with health service. The right creates a duty upon the state to provide a national health service that will give universal and general medical support to individuals in Timor-Leste. The Constitution specifies that the national health service should be given free of charge and in accord with the laws that the government sets. It also specifies that the health service should be decentralized and participatory, so that individuals can be in control of their health care. The Constitution also creates a duty on the individuals, which every person can protect and promote her own health.

Another right in this group is the right to housing, which is in Section 58. Every person has a right to have a shelter for himself and his family, which is of adequate size and meets hygiene standards. The housing should also provide privacy to the person and his family. This means that every person should have a home to live in and that this home should meet basic standards to protect the person's well-being.

A third right in this group is the right to social assistance and security. Individuals have a right to receive support from the government if they need help to maintain their well-being. This right creates a duty on the state to build a social security system. The Constitution specifies that the state shall also supervise non-profit institutions and social enterprises which provide social assistance. These rights and duties are created to provide a safety net for individuals in Timor-Leste who cannot provide for their own welfare.

A final right in this group is the right to a good environment. The Constitution gives the individuals the right to live in healthy and balanced environment. This creates a duty on the state

to preserve and ration natural resources. It also creates a duty on the state to promote environmental protection initiatives and promote sustainable development of the economy. These rights and duties intend to give individuals an environment that will be good for their well-being and will not harm their health.

Rights to well-being and health are social and economic rights which aim to provide individuals with basic living conditions that let them exercise their other rights and live with dignity and quality of life. The Constitution creates many duties on the state to provide support to individuals in the country, to protect their well-being.

4. Summary

Economic and social rights are the third main category of individual rights in the Constitution. They provide for personal well-being, to ensure that a person is able to have sufficient economic means, health, work opportunities, and support so that they can live with dignity. These rights are important because they provide individuals with the necessary conditions to for well-being, which also gives them opportunity to exercise their other rights. If a person is in good health, has a job that pays him sufficiently, has an adequate home, and has a basic education, then he can better participate in public life. The country can benefit from individuals' economic and social rights. These rights are necessary for individuals to live well and also for the society to develop. They create duties on the government, to ensure that it provides for the well-being of individuals in Timor-Leste and protect individuals from living in poverty, disease, lack of education, or a bad environment.

VI. REVIEW

SECTION OBJECTIVES

- To review the general concepts of rights and duties.
- To review the importance of rights provided to individuals in Timor-Leste by the Constitution.
- To review the three main categories of individual rights granted by the Constitution – fundamental rights, civil and political rights, and economic and social rights.

Rights are important tools for an individual to have, and to be aware of. Rights give an individual a legitimate claim that can make another actor behave in a certain way towards you. Or a right can be used to legitimately stop another actor from treating you in a certain way. Individuals can use rights to protect their interests and make the government and others in society treat them with respect and honor their interests. A person's rights are powerful claims. They create duties on others to uphold the individual's rights. If a person has a right to something, then someone else has a duty to provide this something.

Rights have their limits. A person's right ends where another person's right begins. Even if you have a right to do something, if it would violate another person's right, then your right may be invalidated. A right may also be limited by lack of enforcement. An individual may have a right to be treated in a certain way, but remedies and enforcement are needed to ensure this right is upheld. Without enforcement, particularly by a strong institution like the government, rights can be meaningless. Violations of rights should be punished, and if they are not, then the individual cannot adequately protect her rights. Others may violate her rights, and she will not be able to protect them, so the right becomes limited by lack of enforcement. Rights can also be limited by the government in times of emergency. But the government can only limit some of individuals' rights, and it can only place these limits for short amounts of time.

Do you know what rights you have? As a resident of Timor-Leste, the Constitution is one of the primary places where your rights are specified. The Constitution of Timor-Leste creates many rights for individuals, which create duties on the government and others in society.

These rights are divided into three categories – fundamental rights, civil and political rights, and social and economic rights.

Fundamental rights include the rights to universal and equal treatment before the law. All citizens should be given the same access to the government and laws, and they should be treated equally no matter their age, gender, race, or ability. Fundamental rights also include the rights of bodily integrity and personal freedom. Individuals should be able to live as they choose, within the law and without violating other individuals' rights. They should also be safe in their bodies, and should not be tortured, abused, or killed.

Civil and political rights are rights that pertain to how individuals can participate in public life and how they will be treated if they are accused of a crime. These rights aim to empower people to believe what they wish, express their point of view freely, and participate in politics to advance their point of view. The rights of criminal defendants provide some protection for individuals who have been accused of a crime, or who have been convicted. Even though the government can legitimately take away some of a person's rights because of the criminal accusation against him, the Constitution grants the person some protections which limit how the government and society can treat him.

Finally, social and economic rights are rights that protect people's quality of life, and ensure that they have opportunities to work, live with good health, have a family and receive a basic education. These rights create duties on the government to ensure that individuals can enjoy these rights. These rights provide individuals with basic well-being that can allow them to exercise their civil and political rights. But you should remember that social and economic rights are currently aspirational rights in Timor-Leste. They are not likely to be enforced. Even though the Constitution guarantees them to all citizens, it is unlikely that most citizens will actually enjoy these social and economic rights.

The Constitution creates many rights, that we have reviewed in this section. This does not guarantee that the rights will be respected in practice. For a right to be meaningful, then it must be enforced. As you continue your studies, you should pay attention to how rights are used in practice. It is important to compare what the Constitution says individuals' rights are and what individuals' rights are in practice. Are all of the rights discussed in this chapter actually protected? What rights exist on paper, but do not actually matter in practice? While you continue studying and working in law, you should be sure to read the Constitution in detail, and to analyze

the right from a critical perspective. It is also worthwhile to read court decisions and statutes which analyze the Constitution. These provide greater detail on how Constitutional rights will be applied in practice.

Questions

1. Name three sources of individual rights.
2. What is a remedy, in the context of rights? Why are remedies important?
3. When can the government of Timor-Leste legitimately limit individuals' Constitutional rights?
4. What questions should you ask to understand a right from a critical legal perspective?
5. What are the three main categories of individual rights in the Constitution?
6. What does universality of law mean?
7. Name three rights within the category of civil and political rights?
8. If Gabriela has a right to education, what duty does this create? Who has this duty, according to the Constitution?

Answers

1. Individuals may receive rights from many sources. One source is the Constitution of Timor-Leste. Another is international treaties. A third possible source is statutes and laws made by the government of Timor-Leste.
2. A remedy is the means by which a right is protected and enforced. If a person's right is violated, a remedy provides a legitimate recourse in which the violation can be addressed. A remedy might be a way for a person to be compensated for the violation. Or a remedy could be a way that the person who violated the right could be punished. A remedy is a way to enforce a right and make sure that people respect it.
3. The government of Timor-Leste can legitimately limit individuals' Constitutional rights when it declares a state of emergency or a state of war. If the government follows the Constitutional rules about how this state of exception is declared, then it has the power to curb many of the rights that individuals normally have. They can limit these rights in order to maintain stability in the country and to prevent disasters. But the Constitution specifies that the government must restore individuals' Constitutional rights as soon as possible.

4. To understand a right from a critical legal perspective, you should ask the following four questions. First, where is the right enshrined? That is, where is the source of this right? Second, who possesses the right? Third, ask what does the right entitle the holder to do, or to not have done to them? Finally, ask, how can the individual's behavior affect the right? That is, can the individual forfeit, or waive this right? This series of four questions will help you to understand the right from a critical perspective.
5. The Constitution has three main categories of individual rights. First, fundamental rights, second, civil and political rights, and third economic and social rights.
6. Universality of law means that the law should be applied to everyone in the country equally. Every person in Timor-Leste should enjoy equal access to rights, the law and the government. Universality is closely linked with equality. Both universality and equality of law are fundamental rights.
7. There are many rights in the category of civil and political rights. You can refer to the previous section for the full list of rights. Some of the rights include the right to freedom of belief, freedom of speech, free media, the right to vote, the right to assemble, the right to petition the government, and the right to participate in political parties. It also includes criminal defendants' rights, like the right to have a lawyer, the right to know the charges against you, the right to have a trial before a fair judge, and the right to stage a defense.
8. Every right creates a duty. In this case, Gabriela's right to education creates a duty to provide Gabriela with education. Because she has a legitimate claim to go to school and learn, then someone else in Timor-Leste has an obligation to provide her with the opportunity to take these actions. According to the Constitution, the national government of Timor-Leste has this duty. Section 59 specifies that the government has a duty to guarantee every citizen the right to education by providing free and universal basic education.

GLOSSARY OF SELECTED TERMS

Duty: A duty is the obligation that a person or the government has to take a certain action or refrain from a certain action.

Habeas Corpus: The right to habeas corpus means that they have a right to know on what charges they are being held. Also, it states that the courts must provide the person with a hearing in front of a competent judge within a legal timeframe.

Human Rights: Rights that every human possesses innately because they are fundamental to human dignity and well-being. Human rights are not given by a government or another institution and they cannot be given away or taken away.

Legal Remedy: A legal measure that prevents or redresses a violation of a right.

Ombudsman: An independent organ in charge of examining and seeking to settle citizens' complaints against public bodies, certifying the conformity of the acts with the law, preventing and initiating the whole process to remedy injustice.

Remedy: A remedy is the means by which a right is protected and enforced.

Right: A right is an entitlement that an individual has that lets her act in a certain way, or that lets her demand certain treatment from the government, or that prevents others from acting towards her in a certain way.

State of Exception: A state of exception may occur if the government declares a state of emergency or a state of siege.