

Democracy In Timor-Leste And The Power Of The Vote

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ABSTRACT

Democracy comes from the Greek word's demos and kratos. Demos means people and kratos means power. Therefore, democracy means power is in the hands of the people. Power comes from the people and the people as the holder of power. Even though the word democracy is a foreign word in Timor-Leste that originates from Latin, but in practice, the Timorese have practiced democracy for most of their lives since the times of the ancestors. Since the rule of the clan, the village, the suco and even the kingdom usually happened with the consent of its people. The people delegated power to the data; the nobles; and then these data were to choose a village chief, a suco chief, and even a liurai (king, ruler) of a kingdom. Even family and community matters, decisions were made through a consensus, a dialogue called nahe biti boot. This reality shows that the Timorese have practiced democracy since ancient times where power is not only in the hands of one person but in the hands of a set of important people in that system itself known as an aristocratic republic. Democracy today also happens in the same way. The people delegate their power to the village chiefs, suco chiefs, the members of the national parliament (hence forming the government) and the president of the republic through votes; of the election. This means that the votes of the people are extremely important in determining the life of a so-called democratic state like Timor-Leste. Democracy must coexist in harmony with the state legal system, that is, democracy must be regularized through state legal norms. Nothing is absolutely free in the world because freedom without responsibility can make it debauchery as long as there are no state legal norms to regulate. Today's modern state must be a democratic state of law, the state that recognizes the power of the people, that is, the state that recognizes that the people as the holder of power, and this democratic state must be regulated through state legal norms, and these state legal norms must recognize that state power resides in the people and in the name of the people, because the people as the sole holder of power. This article aims to deal with the power of voting in relation to democracy where we can see that in a democratic state, important decisions are made through votes. The method of this research is a qualitative method of observation and analysis of the documents linked to the theme treated. With this study we are able to see how voting has power in democracy. We have seen that voting is very important to ensure the proper functioning of democracy and we can say that democracy has to do with votes or in a summarized way we can call it a democracy of votes. We can conclude that any democratic state must promote and value the vote through a transparent, free, direct, secret process, that is, the voting process must at least respect the seal of the vote to guarantee the freedom of voters.

Keywords: Democracy, People, Power, Votes, Rule of law.

INTRODUCTION

Timor-Leste, as a democratic state, one of the essential barometers to qualify it is the votes. They are the ones who determine the fate of an important decision for the life of the State, such as the legislative and presidential elections and the election of community leaders. Any decision of the National Parliament in relation to the creation of laws and on a certain important matter of the State is also determined through the votes and the votes of the deputies also determine the life of any government of the Democratic



Republic of Timor-Leste. Even the birth of Timor-Leste as an internationally recognized state also took place through the votes on August 30, 1999. In addition to the role of people's votes in determining the quality of democracy, it is also important to highlight how customary law remains a fundamental part of the socio-political foundation of Timor-Leste. Since the time of the ancestors, democratic practices were not only expressed through the formal mechanisms of the state but also through customary deliberation processes such as *nahe biti boot*, which emphasized consensus in community decision-making. Customary law functions as a normative system that regulates relations among individuals and groups, complementing modern state law. Therefore, any discussion of democracy in Timor-Leste cannot be separated from the interaction between positive law and customary law, as both shape a hybrid form of local democratic practice. This demonstrates that the people's voices are mediated not only through formal political institutions but also through customary mechanisms that continue to be respected today.

We can agree that votes determine the quality of democracy in a democratic state. But we must not only look at the number of votes, but the most important thing is that we must ensure a good mechanism so that it is not said that the voice of the machine is the voice of the people. Let it be the machine that wins and not the people. No state can be called a democratic state until it establishes and ensures a good voting mechanism in elections, for the organs of sovereignty and local government, by universal, direct, free, secret, personal and periodic suffrage, according to article 65, number 1, of the Constitution of the Democratic Republic of Timor-Leste. The Universal Declaration of Human Rights shares the same spirit when it says in Article 21(3) that "The will of the people is the foundation of the authority of the public authorities: it must be expressed through honest elections to be held periodically by universal and equal suffrage, by secret ballot or according to an equivalent procedure that safeguards the freedom to vote."

As a simple academic, think that for a very small country like Timor-Leste in the legislative election the majority system should be applied, in one round, based on individual constituencies in each sub-district. Not like the proportional system; proportional representation with the d'Hondt method. In the majority-in-one round system based on individual constituencies, the elected candidate is given greater political responsibility to the voters. Elected deputies have a direct political responsibility to the voters. If the elected deputies perform their duties well in the National Parliament and live up well to the expectations of the voters, they will certainly be elected again next time. Otherwise, they will not be re-elected. There is a clear responsibility of the deputies. How is it possible for a deputy to call himself a representative of the people if at the time of the election the people do not know him; In this case, the people do not vote for him. Therefore, logically, this deputy has no need to be accountable to the voters because he himself does not know who his voters are. It only serves the interest of the party and there is often a tendency to blindly serve the party with the intention of continuing to gain the trust of the party to maintain its political position. This certainly contributes to the status quo. Therefore, I hope (only as a hope) that in Timor-Leste a majority system of one round based on individual constituencies will be applied, as is the case in England, France and Germany, where elected MPs have an office to serve the public in their constituency. There is thus a close relationship between voters and elected representatives. Only in this way can we say that the people, as the holder of power, effectively delegate their power to these elected deputies. When the elected deputies divert this trust of the people, then the people have reason to remove this delegation from power by not reappointing them in the next election.

We must also not forget that voting itself is a citizen's right and more than a right it is a duty and this means that the state cannot criminalize a citizen who does not want, of his own free will, to participate in any election. Therefore, any law or decree-law that penalizes the non-participation of a citizen in any election will be unconstitutional. While Rousseau said that votes determine the general will and the general will is the will of the majority, this does not mean that it is the will of all. The will of the majority is enough. And consequently the general will is the will of the body politic; the will of the State. The general will translates the collective interest; the common good. But Locke asserts himself against Rousseau's idea of the will of the majority. Locke argues that the majority is not always right. Therefore, the will of the majority must be limited. While Rousseau states that it is not necessary to limit the will of the majority. It is the minorities who are never right. We can see this phenomenon always within the National Parliament, even before, at the time of the Constituent Assembly. The party with the most votes with an absolute majority or the coalition of alliance parties with a parliamentary majority always thought that they had better solutions for the life of the state; for the life of the people. That they best represent the state; the people. The voice of the majority is the voice of the people. Minorities, even if they are right, are not valued. Often, the last solution in a long debate is to have a vote at the end and thus lose the minority. It has been happening since the first legislature until now. It is the democracy of votes.

LITERATURE REVIEW

The study on voting power and democracy has already been done by Professor Pedro Bacelar where he talks about the importance of parliament as a fundamental component to ensure democracy and oversee the government. As a Professor Diogo Freitas do Amaral argues that the state must ensure the security, justice, well-being of the people and respect for human rights because the valorization of human rights must also involve the valorization of the people's vote. Amartya Sen also strengthens that the development of a country must be done to promote and value Human Rights.

RESEARCH METHOD

This study uses the method of qualitative research of observation. The use of the method of observation due to the fact that the author of the research also lives within Timorese society and directly observes how the process of democracy is going on in the processes of state building of Timor-Leste as a new country. Normally as a new country, Timor-Leste is still facing many challenges in relation to the process of building democracy for a solid democratic state. One of the challenges related to the process of using votes to determine the life of the states. As we know that almost the life of the democratic state depends on votes. Votes to choose the chiefs of the village, the suco, members of parliament, the president and even the important decision like laws, general state budget must pass by votes and the decisions of the Court of Appeal to oversee a law must also pass also by votes. Therefore, this study results from an observation by the author regarding the process of building democracy in relation to the power of voting.

RESULT AND DISCUSSION

We all know that democracy comes from the Greek word Demokratia; 'demos' means people and 'kratos' means power. Therefore, democracy means people who have power. Power is in the hands of the people or the people rule. Following the Vienna Declaration, which says that "democracy is based on the freely expressed will of the

people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives." In addition to the constitutional and representative dimensions of democracy, it is crucial to recognize the scope of customary law as part of Timor-Leste's democratic practice. Customary mechanisms, such as *nahe biti boot*, have historically provided a forum for deliberation and consensus, functioning as a parallel system of governance that regulates social relations and collective decisions. This reveals that democracy in Timor-Leste is not solely shaped by modern constitutional law but also by the enduring authority of customary norms.

The scope of customary law in this context encompasses three essential roles: (1) a deliberative function, serving as a space for inclusive dialogue and consensus-building; (2) a regulatory function, setting binding norms within communities; and (3) a legitimizing function, providing moral and cultural authority to decisions made by formal state institutions. Acknowledging this hybrid nature of governance strengthens the democratic rule of law in Timor-Leste, where state legitimacy is more robust when it harmonizes with customary legitimacy. In the old days in Greece, democracy was direct. All citizens met in an assembly, where they made the main public decisions. When His Excellency Prime Minister Dr. Marie Alkatiri said that he was going to hold a referendum on the Program of the Seventh Constitutional Government, I wondered: will Timor-Leste return to applying direct democracy as the Greek citizens of ancient times did?

Holding a referendum on the government's program is not only unconstitutional (and any law or decree-law that makes the referendum on the government's program feasible will be unconstitutional), but more than that, for me, it reflects the courage of His Excellency the Prime Minister or perhaps an attempt to question representative democracy, where the National Parliament is the representative of the people. It also suggests that any government, for its governmental stability, depends heavily on the National Parliament as a logical outcome of the Semi-Presidential system that Timor-Leste opts for. Professor Pedro Bacelar de Vasconcelos says that,

"O parlamento continuaria, portanto, a ser um lugar da «sociedade», o espaço onde os «privados» acedem às definições do «bem comum», numa quase analogia com a aceção clássica de «legislação» enquanto revelação da razão setecentista, em cujo nome irá, justamente fazer leis, a título exclusivo, em determinadas matérias, segundo a hierarquia constitucional, fiscalizar o governo, a administração entregue ao seu comando, o conjunto da máquina do Estado."¹

Translation:

"The parliament would therefore continue to be a place of 'society', the space where the 'private' have access to the definitions of the 'common good', in an almost analogy with the classical meaning of 'legislation' as a revelation of eighteenth-century reason, in whose name it would make laws, on an exclusive basis, in certain matters, according to the constitutional hierarchy, to supervise the government, the administration entrusted to its command, the whole of the State machine".

I believe that His Excellency the Prime Minister has no intention of holding a referendum on the Government's programme. But did His Excellency the Prime Minister want to put in place a participatory democracy where he would give greater freedom and

¹ Vasconcelos, Pedro Carlos Bacelar, *Teoria Geral do Controle Jurídico do Poder Público*, Lisbon, Edições Cosmos, 1996, p. 137.

access to the people to present ideas to outline the government's program for their own good? Another model that leads to open governance as you had done previously, in your first government of the First Constitutional Government? If so, this initiative by His Excellency Prime Minister Dr. Marie Alkatiri is commendable. Because nowadays direct democracy is difficult to realize, while representative democracy also has many failures. But holding a referendum on the government's program is unacceptable from the point of view of the constitution. It is in conflict with the competence of the National Parliament according to our constitution, in article 108 number 2: "The Prime Minister submits the Government's programme, approved by the Council of Ministers, to the National Parliament, within a maximum period of thirty days from the date of the beginning of the Government's functions"; in Article 109, paragraph 1 "The Government's programme is submitted to the National Parliament and, if it is not in operation, it is mandatorily convened for this purpose", and in Article 107 "the Government is accountable to the President of the Republic and the National Parliament for the conduct and execution of domestic and foreign policy, in accordance with the Constitution and the law"; in article 95, paragraph 3, paragraph d "To deliberate on the State Plan and Budget and the respective implementation report". For this reason, Article 66, paragraph 3, in the first part, says: "Matters within the exclusive competence of the National Parliament may not be submitted to a referendum". But if all laws have to be submitted to a popular referendum, it is clear that this is based on Rousseau's thought, which today we can see as the example of public consultation on a draft of a certain law or decree-law. In representative democracy, as in Timor-Leste, referendums can be held on issues of relevant national interest, but not on the government's programme, nor can a decree-law be made to hold a referendum on the government's programme because there is a risk of unconstitutionality. Locke and Montesquie teach that all ordinary legislation is unconstitutional when it does not conform to the constitution.

Often politicians only "deceive" the people to win the votes at the time of the election with beautiful promises, but after the election the people continue to live in poverty and misery. As Rousseau says in relation to English democracy, "the English people think they are free, in which they are sadly mistaken: they are so only during the election of the members of Parliament; as soon as they are elected, they remain their slave and are nothing." So, there must be a new democracy that is participatory as a new response to encourage the people to take an active part in the country's development process. Therefore, Timorese society must be active and creative to contribute to the construction of a state that can meet its expectations. Thus, it is good that the state (the government) takes this initiative to create a bridge between the people and the government and between the voter and the elected. The bridge is like an adequate mechanism to accommodate and defend the interests of the people in the process of State Building. For this reason, we must praise the contribution of civil society; of non-governmental organizations, the Catholic Church and other religious denominations that seek to give the best to the process of State Building in Timor-Leste. In addition, we must also praise the courage of young university students who take the initiative to bring, present and defend the aspirations of the people. The state must create a better mechanism to give more space to defend freedom of expression in this state called the Democratic Republic of Timor-Leste. The current leaders of the State of Timor-Leste were brave young people who were not silent and with their arms crossed, in their time, when they saw the injustice that Timorese society faced. They fought with all the inherent suffering to defend the interest of the people. What young university students do today is just as much as what the leaders of the resistance did before. Have the leaders of the resistance today, at the time of Independence, become equal to the Indonesian rulers? So

what is the difference between living in the time of Indonesian occupation and living in the time of independence? What was the independent state of Timor-Leste built for? To live as before? What is the State of Timor-Leste for? Or, as Rousseau asks, "What is the end of political association?" and he then answers, "It is the preservation and prosperity of its members." Professor Diogo Freitas do Amaral says that,

"Os fins essenciais e permanentes do Estado, são, desde sempre, a segurança, a justiça, e o bem-estar; mas nos dias de hoje também abrangem a prevenção de riscos emergentes do desenvolvimento técnico e científico, a preservação do meio ambiente e das condições naturais básicas essenciais ao desenvolvimento da vida na Terra e a cooperação com os demais Estados no quadro da comunidade Internacional, de acordo com a Carta das Nações Unidas, em vista da promoção da paz e do respeito pelos direitos do homem."².

Translation

"The essential and permanent purposes of the State have always been security, justice, and well-being; but nowadays they also encompass the prevention of risks emerging from technical and scientific development, the preservation of the environment and the basic natural conditions essential to the development of life on Earth and cooperation with other States within the framework of the International Community, in accordance with the Charter of the United Nations, with a view to promoting peace and respect for human rights."

We can also safely say that building the state is basically building the life of the people. The whole process of building the State is worth nothing as long as the people continue to live in misery. This is also a betrayal of the fundamental principle of resistance; the liberation of the people. More than that, Timor-Leste must also respect and value Human Rights in its development process as a logical result that Timor-Leste's struggle for independence was a struggle for Human Rights and so independent Timor-Leste must have respect and value Human Rights to show the world its consistency in defending Human Rights. In the time of resistance, one of the most important bullets to win the fight was, without a doubt, the invocation of the violation of Human Rights in Timor-Leste.

Timor-Leste really needs to respect and value Human Rights. Because nowadays the state is considered civilized and is well regarded in the world for respecting and valuing Human Rights in its national development process. As Amartya Sen says,

"The idea of human rights has gained a great deal of ground in recent years, and it has acquired something of an official status in international discourse. Weighty committees meet regularly to talk about the fulfillment and violation of human rights in different countries in the world. Certainly, the *rhetoric* of human rights is much more widely accepted today – indeed much more frequently invoked – than it has ever been in the past. At least the language of national and international communication seems to reflect a shift in priorities and emphasis, compared with a few decades ago. Human rights have also become an important part of the literature on development."³.

² Amaral, Diogo Freitas, *Uma Introdução à Política*, Bertrand Editora, Lisboa, 2014, p. 101.

³ Sen, Amartya, *Development as Freedom*, Oxford University Press, 1999, p. 227.

Regarding the formation of the government in Timor-Leste, it is always as a result of the legislative election where Timor-Leste, following the example of Portugal, opts for the semi-presidential state system. As a logical consequence of this system, the government is "accountable" to the National Parliament and the life of the government is in the hands of the distinguished members of the National Parliament.

I agree with His Excellency the President of the Republic Dr. Francisco Guterres – Lu Olo when he says that there are many interpretations of the constitution at this time in relation to the formation of the Seventh Constitutional Government. To me, if there are many interpretations it shows that we are all concerned with the life of the state and that each of us seeks to make his contribution to our dear land Timor-Leste. For me, the formation of the Seventh Government is constitutional, according to article 106 number 1 which says that "The Prime Minister is nominated by the party with the most votes or by the alliance of parties with a parliamentary majority and appointed by the President of the Republic, after hearing the political parties represented in the National Parliament". This article, grammatically, clearly shows that the party with the most votes and the alliance of parties with a parliamentary majority have the same opportunity and the same constitutional right to form the government. It is up to the President of the Republic to decide, taking into account the political forces within the National Parliament. In other words, the President of the Republic, while nominating the Prime Minister, must take into account the votes of the illustrious members of the National Parliament in order to ensure governmental stability during the government's term of office of 5 years.

In my view, His Excellency the President of the Republic Dr. Francisco Guterres "risks" nominating the Prime Minister of the party with the most votes even if he has minority votes in the National Parliament. Otherwise, it happens as before with Dr. José Ramos Horta, who in his term as President of the Republic nominated the Prime Minister of the alliance of parties with a parliamentary majority. The two Presidents of the Republic make a constitutional decision. Therefore, I do not understand how it is possible for this article as clear as daylight to allow many interpretations. Montesquieu says "In claris non fit interpretatio". Therefore, the law enforcers must interpret this article restricted to the letter of the law. Based only on the literal or grammatical element. If a normative text has some insufficiency, then it is possible to interpret it according to the spirit of the law. We seek to interpret according to the intention of the historical, teleological and systematic legislator. Based on the logical and rational element. But for me article 106 is very clear. Even so, I must respect all possible interpretations because that is how it works in the world and especially in the academic world and even in the legal world as well. In addition to the civilist-continental European legal culture, there is another legal culture that is the Anglo-Saxon culture, where interpretation, according to my Professor of the History of Law, Professor Joana Aguiar e Silva, can be based on the feeling of the judges, on the *mood* of the judges; if the judge feels bad when he wakes up, this discomfort can influence the decision. I have also realized that often interpretation is just a matter of perception. It all depends on what angle we want to see. A certain object can be seen in a variety of ways. One thing is certain, in a Democratic State of Law such as Timor-Leste, all of us, the citizens, have the same right to interpret the normative texts and the policy of the State according to our point of view and our interest. Often, the corruption of interpretation is done because of personal interests, groups or parties.

As a citizen, I wanted to give my support to the Seventh Constitutional Government. Does this mean that I am in favor of the coalition parties and against the alliance parties of the parliamentary majority? No! I am not against or for any political party or any politician. But I am in favor of a minority government only for the national interest and for the good of the country and the people. Because I believe that it is very

good for the democracy of Timor-Leste if from now on it is possible in the entire existence of the state of Timor-Leste, to have a minority government that only serves the interest of the people through political control of the responsible parliament. That is, if the government is available to accommodate the interest of the opposition party and if the government has a good program for the good of the country, then the opposition party should have responsibility to support the execution of this program and if the government deviates from its program then the National Parliament can call attention to the government executing its program well, according to what is planned. If the government does not want to listen to the National Parliament's call for attention and if the government commits a major and serious mistake, the National Parliament may present a motion of censure, according to Article 111, paragraph 1, "The National Parliament may vote motions of censure on the Government on the execution of its programme or matter of relevant national interest, on the initiative of a quarter of the Members in full exercise of their functions". However, a motion of censure should not be tabled until the government has implemented its programme. Otherwise, we can ask the motion of censure for government as an organ of the State: the executive, or for the Government's program. We must separate things. The Government as a sovereign body results from a legislative election and the nomination of the Prime Minister is the exclusive competence of the President of the Republic. No one can question the constitutionality of the formation of the Seventh Government. Deputies can only present a motion of censure for the Government's program. But how can deputies present a motion of censure for a program that the government has not yet executed? Non sense! I understand that the alliance parties of the parliamentary majority want to overthrow the Seventh Constitutional Government within these months so that the President of the Republic cannot dissolve the National Parliament and thus the alliance parties of the parliamentary majority. They hope that, due to the lack of the existence of a sovereign body, the Government, then the President of the Republic, seems to be obliged to nominate the Prime Minister of the party that is in second place or of the alliance parties of the parliamentary majority. On the other hand, the Prime Minister of the Seventh Constitutional Government seems to be "postponing" not to present the program of the Seventh Constitutional Government for the second time within the six months to the National Parliament with the intention of exceeding six months. Because, if the National Parliament rejects the government's program for the second time, then the President of the Republic has constitutional legitimacy to dissolve the National Parliament and therefore the early election will take place. From this phenomenon, I see that politicians look for gaps in the normative order to defend and achieve their goals. For me, the solution to the problem may be through the reshuffle of the government. The Prime Minister must reshuffle his government by also integrating either the CNRT party or the Khunto party into his government to ensure governmental stability.

I firmly believe that as a minority government, the government will be very careful to provide a good service to the country so as not to conflict with the National Parliament. For a minority government, this motto "*salus publica suprema lex*" must be applied. Only then does it gain more credibility with the people. If this becomes a reality, the development of Timor-Leste will quickly be seen because everyone wants to serve and contribute only to the good of the people. And if the opposition party does not support the minority government that has a good program for the country, then we must ask what does the opposition want? I am aware that every party always has an objective, which is power; the governance of the country. But if it goes a little further, a party must also have a responsibility to the lives of the people and the country. In other words, a party must put the interest of the country; the good of the people, above all other interests. This is an

ideal. I must admit that it is actually very difficult. It all depends on the maturity of the politicians. So the question must be, what do politicians want? Power, of course. And what do they aspire to power for? The answer already depends on the conscience of each politician and so this will vary from one to another. What I am afraid of is reflected in these words of Rousseau: "nothing is more dangerous than the influence of private interests on public affairs...". This is a major obstacle to democracy and the country's development.

In Timor-Leste, I observe that there is another very big obstacle at the moment, which is what I call Maun-Boot democracy, which is democracy where decision-making only serves the interest and taste of Maun-Boot. The Maun-Boot within the organs of the State. The Maun-Boot within the political party and the Maun-Boot within any organization of a secular or religious character. Regarding Maun-Boot within the organs of the State, I remember (if I am not mistaken) an interesting question from His Excellency the Prime Minister Dr. Marie Alkatiri on the last day of the presentation of his program in the National Parliament, which was: "how long will the patronage of the institutions of the State be held?". I don't know what the point of that question was. But this question corresponds to this phenomenon of Maun-Boot democracy within the organs of the State. However, Maun-Boot democracy is not as serious as it is in Indonesia with guided democracy, in Pakistan with basic democracy, in Egypt with presidential democracy, in Spain with organic democracy, in Paraguay with selective democracy, in Dominican with neo-democracy. But anywhere in the world, it is not democracy, *nonsense*, if power is concentrated only in the same man or in the same group of politicians. In Timor-Leste, based on the words of Montesquieu, I can say that "Everything would be lost if the same man, a Maun-Boot, or the same group of politicians exercised 'in the shadow' the three powers, which are to make laws, to execute public resolutions and to judge crimes or disputes of individuals".

I think that a democracy that gives greater equality and participation of the people in the development process should be applied. As Professor Patrícia Jerónimo says, "Democracy means participation and it also means equality. "Equal rights", "equality in speech" and "equality in power"⁴. Outside of that, there is only a false democracy. On the other hand, I also share the idea of His Eminence the Bishop of the Diocese of Dili, Mgr. Virgílio do Carmo da Silva, SDB, when he says that "in East Timor the spirit of heroism is needed to fight against selfishness and arrogance. These become great obstacles for this people and this nation."⁵. Maun-Boot democracy really has both of these aspects; selfishness and arrogance. As the ancient Romans say, «Quod principi placuit, legis habet vigorem», what pleases the prince has the force of law. In Timor-Leste context about Maun-Boot democracy, I can say what pleases Maun-Boot has the force of law. I get worried when I see politicians trying to deceive the people. But I am more concerned when I notice the silence of the social forces; academics, civil society, the Catholic Church and other religious confessions, in the face of political lies, injustice, the violation of the rights and human rights of the citizen, poverty, etc. If there is such a situation, it must mean that there is something that is not yet working well. Therefore, I give my praise to the University and Youth Movement of Timor-Leste, as one of the social forces, to contribute to the proper functioning of the organs of the State of Timor-Leste to serve the people of Timor-Leste well. No citizen can have restrictions, he has the right to control the proper functioning of public bodies (Igreja, 2021). Therefore, the State must

⁴ Jerónimo, Patrícia, Os Direitos Humanos à Escala das Civilizações: Proposta de análise a partir do Confronto dos Modelos Ocidental e Islâmico, Almedina, 2001.

⁵ Suara Timor Lorosae, November 14, 2017, p. 3.

collaborate with any peaceful demonstration of young Timorese students, especially when young university students demonstrate not for their personal interest. They don't get anything like it. But they, like the great Timorese leaders of today, at the time of the illegal occupation of Indonesia, did not stand idly by when they saw the injustice that occurred in society. They fought bravely against the injustice of the oppressed people of Timor-Leste. They suffered from the arrogant authorities and the dictator. They were captured, tortured and imprisoned (Deluggi & Ashraf, 2023). Have our leaders, in today's time, in independent Timor-Leste, become equal to the Indonesian generals? Because our leaders are no longer as they used to be. Is this bravery in fighting injustice just one of the characteristics of young people? Or is it just one of the characteristics of the oppressed? Are the leaders of the resistance now old and lose that spirit of bravery and struggle against injustice? Or do these leaders already have a good life, around everything they want in life, and then they have already lost that bravery? When the current Timorese leaders are about to commit an injustice, please remember the injustice they felt in the past. Now in independent East Timor do they want to become a new oppressor for the people? And then we can ask what was the meaning of the struggle at the time of the occupation? Wasn't it to liberate the homeland and liberate the people?

I hope that our leaders of Independent Timor-Leste, as important people, do not become oppressors for the people of Timor-Leste. As Commander Nino Konis Santana said that the People of Timor-Leste martyred, suffering, defenseless and peaceful for a just, noble cause that the leaders of the world have often forgotten.⁶ Therefore, the leaders of the resistance cannot create suffering for the lives of the martyred, suffering, defenceless and peaceful people of Timor-Leste. Otherwise, we can ask: what did they fight for? Did they struggle to switch positions with the Indonesian occupiers? To do as the Indonesian military made the people of East Timor suffer? They fought to liberate this homeland and this people. Has the liberation of the homeland already been done and the liberation of the people? The liberation of the people must be their liberation from poverty, injustice, political lies, discrimination, etc. The liberation of the people must be the liberation from all violations of human rights.

I want to ask these questions to touch the hearts of our current leaders to continue to defend the interest of the people. So that they do not forget what happened in the past time of darkness. So that they do not forget what they promised in the time of struggle. So that they do not become like new oppressors for this people of Timor-Leste. So that they continue to defend the people of Timor-Leste as they did in the time of the resistance. Therefore, all of us; leaders of the resistance, all the social forces that love our country of Timor-Leste, we must make and implement the suggestion of Grand Commander Nino Konis Santana when he asked to know how to resist incessantly in order to seek freedom and justice, the two foundations for peace.⁷ In Timor-Leste, we also need to train young students to have a critical spirit not only towards our countrymen, but also in relation to foreign interests so as not to increase the suffering of these people. We must seek to make our contribution to the formation of the Democratic Rule of Law for the good of the people. We really need to be careful that young college students have not just become like yes-man and yes-woman. We have no problems with anyone or any country. Our problem is only to try to guarantee a good life for this people and this suffering homeland. Has all the suffering, since our ancestors in Portuguese times and Indonesian times, still not enough? Therefore, we must give our praise to the University and Youth Movement of

⁶ Mattoso, José, Konis Santana no Tuba-rai Timór nian, Lidel, p.305.

⁷ Ibidem.

Timor-Leste that has become like one of the social forces to carry out social and political control for the good of this dear land of ours! Bravo, friends, the fight continues!

For Montesquieu, when the territory is small, the state can seek political solutions of a democratic type. But, as a simple academic, I think that the solution to the problem must be by legal-constitutional means. I share the idea *intentio inservire debet legibus non leges intentioni*, that is, all the actions of political parties must be in accordance with the laws; the constitution. Not the laws to the intention. Therefore, in relation to the Seventh Constitutional Government, the solution must be by constitutional and democratic means. It cannot be through politics. Because the formation of the government is already a constitutional issue, it follows the constitutional requirement, according to article 106 of our constitution, and results from a democratic act that is the legislative election. The short-term, political solution seems to be a good solution, but the political solution often ignores the respect for the constitution and the basic principles of democracy. If the solution to all the problems of the State, in this case the formation of the Government, happens only by political means, then there is a risk of weakening one of the fundamental principles of state-building, which is the principle of the democratic rule of law. On the one hand, the political parties of the alliance with a parliamentary majority that want to bring down the government act in a constitutional way and, on the other hand, the early election is also constitutional. Otherwise, it is unconstitutional. I agree with the opinion of the Law School of the University of Minho, regarding the annotation of article 112 of our constitution, which says in number 3: "The judgment of necessity regarding "the normal functioning of democratic institutions" is autonomous and freely appreciated by the President. The latter should only first meet the Council of State and hear it on its intention. The resignation of the Prime Minister brings with it the resignation of the Government as a whole." I think that in the formation of the Seventh Constitutional Government, excluding the Khunto party was not a wise decision.

Now, if the alliance parties with a parliamentary majority bring down the government, His Excellency the President of the Republic must, in the name of the democratic rule of law, dissolve the National Parliament, after six months of his function, and call early elections. I share the idea of His Excellency Prime Minister Dr Marie Alkatiri and have the personal conviction that if there is an early election Fretilin will win more parliamentary seats than it has now. Even so, I note that there are three groups of voters at the moment that we must take into consideration. Some Timorese vote for the party based only on historical sentiment linked to a particular party or a particular politician. Others vote for the party as a matter of personal and group interests. Then there is another very small group that votes for the party's program. They choose and vote for the party that best corresponds to their inspirations and expectations. The latter group uses its vote responsibly; make a responsible vow. To strengthen the Democratic Rule of Law, Timor-Leste must provide a lot of training and seek to promote civic education to make the latter group grow more and more.

CONCLUSION

In the end, I hope that all politicians, in any government formation in Timor-Leste, will take into account, *sine quo non*, the votes that can ensure governmental stability in the National Parliament. The winner party may be absolutely right about the formation of the government, but if the winner party does not have enough votes in the National Parliament, all the reason is worthless. Because democracy is always the democracy of votes.

I need to say that this study was done only by observation and consultation of the written works and so I think that this study integrates only subjective ideas from my observation and my analysis and so I recognize that this study still has some limitations and I hope that the future study of the same subject can be improved even more.

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