

ACCESS TO HEALTH AS A FUNDAMENTAL HUMAN RIGHT IN TIMOR-LESTE (2023).

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Abstract

Introduction: Health is a complex concept that has been largely modified over time. Nowadays, the concept of health goes beyond the absence of disease. When talking about Health, it is considered the balance existing within a person to ensure the quality of life that you, close to people, to satisfy the physical and psychological maturity must by medical assistance in society. The main objective of the WHO is to promote the increase in the level of health of all peoples, and health is defined by the organization as a state of complete physical, mental and social well-being that does not constitute only the absence of disease or infirmity.

Objectives: To ensure health through policies to prevent the risk of disease, treatment in general, except the same, in the same way, differently, differently, in principle, proportionality and equality, in a clear way, in the process of care, and to provide knowledge about fundamental rights enshrined in the constitution to citizens and competent entities fighting to consolidate the rule of law and democracy in Timor-Leste.

Methodology: We used the literature review method and inclusive source reviews that are linked to health laws.

Conclusion: When talking about the issue of health in priority to the common access of the populations in Timor-Leste as a discrimination that still does not respect the dignity of the human person that addresses it in the constitution as a basic principle that resorts to equal treatment in equal forms and different treatment, to correspond to the idea of justice in principle of equality and proportionality cited by (Tilman CB & Natalino A., 2023).

Key words: Access to health and fundamental human right.

INTRODUCTION

Health Department

When talking about health, it is considered the balance existing within a person to ensure the quality of life that you, close to people, to satisfy the physical and psychological maturity must by medical assistance in society. In society and realize the love of the family and their dreams in the better future. Therefore, health is the set of biological form that is fully born from each one of us relationship by the human body, which has in complete life to derive the daily activities in the family in totality in globalization societies. Within human life, health is considered necessary sources to take care of and protect well, not to have the causes or symptoms identified as diseases and other diseases that have been classified by the competent authorities on the diseases caused or symptoms that should be provoked in our full body. Health is a complex concept that has been largely modified over time. Nowadays, the concept of health goes beyond the absence of disease. The main objective of the WHO is to promote the increase in the level of health of all peoples, and health is defined by the organization as a state of complete physical, mental and social well-being that does not constitute only the absence of disease or infirmity. To achieve the goal, the WHO seeks to fulfill an agenda with six strategic points:

- Promotion of development. Health has a proven relationship of interdependence with socio-economic development.
- The promotion of health security. The vulnerability shared by the whole world in the face of health threats.
- Strengthening health systems. In this area, the World Health Organization (WHO) seeks to ensure the training of health workers.
- Harness research and information. The World

Health Organization produces expert information on the basis of which norms and standards can be developed for monitoring and improving global health.

- Enhance alliances. World Health Organization has developed its work with the support and collaboration of many partners, including other international organizations and UN agencies, donors, civil society and the private sector.
- Improved performance. The World Health Organization is in a constant process of internal reform to improve its work performance.

Notion of Access to Health

Access to health is an inseparable device or not having limitations from public and private entities at the moment when they want to have access in hospital places more accelerated and guaranteed. Because of having symptoms and the impaired diseases, in this case the own solutions that the populations want to recover their health, and the only alternative is to consult to have a diagnosis about the disease. On the other hand, also access to information on the cause or impact of relevant diseases. According to the article cited by Sanchez and Cuccinelli (2012), they define "access to health and the creation of a model that can measure this access have been the object of much interest, since these aspects are fundamental for the development of sustainable plans and goals in the health sector". Access to health services based on the characteristics of the population and the organizational and geographic availability of the health system; On the other hand, they have already defined access as a political rather than an operational idea. He underlined that, in reality, nowadays access to health also has very difficult challenges, in society because politicians still do

not outline the program well to the population for the control of the health system cited by (Tilman CB & Natalino A., 2023).

Therefore, the population is not satisfied with the health control system at the level of remote areas to identify vulnerable people. The factors that imply health is the cause of human life if when governments do not give priority to the most efficient and effective access to health at the level of vulnerability. According to Donabedian's opinion, conceptualizing the use of the term accessibility, rather than access, described two aspects: socio-organizational and geographical. The idea states that I wanted to deal with the following two aspects:

- Socio-organizational: refers to the economic conditions of the population to combine access to health.
- Geographic: also refers to the geographic accessibility of the population, such as distance, space, and time.

All this, the economic and geographical conditions of the population are also tools of accessibility to health as the means of personal guarantees. It is necessary for governments to make decisions on how to prepare for the well-being of the population in a better and accessible future. For Janaína Machado Sturza (2019), therefore, given the relevance of having a sustainable world and having access to health, as both are fundamental rights enshrined in the legal system. Between fundamental rights and human rights, there is a great concern to safeguard the lives of the populations, because it is said that health does not exclude human life from access to health in an equal way and there is no separation between other men. Paragraph 1 of that article enshrines the funda-

mental right to health and medical and health care. This is a right to positive benefits from the State, although it is inseparably linked to certain norms that protect rights, freedoms and guarantees, such as the right to life (Article 29) and Article 57 (Health) and the right to humane treatment (Article 30). The duty to promote and protect health is the constitutional basis of a multitude of legislative measures, sometimes restricting rights, freedoms and granites, necessary for the defense of Public Health is fundamental in law cited by (Tilman CB & Natalino A., 2023).

Notion of Fundamental Right

Fundamental rights are inherent rights of the citizens that each state locates this right the law protects as the basic foundation of human existence. Fundamentally, men and women possess these rights and duties – as a sphere of "fundamental rights, because they reflect this fundamental relationship and because they benefit from the guarantees inherent in the specific force of their norms". Therefore, the end of fundamental rights was to benefit citizens both men and women as a privileged right and duty for the state to make decisions regarding the equality of all. From the point of view in general, it is up to the fundamental rights to affirm the modern state in all eras, there is no discrimination of the fundamental right that aligns in the formal constitutional order. Because fundamental rights must be respected by the parties in order to protect these rights. And these fundamental rights are protected by law, so the state has full power to control and respect the fundamental rights provided for in the constitutional order. Fundamental rights are understood to be a right that is not freely changed by the will of the legislator, these fundamental rights with an objective character in the thought of understanding

well in the implementation cited by (Tilman CB & Natalino A., 2023).

Notion of the Right to Health

In article 57⁰ of the CRDTL: "health is a right of all and a duty of the State, guaranteed through social and economic policies aimed at reducing the risk of disease and other health problems and at universal and equal access to actions and services for its promotion, protection and recovery". In short, the State creates the public health care services that respond to the needs of its citizens to guarantee and promote hygiene, sanitation and treat health as a human right in relation to human dignity, in principle of respect for the dignity of the human person. Therefore, the duty of the state must guarantee health through making policies of prevention of the risk of disease, treatment in general except the same in the same way differently in principle of proportionality and equality in a clear way in the process of care.

It states that the State has a great responsibility to make decisions under the State's objective in accordance with **Article 6⁰** of the CRDTL, paragraph (b) "to guarantee and promote the fundamental rights and freedoms of citizens and respect for the principles of the democratic rule of law". To guarantee and promote fundamental rights and freedoms, our state must have the obligatory duties and main objective to respect the rights of citizens in totality, as a basic principle in a state, so that there is no harm to other citizens. In addition, the State also has the obligation to create the conditions of health medicine to guarantee the hygiene and sanitization of citizens, all these are basic needs that should make nothing stop. Therefore, the State as a servant of the population and will protect the people with the various ways of

being executed, in its plan of action cited by (Tilman CB & Natalino A., 2023).

Goals

Deve ensure health through making policies of prevention, the risk of disease, treatment in general, except the same, in the same way, differently, differently, in principle, proportionality and equality, in a clear way, in the process of care, and to provide knowledge about fundamental rights enshrined in the constitution to citizens and competent entities fighting to consolidate the State of Law and Democracy in Timor-Leste.

THEORETICAL FRAMEWORK

I intend that health as a fundamental right that the State Timor-Leste guarantees, while in the Timor-Leste context the Fundamental Human Right to health was enshrined in the constitution of Timor-Leste as a fundamental right of all citizens, and it is incumbent, according to the Health System Law, on the State, within the limits of its human resources, technical and financial resources, to establish the conditions that guarantee their protection. The system was implemented by the State in the face of access to health are considered as a discriminatory act of the fundamental human right in the sense that it does not guarantee the conditions of citizens, as a social sphere that the law protects this right to have better conditions of human life through constitutional norms, fundamental rights to the protection of health have been created always exemplifications of the fundamental right to benefit, the source of creating fundamental rights in order to protect the fundamental rights to the protection of health.

Fundamental human rights to health are understood to be a form of equal treatment with the fun-

damental rights of the human being. Maternity and childhood are entitled to special help and assistance. All children, whether born in or out of wedlock, enjoy the same social protection. The right to the best state of physical and mental health obliges States to guarantee their citizens the conditions that enable them to attain a state of complete physical, mental and social well-being. In terms of human living conditions, the State's obligations towards the well-being of citizens and to take appropriate measures in a way that is accessible to vulnerable citizens through more accelerated treatment in accordance with the guidance of the World Health Organization (WHO). The principle of protection of human dignity is characterized as the democratic rule of law, which respects each other's rights and duties bound by the legal system, because the principle of protection of human dignity are essential rights to the human person. The constitution requires the dignity of the human person, such content must be respected, protected and promoted by the State under penalty of unconstitutionality. With regard to the fundamental principle of law, consonance with the principle of equality, if a State forms with respect for human dignity, it is certainly a State with a democratic character, as a foundation of the Rule of Law as a constitutional guarantee. The principle of constitutionality is encompassed in the constitutional text in general as a basic principle of the State vis-à-vis the citizen equally, on the other hand this principle encompasses the principle of constitutional supremacy that the constitution occupies the first hierarchy of legal norms. According to Article 2^o/2 CRDTL "The State shall be subject to the constitution and the laws". It is a matter of the State subordinating the law in order to give concrete expression to the principle of constitutionality, it understands

whether any act of the State must be in conformity with the constitution and the laws to guarantee the relationship of subordination between public bodies and the Constitution. The principle of constitutionality as its sub-principle, highlighting a peculiar relationship between the constitution and the rest of the legal order. The principle of the well-being of the people is based on the idea that the purpose of the state corresponds to the purposes of the programs implemented. On the other hand, the principle of the well-being of the people is reflected in the guiding principle of ensuring the well-being of health as the basic need. Through the principle, they can value the people in order to treat the people well and quality in relation to life in a freeway in relation to public health treatment, but immanent to the human being. However, this principle was placed in the constitution in the face of the fundamental objective of the State, that is, every individual has positive benefits of the second generation, which includes free access to universal health and medical care, such as the protection of the right to life and health.

When talking about this principle of fundamental access to health, it encompasses the fundamental right of the human being of a respective character to the right and duty of the citizen. Under the terms of article 57^o (Health) the principle of access is the fundamental right of the citizen as a duty of the citizen, for the time being the state must respect another principle of democratic right such as human dignity, equal treatment to access to the fundamental right of health as much as possible, the guarantee of the provision of health care of the same level to all who need it also responds to the requirement of equal access health. The principle of equal treatment is a principle of non-

discrimination against citizens, on the other hand, this principle to be concretized in human reality after having the right to access the necessary public goods. In the principle of equal treatment, in the broad sense, it refers to human treatment equally and without distinction, for example, health treatment must be equal before the law. By virtue of the principles of equal treatment, it requires the public authorities to treat all human beings equally. This principle is a right directly linked to human dignity and fundamental rights and the fight against discrimination in the treatment of the public health.

Under the terms of Art.137 /2 of the CRDTL, when speaking of this principle, it is the most important thing for the State to control the health of ^{the} populations because the principle of approximation is the most appropriate means to measure the needs of the populations in terms of health. Therefore, this principle is about the power of control by the State to citizens who are vulnerable to access to health and medicines. The principle of gratuity was safeguarded by the constitution to access public health free of charge, according to its measures and people's possibilities in the face of this principle. According to this principle, it has value to respect human rights and human dignity with its existence by promoting vulnerability in access to free healthcare. In terms of the annotated constitution of Article 57⁰, in part 4. Pursuant to paragraph (a).⁰ 2, "The right to health involves the creation of a universal, general and, as far as possible, free national health service, in accordance with the law.

In the end, access to free health care is limited by the State to the citizen, for the time being, the populations also have positive discrimination

against the State, to guarantee the rights of life that are contained in the constitution and it is a right to positive provision by the State to make more expeditious decisions to the State. In order to guarantee access to health care for all citizens, free of charge and adequately, the State must guarantee health care regardless of their economic condition. "Through a universal and general national health service and, taking into account the economic and social conditions of citizens, tending to be free of charge". According to the Portuguese constitutional order, defend the right to health protection free of charge, but in reality, access to health in Timor-Leste is not free in the case when he/she goes to the hospital to treat diseases, sometimes there are no medicines relevant to the diseases, this can involve people's human life cited by (Corte Real AG & Tilman CB., 2023).

DISCUSSION

Health was enshrined in the constitution of Timor-Leste as a fundamental right of all citizens and, according to the Health System Law, it is up to the State, within the limits of its available human, technical and financial resources, to establish the conditions that guarantee its protection. The constitutional framework is about access to health as a guarantee of the well-being of citizens, in order to protect human life and respect the dignity of the person, which is provided for in the legal system as a fundamental right and human rights have legal goods. The health system of Timor-Leste is operated by the Ministry of Health and regulated by Law **No. 10/2004 of 24 November 2004** of the **Health System**, the functioning of the health system and the possibility of effective health protection ensures the good health of all citizens, and **Art. 5⁰** of this law defines the Entities of the Sys-

tem, that the system of professional training to improve human resources such as health education and health integrate the effectiveness of services into the national service and develops health promotion and disease prevention. On the other hand, it develops the health policy of medicines and establishes professional training to improve human resources as health education is guaranteed by the law cited by (Tilman CB & Natalino A., 2023).

The National Health Service acts through its own services or through private entities with which it enters into agreements, whenever this is advantageous in terms of quality and cost and provided that the right of access to the beneficiaries of the National Health Service is guaranteed. Access to health, understood as an economic, social and cultural right and duties, is a right that is subjective in nature by virtue of the recipients as mandatory for the State to create the Conditions, which will be access to health, the constitutional order establishes under the terms of **Art.57⁰** of the **CRDTL**, all citizens have the same right of access to health to obtain medical assistance, and for the State it has a duty to establish its citizen in the legal binding relationship, to use the measures, to promote and install dignified conditions, the national health service in universal and free of charge, in accordance with the law. I claim that access to private health care comes from the private nature of the subjective right depending on the economic circumstances of the citizens, based on Article 24⁰ of **Law No. 10/2004 of 24 November 2004, the law of the Health System**, private entities providing health care, which allows the private sectors to have the legitimacy to carry out private activities without prejudice to the licensing provided for in this article, They are

in the common interest with the public sector. Therefore, the existence of the private sector contributes to the competitiveness of national public health services is very important cited by (Tilman CB & Corte Real AG., 2022).

When talking about the Public Health Policy, it is a policy that pursues the national interest, under the terms of **Art. 3, ⁰1. of Law No. 10/2004** of 24 November of the Health System Law, the health policy is integrated into the Government in relation to the Ministry of Health which is regulated by the organic law of the Ministry of Health **Decree-Law No. 52/ 2020** of 21 November 2020 and **5 March 2021**, health policy prevails in the health service and the policy of creating the most favorable conditions develops the promotion and protection of treatments are patients. All this is elaborated by the Government to guide the health services through the execution of the program to achieve the objective of the State according to **Art.6⁰ CRDTL**, to solve the difficulties faced by citizens regarding the health of the population. Therefore, public health policy is the means of government guidance to improve the infrastructural conditions of health to ensure the development in the health sectors to access and enjoy the rights and duties established in the constitution as the responsibility of the public power of the Democratic Rule of Law. On the other hand, the promotion and awareness of information on vulnerabilities in order to ensure the knowledge of Timorese society in the implementation practice cited by (Tilman CB & Corte Real AG., 2022).

When talking about the essential challenges and problems of access to health in Timor-Leste today, Timor-Leste has taken on major challenges through the ministry of health and relevant enti-

ties due to lack of human resources, outpatient clinics, infrastructure and specialized medicines in the disease of populations. The challenges faced by our state is the competent part that deals with health still outlining the best program. That is why there are challenges that may involve access to health of the populations, essentially related to health, in the case where when the population goes to the health center there is a lack of professionals to care for the relevant disease, in the case of urgent treatment of pregnant women, without relevant health medicines, there is a lack of basic infrastructure in the post and center of hospitals in rural and national areas. Summarizing the challenges and problems posed in the context of access to health to the people, the rulers who manage the health sectors still do not execute the best programs based on the implementation of the national health policy and health system cited by (Tilman CB & Corte Real AG., 2022).

I want to know that access to health has been internationally recognized to protect individuals and populations to ensure the well-being of human life. By virtue of the Declaration of Human Rights and Human Law, the services of international organizations that deal with the subject of health and these organizations, organized by the World Health Organization (WHO), deal with the health of people in the world worldwide, including Timor-Leste. In Timor-Leste, the right of access to health is enshrined in the law and decrees, laws as legal means in the face of essential principles in order to protect citizens. In the Timorese legal system, the constitution establishes under the terms of **Art.57⁰ of the CRDTL**. This legal precept that guarantees the right of citizens to access health, and binds the State has the obligation to protect its citizens, in line with **Art.6⁰** of the

CRDTL, the objective of the State. In addition, the state establishes the legal regime of the health system in Timor-Leste, **Law No. 10/2004**, of November 24, the health system, the state creates the health policy of improving the conditions, infrastructures, care, health professionals, medicines, promotion and prevention and treatment of diseases. On the other hand, in order to ensure the health of the population, especially access to health, it is necessary to ensure that the health of vulnerable populations is based on the needs and equity. Finally, the state must create the laws and decrees of health laws to guide and ensure the improvement of the health of the population as the common welfare. The appropriate solutions to access to health in the first place are up to the State to obtain adequate treatment and without distinction in the access of medicine to vulnerable citizens, build hospitals and rural areas, increase health professionals and health specialty, increase ambulatory cars in each health center, control the health system in general, promote awareness of adequate information on diseases transmitted to the citizen cited by (Tilman CB & Natalino A., 2023).

CONCLUSION

Timor-Leste is the Democratic Rule of Law and its constitutional system establishes the right of access to health under the terms of **article 57⁰ of the CRDTL**. And installs the public institution as the Ministry of Health with its organic law of health Decree-Law No. **52/2020 of October 21 for the first amendment to Decree-Law No. 3/2019, of March 5**, to improve its services and the professionals are, regularizes by **Law No. 10/2004**, November 24 **health system in Timor-Leste**. The State Timor-Leste makes the maximum effort to create the health policy to guarantee its citizens, in a situation of State emergency

'look down' that the State politician to protect its citizens, such as the transmission of covid-19 outbreak. Timor-Leste establishes cooperation with the World Health Organization (WHO; 2021; Tilman CB & Natalino A., 2023) during its independence to improve health service and knowledge; emergency disease response and disease prevention treatment promotion.

Here we still need a strategy to guarantee access to health care and creates the mechanism for treating the vulnerable on the issue of access as the same right as a fundamental human right; While the issue of access to healthcare in Timor-Leste are considered the minimum of the existence of the population in remote areas within the scope of limited access, in relevance to the human need for individual and their families, because of the economic reality and the control by the executive branch that treats the health infrastructure conditions that still make more serious decisions regarding the common health conditions in question. When talking about the issue of health in priority to the common access of the populations in Timor-Leste as a discrimination that still does not respect the dignity of the human person that addresses it in the constitution as a basic principle that resorts to equal treatment in equal forms and different treatment, to correspond to the idea of justice in the principle of equality and proportionality cited by (Tilman CB & Natalino A., 2023).

REFERÊNCIAS

1. Andrade, J. C. (2007). Fundamental Rights in the Portuguese Constitution of 1976. Coimbra: Livraria ALMEDINA.
2. Nazareth Oliveira, C. d. (2015). Fundamental Rights in Timor-Leste: Theory and Practice. Coimbra, Portugal: Ius Gentium Conimbrigae.
3. Cunha, P. F. (2007). Applied Constitutional Law: living the constitution, citizenship and human rights. Lisbon: Quid Juris, Sociedade Editorial
4. Canotilho, J.J. Gomes (2001). Constitutional Law (5thed., fully recast and enlarged) Librarian Almedina.
5. Driesch R. Luis (2015). Right to health (1st edition) National Council of Health Secretariat-CONASS. Martins M. Rosa (2021) Histories of global health: The World Health Organization and Cooperation with Non-State Actors (rev.colomb.cienc.soc. [vol.12].
6. Gouveia, J.B. (2012). Constitutional Law of Timor-Leste. Lisbon: Portuguese Language Law Institute.
7. Miranda Jorge, Fundamental Rights 2nd Edition 2017.
8. Pereira Maria de Assunção do Vale, Fundamental Nations of International Humanitarian Law, 1st Editions Coimbra 2014.
9. Ribeiro Manuel de Almeida (Cord), et, al, home, Encyclopedia of International Law, 2011.
10. Reys L. Lesseps (2008) Introduction to the Study of Medicine, Legal (vol. I Deontology and Medical Law).
11. Sousa M. Rebello. (2013). Constitution of the Portuguese Republic and Complementary Legislation (ed. Noticias Aequitas).
12. Tells G. Innocent (2011) Introduction to the Study of Law (vol. I.11. TheEd.Reprint).
13. Vasconcelos Pedro Carlos Bacelar (Cord), at, et, home, Annotated Constitution RDTL, Dili/Porto, 2011.

-
14. Valente G.M. Manuel (2011) Universal Declaration of Human Rights, Commemorative Studies, 60. the anniversary.
 15. RDTL Constitution
 16. Annotated Constitution RDTL
 17. RP Constitution
 18. Law No.10/2004 of 24 November 2004 on Health in Timor-Leste
 19. Decree-Law No. 52/2020 of 21 October 2020 first amendment to Decree-Law No. 3/2019 of 5 March 2020
 - 20.** Declaration of Human Rights (1946).