

**The Case of Abortion is a Problem its Legalization in Territory of Timor-Leste (2024).**

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**ABSTRACT**

**Introduction:** *The main objective of this article is to approach the case of abortion with the form or manner in general and the modalities of pregnancy existing in Timor-Leste. Thus, the unsuccessful case is determined as the interruption of the pregnant woman with the destruction of the product of conception of human intercourse. The case of abortion can be classified into two models, such as spontaneous and instigated abortion.*

**Objective:** *For what will be analyzed and examined about abortion or undue abortion is the problem of its legalisation which does not yet exist in the context of law and institution in Timor-Leste.*

**Methodology:** *We used the deductive methodology in this composition and elaboration, because all research investigations are done through the library and other references were consulted in international articles and on the internet as a means of supporting and assisting in the study.*

**Discussion:** *In the terms applied of spontaneous and when abortion happens naturally and induction is when the pregnant woman is interrupted by the will of the woman or mother. For many, the possibility of taking care of themselves is not fully supported by the legal system and the Catholic religion. For this reason, each place has its own process and seeks to solve it in a way that is more appropriate to the environment in which it lives, not forgetting or forgetting that the laws are the same tools of implementation. Thus, this study is to discuss and understand the legal aspects of the legality of abortion according to the Penal Codes and Constitution of the Democratic Republic of Timor-Leste (CRDTL) to be valid and considered in the legal framework accordingly.*

**Conclusion:** *The criminalization of abortion is historically related to social, political, religious and economic interests depending on the time and location, in addition to being adequate with the cultural*

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*understanding of what it is to be a woman, the meaning of pregnancy and the baby, in a public health condition cited by (Tilman CB & Acácio J., 2024).*

**Keyword:** The Case of Abortion Modality Amplification in the Pregnancy of the Legal Aspects.

## INTRODUCTION

Overview of the deprived nature of abortion in the world, in fact from remote areas, the practice of abortion has never ceased to exist and evolves according to the evolution of medicine and nursing, especially the environment in which we are introduced. However, and therefore, abortion give the impression to be an attitude of behavior known and widely used in several cultures. In ancient Greece, Aristotle indicated that abortion as a method of effective control of the Greek population by limiting births. Plato, on the other hand, argued that abortion should be compulsory, for eugenic reasons, for women over 40 years of age and to preserve the purity of the warrior race. Socrates recommended that the practices of midwives should facilitate abortion for those women who wished to do so. To the Romans thus, abortion was a similar practice, and considered a natural right of the father, who decided on the life or death of his children, born or unborn. Although this is a permitted practice among the peoples of ancient or antiquity, it could be interpreted on recognized optics depending on the time in which particular action process is not good cited by (Tilman CB & Acácio J., 2024).

The general perception of the abortion case in Timor-Leste, the issue of abortion is controversial and difficult to discuss. But all Timorese women have rights like other women in the world, but access to these rights is not equal even among women, it is created for all, but in practice it is not for all. There are also women who cannot, for various reasons, decide on their own lives because they are not yet economically dependent on their parents.

According to the opinion of the Ombudsman's Office for Human Rights and Justice (PDHJ), pregnant and unmarried adolescents are subject to the end of their education and the threat of violence by their families. Girls often resort to unsafe abortion, often involving toxic or non-sterile procedures and performed by unqualified practitioners. It is important to intensify efforts so that Timorese societies understand the issue of women as subjects of rights and establish an idea in the coherent discussion on the title of abortion case in Timor-Leste. The Catholic Church condemns those who perform abortion in every and every situation, and abortion is considered murder. Thus, religion becomes a significant political force that imposes values and moral above all as a human being in the concept of Universal Human Rights there are all global citizens in the context and situation is different cited by (Tilman CB & Acácio J., 2024).

The Ministry of Health represents the Government of Timor-Leste which should seek a concept idea for the implementation of policies on the reduction of maternal and infant mortality. These conditions presuppose the right of every individual to be informed and to have access to safe, effective and acceptable methods of family planning that they have provided to health services that enable women to have a safe pregnancy and childbirth. This is not a religious issue, but a title of medicine and public health that justifies what happened. No one will be forced to have an abortion; it is an individual decision. But it is up to the State to provide the basic conditions of care and important information for those who decide to appeal to it. Issues related to

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sexual and reproductive rights are part of the broader theme of Human Rights. Health is among the fundamental rights, guaranteed by the Constitution of the Democratic Republic of Timor-Leste (CRDTE). In this context, women's health care can be seen as a result of the associated health policies implemented in Timor-Leste, through the launch of the sexual and reproductive rights policy, including the expansion of the supply of contraceptive methods applied in the health system of rigorous knowledge and operationalization of theory and practice can be used by the medical team to decide based on law acceptable cited by Tilman CB & Acácio J., 2024).

Society, culture and religion are determining factors that hinder Timorese women to be afraid, ashamed and feel sorry to resort to pregnancy because the Timorese mentality is still narrow in relation to this matter. But we cannot deny that in Timor-Leste there are many cases of abortion, and it is still difficult to obtain reliable information on the subject because they are considered to be cases that have to do with people's privacy and it is a secret that should not be published. In the year 2023, the Guido Valadares Dili National Hospital registered one hundred fifty-nine cases of abortions. Thus, in the same 2022, 140 cases of abortion entered HNGVD, and this number decreases, significantly, these data are data recorded in the hospital, but there are cases that are not registered or anonymous because some women do not go to the hospital. In 2022, only 13 cases will be recorded in the months of January to December, so we cannot say that there are no cases of conditional abortion. Family planning is the right of all citizens and they reject a set of education and health promotion actions and are considered to be of all resources and accepted for conception and contraception. The right to plan

is the number of and spacing between children, requires access ensuring contraceptive methods for all people of reproductive age, according to their needs couples, adolescents, adults and people with disabilities should have considered the method applied by the health system with a view to indicating medical boards understanding and client cited by (Tilman CB & Acácio J., 2024).

Family planning aims to increase women's and men's access to information about contraceptive options, ensure the provision of contraceptive methods for the population of reproductive age, and encourage the participation of men and adolescents in well-decided family planning actions. Contraceptive methods are methods used by women and men to prevent pregnancy. Just as there is no definition of the completely effective method, there is no definition of the contraceptive method to be adopted. This is due to the fact that each couple lives a different reality from each family, and the factors that influence it, such as health and the value of the method, the desire to have children in the future, must be analyzed. The contraceptive method consists of controlling conception, i.e. preventing pregnancy from occurring. Therefore, various methods are used that allow their main purpose in the application of practice of the same type in accordance with the need of the people who use it and well protected in law and other regulation mentioned cited by (Tilman CB & Acácio J., 2024).

### **The incomprehensible case of abortion in Timor-Leste.**

In Timorese society, the law, religion and customs, which it carries in this way, the emergence of debates about the current ones must be observed from different perspectives and also creating a division of opinions that perpetuates to the present day. In

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this sense, there has been intense diversity in its ideal treatment over time, currently being considered legal by certain regions and periodicals, sometimes being harshly punished and punished to taking more attention cited by (Tilman CB & Acácio J., 2024). Thus, legitimately because it is considered a controversial issue in which the Church, the State, Health and society itself differ on it, it is first necessary to conceptualize the case of abortion in the face of some views over the years and how it is observed in the current situation of the health service provided in Timor-Leste.

**Objective:** To analyze and examine the case of abortion is a cause or problem of its legalization which is not yet well defined in the matter in the context of the true situations of our law and institution the responsibility of Timor-Leste.

## **THEORETICAL FRAMEWORK**

Fundamental Notions of the Pregnancy Case:" Concept of Pregnancy of an abortion. Before we get into the subject, we must first understand the meaning of the word of honor. According to (Arnaud, 2008; WHO, 2022; quoted by Tilman CB & Acácio J., 2024), the word for abortion is a Latin term (abortus) derived from a composition that reflects the root of AB, which means the birth of a baby or child. So, its meaning would be its need for the newborn, but we can say that abortion is the death or death of a child in the mother's womb, which is produced during some moment of the pregnancy, from the beginning of fertilization to the expected moment of labor or birth." Thus, abortion is a discontinuation of pregnancy that can occur in a spontaneous or induced way, which puts an end to the life of the fetus, through various techniques and methods and the possibility of being considered a crime when it is not carried out in ac-

cordance with the existing law in each country. According to the concept of pregnancy or abortion number 1. Anyone who, in any way and without the knowledge of the pregnant woman to make her pregnant, is punished with a prison sentence of 2-8 years. Paragraph 2 states that anyone who, by any means and with the consent of the pregnant woman, has an abortion is punished with jail time or imprisonment for up to 3 years. And in point 3, the pregnant woman who consents to the pregnancy or abortion performed by a third party or who, by her own act, is having an abortion is punished with imprisonment for up to 3 years in article 141 of the penal code of Timor-Leste.

The definition of abortion in medical terms has been defined as articulating the abortion is the last of a pregnancy before there is viability, of a fertilization the fetus has the ability to survive outside the womb. (Another definition of pregnancy or abortion means the discontinuation of a pregnancy before fertilization and viability, before the fetus can live alone outside the ovary), Discontinuation of pregnancy that at a gestational age sufficient to survive outside the mother's womb, leading to the destruction of the baby that had happened when the embryo fails to live outside in the mother's womb. The case of abortion can be classified into several types, such as: spontaneous abortion and induced abortion, the latter focuses on cases in which there is a risk to the physical or psychological health of the mother and malformation of the fetus. Pregnancy or spontaneous boredom, for this type it arises when the pregnancy is interrupted without the woman's will, it can happen due to various biological, psychological, mental and social factors that contribute to whether this condition is true or not. Thus, the case of miscarriage is the expulsion of the baby or fetus in a natural way that can be early,

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if it occurs up to twelve (12) weeks of gestation, or late, after twelve (12) weeks of gestation. The causes are many, those unpregnant or miscarriages that occur at the beginning of pregnancy because the embryos do not develop well in the first weeks and that do not have conditions to survive, are very difficult to be diagnostic, by medical indication cited by (Tilman CB & Acácio J., 2024).

A miscarriage involves the death of the embryo, and it can increase the risk of miscarriage of the same gender in future generations, that is, when an abortion happens the woman should have immediate treatment otherwise in the future it may happen again. The case of miscarriage is already excluded from any interest of criminal law. When due to biological, sociocultural or any other natural cause, the gestation process becomes unfeasible by itself, and spontaneous abortion occurs. The factors that cause the occurrence of miscarriage according to Anttonette T. Dulay "age over 35 years, history of miscarriage, smoking, use of certain drugs (e.g. cocaine, alcohol, high doses of caffeine), poorly controlled chronic disease (e.g. diabetes, hypertension, overt thyroid disorders) in the mother. Induced abortion, in this type of abortion, happens when there are congenital malformations, when the pregnancy results from a crime against sexual freedom and self-determination, and when the pregnancy endangers the life and physical and mental health of the woman or simply by the woman's choice. The case of induced abortion can be carried out in two ways: medical or surgical. It is legal when the discontinuation of pregnancy is carried out in accordance with the legislation in force, when done early by experienced physicians and in appropriate conditions that have a very high level of confidence and comfortable safety the people cited by (Tilman CB & Acácio J., 2024).

The case of induced or induced abortion is the result of maneuvers practiced with the aim of interrupting the pregnancy in a concept of truth. The maneuvers can be performed by the pregnant woman herself or by another person, at her request or request due to a health condition. The termination of pregnancy by the surgical way is when a tube is introduced through the entrance of the uterus, connecting to an aspirator that destroys the body of the fetus while extracting it cut into pieces, separated from the walls of the uterus and extracted, this means is called aspiration, carried out between the sixth and tenth weeks. The second means is called dilation, to make it easier and is similar to the previous method, but a curette with a sharp tip is used that cuts the fetus into pieces to facilitate its extraction. Illegal abortion is considered even the suspension of pregnancy when the reasons given are not covered by the legislation in force. The case of abortion is considered as a crime against human life of any kind of application on the ground, the case of illegal and unsafe abortion is an important cause of maternal mortality worldwide, unsafe abortion practiced in dangerous and clandestine situations is a universal public health problem. Generally, it is practised in the worst hygienic conditions and with the lack of possibilities of urgently resorting to a hospital in case of complications. Clandestine abortion refers to a discontinuation of pregnancy that is practiced by non-professional people and performed in places in their non-unfavorable conditions, and sometimes it is practiced by the pregnant women themselves, which can cause the death of the woman, this is a reality of general event that has not been verified by the health professionals and judicial agent of justice have power to implementations cited by (Tilman CB & Acácio J., 2024).

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The reasons that lead a woman to option for an abortion are various and different throughout the university. Among the various is inadequate preparation to raise children who may have been conceived as a result of rape, incest. In our case, one of the reasons that leads a woman to choose abortion is the economic, cultural and religious situation. In Timorese society, a woman who becomes pregnant out of wedlock is considered inconvenient. Criminalizing abortion implies the vulnerability of women, as it does not protect women who practice clandestine abortions and in unsafe conditions. From a public health perspective, abortion legislation cannot be endowed as a separate measure, as it needs to be accompanied by effective reproductive health policies is fundamental in concept and action. The case of abortion is legal when it had been performed with the authorization of the law of the country or nation in which it is practiced, which meets all the conditions of safety for the woman's life, with the authorization of the woman, and performed with adequate health equipment and well-trained professionals. According to the penal code of Timor-Leste, paragraph 4 of article 141 emphasizes that when the termination of pregnancy constitutes, according to the state of medical knowledge and experience and after all possible actions have been taken to save the life of the pregnant woman, and that of the fetus or embryo, the only means to remove the danger of death of the pregnant woman, provided that it is carried out, upon medical certification, by a doctor or other health professional under his direction in a public or officially recognized health establishment, and with the informed consent of the pregnant woman. The legalization of abortion tends to reduce its practice because it allows us to talk openly about the subject and to kindness family planning and the use of contraceptives. The case of abortion is one of the major causes of early death of young people, who practice it, in distress or despair and in terrible conditions. Countries that legalize abortion reduce the maternal mortality rate in their country, which is also well controlled by the State/Government power to be stop the case mentioned cited by (Tilman CB & Acácio J., 2024).

## **REVISION OF THE LITERATURE.**

The Constitution of the Democratic Republic of Timor-Leste (here in after CRDTL), in its article 29 published in Part II (Fundamental Rights, Duties, Freedoms and Guarantees) of Title III (Rights, Freedoms and Personal Guarantees), guarantees all citizens the right to life. It is essentially the right not to be killed, it can be said that it consists of a right to exist, that is, the right to be alive. According to the Civil Code of Timor-Leste, in its paragraph 1 of article 328 on self-defence, it is considered justified the act intended to ward off any actual and unlawful aggression against the person provided that it is not possible to do so by normal means and the damage caused by the act is not manifestly greater than that which may result from the aggression. Article 29 (2) of the CRDTL establishes that the State recognizes and guarantees the right to life. The constitution assumes a duty of protection largely through the establishment of criminal law provisions that criminalize attempts against life, which can be seen in articles 138 (homicide, infanticide, termination of pregnancy, exposure or abandonment, incitement or assistance to suicide) of the Timorese penal code. Article 29 (3) of the annotated constitution of Timor-Leste highlights that the constitution does not solve the problem of defining the beginning of human life, that is, there is no express answer from the constitution on this issue very full attention cited by (Corte Real AG & Tilman CB., 2023).

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According to Article 63 of the Civil Code, personality is acquired at the moment of full birth with life. It seems to be inferred from this that a subjective right to life of the fetus should not be admitted, as regards the issue of abortion, it can be inferred from the Timorese criminal legislation that the right to life, as an objective value, legitimizes the protection of life in formation. In fact, Article 141 of the Penal Code states that abortion, even with the consent of the pregnant woman, is punishable by imprisonment of up to three years (both for the perpetrator and for the pregnant woman). Exceptions, however, are made in situations where the termination of pregnancy is the only means of removing the danger of death to the pregnant woman, which is to be established in accordance with that provision, does not solve the problem of defining the beginning of human life. The violation of the principle of human dignity will result from the imposition that the woman carry for nine months a fetus that is known for sure will not survive. Abortion is a matter of public health and health is a universal right as the principle of the Dignity of the Human Person is written in Article 1, Part I (Fundamental Principles) of the CRDTL, it becomes a supreme value of the legal order considered one of the most important principles because it encompasses all rights, but also fundamental guarantees contained in the Constitution.

The CRDTL, in its article 1, part I, provides that the Democratic Republic of Timor-Leste is a Democratic State of Law that respects the rights and duties of citizens and respects the dignity of the human person. This higher Constitutional principle legitimizes around itself all the other fundamental rights and guarantees contained in the CRDTL, the right to health and life and the right to liberty. It is based on valuing the human person as an end in

himself. The principle of the dignity of the human person was born to protect the human being, maintaining and guaranteeing the life of the human being with dignity and mutual respect in his most important and fundamental rights. Human dignity consists not only in the negative guarantee that the person will not be saved from offense, but also in the positive affirmation of the full development of the personality of each individual. Full development presupposes recognition of total self-availability, without interference or external impediments of the possible actions proper to each man. In this case, it is also important to refer to the definition of <Dignity> provided for in the dictionary of the Portuguese language, as being {moral quality that instills respect, respectability, awareness of one's own value, position or title of high rank}, are very important to understanding the problem and basic of the regulation process cited by (Tilman CB & Acácio J., 2024).

Article 141 also provides for the verification of the circumstances that make the termination of pregnancy not punishable, as well as the provision of consent. Which must be certified in a medical certificate, written and signed before the intervention by a doctor other than the one who will perform or direct the procedure. This article also describes the form that informed consent should take in this specific intervention. Informed consent must be given in writing in a document signed by the pregnant woman or at her request, ideally within two days prior to the date of discontinuation. In the event that the pregnant woman is a minor or mentally incapacitated, the decision-making is the responsibility of her legal representative, ascendants, descendants or, in their absence, relatives in the collateral line. The right to conscientious objection is also enshrined in Article 141(14). The conscien-

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tious objection is expressed and communicated, through a written and signed document, to the clinical manager of the health establishment where the objector provides services, and the doctors and other health professionals are assured of any act related to the interruption of pregnancy. It is up to the State to adopt organizational and regulatory measures inherent to the proper execution of the legislation underlying the termination of pregnancy, namely by ensuring that the exercise of conscientious objection by health professionals does not result in non-compliance with the legal deadlines who indicated cited by (Tilman CB & Acácio J., 2024).

With regard to the punishments for those who consent to or perform the case of abortion, depending on the condition of the person who performs the act, whether it is by the pregnant woman or people who provoke with or her informed consent of the pregnant woman, the punishment can range from two to 8 years or three years in prison. Therefore, the criminal law, as a rule, typifies the interruption of pregnancy and only admits it if the suspension results from medical action when necessary, or there is no other way to save the life of the pregnant woman in a critical situation of pregnancy women cited by (Tilman CB & Acácio J., 2024). The criminalization of abortion must be accompanied by the provision of appropriate procedures for the abortion by the State or Government, so that women have access to adequate means and qualified professionals, respecting their basic rights to life and health. Freedom of choice is one of the possibilities of the way of thinking and proceeding. Freedom is the condition of one who is free and possesses the capacity to act for himself, thus implying the responsibility of the individual for his own acts. When it comes to a woman's right over

her own body and over the desire to be a mother, since the woman has total power over the child and also over her examination in body, cited by (Tilman CB & Acácio J., 2024). The State or Government must ensure to woman the power of choice, as an exercise of her freedom and in such a way that motherhood is the result of desire, and not of obedience perant to the legal justice of the public power to accordance.

## **METHODOLOGY**

We employ the inductive methodology is based on the consultation of reference books in the library, and in this elaboration, we also use articles from newspapers of the internet as a means of supporting and assisting the study. Throughout the research articles international and documental analysis of knowledge of ancient and modern science of and constructive argumentation of both legal and literary references.

## **DISCUSSION**

The fact that foreign legislation is not in the legal system Portuguese. Portugal is a sovereign Republic, based on the dignity of the human person and popular life and carried out in the construction of a free, fair and solidary society. In Portugal, the case of induced abortion was legalized in 2007, if the woman wanted to do it, but this depends on the reasons for the implementation by indication of health and beauty. The techniques used to perform the abortion are performed in two ways, by medication up to the 2nd (second) month, that is, 8 (eight) weeks and by surgery between the 2nd (second) or 3rd (third) months, or 12 (twelve) weeks of pregnancy. The case of abortion can be carried out in the National Health Service or in private clinics that are authorized by the State or Government. In the case of a pregnant woman under 16 years of



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age, informed consent is legally given, by ascendant or descendant or lack thereof, by any relatives in the collateral line. If it is not possible to obtain the consents referred to in the preceding paragraphs and the discontinuation of the pregnancy due to an emergency situation, the doctor shall decide in accordance with conscience, resorting, whenever possible, to the opinion of another or other experienced medical specialists, within the national health system on the order of the doctors' recommendations cited by (Tilman CB & Acácio J., 2024).

Women have the right to have full information about the conditions and the consequences for their own health. When abortion is caused by others without the pregnant woman's authorization, it is considered a crime and is punishable by two (2) years in prison up to three (3) years if the pregnant woman gives her informed consent. The current legislation only authorizes abortion in cases of rape, risk to the mother's health or malformations of the fetus. Women who resort to abortion for other circumstances are held criminally liable and are sentenced to prison terms of up to three (3) years of deprivation of liberty. The case of abortion is free up to the first ten (10) weeks of pregnancy and, in case of danger to the health or life of the woman, but the first twelve (12) weeks. If there are certain causes to anticipate that the fetus will suffer incurably, it is allowed in the first 24 (twenty-four) weeks and, when the embryo is non-viable, it can be carried out at any time during a woman's pregnancy to take consideration and fully attention cited by (Tilman CB & Acácio J., 2024).

The Catholic Church condemns abortion in any and all circumstances. The case of abortion is considered as homicide, the penalty is excommunication.

According to Durázio Varella, "it is easy to prohibit abortion, while we wait for the consensus of all Brazilians regarding the moment when the soul settles in a collection of embryonic cells, when those who are dying are the daughters of others. Legislators need to abandon immobility and face abortion as a serious public health problem that requires an urgent solution." To the extent that public health services have been sensitized to abortion care in cases already provided for in Brazilian law, there has been a need to deal with cases of fetal anomalies incompatible with life. Technological advances have made the diagnosis of such anomalies common, which has generated a contradiction, since it is possible to detect intrauterine defects incompatible with life, but it is not possible to offer parents the option of mitigating the suffering resulting from this diagnosis the medical team, cited by (Tilman CB & Acácio J., 2024).

## CONCLUSION

The case of abortion is a means to end the pregnancy, either spontaneously or induced. It can be legally or illegally according to current legislation. The Government of Timor-Leste is a Democratic and secular state based on the rule of law where there is a separation between the State and the Church. Therefore, in the political decision of the State there should be no interference of the Church. The State, through its competent organs, shall socialize the Penal Code, in particular the article referred to above. The Ministry of Education has the obligation to include the subject of reproductive health in the school curriculum for students in the 3rd cycle of basic education. And the Ministry of Health should promote health and socialization on family planning and the use of contraceptives for married people, young people and adults. Too often, women's rights to health and freedom of choice are put on

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the back burner. This can influence the search for a case of clandestine abortion, endangering the health and life of the woman. The question of the abortion case has been approached from two perspectives: legal and religious. In the religious sphere, discussions about life, the embryo add to any woman's right and in the legal sphere, abortion is treated as a criminal matter, except in cases where the criminal law allows it. In the MBAs directly influence political decisions that reinforce conservative aspects of Timorese society, it is very important and rigorous in the practice of action to continue monitoring and evaluation cited by (Tilman CB & Acácio J., 2024).

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