

Reasons For Organization And Management The Institution Of Administration In Timor-Leste Current, And Future (2024).

Alexandre Gentil Corte-Real de Araújo, Arfim Pereira Carceres, Kandida Yovita Consalfes, Marcelino dos Santos, José Simões, Carlos Boavida Tilman, José Boavida Simões.

*Correspondence: Alexandre Gentil Corte-Real de Araújo

Received: 01 Dec 2024; Accepted: 05 Dec 2024; Published: 15 Dec 2024

Citation: Alexandre Gentil Corte-Real de Araújo. Reasons For Organization And Management The Institution Of Administration In Timor-Leste Current, And Future (2024). AJMCRR. 2024; 3(12): 1-9.

Abstract

Introduction: Starting from the foundations of the current Philosophy of Administration that is in force in a generalized way in the countries, and about the so-called pure modern systems that emerged after the English and French revolutions, it will also be addressed the evolution that has taken place in these reasons since their creation, until the present day, and if this evolution in management that tends to separate more and more closer, appreciating how reason administrative institution in Timor-Leste has been started and also influenced to date, and what will be its future, development sustainability and with innovative vision of appropriate management change.

Research Objectives: We should facilitate public understanding of the principles of evolution of the existing administrative institution reasons and frame the organization reason in a management system of Timor-Leste so that it supports the assimilation of the same work, facilitating correspondences and altercations related to the process of progress and evolution of the present system with more efficiency and effectiveness in the country.

Research Methodology: Made in deduction, and based on literary and legislative research work, whose sources will be cited in the references and bibliographies of the academic study in rigor that best in the framework of knowledge and professionals.

Conclusion: To be achieved to deepen and refine our knowledge about the main reasons for institution in current administrative management and their evolutions over time. At the same time it is a reason to analyze the origins of the philosophy of organization and administrative management in the country, to ascertain the present state of the same situation and to evaluate where the path of knowledge in the system of organization and administrative management in Timor-Leste, is based on the public and

private institution well organized in the evolution modernly cited by (Corte Real AG & Tilman CB., 2024).

Keywords: Management reason, administration, evolution, and institution system in the country.

INTRODUCTION

Idea of Institution and Administrative Management in authentic and legal terms, relatively recent. Until now, the King had sustained an absolute and highly concentrated power, leaving no room for the development of norms that established the activity of the State and Government. It was only with the birth of the Rule of Law and Constitutional that the Principle of the Separation of Powers of the State and the Principle of Legitimacy became effective. The entry into force of these beginnings that enabled the emergence of other branches of Public Law, of which the Administrative Management Law is a part. All the supreme executive, administrative and judicial powers were centralized in the figure of the King. There were never legal norms with an imperative character for the entire Management of Public Administration, also implying the lack of an authoritarian subordination of the Administration to the Law, which could be applied only and only for reasons of conformity, public interest merely with the will of the King who is at the top.

Modern management and administration model is characterized by the Principle of Legitimacy where all actions are taken within the law, and by the Beginning of the Separation of Powers that prevents the King from giving orders to judges or resolving any matter of a contentious nature. Its power is subordinate to the Law and in accordance with the Beginnings of the Rule of Law, with special emphasis on the Bill of Rights and the usual law, resulting from past customs or situations already considered by the courts and which apply to the entire crowd (Common Law). It has an extremely decentralized administrative organization and institution, removing power from the Central Administration (Central Government) through the creation of local governance bodies (local Government) considered as truly independent entities and not subject to the hierarchy of the central government.

Both the King and the public authorities could exercise administrative and jurisdictional functions, which created serious deficiencies in the system of legal guarantees of individuals in relation to the Management of Public Administration, leaving them in a fragile situation, without the opportunity to appeal decisions originated against them and without the ability to protect their advantages in situations of conflict with the State and Government. The laws and guidelines by which the Public Administration was governed they were non

Public Administration does not have exorbitant powers, it has the same powers that are consecrated to any citizen and it is not allowed to invoke any type of privileges or immunities. This system of reason does not recognize the State as a legal person, as a consequence, it subjects its Administration to similar courts (Court of Semilarity) and leaves no room for the emergence of Administrative Courts. Nor does it apply the Principle of Unconsciousness, the State cannot be held responsible for any unlawful act committed by holders of public office in the performance of their duties, the responsibility for these acts falls personally on those same holders and they are judged in ordinary courts under the common law, this means that the Judicial Administration System, in addition to subjecting the Public Administration to the ordinary courts, it is also subject to the common law, following the principle that everyone is governed by the same law, "The common law of the land" which are basic of importance in the power of the law cited by (Corte Real AG & Tilman CB., 2024).

of the same literary and legislative research, whose sources will be substantiated and cited in the indicated bibliographies.

THEORETICAL FRAMING

Public Administration does not have the power of judicial enforcement of its own decisions, but on administrative grounds management and its administrative bodies do not have any prerogative of authority over citizens. In practice, this means that whenever in particular it refuses to comply with an administrative decision applied, the only tool that the public administration has to establish that same decision will be the appeal to the Judiciary. However, there is a system of legal accreditations that allows citizens to have a system of guarantees against possible illegitimacy and abuses of the Public Administration and that verifies that the courts have full jurisdiction over the administration, which places it on an equal footing with an act of any particular practice in the adaptation mechanism.

Research Objectives: This way we can facilitate public understanding of the principles and evolution of the existing systems of organization in management and administration and frame the administrative organization system of Timor-Leste so that it can assist its assimilation, facilitating communications and discussions related to the development process of the development and evolution of the present system in the country.

RESEARCH METHODOLOGY

In the use of the methodology of research and literature review that was elaborated of provided the deduction of the references of academic readings is always based on the reality of the work

It rose in France and was adopted in practically all of continental Europe. The conformity of the Judicial Administration System is also based on the Beginnings of Legality, Division of Powers and the Rule of Law, however the remaining characteristics of this system could not be more contrary to what exists in the system.

The wisdom of the Top Administration system got its name because of the enormous freedom it gives to administrative power to the detriment of ordinary courts. Their main source is legislated law, giving no importance to jurisprudence and custom. It attributes to the Public Administration too much power that places it in a hierarchically superior position in its relationship with themselves and

subject to a system of infra-ordination. The Top-right Administration system applies the Principle of Thoughtlessness, where it is the State that is responsible for any unlawful or illegal act committed by holders of public office in the performance of their functions. However, instead of subordinating its action to the ordinary courts, it enshrines the Principle of the Division of Powers, removing judicial control of its actions and decisions from the ordinary courts, thus

surrounding its interference in the functioning of the Public Administration. As a form of self-supervision of its actions and decisions, and with the mission of supervising the legality of administrative acts, judging any procedural and its respective civil liability, it created structures still within the scope of the Public Administration and the Administrative Courts. Independent bodies, regulated by an autonomous and regulatory Law of all administrative activity, subjecting the entire Public Administration to this same Law, called Administrative Law in the practice of actions cited by (Corte Real AG & Tilman CB., 2024).

The Rule of Law provides citizens with a set of Legal Accreditations that aim to prevent the practice of any type of abuse or illegality against their private interests, and gives the Administrative Courts the power to annul acts considered illegal that are committed by the Public Administration. However, as a consequence of their independence, the Administrative Courts do not enjoy full jurisdiction vis-à-vis the Public Administration, so they are prevented from forcing the Public Administration to proceed in a certain way or condemning it to adopt a certain decision, due to the fact that the Administrative Courts are independent from the administration, which makes it possible for the latter to also be independent in

relation to the Administrative Courts. In terms of the Administrative Organization, the Wisdom of the Judicial Administrative System became more centralized, the Central Administration developed with the creation of properly hierarchical ministries. In reverse or contrary order, in the Top Administrative System there was a tendency to decentralize this power to the regions of special administration to enjoy their right as the law regulates.

With the emergence of the Social State and with the exponential increase in social services and support that the state began to make available to citizens, numerous administrative acts also appeared in the Judicial Administrative System that lacked their own administrative regulation, while in the continental system it became more and more frequent for the Public Administration to resort to private law, however, the control of the application of Administrative Law remains the responsibility of the administrative courts. The approximation here results from the creation of the administrative courts and the mandatory, binding and immediate nature of their decisions and, on the other hand, the fact that the Top Administrative System has now granted individuals the possibility of appealing against decisions rendered by the Public Administration to the administrative courts, and thus benefiting from the interruption in the execution of these same decisions. In the Top Administrative System, there is a growing increase in power on the part of the Administrative Courts in relation to the public administration, as they also have the power to subject it to the performance of certain acts. This means that this system tends to place the Public Administration on an increasingly accentuated level of parity or equality in its relationship with citizens in its national territory, in

accordance with international law that recognizes they deserve to be recognized by the State cited by the valorization of merit cited by (Corte Real AG & Tilman CB., 2024).

DISCUSSION

The legal system currently in force in Timor-Leste stems from a merger of very different legal systems. It brings together elements from customary law, which is still applied in traditional Timorese communities, in Portuguese law prior to 1975, in Indonesian law, - and through this, Dutch law, and international norms incorporated by the United Nations transitional administration shortly after the popular consultation of 1999 until the restoration of independence in 2002. Since then, the country has been developing its philosophy and its system of administrative organization, based on a hybrid model based on the Executive Administration system, but with several elements based on the Traditional and Judicial Administration systems with the recognition of customary law norms in the constitution itself and with the application of norms aimed at administrative decentralization. The executive administration system in force in Timor-Leste is responsible for the implementation of public policies defined by the Government and the National Parliament and is based on 3 fundamental principles: In the Principle of Decentralization, developing rules that aim to bring the public administration closer to the populations in order to increase their participation in decision-making; the Principle of Accountability, by ensuring that officials in the service of the State are responsible for their actions; and in the Principle of Active Participation of its citizens in public decision-making, involving communities in the definition of priorities and in the provision of public services is fundamental, so they must respect and consider that

they deserve to be recognized by the State cited by (Corte Real AG & Tilman CB., 2024).

In addition to the formal public administration system, Timor-Leste also enshrines in Article 2, paragraph 4 of its Constitution the recognition of customary norms and usages that do not contradict the Constitution and the laws in force, this protection can also be found in Article 2 of the Civil Code which recognizes customary norms and usages as sources of law. These traditional systems of administration are based on ancestral norms and values and are organized around clans and villages, where they are led by traditional chiefs with legitimacy recognized by all members of the community. Traditional administration systems still play a vital role in the lives of Timorese communities, as they still represent a fundamental pillar in conflict resolution and the administration of community justice, or in the provision of basic public services to more traditional communities. All this legislative production tends to bring the executive administration model closer to a more decentralized State model, where power is removed from the Central Administration through the creation of local governance bodies, contributing to the hybrid or pure model of Public Administration that Timor-Leste adopts as a condition today.

The integration of a model of administrative decentralization in Timor-Leste has been present in the Timorese legal system since the approval of the Constitution of the Democratic Republic of Timor-Leste by the Constituent Assembly on March 22, 2002 through Article 5, Article 71 and Article 156 (h). Since then, several legislations have been approved for the implementation of this model, starting with the Government Resolution No. 6/2006 where the policy that institutes

decentralization and Local Government in Timor-Leste is approved with the objective of, law 11/2009 on the Administrative Division of the Territory, Law No. 9/2016 of July 8, Law of Juices, and with the approval of Decree-Law No. 4/2014 by creating the administrative pre-deconcentration structures, Law No. 23/2021 of 10 November, Local Government and Administrative

Decentralization Law, Decree-Law No. 3/2016, of 16 March (as amended by DL 84/2023, of 23 November) – Statute of Municipal Authorities and the Interministerial Technical Group for Administrative Decentralization, Ministerial Diploma No. 48/2016 of 30 September, which establishes the services of the Municipal Authorities and Municipal Administrations and approves their functional structure. In Timor-Leste, the direct administration system of the State is structured in three recognized levels, the Central Administration, Local Administration Authorities and Associative Autonomous Administration (Sucos).

Central Administration, composed of the Government, its Ministries and Directorates-General, with competence throughout the national territory, is responsible for the implementation at national level of the public policies defined by the Government and the National Parliament; The Local Administration Authorities, composed of the municipalities subdivided into Administrative Posts, are also responsible for the implementation of public policies defined by the Government and the National Parliament, but with their sphere of competence focusing solely on the territory of the respective region and within the limits of regional autonomy that are defined in the Constitution of the Republic and in the respective political-administrative Statutes. These municipalities

(districts) are led by a president of the Municipal Authority, appointed by the Government, and the administrative subunits of the municipalities are led by an administrator of an administrative post, and finally by the Associative Autonomous Administrations, composed of the sucos that exist in the nation cited by (Corte Real AG & Tilman CB., 2024).

It should also be noted that although the Local Government and Administrative Decentralization Law, which creates municipalities (which in Portugal is called Councils) was already approved in 2021, its implementation has not yet started. Nor is it understandable that the legislator has assigned the same name to two different entities, that is, Municipality to a parcel of territory resulting from an administrative division (former Districts) and Municipality as an autonomous public entity, responsible for the exercise of local power in a given territory within a given municipality (former Districts). The administrative organization system of Timor-Leste still faces some challenges, the most evident being the lack of qualified human resources and the lack of infrastructure, however there is a growing concern of recent Governments to improve these aspects through visible investment in education and training of qualified staff and in the development of adequate infrastructures to support the functioning of the public administration of the RDTL State cited by (Corte Real AG & Tilman CB., 2024).

Timorese legislative development from UNTAET to the present day has been marked by a constant effort to reconcile the principles of modern law with local traditions and customs. UNTAET, the UN peacekeeping mission that administered Timor-

Leste between 1999 and 2002, bequeathed to the country a set of laws and regulations that served as the basis for the development of the Timorese legislative system. These laws were based on Portuguese law and international law, but also incorporated some elements of traditional Timorese law. After independence, the Timorese National Parliament has been approving a set of laws that aim to regulate the different areas of public life in the country. These laws have continued to incorporate elements of traditional Timorese law, notably with regard to conflict resolution, the administration of justice and the provision of public services. The incorporation of traditional law into the Timorese legislative system has had a significant impact on the country's public administration system. On the one hand, it has brought the public administration closer to the communities, which are more familiar with traditional laws and customs. On the other hand, it has contributed to ensuring that the public administration is attentive to the needs and concerns of the communities cited by (Corte Real AG & Tilman CB., 2024).

Timorese legislative development is an ongoing process that is contributing to the consolidation of the rule of law and the country's development. The incorporation of traditional law into the legislative system is a key element of this process, as it allows public administration to be more effective and inclusive. However, the incorporation of traditional law also presents some challenges. On the one hand, it can be difficult to reconcile the principles of modern law with local traditions and customs. On the other hand, there may be a lack of consensus on which elements of traditional law should be incorporated into the legislative system. Despite the challenges, the incorporation of traditional law into the Timorese legislative system is an essential process to ensure that public administration is more just and representative of communities. Decentralization is a process that aims to transfer competences from central government to local governments. This process aims to bring the public administration closer to the communities and increase their participation in decision-making. Community participation is a fundamental principle of Timorese public administration. The Constitution of Timor-Leste provides that communities have the right to participate in decision-making that concerns them. With this in mind, the Government of Timor-Leste is implementing a set of measures that strengthen local power by giving it more autonomy and resources in order to promote decentralization and the participation of communities or populations in progress of change cited by (Corte Real AG & Tilman CB., 2024).

The development of a more decentralized, participatory and integrated administrative organization system is essential for the success of Timor-Leste as a democratic country, as it allows the public administration to respond more effectively, fairly and representative of the communities. The Timorese Government is also investing in the training and recruitment of qualified human resources for the public administration and developing management and *accountability* systems to monitor and evaluate the performance of the public administration. The development of a more efficient and effective administrative organization system is essential to ensure that Timor-Leste can achieve its urban and rural development objectives with high regard for citizens cited by (Corte Real AG & Tilman CB., 2024).

CONCLUSION

By analysing the evolution that occurred in both systems, and as can be seen above, there is a clear approximation between these two systems, namely in a greater centralisation of services and the emergence of administrative courts in the Judicial Administration System and, in the opposite direction, in the decentralisation of services and in the placement of citizens in a more equal situation compared to the Public Administration in the Top Administration systems. I would point out, however, that there are still fundamental differences between them, such as the subordination of disputes arising from the Public Administration and those administered to the ordinary courts, in the case of the Judicial Administration System, or to the administrative courts, to the Top Administration System. However, I believe that the trend of rapprochement tends to continue and sooner or later eclectic and hybrid systems will emerge that will adopt the best of each of these systems, and that will be better able to respond effectively to the demands placed on them.

As in other countries, Timor-Leste has also been verifying the legislator's desire to bring these systems closer together, however it is also verified that the legislator still pays special attention to the ancestral rules of customary law, incorporating into its legal framework norms that have their matrix clearly identified there. Timor-Leste is a country with a rich culture and tradition, where centuries-old traditions of conflict resolution are still very present in Timorese society today. The administrative system must respect these values and traditions. The implementation of a hybrid system of administration in Timor-Leste is a complex and challenging process. However, this

process has the potential to significantly improve the quality of public administration in the country. The legislator's effort to create legal and procedural mechanisms that aim to improve the effectiveness of public administration by bringing the Top Administration model closer to the Judicial Administration Model is visible.

With the evolution of time, with the increase in literacy and with access to information, there is a growing awareness in all layers of society about the role that the State is obliged to play in the defense of common rights, and in the proper functioning of the services it makes available to all. It is therefore inevitable that the State finds solutions that can make the Timorese Public Administration respond effectively to the expectations generated in the populations for the improvement of the quality of public services and for greater participation in the decision-making process. The main example of the approximation of the Topo model to the Judiciary model in Timor-Leste is the process of administrative decentralization. Timor-Leste has constitutionally recognized the need to promote the decentralization of power for the benefit of its citizens. With this premise, the legislator clearly intends to transfer the centers of power to local communities and create mechanisms that make decision-making more equitable and effective with those who need it most and at the same time create more proximity between the State and the population and with this, foster the progress of the private sector of the economy in rural areas I need to pay more attention to the practice of action right with the reality of the country cited by (Corte Real AG & Tilman CB., 2024).

REFERENCES:

1. FREITAS DO AMARAL, DIOGO, Manual de

- Direito administrativo – volume III, 4th reprint, Almedina, 2019.
2. FREITAS DO AMARAL, DIOGO – Curso de Direito Administrativo, volume II, 5th ed., Coimbra, Almedina, 2018.
 3. PEREIRA DA SILVA, VASCO, In search of the lost administrative act, Almedina, 2nd edition, 2021.
 4. TAVARES, JOSÉ – Public Administration and Administrative Law, 5th ed., Coimbra, Almedina, 2019.
 5. PEREIRA SILVA, VASCO, 2019: "Administrative Litigation on the Divan of Psychoanalysis" 3rd Edition, Almedina.
 6. ZANELLA PIETRO, M^a SYLVIA, "Administrative Law" 21st Edition, Jurídico Atlas S.A, São Paulo, 2015.
 7. FRANCISCO SOUSA, ANTÓNIO, "Administrative Law", Preface, 2022, Lisbon.
 8. CORREIA, SÉRVULO "Noções de Direito Administrativo" Vol. III, Danúbio Lda., Lisbon, 2019.
 9. VIEIRA ANDRADE, JOSÉ CARLOS, "Lessons in Administrative Law", Coimbra Jurídica 2021.
 10. DIAS, FIGUEIREDO / OLIVEIRA, FERNANDA PAULA, "Fundamental Notions of Administrative Law", 8th edition, Almedina, 2023.
 11. Annotated Constitution of the Democratic Republic of Timor-Leste
 12. Decree-Law No. 2 / 2016 of 16 March, Statute of the Presidents of Municipal Authorities and Municipal Administrators.
 13. Decree-Law No. 3/2016, of 16 March (as amended by DL 84/2023, of 23 November) – Statute of Municipal Authorities and of the Interministerial Technical Group for Administrative Decentralization;
 14. Corte Real AG & Tilman CB., et al 2023. Promissory contract for the constitution of a right in rem over immovable property, <https://www.ajmcrr.com>
 15. Ministerial Diploma No. 48/2016 of 30 September, Establishes the services of the Municipal Authorities and Municipal Administrations and approves their functional structure
 16. Ministerial Diploma No. 49/2016 of 30 September, Specifically establishes the Administrations of Administrative Posts and approves the name and specific competences of the respective Local Services (with the wording of Ministerial Diploma No. 40/2023 of 15 September)
 17. Ministerial Diploma No. 50/2016 of 30 September, Rules for the operation of the Assembly of the Administrative Post and the Designation of the respective Members
 18. Ministerial Diploma No. 51/2016 of 30 September, Regulation of the Municipal Advisory Council
 19. Government Decree No. 2/2016 of 6 April, Professional Performance Evaluation Regime for Presidents of Municipal Authorities and Municipal Administrators
 20. Government Decree No. 5/2016 of 6 April, Special Procedure for the Selection of Presidents of Municipal Authorities and Municipal Administrators
 21. Law No. 23/2021 of 10 November, Law on Local Government and Administrative Decentralization