

RELIGIOUS FREEDOM IN THE LIGHT OF THE CONSTITUTION OF THE DEMOCRATIC REPUBLIC OF TIMOR-LESTE.

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ABSTRACT

Introduction: Religious freedom consists of freedom to profess their faith, freedom of conscience and worship duration, and is considered a fundamental right of citizens, which is positive in the fundamental law of state law. Religious freedom is a fundamental human right enshrined in the United Nations of Human Rights in the implementation of the world (1948; cited by (Alexandre Corte Real & Carlos Tilman, 2023), and is positive in Timor-Leste fundamental law.

Objectives: To examine the legal presuppositions of existing religious freedom and their legal effects on religious practice and enjoyment of religious rights by religious citizens and protection of religious confessions in Timor-Leste, to examine the fundamental susticulture of fundamental rights on religious freedom, identify gaps, challenges and propose legislative-alternative solutions to the protection of the rights of religious minorities to freedom as a fundamental right that is exercised through religious confessions.

Discussion: Religious freedom is one of the rights of man and woman, that is, a right inherent to the human person and needs to be positive to berespected. The right of religious freedom in Timor-Leste requires a lot of reflection, because every right is related to the juridic order and the social reality of the country.

Conclusion: To reach this goal, it has the finalide to analyze carefully about religious freedom, being a fundamental right inherent to the human person and show the challenges, before a country with so much multi cultural and religious diversity, maintain the laity, in the implementation practice that has and freedom of application cited by (Alexandre Corte Real & Carlos Tilman, 2023).

Keywords: Religious freedom, constitution, state, laicity and implementation.

INTRODUCTION

The Constitution of the Democratic Republic of Timor-Leste, hereinafter CRDTL, provides for a list of fundamental rights, within them, religious freedom also appears as a fundamental right¹. In Timor-Leste, culture and religious belief are values enslaved to the longo of time and have evolved with sociocultural, political and economic worlds. Since timorese's concern about complicity and religious discrimination tends to increase, for political reasons, they could lead to negative discrimination in the face of certain religious communities². Given these situations, the situation of some minorities in other countries that have already suffered religious prefollowa, this can lead to death because of religious faith, prohibition of religious rites and activities of worship for discriminative reasons, is very hasty and worrying. Therefore, for the prevention of these comparative social acts and phenomena and to guarantee religious freedom in Timor-Leste, Timorese legislators enshrined citizens' freedom over conscience, religion and worship. These freedoms can be realized of their belief and respecting everything best cited by (Alexandre Corte Real & Carlos Tilman, 2023) through religious confessions such as Catholicism, Islam, protentanism, Jehovah, Hinduism, Buddhism among others³.

From the religious perspective, Catholicism represents the majority of the population with more devotees among other religions, the main concern is to rule out secularism and absolute separation, but to promote, the relative separation between state and religious confessions⁴. According to Professor Bacelar Gouveia, and from the legal perspective of each country cited by (Alexandre Corte Real & Carlos Tilman,

2023), in the separation between religious confessions and state, rejects the models of fusion and identification of these, where it intends to prevent the dominance of religious power-theocracy, or the dominance of political power-cesaropapismo⁵. In identification, both can be equal or one may interfere with the other. That is why the state as the basic entity of society in the exercise of its functions must guarantee and implement the essential religious rights (rights to continued religions, recognition of civil rights and their effects) to religious citizens to promote a society of solidarity and fraternal ity. These preopupantes issues are recent social phenomena that provoke public discussions, if the Catholic religion has the constitutive legality and recognition of the Holy See and the State of the RDTL, in the implementation practice cited by (Alexandre Corte Real & Carlos Tilman, 2023), therefore Catholic marriages are legal and produce civil effects, but other religions in the context of religious freedom for similar cases is still questionable, which is discriminatory and requires a law of recognition of the existence of religious confessions and thus be able to harmonize with the procedural laws of marriage of each religion⁶.

Due to these issues, this legal research intends to elaborate the "Religious Freedom in the Light of the Constitution of the Democratic Republic of Timor-Leste",

Objectives are:

- To undermine and undermine the legal presuppositions of existing religious freedom and its legal effects on religious practice and enjoyment of religious rights by religious citizens and protection

of religious confessions in Timor-Leste.

- To smoothout the fundamentals of basic rights on religious freedom, identify gaps, and challenges in a new country of Timor-Leste.
- To propose legislative-alternative solutions to the protection of the rights of religious minorities to religious freedom as a fundamental right that is exercised through the religious confessions of existences.

THEORITICAL ENQUDRATION

The historical evolution of Religious Freedom in Timor-Leste

Westarted our approach with the welcome of the Portuguese in Timor-Leste in the years 1515. According to Garrido Rodrigues " Timor since its discovery by Portuguese merchants, around 1514, it has not been a priority for the colonizing country⁷. The Dominican fathers are the first to settle in the territory in the middle of the 16th century. But in the background, it always concerns the dualism of religious practice as denote following, " country of Catholic majority, Timor-Leste holds different forms of relationship with sacred around two main references: the religious universe and the world "lulik" specie of sacred powers linked to the ancestors. Such references as there are in the form of destiture regimes of sacredness which, although separated, maintain points of contact. In these two vspheres of reality, the religious universe sees faith as a transcendental value of believers in relation to God, of every human person in the implementation practice that exists cited by (Alexandre Corte Real & Carlos Tilman, 2023) but, in the universe of the "lulik" also sees in the same way, but still values his principles of ancestors ⁸

Therefore, religious freedom although it is a right of citizens, they are free to decide to believe and practice their rites, activities and religious cults freely and permissively according to the religious norms of each religion and laws in force in the State. In Timor-Leste, according to some statistical data, they denoted that in 1970 there were 153,000 people who considered themselves Roman Catholics (25.1%), 2,400 were Protestant (0.4%); other Christian denominations 400 0.07%); 900 Islamic herma (0.15%), and the remaining 457,777 (74.3%) did not indicate any religion. According the data showed that, as for the enjoyment of religious freedom at that time that was still insignificant according to the percentage of each religious confession in Timor-Leste, it should be noted that the religious freedom of Catholics during the Indonesian occupation was somewhat limited, that is, in some places prohibited Mass , the realization of religious rites of Catholic choir, some military forbade believers from going to Mass, but the priests continued to minister constructively in the application on the ground cited by (Alexandre Corte Real Carlos Tilman, 2023) for Mass⁹.

After the end of the Indonesian occupation there was a drastic change in Timor-Leste, where Muslims represent 10% of the population before independence, because of the policy of transmigration of Indonesians and development activity, nowadays it is with a small fraction of the resident communities¹⁰. Religious freedom was seen as a precondition for the unification of the faith for the struggle for the independency of the RDTL, but from the multidimensional point of view of religions, religious freedom is a condition of the rights and freedoms guaranteed by

the state religious confessions and citizens, to manifest their religious faith freely and peacefully. According to the report of the ACN (Aid to the church in Need) moostrou that in total 1,381,400 of the population of Timor-Leste, the Catholic religion represents 88.6% muslims 3.9% the traditional regions 6.5%, and another 1.0%. This report showed that there was some decline in catolism believers in Timor-Leste, where in the sense of the population in 2015 it represented 97.6%⁹. This does not affect the level of religious participation, because " since the abandonment Timor Portuguese the Catholic Church has always stood up against the barbaric occupation of indonesians and its role has always been based on the defense of human rights, for the defense of a people who fought for National^{Liberation 11}.

Religious freedom during the Indonesian occupation (1975-1999) was difficult, that is, on the one hand, Indonesia is not a secular state, because there were intimidations and wars imposed by the Indonesian troops and regime¹². According to Matoso, on the letter of Dom Martinho da Costa Lopes that so basic in this process cited by (Alexandre Corte Real & Carlos Tilman, 2023), pointed out that, this text was not only a prootesto against injustices and atrocities, but above all a declaration of solidarity of the clergy with the people humiliated and offended¹³. The church was in solidarity with him and would resist along with him. That is why, part of the historical point of view, religious freedom is always considered with a historical imperative, imposes on the state to guarantee this fundamental right religious confessions as entities charged with the exercise of religious activities in the promotion of social peace, tranquility, tol-

erance and religious solidarity in Timor-Leste¹⁴.

The importance of religious freedom in society.

It is important to realize that religious freedom is a fundamental right of human beings, without its coexistence in society would be chaos, because no one had the freedom to choose their religion and could not profess their faith. In a society where there is no freedom of religious, that some society should live in a situation of intolerance and religious conflicts. According to Aristóteles, man is a social animal, who needs to live in society to develop, and thus acquire capacities, but this coexistence can cause problems, when there are conflicts of antagonistic intrresses and the lack of laws that regulate religious freedom¹⁵. From the historical point of view, the importance of Catholicism in Timor-Leste, its religious freedom is based on the degree of proactive participation in the liberation of the homeland, as it emphasizes," in the international dimension of the church was important for the visibility of the Timorese cause in the practice of implementation is essential cited by (Alexandre Corte Real & Carlos Tilman, 2023) in the creation of a network that, not always in a concentrated strategy, used the Catholic structure to spread what was happening in an isolated Timor-Leste and to create pressure groups together with governments, the United Nations and ecclesiastical entities."

There are certain cases where some religious minorities were disturbed by unknown groups during their church activities, by throwing stones at this and which resulted in injury to a believing woman, still other pending cases. This showed that there is religious intoleric and discrimination between citizens

belonging to the different religious confessions in Timor-Leste, but in this context, the fundamental issues of religious freedoms are "discrimination in public services, recognition of the documents of religious minorities and allocation of budget to their groups". There are cases where the registry and notary services "reject the birth certificates of the Islamic and Protestant religious organization, these rejections may hinder the use of this document for registration in schools and other official acts, that is, the said services only facilitates civil marriage and birth certificate to religious minorities". Respect the human rights and fundamental rights of the citizen." Therefore, it is very important that the rights of citizens to religious freedom be realized through permissive laws of religious practices, such as the recognition of non-Catholic marriages, recognition of their documents in the practice of the implementation process among the ^{other} 16.

Religious diversity in the democratic rule of law

Religious diversity with regard to the coexistence of various religious confessions in the guarantee of peace and tranquility among the members of each of them brings sociopolitical well-being at community level in Timorese society. Thus, "taking advantage of the prestige that the religious had in Timor-Leste and the relative ease, which had to communicate with each other and to move within the regions, the religious were increasingly assuming this role of means of communication and humanitarian aid specifies how, with medicine and food". In our country, we observe the existence of various religious confessions such as Catholicism, Islam, Buddhism, Hinduism, Jehovah, visionary evangelical church, Protes-

tantism and others, are entities that intend to transmit the word of God to the people and seek transcendental truth and common religious good. Religious confessions must create peace, cooperation, collaboration and solidarity, promoting tolerance and non-discrimination. Article 16 of the RDTL Constitution provides for three fundamental principles of religious freedom, on the one hand we have the principle of universality- recognizes and freedom to all citizens, the enjoyment of their rights guaranteed by laws, such as the right to religious confessions, the right to enjoyment of freedom of conscience, religion and worship, and etc. (paragraph 1 of the last article). The principle of religious tolerance - in the social aspect in which it prohibits or limits religious discrimination and persecution - before religious minorities or any person in the democratic rule of law¹⁷. These principles aim to lead to mutual understanding, peace and tranquility, promoting non-racial character based on religions that exist in the country cited by (Alexandre Corte Real & Carlos Tilman, 2023).

THE REVISION OF LITERATURE

The concept of freedom

The expression freedom comes from the Latin *libertas* which means the condition of him who is free, that is, ability to act on one's rights. Human freedom must be consented to by people in such a way that it is significant freedom, both subjectively and objectively.¹⁸ This means that freedom reflects that the idea of human conscience is always individual, it is in their aspirations and tendencies the real spring and the decisive fact, ultimately, of all social transformations. In the Democratic Rule of Law, freedom is regarded

as one of the fundamental rights guaranteed by the supreme law, note the relevant issues in Timor-Leste, freedom of expression and information, art.40, freedom of the press and the media, art.41, freedom of assembly and manifestation, art.42; freedom of association, Art. 43; freedom of movement and freedom is based on the enjoyment of their rights freely, peacefully and without any forms of discrimination, persecution, oppression and free^{from violent acts} 19 cited by (Alexandre Corte Real & Carlos Tilman, 2023).

Concept of Religion

The word religion comes from the Latin religion, -onis, which concerns a set of cultural systems and beliefs practicing by a certain group of people, which establish symbol, which relate humanity to the skewness and its own moral values²⁰. These words are often used as synonyms of faith or belief, but somewhere may refer to a particular entity. Religion can also be regarded as an objective condition of people's freedom, this means that, "free individuals and all equals in that freedom, must be autonomous, free, themselves, and therefore, as great individuals personified, should not likewise know above them another authority other than promote of the law" but, it must respect what is sacred in a community in the implementation practice cited by (Alexandre Corte Real & Carlos Tilman, 2023).

Concept of religious freedom

If religious freedom is realized as long as there is, freedom in the state we belong to, this premise is intended in three interconnected aspects (subjective, objective and valorative reason). It reflects the formal Constitution,"in a way, still enshrined- to a regime of separation, with full constitutional recognition of

freedom of science and religion (considered today a material limit of constitutional revision and one of the rights incapable of suspension in a state of siege)". This material limit in the case of Timor-Leste is not expressly provided for, but implicitly as part of the citizens' freedoms and guarantees rights, which the law of constitutional revision must be to comply with (point (b) of paragraph 1 art. 156 of the CRDTL)^{1,7,9}. It is shown that "religious freedom is far from guaranteed and persecution scans. However, its recognition, protection always taking into account its historical, social and political aspects of the country, so it needs a law of religious freedom, in turn, would affirm the right of religious confessions to equal treatment, despite the differences imposed by its representativeness. However, religious freedom is still, "a principle that guarantees the individual or community, in public or private, manifest their belief in teaching, practice, cults or rites. It is therefore a fundamental right that protects people's freedom of science and logical and rational thinking, allowing them to express themselves about it and act according to what they believe" in the community of Timor-Leste (Alexandre Corte Real & Carlos Tilman, 2023).

METHODOLOGICAL

This investigation is a search of bibliographic references. Throughout the research and documentary analysis of knowledge of science and argumentative both legal and literary.

DISCUSSION

Constitutional framework (Freedom of religious: a fundamental right)

The constriction of the Democratic Republic of Timor-Leste henceforth, CRDTL is the fundamental law of

Timor-Leste that clearly provides for related rights, bind it to its main objectives, one of them in the line such as the right to conscience, cult duration and belief. In fact, the exercise of the fundamental daily of the fundamental rights and freedom of citizens and citizens¹⁸. For example, the right to religious freedom, Art. 45°, has as essential content, freedom of conscience, worship religion and among others. The State recognizes and values the participation of the Catholic Church in the process of national liberation of Timor-Leste (art 11(2) of the CRDTL). Moreover, this constitutive recognition of the visibility of the religious minorities in Timor-Leste to contribute to peace tranquility and solidarity within Timorese society. It should be noted that one of the other guiding principles of religious freedom is the principle of universality and equality, Art. 16 of the CRDTL. These principles are translated into the subjective dimension- citizens must respect each other without degrading and persecuting each other for religious or ethnic reasons, in the objective dimension- provides that, the law must be fair to all citizens when they enjoy their religious freedom rights, because in the value dimension the situations and conditions of citizens belong to religious confessions must be guaranteed legal certainty, social peace and the protection of citizens' trust, so they can contribute to the common good and joint and several responsibility¹⁹. This is important for Timor-Leste citizens and citizens of the world cited by (Alexandre Corte Real & Carlos Tilman, 2023).

of (art.6 of the CRDTL) is " to guarantee and promote the fundamental rights and freedom of citizens and respect for the principles of the rule of democratic law"²¹. In this sense, "the interpretation of the fundamental law reveals a model of non-identification between political power and religion, characterized by the relative separation, compatible with the recognition, to some extent, of the social aspect of religious freedom". Therefore, and if all that is social is also legal, then the right of the political community cannot be disinterested in religious social phenomena." This principle is the result of a deeper understanding of the freedom of religious confessions and the relationship that must exist between them and political power." In the juridicity plan, reflecting on the past and previous conflicts in the case of Timor-Leste, in 2005 there was a demonstration for 19 days against the state's decision to abolish the material of religion and morals in the establishments of public and private and public, this episode of " conflict Church-State, then verified, do not annul this matrix of social peace as religion, long before religious self-determination was formalized as a fundamental right of the human person." Therefore, the foundation of religion in this context must respect all the laws in common that contemplate in the Constitution of the Republic cited by (Alexandre Corte Real & Carlos Tilman, 2023).

Legal-Legal Framework

According to the constitution, the laws have been legislated and will be formulated in a given legal order, the state's action always binds its functions of political, social and economic control of which, they

Perspective the Human Rights of Liberation for Religious

The recognition of the religious freedom of religious and religious confessions is a state obligation to do, because this freedom, before being a fundamental

right of citizens recognized by the Constitution, was a right of the homem inherent to the human person, because it is recognized internationally. Universal Declaration of Human Rights recognizes, the right of persons to religion, note in Art. 18, " everyone has the right to freedom of thought, knowledge and religion; this right implies the freedom to change religion or belief, alone or in common, both in public and in private, by teaching by practice, by worship and by rites". In their comparatolist universality, " human rights are rights valid for all peoples and at all times (jusnaturalist-universalist dimension); fundamental rights are human rights, legally-institutionally guaranteed and limited by temporally." Therefore, their specific application to cases of fundamental rights, these are legally relevant^{5,17}. In particular, Timor-Leste's condition allows it to be applied and respectfully applied in the daily practice cited by (Alexandre Corte Real & Carlos Tilman, 2023).

Catholic Religious Confession: Example of the Enjoyment of Religious Liberation

In the historical-constititional moment, the State evidences the moral and solidary responsibility of Catholics, stifies that, "in its cultural and human aspect, the Church Catholicons in Timor-Leste always knew how to assume with dignity the suffering of all the people, placing themselves at their side in defense of their most elementary rights". In 2015, the State of Timor-Leste and the Holy See concluded an agreement which was ratified with the resolution of the National Parliament, No. 18/2015, of November 11, this agreement contains a legal framework governing the relations of the Holy See and Timor-Leste. Therefore, no doubt has arisen, in the principle of religious

freedom- states that the State guarantees the freedom to profess and publicly practice the Fis Atolic C, (Art. 1 of the Concordat). Let us node, the State recognizes the legal personality of the Catholic Church and its affiliated organizations in the country, Art. 3 and 5 of the Concordat; ensuring the exercise of worship, education, administration and management of property, real estate, Art.12; religious assistance, Art.8°; recognition of the validity of the official documents of the Catholic Church, Art.6; consent of religious festivities, Art. 7; rights to the media, (Art.18 of the Concordat), these are some rights relating to the enjoyment of religious freedom by the Catholic Church in Timor-Leste. Therefore, the struggles of religious minorities need to conform in if is possible these types of treatment, but first of all, they need to improve their internal challenges of the enjoyment of religious freedom¹⁹. This means that the State of Timor-Leste put in its high regard practice the law very important cited by (Alexandre Corte Real & Carlos Tilman, 2023).

Secular State and its Legal Principles

Article 12, n.1 of the Constitution of the Democratic Republic of Timor-Leste, the principle of religious diversity, where it respects and recognizes the different religious confessions, this shows that the functional posture of the State before religions is grouped, unitaryin an eraof the divergent community, both in the difference of religious or ideological beliefs. that is, religious confessions in carrying out their activities must obey the mother law and other laws in force. Religious confessions are religious institutions that make up a community or group of individuals who have the same religious conviction,

because they have leaders who direct and organize. In this case, the non-officialization of religion, removes the theocrat state, still, the recognition of religions is effective, because it prevents the pretexts that the State is absoluista, therefore, it recognizes itself, religious confessions and the religious subject is isolated from the state, the State becomes secular²¹.

The existence of confessions and their activities cannot be ignored or seconded and nothing prevents even the firming of their cooperation with the State in various domains." However, a minimum of cooperation is necessary to ensure and promote the effective realization of individual and collective religious freedom." The principle of laicity-respects religious diversity, religious communities do not intervene in political events, absence of religious symbols in public buildings, respect for religious goods in common places, the non-desecration of statues, objects of worship, rites and among others. This means that, " the separation of religious confessions from the state arises as a guarantee of defense of religious freedom. The right to religious confession stems from the principle of religious freedom, that is, all people are free in their conscience or religious belief, to contituir or associate themselves in a religion, to practice worship and to make rites, therefore, it forifies discrimination and religious persecution, which must respect each other in the implementation practice in Country of Timor-Leste cited by (Alexandre Corte Real & Carlos Tilman, 2023).

Challenges of Religious Freedom in Timor-Leste

The realization of rights over religious freedom is fundamental to ensure true equality in the fulfillment

of the principle of laity, religious tolerance and respect for the dignity of the human person and religious confession. Some challenges show that the Timor-Leste State admits the teaching of religion in public schools, but teaching centered only on a religion, because it does not yet take into account the religious diversity of the Timor-Leste population, in a way that, the foundation of religious freedom and will be in this dissimilarity. In the past, certain people destroyed the religious objects of worship of Catholics on the outskirts of Dili and elsewhere, threw stones at the Churches, offended some religious belongings of religious minorities while they were doing religious activities in their centers. Furthermore, during its term from 2002 to 2022, it identifies certain problems regarding religious freedom and its valorising, such as lack of special law dealing with religious freedom, recognition of religious confessions, lack of procedures for non-Catholic marriages for cases where citizens do not desire civil marriages, religious minorities as Muslims, Protestants, Adventists, Buddhists, Hindus, some of them, their documents (marriage certificates, certificates of no certificates and others) have not yet been recognized by the State, that is, it does not yet recognize the validity and validity of the acts performed by them in the religious sphere. The estado affirmed its neutrality and not interference in the interfaith field, while at the same time guaranteeing the various religious confessions the same power of self-governing." this is because, currently, the freedom of the religious is in a written posture, which may call into question the laity of the Timor-Leste State, violation of the principal of equal treatment, protection of trust and shakes legal certainty and certainty^{10,12}.

Peritorium Right and Manifestation: Legislative CONCLUSION

Option of Religious Freedom.

It is defined, the right of demonstration is a special form of meeting in which it aims at the public expression of a message of protest, support or any other purpose, the petition right as a way of defending the common interest, constitutionality or democratic legality. In this case, minorities affected by the issues at issue may exercise rights such as, the constitutional complaint or the right to peaceful expression and expression, a petition right, (arts. 40,42° and following of the CRDTL). Constitutionally, Art. 48 states that "every citizen has the right to submit petitions, complaints and complaints, individual to them collectively, before the sovereignty bodies or any authorities, for the defense of his rights, the constitution, the laws or the general interest." It is reinforced, Art. 42, that everyone is guaranteed the freedom of peaceful assembly without weapons, without the need for prior authorisation, since the right of expression is recognised in accordance with the law. Under the constitutive guarantee of the exercise of petition law and peaceful manifestation, citizens affected by decisions of discrimination, intolerance and persecution of a religious nature may ask the state agencies competent to solve the problems according to the competence of each of them. Compete to the competent body adopt a legislative option in the case of recognition of religious confessions, a law of the separation between State and religious confessions, creation of legal proceedings relating to non-Catholic marriage, monogamous barlet marriage, had respect according to the tradition of ancestor's condition cited by (Alexandre Corte Real & Carlos Tilman, 2023).

It is concluded that religious freedom in its individual, collective and valuable aspect needs to be realized. In examining the legal assumptions Constitutional, legal and legal facts I found that there is relative discrimination between matters of religious confessions in teaching and education, then the absence of the Religious Freedom Act and The Law of Separation of the State and religious confessions, lack of state recognition of marriages of religious minorities or non-Catholic marriages for those who would not like to adopt civil marriage, lack of state legal deeds of marriage and documents of religious minorities, State must analyze in depth and consider the process of equal treatment in the future of the country all religious confessions in its dimension of certainty (Alexandre Corte Real & Carlos Tilman, 2023).

In these issues, it is evident, religious minorities need to legally constitute their religious confessions, thus acquiring the personality and legal capacity to exercise the religious activities of worship, rites (the validity and effects of non-Catholic religious marriage in Timor-Leste of protestant, Islamic, advenists and others are recognized, the religious documents of these and instructional recognition are validated). In this sense, we can say that there is mutual cooperation between state and religions in the realization of religious freedom as a fundamental right of citizens and religious confessions. In other conditions, religious minorities need to adopt and follow their procedural rules of marriage and link their effects between secular state and religious confessions, so as not to doubt the civil effect of marriages in Timor-

Leste as a violation of the principle of the secular state (equality, cooperation, religious tolerance, neutrality, conformity, constitutionality and legality) , it is important we have to check what best for everyone models applications real cited by (Alexandre Corte Real & Carlos Tilman, 2023).

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