

The Effects of Marriage According to Timor-Leste Law (2025)

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Received: 28 Feb 2025; Accepted: 05 Mar 2025; Published: 15 Mar 2025

Citation: Alexandre Gentil Corte-Real de Araújo. The Effects of Marriage According to Timor-Leste Law (2025). AJMCRR. 2025; 4(3): 1-11.

Abstract

Introduction: Timor-Leste's legislation regulates various aspects of marriage, directly influencing the lives of spouses and the community with legal and social dimensions, examining issues such as the rights and duties of spouses, the management of matrimonial assets and the legal consequences in cases of divorce. By highlighting the relevance of the law in the structuring of marital relations, the research seeks to understand the impacts of these norms on the Timorese social dynamics.

Objectives: To explore the effects of marriage in accordance with current legislation in Timor-Leste, examining the legal, social and cultural 'nuances' that permeate this institute.

Methodology: To use the documentary research method, that is, the deductive method in which the data were collected through bibliographic references (books, articles, internet and etc.) and internet and the ideas, opinions of our jurists.

Conclusion: Thus, marriage can play a crucial role in preserving traditional culture and values, serving as an institution that strengthens family and community bonds. Therefore, it is evident that the effects of marriage under Timorese law are complex and multifaceted, reflecting not only the legal norms, but also the broader social, cultural and economic dynamics that have valued the people of Timor-Leste cited by (Corte Real AG & Tilman CB., 2025).

Key words: Marriage, Timorese legislation, matrimonial rights.

INTRODUCTION

Marriage understood as a contract has been debated for the most diverse reasons. Previously, marriage was considered an administrative act, arguing that the bride and groom had to demonstrate their will to marry before an official – only the latter's intervention attributed legal value to the marriage, the declaration of will of the bride and groom was seen as a simple condition for the practice of an act of state pow-

er. In other words, marriage is one of the institutions that has the most regulation in legal systems around the world. There are numerous definitions, but there is no uniformity to conceptualize it in the various legal systems according (Antunes V., 2019).

The Civil Code of Timor-Leste defines marriage as a contract entered into between two people of different sexes who wish to establish a family through full communion of life. This definition reflects the traditional perspective of marriage in many cultures, where the union between a man and a woman is considered to be the fundamental basis for forming a legally recognized family. Marriage is a legally recognized contract that formalizes the union of two people. This formalization occurs through ceremonies and procedures that vary according to the cultural, religious and legal traditions of each society. The marriage contract usually establishes mutual rights and duties between the couple and may involve aspects such as inheritance, joint ownership, and parental responsibilities second (Oliveira D., 2021).

The definition assumes that marriage is performed between two people of different sexes. This approach reflects a traditional view of marriage as a heterosexual union, which has been prevalent in many societies throughout history. However, it is important to recognize that perspectives on marriage are evolving and becoming more inclusive in many parts of the world, with an increasing number of countries legalizing same-sex marriage. The fundamental purpose of marriage, according to the definition, is the intention to form a family. This family constitution may or may not involve the decision to have children, since not all married couples choose to be parents. However, the definition sug-

gests that marriage is seen as a foundation for the formation of a family unit according to (Fernando V., 2018).

The history of Law, including Family Law, is intertwined with the narrative of Humanity itself, since the existence of civilization is intrinsically linked to the presence of Law. In summary, Law emerges as a facilitator of social coexistence, establishing limits, controls and norms for this coexistence. Thus, it can be said that Law is a refined technique for regulating human drives. Family Law, in turn, has been a reality since time immemorial, as society does not subsist without the family institution. Its legal organization in legislative documents is a more recent facet of social structures. However, it is crucial to remember that the law is only one of the sources of law.

However, there is still no specific legislation on Family Law in Timor-Leste, although the Ministry of Justice in 2017 presented a proposal to create its own law on marriage and Family Law. This initiative aims to ensure that the rules of marriage and family are part of their own autonomous law, consistent with the applicable general rules of the Civil Code. Based on the legal principles, as established in article 1475 of the Civil Code of Timor-Leste (CCTL), three types of marriage are foreseen: civil, catholic and monogamous burlesqued, as described in the same article. In other words, marriage aims at the immediate full communion of life, allowing different forms of celebration, such as civil, catholic or monogamous burlesqued according to (Corte Real AG., et al, 2023).

In civil marriage, it is a contract between two people of different sexes for the purpose of forming a family. Therefore, it is considered a legal act, gen-

erating legal effects. The analysis of this legal precept addresses the existence of marriage, which presupposes main requirements such as the capacity of the parties, consent and the possible object. The capacity of the parties refers to the capacity to be the holder of rights and obligations. The consent of the bride and groom is essential, because without the will to marry, the marriage has no effects. In addition, marriage must be lawful, that is, it cannot be prohibited by law. In Catholic marriage, it is a matrimonial act in which the bride and groom decide to constitute the marriage as a sacrament. In Timor-Leste, Catholic marriage is regulated by canon law, according to Article 17 of the agreement between the State of Timor-Leste and the Holy See. The requirements of marriage are set by ecclesiastical authorities, and Catholic marriage is considered indissoluble, reflecting an intimate communion of all life. Consummation is seen as necessary for the effectiveness of the marriage bond, conferring stability to the act (Oliveira D., 2021).

As for monogamous barracked marriage, it is considered a form of celebration of marriage based on "uses and customs", understood as the unwritten right based on practices observed over time in certain relationships. According to the General Part of Article 2 of the CCTL, uses and customs are allowed as long as they do not contravene the Constitution and the laws. Thus, the celebration of the monogamous burlesqued marriage was conducted by *the "Lia Nain"* of both spouses. These different modalities reflect the cultural and religious diversity present in Timor-Leste, providing couples with the opportunity to choose the form that best aligns with their convictions and values. Respect for tradition, religious faith and adherence to legal principles are fundamental aspects in the celebration of

marriage in that country and ensuring sustainability cited by (Corte Real AG & Tilman CB., 2025).

Objectives: To explore the effects of marriage in accordance with current legislation in Timor-Leste, examining the legal, social and cultural 'nuances' that permeate this institute.

THEORETICAL FRAMEWORK

"Fundamental Rights" are the basic and inalienable rights that belong to all individuals, regardless of their nationality, gender, ethnicity, religion, sexual orientation or any other characteristic. They are the basis for freedom, justice and peace in the world and are essential to ensure the dignity of every person. In the Constitution of the Democratic Republic of Timor-Leste, Fundamental Rights are clearly established and protected. The Constitution of Timor-Leste establishes that the State's fundamental objectives are to defend and guarantee the sovereignty of the country, guarantee and promote the fundamental rights and freedoms of citizens and respect for the principles of the democratic rule of law. The Constitution of Timor-Leste also states that the direction of the family belongs to both spouses, who must agree on the direction of living together taking into account the good of the family and the interests of each other. This is an example of how Fundamental Rights are applied in practice, ensuring equal rights and duties between spouses. (Marriage Law, like most branches of law, is shaped by principles that guide positive normative provisions and clarify their interpretation and implementation. They are, in their overwhelming majority, principles enshrined in the legal-constitutional order that, at each step of judicial practice, can and should be scrutinized by the interpreter and enforcer of the law. Article 39 of the Constitution of the Democratic Republic of Timor-

Leste (C RDTL) establishes a solid basis of principles that guide family, matrimonial and maternal relations, outlining limits for the action of the ordinary legislator in these areas. These principles represent the essence of the fundamental values of Timorese society, ensuring the protection and promotion of individual and collective rights in the family context.

By enshrining these principles, the constituent legislator recognizes the importance of the family as the fundamental nucleus of society, attributing to it a central position in the social and legal structure.

The protection of marriage and maternity reflects the legislator's concern to ensure the stability and well-being of families, recognizing their contribution to social cohesion and sustainable development. It is an essential cornerstone for the cohesion and stability of any society. This principle is based on Article 39 (1) of the Code of Civil Procedure, which, by recognising the intrinsic value of the family unit, confers on it a special status, conferring on it an inalienable right to the protection of society and the State, that is, it grants the family itself, whether it is a family based on marriage, natural or adoptive, which has been considered as a right to the protection of society and the State, thus making it the object of an institutional guarantee cited by (Corte Real AG & Tilman CB., 2025).

However, protecting the family is not only a matter of individual well-being, but also an investment in social cohesion and stability. A society that neglects to protect the family risks undermining its very structure, paving the way for social disintegration and systemic imbalances. The institutional guarantee conferred on the family by the principle in question implies that the state has the responsibility to create and maintain an environment conducive

to the healthy development of families. This goes beyond simply recognizing the family unit; It implies adopting policies and practices that promote family stability, offer financial support when needed, and protect the individual rights of family members. The protection of the family also encompasses the guarantee of equal conditions for all its members, regardless of gender, age or position in the family structure is a commitment to the promotion of equity and justice within the family environment, recognizing the diversity of roles and responsibilities played by each member.

It is considered as a principle that it is about the fundamental right enshrined in article 39, paragraph 2 of the Constitution, which states that "everyone has the right to form and live in a family". The right to form a family necessarily refers to the right to form family relationships based on marriage (*conjugal family*), the right to form family relationships based on the biological fact of procreation (*natural family*) and the right to form family relationships based on adoption (*adoptive family*). This right is a universal human right, enshrined in several international conventions, and in the other part it allows each individual to have the freedom to choose his or her partner, to have children and to determine children according to his or her beliefs and values. This right also protects the family from interference and attacks, ensuring that the family can live in peace and security. In short, the right to form and live in a family is a fundamental right that must be respected and protected. It is a right that allows individuals to live in community, to experience love and support, and to transmit values and traditions. It is a right that, when respected, contributes to the construction of strong, stable and prosperous societies (Campos C., 2020).

The Principle of Matrimonial Consensually, also known as consensual, is a legal principle that means that the right is constituted or transferred, by the will of the parties, automatically and immediately at the time of the conclusion of the contract, without the need to deliver the thing or register, and without dependence on the fulfillment of the obligations established in the contract. This principle was enshrined in Article 39 (3) of the Constitution of the Democratic Republic of Timor-Leste, which emphasizes that "marriage is based on the free consent of the parties". Marriage, a universal and ancient institution, is a social compact that unites two people in a lifelong union. This agreement differs from the others in that it is based on two essential principles: the free consent of the parties and the full equality of rights between the spouses cited by (Corte Real AG & Tilman CB., 2025).

It is understood as a fundamental principle in family law, which prohibits any discrimination on the basis of sex. This principle states that man and woman are equal before the law and do not cease to be so by virtue of the fact that they are married. Article 39, paragraph 3 of the Timorese Constitution also enshrines the principle of equality between spouses, which corresponds to the qualified expression of the general principle of equal rights and obligations between men and women, stipulated in article 17. By recognizing that the family is an entity that belongs to both spouses, the Timorese civil code promotes a partnership approach to marriage. This approach respects the autonomy of each member of the couple, while highlighting the importance of joint agreements to ensure the well-being of the family as a whole. This article, therefore, is not just a legal provision; It is a reflection of the fundamental values of Timorese

society. It highlights the importance attributed to equal rights, mutual collaboration and consideration for the interests of the partner in the construction and orientation of family life. These principles not only shape family relationships but also contribute to the formation of an equitable and supportive society.

In summary, Article 1559 of the Timorese Civil Code not only establishes legal rules for marriage, but also grounds the moral and social basis for equality and cooperation between spouses. By recognizing the importance of partnership and mutual consideration in family life, Timorese legislation promotes an environment conducive to healthy relationships and a society where the rights and interests of all are respected. Article 39 of the Constitution of the Democratic Republic of Timor-Leste (CRDTL) is a fundamental provision that recognizes paternity and motherhood as eminent social values. That article grants fathers and mothers, regardless of whether or not they are united by marriage, a right to protection from society and the state in carrying out their action with regard to their children, in particular with regard to their education.

Article 39 (4) of the RDTL Code also recognizes that fatherhood and maternity should not prevent fathers from fulfilling themselves professionally and participating in the civic life of the country. This means that parents have the right to reconcile their family responsibilities with their professional and civic aspirations. They have the right to work and contribute to the economy and society, without being discriminated against or disadvantaged due to their parental responsibilities. The protection of society and the state for paternity and maternity can take various forms. It can include legal and policy measures to promote gender equality and the

equal sharing of family responsibilities, such as paid parental leave, flexible working hours, affordable and quality childcare services, and protection against discrimination in employment. It may also include promoting parental participation in the education and care of children, through parenting training programmes, psychosocial support, and parental involvement in schools and communities.

Parents' professional fulfilment and civic participation are essential for their well-being and for the development of society. Parents who are satisfied and fulfilled in their work tend to be happier, healthier, and better able to care for their children. The civic participation of parents, whether through voting, volunteering, participation in community organizations or advocacy for social causes, contributes to democracy, social justice and the progress of society. It is concluded that article 39 of the Code of Civil Procedure reflects a progressive and humanist view of fatherhood and motherhood. It recognizes the crucial importance of parents in the education of their children and in shaping society, and affirms their right to the protection and support of society and the state. This article is a reminder that fatherhood and motherhood are more than personal responsibilities; they are also social responsibilities that deserve our respect and support in the implementation cited by (Corte Real AG & Tilman CB., 2025).

The protection of children is a fundamental principle enshrined in the Constitution of the Democratic Republic of Timor-Leste (C RDTL). This principle is explicitly mentioned in Articles 18 and 19 of the RDTL Code, which give children the right to protection from parents, society and the state, with a view to their integral development. Child protection is a principle that recognizes the need for spe-

cial protection for children, due to their vulnerability and dependence. This principle is reflected in Timor-Leste's legislation, which establishes a range of rights and protections for children. The state, in turn, has a duty to create and implement policies and laws that protect children's rights and promote their well-being. This includes the provision of essential services, such as education and health, and the protection of children from all forms of abuse and exploitation. The integral development of children is the ultimate goal of protection. This means that children should have the opportunity to fully develop their physical, intellectual, emotional and social capacities. Protection is therefore a means to ensure that all children have the opportunity to reach their full potential (Vicente L., 2014).

In short, the protection of children is a fundamental principle that recognizes the need for special protection for children and assigns this responsibility to parents, society and the state. This principle is crucial to ensure the well-being and integral development of children. However, the protection of children is not only a matter of law, but also a matter of practice. It is necessary that all actors involved, from parents to the state, are committed to the protection of children and work together to ensure their well-being and development. Child protection requires preventing and responding to violence against children. This includes implementing measures to prevent violence, such as education and awareness raising on children's rights, as well as implementing child protection systems that can respond effectively when violence occurs (Brito V., 2017).

Child protection also involves promoting the well-being of children. This includes ensuring that children have access to adequate nutrition, a safe and

healthy environment, and opportunities to learn and develop. The protection of children is therefore a shared responsibility that requires the commitment and action of all. It is a fundamental principle that must be upheld and promoted to ensure the well-being and integral development of all children. After all, the protection of children is a fundamental principle enshrined in the RDTL C that gives children the right to protection from parents, society and the state, with a view to their integral development. This principle is crucial to ensure the well-being and development of children and requires the commitment and action of all actors involved. It is a principle that must be upheld and promoted to ensure the well-being and integral development of all children in the country cited by (Corte Real AG & Tilman CB., 2025).

METHODOLOGY

We use the literature review method or deductive methodology, the references reading the authors of the books in the library, scientific journals, research in the field, through the internet and the ideas, opinions of our jurists.

DISCUSSION

Marriage establishes the family and imposes duties on the spouses, also affecting their names and nationalities according to Timorese laws. According to Article 1559, paragraph 1 of the Civil Code of Timor-Leste, spouses are equal before the law, regardless of their marital status. Despite the difficulties that may arise due to disagreements between the spouses, they must resolve their conflicts and may resort to justice in exceptional cases. The principle of joint management of the family, according to Article 1559 (2) of the same code, determines that the management of the family belongs to the two spouses, not just one of them. Any contract

that assigns this direction to one of the spouses is void. Marriage does not restrict the personal rights of spouses, except for the right to sexual freedom. Each spouse may pursue a profession or activity without the consent of the other. However, certain activities considered undignified or dangerous may constitute a breach of marital duties and justify a petition for divorce or legal separation. Agreements concluded by spouses are protected by law and can be revoked unilaterally at any time. However, the expectation of maintaining the agreement must be protected by law, and in certain cases, unilateral revocation may be considered an abuse of rights (Oliveira D., 2021).

The existence of conjugal duties in marriage is one of the main arguments most used for those who are united within a "full of life" cannot enjoy certain rights that spouses have, since they have contractually bound themselves to the fulfillment of certain duties. The duties of spouses, as stipulated by the Civil Code, play a crucial role in maintaining and stable the marriage, while also protecting the rights and interests of both partners. These duties are outlined to ensure that the marital relationship runs smoothly and fairly for both parties. In the context of the Timorese Civil Code, we find these duties expressly defined in Article 1560. This article serves as a legal basis that outlines the responsibilities and obligations that spouses must fulfill toward each other.

These duties establish standards of behavior and conduct that promote the integrity of marriage. They include fundamental principles such as mutual respect, fidelity, cohabitation, cooperation and assistance. Each of these duties plays a specific role in building and sustaining a healthy and balanced marital relationship. The duty of mutual respect

and consideration refers more to the dignity of the spouses, since the law delegates to them the responsibility of qualifying them, according to the values they share, without interference by the State-judge in privacy and intimacy, which occurs with the duty of fidelity. The duty of mutual respect and consideration encompasses the inviolability of the life, liberty, physical and psychological integrity, honor, name, image, and privacy of the other spouse. After marriage, each partner is never isolated and, from the public perspective of society, always has the support of the other, which highlights the importance of preserving the moral integrity of the couple without compromising individuality, as it is recognized that, even sharing the same life, each may have different aspirations.

In the legal context, it refers to the mutual obligation between the spouses to maintain fidelity reciprocally within the marriage. Fidelity has certainly only become a juridical law, that is, one of the duties of marriage, because the "impulse" of infidelity exists. To establish family relationships, it is necessary to impose limitations and prohibitions on desire. Hence the imposition of a prohibitory interdict on infidelity. The duty of fidelity has always been understood as an impediment to sexual relations with third parties. Historically, it was largely focused on the control of female sexuality, to protect domestic peace and avoid turbaries sanguinis. In this strict sense (and, certainly, unsustainable today), doctrine and jurisprudence have always manifested themselves. It is not to be confused, therefore, with mutual respect and consideration. The duty of fidelity between the spouses is of a negative nature and implies the renunciation of acts that violate the trust and conjugal exclusivity. This obligation should not be confused with marital debts, which include the obligation of the spouses to have sexual relations with each other and are obligations of cohabitation. The concept of cohabitation in matrimonial law means, "communion of bed, table and dwelling. The duty of cohabitation begins by comprising the obligation to live together, which presupposes the existence of a single residence for both spouses (home), which also covers sexual relations (*ius in corpus*) and which constitutes the conjugal duty *par excellence* (*delictum conjugal*).

The duty of cohabitation in family law refers to the obligation of the spouses to live together under the same roof as part of the marriage bond. This duty is related not only to physical coexistence, but also to the sexual aspect of the relationship, and is considered one of the implicit duties of marriage. The Timorese Civil Code (CCT) is clear in stipulating the mutual obligations of the spouses as outlined in Article 1560. This article establishes a series of duties that partners must fulfill, and among them is the duty of cohabitation. Although the CCT does not provide a precise definition of what constitutes this duty, doctrinal interpretation and jurisprudence suggest that spouses should treat each other courteously, avoiding any form of insult or defamation. Therefore, the duty of cohabitation is not restricted to a mere legal obligation, but is rather a concrete expression of the commitment and mutual respect between the spouses. It is through daily coexistence that the marriage bond is built and strengthened, providing an environment conducive to personal growth and the development of the relationship (Campos C., 2020).

The spouse's duty of cooperation includes the provision of mutual assistance, these include the responsibilities inherent in the constitution of a family life. As they are written in article 1562 of the

Timorese Civil Code, where duty implies a mutual obligation of help and assistance between the partners, as well as the joint responsibility to assume the responsibilities associated with the life of the family they have built. The duty of cooperation is based on a balance between the protection of conjugal life and the protection of the personality of each of the individuals, that is, giving oneself completely to receive the other until they are one (without ceasing to be two). The obligation to provide assistance implies that the spouses must help each other in all respects. Therefore, each partner must collaborate to meet both the material and emotional needs of the family. The duty of assistance can be fulfilled both through financial contributions and through domestic work. Therefore, when a spouse decides to devote himself to the responsibilities of the home, including caring for the children, he or she is effectively fulfilling his or her duty of care, often more than adequately. These responsibilities are linked to the typical activities of family life and must be agreed upon by both spouses, taking into account the lower economic profitability of domestic work compared to paid work outside the home cited by (Corte Real AG & Tilman CB., 2025).

CONCLUSION

The institution of marriage, governed by Timorese law, plays a key role in structuring society and in the lives of the individuals involved. Throughout this study, we explore the various aspects and effects of this institute, delving into the legal, cultural and social nuances that permeate it. In the Timorese context, marriage is not just a legal contract between two people, but a union that carries with it a significant load of tradition, values and social expectations. Timorese legislation, based on cultural and religious principles, establishes the rights and duties of spouses, as well as the procedures for their celebration and eventual dissolution. This legislation reflects not only the legal norms, but also the customs ingrained in Timorese society. An in-depth analysis of the effects of marriage under Timorese law reveals a range of impacts, both positive and challenging, on the lives of spouses and society at large. On the one hand, marriage can provide emotional stability, financial security, and an environment conducive to personal and family growth. It serves as a foundation for the formation of emotional bonds, the development of a joint identity and the sharing of responsibilities (Vicente L., 2017). Additionally, marriage can play a crucial role in preserving traditional culture and values, serving as an institution that strengthens family and community bonds. It is often celebrated with elaborate ceremonies, which not only symbolize the union of the bride and groom, but also strengthen the bonds between the families and communities involved. However, we cannot ignore the challenges and dilemmas that also accompany marriage, especially in a rapidly changing society like the Timorese. Issues such as domestic violence, gender inequality, and social pressures can create tensions within the marriage and negatively impact the well-being of spouses. In addition, changes in family patterns and individual expectations have challenged traditional conceptions of marriage, leading to a greater diversity of family arrangements and relationship models. This can create tensions between existing legal and social norms and couples' individual aspirations. It is therefore clear that the effects of marriage under Timorese law are complex and multifaceted, reflecting not only legal norms but also broader

social, cultural and economic dynamics. To fully understand these effects and address the associated challenges, it is crucial to take a holistic approach that takes into account not only formal laws but also the social and individual realities of spouses. Ultimately, this study highlights the importance of ongoing dialogue and an inclusive approach in the formulation and enforcement of marriage-related laws in Timor-Leste. Only through a comprehensive understanding of the effects of marriage and a commitment to promoting gender justice and equality can we work to create an environment in which marriage is truly a source of fulfillment and happiness for all involved in the process cited by (Corte Real AG & Tilman CB., 2025).

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