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# Reconsideration Constituicional the Composition of Democratic the Republic Timor-Leste (2025).

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## *Abstract*

***Introduction:*** *The Constitutional review clause in Timor-Leste is considered a very pertinent matter on the grounds that we have not yet made any Constitutional reconsideration since the validity of the first legislature to date, historically what happens is only transition of constitution. The Constructional review means, the power to change and partially modify the text of the Constitution by the competent legislature, which is the National Parliament, and has established by fundamental principles and rules, which is provided for in Articles 154 to 157 of the CRDTL.*

***Research Objective:*** *It is to contribute to a debate on the issue of the Contitutional Review in Timor-Leste and to eat the constitutional review, use, the legal means, which aim to ensure the Constitution is harmony.*

***Research Methodology:*** *We use inductive metedology, where the study is based on the consultation of reference books in the library, and in this elaboration the articles scientific, Internet is also used as an auxiliary means.*

***Discussion:*** *Precisa of serious application to can ensure the Constitution safely. We know that the Constitution is a rule thatis responsible for the entire legal order of a State and it has the original power.*

***Conclusion:*** *The limits of the Constitution Review and the latter focuses on the Legal Framework and the Process of the Contitutional Review in Timor-Leste, is a very fundamental and need some National consensus of political good will people powered cited by (Corte Real AG., et al, 2025).*

**Keywords**: Constitutional Appraisal, Legal Background, Legal System.

## Introduction

Constitutional Law is the division of Public Law that educations the phenomenon of Contitutional as the highest norm of the State. This is the first characteristic of Contitutional Law that inhabits within the Legal Budget, also called "higher norm" meaning Key Law, or, we can say Mother Law because hierarchically it is based at the top of the Legal Economical of a country that also defines the statute of each existing State Body, this interprets into the idea of the state need to suggest or base its power by control in correspondence or foundation of contition. Hence, it can relate the Contitutional right with the other brushwood of law that can be Intense and Extensive. It is intense, between Constitutional Law and the various undergrowth of public law, while extensive relations are between contitutional law and the private law branch. In view of this, Constitutional Law has its object and study in The Constitution, which, it has different meanings, which are: Formal Sense. The Constitution in the Formal sense is a written document that does not only preserve norms that regulate the production of general norms, but also norms that refer to other politically relevant issues. In the Physical Sense, contitutional has as the positive norm by which the production of formal legal norms is regulated and values other written standards with Contitutional value in relation to the catalog of Central Law in Article 23 of the CRDTL. It clearly does not exclude others provided for by law and application in real conditions cited by (Corte Real AG. , et al, 2025).

Constitutional Amendment consists in the amendment and partial modification of the text of the Constitution by the competent legislator who is the National Parliament this form it is supposed that " The Constitutional Amendment, through the corresponding power of reconsideration, translates into the possibility of changing the constitutional order originally established, but only with a secondary nature, because it is limited, either depending on the fundamental options that characterize the draft law that is in hand, or in accordance with the strict legislative procedure established for its production. In this sense, the constitutional revision results or is based on the constituted power that comes from the constituent power, in this way is not confused, and the Constitutional amendment does not encompass the whole matter, but only matters that are considered free or outside the limits in the Constitution, that is, the Constitution revision will be possible if it does not violate the limits and esseniais requirements that are predicted in the Constitution. Or else, it is concluded that it is completely unequal to the question of change or transformation of the Constitution that caused the new appearance of the Constitution. Example: The French revolution caused the birth of the new system.

As we have already said, the power of constitutional reconsideration, in turn, is defined as the power to revise or modify the Constitution, translating into the legal faculty that allows the amendment of the written Constitution, which exclisively falls to the national parliament, according to article 154 of the CRDTL, contrary to what happens with the power of legislative initiative, article 97 of the CRDTL, in which it authorizes the Government to legislate proposals of the law. However, as ZAGBREBELSKI states, the power of constitutional revision is based on the Constitution itself", this has a sense that the complitude of the process should have the similarity of the Constitution, in case it does not reach then, therefore, it is incontitucional. It is different from the constituent power; the power of constitutional reconsideration is a

power by that organized and subordinate. It is, therefore, a legal power with a secondary character because it is unlimited by the Constitution itself, and is also derived because the original constituent power takes away its political force within the same constitutional legal system application cited by (Corte Real AG., et al, 2025).

**The objective**: Contribute to a debate on the issue of the Contitutional Appraisal in Timor-Leste and the constitutional evaluation, use, the legal means, which aim to ensure the Constitution in agreement.

## Theoritical Framework

The supremacy of the French Revolution caused the breakdown of Monarchical Absolutism where it gave rise to a democratic republic, which was called modern continental contitucionalism. It is, therefore, around the revolutions, that the first discussions begin to emerge about the concepts of contituinte power and contituded powers, thus, the first bases of the science of constitutional law emerged. The thesis of the constituent power, say John Locke Jean-Jacques Rousseu: " for John Locke, the people would be the holder of the supreme power; for Jean-Jacques Rousseu, more radically, the general will of the majority would be the exlusive holder of the constituent power", this for since the possession of the constituent power should belong to the majority of the people and politics that concluded the social pact, and not to an individual or group. Power resides in the people; this is what is called democracy that is born in itself the rule of law. In the sense of popular will, the majority decision prevails over is of the minority. The contituinte power is an original power that has the strength to draft the Constitution, can not today be seen as an absolute power, and therefore has no limit. In fact, the constituent power, even if it is a supreme power, is materially limited in the face of the option for a democratic political organization, based on the Democratic rule of law of western matrix. Consequently, the contituinte power must respect the normative values that cannot be dispensed with, that is, which has normative prestige, with this influence the author Jorge Miranda distinguishes between " Transcendent, immanent and in certain cases heteronomous" in the operation use cited by (Corte Real AG., et al, 2025).

We have already seen that the full Constitutional Review is necessary to ensure stability and to allow the constitution to function and ensure its normative force in the face of the constitutional changes and changes that the Constitution suffers over time effectively, but only the rules of character of positive law i.e. rules which may be modified or repealed by the legislature. The main function of the limits of the amendment in general, is to ensure that within the scope of its function is valid. And it is unrelated for the logislador to use the material limits clause to for example, draw up a Law or decree law that deals with the law of the sea, among others. Therefore, it is necessary to analyze and realize the meaning of each of the material limits currently confined to the same article referred to above, and to which the appraisal must be clear. The first limit, listed in point (a), is national independence and state unity. This means that national independence is a designation of the historical tradition of liberation movements which since Article 1 of the CRDTL is guaranteed. The raison d'état of the constituent process that led to the adoption of this Constitution is stated in Article 1 of the CRDTL, which affirms the unitary character of the State. This is the case in Article 74, which defines the functions of the President Republic, as guarantor of the independence and unity of the State and

in accordance with the Promise of the President of the Republic, in paragraph 2. 3 of art. 77°. The second limit, in point (b), the rights, freedoms and guarantees of citizens. This part coincides in part II of the CRDTL, it is more appropriate to interpret this point in a broad sense, but we must respect all articles applied in the RDTL Constitution.

On the other hand, these clauses are therefore unspoken to be "express or implicit and tacit". It is implicitly expressed the material limits which are expressly laid down in the Constitution which have respect for central constitutional principles. What is being referred to in Art. 156 of the CRDTL. Therefore, according to Constitution, material limits can be "express or textual limits are the limits provided for in the constitutional text itself"; are those that are deduced from the constitutional text itself. And it is tacit, it also guarantees the rights and principles that are not provided for in the Constitution but have the value of the Constitution. The Timorese Constitution does not carry out an electing that respects the order listed in the epigraph. Thus, we find rights, freedom and guarantees organized in a problematic way and not obeying the sequence of rights, then freedoms at last, guarantees. Otherwise, this measure of the State has an obligation or duty to ensure that each person can enjoy the exercise of his right, freedom and guarantee without the interference of third parties, in particular, through legislative intervention and in some cases, the executive measure, e.g., the application of the State so Site or State of Emergency, art. 25° of the CRDTL. After this, the restriction of rights, freedoms and guarantees will only be constitutionally legitimate if it is motivated by the need to safeguard other constitutionally protected rights or interests, according to Article 24 of CRDTL, it is a important theoretical framework of the reconsideration of the constitution of Timor-Leste have and application cited by (Corte Real AG., et al, 2025).

## Appraisal of Literature

In view of this we have two requirements for the qualification of the constitutional reconsideration: it is the intention of the amendment and the exercise of the power of constitutional revision. The first requirement shows us that the revision is an international act that requires for its perfection that the agent has wanted not only the rules, but also the legal appraisal of it, so we must also express or demonstrate the intention of constitutional revision, so it does not allow unexpressed revisions in which it is not explicitly clarified. In addition to the intention of the constitutional reconsideration, we can effectively affirm the validity and effectiveness of a given constitutional revision, we have to assess whether all the formal and material assumptions prescribed by the constituent power have been fulfilled. Before this, in Timor-Leste the rules that specifically regulate or deal with the act of constitutional reconsideration, that is, the legal procedures for the revision of the Timorese Constitutional are included from Title II of Article 154 to 157 of the CRDTL. It is important for us to know that the Timorese Constitution is strict, through the limits we have already studied. Because it prescribes a specific and rigorous process for changing its rules, it is important to know it.

Now, let's see, the body exclusively competent to approve the Constitutional Appraisal Laws is the National Parliament, which is why, in Timor-Leste, we have a simple representative model of constitutional reconsideration. Such a body is vested in ordinary powers of constitutional amendment, in accordance with paragraph 2 of Article 154 of the CRDTL, the requirement of a minimum period of

six years still means that no legislature can carry out more than one constitutional amendment, since each legislature has a normal duration of five years. However, crdtl accepts an exception to that rule, providing for the possibility of carrying out an extraordinary evaluation, without any time limits, if such a procedure is initiated by four fifths of the Members in effect of functions, in accordance with paragraph 4 of Article 154 of the CRDTL. The opening of the ordinary assessment process always requires an act of initiative, which is reflected in the presentation of a draft amendment and is exclusive tothe National Parliament (individual or collective), according to paragraph 1 art. 154 of the CRDTL, and not to the Government because it is different from what happens with the legislative initiative, article 97 of the CRDTL in which the government can submit a bill for law, with regard to the constitutional review process, the initiative is exclusive to the parliamentary body.

While the time requirement notes that the constitutional amendment may appeal in the course of six years (in the context of the ordinary appraisal both in the extraordinary review), therefore, it does not automatically determine the opening of the procedure but with a view to strengthening the relative reserve of the National Parliament to make the Constitutional amendment, so it does not seem permissible for the President of the Republic and other bodies to be empowered to order Parliament for analysis purposes. Just like the one you say about no. 2 of Art. 155 of the CRDTL, establishes that the publication of the reconsideration law must be accompanied by the publication of the new constitutional text. Historic Timorese and the fact that the 2002 Constitution represents the first constitution of Timor-Leste. We know that the constitution of the Democratic Republic of Timor-Leste entered into force on May 20, 2002, provided for in Art. 170 of the CRDTL. However, before that we have the historical-political evolution of the Constitution of Timor-Leste, but it is understood, this periodification has the merit of understanding the birth of the Constitution of Timor-Leste. Thus, the "historical-political intinerary of Timor-Leste borders the following phases of evolution of the Constitution: phase of the Portuguese colonial occupation, the phase of the Indonesian occupation the phase of transition by the United Nations and the phase of definitive independence". For this fundamental reason that we have to make the situation of jury of national consensus and political strength of the National Parliament to have constitutional reconsideration, which exists cited by (Corte Real AG., et al, 2025).

## Research Methodology

This investigation is a search of bibliographic, research articles and references. Throughout the research and documentary analysis of knowledge of science and argumentative both legal and literary methodology use for this study.

## Result Discussion

Timor-Leste is a Democratic Rule of Law that restored its Independence on 20 May 2002, provided for in art. 170° of the CRDTL. On the same day, May 20, 2002, the Constituent Assembly also becomes a National Parliament, according to article 167 of the CRDTL. For the meantime, the process for the development of the 2002 CRDTL was based on a representative procedure, in which Timorese citizens would elect the representatives on whom the responsibility of drafting and proving the constitution by " 88 members of the Constituent Assembly were elected among twelve of the sixteen political parties, of which twenty-four of the

88 members were women". In vertude of the Timorese historical reality and the fact that the 2002 constitution represents the first constitution of Timor-Leste, composed of 170 articles. Since the 2002 Constitution is the result of the original constituent power, the applicability of the act of the constitutional amendment of Article 154 of art. 154 of the CRDTL is considered, by interpretative means, when it is the law originating from the constitution. With this, since May 20, 2008 it is already possible to revise the 2002 Constitution, but in reality what happens is that to date, no constitutional reconsideration has yet been elaborated in Timor-Leste. This situation gives us a question and critical reasoning that it is possible or not, is important or not and is relevant or not, for timorese citizens and legislators to this elements and constitutional amendment act.

In my view the answer can be negative and positive. It is negative because in Timor-Leste we lack resources, that is, the people who are expert in this area, we must have these types of people to be qualified, rigorous in the precious requirements that an act of constitutional reconsideration needs. In view of this, we know that the Timorese constitution of 2002, mostly, is adapted from the Portuguese constitution and other cplp countries. Therefore, we must take into mind, and also mention that the rules of procedure of the National Parliament (Law No 15/2009 of 11 November) do not contain any rule dealing with the laws of constitutional amendment. For all this we must invest in this area (Constitutional Law), in advance so that in the future there will be no difficulties in these situations mentioned. Somewhere else, the answer can be positive when the National Parliament, which has legislative power and is an special power, in the light of constitutional reconsideration. With the initiative of one of the Deputies or parliamentary benches to make constitutional amendment provided that it respects the material limits listed in the Constitution, it is therefore considered valid and takes effect. Thus, the negative theory that we approach the last priority, which does be support the matter of discussion in constitutional order, is the point of situation that we need to think and listen to in the future cited by (Corte Real AG., et al, 2025).

## Conclusion

Considering that a society is not static and there are always opportunities for change in its political and sociocultural realities that the constitution may suffer at certain times. Therefore, it is important that there are specific rules for rewriting the constitution. Thus, we can say that the constitutional reconsideration is attributed to the virtuality of preserving the re-confronting the Constitution, ensuring its modernity and vivacity, by adapting it to the requirements imposed by the specificity of Timor-Leste society that exists in normal practice, and thus, we can rethink what important to correct the best possible guidance of the National Parliament of Timor-Leste. On the other hand, the constitutional amendment must respect the limits necessary for compliance with a process previously ordered in the constitutional text, and that is a task of the power of amendment which belongs exclusively to the National Parliament, provided for in paragraph. 1 of art. 154° of the CRDTL. However, at the level of material limits of constitutional appraisal, it shows us that this act must respect the constitutional and fundamental principles that are listed in the CRDTL of Article 156. It should be noted that, Timor-Leste does not intend with this work to solve what is put, but rather this and apento make another contribution to the discussion of this which is one of the great issues of contemporary constitu-

tionalism, and for spectative t for the future , will be considered by the State of Timor-Leste and legal starting point is important to have changes in the situation need for Timor-Leste cited by (Corte Real AG., et al, 2025).

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