

# Genealogies of Human Rights Ideas in Timor-Leste: “Kultura”, Modernity, and Resistance\*

*Genealogias das ideias sobre direitos humanos no Timor Leste: “kultura”, modernidade e resistência*

*Genealogías de las ideas sobre derechos humanos en Timor Oriental: “kultura”, modernidad y resistencia*

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Este artículo busca explorar las comprensiones timorenses sobre los derechos humanos y rastrear las dinámicas históricas y societales de las ideas y prácticas que los constituyen. Esto se realiza mediante la observación genealógica de los conceptos locales sobre derechos y el diálogo que se establece entre “el guion globalizado de los derechos humanos” y los conocimientos desarrollados en Timor Oriental. Mediante entrevistas realizadas a sujetos de tres generaciones diferentes, esta investigación concluye que ciertos derechos han sido producto de la agencia desplegada por el pueblo timorense a lo largo de su contexto histórico y social, por lo que no se trata de una relación pasiva de adopción y recepción del guion de los derechos humanos proveniente de las instituciones internacionales.

**Palabras clave:** ideas sobre derechos humanos; saberes plurales; historia; Timor oriental; epistemologías del Sur.

*Este artigo procura explorar as compreensões timorenses sobre os direitos humanos e rastrear as dinâmicas históricas e sociais das ideias e práticas que as constituem. Isto é realizado mediante a observação genealógica dos conceitos locais sobre direitos e o diálogo estabelecido entre “o roteiro globalizado dos direitos humanos” e os conhecimentos desenvolvidos no Timor Leste. Mediante entrevistas realizadas a sujeitos de três gerações diferentes, esta pesquisa conclui que certos direitos têm sido produto da agência desdobrada pelo povo timorense ao longo de seu contexto histórico e social, pelo que não se trata duma relação passiva de adoção e recepção do roteiro dos direitos humanos proveniente das instituições internacionais.*

**Palavras-chave:** ideias sobre direitos humanos, saberes plurais, histórica, Timor Leste, epistemologias do Sul.

*The objective of this paper is to explore East Timorese understandings of human rights and to trace the historical and societal dynamics of construing ideas and behaviours concerning rights. This will be done by looking into local genealogies of rights concepts and the dialogue established between the ‘globalised script of human rights’ and East Timorese knowledges of rights. Based on group interviews with three different generations, this research concludes that certain rights are understood as the product of East Timorese people’s agency set in a historical and social context, rather than the passive reception and adoption of the human rights script from international institutions.*

**Keywords:** Human Rights Ideas; Plural Knowledge; History; Timor-Leste; Epistemologies of the South.

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## Introduction

In Timor-Leste, a country in Southeast Asia which regained independence in 2002, people's life experiences are interwoven with distinct historical times and social contexts. The history of the country is one of political violence which includes European (Portuguese) colonialism [1769-1975], Japanese occupation [1942-1945], the struggle for independence from a second colonising nation (Indonesia) [1975-1999], a UN transitional government (Untaet) [1999-2002], and finally the construction of a nation-state [2002-present].

In 1974 the dictatorial regime in Portugal was overthrown and the new transitional government<sup>1</sup> started a decolonisation process consisting of reforms in the territory which envisaged the gradual handover of political power to the East Timorese<sup>2</sup>. Before the East Timorese had the opportunity to conduct the elections to choose the future of the country, the Indonesian military invaded the territory and violently repressed the East Timorese resistance until 1999<sup>3</sup>. During twenty-four years of occupation, the FRETILIN-led resistance fought for self-determination in three fronts: armed, clandestine, and diplomatic. The leader of FALINTIL (FRETILIN's military arm), Xanana Gusmão, reorganised the resistance in 1988 and started a broader-based resistance movement, the CNRM<sup>4</sup>. A UN-sponsored referendum took place in 1999, where the majority of East Timorese voted for self-determination. Subsequently, it came the withdrawal of the Indonesian troops and the UN Security Council established Untaet –United Nations Transi-

tional Administration in East Timor-. It was mandated with administering the transition to full independence. In 2002, the first elected Timorese Government created a truth and reconciliation commission (CAVR<sup>5</sup>) with the support of the UN mission which was commissioned to investigate the human rights abuses in the 1975-1999 period.

In spite of the intensity and long-time engagement with foreign cultures and diverse modernity<sup>6</sup> projects, East Timorese society has preserved, until today, a core structure of social organisation, authority, and power distribution; as well as governance and justice mechanisms and principles. These are usually referred to as *kultura*, *lisan*, or *adat* in the vernacular. Also, as local customary law and traditional authority; though other designations such as informal or community justice systems and authorities will be used to reflect a higher degree of legal pluralism present in Timor-Leste (Meneses *et al.*, 2017: 46). These local institutions should not be seen as immutable in time or in an essentialist way. They have been in close dialogue with Portuguese and Indonesian colonial administrations and they continue to operate in parallel and in conjunction with modern state institutions and international projects implemented during independence. Moreover, they are diverse, reflecting the existence of several ancestral house groups (*Uma lisan*) in the territory and different historical trajectories. Nonetheless, they also share common principles and have been connected through marital exchange relationships since pre-colonial times.

Therefore, the encounters with other cultures and their modernity projects, namely the colonial rulers’ governance and justice systems, and the strong international intervention during the UN transitional government, have given shape to East Timorese understandings of human rights and justice. East Timorese have faced fast-changing social realities, since the ongoing processes of establishing a liberal modern state, supported by UN and international institutions’ aid operations, which introduced socio-economic development projects, electoral politics, and reconciliation and peace efforts. These developments resulted in a dialectical interaction involving East Timorese and international organisations’ views of the state, society, and human rights (Brown and Gusmão, 2009; Gonçalves, 2016; Wallis, 2012). The global mobility of East Timorese has also been intense, including the gradual return of the diaspora and the creation of new immigration routes and student programs abroad in the last twenty-one years.

Two other pillars of East Timorese society may be identified as crucial for understanding the local ethics of justice and rights: the resistance movement against colonialism and the strive to attain intergenerational transmission of memories of their struggle for rights, and the role of the local indigenised Catholic Church in these historical periods<sup>7</sup>. This article analyses the ways that intergenerational transmission of ideas and memories of struggles for rights carry over ideas that connect East Timorese experiences with other parts of the world, as they also reflect a local sense of being in the world. This “intergenerational archive of histories”, where younger generations “delve” in search for their identity, reveal “multilayered knowledges of the country’s history” (Gonçalves, 2019).

The paper also discusses how elements that make up East Timorese knowledges such as, *kultura*, modernity, resistance, and memory, work in articulation and dialogue with dominant epistemologies of rights and justice. It posits that certain rights are understood as the product of local agency set in a historical and social context, rather than the passive reception and adoption of the western “human rights script”. I begin the argument with Sousa Santos’ (2008) critique of the concept of human rights as a “globalised localism”; that is, resulting from a globalisation from above which entails a euro-centric view of universal human rights (11-14). The author argues that to move away from that con-

ceptualisation of human rights we need to work on an inter-cultural translation where “different aspirations to ultimate values in different cultures... may become mutually intelligible and translatable” (13).

Globally, the language of progressive politics has changed from the language of revolution and socialism, used until the mid-1970s, to one of human rights today, as Sousa Santos reminds us (2008: 3-4). The independence resistance movement started by FRETILIN in 1975 belongs to the historical period when human rights campaigns and programmes were articulated in the language of anti-colonial and anti-dictatorial revolutionary politics. Nevertheless, in the 80’s and 90’s, the resistance diplomatic and clandestine fronts increasingly adapted their discourses and articulated their independence demands in the language of human rights (Webster, 2013). Furthermore, the history of Timor-Leste’s independence constitutes an important example of international solidarity networks working together with the East Timorese diplomatic front representatives in opposition to Western states and businesses complicit with Indonesian occupation (CAVR, 2005; Fernandes, 2011).

Reflecting this trajectory, on 25 April 1998, before Timor-Leste achieved self-determination, the East Timorese National Convention in the Diaspora, in Peniche, Portugal, approved the East Timorese *Magna Carta* concerning Freedoms, Rights, Duties, and Guarantees for the People of East Timor. This declaration announce acceptance of the UDHR<sup>8</sup> as well as several international conventions on human rights and proclaimed that independent Timor-Leste would guarantee “unyielding support and strict respect for the fundamental freedoms and duties of each and every citizen” (Devereux, 2015: 105).

In the concluding remarks, this article will posit that Timor-Leste’s history of struggle for rights and justice is a fundamental contribution to global history and should be incorporated, alongside other social struggles in the “South”<sup>9</sup>, into a post-colonial discourse and practice of human rights. The fact that the current dominant human rights script has been articulated in terms of the binaries developed/underdeveloped, modern/traditional, donor/recipient, continues to reproduce ideas of superiority of the “civilised” former colonisers over the “uncivilised” former colonised and between the most socially disadvantaged groups and the elites within societies<sup>10</sup>.

In this research, I used a mixed methods approach based on group interviews involving discussion<sup>11</sup>, participant observation, and analysis of secondary sources. Following an adaptation of oral history methods, I interviewed ten groups of East Timorese from different generations<sup>12</sup> and living in three distinct locations (Dili, Baucau, and Liquiça). Considering the marginality of people's voices in the historiography and contemporary research of the country, I attempted to interview people who are usually not considered as part of a political and intellectual elite.

## “Kultura”, reconciliation and ideas of rights

In Timor-Leste, there are cultural aspects such as a collective view of social groups' rights and obligations that need to be taken into account if institutions and activists want to promote human rights as an emancipatory language to be adopted by the East Timorese. Since the achievement of independence, a diverse body of customary laws, justice, and governance institutions and techniques –centuries old pillars of the East Timorese society, which has survived two cycles of colonisation–, have been treated merely as performing symbolic roles (Meneses et al., 2018; Simião, 2014). This has been one of the critical failures of the United Nations and other international actors in the initial phases of the process of state and nation building in Timor-Leste (Brown and Gusmão, 2011: 108-109; Hohe, 2002). The 2006 political crisis marked a turning point in the recognition of the modern state apparatus established in Dili with the support of international assistance; they lacked complete political legitimacy, particularly in rural areas (Trindade, 2008).

In the following years, the central government, NGOs, and international institutions turned to incorporate local governance principles and institutions into state building and assistance projects. I adopt here Silva's concept of *local governance complexes*, generally referred to as customary law and traditional authorities, or by *lisan*, *adat* or *kultura* in the vernacular, which entail governance and justice principles, but also institutions that define the social organisation known as “the sacred house” or *Uma lulik*<sup>13</sup>, “ritual knowledges and their techniques”, “authority positions with power to mediate with the State and the Church or with spiri-

tual entities” (that is, ritual holy men like the *li'a na'in*) (Silva, 2014: 125).

In discussions with different generations held in this research, local reconciliation processes emerged as the natural and appropriate means of dealing with issues of reconciliation connected with the return of East Timor refugees from West Timor, Indonesia. This still represents one of the most challenging areas for justice and peace after the end of the conflict with Indonesia and the country regaining independence. The case of the East Timorese refugees living in West Timor is an unresolved issue in contemporary Timor-Leste. As many as 250,000 refugees were forcibly displaced to West Timor and other parts of Indonesia in 1999. Some of these refugees were favourable to the integration in Indonesia, though they represented a minority. A sizeable community still lives there (88.000 people) and in other provinces of Indonesia (Damaledo, 2018: 16).

In the framework of the reconciliation policy endorsed by the East Timorese State, the impending return of the remaining East Timorese refugees from Indonesia provided an opportunity to pose questions about unresolved issues of justice pertaining to the rights of both refugees and the victims of crimes in 1999. Even though research participants expressed unanimously the view that formal courts should handle the “blood crimes” committed by some among the East Timorese refugees, they also opened the way for reconciliation through local justice processes for those who had committed lesser crimes. In any case, the participants said that refugees needed to submit themselves to the village chief and/or the local *li'a na'in* and initiate a process of reconciliation where they would acknowledge their guilt before the community and traditional leaders. This process, which underpins East Timorese views of what justice is and how to achieve an acceptable outcome for the victims and the community, entails both the community governance institutions and the so-called formal justice from state courts.

This idea is outlined by Nina, from Baucau, who speaks in the language of local justice (conciliation and admission of guilt before the community) but her speech also implies submission to justice through the courts (the word employed –“*lei*”–, refers to the State language and its origin is Portuguese):



■ Una niña congoleña desplazada sostiene a un niño en un aula utilizada como refugio. Kibati (Congo), 2015 | Foto: Phil Hatcher-Moore

If before I said words that were wrong, my hands did erroneous things to someone, I have to ask for forgiveness. This is the way to ask for forgiveness from someone is the most important step. So that we can live together in the community, in a society that lives in peace. This is how it has to be. And if I committed a serious crime in the past, I have to surrender to justice. This is essential, to submit to the authorities and justify all your errors. So that we can say: “this is the *lei* [law] that should justly apply to what you have done”. Finally, we will live together in an environment like the one before the mistakes were made, and maybe we can live together in peace. (Nina, 26 years old, 22 June, 2012)

Furthermore, local conceptions of justice talk about compensation to the victims and their families, which is not always the outcome of a modern state court ruling. In the East Timorese community justice systems, after the admission of guilt, authority figures like the *li’a na’in* often determine what the offender needs to pay for compensation (usually animal offerings, sometimes

money) to the victims and their families, the clearing of the good name of the victim’s family before the community, and the reconciliation between the parties. The intended final outcome is not so much focused on punishing the offender –which characterises the law in a modern state system– but to provide a satisfying redress to the victim and their family and thus re-establish tranquillity in the community (Babo-Soares, 2006: 66-68; Daniel S. Simião, 2012). Roberto, a university student in Dili, advocates for the use of *kultura* and explains its mechanisms and merits.

If my colleague thinks that we can’t follow *kultura* [local justice], I, on the other hand, think that we can. Why? Because when we talk according to *kultura*, we are also defending our original language, *simu malu* [accept one another]<sup>14</sup>. Furthermore, there is also *lei kultura nian* [local law], the *nahe biti bo’ot* for reconciliation. When we apply our *kultura* and we already *simu malu*, there’s no need to go to the courts. For example, if your *Uma lisan* [sacred

house] is my *Uma lisan*, but in the past there were several conflicts between us, how could we find a solution? The *lí'a na'in*, the *kultura* authority figures in the *Uma lisan*, can call both of us in order to look for a solution for us. If I was the one that did most wrong to you, I would get a fine. However, I must –according to our language– *fó sala* [admit my wrongdoings] so that your good name is restored. If we follow *kultura*, it is easier for us to get a fair solution. (Roberto, 25 years old, 25 August, 2012)

In the group discussions there was generally a consensus that both justice systems were needed, but there were a few of the younger participants who argued that the local justice system was the most appropriate<sup>15</sup> to solve issues, not only involving small disputes but also crimes related to domestic violence and sexual abuse. This last point was an issue of contention<sup>16</sup> and ambiguity<sup>17</sup> in discussions with the participants of the *gerasaun independensia* at the National University in Dili.

In the more serious cases, such as homicides, we cannot solve it through *kultura*. But I think that in smaller cases, such as sexual abuse<sup>18</sup>, burning someone else's home, destroying or stealing someone else's property, those disputes we can solve through our traditional *kultura*. (Roberto, 25 years old, 25 August, 2012)

Some of the interviewees in the same group were quick to say they did not agree with this idea that sexual violence could be solved through traditional justice mechanisms or *kultura*.

In the Portuguese times sexual abuse was solved through tradition. But in our times, it can no longer be the case. I don't know about the situation in other districts, but in my district, Lospalos, we need to go through formal justice. I think that when we are talking of sexual abuse offences this cannot be solved through the *nahe biti bo'ot*. If they [offenders] have buffalos and goats and other things, they will repeat the sexual abuses in the future. We need to educate people. ("Fidel", 21 years old, 10 August, 2012)

Tensions and contradictions between the two justice systems exist and have been the object of research pointing towards the need to recognise the presence of legal pluralism and bridge both systems (Kovar e Harrington, 2013; Marx, 2013; Meneses *et al.*, 2017; Nixon, 2012). Local authorities and international and local NGOs have defended the need to use the state

justice system whenever the community justice mechanisms are seen to be contrary to international human rights standards and also to be detrimental to vulnerable groups, in particular women and children who are victims of domestic violence (Simião, 2011: 114).

As Merry (2006) argues in her research about gender violence and the implementation of human rights in different parts of the world:

[t]aking on rights is a difficult process and fraught with ambivalence. Asserting rights often comes at a price. It is not unusual for individuals to retreat from a rights consciousness of grievance to a kin-based one. Nor is it surprising that one would try on this identity, drop it, and try again. A double consciousness, with rights claims layered over claims of social obligations of kinship and community, seems likely to describe the way grassroots groups relate to human rights. Translators, including women's movements activists and advocates in domestic violence programs, bridge the divide between rights principles and kinship principles. (216-217)

In Timor-Leste, NGO projects that advocate for a human rights based approach to fighting domestic violence and arguing for gender equity have been met with resistance by communities and also by members of the political elite, with the argument that they are "western ideals that are being imposed on East Timorese culture". However, East Timorese women activist groups have rejected this idea of western imposition and have argued that their struggle preceded independence and was carried out in parallel with the resistance against Indonesia (Hall, 2009: 317-319).

More importantly, as Merry notes, UN agencies and international organisations that wish to promote women's rights should stop referring to an essentialised idea of culture as the main obstacle to women's rights and human rights in different local realities. According to Merry (2006), conceptions of culture as a set of "harmful traditions" are present in major documents pertaining to women's rights like Cedaw<sup>19</sup>. Culture as part of a fixed national essence also forms the argument of governments and patriarchal elites who do not want to give up their power in different parts of the world. Instead, international organisations and advocates for women's rights should acknowledge that traditions and cultures are flexible and porous, and that they are continuously evolving

in a process of hybridisation. Cultures are contested and enmeshed in power struggles and this is not specific to developing or poor countries (Merry, 2006: 9-15).

From the group interviews it was clear that there is not a homogeneous opinion about whether *kultura* is fit to deliver justice and respond to difficult challenges such as the return of refugees who may have committed serious crimes including domestic violence. In spite of that, these local mechanisms and conceptions of justice are well understood and are seen as effective in promoting a fair outcome to the victims in the case of small offenses and as a way of promoting reconciliation in conjunction with formal state justice. While informal justice systems (within the family or house group) are still used in some places to address sexual offences, according to the interviewees the formal state justice is increasingly seen as the appropriate way of handling these crimes in articulation with local authorities and *kultura* leaders.

The existence and possibility to enact *kultura* mechanisms and authorities is enshrined in Timor-Leste's Constitution, which often occurs as part of state justice practices, in recognition that a majority of the population resorts to these institutions to solve their disputes and problems (Kovar and Harrington, 2013; Marx, 2013; Meneses *et al.*, 2017; Nixon, 2012). Nevertheless, the treatment of the state justice system as superior to other non-state legal sensibilities and practices is prevalent in Timor-Leste as it is in other post-colonial states, creating difficulties to a democratic and timely access of justice. Forsyth (2009) and Meneses *et al.* (2017) have demonstrated through their studies, respectively in Vanuatu and Timor-Leste, possible avenues of how state and community justice systems can work together in solving people's needs, allowing for the strengths and weaknesses of each system to be compensated and articulated, when we are in the presence of a legal pluralist and hybridised societies.



▪ Casa pintada por el artista Solo7 con el lema "Keep Peace Alive", en el marco de unas elecciones violentas en Kibera. Nairobi (Kenia), 2007  
Foto: Phil Hatcher-Moore



▪ Mural “Pesquisas”, en recuerdo de las mujeres asesinadas y desaparecidas en las calles de Ciudad de Juárez (México), 2016  
Artista: Teresa Margolles. Tomado de: Woman Art House

In spite of their limitations and, the resilience of these institutions as well as the long history of interaction between these systems and foreign law and governance systems during colonial times need to be considered in the analysis of the contemporary hybrid perceptions of democracy and rights (Brown and Gusmão, 2011; Cummins and Leach, 2012; Gonçalves, 2016; Wallis, 2012).

## What is “traditional” and “modern” in Timor-Leste?

Past interactions with colonial rule have had a significant impact on contemporary East Timorese society’s institutions and values. Roque’s work (2012) on *mimetic encounters* between the Portuguese administration and the East Timorese traditional rulers contributes to a more informed understanding of local customary practices. Roque researched the case of *bandos*, laws and orders from the colonial governor that

were announced orally by Portuguese officials or by East Timorese native kings (*liurais*) to the population to the sound of drums and with ceremonial performances. The author describes the appropriation and reinvention of the colonial *bandos* into *tarabandus* (“put up a prohibition”) by the *liurais*, due to their authority and integration into the Portuguese colonial administration (Roque, 2012: 582).

*Tarabandus*, which consist of a set of rules and prohibitions that are put in place by a traditional authority and that bind a community, are understood today as an autochthonous customary tradition (Carvalho and Correia, 2011). They are, equally, the result of creative transformations of East Timorese law and justice complexes through their interaction with colonial administrative practices (Silva, 2016; Gonçalves and Meneses, 2019). This demonstrates the controversial nature of defining what is traditional and what is modern, the autochthonous or foreign in societies like Timor-Leste.



▪ Familiar de víctimas de las masacres de 1981 en El Mozote (El Salvador), s. f. | Tomado de: Verdad, Justicia y Reconciliación en El Salvador Pos Ley Amnistía

There has been little historical research on the interactions between local populations and the colonial administration both in Portuguese and Indonesian times, which has contributed to an approach to Timor-Leste as a “blank state” with no experience of governance, by state building and aid development institutions (Hohe, 2002). However, as it became evident that the liberal democracy paradigm was not recognised entirely by the population, there has been a gradual shift towards the incorporation of East Timorese *lisan* or *kultura*, local governance principles (Wallis, 2012). For instance, *tarabandus* have been mobilised by the central government and development agencies to provide legitimacy and efficacy to their policies in the area of environmental protection, conflict management, maintenance of law and order, protection of private property, and dealing with domestic violence and human rights abuses (Brandão *et al.*, 2013; Gonçalves and Meneses, 2019: 76-79; Silva, 2014: 138-140). In this process, the local customary authorities have been recognised by the state and transformed into mediators between the state and the parties in conflict.

This “appropriation” of local practices of governance and justice by modern state institutions serves the purpose of introducing agendas for the promotion of human rights ethics in the country (Gonçalves and Meneses, 2019: 77-79; Silva, 2014: 136-137). It should be noted, though, that this top-down process of imposing modern state structures was not without conflict and heavy consequences for the East Timorese, as the 2006 conflict exposed the inability of these institutions to manage the social and economic tensions underlying the project of nation building (Trindade, 2008).

In post-colonial Timor-Leste, there are hybrid models of local governance, as different approaches to incorporate the new practices of electing local administration heads –*xefes de suku* (group of villages) and *aldeia* (village)– have been interpreted and adjusted in different ways across the country (Cummins and Leach, 2012: 172-178; Brown and Gusmão, 2011: 125). Democratic elections for elected representatives in the central government, introduced since 2001, have



▪ Comunidad se reúne para reafirmar su voluntad de paz. Montes de María (Colombia), 2018 | Tomada de: Mundonoticias.com

been generally perceived by the population as a source of competition and division, effectively transposing some of the rivalries of the past 1975 civil conflict on to the present. Equally, party politics are seen to transfer the power struggles in the capital Dili all the way to the villages through party channels (Brown and Gusmão, 2011: 120-121). Silva raises the question of whether elections and party competition provide a new language through which pre-existent social conflicts are expressed, rather than only party competition as the origin of new social instability (Silva, 2014: 132).

The idea of democracy was discussed in the groups and raised by the participants in different ways, mostly relating with the significance of elections and what the leadership of the country is failing to do and should be doing. Elections were welcomed as political rights, but the campaigns for elections were seen as events where competition between different parties led to verbal insults, violence, corrupt practices (buying votes) and the involvement of children, which was seen by Natalino from Likisá as an instrumentaliza-

tion of children<sup>20</sup>. Moreover, democracy is associated with freedom of speech and voting rights, but most importantly with the ability or inability of the leaders –*nai-ulun*, which designates the politicians in the government and parliament– to deliver their promises to the people (*povu*).

On the issue of development in our land, we look at the situation nowadays and there are many [political] parties. Those parties talk about development, but their discourses about development are simply a curtain that they use. However, in terms of getting things done there are not many results to show. Each individual [politician] is worried about their own progression, but their consideration of the *povu* [people] is not as high as it should be. (“Mario”, 27 years old, 25 August, 2012)

In the discussions held outside of Dili the lack of state investment and development in districts outside the capital was often invoked as the reason for rights remaining unfulfilled for these populations since independence<sup>21</sup>.

In parallel, among the younger generation, there are numerous examples of use of the word *sidadaun* (citizen, from Portuguese) which denotes an awareness of a relationship of rights and duties with the modern state system and denotes an operative subjectivity of demanding rights<sup>22</sup>. Eugénio, a secondary school student from Baucau, talked about his views on being a citizen in Timor:

Regarding political rights, one example is that we are citizens in a democratic state. All the citizens have the right to participate in political life in Timor. For instance, according to our law of the Technical Secretariat of Electoral Administration (STAE), all the citizens of Timor-Leste, all the citizens who are more than 17 years old have to participate in the political life. Because of this we can choose party A or B according to the rights that each of us have, there are no more obligations or pressures from other people. (Eugénio, 18 years old, 14 June, 2012)

In spite of being only ten years since the restoration of independence when this study was conducted in 2012, the East Timorese had embraced the new institutions and laws of a modern state remarkably fast, while maintaining their own old and resilient institutions and ideas of citizenship (in the sense of being a member of a community) and rights.

In 2012, the country experienced a turning point in terms of its independence from external aid and international recognition as a functioning state and peaceful nation. Two elections, presidential and parliamentary<sup>23</sup>, were organised for the first time by East Timorese institutions with overall success in terms of electoral practices and in a peaceful environment, in part as a result from the UN and international community support (Feijó, 2013: 52). In spite of the challenges and limitations mentioned by research participants, Feijó reminds us:

When the flag of the first new nation of the 21st century was raised at midnight on 20 May 2002 and the independence of the Democratic Republic of Timor-Leste was proclaimed, the country had an elected President of the Republic, a National Parliament that resulted from the transformation of the elected Constituent Assembly into a legislative body and was the source of legitimacy for the country’s government. Also the memory of a decisive vote that had opened up the route to make that possible. Free and fair elections with an enlarged franchise and overwhelming popular

participation are thus inscribed in the genetic code of this country, and its independence was achieved through democratic electoral procedures. (Feijó, 2013: 31)

From 2008 to 2020 the reality of the country has been one of relative political and social stability, though since the 2017 elections there has been a return to fractious politics and power struggles between political parties (Leach, 2017). This situation has not translated, however, into violence and conflict in the community.

In this process of change and adaptation, local cultural practices and a history of struggle for rights are essential for understanding the new hybridised landscape.

## “We already had rights!” – A shared history of resistance

Local historical processes need to be taken into account in order to understand contemporary ideas of rights. In Timor-Leste nationalism is still high on the agenda and the nation is still seen in a progressive light, as a collective project; that is, the result of hundreds of years of foreign domination and the fight for self-determination. A young student in Dili explains the origins of East Timorese nationalism.

Timor-Leste achieved independence because during those times the East Timorese understood what nationalism is. So, nationalism was an inspiring idea for the East Timorese to aspire for determining their own government and their independence. But I would like to say that what they called nationalism was about *maubere*<sup>24</sup> culture. On the other hand, nationalism is about the right of Timor-Leste to self-determination. That was what inspired them to find a way out of violation, occupation, and the conduct of colonialism ... So, they wanted the change to a society with justice, solidarity. These were definitely their objectives, which led them to pursue self-determination with a nationalist spirit and patriotism that were strong and beautiful, from their hearts, in order to fight Portuguese colonialism. (“Fidel”, 21 years old, 10 August, 2012)

Therefore, nationalism and the struggle for self-determination are seen, since the 1970s and until today, as the origin for rights entitlements following the tradition of liberation movements for self-determination in

the “South”. This process of gaining rights is perceived largely as endogenous and as the result of the East Timorese spirit of nationalism which grew in opposition to colonialism. The conscience of having rights as a community and a people comes through quite strongly and consistently in the group dialogues. For instance, an old farmer from the mountain village of Bazartete speaks about rights’ awareness in connection with the country’s history.

Starting in 1974, there were already rights for the East Timorese people. Why? The East Timorese wanted to stand for themselves and started to follow the five political parties that were created in the country. This is why when Indonesia invaded, we already had rights. From December 7 1975 a lot of the people had to surrender to them, a lot of people were forced to flee abroad, to wage war. Because the East Timorese had human rights, they already had them then. Because they wanted independence. Before the East Timorese also didn’t want [to be under the control of] Portugal. (...) With the rights acquired, [now] East Timorese want to say they also can. The small, the poor, they also longed for independence! (“Julião”, 60 years old, 21 July, 2012)

Furthermore, younger East Timorese are educated to see themselves as inheritors of a long history of suffering and fighting spirit. Similar discourses run through several sectors of society since they represent a shared conception of duties towards the previous generations who have died for the Timor-Leste nation. In this sense, the logic of reciprocity<sup>25</sup> between generations is in place: this generation benefited from self-determination and they must now work to ensure that future generations would benefit equally. The intergenerational transmission of stories about the suffering (*terus*) and sacrifices during colonial times re-enacts that important feature of East Timorese identity and nationalism.

We tell our children what we went through, we tell them about the time of their grandparents that are already gone. We talk about our suffering. From 1975 during Indonesian times until independence, we tell them stories about the stories that our grandparents told us, also our stories of suffering. We say this is how your father suffered, people did this to us, we tell them these things. (“Fátima”, 64 years old, 21, July 2012)

Historically, intergenerational debt has been a central theme. During the occupation period in the

1990s, the duty to honour the fallen heroes and past generations of fighters was used as a mobiliser of the *gerasaun foun* (then, the young generation). The resistance was increasingly reliant on youth to perform demonstrations aimed at attracting the attention of the international public opinion and the youth actions were seen as necessary means to achieve independence (Matoso, 2005: 232-233).

Also, the concept of receiving retribution and recognition for past suffering and sacrifice features as a central ideal in East Timorese society, following the pattern of reciprocity in the relationships between leaders and the common people. The work of Elizabeth Traube about the Mambai ethnic group in western Timor shows how the population conceives themselves as reclaiming the “unpaid wages” to the state and the “*ema bo’ot*” (elites) after the independence was achieved with their suffering and their blood (Traube, 2007: 21-22).

This is reflected in the *povu ki’ik* / *bo’ot sira* or *povu / nai ulun* [common people / elites or leaders], *beik sira* / *matenek sira* [illiterate, stands for common people / literate, stands for the elites] dichotomies found in the group interview discussions, whereby the elites in government are called on to be responsible for the people’s welfare today. Because they have benefited from better access to education in the past and improved lives in the present, the elites (*bo’ot sira*) are now called to give back the advantages and opportunities they have had with increased responsibility to deliver development and better economic lives to the “little people” (*povu ki’ik*). This is expressed by several participants in the research, in particular the *gerasaun 1975* members, who felt that they had suffered all their lives for the independence of the nation. In Bazartete, a humble farmer speaks in the dualistic language of “small people” versus “big people”:

Now, during independence time, we can see that the *povu ki’ik* are doing well, but they are still suffering. We need to see what the *bo’ot sira* are doing. They are not [in risk of] dying, the *ki’ik* are the ones dying. Whenever there are [elections] for president, for the government, the *povu* need to die. This is why we look at human rights violations now and we think “stop this!”. It is always the *povu ki’ik* that suffers! (...) In the past many died in the struggle against Indonesia....How is it possible that now due to politics the *povu ki’ik* still have to pay with their lives?...So the *nain-*

*ulun* must work together to promote development, to take care of the lives of *povu ki'ik*. We cannot move backwards. . . . These are our demands to the *bo'ot sira*. (“Ernesto”, 48 years old, 21 July, 2012)

Also, from Bazartete, “Fatima” speaks assertively and addresses her demands to the representatives of the people in government. She belonged to OPMT –Organização Popular da Mulher de Timor–<sup>26</sup> and was active during resistance times, along with her husband, who was killed by Indonesian military.

You, the politicians [in the government] come and say to us: the people and the politicians need to organise our nation to develop. We are still waiting for you to develop our land! When we hear again about conflict we feel let down, and why is that? We don't want more conflicts, why did the violence come back again, again? Regarding politics, all of us, the *beik sira* [illiterate people] know how to do politics but now the time has arrived when the *bo'ot sira* must take responsibility for providing for a better future! How is it possible that the poor and humble people [*foho oan sira mota ku'ak*] hear again about conflict, conflicts in the nation?! That is not fair, that we do not like! (“Fatima”, 64 years old, 21 July, 2012)

“Fatima” described herself as a widow with four children, some studying at the universities in Dili, and as struggling to provide a good life and education to her children. She felt let down by the country's leaders because during Indonesian times she and her husband had given so much of their lives to the cause of independence. As explained above, the terrible past suffering experiences of East Timorese, in particular people in rural areas who are still living in poverty, are perceived in the framework of reciprocity between the *povu ki'ik* and the *bo'ot sira*. Nowadays, they are expecting their “wages to be paid”, but instead they are largely excluded from government and

international aid agency jobs and economic prosperity in the capital and their families continue to live in dire economic conditions.

Demands for rights in Timor-Leste, hence, should not be interpreted solely as the result of recent interactions and new influences from international aid organisations and their programmes, even though there are certainly effects from their continued presence in the country since independence was obtained. Next, I will provide an example on the role of memory of past struggles for rights in formulating a local human rights identity: the recent demonstrations and online protest regarding the maritime boundaries dispute with Australia. This unites the East Timorese in the same way the resistance against Indonesian occupation did in the past. The discourses and strategies used now draw on the history and memory of past struggles for rights, especially sovereignty rights over natural resources –the vast oil and gas reserves in the Timor Sea that lie between Australia and Timor-Leste–.

In November and December 2013, East Timorese activists, including young teenagers<sup>27</sup>, came out to the streets of Dili to protest against the Australian government position over the maritime boundaries and the division of oil and gas revenues between the two countries. These actions had the support of parliamentarians, who attended the rallies, and the leaders of the nation.



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Notably, the activists' speeches also mark the return to liberation movements' ideals which have been connected with the anti-colonial struggle: the right to sovereignty over the land and resources. Hill's study of the origins of FRETILIN and the embryo of nationalism in Timor-Leste shows that this was one of the main aspirations of the Timorese, as their manifesto stated: "Strong rejection and repudiation of the neo-colonialism and all forms of alienation of the country to another foreign country" (Hill, 2002: 86).

The East Timorese see the negotiations with Australia over the sharing of natural resources as the continuation of that struggle for self-determination. An important point is that these ideas of rights and justice have been transmitted from the *gerasaun* 1975, to the *gerasaun foun* and finally to the *gerasaun independensia*. In different moments of the country's history, the East Timorese have felt the need to assert and re-assert their sovereignty over natural resources, political command over their future and, finally, their development choices. In the group interviews the theme of self-determination as a right to governing one's land and resources united all the age groups, both genders and all geographical areas (Gonçalves, 2016: 162-181).

## Conclusion: Learning from the South – a Critical Analysis of the Human Rights Script

This paper outlined the East Timorese genealogies of human rights ideas, including the centrality of *kultura* or *lisan*, the history of encounters with other cultures and the liberal modern state institutions, as well as the forming of a rights-based identity during the struggle for self-determination. Furthermore, this research highlighted the intergenerational cultural transmission of memories and ideas as a central feature of how key local ideas of rights and justice –the right to self-determination rights and ownership of natural resources– are re-enacted in contemporary struggles for rights and justice in Timor-Leste.

In the past, the human rights discourse was appropriated by the resistance's diplomatic and urban clandestine fronts in the 1990s and it was used effectively as a strategy for gaining international legitimacy for East Timorese claims for self-determination. Moreover, the East Timorese society's commitment to the struggle for self-determination and for the recognition of the people's political and civil rights also serves as a reminder to international actors that this nation is not a *tabula rasa* in terms of human rights culture.

In present day Timor-Leste, not only does an appropriation of the human rights discourses by the East Timorese population exist, but there is also an attempt by international actors and local elites to use community models of justice in order to render globalised discourses of rights more acceptable locally. In this way, contemporary Timor-Leste presents a hybrid landscape of justice and governance structures which results from this mutual interaction, as several studies demonstrated (Brown and Gusmão, 2011; Gonçalves and Meneses, 2019; Wallis, 2012).

In conclusion, Timor-Leste's history of struggle for rights, along with other struggles in the "South", had reverberations in our global understanding of rights. To acknowledge this is important because the international organisations leading human rights campaigns and programmes, the dominant academic literature and debate, as well as international media, often carry the assumption that the countries in the underdeveloped "South" need to learn and adopt the human rights standards of the developed "North" (Meneses, 2007: 358).

For this reason, the study of local cultures and ideas of rights in the "South" demonstrates perhaps not the opposite of the dominant "northern" script of human rights, but a different picture of the reality of human rights history. It is thus urgent to review the categories of knowledge that make these histories, experiences, and ideas subaltern and invisible to the ones produced in the "North".

## Notes

1. The *Movimento das Forças Armadas* was a movement of middle-ranking, politically left-leaning officers who led the Carnation Revolution, a coup which overthrew the dictatorial regime on 25 April 1974. They installed the *Junta de Salvação Nacional* as the first transitional government in Portugal and, in Timor, they started a decolonisation process which involved the legalisation of political parties and the preparation for local and national political elections, envisaging self-determination based on popular vote.
2. Three main political parties were formed, representing three different options for the future of Timor-Leste: Apodeti - integration within Indonesia; ASDT (later FRETILIN) - immediate independence; and UDT - a gradual process towards independence starting with a federation with Portugal.
3. FRETILIN (*Frente Revolucionária de Timor-Leste Independente*) proclaimed unilaterally the independence of the country on 28 November 1975, a few days before the anticipated invasion by Indonesia hoping to attract international attention and support to secure Timor-Leste's independence.
4. CNRM (*Conselho Nacional de Resistência Maubere*) was an all-inclusive independence movement embracing East Timorese from different groups (urban clandestine resistance, political parties previously opposing FRETILIN, Timorese in exile) along with the armed resistance. For a more detailed account on the history of resistance to Indonesian occupation see, for example, Magalhães, Liang and Scott (2007).
5. Comissão de Acolhimento, Verdade e Reconciliação.
6. Political modernity is defined by Chakrabarty (2000) as “the rule by modern institutions of state, bureaucracy and capitalist enterprise”, which involve concepts such as citizenship, the state and civil society (pp. 4-5). However, the two colonial powers in Timor-Leste, Portugal and Indonesia, do not correspond entirely to this definition of modernity, as they were peripheral nations in terms of industrialisation and capitalist development, as well as undemocratic regimes, during the colonisation period. Therefore, modernity here is used in the sense of governance and justice systems of the colonial powers, which entailed a high level of suppression of rights and limited citizenship based on forced assimilation into Portuguese culture and Indonesian values.
7. This article will not delve into the role of the local Catholic Church, this topic should be dealt in more detail in a separate study.
8. Universal Declaration of Human Rights.
9. This concept does not refer simply to geographical location, but to groups of people pushed to the margins by the dominant global capitalist system, as defined by Sousa Santos (1995: 507).
10. This is true not only in the field of human rights, but also in all areas of knowledge as Meneses (2007: 353) discussed in her work.
11. The participants in this research provided consent for their interviews to be quoted. They were given the choice between using their real name or a pseudonym. In the cases where the participants chose a pseudonym, the names are placed within single inverted commas. Translations of the interview material from the local official languages Tetun and Portuguese are my own.
12. The older generation (*gerasaun 1975*), who were educated during the Portuguese colonial period; the middle or “young” generation (*gerasaun foun*), who grew up as children during Indonesian occupation; the younger generation (*gerasaun independensia*), who were largely educated in the independence period (post-1999) and are now in their thirties and younger.
13. The sacred house or “uma lulik” represents the structure of society, the centre of Timorese spirituality where ancestors are worshipped.
14. Expression in Tetun (one of the official East Timorese languages) for local conflict resolution and reconciliation processes.
15. Roberto, 25 years, 25 August 2012; “Joaquim”, 25 years, 10 August 2012.
16. “Marta”, 21 years, 10 August 2012; “Fidel”, 21 years, 10 August 2012.
17. “Sofia”, 22 years, 10 August 2012.
18. “Violasaun seksual”, an expression of Portuguese origin, was the expression used by the interviewee. It means rape.
19. Convention on the Elimination of all forms of Discrimination Against Women.
20. “Natalino”, 24 years, 11 May 2012; “Pedro”, 19 years, 11 May 2012; “Filipe”, 25 years, 11 May 2012; “Fernando”, 60 years, 21 July 2012.
21. Mariano, 30 years, 22 June 2012; Dirce, 29 years, 22 June 2012; “Fátima”, 64 years, 21 July 2012.
22. “Fidel”, 21 years, 10 August 2012; “Filipe”, 25 years, 11 May 2012; Eugénio, 18 years, 14 June 2012.
23. Timor-Leste also organised, with UN support, elections for local “suku” and village leaders in 2004-2005 and 2009.
24. “Maubere” (the feminine equivalent is “Buibere”) was a common East Timorese name used in the Portuguese times to refer to “poor mountain people, the most backward, illiterate and superstitious section of Timorese society”. Later it was used by FRETILIN to symbolise the party's identification with the “common people” (Jolliffe, 1978: 105).
25. On the issue of reciprocity and suffering as central values in East Timorese society, the work of anthropologists Elizabeth Traube (2007) and Kelly Silva (2010) are essential readings.
26. OPMT (Popular Organisation of Timorese Women) was created in 1975 as part of the recently formed FRETILIN.
27. The “Movimentu Kontra Okupasaun Tasi Timor” (Movement against the occupation of the Timor sea), composed of several East Timorese NGOs, led the protests.

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