

# Foreword

Reading this book brings me back to one of the most exciting periods in Timor's history – the six months of our constitutional debate. The original timeframe granted by the United Nations was actually shorter. I recall joking in the early sitting days of the Constituent Assembly: 'Better we draft a 60-article Constitution, given that we only have 60 effective working days.' Eventually, the timeframe was extended, after some lobbying and public pressure. Following my involvement in the resistance effort that preceded independence, I was again privileged to be a part of the making of my country's history, in drafting the first Constitution of the Democratic Republic of Timor-Leste. The six-month process of constitutional drafting was a great democratic exercise for many Timorese, despite the differences between the political parties, time constraints and other shortcomings. The author of this book, Dr Annemarie Devereux, who was a direct observer and adviser to the Constituent Assembly during the whole process, captures very well the rich debate in the Constituent Assembly. This book is a testimony to that debate and will serve to enhance the understanding of the debates for future scholars, lawyers and the people of Timor-Leste.

In the debates over human rights protections, members of the Constituent Assembly fell into one of two broad groups. The first group (consisting of a majority of members) were quite straightforward in considering the importance of adopting a Bill of Rights within the Constitution. This group was very genuine in the sense that they were motivated by the desire to prevent a repetition of the human rights atrocities faced by Timorese, especially under the illegal Indonesian occupation. They were determined that a human rights vocabulary should be an integral part of the new Constitution. The second group (a minority of members) were concerned with the means of realising those rights, repeatedly asking the question, 'Can the State fulfill all these basic rights for the people?' Concerns voiced during these debates regarding human rights continue to be echoed today: '*Povu seidak hetan be'e mós*' (The people have no clean water); '*Povu la iha aseso ba saude*' (The people have no healthcare); and '*Labarik dalam-ibun la hetan protesaun husi estadu*' (Street children are not protected by the state). Notwithstanding these challenges, today we all say that we have to uphold the Constitution, which includes upholding human rights. In spite of minor differences between the members of the Assembly on the unresolved issue of justiciability (that is, whether claims for human rights could be enforced through the courts), most were supportive of the Bill of Rights included in the Constitution.

Today we are watching the practice of democracy in Timor-Leste, based on its Constitution. There are gaps here and there, but it is interesting to observe

in the years since the Constituent Assembly, how the fulfillment of rights is being reconciled with the various competing priorities facing Timor-Leste. The determination of the members of the Constituent Assembly in adopting the Bill of Rights has meaning only if the State takes the measures necessary to realise those rights. Can the Timorese realise their Bill of Rights and prove wrong the Orwellian statement that 'some are more equal than others'? Only time will tell.

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