

# *Nahe Biti*: The Philosophy and Process of Grassroots Reconciliation (and Justice) in East Timor

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*UNTAET and the East Timorese have pursued formal reconciliation processes as part of the nation-building effort in newly independent East Timor. These formal reconciliation processes aim for closure and operate in the realm of national politics. In the meantime local communities have been dealing with the issues of reintegrating refugees and rebuilding social relationships through an inventive adaptation of traditional practices of reconciliation. In contrast to the formal elite-level strategies, the grassroots strategies are more concerned with process than formal outcomes.*

*Keywords: East Timor; Reconciliation; Refugees; Restorative Justice; Dualism; United Nations; Post-Conflict*

## Introduction

This paper examines the concept of ‘reconciliation’ as employed in the East Timorese national political arena post-1999 by both the United Nations Administration in East Timor (UNTAET) and the East Timorese political leadership. It examines reconciliation as pursued through formal criminal justice procedures and its contribution to the efforts to settle differences among the East Timorese. I hope to show the issues and limits surrounding this style of ‘reconciliation’ by comparing and contrasting it with the concept of *nahe biti* (literally, stretching the mat),<sup>1</sup> a local East Timorese equivalent of ‘reconciliation’ which embraces the notion of meeting, discussion and agreement in order to reach a consensus among opposing factions. It forms part of a grand process that aims to link the past and the future and to bring society into an ultimate state of social stability where peace, tranquillity and honesty prevail. Thus, *nahe biti* is an evolving process which seeks ultimately to achieve a

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stable social order within society and has no necessary connection with the state's management of criminal justice. This paper will argue that this village-level concept of achieving peace and stability could be fitted into the broad concept of state justice.

The aim of East Timorese 'reconciliation' is twofold. Firstly, it is a cross-border concern to facilitate peace between pro-Independence leaders and supporters and leading anti-Independence supporters, the majority of whom remain 'displaced' in Indonesian West Timor. A second aim is to settle differences among the wider East Timorese population living within their nation's borders. I refer here to the existing factions in East Timor who remain divided on the basis of their past associations with political groups which took up differing positions in the struggle for independence.

With regard to the first aim, the pro- and anti-Independence supporters dispersed following the United Nations-sponsored 1999 referendum in East Timor in which almost 80 per cent of the population voted to separate from Indonesia. Most of the anti-Independence factional leaders and their supporters, as well as ordinary citizens, were forced to take refuge in Indonesian West Timor under threat from armed militias. Subsequently most of the civilian population has returned to East Timor. However, former leading anti-Independence supporters, suspected militias and their families who are believed to have been at least partially involved in the destruction continue to live in West Timor.<sup>2</sup>

Fearing retaliatory acts by their countrymen, these refugees remain reluctant to return to East Timor. Official figures point to 45,000<sup>3</sup> refugees still remaining in West Timor as of March 2002, but unofficial figures estimate this figure to be around 70,000.<sup>4</sup> The continuing presence of so many refugees in West Timor is seen as constituting a security threat to East Timor. Aware of this, East Timorese leaders—particularly the Independence leader, and first president, José Alexandre Xanana Gusmão—have worked to promote reconciliation between the former pro- and anti-Independence supporters. Gusmão has travelled to West Timor to assure the remaining East Timorese refugees that it is safe to return home, and he is widely accepted as the only figure with the stature and credibility required to facilitate such a project.<sup>5</sup> Cross-border reconciliation has been emphasised, since it is perceived that former anti-Independence supporters in West Timor might seek to destabilise East Timor in the future.

Not all reconciliation is cross-border in nature. Within East Timor there reside groups still in conflict. Prime issues here date back to the period around the brief civil war in 1975 where thousands of people were killed and their property stolen or destroyed. During the period of resistance against Indonesia, 1974–99, hundreds of arbitrary killings occurred among the East Timorese, and vengeance and retaliatory feelings remain strong as no one has ever faced formal justice with regard to the violent crimes of this period. Not surprisingly, accusations and allegations continue to haunt the political process as both politicians and ordinary civilians involved in such ordeals accuse each other. Certainly, there is growing demand that those responsible for past events be held accountable so as to avoid setting a bad precedent for the country's future legal system.

Before the country moved towards Independence in 2002, UNTAET issued Regulation 2001/10 to establish a South African-style Commission for Reception, Truth and Reconciliation (CRTR).<sup>6</sup> The CRTR is expected to include the crimes committed between 1974 and 1999 in their agenda. Official reconciliation is concerned with resolving political differences among the political élites since emphasis has been placed on bridging political differences between pro- and anti-Independence leadership and supporters. The goal of the project is to bring together East Timorese from different political perspectives at the leadership level because it is believed this will persuade the majority of supporters of both factions to reconcile. This includes political leaders still living in refugee camps in West Timor. In this process of elite-driven reconciliation little attention has been given to healing the wounds of the wider population resulting from past conflict.

The high-level reconciliation not only requires time and patience but also involves complex bureaucratic procedures, high costs and political goodwill, dedication and commitment from all involved. Furthermore, the limited involvement of people at the grassroots level makes it seem more like partial (one party) reconciliation, and not a comprehensive (inclusive) reconciliation. Many see these shortcomings expressed in the fact that violence is still taking place in various parts of East Timor among the non-decision-making elements in the society. The street fighting between opposing political factions in January 2002 (*Suara Timor Lorosae*, 5 and 6 January 2002) and the militia incursion on 4 January 2003 were evidence of the failed elite reconciliation. (Table 1 summarises the differences between the two styles of reconciliation.)

### **The Need for Grassroots-Level Reconciliation<sup>7</sup>**

How to 'reintegrate' refugees back into their societies of origin? In the past, some voluntary returnees experienced reprisals upon their return to East Timor, including serious injury and death.<sup>8</sup> However, the idea of 'reconciliation' is beginning to take hold among the East Timorese and, at the time of writing this paper, a wide cross-section of the nation's citizens interested in having their countrymen return are actively participating in the process.

The point to note is that for a long time the majority of the population felt marginalised from participating in reconciliation at grassroots level. The fact that not one single political leader in either East or West Timor ever involved themselves in grassroots reconciliation until late 2001 did not help this situation. Not even the resistance body CNRT—Conselho Nacional de Resistencia Timorese (National Council of East Timorese Resistance), which has been the *de facto* government in rural areas—was involved in reconciliation at this level.<sup>9</sup> However, certain individuals and groups began looking for alternatives, given the perceived shortcomings of elite reconciliation.

First, local non-government organisations (NGOs) took the initiative to foster reconciliation at the grassroots level. Likewise, other sections within East Timorese

society conducted their own processes of 'reintegration' of refugees into their own community upon their return to East Timor. Many associated meetings took place along the border between citizens of the two countries (Indonesia and East Timor) without the consent of local political leaders.<sup>10</sup> Local community leaders pursued direct contact with refugees through family and community means whereby people were encouraged to contact their relatives in West Timor directly or via community links and hence get the process of repatriation and reintegration under way for those who wanted to return to East Timor.

This grassroots approach to repatriating refugees appears widespread and effective and has attracted the interest of political leaders such as Xanana Gusmão, Mari Alkatiri and Lu'Olo. In late November 2001, Gusmão used his office to meet refugees in Kupang (West Timor) and in late March 2002 he went to Atambua to ask the refugees to come home. The involvement of the political leaders suggests a slow shift in approach, thus providing more room for people at the grassroots level to become involved in the reconciliation process. Public acknowledgment of the significance of reconciliation at this level is increasing. Table 1 summarises the two different models of reconciliation discussed in this paper.

Groups seeking to reconcile at the grassroots level do not necessarily belong to the elite; however, they are followers of various political parties. Thus, although remaining on the periphery, their association with different urban political groups inevitably compels them to share the atmosphere of political rivalry that is developed at the centre. The division goes right from Dili, the capital of East Timor, to the rural villages. Conscious of this structural division, some rural East Timorese and local community leaders have tried hard to exclude political differences at the centre (the capital) from reconciliation initiatives at the grassroots level. They argue that each community has its idiosyncrasies, thus needing particular handling appropriate in the local context.

### **Involvement of UNTAET and Other Organisations**

It would be misleading to sideline UNTAET in the reconciliation effort. Since 1999, UNTAET and its sister organisations,<sup>11</sup> as well as other international and local

**Table 1** Models of reconciliation

| Models                 | Elite reconciliation        | Grassroots reconciliation |
|------------------------|-----------------------------|---------------------------|
| Participants           | Political leader/appointees | Local leaders + people    |
| Orientation/motivation | Political + security        | Bringing back families    |
| Operation cost         | Expensive                   | Less expensive            |
| Nature                 | Exclusive                   | Inclusive                 |
| Approach               | High-level contact          | Grassroots contact        |
| Solution               | Political solution          | Open solution             |
| Objective              | Consensus                   | Stable community life     |
| Legitimacy             | Approved at the top level   | Grassroots approval       |

organisations, have been closely involved in trying to repatriate refugees to East Timor. A drawback of this program is that it has been conducted at a high level between Indonesia and the UN, ignoring the fact that armed militias, who felt marginalised in the process, by and large controlled the refugees in the camps in West Timor. Clearly, the Indonesian government was not able to control these militias. For example, on 6 September 2000, a mob of more than 100 people led by infuriated militia leaders attacked the UNHCR (United Nations High Commission for Refugees) office in Atambua, West Timor, and killed three international staff members.<sup>12</sup>

UNTAET assigned its former deputy administrator N. Parameswaran to deal specifically with the refugee issue only after receiving assurances from Indonesia that the safety of its staff could be guaranteed. Until late 2002, although it agreed in principle to operate in West Timor, the UNHCR had not set up a permanent office to oversee refugees. Nevertheless, until mid-2002, exchange visits—both group and individual—among the political leaders were encouraged, paid for and facilitated by UNTAET. Through this effort, the second round of repatriation took place.

An unavoidable and serious drawback of mass repatriation of this type is that returnees who were perpetrators of previous violence avoided scrutiny. Thus, new problems arose with regard to their safety after they returned to East Timor. Likewise, dissatisfaction grew over the issue of justice: can these people be held accountable for the crimes committed in September 1999?

UNTAET worked hard to bring some of the perpetrators to justice by setting up a serious crimes panel in the local court to try cases that fell under the ‘serious and against humanity’ category. On 11 December 2001, the panel convicted ten men of crimes against humanity charges in Lospalos. ‘The ten accused were found guilty of at least one of the seven charges and received sentences of between 4 years and the maximum 33 years 4 months imprisonment.’<sup>13</sup>

A number of reconciliation talks between the elite of pro- and anti-Independence groups were held in Washington, Tokyo, Singapore, Bali (Indonesia) and Baucau (East Timor) after September 1999 but no positive outcome was reached. Apart from that, for East Timorese society at large the elite reconciliation, which started as far back as the pre-ballot period in 1999, never produced any positive results, thus generating further distrust of this level of society. This has further deepened frustration among the population, and reduced trust in high-level reconciliation, particularly among people who are concerned at seeing their relatives living in the slums of West Timor refugee camps and afraid to return to East Timor.

The failure of the political elite to reconcile among themselves has slowed down the reconciliation between East Timorese home-stayers and refugees, including the repatriation of the latter. This has led to a growing interest in grassroots reconciliation, especially in view of the willingness of this level of the society to disassociate itself from the ideological and symbolic differences in the centre among the political elite. For example, during the CNRT Congress in August 2000, community leaders from various parts of East Timor spoke out about their

disappointment at the centralised reconciliation in the capital, Dili, and expressed frustration over the exclusion of people from direct involvement in a similar process at the grassroots level. In fact, they said, the political elite understands very little about the political friction within the society at grassroots level.<sup>14</sup> Grassroots reconciliation seems to be more promising in achieving reconciliation than high-level talks between pro- and anti-Independence elite groups (see *Gamma*, 13 November 2001).<sup>15</sup>

### Types of Grassroots Reconciliation

There are two categories of grassroots reconciliation (see Table 2). The first is family reconciliation carried out through personal contact followed by welcoming ceremonies at the border between East and West Timor. In September 2000, in the areas of Ainaro, Ermera and along the border with West Timor (Bobonaro and Suai), people approached their family members in West Timor and arranged meetings with them. Discussions and debates were held by and among them and were observed only by local community leaders. Through family reunions, refugees were brought back. Ceremonies were conducted in traditional ways for a symbolic handover of these people, under the auspices of community leaders. Upon their arrival in their districts or villages, another welcoming ceremony was held before they were reintegrated into their communities. Such welcoming ceremonies were held in a way that allowed the representative of the refugees to address the public, usually in a public square, confessing their actions and offering apologies and their acceptance of being brought before the court should they be found guilty.

The second category refers to what is known as people's reconciliation. It is similar to family reconciliation but involves wider community participation. Each village, sub-district or district independently arranges meetings with their counterparts in the refugee camps. After agreeing on the terms and conditions, the refugees are brought back to their place of origin and usually this process takes place in the presence of local political authorities. A local customary ceremony is held to receive and accept refugees, in which both sides agree to mend their differences and establish peace and order. Usually, such a process is finalised with the ceremonial exchange of betel nut to show sincerity and commitment. Also, in some parts of East Timor, an 'Oath of Blood' ceremony, a symbolic bond in which both sides drink each other's blood and are symbolically bound as *maun-alin* (literally, elder/younger siblings) is also held.

**Table 2** Types of grassroots reconciliation

| Forms                   | Family to family | People to people                  |
|-------------------------|------------------|-----------------------------------|
| Coverage                | Family           | Village – sub-district – district |
| Participants            | Family members   | Community members                 |
| Third-party involvement | Local leaders    | Local leaders and local NGOs      |
| Means                   | <i>Nahe biti</i> | <i>Nahe biti</i>                  |

The 'oath' binds the parties, and it is believed that, if they fail to observe and adhere to the terms and conditions underlying this symbolic gesture, this will destabilise the existing social order.

### **The Process: The Philosophy of Local Reconciliation**

#### *The Meaning of Reconciliation to the East Timorese*

The word 'reconciliation' is new to many East Timorese. In the *Collins Cobuild English Dictionary*, reconciliation is defined as ways of 'reconciling two things that seem to be opposed to each other...[and to] find a way in which they are in agreement' (Sinclair 2001). Thus, reconciliation is similar to restorative justice in which the parties involved in a conflict come to resolve issues together.<sup>16</sup> Indeed, during Indonesian rule in East Timor, reconciliation was promoted among the élite. The Catholic Church sponsored unsuccessful meetings, known as Dare I and II, between pro- and anti-Independence leaders in the period leading up to the 1999 referendum, for example.

However, in the customary context, reconciliation is understood differently. To the majority of the population, reconciliation refers to a complete set of ideas or concepts whose meaning goes beyond the successful completion of an administrative process. Traditional leaders are the ones who historically convene reconciliatory events of this kind. However, in the contemporary political context such meetings are organised by both traditional leaders and those who are regarded as having some political influence.

The East Timorese use the term *nahe biti*, which can be translated literally as stretching or laying down the mat as a means to facilitate consensus, or reconciliation, among them. Conceptually, this term finds its philosophical basis in the way the locals view their world. (*Nahe biti* is understood widely in East Timor, not only as a process but also as a means to resolve differences.) It is the usual way of referring to a gathering in which people are invited to sit on a mat provided specifically for that occasion. The East Timorese distinguish between *biti boot* (large mat) and *biti kiik* (small mat). Apart from their literal meanings, the former refers to a venue used to settle wider kinship (lineage, kin and clan) matters and the latter refers to a venue where more narrowly defined family matters are discussed and settled. Both are venues to discuss and settle issues among the interested parties through consensus. However, this is regarded only as part of an all-inclusive process and not as the end of the process itself. Matters that are discussed and settled on the mat (*biti*) should not be brought into the community as they could lead to disharmony. The East Timorese usually quote the following phrase at the end of meetings or at events where issues are discussed in the above terms: '*Saida mak ladiak haluha tiha ka monu hela iha ne'e, labele louri ba liur. Maibe buat nebe mak diak lori ba hodi fo hatene ba, no hanourin, oan sira.*' The translation is: 'What is bad should be forgotten, and should not be taken home with you. However, you may take the good

things to tell, and to teach, your children.' Thus, *nahe biti* goes beyond short-term reconciliation towards a much greater aim, which is continuing harmony and peace in the society. Such a concept is well entrenched in the way the East Timorese perceive the world they live in. To understand this more profoundly, let me turn to customary views of the world.

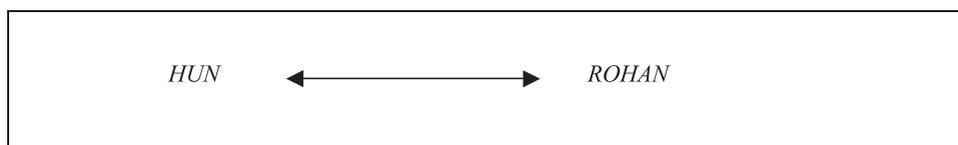
### *The Philosophical Basis of Living Phenomena*

Anthropologists such as van Wouden (1968[1935]) have contended that the concept of life in Eastern Indonesian societies derives from myths and their interpretation of living phenomena. In many of these societies the concept of life embraces the physical, the living/real life, and the non-physical aspects of life, ritual, myth and history (1968, pp. 2–3). Societies rely on living phenomena as a model for 'all-embracing' classification (ibid., p. 2) in their social life. Among the Timorese, this real life/non-physical life is translated into their view of the world, their cosmology and the world where they live (Fox 1989), whereby the secular is inhabited by living things and the cosmos by the spirit and the ancestors (Traube 1986; Hicks 1972). For life to proceed there should be a balance between the two worlds. Failure to observe appropriate rituals/exchanges leads to an imbalance, which might result in negative consequences to those living in the secular world. In customary thinking, the failure of the harvest, starvation, illness, floods, earthquakes and other natural disasters are believed to be the result of this disequilibrium.

This dualistic thinking is well represented in the way people look at their world. Life phenomena are taken to portray the relationship between living beings and the cosmos. Thus, for the East Timorese, night cannot exist without day, man cannot exist without woman, life cannot exist without death. Other configurations such as right/left, top/bottom, water/earth, ascent/descent also represent the dualistic view of the world. Among these is the concept of *hun* 'roots', 'origins', 'past', 'history' and *rohan*, 'future', 'end', 'tips'.

The East Timorese refer to events of the past as the root or the basis of interpretation and use them to predict or classify present and future events. Today is seen as a continuation of the past, and the future might *la la'o tuir lolos* (not happen as it is supposed) should one disregard the past. A society without *hun* and without *rohan* does not have an identity and, therefore, *mouris hanesan balada-fuik* (lives an animal life). It is considered to be *fuik*, (wild) 'foreign', and is not the subject of discussion and carries no weight in social life. Conversely, a society without *rohan* possesses no *hun* (see Figure 1). There is a balance and equivalent quality between *hun* and *rohan*, without which one cannot exist.<sup>17</sup>

Traditionally, both sides represent origins and ends, showing society's life span. A society, either an individual or a community, is required to recognise its *hun*, its forebears, its lineage and its clan's origin, because these elements represent the 'source', the trunk of life. Only by recognising such origins does an individual or a community know its *rohan*. It is a concept that embraces *maun-alin* (elder-younger

*Hun* and *Rohan* Ideally in Balance

**Figure 1** *Hun* and *Rohan* ideally in balance

siblings), lineage, clan, kin; *rai*, the land one stands on; *uma*, the house one lives in; *mouris* (life), the future one seeks to achieve; and *rate*, the graveyard of one's kin. This concept of *hun* and *rohan* is intersected by the sequence of events that constitutes life—the process during a lifetime. Thus, death is not an end of the process that is commenced at birth but is a bridge which facilitates the process to eternal life, or life after death. Timorese exegeses depict the sequence of events in life in a configuration of *ai-hun* (tree-trunk), or 'tree', which in their minds, can be called *ai* 'tree' only if it has *abut*, 'roots' (origin) and *tutun*, 'tip' (end), all of which serve as the conditions for a tree to exist. *Hun* is also referred to as *abut*, and *rohan* as *dikin* (tip). In this botanical configuration, life must be seen as a whole concept of origin and end or roots and tips (of a tree).

Reconciliation or *nahe biti* is placed in the context of the two ends (*hun* and *rohan*). It is seen as a process conducted to heal past mistakes, the latter being the conflict and intra-Timorese disputes since *tempo uluk* (time of long ago), and aims to bring this to *rohan*, living in harmony. Past mistakes constitute the beginning of the process, and reconciliation is a standard procedure that must be highlighted in order to heal such mistakes. Together they represent a continuing process, but this process does not end with reconciliation, for the latter is only a means to achieve *rohan*, that is, harmony in life.

### *Philosophy of Nahe Biti*

Woven mats (*biti*) are traditionally made to be used in Timorese households. Their size varies, but local mats are generally rectangular, 2 metres long and 1 metre wide. They can be found (stretched) inside traditional houses, usually in guest rooms, and, along with their conflict resolution purposes, are often slept on by guests.

Each society or ethnic group in East Timor has a different way of interpreting *nahe biti*, but generally they include common characteristics. While traditionally *nahe biti* is a reference to a venue, space or place where family and wider social issues are discussed, debated and settled, its meaning has been broadened to encompass mending differences, resolving disputes or settling political conflicts among the East Timorese. The term was popularised after the civil war in 1974 and was used again in 1999 with the aim of bringing together divided East Timorese factions to settle their political differences through this type of customary conflict resolution procedure.

Among the Mambai people of Ermera,<sup>18</sup> particularly in the Letefoho area, *nahe biti* can be understood through the way the words *nahe* and *biti* are compounded. The concept *biti* itself goes beyond its literal meaning. To comprehend this more deeply, elements of *biti* have been separated and their meanings individually explained (see Table 3).<sup>19</sup> *Biti* are made from *heda*, a leaf of a palm (*Pandanus tectorious*) that can be found in parts of Timor. To the East Timorese, different *heda* symbolise diverse ideas and opinions or conflicting views, which are brought together to constitute a *biti*. This symbolic representation emphasises the point that bringing together different sets of ideas, or reconciling them, does not necessarily mean that an agreement has been achieved or the aim of a reconciled agreement attained. Rather, bringing together different sets of diverse thoughts only suggests that differences can be mended. The philosophy behind this concept is that for different *heda* to match each other and form a mat, they need to be checked to ensure (*boro*) that they can fit without leaving any gaps (see Table 3).<sup>20</sup> Likewise, for the conflicting ideas to come together there should be a prior consensus among the conflicting parties that they will seek to find a solution for their problem and for that purpose the *nahe biti* could proceed. Without a prior commitment from the conflicting parties, there would be no consensus about what to expect from any future meeting, thus there would be gaps in the *biti* itself.

Conceptually, a ready *biti* symbolises consensus. Bringing together different leaves in the form of a mat symbolises the willingness to bring together the conflicting parties and to find a common settlement. ‘Consensus’ is paired with ‘past mistakes’, making them different but complementary as a means designed to achieve *rohan*, social harmony in society.

Understandably, being in such a position, *nahe biti* (reconciliation) in local East Timorese perception implies a completely different objective from the one sought by formal reconciliation, cynically dubbed as *boot sira nia lian* (the words of those in power) or ‘elite reconciliation’. Reconciliation among the elite seeks to mend differences and aims to bring the divided political factions together; thus an agreement between the two sides is regarded as the ultimate goal of reconciliation. This is different from what is understood at the local level of *nahe biti*. Reconciliation in the latter sense is perceived as a process between ‘past mistakes’ and ‘future harmony’. Thus, consensus or mending differences is merely a process that must take place in order to achieve *rohan* (tip, end), in harmony in life, peace and social order.

**Table 3** Stages in plaiting a *biti* and its interpretation

| Stages | Weaving <i>biti</i>                   | Translation                            |
|--------|---------------------------------------|--|
| 1      | Preparation to plait <i>biti</i>      | Contacts                               |
| 2      | Selection of <i>heda</i>              | Agree to meeting                       |
| 3      | Ensure <i>heda</i> matches each other | Set the parameters                     |
| 4      | Plaiting <i>heda</i>                  | Compromise/consensus                   |
| 5      | The completion of <i>biti</i>         | Accomplishment with ritual proceedings |

### Translating Philosophical Values into Concrete Terms

Let us now move to the implementation of *nahe bitu* in some parts of East Timor with respect to the conflict of recent times, in particular the violence surrounding September 1999 and the 'Independence' ballot. The stages are set out in Table 4.

#### *The Willingness to Come Together: The Procedure*

Approaches to reconciliation in this context have, for the most part, been devoted to bringing the refugees in West Timor back to their own communities. As discussed, for this purpose, arrangements have been conducted through family-to-family, district-to-district and UNTAET/national-level cross-border contacts.

After initial contact, a second meeting, which involves communities of a designated village or district, usually takes place along the border between East Timor and West Timor. Political leaders, both from Indonesia and East Timor, are invited to attend to witness and give assurances. Such an occasion will certainly attract media attention, and publicity is what the parties would normally hope to receive. After such encounters—perhaps repeated several times—arrangements for a formal 'return' would be prepared both along the border and in the villages/districts in East Timor from where refugees originated.

#### *Voluntary Acceptance of Culpability*

There seems to be an acceptance by both pro- and anti-Independence supporters that refugees (anti-Independence) are stigmatised, indeed agree to be identified, as the 'guilty party'<sup>21</sup> for their association with the 1999 violence in East Timor. While agreeing that this symbolic gesture does not apply to every individual who will eventually return to and reside in East Timor, in encounters between the two sides the anti-Independence supporters who are refugees themselves usually accept the blame. In the reconciliation meeting between the parties from Ainaro in Metamasin (a refugee camp located 85 kilometres south of Atambua, district of Belu, in the Indonesian province of Nusa Tenggara Timur) Nemecio Lopez de Carvalho, a

**Table 4** Stages in grassroots reconciliation

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| Stages | Grassroots reconciliation   |
|--------|---|
| 1      | Envoys sent to establish contacts (cross-border contact)  |
| 2      | Meeting at the border   |
| 3      | Agreement to conduct further meetings (topics of discussion to set parameters including possible legal prosecution) |
| 4      | All-inclusive meeting at the border   |
| 5      | Return to district/sub-district/village   |
| 6      | Return of refugees ( <i>nahe bitu</i> process)  |
| 7      | Ceremonies and handover of refugees   |

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community leader and former militia leader, is quoted as saying: “Our struggle has finished” . . . then he handed over a set of army fatigues and a red beret, the uniform of pro-Indonesian militia from Ainaro to (the pro-Independence leader) Xanana Gusmão’ as a commitment to disavowing violence. This also signalled their acceptance of the political process and readiness to return to their homeland (*Gamma*, 13 November 2001).

At a ceremonial handover, which usually takes place along the border, refugees are expected to face their own communities, and a public encounter is often staged to hear their confessions. Usually, such confessions include acceptance of the political process and declarations about their involvement in the post-1999 referendum mayhem (including names of those killed, if any) and other atrocities in which they might have been involved. This implies accepting, among other things, the results of the August 1999 referendum, renunciation of their association with Indonesia and agreeing to declare anything they know about the September 1999 violence. A team is set up to scrutinise such testimonies and verify them with the available witnesses. Since everything is arranged and prepared well beforehand, such a process is guaranteed to be fair and transparent. Often the local Catholic priest is invited to officiate at the ceremony to encourage the participants to speak the truth and also to act as a witness to the process.

Usually, an elected representative(s) or elder of the returnees confesses on behalf of the group. The representative often uses modest words and presents himself/herself very humbly so as to appease the home-stayers. For example, in a reconciliation meeting followed by reintegration of refugees in a village in Bobonaro district, the following words were used by the refugees’ representative:

|                                 |   |
|---------------------------------|---|
| <i>Ami ata sira</i>             | We, the subservient                         |
| <i>Nebe uluk</i>                | Those [who] once                            |
| <i>Halo a’at</i>                | Destroyed                                   |
| <i>Sunu hela uma</i>            | Put fire on houses                          |
| <i>Halo a’at rai</i>            | Scorched the earth                          |
| <i>Ami maka ne’e</i>            | We are here                                 |
| <i>Ami fila hikas mai</i>       | We come back                                |
| <i>Ho laran moras</i>           | We felt sadness [for what we had committed] |
| <i>Maibe haksolok</i>           | Yet [with] joy                              |
| <i>Tamba hasouru familia</i>    | Because [we] meet [our] family              |
| <i>Keta ami sala karik</i>      | We perhaps made mistakes                    |
| <i>Keta ami halo a’at karik</i> | We perhaps [caused] destruction             |
| <i>Keta ami lia sala karik</i>  | We might have [expressed] wrong words       |
| <i>Ami husu desculpa</i>        | We are sorry                                |
| <i>Inan sira</i>                | Mothers                                     |
| <i>Aman sira</i>                | Fathers                                     |

|                                 |                                       |
|---------------------------------|---------------------------------------|
| <i>Maun-alin, Bin-feton</i>     | Old-young brothers, Old-young sisters |
| <i>Hare ba, tetu ba</i>         | Look at [us], weigh [our sins]        |
| <i>Ami sala karik dehan mai</i> | If we have made mistakes              |
| <i>Ami halo a'at karik</i>      | If we have destroyed [you]            |
| <i>Katak mai</i>                | Speak out                             |
| <i>Ami simu hotu ami sala</i>   | We accept all our sins                |
| <i>Ho liman rua</i>             | With both hands. <sup>22</sup>        |

After such a confession, the public are asked to present their complaints and often the complaints are addressed to particular individuals, followed by discussions and assessment by those present.

The guilty side is usually represented by prominent figures or leaders of the refugees who are deemed to have been associated with the armed militia in 1999. They are asked to confess their wrongdoing in public and the elders, including local government authorities, are brought in to hear and give their assessments of the process. The latter also have the power to decide whether someone is *mos* (literally, clean) or not, for their judgment determines the next step. Sanctions for a guilty person range from a 'fine' (paying a certain amount of money equivalent to what he/she destroyed) to undertaking voluntary work in the community. In cases where someone is known to have committed serious crimes (murder or razing properties), he/she is handed over to the United Nations Civilian Police (CivPol) for legal inquiries. Those who are found to have committed any violent action in the past will be detained and wait for the due process.

For peace and harmony to be achieved, both sides should agree that the meeting is not only a process of mending their differences but a time to bring the parties together as discussed above. This process parallels the spirit of mat-making. When different *heda* (dried leaves) are brought together ready for *homan* (weaving, plaiting) into a mat, it should be ensured that they are the best leaves which can fit together.

Thus, parties in a *nahe biti* meet and seek to weave or plait a compromise. In making it official, community leaders, victims of previous conflicts and political authorities are often brought in to witness the process. While disagreement is possible during such meetings, parties will usually work to avoid it.

### The Ultimate Goal: A Stable Social Order

The ultimate goal of *nahe biti* is to bring peace (*dame*) and stability (*hakmatek*) to the society. *Dame* is translated as 'peace' or a time when tranquillity prevails, a time when people go about their own lives without interference from others. *Hakmatek* is translated as 'quiet' and refers to a situation where conflict and disorder are absent. Thus, *nahe biti* aims to facilitate the process that goes on between *hun* and *rohan*.

Bearing this in mind, *nahe biti* embraces a process that commences with a cause (conflict or mistakes), strives for consensus (reconciliation) and ends up in a state of

peace and tranquillity (stable social order). Thus, consensus is not the result of this process; rather, it serves as a medium to facilitate opposing factions to reach the ultimate goal. *Nahe biti* is thus comprehended as a whole concept; failure of any one step would disable and jeopardise the aim and spirit of it. It is perceived that no stable social order is achievable if a single stage in the process is not observed. Such a situation would inevitably lead to imbalance in the secular world, thus deepening further imbalance between the world and the cosmos.

The intervention of the ancestor's spirit is so important here that it is seen as a prerequisite for *dame* and *hakmatek* to be reached. Consequently, whenever a consensus has been achieved, a ritual ceremony—often in the form of a blood oath or oath of loyalty before the lineage's *uma lulik* (literally, sacred house)—is held to both 'officialise' and legitimise the process. This ritual event varies from one place to another and not all participants pledge loyalty to an *uma lulik*. Nevertheless, a ritual process including an oath of loyalty is conducted. It is widely believed that failure to conduct this ritual risks invalidating the whole process and bringing the attendant parties back into conflict.

Hence the oath demonstrates that social stability has been recovered and the status of the previously deemed social malefactor has been re-established; likewise, the balance between the cosmos and the secular world. The oath therefore provides protection and closes down the chapter of that specific conflict. Social order, indeed social life, is restored.

### **Local Reconciliation and State Justice**

Having understood the essence and the philosophical value of *nahe biti*, the question is: can this be fitted into the formal justice system? Does the implementation of *nahe biti* conflict with the application of official justice? To understand this issue, let me draw attention to the existing legal documents and the policies which have been adopted and their relation to *nahe biti*.

#### *Existing Documents*

The basis on which the law in East Timor is implemented is UNTAET Regulation No. 1/1999. Section 3 of the regulation states that the laws applied in East Timor prior to 25 October 1999 shall apply in the country provided that they do not conflict with Section 3.1 of the regulation. The latter includes (a) the United Nations Security Council Resolution 1272/1999, which empowers UNTAET to take the necessary measures to ensure stability and rebuilding of the country, and (b) the regulations and directives issued by the Transitional Administrator in executing its task.<sup>23</sup>

This means that many aspects of Indonesian law—the Penal Code and Criminal Procedure Code—and legally binding decisions under both Portuguese and Indonesian legal regimes are honoured by UNTAET's Regulation No. 1/1999. In addition, the Indonesian Civil Code and Civil Procedure Code, both of which are

Dutch-based laws, are also used in courts in East Timor. However, Regulation No. 1/1999 does put an end to a number of Indonesian laws (Section 3.2), including, for example, that of capital punishment (Section 3.3).<sup>24</sup> Section 2 of the same regulation requires strict adherence to international conventions and full compliance with universal human rights standards.<sup>25</sup> Thus, only state law, in particular the Code of Criminal Procedure, is required to deal with criminal cases, including the crimes which fall under the jurisdiction of international criminal law. The latter are crimes such as murder, killings and those considered as crimes against humanity and war crimes.

In 1999, UNTAET made criminal cases its primary target in upholding the rule of law in East Timor. Apart from establishing courts it also promulgated transitional rules of criminal procedure (Regulation 30/2000) and established separate panels to deal with both ordinary crimes and crimes considered to be serious or against humanity (Regulation 15/2000). The new Constitution of East Timor states that ‘Acts committed between the 25th of April 1974 and the 31st of December 1999 that can be considered crimes against humanity shall be liable to criminal proceedings with the national and international courts’. The CRTR has also hinted that, while continuing to ‘report on its findings and make recommendations to the government for further action on reconciliation and the promotion of human rights’, it will promote reconciliation and truth-telling.<sup>26</sup> This implies that the CRTR will investigate mainly major crimes, whereas lesser crimes such as looting, burning and minor assaults in the past will be dealt with through community-based reconciliation, thus emphasising that (serious) criminal cases fall under the jurisdiction of the state law. In other words, this underlines the recognition of state law in the role played by *nahe biti*, thus helping to overcome the difficulties of the judicial system in this new society.

*Grassroots Reconciliation and Justice*

The formal definition of offences (serious and minor) corresponds well with the spirit of grassroots reconciliation conducted so far (see Table 5). The purpose of inviting community leaders and political authorities to assess the substance of the confession of the perpetrators and any objection by the victims during the repatriation process is to help identify the nature of the offence. In community reconciliations, cases that are categorised as serious are separated from the others. As far as legal sanctions are

**Table 5** Reconciliation and justice

| Reconciliation       |           |                           |
|----------------------|-----------|---------------------------|
| Elite reconciliation |           | Grassroots reconciliation |
| Family               | Community | Political elite           |
| Stable social order  |           | Consensus                 |
| Peace and stability  |           | Political stability       |
| Lesser crimes        | Justice   | Justice is optional       |

concerned, CivPol will be contacted about the person accused of being implicated in serious crimes, and an arrest warrant issued in accordance with the existing law. Final determinations are considered and analysed carefully on a case-by-case basis. This approach ensures refugees understand that reconciliation does not mean that the perpetrators of more serious violence will easily escape state prosecution. This approach also sends a signal to the remaining refugees in West Timor *not* involved in the more serious offences that they can return without having to face state prosecution. Finally and most importantly, the option of state justice for serious crimes ensures the satisfaction of home-stayers, the 'victims', some of whom have remained hitherto dissatisfied with elite reconciliation, which is often perceived to have compromised on justice in the past for the sake of political stability.<sup>27</sup>

After the promulgation of state laws which deal with serious crimes, grassroots reconciliations were conducted without violating the existing state law. Clear parameters were usually set in the early stages of preliminary talks between the parties, even before state authorities or political leaders are invited to attend. The meeting in the village of Cassa in Ainaro in late 2001, involving locals and villagers who were former militia members, was co-ordinated carefully, and returnees agreed to be prosecuted if they were found to be implicated in the September 1999 violence (*Gamma*, 13 November 2001) for example.

### Closing Remarks

*Nahe biti* is very much ingrained in the culture of the East Timorese. It has been part of the prevailing social values since time immemorial. Such values are often recited in ritual chants, *ai-knananoik* (folk stories) and sayings. While the word 'reconciliation' itself is a new term to many East Timorese, its spirit is clearly reflected in *nahe biti*, a local process used traditionally as the means to settle matters and differences that involve family, clan and society members. For that very reason, frustrated by reconciliation at the elite level, with its complex bureaucratic procedures, local community leaders in East Timor have initiated their own version of reconciliation through *nahe biti*.

Based on both cosmological and secular values, *nahe biti* is seen as the means to achieve a stable social order. Likewise, those who are participating in or have participated in *nahe biti* are duty bound to comply with it, for *nahe biti* does not merely seek to reach consensus among the people but, more than that, it seeks to recover the disrupted peace.

One of the reasons why the transitional government and local political leaders were slow to deal with reconciliation at the grassroots level in East Timor was their 'wait and see' approach and a lack of understanding of the local culture in the early days of the UN mission. Issues such as bureaucratic procedures and confusion over who should be in charge of this new process of grassroots reconciliation, how it should be conducted and its relation to the newly established justice system are reasons for the early, underlying reluctance to push ahead with it.<sup>28</sup> This reluctance, however,

changed at the end of the UN mission and when it had become obvious that grassroots reconciliation was effective in some areas and provided a strong basis to recultivate and cement emotional links among the population.

Indeed, the transitional government and local political leaders have quickly responded to this type of reconciliation. In the last six months before the end of its mission (20 May 2002), UNTAET encouraged community leaders to push ahead with grassroots reconciliation, thus ensuring a smooth and quick repatriation of refugees from West to East Timor. It is acknowledged that variation in the implementation of *nahe biti* among different ethno-linguist groups in East Timor cannot be avoided. Nevertheless, the emphasis here is that direct involvement of the people in this process, with all its philosophical reasons, guarantees that a long and lasting peace can be achieved without undermining the value of justice. Furthermore, apart from being effective, this approach is less costly and less time consuming. Most importantly, for the local people, it does present a compromise and a way to recover, indeed re-establish, the previously devastated social order.

## Notes

- [1] The concept *nahe biti* (literally, stretching, lying or rolling the mat) can be found in almost all ethno a-linguist groups in East Timor. Definition and approaches in its application also vary from one place to another. Nevertheless, there are common ways of defining this institution when it comes to implementation particularly on the eve of contemporary grassroots reconciliation in East Timor. For reasons of simplification, I use the term *nahe biti* in Tetum, the lingua franca of East Timor, and it explains the way it is widely applied in reconciliations that have been taking place so far in the new country.
- [2] This violence saw thousands of people flee—either evicted by the Indonesian military and its created militia or leaving voluntarily for safety reasons—to the Indonesian province of West Timor.
- [3] See *Dili and Jakarta agree to promote refugees repatriation*, in *Relief Web*, original: UN Transitional Administration in East Timor (UNTAET), 25 March 2002. Source: <http://www.reliefweb.int/w/rwb.nsf/6686f45896f15dbc852567ae00530132/9b02e2c57b2b1b8585256b87005d5868?OpenDocument> (accessed 3 April 2002).
- [4] According to the Indonesian newspaper *Sinar Harapan* dated 26 March 2002, the data provided by the military headquarters (Komando Resor Militer [Korem] 161/Wirasakti) in Kupang suggest that, until late January 2001, there were 70,000 people or 9 per cent of the approximately 800,000 population of East Timor.
- [5] *Kompas* (26 November 2001). See also, the *Sydney Morning Herald* and the *Age* (28–30 November 2001).
- [6] This regulation came into force on 13 July 2001.
- [7] By definition, grassroots in this paper refers to the ordinary people who live mostly in the villages and were not involved directly at the reconciliation between pro- and anti-Independence. This group also includes NGOs and voluntary organisations who were not part of the political decision-making process.
- [8] Around February 2000, an old man from Viqueque who had just returned from West Timor was beaten and remained unconscious for several days before dying in Dili hospital. While conducting fieldwork, I had the opportunity to speak to him three days before the incident.

- [9] CNRT was dissolved in June 2001. Most of its activists have now become members of Veterans of Resistance, a new organisation led by José Alexandre Xanana Gusmão.
- [10] Families along the border between East and West Timor in the district of Bobonaro (East Timor) and Atambua (West Timor) took the initiative to begin such reconciliation meetings. They successfully brought back their countrymen from West Timor without having to go through the formal procedures at a high level (interview with Lázaru of Yayasan HAK (a local NGO) in Dili, February 2000).
- [11] Including the International Organisation for Migration (IOM), the United Nations Children's Fund (UNICEF) and the United Nations High Commission for Refugees (UNHCR).
- [12] For further information visit <http://www.jesref.org/alerts/tmp00/tp00907e.htm> (accessed 3 April 2002).
- [13] See the written judgment online at <http://www.jsmp.minihub.org> (accessed 15 April 2002).
- [14] I was working as a translator throughout the Congress from 20 to 31 August 2000. Such remarks were made by various delegations from districts in East Timor expressing their discontent with the reconciliation process being undertaken at the elite level.
- [15] Even until March 2002, when this paper was written, many people in East Timor still did not consider reconciliation among the political élite attractive because it was seen to reflect the operation of political interests. *Suara Pembaruan*, an Indonesian newspaper, quoted the words of two prominent East Timorese, Aniceto Guterres Lopes, the director of Yayasan HAK, a well-known East Timor human rights NGO, and head of East Timor Truth and Reconciliation Commission, and (while he was travelling to Kupang in West Timor) Ricardo da Costa Ribeiro, leader of East Timor Youth, saying that elite reconciliation had been in vain. Therefore, people at the grassroots level need to be involved and should sort out differences themselves (*Suara Pembaruan*, 25 February 2002) for it is less costly, more effective and yields concrete results.
- [16] For an overview, see Gordon (2001). For a brief overview see also Gorjão (2001). See also Villa-Vicencio (2000).
- [17] For this point, I am indebted to discussion with the late João Nunes (former teacher and son of the *liurai* (king) of Manu-Tasi, Ainaro) and António Aitahan Matak (a leader of CPD-RDTL (People's Defence Council—Democratic Republic of East Timor)). A good discussion on this topic can be found in João Martins (year unknown) 'Kunci pembangunan manusia Timorese' (Key to development of the Timorese), private library.
- [18] This is a district in which reconciliation within its population at the grassroots level has taken place. Numbers of refugees have returned to this district since August 2001, thanks to the direct participation of the community leaders of both sides (*Kupang Pos*, September 2001).
- [19] Pers. comm., Domingos Maia, March 2000.
- [20] Among the Mambai, the process of ensuring good *heda* is known as *boro*. Literally, *boro* refers to the process of selection or compilation of good *heda*, all of which are plaited into a mat.
- [21] Interestingly, there is a common perception that the destruction of East Timor following the August 1999 referendum should be blamed on refugees who are identified or associated with the armed militia in West Timor. The refugees are assumed to be morally 'guilty' for the September 1999 violence and are required to confess their wrongdoings, something that they are 'forced' to accept.
- [22] Interview with Lazaru, February 2000.
- [23] See Regulation 1/1999, 27 November 1999. Source: <http://www.un.org/peace/etimor/untaetR/r-1999.htm> (accessed 3 April 2002).
- [24] Other laws affected include those on anti-subversion; social organisations; national security; national protection and defence; mobilisation and demobilisation; and defence and security.
- [25] These include the Universal Declaration on Human Rights of 10 December 1948; the International Covenant on Civil and Political Rights of 16 December 1966 and its Protocols; the International Covenant on Economic, Social and Cultural Rights of 16 December 1966;

the Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965; the Convention on the Elimination of All Forms of Discrimination against Women of 17 December 1979; the Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment of 17 December 1984; the International Convention on the Rights of the Child of 20 November 1989.

- [26] It is interesting to see that the newly established Truth and Reconciliation Commission (TRC) in East Timor also limits itself to dealing only with 'crimes' in the past. Thus, it recommends community leaders deal with issues such as looting, burning and minor assaults: 'A panel comprised of a Regional commissioner and local community leaders will mediate between victims and perpetrators to reach agreement on an act of reconciliation to be carried out by the perpetrator'. Source: <http://www.easttimor-reconciliation.org/> (accessed 15 April 2002).
- [27] Examples of this can be found in many parts of East Timor. People are fed up with the fact that political leaders are reluctant to promote justice by bringing the perpetrators of violence in 1999 to the courts for the sake of stability. Various NGOs in East Timor, including most prominently the local Yayasan HAK, are working hard with victims of past violence to resolve some of these issues at the local level, through the medium of *nahe bitu*.
- [28] I have discussed elsewhere some of the confusion in the Transitional Administration (UNTAET) in East Timor in the early years of its mission. See Babo-Soares (2001).

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