

The La'ó Hamutuk Bulletin

Vol. 1, No. 1, 21 June 2000

Introducing La'ó Hamutuk . . .

La'ó Hamutuk (Tetum for *Walking Together*) is a joint East Timorese-international organization that seeks to monitor, to analyze, and to report on the activities of the principal international institutions present in Timor Loro Sa'e as they relate to the physical and social reconstruction of the country. *La'ó Hamutuk* believes that the people of East Timor must be the ultimate decisionmakers in the reconstruction process and that the process should be as democratic and transparent as possible. *La'ó Hamutuk* is a non-partisan organization that seeks to facilitate greater levels of effective East Timorese participation in the reconstruction and development of the country. In addition, *La'ó Hamutuk* works to improve communication between international institutions and organizations and the various sectors of East Timorese society. Finally, *La'ó Hamutuk* serves as a resource center, providing literature on different development models, experiences, and practices, as well as facilitating contacts between East Timorese groups, and specialists and practitioners involved in matters relating to development in various parts of the world.

In each issue of this *Bulletin* (published in Tetum as well), *La'ó Hamutuk* will feature articles by and/or interviews with individuals involved in the reconstruction process to provide a forum for diverse ideas. Because *La'ó Hamutuk* sees the economic and political reconstruction of the country as inseparable from the social reconstruction of East Timor, this first issue features articles on justice and reconciliation based on a discussion held at a recent meeting of *La'ó Hamutuk*. □

East Timor's Reconstruction: Much to celebrate, and much yet to accomplish

The East Timorese people and the international community have accomplished much in the little more than nine months since the Indonesian military and its militia allies destroyed most of the country. The majority of East Timorese forced into Indonesia in September have returned home; the electrical system is working in many parts of the territory; tens of thousands of people have received emergency food aid; a health care system is now functioning; and the vast majority of East Timorese youth are back in school. Certainly there is a lot to celebrate.

At the same time, there is still a very long way to go in reconstructing and developing East Timor so that all of the country's people can realize lives of dignity. The vast majority of the population still suffers from September's destruction and from the legacy of the Indonesian occupation, and are unable to satisfy their basic needs. Addressing this is a long-term process, but there are concrete things that the international community can do to improve the process of reconstruction. *La'ó Hamutuk* will offer ideas and suggestions on how to do that.

One frequently heard complaint is about the low-level of public participation in the UNTAET decision-making

process. Just recently, for example, Jose Ramos-Horta called for the removal of all UNTAET district administrators by August and for their replacement by East Timorese. This reflects a greater concern for the lack of East Timorese in effective decision-making positions.

This follows a letter of protest from UNTAET's District Administrators (DAs) addressed to Jean-Christian Cady, the Deputy UN Special Representative and head of UNTAET administration. Signed by all 13 DAs, the April 11 letter expressed "widespread concern amongst the district administrators, in particular about the clear lack of consultation and the consequent lack of input on policy issues. ... This is particularly worrying as the exclusion of the DAs tends to exclude the concerns of the Timorese people with whom we work on a daily basis."

In this regard, the recent announcement by UNTAET that it wants to speed up the "Timorization" of the transitional government is very positive. Sergio Vieira de Mello, the transitional administrator, has already announced that he will appoint East Timorese as Deputy District Administrators, and begin the process of appointing East Timorese District Administrators. More recently,

La'ó Hamutuk, The East Timor Institute for Reconstruction Monitoring and Analysis
Mobile phone: (0408)811373 Dili land phone: 325-013 Email: lhproject@one.net.au
International contact: +1-914-428-7299 lh@etan.org Website: www.etan.org/lh

UNTAET announced that it will create a cabinet in which East Timorese will occupy the majority of the positions. In addition, UNTAET intends to expand membership in the National Consultative Council (NCC) so that it includes members of local non-governmental organizations, labor groups, and other sectors of civil society.

Steps are welcome, but the decision-making process is ultimately more important than the nationality of the person in the position of authority. How, if at all, for example, will an expanded NCC allow for more knowledge of and effective input by the East Timorese public into the actual design of UNTAET proposals, policies, etc.? The fact remains that the NCC merely discusses proposals designed by UNTAET. NCC members, and members of civil society asked to appear before the NCC, have complained on numerous occasions of receiving proposals with insufficient time to consider them, and/or in a language (English) in

which they are not fluent. Such practices undermine input from the East Timorese people.

Furthermore, NCC meetings are rarely open to the public. While non-governmental organizations supposedly can observe the NCC meetings, interested NGOs must first apply to the NCC for permission. In the case of *La'o Hamutuk*, we wrote a letter over three weeks ago asking for such permission, and have thus far been unsuccessful in getting a response. In the spirit of openness, UNTAET should publicize the agenda and proposals under consideration for each NCC meeting well before the meeting takes place to allow for public input.

Finally, it is not yet known what the process will be by which UNTAET will choose the new NCC members. Given the absence of elections, UNTAET needs to make clear how this process will reflect the democratic aspirations of the East Timorese people. □

Reconciliation from a Legal Perspective **by Aniceto Guterres Lopes, Director, Yayasan HAK**

The East Timorese political elite as well as the bishops, pastors, and reverends have communicated the importance of reconciliation to the broad public. In fact, long before the referendum on August 30, 1999, the CNRT leadership and the pro-autonomy groups unceasingly talked about reconciliation, even though it only had rhetorical content and deviated strongly from the real meaning of the term, to the point that political meetings were called reconciliation meetings.

In the general society, the concept of reconciliation is not foreign, although most people have a very minimal understanding of its true meaning, thinking that reconciliation means to simply shake hands and hug one-another or to apologize to a group or individual that you have wronged. But at the same time, critical voices from the people arise filled with hope and the desire for there to be a reconciliation based on justice.

Free of any pre-conceived notions of the meaning of the word, it is important to look at the work of reconciliation from different points of view and to place it into a context where reconciliation will be a process. Reconciliation in the context of Timor Lorosae does not only have a political aspect, but also social, cultural, economical, legal and moral aspects as well.

In speaking about reconciliation, there are a number of important questions we must answer: Why is reconciliation important? With what intention do we

seek reconciliation? Reconciliation between whom? And what is the process by which we should realize this reconciliation? The goal of this article is to answer these questions from a legal and justice perspective.

Reconciliation and Justice

The politics of division applied under Portuguese colonial rule and, over the past 24 years, under the Indonesian occupation have torn the people of East Timor into groups that quarrel with one another. The most visible evidence of this in our memory is the separation of the people into pro-integration and pro-independence groups.

All kinds of forms of human rights abuses and injustices happened during these times. The colonial power directly committed atrocities or did so indirectly through groups of people it had manipulated and/or controlled. Killing, suppression, robbery, and exploitation were happening amongst East Timorese. There was no effective legal protection in this context that could have brought about the form of legal justice that is a fundamental right of each human being.

The peak of this oppression occurred after the referendum of August 30, 1999, when an absolute majority of East Timorese society expressed their resolve for freedom from the despicable colonization and occupation practiced by Indonesia. In response, the Indonesian military and their pro-integration militia carried out their scorched earth policy. Countless civilians were victims of murder, rape, and various forms

of torture. In addition, the military forced people to flee, burning and looting civilians' property.

We must admit that these various forms of oppression and injustice resulted in extraordinary physical and spiritual suffering. In addition, these experiences undermined East Timorese values and culture. This is a serious matter that we must handle in order to return self worth to the people of East Timor as well as to enhance national unity.

After inhaling the air of freedom from the Indonesian occupation, we must now begin building the new East Timorese nation-state. To be successful, this new nation-state must result in a new society that is free from a past full of oppression, human rights violations and injustice. It must be a society that inspires the entire population to respect the law, human rights, democracy and social justice.

Efforts at reconciliation must be located in the context of the problems of the past. Only by coming to terms with these problems will we be able to create a base to develop a new society consistent with people's hopes. In this matter, reconciliation is more than a political effort shaped by apologies, handshakes, and embraces. Shaping an administration similar to the previous one will only serve to institutionalize impunity. Reconciliation such as this actually disavows the values of human rights and justice that must be an important element in the building of a new society.

At the same time, law that is an instrument to protect human rights and bring justice cannot mean just anything. A serious challenge is to be able to envision a new East Timorese society where law is no longer authoritarian, unjust, oppressive and arbitrary. We must also recognize that the legal process is different from reconciliation.

Legal reconciliation

It is a basic principle that we must base reconciliation on the effort to realize justice for the entire society, especially for the victims. But we cannot build justice without truth. It is important to express the facts of violations and injustice before trying to achieve solutions realized through various mechanisms, legal or otherwise.

In talking about legal processes for war crimes and crimes against humanity, the ideal is for the proceedings to take place to under an international court. But depending on the weight of the crime, particular crimes should also pass through national courts.

A court is an institution that determines responsibility for crime, and makes the guilty party accountable for his/her actions. The court as an institution must carry out its functions in a just and transparent manner that does

not collide with human rights. If the citizenry is not confident that the judicial process is just and transparent, a culture of lawlessness and violence will arise.

The expression of truth is not only important for the legal process and/or for the obtaining of some form of formal justice. More than that, the expression of truth is also important for the sake of writing the history of East Timorese society as one nation, and to guarantee the rights of victims as well as their families. The uncovering of the truth also provides an opportunity for society to implement traditions appropriate with traditional laws long practiced in East Timor.

Given the spiritual injury experienced by society, the healing process must be gradual. This reconciliation is inevitably tied to the nature of the legal process. Only if there is justice can true reconciliation, or social healing, occur.

The legal process can take place at court as well as outside of court under traditional socio-legal mechanisms. Both elements, that is justice and truth, can be carried out together, and can thus support each other.

Justice through the courts is usually a relatively long process. Because of this, we cannot see maintenance of the law in the context of reconciliation as a means to solve problems from the past and guarantee justice for victims. Efforts or processes to maintain the law are very important to create precedents or create a basis for life in East Timor for the future, so that law, either traditional or formal, is the highest instrument to protect human rights which are essential for freedom, democracy and rule of law.

The results of the legal process can give freedom to a person proven innocent and there are also those who are found guilty yet remain unpunished because their actions are forgiven through consensus in the court. Yet there are also those sentenced to prison. Consistent with the modern concept of prisons, those sentenced go through a process of rehabilitation because of their actions, with the purpose that the person will at least be aware of his actions and not repeat them, or perhaps undergo a more complete change. Prisons are no longer viewed as a place or a process that is humiliating, or a place to give release to revenge. Rather they are a place for the convict to be rehabilitated before returning to society. So from this process of course there will be an impact or positive contribution in the effort to develop a new East Timorese society and country.

Justice that is whole

So far I have spoken about justice with the understanding that people who are guilty are brought to justice

and later imprisoned, but what about the fate of those people who are the victims? People do not think about the future or past impact for the victim, and often the fate of the victim is not only ignored by the criminal but also most importantly by the government.

People who are victims or their families have to be given compensation. This follows the concept of justice that is whole under the law. A person is arrested because they violated a national criminal law or even an international law (for example, war crimes, genocide, etc.), and also because the perpetrator causes a certain harm. Because the criminal is clearly at fault after being tried, there is also the responsibility to face the results of his/her actions. We should not consider the punishment received by the criminal as compensation for the victim.

If there are no efforts to give compensation and rehabilitation for the victim then justice has not yet occurred. For example a woman whose husband was murdered experiences spiritual pressure that can result in emotional problems and her psychological condition is affected. After the legal process the criminal is sentenced to ten years in prison while the woman who has lost her husband has to continue to live, play-

ing two roles as the backbone of her family, raising children in an economic situation that is insufficient. In this case any normal person would feel that this is not just. In the legal process there is a criminal fine, but this fine is paid to the government and is not for the victim who has lost a member of the family due to the actions of others.

The problem is one of responsibility for replacing the loss or compensating and rehabilitating the victim. Is it the responsibility of the criminal who has already been tried and sentenced? The government of East Timor/UNTAET or the government of Indonesia? Or other social groups such as NGOs? The answer to these questions is important, because the problem of responsibility is tied to the fate of the victim and his/her family. If their situation returns to normal and they can start a new life, in the end it will help to create a socio-economic balance and/or justice in the new East Timor. We should not view such reconciliation as an isolated event, but rather a process within the context of national reconstruction to create the kind of society for which we strive. □

The views above are those of the author, and not necessarily those of La'o Hamutuk.

Reconciliation seen from a socio-cultural perspective

by Father Jovito Rego de Jesus Araujo

Like every nation in the world, East Timor has its own culture and identity. This was evident in the socio-cultural structure of the people of this territory before the Portuguese arrived in the early 1500s. The people lived in a very stable social order based on local communities. Kings, or *liurais*, led these communities in a feudalistic manner. Although this form of social organization was largely authoritarian, it did have positive aspects. And it is these indigenous practices that might help East Timorese society overcome the divisions that plague it today.

The effort to make East Timor part of the Portuguese nation resulted in the pushing aside of the indigenous population, and the undermining of local cultures. The Portuguese introduced Portuguese nationalism, isolated the people and closed all possibilities for contact with the outside world. At the same time, the Portuguese showed a certain respect for traditional structures which they effectively manipulated to achieve indirect rule. These methods applied

by the colonialistic Portuguese nation were a shameful way of weakening the culture and identity of the people of East Timor.

The cultural and historical estrangement had a very strong impact on the life of the people of East Timor. Today, for example, we see many practices in East Timorese society which reflect the impact of Portuguese colonialism. These include the social rituals of the Catholic Church life as well as customs of every day life such as the style of cooking and certain folkloric dances which are actually Portuguese in origin.

The Carnation Revolution in Lisbon on April 25, 1974 served to awaken the East Timorese people, leading them to rise up in the realization that 450 years of Portuguese colonialism had helped to undermine their culture and society. But the eradication of the culture and the identity of the people of East Timor did not stop after the departure of the Portuguese.

Partially because the Portuguese had not prepared the people of East Timor to be able to manage the political moment present in 1975, the East Timorese people were insufficiently equipped to prevent the realization of the threat embodied by Suharto's Indonesia. Furthermore, the manipulative practices of the Portuguese sowed the seeds of disunity within East Timorese society which Indonesia effectively manipulated. In these regards, Portuguese colonialism contributed to Indonesia's invasion of East Timor.

The militaristic Indonesian government used various forms of violence to establish a politics of divide and rule, in the process setting severe limitations on the rights of the people to express their opinion. As a result, what was left in terms of the unity of the people was broken into pieces. This disunity became even more evident after the people of East Timor were successful in lightening their burden of oppression on August 30, 1999 when they voted overwhelmingly for independence.

With a background characterized by a long struggle to find and resurrect our historical identity and national culture, we East Timorese must ask ourselves what are the concrete steps that the various layers of society, from bottom to top, must take to achieve true national reconciliation.

A process of reconciliation from a cultural perspective has to begin by doing the following:

1. We must identify the substance and valuable aspects of the culture and history specific to the people of East Timor. For example, there are traditional conflict resolution mechanisms within local communities that could prove very beneficial in our efforts to bridge the divides that characterize present-day East Timor.
2. We must embrace and accommodate the diverse origins, backgrounds, and experiences—and the socio-political differences to which they contribute—of the East Timorese people. Many East

Timorese, for example, have lived in exile for more than two decades in societies very different from our own and have only recently returned to their homeland; many more endured life here in East Timor under the Indonesian occupation. Such different experiences almost inevitably lead to diverse perspectives, different types of skills, as well as varying needs.

3. We must carefully analyze the underlying causes of our existing problems as we try to rebuild the social and cultural life of East Timor. In this regard, we should avoid seeing all problems as purely political in nature. Some may be more familial, social, and/or cultural in origin. Such an approach will contribute to a healthy regeneration and re-vitalisation of our culture and identity and contribute to a more comprehensive peace.

The successful implementation of our traditional cultural values in order to prevent our disappearance as a people requires a strong civil society. A strong civil society is one which citizens know and are able and willing to realize their rights as well as social obligations. It is also one in which the voices of the people reach the political leadership, and that the leaders listen to these voices. Such a process of respectful dialogue allows for peaceful social change by helping to empower the people, thus avoiding a situation in which they become mere objects of the politics of the elite or of political factions.

Hopefully reconciliation in East Timor is taken from the values that are found within society itself. We have the means within our traditions to achieve an effective and just reconciliation process. By building a strong civil society, we will enable this process. At the same time, a successful reconciliation process can help strengthen civil society, thus helping to create an environment that is healthy and enables a democratic, empowering dialogue. □

The views expressed here are those of the author, and not necessarily those of La'ó Hamutuk.

Get involved with La'ó Hamutuk!

**Even if you're not in East Timor, check out <http://www.etan.org/lh>
to see what's going on and how you can help.
There is work to be done all over the world!**

FALINTIL and the Responsibility of the International Community

There are many reasons for the recent tensions within FALINTIL in Aileu. Although the press and UNTAET have offered many explanations, they have not mentioned an important one: neglect and marginalization of FALINTIL by the international community. Despite having played a heroic role in liberating East Timor from Indonesia's brutal colonial project, FALINTIL is now very much marginalized—militarily, as well as socio-economically. FALINTIL members live in a ghetto in which they have very few means to provide themselves with a life of dignity.

Unfortunately, the international community seems to have little appreciation of the role FALINTIL has played in East Timor over the last 25 years. Rather than being simply an armed group, FALINTIL is the military expression of a truly national resistance. In this regard, it is impossible to distinguish FALINTIL from East Timorese society as a whole. Thus, it is not surprising that FALINTIL has historically and recently exercised a great amount of restraint, generally avoiding the abuses that often characterize guerrilla movements.

But rather than allowing FALINTIL to spread throughout the country, and to work alongside international peacekeepers in providing security and helping to rebuild the country, the United Nations has basically forced cantonment upon the guerrilla army. And, for the most part, international aid groups have ignored FALINTIL's humanitarian needs because the group remains armed.

Furthermore, despite the Portuguese government's promise in late April to provide funds for FALINTIL's basic needs, FALINTIL sources report that it has not yet received any assistance from Lisbon.

In early June, *La'o Hamutuk* staff visited with FALINTIL in Aileu. The conditions in Aileu are very difficult, with insufficient amounts of food, and little for FALINTIL members to do to fill their time constructively. One FALINTIL member stated that life in the mountains during the Indonesian occupation was better than life in Aileu; at least in the mountains, he said, FALINTIL usually had adequate food. Another likened life in Aileu to life in a prison.

Such a situation is obviously not good for FALINTIL, but it is also potentially bad for the health of East Timorese society as a whole. Sources within FALINTIL have confirmed the perception that the poverty and boredom that characterize life in Aileu have helped to give rise to the recent tensions within the guerrilla force. It is in the interest of the international community present here in East Timor to intensify efforts to improve the status of FALINTIL by working to integrate better the guerrilla force into the reconstruction of the country. Creative and just solutions are possible if the political will exists. □

***La'o Hamutuk* on Reconciliation, Justice, and Reconstruction**

Reconciliation cannot take place in East Timor without an effective process to realize justice. First, however, we must be clear about who is responsible for the mass killings and destruction in East Timor—not just those that occurred in 1999, but those that took place beginning in 1975 when the Indonesian military commenced its campaign of terror.

Imagine a situation in which an armed individual—with the full knowledge of some of his neighbors who have provided him with material and political support—enters a nearby house. He proceeds to kill one-third of the people who live there, while destroying much of the house. The criminal continues to terrorize the remaining members of the household over a long period of time, committing acts of torture and rape. The criminal only leaves after many years and, as a final act of violence, destroys the rest of the house. During this entire time, the criminal continued to receive active support from a number of his neighbors who provided him with various forms of assistance, including weapons and training needed to employ them effectively.

In a local or national context, a process of justice would prosecute not only the individual who committed the actual acts of violence, but also those who consciously supported the criminal's activities. Similarly, a successful process of reconciliation would require that not only the criminal, but also those who supported his actions—his partners in crimes—apologize for their behavior and compensate the victims for their suffering.

Indonesia could not have invaded in 1975, sustained its costly occupation over 24 years, and committed the final acts of destruction and terror in September 1999 if it had not received huge amounts of military, economic, and diplomatic assistance from many of the world's most powerful countries. True justice and reconciliation require that these countries' governments admit to their crimes and compensate the people of East Timor accordingly.

As East Timor continues the struggle to build a society where all people can realize lives of dignity and to recover from the trauma suffered during the Indonesian occupation, it will need a great amount of financial and human resources. Those responsible—in Jakarta and beyond—have a responsibility to help ensure that East Timor will be able to meet its needs. In this regard, justice and reconciliation are inextricably tied to the reconstruction of East Timor. □