

Metaphors we judge by: Mediation in Wehali

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1. Introduction

The language we use to talk about concepts can reveal a lot about the way in which we see those concepts. In this paper we investigate how one traditional Timorese community talks about dispute resolution. The results will clearly show that the goals and methods of such resolution differ greatly from the goals and methods of modern court-based systems. One challenge for East Timor today is to gain from the insights and advantages of these two different ways of handling disputes.

Many of the ways in which we speak about and understand the world are metaphorical. For instance, in English we can speak about arguments in terms of buildings; for instance, one can ‘construct a good case’, or say that ‘your claims have no foundation’. On the other hand, there are numerous ways in which we speak of arguments in terms of war; for instance one can ‘shoot down an argument’, ‘defeat an opponent’ or ‘defend a point of view’. These two underlying metaphors each allow us to see view the concept of arguments in different ways. The first presents a careful step-by-step approach, while the second presents an interactive adversative one.¹

While a metaphor highlights a particular aspect of a concept, it simultaneously obscures other possible views. For instance, the view of argument as a building obscures the fact that one’s arguments for a case can be honed by conflict, while the view of argument as war obscures the possibility of a consensual approach to seeking truth.

Traditionally, Timorese use a wide range of metaphors when talking about dispute resolution. We will investigate some common ones used in Tetun Terik, endeavour to see what each of these metaphors reveals about traditional justice within that culture, and then consider some of the alternative conceptions of justice which remain hidden within this set of metaphors.

The community on which this study is based is the ancient kingdom of Wehali, centred around the town of Betun, in the south of the district of Belu in West Timor. It is not far from the border with Suai in East Timor. This community speaks the Fehan dialect of Tetun Terik. The present paper is based on research conducted in Wehali by the author in 1993 and 1995 towards a PhD in linguistics (published as van Klinken 1999). This research did not focus specifically on justice and dispute resolution systems; hence the observations below are based primarily on everyday talk about such issues.

¹ This point is made by Lakoff and Johnson (1980) in their excellent book *Metaphors we live by*, on which the title of this paper is based.

While the presentations of the metaphors themselves are based firmly on linguistic data, my explanations as to the basis for each metaphor are to some extent speculative.

2. English COURT CASES are WARS

Before investigating Wehali concepts of dispute resolution, we will look briefly at a major metaphor underlying the modern court system. This is the metaphor of court cases as wars. The pervasiveness of this view is illustrated by expressions such as the following:

- We'll battle it out in court.
- Lawyers defend the accused.
- Lawyers attack the witness' credibility.
- The opening salvo was fired by the defence.
- The prosecution is about to bring out the big guns.
- The defendant won the case.
- The prosecution was defeated in court.

We shall see that this view of dispute resolution is in marked contrast to the views expressed through Tetun Terik metaphors. In fact I am not aware of any traditional expressions based on the war metaphor in the Fehan dialect of Tetun Terik. When speaking about modern court-based justice, however, this metaphor does creep in, at least to the extent that one party will *manaan* 'win', while another will *lakon* 'lose'.

3. MEDIATORS are BRIDGES

In Wehali, the term *ai kalete* (or simply *kalete*), when used literally, refers to a bridge. It is also used metaphorically to refer to mediators in fights, as well as the go-betweens in traditional courtship and marriage negotiations (described in Therik 1995:114ff).

What is the basis for comparing mediators to bridges? Here the hypotheses are necessarily somewhat speculative. As Lakoff and Johnson point out, only part of a metaphor is typically 'used'. For instance, bridges prototypically have water under them; this fact forms the basis for the English expression 'It's all water under the bridge', meaning that it has happened, and cannot be changed, so there is no point worrying about it any more (*Collins Cobuild English Dictionary*). Clearly this feature of bridges is not what the Tetun metaphor is based on.

Rather, the Tetun metaphor seems to be based on two similarities:

- There is a separation between the two sides.
- Somebody or something links the two sides despite their separation.

In Wehali, a mediator is a valuable asset in bringing two sides of a dispute together. Without some initial approach between the parties (whether through a mediator or in person), no resolution can be reached.

4. A LEGAL CASE is WORDS

The Tetun Terik word *lia* has a wide range of meanings. Literally it refers to any unit of language, including language (e.g. *lia Tetun* 'the Tetun language'), words, sentences, and stories. By extension it refers to court cases and legal disputes, regardless of whether these are handled traditionally by the elders, or in less traditional ways by the police or court. Outside of the legal domain, *lia* also refers to traditional communal events such as weddings.

Here the basis for comparison appears to be that resolving disputes crucially involves talking. Perhaps there is the further implication that such talking will typically go over a long time and involve many people, such as is the case in weddings and their associated inter-family negotiations.

5. JUDGING is WEIGHING

There are at least three Tetun Terik expressions that appear to be based on the underlying metaphor of judging as weighing.

The most obvious is the expression *tetu lia*, which means ‘judge a court case’. *Tetu* literally means ‘weigh’; it is for instance the word used for weighing babies, and for weighing buffalo for sale. It also extends to considering carefully what one will say when one wants to reconcile with an enemy, and to carefully considering a situation.

A second term based on the metaphor of judging as weighing is *dasin*. On a literal level, a *dasin* is a set of scales, used for weighing. Such scales are traditionally of the hanging type, where the item to be weighed is put on one arm, and weights are placed on the other arm until the two are level. Within the ritual register of Tetun, *dasin* also refers to nobles and their appointees. One man explained this usage to the author by saying that such people are able to judge (lit. ‘weigh’) court cases.

A third set of two words based on this metaphor are *ktetuk* and *nesan*. Both literally mean ‘level, flat’. These terms are also used to refer to reaching agreement, as illustrated by the following examples. Note that within ritual Tetun, which uses much poetic parallelism, the two words are frequently paired together within a single expression.

- *Ita ktetuk hotu halo moos ti'an*. ‘We all agree.’ (lit. ‘we level all completely already’)
- *Emikan hakotu lia la ktetuk, la nesan*. ‘Your judgment wasn’t approved by one side (or wasn’t fair)’ (lit. ‘your sever word not level, not flat’)

The metaphor of judging as weighing is of course familiar to English speakers, and to all who accept the symbol of scales as the symbol of justice. Nevertheless, there are good reasons for believing that the use made of this metaphor in traditional Tetun Terik is very different to that used in modern court-based systems of justice. In modern Tetun Dili, which is informed by both modern court-based justice and traditional systems, one can for instance, weigh evidence, weigh/judge a person’s character, weigh the seriousness of a crime (*krimi todan* ‘heavy crime’ being one way of expressing ‘serious crime’), or weigh up ideas. In these metaphors, weighing is done either to determine the ‘weight’ of something, or to compare the ‘weight’ of two different things. Such uses of the metaphor of weighing appear not to occur in Tetun Terik.

Rather, the goal of weighing in Tetun Terik appears to be to make the scales ‘level’. As seen above, being ‘level’ is a metaphor for both parties agreeing. On a more speculative note, there may also be an element of evening out the wrong-doing and the recompense, such that each party will find the solution acceptable.

6. GIVING A VERDICT is CUTTING

Reaching the final verdict in a case is in Tetun Terik spoken of in terms of cutting. There are several expressions based on this metaphor.

The transitive verb *hakotu* means to chop right through something, severing it. For instance, one may use an axe to *taa hakotu ai* ‘chop right through a tree’ (lit. ‘chop sever wood’). *Hakotu* metaphorically extends to reaching a final decision. Within the context of legal disputes, *hakotu lia* refers to reaching the final

decision that will conclude the case. In economic transactions, *hakotu folin* (lit. ‘sever price’) refers to reaching an agreement on price.

The root verb of *hakotu* is *kotu*. This too can be used transitively to mean ‘chop right through, sever’, and can also be used intransitively to mean ‘be severed’. So, for instance, the nobleman Suri Tuan in one story suffers the fate of having someone *taa kotu ulun* ‘cut off his head’ (lit. ‘chop sever head’), and *kotu husar* refers to severing the umbilical cord of a newborn baby. Metaphorically, intransitive *kotu* means ‘be finished, be concluded’. For example, an elder finished a recitation of a story by saying *Kotu ba nia, bei sia* ‘It’s finished here, elders’ (lit. ‘finish at it, grandparents PLURAL’). When buyer and seller agree on a price, one can say that *folin kotu* ‘the price is agreed’. Within legal disputes, when one says *lia kotu*, it means that the case has been concluded.

A similar expression is *ko’a lia*, with *ko’a* literally meaning to cut (for instance with a knife). Note that in Tetun Dili, the meaning of this expression is much more generic, as simply ‘speak’.

What is the basis on which reaching a verdict is compared to cutting? The evidence presented above, that these expressions also mean ‘finish’, suggests that the comparison is based on finality. A successful verdict is one that is accepted by both parties. When such a verdict is successfully delivered, the dispute is finished, and one can say *hakotu hola* ‘the decision succeeded’ (literally ‘sever take’); if unsuccessful, one can say *hakotu la hola* ‘the (attempt at) decision didn’t succeed’ (literally ‘sever not take’).²

7. Reciprocity

In Timor, if a case is successfully concluded, the parties typically have to show their acceptance of one another in practical ways. Here it is the actions rather than the words that are metaphorical, for instance with eating together indicating acceptance.

The range of expressions used to express such reconciliation often include the word *malu* ‘each other’. Since I am more aware of these expressions in Tetun Dili than in Tetun Terik, the following list is of Tetun Dili expressions.

- *look malu* ‘offer each other betel’
- *dame malu* ‘be reconciled’ (lit. ‘peace each other’)
- *hakoak malu* ‘hug each other’
- *rei malu* ‘kiss each other’
- *simu malu* ‘accept each other’

These expressions are all reciprocal. That is, both parties must participate. The reciprocity is expressed in the Tetun name for the Commission for Reception, Truth and Reconciliation in East Timor, which is charged with facilitating truth seeking and reconciliation after the violence of the last few decades. In English, ‘reception’ is an impersonal word, not specifying who does the accepting, or who is accepted. The Tetun expression is instead *simu malu* (lit. ‘accept each other’), suggesting that both the victim and the perpetrator need to accept the other.

² English, of course, also has a range of metaphors based on cutting. However these pick up on very different features of cutting. Some are based on cutting being painful (e.g. ‘cutting remarks’, ‘he’s cut up about it’), some on cutting dividing one entity into two (e.g. ‘sever a relationship’), and some on cutting to remove unwanted parts (e.g. ‘cut a text’, ‘cut to the point’).

8. What is in focus?

As noted before, each metaphor illuminates one or more aspects of a concept. The focus of the various metaphors discussed above may be summarised as follows.

The “mediators are bridges” metaphor focuses on two parties being separated, but there being somebody who nevertheless provides a link between them.

The metaphor of “a legal case is words” highlights that resolving disputes crucially involves talking.

The metaphor “judging is weighing” underlines the importance of both parties accepting the decision.

In the metaphor “giving a verdict is cutting” we see that once the verdict is delivered, the issue is concluded.

The acted metaphor of reciprocity indicates that after successful resolution of a dispute, the relationship between the parties is restored.

Together, these metaphors emphasise that the goal of dispute resolution is a restored relationship between two separated parties, with a verdict that is accepted by each. The focus is thus on moving on towards the future.³

The above metaphors express an ideal. There are of course many disputes that don’t reach resolution in the traditional system. The parties may not even get to the stage of seeking a mediator, leaving the issue unresolved and the relationship broken. Then again, the parties may seek a solution without words, through means such as a revenge attack or sorcery. Finally, the parties may not accept the decisions of the elders, and may refuse to be reconciled. Nowadays, when there is a failure to reach a resolution, the dispute may be brought to the courts, for resolution in the ‘modern’ system.

9. What is obscured?

We noted above that metaphors not only illuminate, but they also hide alternative ways of looking at the world. For instance, the English ‘court cases are wars’ metaphor hides the possibility of seeking cooperative solutions. It is not that such solutions are impossible in English, but they are not supported by this metaphor.

It appears that a number of facets which are important in the court system of justice have little or no place in traditional dispute resolution in Wehali. While it is possible that terms for these concepts could be found by more targeted elicitation, the fact that they appear to be absent from the author’s dictionary file of over 3000 words and her extensive corpus of spoken texts, suggests that they are, at best, marginal. Such concepts include the following.

- innocent and guilty: The closest terms I have found are the very generic *loos* ‘straight, true’ (which in Tetun Terik does not appear to apply to people), and *sala*, which means both ‘wrong, incorrect, err, mistaken, sin, not according to the rules’ and a ‘fine’ paid by the wrongdoer.
- justice, fairness: In Tetun Terik, one could use *ktetuk no nesan* ‘level’ for this; however this expression refers more to mutual agreement than to fairness as an abstract concept.
- individual rights

³ Similar points have been made by other speakers at this conference. For instance, President Xanana Gusmão expressed the goal of traditional conflict management in East Timor as being peace or reconciliation, while Dr Benjamim Corte-Real described it in terms of sustaining the social order.

10. The challenge

We have seen that the traditional justice system and the modern justice system each have very different goals, insights, and blind spots. One of the many challenges facing East Timor is to seek ways in which East Timorese can benefit from the strengths of each system. Can one maintain the admirable goal of reconciliation when cases are brought before modern courts? Is there a risk that the overarching goal of restoring relationships in the traditional system will at times lead to an undervaluing of justice, resulting in festering sores which later lead to renewed disputes? Are the two systems for handling disputes each better suited to different types of problems? If so, who directs the parties involved to the appropriate forum for resolution? When brought before the courts, do East Timorese from traditional backgrounds understand that the goals and methods are so different to those found in traditional systems? Answering such questions could point the way to a more successful and locally relevant overall justice system for East Timor.

References

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In Wehali, a mediator is a valuable asset in bringing two sides of a dispute together. Without some initial approach between the parties (whether through a mediator or in person), no resolution can be reached. 4. A LEGAL CASE is WORDS.Â The metaphor "judging is weighing" underlines the importance of both parties accepting the decision. In the metaphor "giving a verdict is cutting" we see that once the verdict is delivered, the issue is concluded. The acted metaphor of reciprocity indicates that after successful resolution of a dispute, the relationship between the parties is restored. Together, these metaphors emphasise that the goal of dispute resolution is a restored relationship between two separated parties, with a verdict that is accepted by each.