

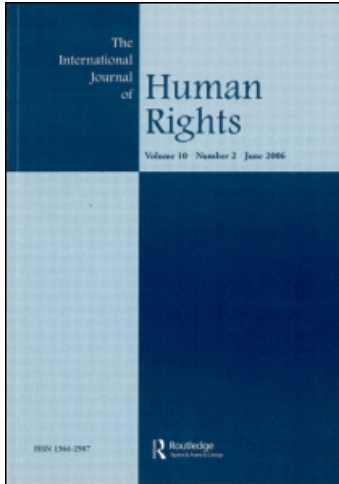
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## **Dying for independence: proactive investigations into the 12 November 1991 Santa Cruz massacre, Timor Leste**

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While there have been numerous violent events in Timor Leste the one act that holds significant political and social meaning for the local population is a massacre that occurred in Dili on the 12 November 1991 at the Santa Cruz cemetery. Following a brief summary of the mechanisms in place to investigate human rights abuses in Timor Leste, this paper focuses on efforts to investigate the Santa Cruz massacre. While the number of people killed in or directly following the massacre is unconfirmed, there were numerous rumours about burial sites which, until recently, had not been substantiated. In 2008 a proactive investigation into the Santa Cruz massacre was undertaken by the International Forensic Team (IFT). Details about the consultation process with government authorities and families of victims are provided, followed by information about the archaeological investigations undertaken at Tibar and Hera. The laboratory analyses including results of the anthropological, property, DNA, ballistic and hair analyses are summarised. The work of the IFT provides for the first time physical evidence, including 11 positively identified individuals, which confirms a link between individuals recovered from the cemetery at Hera and the 12 November 1991 Santa Cruz massacre. The paper concludes with a discussion about the meaning of this evidence in terms of future questions of truth and justice.

**Keywords:** forensic investigation; Timor Leste; Santa Cruz massacre; missing

The Commission noted in its hearings and other activities that the Santa Cruz Massacre remains an unresolved matter of great significance to many individuals and families, and to the nation as a whole, and believes that a more comprehensive investigation than its own is required.<sup>1</sup>

### **Introduction**

There are many countries worldwide that have experienced periods of political, ethnic and/or religious violence resulting in the disappearance and death of numerous people. For the last 30 years, the decision to initiate prosecutions and create truth commissions following acts of violence has, in many countries particularly in Latin America, been internal choices often following the creation of a new democracy (e.g., in Argentina, Chile, Peru, South Africa and Morocco to name a few). However, it cannot be denied that geopolitics plays a fundamental role in decisions made by the international community about prioritising which atrocities to investigate.<sup>2</sup> Regardless of the context and geographical location, it is the families of

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victims who, without information about the whereabouts of their missing relative, suffer. The political, humanitarian, psychological and legal consequences of failing to provide information to families have been widely discussed.<sup>3</sup> Consequently it has been argued that a proactive rather than reactive approach to investigating atrocities should be taken.<sup>4</sup>

The aim of this paper is to explain the background and present the preliminary findings of a proactive investigation of a case of past human rights violations in Timor Leste. The reasons for focusing on one specific case are detailed and the associated questions of justice that have arisen as a result of the work are considered.

### Investigations of human rights abuse in Timor Leste

Between 1975 and late 1999 it is estimated that between 160,000 and 200,000 East Timorese were killed following the invasion and subsequent colonisation by Indonesia.<sup>5</sup>

Despite local and international organisations reporting different kinds of human rights violations committed during the Indonesian occupation, it was only after the new Constitutional Government took office in 2000 that it was possible to begin to have a full picture of the dimension and scale of human rights abuses.

Three main mechanisms were created to investigate these violent events:

- (1) **The Commission for Reception Truth and Reconciliation, referred to by its Portuguese acronym, CAVR** was formed and legally established in mid-2001. The CAVR had three main functions: to establish the facts of events between 1975–1999, to help achieve community reconciliation and reintegration of people who committed lesser crimes, and to provide recommendations to the Government of Timor Leste. Originally established for two years, the mandate of the CAVR was extended and a final report *Chega!*<sup>6</sup> was delivered to the president on the 31 October 2005. The report details that 102,800 (+/– 11,000) Timorese died during the Indonesian occupation and approximately 18,600 (+/– 1000) Timorese were killed or disappeared during the occupation.<sup>7</sup>
- (2) **The Serious Crimes Unit (SCU)** was established in 2000 following the United Nations (UN) Security Council Resolution 1272. The SCU was funded and staffed by the UN and acting under the direction and supervision of the Office of the Deputy General, was mandated to investigate both serious crimes (mass killings and forced deportation as well as individual offences of murder, rape and torture and other crimes against humanity) and ordinary crimes (which included acts such as burglary, murder, or sexual offences) committed between 1 January and 25 October 1999. The SCU was followed up in 2008 by the Serious Crimes Investigation Team (SCIT) created following Security Council Resolution 1704 (2006).<sup>8</sup> Since its instigation, the SCU (now the SCIT) have undertaken over 250 exhumations<sup>9</sup> (*cf* description of exhumations of 284 bodies).<sup>10</sup>
- (3) **The Indonesia–Timor Leste Commission of Truth and Friendship (CTF)** was a truth commission established by Indonesia and Timor Leste in August 2005. Its mandate was to investigate human rights violations committed by Indonesian armed forces during the occupation of Timor Leste, particularly the events and atrocities leading up to and surrounding the 1999 referendum which resulted in Timor Leste's independence.

All three of these mechanisms, but particularly the first two, dedicated special attention to the issue of disappeared persons, massacres and locations of possible mass graves.

Descriptions of some of the violent acts, predominantly those occurring in 1999 (i.e., in the post-ballot period)<sup>11</sup> can be found in the literature<sup>12</sup> and unlawful killings and disappearances are detailed in the report provided by the Commission of Reception Truth and Reconciliation.<sup>13</sup> However, the decision to focus investigations on the purported 1300 killings of 1999 rather than the far larger number that occurred earlier has been questioned.<sup>14</sup>

### **The 12 November 1991 Santa Cruz massacre**

While there were many violent events prior to 1999,<sup>15</sup> the one act which holds significant political and social meaning for the people of Timor Leste is the Santa Cruz massacre. On the morning of the 12 November 1991 an early morning memorial mass for political activist Sebastião (Gomes) Rangel was held at the Motael Church. Rangel was killed at the church by Indonesian security forces two weeks earlier on 28 October 1991. Following the mass an estimated 3000 people joined what eyewitness reports described as a peaceful procession to the Santa Cruz cemetery.<sup>16</sup>

A few months earlier the Indonesian government had objected to the inclusion of an Australian journalist in a proposed Portuguese delegation visit to Timor Leste. In protest, the delegation was cancelled in October 1991. Tensions in Dili were heightened as the East Timorese independence activists had hoped to use the Portuguese visit to raise the international profile of their cause. Subsequently, in the procession to the Santa Cruz cemetery it has been suggested that there was an uncharacteristically open defiance of Indonesian authority as exhibited by some members of the process who were reported to have shouted pro-independence slogans and carried flags for the nationalist movement Revolutionary Front for an Independent East Timor (in Portuguese Frente Revolucionária de Timor-Leste Independente – FRETILIN).<sup>17</sup> The procession/demonstration has been described as being peaceful and controlled until, without warning or provocation, Indonesian security forces fired on the crowd.<sup>18</sup>

### **Alleged numbers of missing**

To date there is no confirmed number of individuals killed in or directly following the massacre.<sup>19</sup> Confirming figures is complicated by the allegation that in addition to killings on 12 November, reports exist of executions of witnesses to the massacres on 15, 17 and 18 November and thereafter into December.<sup>20</sup> In this sense the ‘Santa Cruz massacre’ cannot be considered a single event but a continuum for a period of time that is hard to specify. This ambiguity makes defining a single list of victims difficult. Estimates vary depending on the reporting source (Table 1). There were also allegations about casualties being taken to the army hospital and poisoned.<sup>21</sup>

### **Significance of the Santa Cruz massacre**

As in any case of political violence resulting in the disappearance of individuals, the lack of information and clarity on the fate of missing persons presumed deceased has significant, political, psychological, and legal ramifications for relatives and the community.<sup>22</sup> In addition, however, the Santa Cruz massacre described as ‘perhaps the most notorious single act of violence by Indonesian authorities’,<sup>23</sup> is significant for Timorese because of the number of young people who lost their lives, with the tragedy being seen as a turning point in the ‘struggle for international recognition’<sup>24</sup> and ultimately independence.

Since independence in 2002, the 12 November has been declared a public holiday in Timor Leste<sup>25</sup> with the notion that ‘[t]oday the Santa Cruz massacre stands for the rest

Table 1. Summary of information pertaining to numbers of individuals killed, hospitalised, and/or disappeared following the Santa Cruz massacre.<sup>f</sup>

Killed	Wounded	Hospitalised	Disappeared	Source
84	—	—	—	a
110	—	—	—	b
271	278	103	270	c
273	376	—	255	d
>100	—	—	—	e
Dozens	—	—	—	f
50–80	—	—	—	g
<100	—	—	—	h
19	91	—	—	i
c. 50	—	—	—	j
		91 <sup>k</sup>	90	l
	89	14	Scores	m
50– > 200	—	—	—	n
75–200	—	—	—	o
189	—	—	—	p
18	—	—	115	q

Sources: <sup>a</sup> 12th November Committee (Gregorio Saldanha personal communication, 2009); <sup>b</sup> Record of collation of autopsy reports, exhibits list in an unpublished UN document (manuscript in possession of authors); <sup>c</sup> United Nations; <sup>d</sup> Anon., 'The Second Wako Mission', *TAPOL Bulletin*, June 1993; <sup>e</sup> J. Collins, 'Interview with Ramos–Horta Urges 1991 Massacre Inquiry', 2000, <http://www.etan.org/et2000a/january/1-7/3ramos.htm> (accessed April 23, 2003); <sup>f</sup> Eyewitness, Amnesty International, *East Timor: After the Massacre*, 3; <sup>g</sup> Other sources, Amnesty International, *East Timor: After the Massacre*, 3; <sup>h</sup> Military official, Amnesty International, *East Timor: After the Massacre*, 3; <sup>i</sup> Indonesian Government Report, Amnesty International, *East Timor: After the Massacre*, 3; <sup>j</sup> Amnesty International, *Findings from the Indonesian Commission, Santa Cruz: The Government Response*, 6 February 1992, ASA 21/03/92, p.4; <sup>k</sup> Anon., *Security Assistance: Shooting Incident in East Timor, Indonesia*. Fact Sheet for Congressional Requesters, <http://www.fas.org/asmp/resources/govern/gao92132FS.pdf> (accessed February 19, 2010). NB: Further details are provided: 42 suffered gunshot wounds; 14 from stabbing and 36 wounds from blunt instruments (p.14) but these numbers add up to 92 not 91! The source also says 50 were released to their families on 14 December 1991, p.14; <sup>l</sup> Anon., *Security Assistance: Shooting Incident in East Timor, Indonesia*; <sup>m</sup> Amnesty International, *East Timor: After the Massacre*; <sup>n</sup> Unofficial count: Amnesty International, *East Timor: After the Massacre*, 3; <sup>o</sup> Asia Watch, *East Timor: The November 12 Massacre and its Aftermath* (Washington, DC: Asia Watch, 1991); <sup>p</sup> Anon., 'More Details on the Situation in East Timor after 12 November Massacre' (USA: National Council of Maubere Resistance, 1992), <http://www.etan.org/etanpdf/timordocs/timmas10%2092-02-28.pdf> (accessed January 14, 2010); <sup>q</sup> Asia Watch, *East Timor: The November 12 Massacre and its Aftermath*, 2; <sup>r</sup> Revised from Blau and Skinner, 'The Use of Forensic Archaeology in the Investigation of Human Rights Abuse', 454.

of the massacres'.<sup>26</sup> Despite a passage of 18 years, the commemoration of the massacre in 2009 was no less significant with literally thousands of people including the president and prime minister of Timor Leste and president of the parliament participating in the re-enactment of the procession from Motael Church to the Santa Cruz cemetery.

Another distinguishing feature that perhaps separates the Santa Cruz massacre from other massacres is the fact that international media were present,<sup>27</sup> and that it was filmed by the British journalist Max Stahl. Despite an argument that the massacre was set up and filmed merely as anti-Indonesian propaganda to reignite tension between Indonesia and Timor Leste,<sup>28</sup> such footage was seen internationally as critical evidence supporting the Indonesian repression of Timorese.<sup>29</sup>

### Investigations undertaken after the massacre

In a report commissioned by the United Nations in 2001 about the events behind the crimes against humanity committed in Timor Leste in 1999, it was stated: 'the most serious crimes,

such as the Krasas and Santa Cruz massacres, are crimes of such magnitude that they must be considered of concern to the international community as a whole'.<sup>30</sup> Despite images being sent around the world following the act of violence, there were still those who 'tried to convince the international community that the Santa Cruz Massacre was "an aberration, not an act of state policy"'.<sup>31</sup>

Immediately after the massacre, on the 19 November the Indonesian Government 'announced the formation of a seven-member National Investigation Commission to enquire into the killings'.<sup>32</sup> The Indonesian enquiry (Komisi Penyelidikan Nasional, KPN) spent three weeks in Timor Leste meeting with government and military officials and interviewing 132 eyewitnesses.<sup>33</sup> The preliminary report released by the enquiry on the 26 December 1991 was heavily criticised by human rights groups<sup>34</sup> being viewed as a way of appeasing international and domestic criticism of the event.<sup>35</sup> Indonesia argued that attempts had been taken to identify the bodies of the 19 acknowledged victims. While the only foreigner was identified because he was carrying identification documents, the remaining 18 bodies were buried the day after the killings as the mortuary could only accommodate three to four bodies. Fingerprints, but not photographs of the victims were apparently taken.<sup>36</sup>

While human rights groups recommended that an international team with experienced forensic specialists investigate the massacre<sup>37</sup> it was not until 2001 that the UN commenced investigations. It is possible that the work was delayed because of the fact that the UN mandate was to focus on investigating atrocities committed in 1999. Unpublished documents obtained by the authors with permission from a confidential credible source indicate there was an Operation Plan 'to investigate and prepare a brief of evidence against those persons responsible for the deaths at Santa Cruz cemetery on 12 November 1991'.<sup>38</sup> Consisting of eight phases, a series of approaches were suggested by the National Investigations Unit (NIU) and authorised by the Dili District Court Investigation Judge Unit in April 2001. Such investigations included:

- Closing off an alleged crime scene area in Ladac, sub village of Tibar (document dated 16 April 2001);
- Undertaking an exhumation with a radius of 25 × 25 m, 1.75 deep 'to prove whether corpses from Santa Cruz incident in that area' (document dated 16 April 2001). An exhumation at Tibar was proposed for 21 May–18 June 2001 (document dated 2 April 2001);
- Organising a mechanical excavator 'for an exploratory dig at Tibar' (document dated 24 April 2001);
- Request for approval for aerial photography which would 'serve as an aide memoir for the witnesses and as an exhibit in later court proceedings' (document dated 9 February 2001);
- Interviewing a number of witness in Dili; and
- 'Costing for radar examination of the gravesite' (document dated 4 April 2001).

A UN document summarises work at an alleged gravesite at Tibar: 'one dig commenced at rear of mound, second dig commenced approximately 25 metres to the rear of the mound. No human remains located' (document dated 17 April 2001).<sup>39</sup> Apart from this one comment there are no thorough records in the form of plans, notes or photographs which detail the methodology and findings of the work at Tibar. Further, it is not clear from the documentation whether aerial imagery or radar investigations were ever undertaken.

The UN were apparently hampered by a lack of staff with two officers being given the sole responsibility for investigating the 'Santa Cruz massacre, another massacre near

Viqueque, and the inquiry into the 1975 Balibo killings'.<sup>40</sup> With the exception of the commitment by the 12th November Committee<sup>41</sup> who worked for many years collecting information from families, there were little dedicated additional investigations.<sup>42</sup> Until recently, the uncertainty and anguish about the fate of their loved ones remained unchanged for the families of those killed during or after the 12 November.

## **A proactive humanitarian approach**

### ***Establishing the appropriate government authority***

Between 2003 and 2006 staff from the Victorian Institute of Forensic Medicine (VIFM) and the Argentine Forensic Anthropology Team (EAAF) were involved in discussions with government ministers in Timor Leste regarding the level of support required to undertake a humanitarian investigation into the 12 November 1991 Santa Cruz massacre. In 2005 the VIFM and the EAAF signed a Memorandum of Understanding (MoU) to form the International Forensic Team (IFT)<sup>43</sup> in order to facilitate this work.

In 2007, a MoU was signed between the VIFM and the Government of the Democratic Republic of Timor Leste (RDTL). The objective of this MoU was to facilitate an investigation into the events of the 12 November 1991; specifically to attempt to identify those killed during or following the massacre.

### ***Funding***

It would be naive to believe investigations of human rights abuse (whether reactive or proactive) could be undertaken without a budget. In 2008 the VIFM was successful in obtaining funding from AusAID under the Public Sector Linkages Program (PSLP)<sup>44</sup> to provide technical assistance and training to representatives from the Timor-Leste National Police (PNTL) and the Forensic Department of the Hospital Nacional Guido Valladares (HNGV) in the field of human identification. Additional funding was also provided by the Argentine Government and an anonymous donor through EAAF. The training included a practical component based around a humanitarian investigation into the Santa Cruz massacre.

### ***Working with families***

The training/investigation project was undertaken for humanitarian purposes with the aim of locating and identifying human remains. While the Timorese authorities expressed no intention to pursue criminal charges based on the findings, the exhumation process included the complete recovery and preservation of all evidence, following international forensic standards, in addition to taking into account the needs of the families as expressed to the IFT during several meetings. An important aspect of the IFT's work was the strong relationship developed with families with missing relatives to ensure that their wishes and expectations formed part of the process of the work.<sup>45</sup>

### ***Training and investigation***

The IFT recognise the importance of working with local specialists in specific case investigations not only as a way of augmenting the local capacity but also as a means of empowering the local actors in the process. In the case of the investigation of the Santa Cruz massacre in Timor Leste it was essential to incorporate the forensic section of the National Police (PNTL)

and mortuary staff from the national hospital. Timor Leste emerged from independence in 2002 without any formal forensic system, which posed many challenges to the work and consequently the IFT ran a training programme in aspects of human identification.

### *Classroom training*

In July 2008, the IFT provided training which included a series of lectures (theory and cases studies) and practical desktop exercises focusing on identification of deceased individuals following a natural or human induced disaster (disaster victim identification – DVI) and human rights abuses.

### *Fieldwork training*

The practical fieldwork component of the training involved an assessment of areas allegedly used to bury bodies following the Santa Cruz massacre. Unconfirmed reports of bodies buried in large, but newly dug, unmarked graves outside Dili<sup>46</sup> make reference to two areas: Tibar and Hera.

## **Investigations at Tibar**

The area of Tibar (8° 35'45.06 S, 125° 29' 56.74 E) is located 8–12 km west of Dili and includes villages as well as a large rubbish dump which has been in use since prior to 1991 until the present. Information obtained from Mario Carrascalao, the Jakarta-appointed governor of Timor Leste in 1991, suggested there was evidence that soldiers executed a truckload of Timorese and buried them at a site on the Bemos River south of Dili, near a rubbish tip.<sup>47</sup>

Witness accounts describe various events following the 12 November that occurred in the area of Tibar.<sup>48</sup> Based on the presence of a memorial cross that had been erected by local people in one area and the allegation of a military camp in another, the IFT targeted three sites of interest for investigation in the area of Tibar. Having obtained the appropriate authority from the General Prosecutor and the local village chief to commence work at Tibar, the areas were cleared of thick vegetation. A helicopter flight over the cleared sites allowed an aerial assessment of the areas (Figure 1) but no clear evidence of disturbances was revealed.

Training in search, location and recording techniques was provided to the PNTL and hospital staff. Using a mechanical excavator (typically used in evaluating large scale areas),<sup>49</sup> with a one metre-wide bucket, a total of 27 explorative trenches were opened at Tibar Site 1 and 2 (Figure 2) and 31 trenches at Tibar Site 3 (Figure 3). The trenches provided visible sections across the area so that the stratigraphy could be assessed for evidence of disturbance.<sup>50</sup>

As outlined above, an important aspect of the IFT's work is the trusting relationship established with the families of victims, which includes understanding and respecting cultural-religious needs associated with death, dying and the dead. Although the majority of the Timor Leste population (which is almost one million) is Catholic, there continues to be a strong animist tradition in which there is a 'fundamental belief in the power of nature; that the land, the forest, the sea, the stars have great magic and can either harm or protect people'.<sup>51</sup> A prominent aspect of animism is the need to lay the spirits of the dead to rest.<sup>52</sup> Consequently, the IFT invited families to be present during the exhumations, observe the daily work, and perform rituals on the sites for the spirits of the dead. In one case, some of the families attributed the absence of evidence of a grave (see below) to the fact that the appropriate rituals were not performed at the correct time.<sup>53</sup> The IFT held regular meetings with the families to listen to their concerns they had, discuss options to deal with these matters and brief families on the progress of the daily work.



Figure 1. Ariel view of Tibar showing no evidence of human activity (source: IFT).

### **Results**

Despite the numerous stories about the presence of a mass grave at Tibar, the IFT investigations found no evidence of graves and/or human remains at the areas identified as possible grave sites (Figure 4). Information provided by a witness identified an area at Tibar where the Indonesians allegedly had an outpost to watch the grave. The remnants of a concrete block (possibly a plinth) were located with the inscription:

Joanif 123/RW

MHD Mur Chan

<Pairus<sup>54</sup> Abadi >

While the concrete block and other recovered evidence such as packages for Indonesian food rations and bullet cartridges confirm an Indonesian military presence, no evidence for significant digging activity was recovered from Tibar.

### ***Other sources of information at Tibar***

#### *A foreign journalist*

An Australian journalist visited Tibar shortly after the massacre in 1991 and published an article with an accompanying photograph of an alleged grave site.<sup>55</sup> In a preliminary visit to the site of Tibar it was noted<sup>56</sup> that there was no obvious comparability between Schultz's 1991 photograph and the environment where a memorial cross had been erected by families of the missing.<sup>57</sup>

Returning to Dili in 2008, Mr Schultz worked with the IFT to attempt to relocate the site he documented some 17 years previously. Despite being able to find the area (which was further west than the site of the memorial cross), the landscape had significantly changed since 1991 and the specific location where the photograph was taken could not be identified. An investigation of the broad area found no evidence of a mass grave. Interviews with local inhabitants indicated no evidence of unusual activity being undertaken by the Indonesians

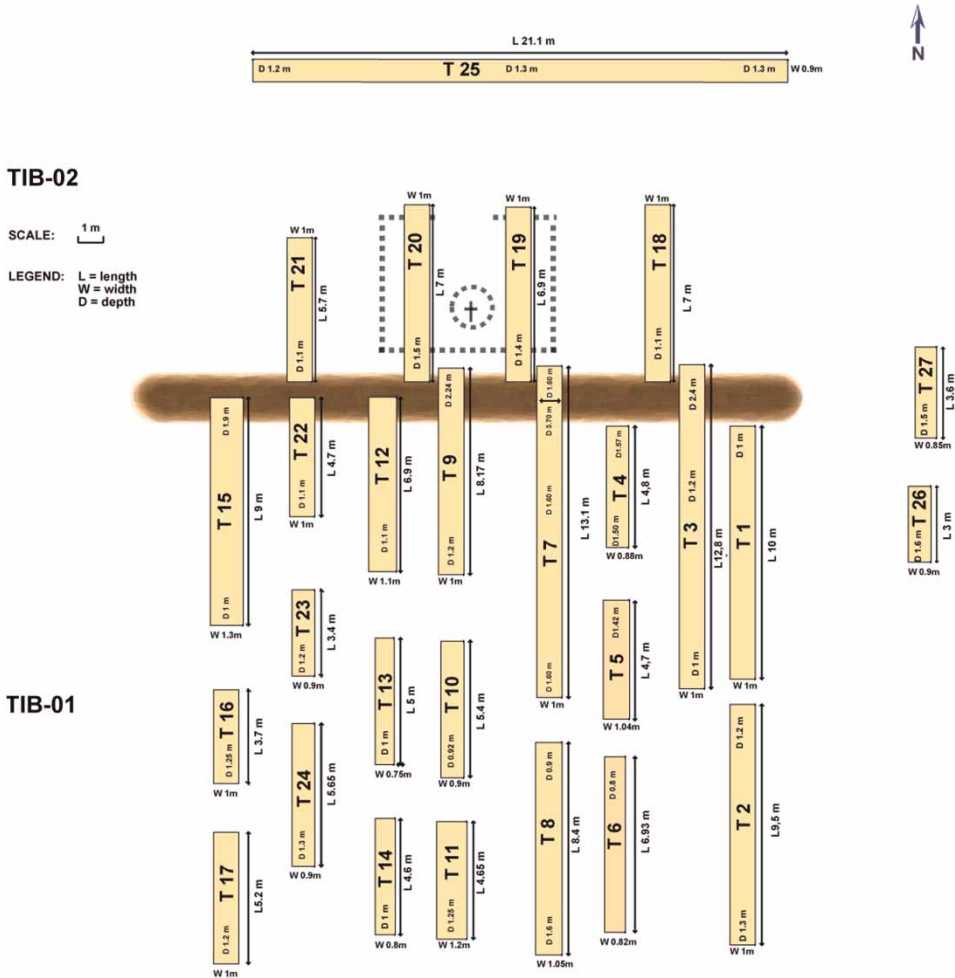


Figure 2. Plan of investigative trenches at Tibar Sites 1 and 2.

around November/December 1991. Further, a detailed examination of the photograph shows no evidence of disrupted soil which would be expected if a grave had been dug and refilled. It is also possible that the white substance depicted in the photograph and interpreted by Schultz to possibly be a lime-like substance, was in fact the remnants of a burnt palm tree.

*Tibar rubbish dump: a map*

A copy of a hand drawn sketch map was provided to the IFT. The map had allegedly been given anonymously to Marie Carrascalao (governor of Timor Leste during the Indonesian occupation). The map depicts the rubbish dump at Tibar and five metres either side of this, two graves. One grave was said to contain 79 bodies (dating to 12 November 1991) and the other grave (dating to December 1991). The number of bodies within the graves was not known.

The use of rubbish dumps as a place to dispose of bodies was a common practice in Central America in the 1980s for example, in Guatemala, El Salvador and Colombia, where paramilitary units dropped the mutilated bodies of their victims into dumps. While

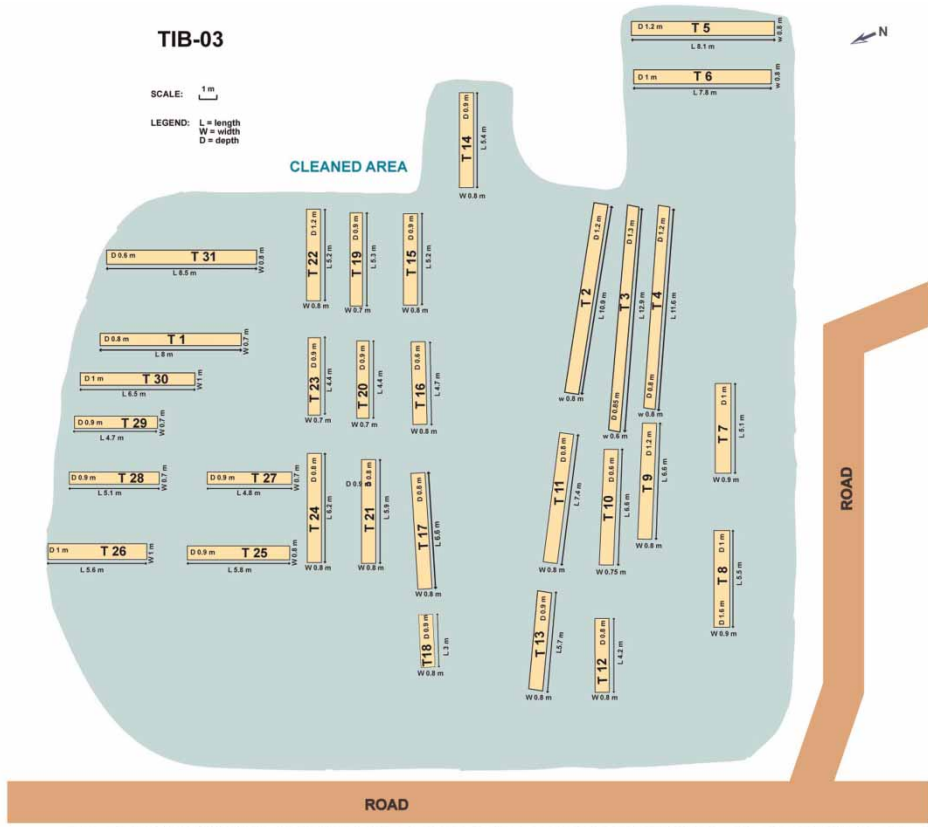


Figure 3. Plan of investigative trenches at Tiber Site 3.

The IFT undertook a preliminary assessment of the rubbish dump, the parameters of the site have significantly grown over the past 17 years and it was impossible at the time of the reconnaissance to define the original size of the rubbish dump in 1991. While it would be theoretically possible for a number of mechanical excavators to clear the site, this is a resource rich exercise which was not possible for the IFT to undertake at this time.

It was suggested that the map was actually a form or propaganda and may in fact have been given as a means of misleading any investigations. Further, interviews with people living in and around the dump since 1991 indicated no unusual activity. The inhabitants felt confident they would have noticed if the Indonesians had been active during this time.

## Fieldwork at Hera

### Background

The other area allegedly related event associated with the Santa Cruz massacre is the cemetery at Hera ( $8^{\circ} 32' 18''$  South,  $125^{\circ} 41' 4''$  East) approximately 40 minutes drive east of Dili. Unconfirmed reports mention different numbers of individuals being buried at Hera: as part of the National Investigative Commission (KPN) the Indonesian military said it had buried 19 individuals killed in the 12 November incident at Hera.<sup>58</sup> Information obtained from an eyewitness smuggled out of Timor Leste mentioned that 36 individuals were buried collectively.<sup>59</sup>



Figure 4. Section illustrating the natural stratigraphy at Tibar indicating no evidence of human activity (source: IFT).

### *Archaeological investigations*

After the lack of positive results from Tibar, the IFT met with the 12th November Committee and the relatives of the missing. It was agreed to investigate the cemetery at Hera where several graves were suspected to relate to events dating to the 12 November 1991.

Again, the opportunity was used to provide training which focused on aspects of locating, recording, recovering and analysing human remains. The same members of the Police National de Timor-Leste (PNTL) and hospital/mortuary staff who worked at Tiber attended the training.

At the request of the 12th November Committee (see note 41), a church service was held at the Catholic church at Hera (Figure 5) for the families of victims of the Santa Cruz massacre prior to the commencement of the fieldwork. This was in addition to a traditional Timorese ceremony.



Figure 5. Catholic church service held prior to the exhumations commencing at Hera cemetery (source: IFT).

Having obtained the appropriate authority from the General Prosecutor and the Chief of Hera to work in the cemetery and its surroundings, the IFT interviewed a witness who had assisted the Indonesian military with the burial of deceased persons at the cemetery of Hera after 12 November 1991. During the interview conducted at Hera the witness described his recollection of the location of the graves. Based on this information 20 possible graves were identified for investigation. Each grave ('GR') was given a number (1–20).

Using standard archaeological excavation techniques, the IFT together with representatives from the PNTL and the Forensic Department at the HNGV, opened a total of 20 graves.

### *Findings*

Methodical excavation of the 20 graves revealed obvious evidence of the outline of coffins in 11 graves approximately 60–70 cm below the surface of the ground. Apart from some coffin nails, only fragments of the coffin wood survived (Figure 6). In the remains of nine graves, only five had evidence for coffins and the other four 'graves' had no evidence of a coffin outline or human remains.

Of the 20 graves that were opened, 16 contained single individuals. Each of the individuals exhumed was in a supine position (that is, lying on their backs) and orientated in an east-west direction. A total of four graves contained no human remains.

### *Preservation*

Despite nearly 18 years in the ground and the cemetery being located relatively near the ocean, the skeletal remains were surprisingly well preserved and showed little post-mortem damage. The exception to this was GR16 B1 which had taphonomic alterations to the right lateral and superior aspects of the cranium (Figures 7a and 7b). Such changes may have been caused by tree roots as the grave was closely located near a tree.



Figure 6. Grave 14 at Hera showing evidence of the outline of a coffin (source: IFT).

Head hair was recovered from GR3, GR11 and GR12 and pubic hair from GR14. In addition, many of the individuals had associated well preserved clothing and property (Figure 8). In four cases, identification cards were recovered with the individuals. In three of these four cases, the details of the individual's name and other information were legible.

### ***Laboratory analyses***

The human remains and associated evidence were transported to the Forensic Department of the Hospital Nazionale Guido Valladares (HNGV) in Dili.<sup>60</sup> Although the Forensic Department lacks a formal area to clean and analyse skeletal remains, the IFT together with the staff and the PNTL arranged an area for cleaning, recording (photography), X-ray and anthropological analyses and storage of the remains.



Figure 7. Taphonomic changes to the right lateral and superior aspects of the cranium, GR16 B1 (source: IFT).

X-ray facilities were limited and in only five cases were radiographs produced in order to detect metal fragments compatible with gunshot wounds. Standard anthropological analyses were undertaken including the determination of the sex, age, stature of the individuals and an assessment of ante-, peri and post-mortem trauma. All associated clothing and property were recorded and documented. In addition, a total of 32 samples of teeth and 16 samples of bone were collected for DNA analysis.

Due to the absence of a forensic science and DNA laboratory in Timor Leste the hair and metallic evidence and DNA samples were transported to Australia (with the due authorisation from the Office of the General Prosecutor) and analysed at the VIFM and ballistics

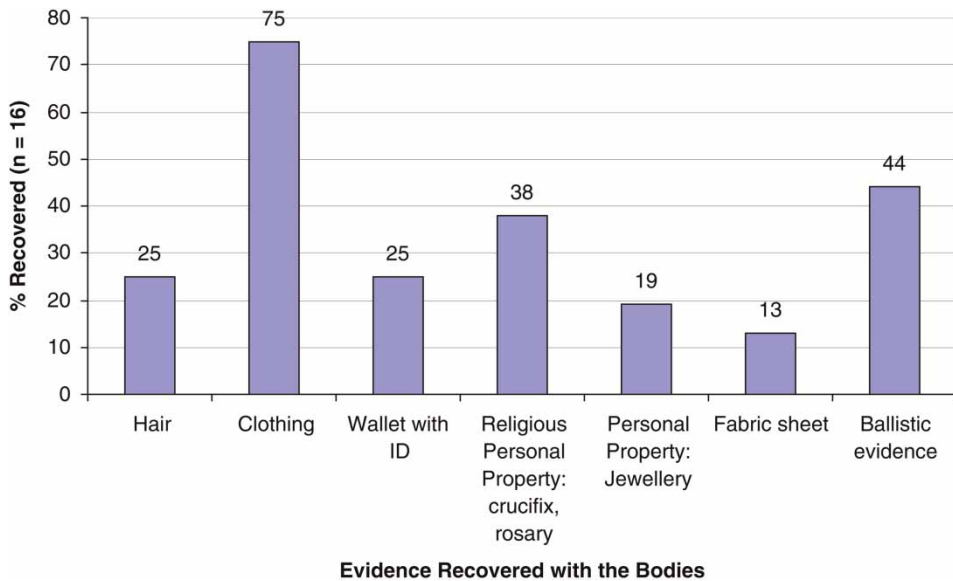


Figure 8. Percentages of clothing, property and other evidence recovered with the deceased individuals (n = 16), Hera.

unit, Victoria Police Forensic Services Department respectively. The DNA analyses were collaboratively undertaken at DNA laboratories at the VIFM and the EAAF.

### *Ante-mortem data collection*

The attempted identification of an individual is based on the ability to confidently match details about the missing person (ante-mortem information) with data related to the deceased person (post-mortem information). Therefore, effective ante-mortem collection is an essential part of the identification process. Consequently, the IFT dedicated a forensic anthropologist to work full time to interview relatives, collect information and blood samples. In this role the forensic anthropologist was also able to address any questions or doubts the families had about the identification process. Each meeting was conducted with the aid of an interpreter and lasted two–three hours. In many cases more than one family member attended the meetings.

### *Storage and curation of information*

In order to systematise and analyse the information obtained from interviews with relatives, the field and laboratory, a specific database was created to record all the data. At the end of the project it is the intention of the IFT to provide copies of the database to the Ministry of Justice and 12 November Committee to form part of Timor Leste's historic record.

## **Results**

### *Demographic profile of the human remains*

Anthropological analyses of the remains showed that all of the 16 individuals were young men (Figure 9) with the youngest individual (positively identified – see below) aged 15 and the eldest (yet to be positively identified) aged  $35 \pm$  five years (Table 2).

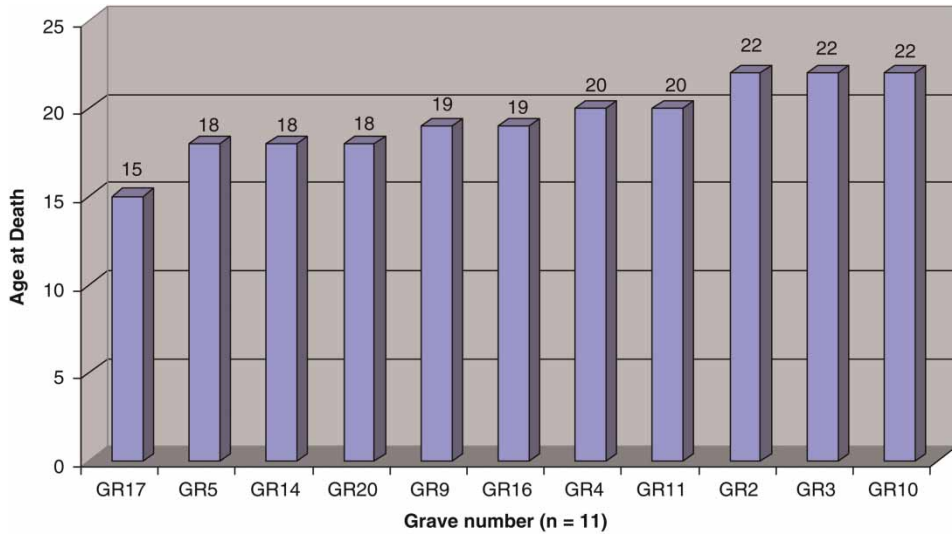


Figure 9. Ages of positively identified individuals recovered from Hera.

Table 2. Age ranges of unidentified individuals recovered from Hera.

Grave	Age
18	$23 \pm 2$ (21–25 years)
15	$25 \pm 3$ (22–28 years)
13	$25 \pm 3$ (22–28 years)
8	$27 \pm 3$ (24–30 years)
12	$35 \pm 5$ (30–40 years)

### *Ante-mortem data collection*

To date, 53 families of victims of the Santa Cruz massacre have been interviewed at the post-CAVR Technical Secretariat (STP-CAVR). During the interviews, 188 blood samples were collected from the families of the victims for DNA analysis.<sup>61</sup>

### *Personal identification*

Based on the matching of post-mortem and ante-mortem DNA results, anthropological findings and associated clothing and property, 69 per cent of the individuals exhumed from Hera ( $n = 16$ ) have, to date, been positively identified (Table 3).

### *Cause of death and trauma*

As Timor Leste does not have a national forensic pathologist and the practising foreign forensic pathologist was not authorised to certify cause of death in these cases, no formal cause of death was provided. However, in each case any evidence of an injury that was consistent with a possible cause death was recorded. A total of 63 per cent ( $n = 16$ ) of the individuals had evidence of peri-mortem trauma, while 31 per cent showed no traumatic defects to the bone (Table 4). In one case the aetiology of the skeletal alterations could not be determined. In all cases of peri-mortem trauma ( $n = 16$ ), there was evidence of at least one gunshot injury. In the case of GR8 (yet to be positively identified) there was evidence of five separate shot events. The majority of gunshot wounds were located in the head and thoracic (chest) region (Figure 10).

Table 3. List of positively identified individuals recovered from Hera.

Grave	Body	Date excavated	Identified
GR1	N/A	24/03/2009	N/A – no body
GR2	B1	24/03/2009	Yes
GR3	B1	25/03/2009	Yes
GR4	B1	26/03/2009	Yes
GR5	B1	27/03/2009	Yes
GR6	N/A	25/03/2009	N/A – no body
GR7	N/A	25/03/2009	N/A – no body
GR8	B1	25/03/2009	No
GR9	B1	26/03/2009	Yes
GR10	B1	26/03/2009	Yes
GR11	B1	26/03/2009	Yes
GR12	B1	25/03/2009	No
GR13	B1	27/03/2009	No
GR14	B1	31/03/2009	Yes
GR15	B1	27/03/2009	No
GR16	B1	30/03/2009	Yes
GR17	B1	27/03/2009	Yes
GR18	B1	27/03/2009	No
GR19	N/A	30/03/2009	N/A – no body
GR20	B1	27/03/2009	Yes

Table 4. List of individuals with evidence of peri-mortem trauma.

Body	Peri-mortem trauma	Anatomical location	Comment
GR2	Possibly	Mandible	Eitology unknown
GR3	Yes	Scapula, ribs	Gunshot
GR4	Yes	Scapula, ribs	Gunshot
GR5	No	N/A	
GR8	Yes	Skull (cranium and mandible), C1 & C2, right scapula, left radius, right ribs 4-9, pelvis, left femur, right fibula	At least 5 GSW
GR9	No	N/A	
GR10	No	N/A	
GR11	No	N/A	
GR12	Yes	Cranium, sternum, left clavicle, C7, T2-T8, L1-L3, ribs 1, rib 3-4, ribs 7-8, 2nd middle right hand phalanx	GSW to left parietal, right frontal, left mastoid
GR13	No	N/A	
GR14	Yes	Cranium	GSW: posterior head
GR15	Yes	Right 6-8th ribs	Gunshot
GR16	Yes	Ribs, hand	Gunshot
GR17	Yes	Vertebrae	Gunshot
GR18	Yes	Cranium, left and right scapula, left clavicle, right humerus, left and right ulna, left radius, left femur, left and right ribs	Gunshot; 2 GSW to head
GR20	Yes	Skull (cranium and mandible)	Gunshot

### *Hair analysis*

Allegations suggest that ‘soldiers... administered – with doctors present – poisonous disinfecting chemicals as medicines to “finish off” scores of wounded demonstrators in the

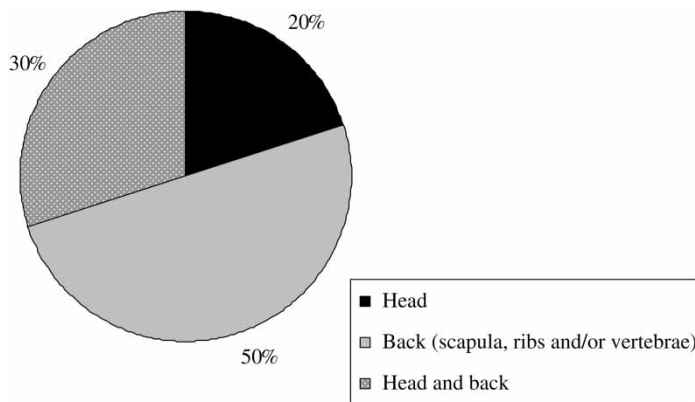


Figure 10. Anatomical region of gunshot injuries.

wake of the massacre',<sup>62</sup> while other reports indicate cold water was injected into the wounded instead of medicine.<sup>63</sup>

Quantitative high performance liquid chromatography coupled with tandem mass spectrometry (HPLC/MS/Ms) was used to screen and quantify a range of drugs including: 6-monoacetylmorphine, morphine, codeine, amphetamine, methamphetamine, methylenedioxyamphetamine (MDA), methylenedioxymethamphetamine (MDMA), cocaine, benzoylecgonine, ecgonine methyl ester, cocaethylene, 7-aminoclonazepam, 7-aminonitrazepam, 7-aminoflunitrazepam, alprazolam, clonazepam, diazepam, flunitrazepam, nitrazepam, nordiazepam, oxazepam, temazepam, zolpidem, methadone, EDDP (metabolite of methadone), oxycodone, pethidine, tramadol, ketamine,  $\Delta^9$ -tetrahydrocannabinol and  $\Delta^9$ -tetrahydrocannabinol-9-carboxylic acid.

No common drugs or poisons were detected in any of the samples. It should be noted however, that it is possible that other drugs/poisons not currently analysed for may have been used.

### **Ballistic analysis**

A total of 50 fragments of metal were recovered from seven graves (Table 5). These included fragments of fired bullets, projectile type metal, badly damaged jacketed lead core projectiles and unjacketed fired bullets.

In the case of GR2 the ballistic evidence of two separate parts of a  $5.56 \times 45$ mm calibre fired bullet indicates that at least two separate shots were fired at the individual. In the case of GR12, the ballistic evidence shows that four separate shots were fired at the individual: three with  $5.56 \times 45$ mm calibre bullets and one with a  $7.62 \times 39$ mm calibre bullet. Of the 11 cases where individuals had evidence of gunshot wounds, 64 per cent ( $n = 7$ ) had associated ballistic evidence.

The Indonesian Army and National Police forces used semiautomatic weapons, including M-16 rifles, and shotguns of unknown source and manufacture.<sup>64</sup> The ballistic evidence is, therefore, consistent with weapons known to have been used by the Indonesian military.

### **Discussion**

Despite being widely reported, outside Timor Leste the Santa Cruz massacre has remained an officially unrecognised human rights abuse. While the international community (not

Table 5. Amount of metallic evidence recovered from graves at Hera.

Grave number	Number of metallic fragments recovered	Ballistic information		Relationship to skeletal trauma
GR2	4	* Included fragments of a 5.56 mm x 45mm calibre fired bullet * Several corroded nose portion of a fired bullet		Possible gunshot to mandible
GR3	1	* Fragment of a 5.56 mm x 45mm calibre fired bullet		Gunshot to scapula and ribs
GR8	5	Included a severely corroded ogive (nose) portion and a separate base portion where both were consistent with having originally formed part of 5.56 x 45mm fired bullet or bullets		At least 5 GSW
GR12	1	Severely corroded jacketed, lead core projectile. The size, shape and weight of the fragment are consistent with that of a 7.62 x 39mm Soviet calibre fired bullet.		GSW to left parietal, right frontal, left mastoid
GR14	3	Projectile type metal; badly damaged fired bullet jacket. The size and shape of the base are consistent with that of a 5.56 x 45mm fired bullet		GSW: posterior head
GR16	1	Badly damaged jacketed, lead core projectile. The size, shape and weight are consistent with that of a 5.56 x 45mm fired bullet		GSW to ribs and hand
GR18	35	7 fragments and a fired bullet are consistent with a .32 calibre unjacketed fired bullet; 3 separate 5.56 x 45mm fired bullets; 1 severely corroded ogive (nose) portion of a fired bullet. The size and shape of which are consistent with being a 7.62 x 39mm Soviet calibre fired bullet; 23 fragments of projectile jacketing type metal		Gunshot, 2 GSW to head

including Indonesia) acknowledged that an atrocity had occurred there has never been any physical supporting evidence. With the exception of a UN investigation, the results of which were not fully documented, the work of the IFT provides, for the first time, physical evidence, including positively identified individuals, which confirms a link between individuals recovered from the cemetery at Hera and the 12 November 1991 Santa Cruz massacre. This evidence is detailed below.

Although located in a formal cemetery, all of the graves excavated by the IFT were unmarked. The IFT also recovered remnants of the coffins used to bury single individuals which confirm the witness statement about the manner in which the deceased were buried. A preliminary report produced by the Indonesian Commission investigating the events of the 12 November noted that the one individual exhumed from Hera was 'buried in a coffin, completely dressed in accordance with Catholic tradition'.<sup>65</sup> The evidence recovered by the IFT indicates, however, that these were not 'normal' burials: some individuals were partially clothed including shoes. In four cases individuals were buried with identification

documents. Further, none of the 16 individuals showed evidence of having had an autopsy (such as standard cuts to the skull and rib area), despite nearly 70 per cent of individuals ( $n = 16$ ) showing signs of significant trauma.

One unverified account by a local East Timorese indicated that 13 bodies including those of two women were buried at Hera on 13 November and five, including those of Kamal Bamadhaj (a New Zealand citizen), one woman and four men were buried the following day.<sup>66</sup> However, all deceased (both identified and unidentified) recovered from the graves at Hera were young men which is consistent with the reported demographic profile of those taking part in the procession. Statements provided by the families of the 11 positively identified victims all confirm their relatives took part in the 12 November 1991 procession from Motael Church to the Santa Cruz cemetery. Further, six of the 11 positively identified individuals are listed on a file provided by the East Timor and Indonesia Action Network (ETAN) detailing individuals killed, wounded and disappeared following the 12 November 1991 Santa Cruz massacre.<sup>67</sup> Of the 11 positively identified, 10 individuals are recorded on a list recorded by the 12th November Committee.

In an interview with Mario Viegas Carrascalao (Jakarta appointed Governor of Timor Leste 1982–1992) conducted by the authors in Dili on 4 October 2005, he stated that the footage shot by Max Stahl shows people taking off shirts to reveal blue t-shirts which identified them as Indonesian supporters. Carrascalao believed the individuals buried at Hera were Indonesian supporters, a belief also held by Clementino dos Reis Amaral (formerly acting leader of the pro-integration party, KOTA) as explained to the authors in an interview in Dili on 6 October 2005. There was, however, no evidence of blue t-shirts recovered from the graves at Hera and it is possible that the story that the cemetery at Hera held Timorese militia was created as further propaganda.

In addition to the ballistic evidence which is consistent with weaponry used by the Tentara Nasional Indonesia–Angkatan Darat (TNI – Indonesian army), the extensive peri-mortem trauma, much of which is gunshot wounds is conclusive evidence that many of the individuals were subjected to extreme acts of violence.

### Conclusion: truth and justice

The term justice has been defined as ‘the administration of law or some other authority according to the principles of just behaviour and treatment’.<sup>68</sup> While different mechanisms for implementing justice exist (e.g., international and domestic tribunals, truth commissions, and community level, traditional systems),<sup>69</sup> in practice, the *meaning* of justice is complex. Depending on the person (victim and/or perpetrator), type of crime, community, and/or circumstances (i.e., political will and commitment, economic constraints, etc.), justice may have ‘substantive and symbolic, economic and social, legal and psychological meanings’.<sup>70</sup>

As outlined above, Timor Leste has implemented a domestic version of the *ad hoc* international tribunals (referred to as ‘internationalized domestic tribunals’ in which international and local judges preside within a domestic court)<sup>71</sup> and truth commissions,<sup>72</sup> which are temporary, official, but non-judicial, bodies. Despite different attempts at achieving justice, there have been a number of failures identified.<sup>73</sup> There remains a legacy of impunity in Timor Leste resulting in questions being posed about how far there can be healing without justice<sup>74</sup> and a call for the establishment of an *ad hoc* international criminal tribunal.<sup>75</sup>

The former governor of Timor Leste, Mario Carrascalao has stated ‘[t]here cannot be peace until people know what happened to their sons and daughters’.<sup>76</sup> Over a five-year

period the IFT has worked with families of victims and government organisations resulting in the location, recovery and identification of 11 victims of the Santa Cruz massacre. As a result of the ability to provide a dignified burial for these individuals, a process for peace, at least for some families, has commenced. In addition to decisions about the need for a public monument in Dili acknowledging the loss of life on and following the 12 November 1991,<sup>77</sup> there are numerous questions still to address: who are the five unidentified individuals from Hera? How many more victims of the massacre are there and where are they located? Is pursuing justice for their deaths a realistic possibility?

The answers to such questions require a continued effort mainly by the Timorese society with the support of the international community. At the local level, continued community education is required about the need for families with missing relatives to liaise with the 12th November Committee to provide information and blood samples to attempt to positively identify the remaining unidentified individuals recovered from Hera. In addition, the collection and verification of information pertaining to the burial location of victims is vital. However, comments such as 'I don't want to tell my story to any more commissions or human rights groups so that it can end up in some museum. I want justice',<sup>78</sup> illustrate the increasing frustrations families of victims feel about the lack of justice and legacy of impunity.

At the international level, there needs to be a decision made about the extent to which law and economics are superior to justice. If it can be argued that Timor Leste's leaders are running a country that is poor, internationally unimportant, and dependent on good relations with its former tormentor and therefore are unable to spare the diplomatic capital needed to ensure that justice materialises,<sup>79</sup> then the responsibility rests with the international community.<sup>80</sup>

In a report issued by the United Nations after a mission to Indonesia and East Timor in 1994 the special rapporteur wrote that he was told by the chief of police 'that the forensic tests could not conclusively tie the remains to the Santa Cruz killings, and that the identity of the deceased could not be determined'.<sup>81</sup> The results of collaboration between the IFT and Timor Leste organisations have altered these conclusions: the evidence now speaks for itself. The choice rests with the families, the East Timorese and Indonesian governments and the international community as to how to proceed.

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  43. Members of the IFT include: Dr Soren Blau (Project Coordinator, Forensic Anthropologist, VIFM); Mr Luis Fondebrider (Forensic Anthropologist and Director of the EAAF); Dr Anthony Hill (Senior Forensic Odontologist, VIFM); Mr Wayne Newman (Victoria Police, logistical assistance); Mr Daniel Peterson (Translator/interpreter); Dr Mercedes Salado Puerto (Forensic Anthropologist, EAAF); Ms Mariana Segura (Forensic Anthropologist, EAAF); Mr Jon Sterenberg (Forensic Archaeologist); Ms Henriette Stratmann (independent consultant).
  44. The views in this article do not reflect those of AusAID or the Australian Government.
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