



Physical Anthropology Section – 2010

H117 Ten Years On: Problems Relating to Victim Identification in Timor Leste

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After attending this presentation, attendees will learn of the specific factors limiting the efforts of the United Nations Forensic Team in identifying victims of the 1999 conflict in Timor Leste.

This presentation will impact the forensic science community by providing vital information on standards and practices associated with human rights investigations.

In the fall of 1999, a referendum was held to determine whether the area known as East Timor (now Timor Leste) should seek independence from Indonesia. The Timorese voted overwhelmingly for independence. The Indonesian militia responded with a scorched earth policy, during which over 1,000 Timorese were reportedly killed. In the decade since, the United Nations has been responsible for investigating and documenting the offenses committed in 1999. The current unit, known as the Serious Crimes Investigation Team or SCIT, is given jurisdictional authority to investigate by, and reports directly to, the Office of the Prosecutor General of the Timorese government. The SCIT contains a Forensic Unit that is responsible for the exhumation and autopsy of victims of the 1999 conflict.

To date, personal identification of the victims is not DNA based, despite the considerable efforts of all anthropologists associated with the mission and offers to conduct DNA testing from numerous organizations. The decision to utilize DNA testing rests with the Prosecutor General. As a result, the identification of victims remains presumptive and the process is suspect because of the following confounding factors: the requirement of family consent to exhume; the practice of monetary incentives; reliance on family identification; and, the use of North American methodological standards. Each of these factors will be examined in detail:

- 1 Family Consent to Exhume:** The Office of the Prosecutor General requires written family consent prior to any exhumation or examination of purported victims. While the practice shows respect for local custom and family wishes in cases involving individual and consecrated burials, the requirement becomes burdensome and limiting in the case of mass internments, clandestine burials and unidentified remains. Investigations were curtailed in cases of multiple burials because some families agreed to the exhumation while other families withheld consent. Exhumations authorized by one family member would be canceled when another family member withdrew consent. Unidentified remains unearthed during construction projects or in similar circumstances could not be examined by the SCIT Forensic Unit until the victim was tentatively identified or the death could be shown to be from 1999. All forensic and medicolegal investigations, particularly those involving large-scale human rights violations, must be able to operate independently and without constraint in order to produce unbiased results. The family consent requirement in Timor Leste violates this principle.
- 2 Monetary Incentives:** Timor Leste is the poorest nation in Asia. Local mortuary customs require elaborate rituals, including village feasts associated with burial, exhumation, and reburial. To assist with the costs associated with the rituals, the United Nations introduced a stipend to families consenting to exhumations. The stipend, originally \$40.00 U.S. dollars, has now grown to \$150.00. Personal observations include continual family demands for more money and, on one occasion, the family withdrew their prior consent, demanding thousands of dollars to examine the remains. The investigative process relies on families to identify potential victims to the investigative team. In such a harsh economic environment, paying families to exhume their loved ones creates an ethically questionable situation. What began as a well-intentioned practice is now suspect and subject to abuse.
- 3 Reliance on Family Identifications:** The identification process in Timor begins and ends with the family of the deceased. While cases exist in which a family member was present when the victim was killed, providing a reasonable visual identification of the remains, a significant proportion of the "identifications" are based on local folk traditions. Personal observations include witnessing family members cut themselves and bleed on the bones of their purported loved ones, in the belief that only family blood will be absorbed into the dry remains and the identification of skeletonized remains based on the dreams of the supposed victim's grandmother. As anthropologists, local traditions must be respected; however, as forensic scientists, more must be required. Most troubling are cases in which the biological profile generated at autopsy does not match the family's description of the victim. Given the requirement of family consent and the family's belief that the remains are those of their loved one, there is little that can be done in such cases beyond informing the family of the findings.
- 4 The Validity of Applying North American Standards to the Timorese Population:** Even casual observation indicates that the Timorese are significantly smaller than their North American counterparts. A pilot study using presumptively identified individuals was conducted and will be presented in an upcoming article. The sample included 26 individuals, all male, with an age range of



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2 to 52 years. All metric forms of analysis were shown to be inaccurate. For example, metric sex determination methods using femoral and humeral head dimensions misclassified 100% of the adult male sample as “unambiguously female.” Pubic symphysis aging methods also appeared to be incorrect. The need for regionally specific standards is great, yet would require a test population of positively identified individuals with documented age and stature (a problem in a country where many individuals do not know how old or tall they are). Currently, the ambiguity of family reported data, combined with the knowledge that our anthropological standards are inaccurate for the population under study, results in an identification process fraught with error. When the biological profile and the family description of the victim do not match, is it because the identification is incorrect, the family is mistaken about the age or stature of the victim, or because our methods are inaccurate?

The cumulative effect of these factors is an identification process that is scientifically unacceptable. DNA testing must be utilized in Timor Leste. There is no other means of addressing issues of victim identification. The current procedure does little more than apply a false veneer of scientific credibility to an otherwise invalid exercise. The complete reliance on families as both the sole source of identification and access to the remains compromises investigative efforts and provides no means of addressing cases where the presumptive identification is incorrect.

Professional standards and practices benefit from review, critique, and reevaluation. This presentation is not intended as an indictment of the current investigation in Timor Leste, but rather as an opportunity to learn from past experiences, to reconsider practices that introduce monetary or resource incentives into forensic investigations, and to identify the need for research into regional standards for all anthropological methodologies.

Personal Identification, Biological Profile, International Human Rights