

THE TASI TOLU EXHUMATIONS

Pat Walsh, 22 March 2010

The case for a CAVR/CTF follow-up mechanism has been given new urgency by the recent find of more remains of human rights victims on the outskirts of Dili and the equally startling discovery that Timor-Leste has no regulations to govern construction on sites of significance. As Dili is in the grip of an unprecedented building boom, with some 1400 companies registered in the construction sector, legislation and the establishment of an oversight mechanism are urgently needed.

This month, 9 sets of human remains were exhumed at the Tasi Tolu site of the future Pelican Paradise hotel west of Dili. The discovery follows exhumations of 16 Santa Cruz victims last year. Initial forensic reports confirm that the Tasi Tolu remains were the victims of extra-judicial executions, possibly from the late 70s-early 80s. The bodies were trussed hand and foot and buried in pits prepared by mechanical ditch-diggers. Bullets were found at the scene, indicating that the victims were executed at the site. The burial site is therefore also a crime site. This also means that, like Tasi Tolu area itself, the site is a place of emotional and historical significance in Timor's costly struggle for independence.

The discovery has already yielded some positive lessons. The most important of these has been the goodwill and respective contributions of the key stakeholders. The company has cooperated with the exhumations, an important precedent for other developers, although it is not known what, if any, steps will be taken to commemorate the site. Prime Minister Gusmao and his government have provided funding. Members of parliament and the community have taken a close interest and visited the site. Forensic experts have been engaged to ensure that the process is professionally managed, a welcome advance on damaging efforts some years ago when well-intentioned amateurs handled remains from 1999. Finally, it is said that the location of the site is due to a tip-off some years ago by Indonesian military sources. Each of these elements, not least –if true – the information from Indonesian sources, has been critical to the outcome and will be vital to future work of this kind which is only just beginning.

The process, however, has also revealed some serious policy shortcomings and the urgent need for regulations. Timor-Leste has no building regulations to protect or preserve sites of historic, political or cultural significance and to govern building on such sites. UNTAET Regulation 2000/19 (Section 6) on Protected Places provided that the Transitional Administrator, under a directive, may designate monuments, buildings and other sites as property of cultural, artistic or historic significance to the people of Timor-Leste, but this provision has not been translated into contemporary legislation. Such legislation would be clearly in the spirit of the Constitution which, although it does not mention sites, devotes four Articles to the Valorisation of Resistance (Section 11).

The CAVR Report *Chega!* contains some 14 recommendations that deal directly or indirectly with memorialisation. The most relevant can be found at 3.2.1-3.3.1; 3.7.7 and 12.12. In summary, these call for families to be assisted to locate and re-bury relatives and for significant sites to be registered and memorialised in some way. CAVR took a broad view of memorialisation. In this sense, the concept should be comprehensive enough to cover both sites of human rights violations like the ex-Balide Comarca and Hotel Flamboyan in Baucau (development of its notorious back section is on hold) as well as sites that are historically significant in other respects such the site of the new Palacio Presidencial and Hotel Turismo (currently undergoing renovation).

To this point, however, these timely recommendations have not been acted on. No register of sites or authority exist which companies should consult prior to development or if a discovery is made. The Parliament's Committee A is currently preparing legislation to establish a CAVR/CTF follow-up mechanism whose terms of reference will most likely include a national memorialisation program. It is to be hoped that this important initiative is speedily enacted and that the Gusmao government uses this legislative and institutional framework to respond to the important issues raised by the Tasi Tolu case.