



NAMES AND PARTICULARS OF THE ACCUSED

1. Name: **Domingos MAU BUTI aka Domingos NORONHA**
Date of birth: unknown
Place of birth: Believed to be Lepo village, Zumalai, Covalima, TIMOR LESTE
Nationality: East Timorese
Address: Believed to be Atambua, West Timor, REPUBLIC OF INDONESIA
Occupation: In 1999, Mahidi militia member in Mape village, Zumalai, Covalima

2. Name: **Adriano Nascimento**
Date of birth: unknown
Place of birth: unknown
Nationality: East Timorese
Address: Believed to be Atambua, West Timor, REPUBLIC OF INDONESIA
Occupation: In 1999, Mahidi militia member in Mape village, Zumalai, Covalima

INTRODUCTORY STATEMENT OF FACTS

1. A widespread and systematic attack was directed against the civilian population in East Timor in 1999. The attack occurred during two interconnected periods of intensified violence. The first period followed the announcement on 27 January 1999 by the Government of Indonesia that the people of East Timor would be allowed to choose between autonomy within the Republic of Indonesia or independence. This period ended on 4 September 1999, the date of the announcement of the result of the popular consultation in which 78.5 per cent voted against the autonomy proposal. The second period followed the announcement of the result of the popular consultation on 4 September and lasted through 25 October 1999 when INTERFET intervened and stabilized East Timor.
2. The widespread and systematic attack was part of an orchestrated campaign of violence, that included, among other things, incitement, threats to life, intimidation, unlawful confinement, assault, forced displacement, arsons, murders, rapes, torture and other forms of violence carried out by members of the pro-autonomy militias, members of the Indonesian Armed Forces, ABRI (*Angkatan Bersenjata Republik Indonesia*) renamed TNI (*Tentara Nasional Indonesia*) in 1999, and members of the Indonesian Police Forces (POLRI) with the acquiescence and active participation of civilian and military authorities.
3. In 1999, more than twenty-five militia groups operated throughout East Timor. Their goal was to support autonomy with Indonesia. The Integration Fighter's Force (PPI, *Pasukan Pejuang Integrasi*) under the command of João Tavares and Eurico Guterres was the umbrella organization under which these militia groups were organized. It had the backing of the TNI and the Civil Administration. PPI Commanders issued, called upon and incited militia groups and their members to intimidate independence supporters and those perceived to support them. The militia groups participated in the widespread and systematic attacks and acted and operated with impunity.
4. That large-scale attack was directed against civilians of all age groups, predominantly against individuals who supported or were perceived to support independence, and resulted in lethal injury including death by sharp force injury, gun shot injury, blunt force trauma or a combination of the three.
5. As part of the widespread and systematic attack against the civilian population, the militia destroyed the infrastructure of East Timor, including housing and livestock belonging to the civilian population.
6. The widespread and systematic attacks resulted in the internal displacement of thousands of persons. Additionally, the forcible transfer of the civilian population within East Timor and deportation to West Timor, Indonesia was an essential feature of the orchestrated campaign of violence.

7. Under the terms of the 5 May 1999 Agreements between the Republic of Indonesia, Portugal and the United Nations on the popular consultation, the Indonesian security authorities (TNI and POLRI) had the responsibility to ensure a safe environment devoid of violence or other forms of intimidation as well as the general maintenance of law and order before and during the popular consultation. The TNI and POLRI failed to meet these obligations and made no attempt to disarm or neutralize the militia groups. They were allowed to act with impunity.

Murder of Luis da Silva and Sabina Mesquita and Murder and Rape of Fátima Mesquita (17 April 1999)

15. In 1999, Luis da Silva was an independence supporter.
16. On 27 March 1999, militia under the command and control of Lino Barreto and Guilhermino de Araujo gathered at Lino Barreto's house in Mape. Among the militia present there were **Domingos MAU BUTI (1)**, **Adriano NASCIMENTO (2)**, Francisco Pereira, Manuel Magno, Joaquim da Costa, Mateus Soares, Martino Pereira, Filomeno Lopes, Inácio Mau Sano, Orlando Lopes, Martino (LNU), Tomas Barros, and Armindo Pereira.
17. Manuel Magno told other militia members that they were all to attend a funeral. On the way to the funeral, Manuel Magno told his fellow militiamen that instead of attending the funeral, they were going on an operation to abduct the family of Luis da Silva.
18. Upon arriving at Luis da Silva's house, the militia, including **Domingos MAU BUTI (1)**, **Adriano NASCIMENTO (2)** and Francisco Pereira, entered the house and abducted Luis da Silva, his wife Fátima Mesquita (who was pregnant) and their

- “(a) commits such a crime, whether as an individual, jointly with another or through another person, regardless of whether that other person is criminally responsible;*
- (b) orders, solicits or induces the commission of such a crime which in fact occurs or is attempted;*
- (c) for the purpose of facilitating the commission of such a crime, aids, abets or otherwise assists in its commission or its attempted commission, including providing the means for its commission;*
- (d) in any other way contributes to the commission or attempted commission of such a crime by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:*
- (i) be made with the aim of furthering the criminal activity or criminal*
 - (ii) purpose of the group, where such activity or purpose involves the commission of a crime within the jurisdiction of the panels; or*
 - (iii) be made in the knowledge of the intention of the group to commit the crime;”*

PURSUANT TO THE ABOVE, THE DEPUTY GENERAL PROSECUTOR FOR SERIOUS CRIMES CHARGES

Count 1. Crime Against Humanity: Murder of Luis da Silva

By his acts or omissions in relation to the events described in paragraphs 11-22, **Domingos MAU BUTI (1)** and **Adriano NASCIMENTO (2)** are responsible as individuals under Section 14.3 (a), (c) and (d) of Regulation 2000/15 for the murder of Luis da Silva on 17 April 1999 in Mape village, Zumalai Sub-district Covalima as part of a widespread and systematic attack against a civilian population with knowledge of the attack. **Domingos MAU BUTI (1)** and **Adriano NASCIMENTO (2)** thereby committed a CRIME AGAINST HUMANITY: MURDER, a crime stipulated under Section 5.1(a) of UNTAET Regulation 2000/15.

Count 2. Crime Against Humanity: Murder of Sabina Mesquita

By his acts or omissions in relation to the events described in paragraphs 11-22, **Domingos MAU BUTI (1)** and **Adriano NASCIMENTO (2)** are responsible as

individuals under Section 14.3 (c) and (d) of Regulation 2000/15 for the murder of Sabina Mesquita on 17 April 1999 in Mape village, Zumalai Sub-district Covalima as part of a widespread and systematic attack against a civilian population with knowledge of the attack. **Domingos MAU BUTI (1)** and **Adriano NASCIMENTO (2)** thereby committed a CRIME AGAINST HUMANITY: MURDER, a crime stipulated under Section 5.1(a) of UNTAET Regulation 2000/15

Count 3. Crime Against Humanity: Rape of Fátima Mesquita

By his acts or omissions in relation to the events described in paragraphs 11-22, **Domingos MAU BUTI (1)** and **Adriano NASCIMENTO (2)** are responsible as individuals under Section 14.3 (a), (c) and (d) of Regulation 2000/15 for the rape of Fátima Mesquita on 17 April 1999 in Mape village, Zumalai Sub-district Covalima as part of a widespread and systematic attack against a civilian population with knowledge of the attack. **Domingos MAU BUTI (1)** and **Adriano NASCIMENTO (2)** thereby committed a CRIME AGAINST HUMANITY: RAPE, a crime stipulated under Section 5.1(g) of UNTAET Regulation 2000/15.

Count 4. Crime Against Humanity: Murder of Fatima Mesquita

By his acts or omissions in relation to the events described in paragraphs 11-22, **Domingos MAU BUTI (1)** and **Adriano NASCIMENTO (2)** are responsible as individuals under Section 14.3 (a), (c) and (d) of Regulation 2000/15 for the murder of Fatima Mesquita on 17 April 1999 in Mape village, Zumalai Sub-district Covalima as part of a widespread and systematic attack against a civilian population with knowledge of the attack. **Domingos MAU BUTI (1)** and **Adriano NASCIMENTO (2)** thereby committed a CRIME AGAINST HUMANITY: MURDER, a crime stipulated under Section 5.1(a) of UNTAET Regulation 2000/15.

Count 5. Crime Against Humanity: Murder of Jose Pereira aka Jose Espong

By his acts or omissions in relation to the events described in paragraphs 11 and 23-28, **Domingos MAU BUTI (1)** is responsible as an individual under Section 14.3 (a), (c) and (d) of Regulation 2000/15 for the murder of Jose Pereira aka Jose Espong on 18 June 1999 in Mape village, Zumalai Sub-district Covalima as part of a widespread and systematic attack against a civilian population with knowledge of the attack. **Domingos MAU BUTI (1)** thereby committed a CRIME AGAINST HUMANITY: MURDER, a

Count 6. Crime Against Humanity: Attempted Murder of Joaquim Barros

BUTI (1) thereby committed a CRIME AGAINST HUMANITY: MURDER, a crime stipulated under Section 5.1(a) read together with Section 14.3(f) of UNTAET Regulation 2000/15.

Count 7. Crime Against Humanity: Murder of Luis Barros

By his acts or omissions in relation to the events described in paragraphs 11 and 29-32, **Adriano NASCIMENTO (2)** is responsible as an individual under Section 14.3 (a)-(d) of Regulation 2000/15 for the murder of Luis Barros on 13 September 1999 in Zulo village, Zumalai Sub-district Covalima as part of a widespread and systematic attack against a civilian population with knowledge of the attack. **Adriano NASCIMENTO (2)** thereby committed a CRIME AGAINST HUMANITY: MURDER, a crime stipulated under Section 5.1(a) of UNTAET Regulation 2000/15.

LIST OF VICTIMS

The list of victims is contained in Annex A, which forms part of this indictment.

EVIDENCE LIST

The evidence in support of this indictment is contained in Annex B, which forms part of this indictment.

REQUEST FOR TRIAL

The Deputy General Prosecutor For Serious Crimes hereby requests the Special Panel for Serious Crimes of the District Court of Dili try this case

Dated this th day of December 2004



Deputy General Prosecutor for Serious Crimes

ANNEX "A"

THE DEPUTY GENERAL PROSECUTOR FOR SERIOUS CRIMES

-AGAINST-

DOMINGOS MAU BUTI aka Domingos NORONHA

LIST OF VICTIMS

(Submitted Pursuant to Section 24 of UNTAET Regulation 2000/30 as amended by
UNTAET Regulation 2001/25)

VICTIMS

1. Luis de Silva
2. Fatima Mesquita
3. Sabina Mesquita
4. Jose Pereira aka Jose Esotong
5. Joquim Barros
6. Luis Barros

1. Warrant of Exhumations and Autopsy (9/11/04)

List of Evidence for Count 6

Witness Statements of the following persons:

1. Statement of Miguel dos Reis (22/3/03)
2. Statement of Veronica de Araujo (17/5/03)
3. Statement of Francisco Xavier Alves (22/6/00)
4. Statement of Francisco Xavier Alves (18/3/03)

Documentary Evidence:

UNTAET CIVPOL Standard Report Form (21/6/00)

General Documentary Evidence for all Counts

Reports on Human Rights Situation in East Timor in 1999:

1. United Nations Commission of Human Rights Question of Violations of Human Rights and Fundamental Freedoms in any Part of the World, Profiles in Displacement: East Timor together with Report of the Representative of the Secretary General on internally displaced persons, Mr. Francis Deng, to the Commission on Human Rights in Accordance with Commission Resolution 1999/S-4/1, E/CN.4.20000/83/Add.3
2. Report of the Security Council Mission to Jakarta and Dili, 8 to 12 September 1999 (14 September 1999)
3. Report of the High Commissioner for Human Rights on the human rights situation in East Timor, Commission on Human Rights, Fourth Special Session (23-24 September 1999)
4. Situation of Human Rights in East Timor (10 December 1999)
5. Report of the International Commission of Inquiry on East Timor to the Secretary General, January 2000 (31 January 2000)
6. Report of the Indonesian Commission on Human Rights Violations (31 January 2000)