



DISTRICT COURT OF DILI

BEFORE THE SPECIAL PANEL FOR SERIOUS CRIMES

Case No: 13/2003

A M E N D E D I N D I C T M E N T

THE DEPUTY GENERAL PROSECUTOR FOR SERIOUS CRIMES

- AGAINST -

- EURICO GUTERRES (1)**
- MATEUS DE CARVALHO (2)**
- TIMBUL SILAEN (3)**
- ADOLFO VIERA LIAO (4)**
- AGUS SUWARNO (5)**
- ANTÓNIO XIMENES BRITO (6)**
- MARCELINO [LNU] (7)**
- AND CAETANO DA SILVA (8)**

ORIGINAL VERSION: IN ENGLISH

INDEX

I. INDICTMENT	3
II. NAME AND PARTICULARS OF THE ACCUSED	4
III. INTRODUCTORY STATEMENT OF FACTS	5
IV. SPECIFIC STATEMENT OF FACTS	6
A: Background to Aitarak militia in Dili District	6
B: Background to the attacks	7
C: 5 September 1999 meeting with Indonesian officials	7
D: Attack on the Dili Diocese on 5 September 1999	8
(a) The attack on the Diocese	8
(b) Separation of men from women and children outside the Diocese	10
(c) Murders and forced disappearances	11
E: Attack on the home of Bishop Belo in Dili on 6 September 1999	12
(a) The attack on the residence	12
(b) Evacuation of refugees from the residence	13
F: Attack on the Canossian Convent in Dili on 6 September 1999	14
G: Attack on the Red Cross Compound in Dili on 6 September 1999	14
H: Attack on Acacio Riberio in Dili on 6 September 1999	15
I: Deportation of refugees from East Timor	15
V. GENERAL ALLEGATIONS	16
VI. CRIMINAL RESPONSIBILITY	16
(a) Individual Criminal Responsibility	16
(b) Superior Criminal Responsibility	17
VII. THE CHARGES	17
A: For Crimes committed during the attack on the Dili Diocese on 5 September 1999	17
Count 1. Crimes Against Humanity: Persecution (Destruction of Property)	17
Count 2. Crimes Against Humanity: Inhumane Acts	17
Count 3. Crimes Against Humanity: Murder	18
Count 3 (altern). Crimes Against Humanity: Enforced disappearance of persons ...	18
Count 4. Crimes Against Humanity: Murder	18
Count 5. Crimes Against Humanity: Enforced disappearance of persons	18
Count 5. (altern) Crimes Against Humanity: Persecution (Abduction)	18
B: For Crimes Committed during the Attack on Bishop Belo's home, Canossian Convent, and on the Red Cross Compound, on 6 September 1999	19
Count 6. Crimes Against Humanity: Persecution (Destruction of Property)	19
Count 7. Crimes Against Humanity: Inhumane Acts	19
C: Attack on Acacio Riberio in Dili on 6 September 1999	19
Count 8. Crimes Against Humanity: Inhumane Acts	19
D: Forced Deportation of refugees from East Timor from 5-9 September 1999	19
Count 9. Crimes Against Humanity: deportation or forcible transfer of population....	19
VIII. VICTIMS (Annex A: List of Victims and Annex B : List of Evidence)	20
IX. REQUEST FOR TRIAL	20
<u>Annex A – List of Victims</u>	21
<u>Annex B – List of Evidence</u>	23

I: INDICTMENT

The Deputy General Prosecutor for Serious Crimes pursuant to her authority under UNTAET Regulations 2000/16 and 2000/30 as amended by 2001/25, charges

EURICO GUTERRES (1)
MATEUS DE CARVALHO (2)
TIMBUL SILAEN (3)
ADOLFO VIERA LIAO (4)
AGUS SUWARNO (5)
ANTÓNIO XIMENES BRITO (6)
MARCELINO [LNU] (7)
AND CAETANO DA SILVA (8)

with

**CRIMES AGAINST HUMANITY: MURDER, ENFORCED DISSAPEARANCE, OTHER
INHUMANE ACTS, PERSECUTION AND DEPORTATION**

as set forth in this indictment

II: NAME AND PARTICULARS OF THE ACCUSED

1. Name: **Eurico Guterres (1)**
Place of Birth: Watulari, Viqueque, East Timor
Age/Date of Birth: Approx. 33 years old.
Sex: Male
Nationality: East Timorese
Address: Republic of Indonesia
Occupation at the time: Aitarak militia commander
2. Name: **Matteus de Carvalho (2)**
Place of Birth: East Timor.
Age/Date of Birth: Approx. 40-45 years old.
Sex: Male
Nationality: East Timorese
Address: Presumed to be in the Republic of Indonesia
Occupation at the time: Aitarak militia commander for Company D (Hera)
3. Name: **Timbul Silaen (3)**
Place of Birth: Indonesia
Age/Date of Birth: 21 August 1948
Sex: Male
Nationality: Indonesian
Address: South Jakarta
Occupation at the time: Kapolda, Chief of Police of East Timor
4. Name: **Adolfo Viera Liao (4)**
Place of Birth: East Timor.
Age/Date of Birth: Not known
Sex: Male
Nationality: East Timorese
Address: Presumed to be in the Republic of Indonesia
Occupation at the time: TNI soldier
5. Name: **Agus Suwarno (5)**
Place of Birth: Not known.
Age/Date of Birth: Not known.
Sex: Male
Nationality: Indonesian
Address: Presumed to be in the Republic of Indonesia
Occupation at the time: TNI Captain
6. Name: **Antonio Ximenes Brito (6)**
Place of Birth: East Timor.
Age/Date of Birth: Approx. 50 years old.
Sex: Male
Nationality: East Timorese
Address: Presumed to be in the Republic of Indonesia
Occupation at the time: Aitarak militia member

7. Name: **Marcelino [LNU from Bidau Santana] (aka 'Sukar Musan' or 'Massno')(7)**
 Place of Birth: Manatuto, East Timor
 Age/Date of Birth: Approx. 40 years old.
 Sex: Male
 Nationality: East Timorese
 Address: Presumed to be in the Republic of Indonesia
 Occupation at the time: Aitarak deputy militia commander for Company C (Becora)
8. Name: **Caetano da Silva (8)**
 Place of Birth: East Timor
 Age/Date of Birth: Approx. 31-32 years old.
 Sex: Male
 Nationality: East Timorese
 Address: Presumed to be in the Republic of Indonesia
 Occupation at the time: Aitarak militia commander for Bidau Santana (Post 12)

III: INTRODUCTORY STATEMENT OF FACTS

1. A widespread or systematic attack was committed 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 through 25 October 1999.
2. The widespread or 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 militia, 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 (Kepolisian Republik Indonesia) with the acquiescence and active participation of civilian and military authorities.
3. With the backing of the TNI and the Civil Administration, more than twenty five militia groups operated throughout East Timor. Their goal was to support autonomy with Indonesia. The Integration Fighting Forces, PPI (Pasukan Pejuang Indonesia) under the command of Joao Tavares and Eurico Guterres was the umbrella organization under which these militia groups were organized. With the acquiescence of TNI and the Civil Administration, PPI commanders issued and called upon and incited militia groups and their members to intimidate independence supporters and those perceived to support them. The militia groups participated in widespread or systematic attacks, acting and operating with impunity.
4. The widespread or systematic attack was directed against civilians and 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 or systematic attack against the civilian population, the militia destroyed property including houses and livestock belonging to the civilian population.
6. The widespread or 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 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.
8. The Indonesian Military in East Timor consisted of both regular territorial forces and Special Combat Forces ie the Strategic Reserve Command (KOSTRAD) (Kommando Strategis Angkatan Darat) and Special Forces Command (KOPASUS) (Kommando Pasukan Khusus) all of which had units, staff officers and soldiers stationed in East Timor.
9. From February 1999 to October 1999, the Indonesian Police Force (POLRI) the state agency for upholding law and public order were also present in East Timor. It included a Mobile Police Brigade BRIMOB, (Brigade Mobil) whose units and members were stationed in East Timor, including in Dili
10. Dili is one of the thirteen districts of East Timor and is comprised of five sub-districts, namely Dom Aleixo, Vera Cruz, Cristo Rei, Nein Feto, Metinaro and Atauro.

IV: SPECIFIC STATEMENT OF FACTS

A: Background to Aitarak militia in Dili District

11. Between April 1999 and September 1999 the Aitarak militia group operated throughout Dili District. It comprised of hundreds of members. The Aitarak militia operated in collaboration with units of the TNI and POLRI in Dili. During this period members of the Aitarak militia carried out acts of violence directed against civilians who were perceived to be members or supporters of FALINTIL (Forcas Armadas De Libertacao Nacional De Timor Leste: Armed Forces for the Liberation of East Timor), supporters of independence or linked to or sympathetic to the independence cause. The attack included acts of intimidations, threats, unlawful detention, arsons, murders, forcible deportation and other acts of persecution.
12. From approximately April 1999 to September 1999, **Eurico Guterres (1)** was the Deputy Commander of the Pro-Integration Forces (PPI). In addition he was the Commander of the Aitarak militia group. Until September 1999 **Eurico Guterres (1)** exercised command and control over members of the Aitarak militia in Dili.
13. The Aitarak militia in Dili were divided into four 'companies'. **Mateus de Carvalho (2)** was the Company Commander for the Aitarak militia in the Hera region (Company D).

14. **Marcelino (7)** was the Aitarak Deputy Company Commander for the Becora region (Company C). He had overall responsibility for the militia in Bidau Mota Klaran (militia post 11) Bidau Santana (militia post 12) and Santa Cruz (militia post 15).
15. **Caetano da Silva (8)** was the Aitarak Post Commander for Bidau Santana (militia post 12) and exercised direct command and control over the militia members from that area.
16. **Antonio Ximenes Brito (6)** was a member of the Aitarak militia.
17. **Adolfo Viera Liao (4)** and **Agus Suwarno (5)** were both members of the TNI.

B: Background to the attacks

18. On 26 August 1999 **Eurico Guterres (1)** addressed a pro-integration rally in Dili attended by an estimated 15,000 people. He stated that East Timor 'will become a sea of fire' if independence is declared.
19. A few days prior to the Popular Consultation on 30 August 1999, a meeting was held between the Mayor of Dili (Bupati), Domingos Soares, the Deputy Mayor (Walikota), Mateus Maia and the village heads of Dili district. At that meeting Mateus Maia announced that the 'Pro-Autonomy vote must win otherwise blood would flow in Dili.' **Eurico Guterres (1)** was in attendance at that meeting.
20. Between 1 September 1999 and 6 September 1999, many civilians in Dili sought refuge at the Dili Diocese and the home of Bishop Belo from attacks by militias. By the morning of 5 September 1999, there were over 300 refugees at the Dili Diocese. By 6 September 1999, there were over 5,000 refugees at the home of Bishop Belo and over 2,000 refugees at the compound of the International Committee of the Red Cross (Red Cross Compound). The Dili Diocese, the home of Bishop Belo and the Red Cross Compound were perceived by members of the East Timorese community to be places where they would be safe from attack by militia groups operating in Dili.
21. Prior to 5 September 1999, Bishop Belo contacted the Chief of Police for East Timor (Kapolda) **Timbul Silaen (3)** to urge him to take action with respect to militia activity in Dili. **Timbul Silaen (3)** attended Bishop Belo's residence on 2 and 4 September 1999 on account of militia activity in the area. On 4 September 1999 militia were harassing people in the area outside Bishop Belo's compound. Police were present but did not intervene. As Kapolda, **Timbul Silaen (3)** had responsibility for maintaining law and order in East Timor.

C: 5 September 1999 meeting with Indonesian officials

22. On the morning of 5 September 1999 Bishop Belo and Manuel Abrantes, Director of the Justice and Peace Commission of the Dili Diocese, went to the KOREM (Regional Military Command), to speak with the Regional Military Commander for East Timor (Danrem) Colonel Nur Muis, about the security situation in Dili, particularly with respect to the security of refugees sheltering at the home of Bishop Belo. As Danrem, Nur Muis had responsibility for maintaining security within the region of East Timor. The Danrem invited Bishop Belo to a meeting to be held with senior Indonesian military officials later that morning.
23. Between approximately 1200 hrs and 1400 hrs that day a meeting was held at the Danrem's house in the suburb of Farol, Dili, between high ranking Indonesian military

and police officials, pro-autonomy leaders, and other selected civilians. The purpose of the meeting was to discuss the escalating violence in East Timor.

24. Present at the meeting were General Wiranto (Indonesian Defense Minister and Commander in Chief of Indonesian Armed Forces), Major General Zacky Anwar Makarim (Chief Liaison Officer between TNI and UNAMET), Major General Kiki Syahnakri (Assistant for Operations, Army Chief of Staff), Faisal Tanjung (the Minister for Defense and Security), Major General Adam Damiri (Commander of the Military Region IX Udayana), the Chief of the Indonesian Police, Colonel Nur Muis (Regional Military Commander for East Timor), **Timbul Silaen (3)**, (Chief of Police for East Timor), Basilio de Araujo (member of pro-autonomy group FDPK - Front for Peace, Democracy and Justice) Florentino Sarmiento (member of FPDK), Joao Tavares (Commander in Chief of the PPI), Salvador Ximenes (member of FPDK), Fransisco Xavier Lopes da Cruz (leader of pro-autonomy group BRIT - Barisan Rakyat Timor Timur), Mauhudo (member of pro-independence group CNRT - Conselho Nacional de Resistencia Timorese), Bishop Belo and Manuel Abrantes (Director of the Justice and Peace Commission, Dili Diocese)
25. The participants at the meeting discussed the security situation in Dili. Bishop Belo asked General Wiranto to take control of the situation and to order the militias to remove their road blocks. Joao Tavares advised General Wiranto that the militias would not surrender until FALINTIL surrender. He also said that the militias under his control did not accept the referendum result and were ready to fight. Later in the meeting, Bishop Belo asked General Wiranto again to control the militias. General Wiranto issued orders to Colonel Nur Muis to control the situation and return it to normality. General Wiranto advised Joao Tavares that if Timorese groups wished to engage in violence amongst themselves, it was 'up to them'.
26. During the meeting the Dili Diocese was attacked by militia groups operating with the acquiescence and assistance of TNI and POLRI. The Dili Diocese is located less than 2 kilometres from the Danrem's house.

D: Attack on the Dili Diocese on 5 September 1999.

(a) The attack on the Diocese

27. During the morning of 5 September 1999, large numbers of Aitarak militia began to gather outside the Dili Diocese. They were armed with weapons including pistols, machetes, long knives, rakitans (home made firearms) and swords. At the same time there were a large number of TNI soldiers and POLRI officers outside the Dili Diocese and Hotel Mahkota who observed the build up of the militia outside the Diocese but did nothing to disperse or disarm them.
28. At about lunchtime, the militia gathered outside the Diocese began to attack the Diocese compound.
29. Father Jose Antonio da Costa telephoned the Regional Police, POLDA (Kepolisian Daerah) office to advise them that the Diocese was being attacked. POLDA advised that they were immediately sending officers to the Diocese. However the POLRI officers who were stationed outside the Diocese did nothing to prevent the attack.
30. The militia entered the compound from a number of directions firing weapons, attacking the buildings where the refugees were hiding, screaming for the refugees to leave the

compound and assaulting them. Militia members also destroyed and set fire to the Diocese office and other buildings within the compound. The attack continued until the late afternoon.

31. Aitarak militia commander for Company D, **Matteus de Carvalho (2)** was leading the attack. He was carrying an M-16 automatic machine-gun and firing at the Dili Diocese building. During the attack he gave orders to the militia to burn the buildings.
32. Aitarak militia member **Antonio Ximenes Brito (6)** attacked the compound, entering a room where refugees were sheltering and shooting inside the room with his rakitan, forcing the refugees outside.
33. Over 50 Aitarak militia members were involved in the attack. Many of the militia involved in the attack were from Bidau Santana and Bidau Massau.
34. A number of TNI soldiers actively participated in the attack. They included **Adolfo Viera Liao (4)** and **Agus Suwarno (5)**. POLRI officers also participated in the attack.
35. During the attack a number of refugees were brutally assaulted and seriously injured by unidentified militia members using pieces of wood, rifle butts, iron bars, machetes or swords.
36. Tiago Kofi was slashed on the back of his hand with a machete by an unidentified militia member.
37. Domingos Mesquita da Silva was kicked in the back and fell to the floor. An unidentified militia member attempted to stab him with a sword.
38. Marito Mesquita was stabbed in the chest with a long sword by an Aitarak militia member as he was attempting to leave the compound.
39. Mateus Cabral was stabbed in the chest and kicked in the back by an unidentified militia member. The same militia member then hacked him on the arm with his machete.
40. Pedro Paulo Pires was assaulted in the head with a rakitan by an unidentified militia member whilst he was trying to leave the Diocese building. The same militia member pressed the lit end of a cigarette against his mouth causing him extreme pain.
41. Thomas Belo was shot in the legs by an unidentified Indonesian POLRI officer. The officer then began firing his gun into the room full of refugees.
42. The militia members forced the refugees out of the Diocese compound and across the road to the Dili harbour. Militia members continued to attack the refugees whilst they were leaving the Diocese and moving to the harbour.
43. Victorino da Costa was hit in the stomach with the butt of a rakitan rifle by an unidentified militia member whilst crossing the road outside the Diocese.
44. Aires Braz da Costa was kicked in the stomach by an unidentified militia member and hit with rifle butts and wooden and iron objects. Once the militia searched his wallet and realized that he was a student he was more seriously beaten. He was hit in the back of his head with a machete, causing him to fall to the ground.

45. Cassiano Morrais was kicked and brutally beaten by unidentified militia members with rakitans and rifle butts, causing him to fall to the ground.
46. Joao Soares was assaulted with wooden sticks, iron bars and guns. An unidentified militia member then chased Joao Soares down the street outside the Diocese stabbing him twice in the shoulder with a samurai sword.
47. Nelio Mesquita da Costa Rego was caught by unidentified militia members escaping from the Diocese. He was then ordered to kneel on the ground and was shot in the face, wrist and knee. Believing him to be dead, the militia members left him behind on the road.
48. Mario Belo was attacked by TNI and militia. Specifically, a number of TNI and militiamen assaulted Mario Belo with their fists and guns outside the Diocese. An unidentified militiaman hacked Mario Belo with a long samurai sword.
49. TNI soldiers attacked Elisabeth Branco de Oliveira. She was hit in the back with a rifle butt by an Indonesian TNI soldier as she was forced to leave the Diocese.
50. On the street in front of the Diocese, TNI soldier **Agus Suwarno (5)** identified Nonato Soares as a former TNI soldier and someone who had been assisting Bishop Belo with community reconciliation in the Bidau Lecidere area. He called him a 'traitor', verbally abused him and assaulted him in the face with his weapon causing him to bleed profusely. Aitarak militia commander **Mateus de Carvalho (2)** also abused Nonato Soares, accusing him of being a supporter of pro-independence group CNRT despite being a former TNI soldier. Nonato Soares was then stabbed in the stomach with a bayonet by an unidentified militia member.

(b) **Separation of men from women and children outside the Diocese**

51. Once the militia had forced the refugees across the road to Dili harbour, they separated many of the men from the women and children.
52. POLRI assisted in the separation of men from women and children and drove the women and children to the POLDA headquarters in Comoro, leaving the men behind. POLRI observed members of the militia beating male refugees but did not intervene to protect those refugees.
53. Many of the men were singled out by the militia on account of their perceived pro-independence political opinions. Some of the men were known CNRT supporters, others were students perceived to be pro-independence and others were UNAMET local staff members.
54. After separating the men from the women, the militia and TNI began to assault the men.
55. Antonio Manuel de Sousa was hit in the head with a rakitans, punched in the face and kicked repeatedly all over the body by unidentified militia members.
56. Members of the militia attacked UNAMET employee Hilario Boavida beating him badly.
57. Alexandre Mesquita da Costa Rego was assaulted as he attempted to struggle against the militia.

58. Helio Correira was hit in the back and the shoulder by unidentified militia members until he fell to the ground. Whilst on the ground he was assaulted repeatedly with a rifle butt.
59. Fransisco Boavida was beaten by unidentified militia members outside the Diocese compound.
60. Eugenio da Costa was beaten by unidentified militia members on the pavement outside the Diocese until he collapsed.
61. Helder da Costa Silva was attacked by two militia members with knives and samurai swords, sustaining wounds to his head, chest and hands.
62. Hermenegildo Sarmiento was kicked and assaulted with a rakitan by unidentified militia until he fell to the pavement. He lost four front teeth in the attack and sustained serious cuts to his forehead, head, nose and mouth.
63. Elvis da Costa was twice beaten by militia members outside the Diocese. After the first beating, he was ordered by the militia to strip off his clothes. He was then beaten again by unidentified militia.
64. Vincente de Sousa was assaulted in the face with a homemade rakitan by an unidentified militia member. He was then repeatedly kicked in the face and stomach by **Adolfo Viera Liao (4)** a TNI soldier.
65. Miguel Abilio was assaulted by **Adolfo Viera Liao (4)**. He was cut on the neck with a machete, whipped in the forehead with a military belt and forced to join the other injured men. **Adolfo Viera Liao (4)** then burnt Miguel Abilio with a cigarette lighter on the skin and hit him in the face with his rifle butt.
66. There were a number of pick-up trucks parked outside the Diocese at the Dili harbour and manned by militia members. The militia forced eight (8) badly injured men into the back of one of those pick-up trucks and covered them with a blanket. Those men were Vincente de Sousa, Antonio Manuel de Sousa, Elvis da Costa, Miguel Abilio, Aires Bras da Costa, Helio Correira, Hermenegildo Sarmiento and Helder da Costa Silva. Injuries sustained by the eight men from their beatings by militia included head wounds, cuts and bruises.
67. The militia members, including **Mateus de Carvalho (2)** discussed whether they should dump the bodies of the eight men in the sea, burn the bodies or bury the bodies.
68. The militia members then attempted to drive the pick-up truck away but were unable to do so. The injured men were later discovered in the back of the pick-up truck by members of POLRI and taken to the Bidau National Hospital (Rumah Sakit Umum for medical treatment.

(c) **Murders and enforced disappearances**

69. Militia members forced another eight (8) men into a Kijang pick-up truck also parked outside the Diocese. The men were Cassiano Morais, Hilario Boavida, Lorenzo Boavido, Jorge Mesquita da Costa Rego, Mario Belo, Thomas Belo, Tiago Kofi and Alexandre Mesquita da Costa Rego. The eight men had been badly beaten by militia members. They have never been seen alive again.

70. In the late afternoon, Jose Fernando Nilton Da Costa was forced out of the Diocese by militia members. During his evacuation he was stabbed by unidentified militia members. He was then forced into a Kijang truck outside the Diocese which was driven away by militia members. He later managed to escape from the truck and was found in Vila Verde. He was taken to the Motael clinic for treatment but died of his injuries late on 5 September 1999.
71. Vergilio Fernanda Augusto da Costa was arrested by unidentified militia members at about the same time as Jose Fernando Nilton da Costa. He was forced by militia members into the same Kijang truck as Jose Fernando Nilton da Costa and has not been seen since.
72. Marito Mesquita was also forced onto a truck by militia members following the attack. He has never been seen again.
73. Jose Martins de Sousa, Fransisco Boavida and Eugenio da Costa were assaulted by unidentified militia members during the attack on the Diocese. They were last seen in the custody of militia members outside the compound and have not been seen since that time.
74. Leonel da Silva de Oliveira, a UNAMET driver, disappeared during the attack on the Diocese. He has not been seen since.
75. Since the time of the attack, family members of the missing persons have been unable to locate them or obtain any information as to their whereabouts.
76. Approximately fifteen to twenty (15-20) persons attended the Dili National Hospital in Bidau (Rumah Sakit Umum Pusat) for treatment for serious injuries sustained in the attack including gunshot wounds, lacerations, stab wounds and other traumatic injuries. Joao Soares, Nonato Soares, Nelio Mesquita da Costa Rego and Mateus Cabral were taken to the Wira Husada Military Hospital in Lahane for treatment for the injuries they sustained in the attack.
77. On 8 September 1999 an Aitarak militia member drove a number of refugees across the border into West Timor. When the refugees reached Tasitolu on the outskirts of Dili, he pointed to a burnt out Kijang pick-up truck close to the road and said that the pick-up contained the bodies of eight of the men that were detained at the Diocese, including Cassiano Morais and Jorge Manuel da Costa Rego.

E: Attack on Bishop Belo's Residence in Dili on 6 September 1999

(a) The attack on the residence

78. In the early morning of 6 September 1999, Bishop Belo telephoned the Kapolda **Timbul Silaen (3)** to ask him for help in protecting the refugees gathered in his compound and in evacuating the refugees from the compound. **Timbul Silaen (3)** advised Bishop Belo to contact the Danrem, Colonel Nur Muis, as POLRI could not help.
79. Bishop Belo then contacted Colonel Nur Muis. Again he asked for help in protecting the refugees and in evacuating them from the compound. Colonel Nur Muis advised Bishop Belo that he could not help the Bishop as he had no trucks available.
80. At some time in the mid morning on 6 September 1999, a TNI Lieutenant Colonel arrived at Bishop Belo's house in Dili with a military escort wanting to speak with the

Bishop. He stated that TNI were available to protect the Bishop and the residence. He said that if there were any problems, the Bishop should call them for assistance. The TNI officer left after about 15 minutes.

81. Shortly after the TNI officer left Bishop Belo's residence, an unidentified TNI officer outside the compound ordered the militia to attack the compound. The militia drove around the compound, fired at the compound and threw Molotov cocktails inside. The gunfire continued for about 5-10 minutes. The militia members then entered the compound through the front of side gates and over the walls firing their weapons and screaming at all the refugees to come out.
 82. **Marcelino [LNU] (7)** and **Caetano da Silva (8)** gave orders to the militia during the attack. **Caetano da Silva (8)** commanded between 20-30 armed militia from Bidau Santana. In all, more than a 100 Aitarak militia members participated in the attack.
 83. Members of TNI, POLRI and BRIMOB actively participated in the attack. Specifically, members of TNI and BRIMOB entered the compound firing automatic weapons, assaulting refugees and ordering them outside. Members of POLRI entered the compound and ordered the refugees out. One member of POLRI set Bishop Belo's house alight with a number of gerry-cans of petrol.
 84. The entire compound was destroyed during the attack.
 85. Liliana Trindade, a seven year old girl, was injured during the attack when a bullet ricocheted into her left eye, blinding her permanently in that eye.
 86. Sebastian da Silva Soares was chased by masked militia members towards the statue of the Virgin Mary outside Bishop Belo's compound. One of the militia members stabbed Sebastian da Silva Soares in the left side of his lower back and he fell to the ground and lost consciousness. When he regained consciousness, he was inside Bishop Belo's compound.
 87. At least one unidentified person is known to have died during the attack. Approximately fifteen (15) persons attended the Dili National Hospital in Bidau for treatment for injuries sustained in the attack on Bishop Belo's house. These injuries included gunshot wounds, lacerations and bruises.
- (b) **Evacuation of refugees from Bishop Belo's compound**
88. The refugees inside Bishop Belo's residence were forced by the militias outside and into the park (Taman Maria Bunda) at the front of the residence. There they were kept under armed guard by the militias, TNI and POLRI.
 89. The militias intimidated and harassed the refugees in the park by asking them whether they were independence or autonomy supporters and threatening them with weapons. The militia then forced the refugees to hand over motorcycle and car keys and drove their vehicles away.
 90. After the refugees had been evacuated from the compound, a TNI truck entered the compound. Sebastian da Silva Soares was loaded into that truck along with the corpse of an unidentified man who had been killed during the attack.

91. The militia and TNI then searched the premises of Bishop Belo's house for any refugees who were still hiding inside.
92. Whilst the refugees were gathered at the Taman Bunda Maria park, a POLRI vehicle arrived outside the compound. A POLRI officer spoke with militia and then spoke to Bishop Belo, telling him that he had been ordered to bring him to safety. Bishop Belo was then driven to Dili Police Headquarters.
93. When he arrived at the Dili Police Headquarters, Bishop Belo spoke to **Timbul Silaen (3)**. **Timbul Silaen (3)** told Bishop Belo that the police were forced to take the actions they had taken because whenever there was a problem the Timorese always sought shelter with the Church. Bishop Belo was then taken by police helicopter to Baucau.
94. One or two hours after the refugees had been forced to the Taman Bunda Maria park, the militia members, TNI, BRIMOB and POLRI ordered the refugees to move from the park to the beachfront where they continued to guard them.
95. Later in the afternoon, the refugees were ordered by the Aitarak militia members, POLRI and TNI to walk towards Dili harbour, from where boats would take them to Kupang, and to board trucks which would take them to POLDA headquarters in Comoro. Militia members threatened to kill any refugees who did not obey these commands.

F: Attack on the Canossian Convent in Dili on 6 September 1999

96. On 6 September 1999 there were over 100 refugees sheltering at the Canossian Convent, located immediately behind the house of Bishop Belo. There were also approximately nine Canossian Sisters inside the Convent.
97. At the same time as the attack on Bishop Belo's compound on 6 September 1999, Aitarak militia and TNI soldiers began to attack the Canossian Convent. They ordered all of the refugees sheltering inside the Convent outside and they destroyed much of the property inside the Convent.
98. Sister Clauthilde Freitas was assaulted with a rakitan in the back by an unidentified Aitarak militia member as she was leaving the Convent.
99. The refugees inside the Convent were ordered out onto the gardens outside Bishop Belo's house where they were guarded by the militia, TNI and POLRI.

G: Attack on the Red Cross Compound in Dili on 6 September 1999

100. By the morning of 6 September 1999 there were over 2,000 refugees seeking shelter at the Red Cross Compound which was located next to the house of Bishop Belo on Rua Avenida Marchal Carmona.
101. Red Cross officials requested police protection for the refugees inside the compound.
102. At approximately the same time as the attack on Bishop Belo's compound, Aitarak militia members armed with automatic weapons, rakitans and machetes attacked the Red Cross compound. Militia men entered the compound opening fire and forcing refugees and local and international staff of the Red Cross out of the compound.
103. During the course of the attack a number of people were seriously injured. At least one person died inside the compound. The compound was destroyed.

104. Following the attack, the eleven international staff of the Red Cross, along with international staff from several other humanitarian agencies, were separated from local persons and taken at gunpoint to the POLDA in Comoro.

H: Attack on Acacio Riberio in Dili on 6 September 1999

105. In the early morning of 6 September 1999, Acacio Riberio left Bishop Belo's residence with two friends to check on his house in Bidau Santana.
106. As Acacio Riberio came near the bridge over the Bidau Motaklaran river he saw a number of Aitarak militia members from Bidau Santana standing guard on the bridge.
107. As they passed by, the militia began to abuse them. As they got about 50 metres across the bridge, one of the militia members shot Acacio Riberio in the back. Acacio Riberio fell to the ground and lost consciousness. A short time later he was able to drag himself into the Red Cross compound to seek medical treatment.
108. Red Cross staff determined that Acacio Riberio required urgent medical treatment to remove the bullet in his back. However before Red Cross staff had time to operate on him, the militia attacked the Red Cross compound. Despite requiring urgent medical attention, Acacio Riberio was forced out of the Red Cross compound by militia into the gardens outside Bishop Belo's house.
109. In the morning of 7 September 1999, Acacio Riberio was taken by his younger brother to the Dili National Hospital in Bidau for medical treatment.
110. **Caetano da Silva (8)**, the Aitarak militia commander of Bidau Santana (Post 12) had command and control of the Aitarak militia members from Bidau Santana at the time of the attack on Acacio Riberio.

I: Deportation of refugees from East Timor

111. Between 5 and 9 September 1999 TNI, POLRI and the Aitarak militia led by **Eurico Guterres (1)** all actively assisted with the deportation of many thousands of refugees.
112. Refugees were forced from various locations around Dili, including the Dili Diocese, Bishop Belo's house, the Canossian Convent and the Red Cross compound, to TNI, POLRI and militia premises so that they could be registered and later deported into West Timor.
113. Whilst awaiting deportation, the refugees continued to be intimidated by members of the Aitarak militia who were present inside and outside the POLDA in Comoro threatening the refugees inside with violence if they did not travel to West Timor.
114. From 7-9 September 1999 many of the refugees were deported directly from the POLDA into West Timor by truck, mikrolet (minibus) or any other available vehicle. Other refugees were taken to Comoro airport and deported by Indonesian Air Force planes.
115. Other refugees were deported by boat from Dili harbour. TNI were in control of the harbour at the relevant time. Aitarak militia members also patrolled the harbour threatening civilians if they did not leave East Timor and searching for pro-independence supporters.

116. Other refugees were taken to the militia post and houses of militia members in Bidau Santana and Bidau Lecidere where they remained for a number of days until they were deported to West Timor.
117. In September 1999, Aitarak militia commander **Eurico Guterres (1)** was issuing 'Surat Jalan' or Travel Permits from the Aitarak militia headquarters at the Tropical Hotel to facilitate the travel of refugees to West Timor.
118. On 8 September 1999 Aitarak militia commander **Eurico Guterres (1)** himself led a convoy of refugees into West Timor.
119. During the month of September over 25,000 people were forcibly deported from Dili into West Timor during this period.

V: GENERAL ALLEGATIONS

120. The acts or omissions by the accused, described in this indictment, were undertaken as part of a widespread or systematic attack directed against the civilian population, with knowledge of the attack, and especially targeting those who were believed to be linked to or sympathetic with the independence cause in East Timor.

VI. CRIMINAL RESPONSIBILITY

(a) Individual Criminal Responsibility

121. **Eurico Guterres (1), Mateus de Cavalho (2), Adolfo Viera Liao (4), Captain Agus Suwarno (5), Antonio Ximenes Brito (6), Marcelino [LNU] (7), Caetano da Silva (8)** are individually responsible for the crimes charged in this indictment. Individual responsibility under Section 14 UNTAET Regulation 2000/15 arises if an accused:

"(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 purpose of the group, where such activity or purpose involves the commission of a crime within the jurisdiction of the panels; or*

(ii) *be made in the knowledge or the intention of the group to commit the crime; and*

...
 (f) *Attempts to commit such a crime by taking action that commences its execution by means of a substantial step, but the crime does not occur because of circumstances independent of the person's intentions. However, a person who abandons the effort to commit the crime shall not be liable for punishment under the present regulation for the attempt to commit that crime if that person completely and voluntarily gave up the criminal purpose.*

(b) Superior Criminal Responsibility

122. **Eurico Guterres (1), Matteus de Carvalho (2), Timbul Silaen (3), Marcelino [LNU] (7), and Caetano da Silva (8)** are charged with superior criminal responsibility in this indictment. They are responsible under Section 16 UNTAET Regulation 2000/15 for the acts of his or their subordinates if they:

“ . . . knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.”

VII: THE CHARGES:

A: For Crimes committed during the attack on the Dili Diocese on 5 September 1999

Count 1. Crimes Against Humanity: Persecution (Destruction of Property)

By their acts or omissions in relation to the events described in paragraphs 28-34 the accused **Eurico Guterres (1), Matteus de Carvalho (2), Timbul Silaen (3), Adolfo Viera Liao (4), Agus Suwarno (5)** and **Antonio Ximenes Brito (6)** are responsible as individuals or as superiors for the persecution of a civilian population by the destruction of property committed inside the Dili Diocese compound on 5 September 1999, which was committed as part of a widespread or systematic attack against a civilian population with knowledge of the attack, and thereby committed CRIMES AGAINST HUMANITY, PERSECUTION, pursuant to Section 5.1(h), 5.2(f) and Sections 14 and/or 16 of UNTAET Regulation 2000/15.

Count 2. Crimes Against Humanity: Other inhumane Acts

By their acts or omissions in relation to the events described in paragraphs 28 – 68 the accused **Eurico Guterres (1), Matteus de Carvalho (2), Timbul Silaen (3), Adolfo Viera Liao (4), and Agus Suwarno (5)** and **Antonio Ximenes Brito (6)** are responsible as individuals or as superiors for the inhumane acts committed against Thomas Belo, Tiago Kofi, Marito Mesquita, Mateus Cabral, Pedro Paulo Pires, Aires Braz da Costa, Cassiano Morrais, Joao Soares, Nelio Mesquita da Costa Rego, Mario Belo, Nonato Soares, Antonio Manuel de Sousa, Hilario Boavida, Alexandre Mesquita da Costa Rego, Helio Correia, Fransisco Boavida, Helder da Costa Silva, Hermenegildo Sarmiento, Vincente de Sousa, Elvis da Costa, Miguel Abilio and other unidentified persons, committed inside and outside the Dili Diocese compound on 5 September 1999, which was committed as part of a widespread or systematic attack against a civilian population with knowledge of the attack, and thereby committed CRIMES AGAINST HUMANITY, OTHER INHUMANE ACTS, pursuant to Section 5.1(k), and Sections 14 and/or 16 of UNTAET Regulation 2000/15.

Count 3. Crimes Against Humanity: Murder

By their acts or omissions in relation to the events described in paragraphs 69 and 77, the accused **Eurico Guterres (1)** and **Matteus de Carvalho (2)** are responsible as individuals or superiors for the murder of Cassiano Morais, Hilario Boavida, Lorencio Boavido, Jorge Mesquita da Costa Rego, Mario Belo, Thomas Belo, Tiago Kofi and Alexandre Mesquita da Costa Rego committed on or about 5 September 1999 in Dili, which was committed as part of a widespread or systematic attack against a civilian population with knowledge of the attack, and thereby committed CRIMES AGAINST HUMANITY, MURDER, pursuant to Section 5.1(a), and Section 14 and/or 16 of UNTAET Regulation 2000/15.

Count 4: Crimes Against Humanity: Murder

By their acts or omissions in relation to the events described in paragraph 70, **Eurico Guterres (1)** and **Matteus de Carvalho (2)** are responsible as individuals or superiors for the murder of Jose Fernando Nilton Da Costa committed on 5 September 1999 at the Dili Diocese which was committed as part of a widespread or systematic attack against a civilian population with knowledge of the attack, and thereby committed CRIMES AGAINST HUMANITY, MURDER pursuant to Section 5.1(a) and Section 14 and/or 16 of UNTAET Regulation 2000/15.

Count 5: Crimes Against Humanity: Enforced disappearance of persons

By their acts or omissions in relation to the events described in paragraphs 71 – 75 the accused **Eurico Guterres (1)** and **Matteus de Carvalho (2)** are responsible as individuals or as superiors for the enforced disappearance of Vergilio Fernanda Augusto da Costa, Marito Mesquita, Jose Martins de Sousa, Fransisco Boavido and Eugenio da Costa and Leonel da Silva de Oliveira, committed on 5 September 1999 at the Dili Diocese, which was committed as part of a widespread or systematic attack against a civilian population with knowledge of the attack, and thereby committed CRIMES AGAINST HUMANITY, ENFORCED DISAPPEARANCE OF PERSONS pursuant to Section 5.1(i), 5.2 (h), and Section 14 and/or 16 of UNTAET Regulation 2000/15.

B: For Crimes Committed during the Attack on Bishop Belo's Compound, the Canossian Convent and on the Red Cross Compound on 6 September 1999

Count 6. Crimes Against Humanity: Persecution (Destruction of Property)

By their acts or omissions in relation to the events described in paragraphs 78 – 104 the accused **Eurico Guterres (1)**, **Timbul Silaen (3)**, **Marcelino [LNU] (7)** and **Caetano da Silva (8)** are responsible as individuals or superiors for the persecution of a civilian population committed inside Bishop Belo's Compound, the Canossian Convent and the Red Cross Compound on 6 September 1999 as part of a widespread or systematic attack against a civilian population with knowledge of the attack, and thereby committed CRIMES AGAINST HUMANITY, PERSECUTION, pursuant to Section 5.1(h), 5.2 (f), and Sections 14 of UNTAET Regulation 2000/15.

Count 7. Crimes Against Humanity: Other inhumane Acts

By their acts or omissions in relation to the events described in paragraphs 81 – 87 and 98 the accused **Eurico Guterres (1)**, **Marcelino [LNU] (7)** and **Caetano da Silva (8)** are responsible

as individuals or superiors for inhumane acts committed against Liliana Trindade, Sebastian da Silva Soares, Sister Clauthilde Freitas, and other unidentified persons, committed inside and outside Bishop Belo's Compound the Canossian Convent and the Red Cross Compound, on or about 6 September 1999, which was committed as part of a widespread or systematic attack against a civilian population with knowledge of the attack, and thereby committed CRIMES AGAINST HUMANITY, OTHER INHUMANE ACTS, pursuant to Section 5.1(k), and Sections 14 and/or 16 of UNTAET Regulation 2000/15.

C: Attack on Acacio Riberio in Dili on 6 September 1999

Count 8. Crimes Against Humanity: Other inhumane Acts

By his acts or omissions in relation to the events described in paragraphs 105 to 110, the accused **Caetano da Silva (8)**, is responsible as individuals or superiors for the inhumane acts committed against Acácio Ribeiro on or about 6 September 1999 in Bidau Santana, which was committed as part of a widespread or systematic attack against a civilian population with knowledge of the attack, and thereby committed CRIMES AGAINST HUMANITY, OTHER INHUMANE ACTS, pursuant to Section 5.1(k), and Section 16 of UNTAET Regulation 2000/15.

D: Deportation of refugees from East Timor between 5-9 September 1999

Count 9. Crimes Against Humanity: Deportation or forcible transfer of population

By their acts or omissions in relation to the events described in paragraphs 52, 88, 94-95, 99, 104, 111 – 119 the accused **Eurico Guterres (1)**, **Mateus de Carvalho (2)**, **Timbul Silaen (3)**, **Marcelino [LNU] (7)** and **Caetano da Silva (8)**, are responsible as individuals or superiors for the deportation or forcible transfer of population from East Timor to West Timor committed between 5 to 9 September 1999 which was committed as part of a widespread or systematic attack against a civilian population with knowledge of the attack and thereby committed a CRIMES AGAINST HUMANITY, DEPORTATION AND FORCIBLE TRANSFER OR POPULATION pursuant to Section 5.1(d), 5.2 (c) and Section 14 and/or 16 of UNTAET Regulation 2000/15.

VIII. VICTIMS

The list of victims and the list of evidence, which form part of this indictment are attached as Annex "A" and Annex "B" respectively.

IX. REQUEST FOR TRIAL

The Deputy General Prosecutor of Serious Crimes hereby requests the Special Panel for Serious Crimes of the District Court of Dili to assume jurisdiction and try this case expeditiously.

Dated: April 21, 2005

A handwritten signature in black ink, appearing to read 'Defaria', with a long horizontal flourish extending to the right.

Carl Defaria
Deputy General Prosecutor for Serious Crimes