



REPÚBLICA DEMOCRÁTICA DE TIMOR-LESTE

DILI DISTRICT COURT

THE SPECIAL PANELS FOR SERIOUS CRIMES

CASE NO. 05/2003

**WARRANT OF ARREST
FOR
WIRANTO**

*TO THE PROSECUTOR-GENERAL OF THE DEMOCRATIC
REPUBLIC OF TIMOR-LESTE, and*

TO THE GOVERNMENTS OF ALL STATES:

**THIS WARRANT AUTHORIZES
THE ARREST OF THE DEFENDANT WIRANTO FOR:**

- 1. CRIME AGAINST HUMANITY – MURDER**
- 2. CRIME AGAINST HUMANITY – DEPORTATION OR
FORCIBLE TRANSFER OF POPULATION**
- 3. CRIME AGAINST HUMANITY – PERSECUTION**

I. Identification of the defendant as required by Section 19A.2(a) of UNTAET Regulation No. 2001/25

Name: Wiranto
Born: Yogyakarta, Indonesia
Date: 4 April 1947
Sex: Male
Nationality: Indonesian
Occupation: Retired from the Armed Forces of Indonesia; Former General of the *Tentara Nasional Indonesia* (TNI); Former Commander of the Armed Forces of Indonesia; Former Indonesian Minister of Defense and Security.

II. Jurisdiction of the Special Panels for Serious Crimes

The Special Panels for Serious Crimes were established to ensure the existence of a forum where those responsible for the acts of violence in East Timor in 1999 can be brought to justice. See Section 10.3 of UNTAET Regulation No. 2000/11 and Section 1.1 of UNTAET Regulation No. 2000/15.

The Special Panels exercise jurisdiction with respect to the following serious criminal offenses: genocide, war crimes, crimes against humanity, murder, sexual offences and torture See Section 10.1 of UNTAET Regulation No. 2000/11 and Section 1.3 of UNTAET Regulation No. 2000/15,

With respect to crimes against humanity, with which the defendant **Wiranto** has been charged, the Special Panels have universal jurisdiction pursuant to Section 2.1 of UNTAET Regulation No. 2000/15.

All UNTAET Regulations pertinent to the jurisdiction of the Special Panels and the issuance of this Warrant of Arrest continue in force as provided in Article 2, Sec. 3(c) of Law No. 10/2003 (10 December 2003) of the Democratic Republic of Timor-Leste.

III. Summary of the facts alleged to constitute a crime as required by Section 19A.2(c) of UNTAET Regulation No. 2001/25

The Deputy General Prosecutor has supported the charges against the defendant **Wiranto** with evidence contained in 21 volumes of documentation arranged in 39 binders amounting to over 15,000 pages and including statements from over 1500 witnesses.

As required by Section 19A.2(c) of UNTAET Regulation No. 2001/25 the evidence presented by the Prosecutor is summarized as follows:

Background

On 5 May 1999 the governments of Indonesia and Portugal and the United Nations agreed upon a process to conduct a popular consultation in which the people of East Timor could decide whether or not to accept autonomy within the Republic of Indonesia.

The popular consultation was held on 30 August 1999. A total of 78.5% of those participating in the referendum supported independence and rejected autonomy.

A. Chain of Command

Summary

At all times relevant to the charges, **Wiranto** held the positions of Commander of the Armed Forces (ABRI, later TNI) and Minister of Defense and Security of the Republic of Indonesia. In that capacity he was the highest officer in the chain of command for all military and police forces throughout Indonesia, including the region of East Timor. The military forces included the army, navy and air force. The chief of staff of each of those branches reported directly to the defendant **Wiranto** as Commander of the Armed Forces.

Wiranto had command authority over all Indonesian uniformed personnel which was vested in him as a matter of law and which he exercised in fact. As the highest officer in Indonesia he exercised his authority both directly and through his subordinate officers. Similarly, **Wiranto** had command authority with respect to the militia over which he had effective control in fact.

Military Forces

Wiranto exercised his command authority in East Timor directly and through others. In large part he operated through Major General Zacky Anwar Makarim, who was in charge of the Special Team/Adjutant General's Task Force, a military authority established by **Wiranto** in March, 1999. Makarim was also a leading member of the Task Force to Oversee the Popular Consultation in East Timor. In July, 1999, **Wiranto** told Ian Martin, the Special Representative of the Secretary General for the United Nations Mission in East Timor (UNAMET), that Makarim was his "personal representative" in East Timor. Moreover, he stated that Makarim sent him reports every day from East Timor and that they had become his daily "breakfast."

Wiranto also exercised his command authority over the military through Major General Adam Rachmat Damiri, head of TNI Regional Command IX, which included East Timor and other sections of Indonesia. Damiri's headquarters were located in Denpasar, Bali.

Wiranto also exercised his command authority through Colonel Suhartono Suratman, head of TNI Sub-Regional Command 164, which consisted solely of East Timor. Suratman's headquarters were in Dili, East Timor. At a point, Suratman was replaced by Colonel Mohammad Noer Muis who similarly answered to **Wiranto**. Also operating in East Timor at this time as a subordinate of **Wiranto** was Lieutenant Colonel Yayat Sudrajat, Commander of the Intelligence Task Force in East Timor.

Wiranto's exercise of his command authority was even more pronounced as of 7 September 1999 when martial law was declared in East Timor. This action followed the announcement of the results of the Popular Consultation and **Wiranto's** visit to East Timor on 5 September. **Wiranto** established the Martial Law Operations Command and appointed Major General Kiki Syahnakri as its commander.

During the period 1998 to 1999, approximately 18,000 TNI soldiers were stationed in East Timor and were subject to the TNI command structure.

Makarim, Damiri, Suratman, Muis, Sudrajat and Syahnakri are all named as defendants in the same indictment as **Wiranto**.

Police Force

Wiranto also exercised command authority over the Indonesian police force (POLRI), which was present in East Timor and responsible for

maintaining law and order. The regional police chief in East Timor was Colonel Timbul Silaen who reported to **Wiranto**. His headquarters were in Dili.

POLRI was part of the army until 1 April 1999 when the two institutions were separated. Nonetheless, even after that date, both the army and the police remained directly under **Wiranto's** authority as Minister of Defense and Security. Although they maintained separated command structures, in practice, POLRI forces in East Timor were often dominated by the TNI.

With reference to both the regional police chief and the regional military commander, **Wiranto** testified before the Ad Hoc Tribunal in Jakarta that they "were chosen from the best people in the police and the army and they carried out the directives I had outlined."

At the time of the Popular Consultation in August 1999, there were over 6000 police officers stationed in East Timor, a large portion of which was organized into an elite paramilitary unit called the Mobile Brigade (BRIMOB).

Militia Groups

The third force over which **Wiranto** exercised command authority was the pro-autonomy militia that was in large part recruited, organized, funded, trained, armed and directed by the armed forces under his command. **Wiranto** thus had effective control over the militia whose purpose was to intimidate the population of East Timor to support the autonomy option at the popular consultation and, later, to prevent the implementation of the results in which almost 80% of the voters rejected autonomy and decided for independence.

The military and the police not only failed to prevent or stop the criminal actions of the various militia, but they planned, participated and assisted in the violence perpetrated by such groups. In some districts, TNI officers were appointed by their commanders to lead militia groups and in other districts, TNI commanders directly gave orders and support to militia groups.

Militia leaders routinely traveled to Jakarta where they met with **Wiranto** and with high-ranking military leaders who worked directly under his control. On one occasion, **Wiranto** urged visiting leaders of various militia groups to unite in a common front and gave each of the Timorese large sums of cash. He also told them that Indonesia would never

abandon East Timor regardless of the result of the referendum. Moreover, he said that the TNI would never leave East Timor.

Makarim and Damiri also conducted meetings with militia leaders in Jakarta and Bali for the purpose of encouraging them to conduct military operations against pro-independence supporters in East Timor. Moreover, they provided militia leaders with money and guns for that purpose. On one occasion militia leaders entering a meeting with **Wiranto** were met at the entrance by General Makarim who promised to supply them machine guns. On another occasion, Syahnakri met with militia leaders in Jakarta and confirmed that firearms for the militia had been sent to East Timor where Suratman would arrange for their distribution.

At different points, both Makarim and Suratman also met with militia leaders in East Timor concerning the possibility of a pro-independence vote in the Popular Consultation. At one meeting, Makarim stated that, if the pro-independence forces prevailed at the ballot box, the militia would be used to create disruption throughout East Timor. Similarly, Suratman met with pro-autonomy leaders and urged that they form a militia group, promising any form of assistance that they required. At a later point, he told a joint meeting of TNI and the militia that, if the voters rejected autonomy, a scorched earth policy would be pursued so that an independent East Timor would have to start with nothing.

Militia leaders had extensive contact with military leaders inside East Timor where the command structure of the armed forces was significantly involved in arming and supporting the pro-autonomy militia. Damiri traveled to Dili on numerous occasions to encourage and advance the activities of the pro-autonomy militia. Suratman, as military commander for East Timor similarly encouraged and supported militia groups.

As head of military intelligence in East Timor, Sudrajat met with TNI and militia personnel and stated that the Intelligence Task Force had a list of pro-independence supporters that were to be killed. He further stated that military intelligence officers would wear civilian clothes and cooperate with the militia to see that the executions were carried out.

At a point, Sudrajat and a TNI contingent delivered a large quantity of firearms to a militia leader for use against pro-independence supporters. Sudrajat later arranged for additional deliveries of firearms at the direction of Suratman who had been told by Makarim to see that automatic firearms were provided to the militia.

On one occasion, following a dinner in Dili hosted by **Wiranto** for pro-autonomy militia leaders, Makarim promised one of the militia leaders to supply him with guns. Makarim made the statement in the presence of Sudrajat and Suratman. On another occasion, **Wiranto** had a closed-door meeting in the VIP area of Comoro airport in Dili with the leaders of all the major pro-autonomy militia groups in East Timor.

Although TNI and police authorities consistently claimed that militia violence could not be controlled, UN observers in East Timor noted that militia violence could be “turned on and off like a tap” depending on the interests of the military. Thus, when a UN Security Council delegation visited Dili to investigate reports of militia and TNI violence, the continuous shooting and burning that had prevailed was virtually suspended for the visit, only to resume following the delegation’s departure.

The extent of **Wiranto’s** control over the militia directly and through his subordinates was summarized in another statement he made to Ian Martin during their meeting in July, 1999. **Wiranto** told Martin that if the independence forces would surrender their weapons to the Indonesian police, he could “guarantee” that the militia would be disarmed within two days.

B. Criminal Acts

Summary

During 1999, there was a widespread or systematic attack against the civilian population of East Timor by the armed forces of Indonesia in collaboration with various pro-autonomy militia groups. The attack included numerous acts of murder, deportation or forcible transfer of population and persecution of those believed to be pro-independence. Initially, the purpose of the attack was to intimidate and coerce the civilian population to support autonomy within the Republic of Indonesia during the Popular Consultation. After approximately 80% of the voters rejected autonomy and chose independence for East Timor, the attacks continued for the purpose of disrupting the implementation of the results.

1. Murder

In the course of the continuing widespread or systematic attack on the population, Indonesian armed forces and local pro-autonomy militia groups murdered at least 1400 civilians. The victims of these murders

were primarily persons believed to be supporters of independence for East Timor. The killings involved both shootings and other forms of murder, including stabbings, slashings, beheadings and hacking victims to death. The murders were often performed after the victim had been tortured, mutilated, raped or brutalized in some other manner.

The widespread or systematic attack included, but was not limited to, the following attacks on the civilian population:

(a) Bobonaro District

Cailaco

Over a three-day period in April 1999, the TNI and pro-integration militia members conducted a joint operation in which at least 13 civilians were killed in the sub-district of Cailaco. The contingent was led by the TNI Military Commander for the Bobonaro District. The TNI District Intelligence Commander participated in the shooting of a pro-independence supporter.

Maliana

Over a three-day period in September 1999, the TNI and pro-autonomy militia members conducted joint operations in the Maliana area, killing at least 32 civilians. TNI officers and intelligence personnel lead TNI soldiers and militia members in a campaign to round up independence supporters and hold them at the Maliana Police Station. Later, TNI soldiers and militia members attacked the unarmed civilians sheltered at the station, killing 13. The armed members of the Police Mobile Brigade (BRIMOB) did not interfere, but rather prevented any civilians from escaping.

It was later discovered that a number of persons had escaped the police station and a combined group of soldiers and militia, lead by a TNI sergeant, was sent out to locate them. The civilians were found hiding in the countryside and a least 13 of them were killed. Another 6 civilians were shot by TNI and militia patrols during the same period.

(b) Cova Lima District

Over the course of four months, numerous civilians were killed in a variety of operations involving both TNI soldiers and militia members. The most significant event occurred at the Ave Maria Church in Suai

where numerous people had sought refuge from the violence perpetrated by TNI soldiers and the local militia. One of the priests went to POLRI headquarters in Suai and informed Lt. Col. Gatot Subiaktoro of the situation and requested assistance. Subiaktoro promised to arrange for security, but none was ever provided. Instead, TNI soldiers, including the District Administrator in TNI uniform, and members of the militia surrounded the church compound. The group attacked the compound, killing up to 200 people, including 3 priests. Some of the bodies were set on fire before they were all loaded onto trucks and driven away. Much later, 27 victims of the massacre were recovered from mass graves in West Timor. Many of the bodies have still not been found.

(c) Dili District

Dili Rally

On 17 April 1999, militia leaders conducted a major pro-autonomy rally in Dili in conjunction with the Indonesian civil authorities and representatives of the TNI and POLRI. Makarim, Suratman and Silaen attended the rally. Those in attendance were urged by the main speaker for the militia to capture those opposed to autonomy and to shoot them if they resisted. After the rally TNI soldiers and militia members attacked the home of Manuel Carrascalao where over 100 civilians were seeking refuge. At least 12 of these were killed and the home was destroyed. Carrascalao, whose son was killed in the attack, went to General Suratman and asked him to intervene. Suratman laughed at Carrascalao and suggested he ask the local pro-independence group for help. On the same day numerous other civilians were attacked or killed in Dili and there was extensive destruction of property.

Dili Diocese and Bishop's Residence

On 5 September 1999, Bishop Carlos Ximenes Belo met **Wiranto**, Makarim, Damiri, Muis and Syahnakri in Dili. He asked **Wiranto** to control the militia and to restore peace. **Wiranto** responded by turning to Colonel Nuis and, in Belo's presence, telling him to deal with the militias and to return the situation to normal.

Later the same day, TNI soldiers and militia attacked the Dili Diocese compound along with the people seeking refuge there. The police stationed outside the compound did nothing to prevent the attack. Numerous people were killed or beaten and a large number were

forced onto trucks and driven away. Their dead bodies were later found in Tasi Tolu, near Dili.

The next day, Bishop Belo called Muis and asked the TNI to protect the civilians at his compound. He also asked Muis to help evacuate those he was sheltering in order to protect them. Muis refused, stating that he had no vehicles available. Later that day TNI soldiers from Muis's command and militia again attacked the Bishop's compound, setting fire to Bishop Belo's home. More people were killed and others were assaulted. TNI soldiers and militia ordered the remaining civilians to go to Dili harbor where they would be shipped to West Timor. They threatened to kill those who did not comply.

(d) Lautem District

A local militia group, which had received TNI support, conducted a number of operations in which civilians believed to be independence supporters were threatened or killed. In April 1999 a joint operation with TNI intelligence officers resulted in the beating, mutilation and killing of several independence supporters. The same militia group operated roadblocks throughout the district in order to intercept civilians believed to be independence supporters. In one case they stopped a vehicle near Vaukuco and killed all the occupants, including five members of the clergy, two of which were nuns. One of the nuns was killed while kneeling and praying by the roadside.

(e) Liquica District

Militias that were organized, armed and controlled by the TNI converged on the village of Liquica where they killed a number of civilians believed to be pro-independence. In one instance, a large number of civilians gathered in the Liquica church compound seeking refuge from both the militia and the TNI elements working with them. TNI soldiers, militia members, police officers and BRIMOB officers then surrounded the compound. At a point, BRIMOB officers opened fire on the church and the militia attacked the compound. Tear gas was thrown into the priest's residence, causing the refugees inside to flee. As men, women and children fled the compound, both TNI soldiers and militia members fired on the crowd, killing many of them. Later, TNI soldiers, police and militia loaded dozens of bodies onto trucks, dumping some of the bodies in a lake and burying others in unmarked graves, many of which have still not been found.

In numerous other cases in Liquica District, civilians presumed to be pro-independence were abducted and killed by TNI soldiers, police officers and militia working alone or in combination.

(f) Oecussi District

On numerous occasions in September and October 1999, TNI soldiers and pro-autonomy militia members conducted joint operations in Oecussi District. They attacked the villages of Nibin, Kiobiselo, and Tumin in Passabe sub-district where they burned houses, killed livestock and attacked inhabitants believed to be independence supporters. In Nibin they killed the village chief; in Kiobiselo they killed 8 men; and in Tubin they killed 9 men. From those villages they abducted a large number of residents and forced them to go to West Timor. All the young men were tied together in pairs and later force marched back to Nifu Panief in Oecussi. There the TNI soldiers and militia members killed 47 men and later forced local residents to dig graves and bury the victims.

In October 1999, TNI soldiers and local militia captured a large number of civilians hiding in the Betunes mountains. They marched them to the market place at Makelab where they were detained. Six independence supporters were ordered to stand up and they were shot and killed, one by one. The remaining villagers were forced by the TNI soldiers and the militia to go by truck to West Timor.

(g) Battalion 745

In 1999, TNI Battalion 745 was headquartered at Fuiloro Village in Lautem District. In July 1999 the Commander of the Battalion ordered the East Timorese soldiers in the battalion to tell the local civilians that they should oppose independence because the TNI would never leave East Timor. He also told them to tell the population that those who voted for independence would be killed.

Following the Popular Consultation, TNI soldiers from Battalion 745 killed a succession of independence supporters between 8 September and 21 September. Most were later found in graves close to the base of Battalion 745. On 20 September Battalion 745, led by the Battalion Commander, left the base in a 60-vehicle convoy headed to West Timor by the coast road passing through Dili. As the convoy encountered local residents along the way they shot and killed many of them. In Lautem village they killed 3, near Buile village they killed 1, near Buruma village they killed 2, in Caibada village they killed 2,

in Becora village they killed 1. In Becora TNI soldiers from Battalion 745 also shot and killed Dutch journalist Sander Robert Thoenes who was riding away from the convoy on a motorbike. In all, they killed over 20 people.

When the group from Battalion 745 arrived at the headquarters of the military command in Dili, General Muis addressed the soldiers in the convoy and told them never to tell anyone about what they had done on the way to Dili, not even their wives.

2. Deportation or Forcible Transfer of Population

Between the announcement of the result of the popular consultation on September 4, 1999 and October 25, 1999 TNI soldiers and militia forcibly transferred approximately 200,000 civilians to West Timor. The forcible transfers were part of the widespread or systematic attack directed against the civilian population of East Timor. Its purpose was to give the impression of popular dissatisfaction with the results of the referendum and to prevent implementation of the results.

As part of the forcible transfers TNI soldiers and militia intentionally created an atmosphere of fear and oppression through threats, the use of force and acts of violence. Both TNI soldiers and militia told the civilian population that they would be killed if they did not leave their homes and go to West Timor and TNI soldiers and militia physically attacked civilians who expressed a reluctance to leave. In many places, the threats were accompanied by a campaign to destroy property, including homes, farms, livestock, businesses, cultural monuments and religious sites.

TNI facilities were used as collection points to gather and register civilians before transfer to West Timor. The TNI used its own and civilian vehicles to transport large numbers of the population from East Timor to West Timor. They also used Indonesian Navy ships to transfer civilians from the seaports of Com, Laga, Dili, Liquica, Beacu and Betano to West Timor and to other parts of Indonesia. TNI also used military aircraft and chartered commercial aircraft to take civilians from the airports at Comoro and Baucau. In addition, many civilians were forced to cross the border to West Timor on foot or in private vehicles.

The means by which civilians were forcibly transferred to West Timor varied between the districts of East Timor. However in every district the forcible transfer was brought about by the cooperation of TNI and

militia groups. Forced deportation took place in the Districts of Aileu, Ainaro, Baucau, Bobonaro, Cova Lima, Dili, Lautem, Liquica, Manatuto, Manuhafi, Oecussi and Viqueque.

3. Persecution

As a part of the widespread or systematic attack against the civilian population, TNI soldiers, police and militia embarked on an organized campaign of violence against those perceived to be supporters of independence. These actions amounted to persecution against an identifiable group on political grounds and amounted to an intentional and severe deprivation of fundamental rights contrary to international law.

This campaign of persecution against those considered to be supporters of independence was perpetrated, executed and carried out by the following means:

- a. Murder and serious injury or harm to those perceived to be supporters of independence, including men, women, children, the elderly, the infirm and members of the clergy;
- b. Unlawful abductions, arrests and detentions;
- c. Physical assaults and threats of such assaults;
- d. Torture, rape and sexual violence;
- e. Attacks against towns and villages and coercion, intimidation and the use of terror against civilians to force them to flee their homes and to move to other locations;
- f. Extensive destruction of property, including government buildings, schools, civilian dwellings, personal property and livestock; and
- g. Destruction of religious buildings and sites.

C. Criminal Responsibility

Summary

Section 16 of UNTAET Regulation 2000/15 states that a superior is responsible for the criminal acts of his subordinates if he “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 perpetrator thereof.”

The Deputy General Prosecutor asserts that **Wiranto** knew or had reason to know that his subordinates and those under his control in the military, police and militia had committed the underlying offenses or were about to do so. Moreover the Prosecutor contends that Wiranto failed to take necessary and reasonable measures to prevent such crimes or to punish the perpetrators of them.

The defendant **Wiranto** frequently visited East Timor where he had the opportunity to view conditions firsthand. Moreover, those who were under **Wiranto's** immediate authority directly and routinely informed him of the ongoing situation. In the case of General Anwar Makarim, **Wiranto** was kept informed on a daily basis. Many of those who reported to **Wiranto** were themselves implicated in criminal acts against the civilian population. Thus, they were in a position to know of conditions in East Timor not only because of their position in the chain of command, but also because of their own involvement.

Furthermore, the Prosecutor states, the notion that the entire command structure of the armed forces in East Timor, including **Wiranto's** personal representative, concealed¹ from him the true nature of military, police and militia activities occurring under his command or prevented him from dealing with the situation is inconsistent with **Wiranto's** position as supreme commander of all armed forces in East Timor as well as with **Wiranto's** assertive manner in exercising his authority.

Finally, the Prosecutor claims, despite knowing or having reason to know that his subordinates were about to commit criminal acts or had already done so, **Wiranto** failed to take any necessary and reasonable measures to prevent such acts or to punish those who had committed them.

Consequently, the Prosecutor asserts, in the words of the “Report of the Indonesian Commission on Human Rights Violations in East Timor,” (January 2000): “Armed Forces General Wiranto as Armed Forces Commander is the party that must be asked to bear responsibility.”

Knew or had reason to know

During 1999 **Wiranto** made frequent trips to East Timor, which he visited at least five times. During those visits he had the opportunity to

see the widespread destruction and devastation that was occurring. He also met with East Timorese community leaders, members of the press and officials representing the international community, including Military Liaison Officers and other officials UNAMET.

At these meetings he was repeatedly informed of acts of violence and other crimes being perpetrated by TNI and militia groups in East Timor. In these meetings requests were made that he control the TNI and militia groups that were committing these crimes. Such requests were repeatedly made to him by numerous individuals, including Ian Martin, Special Representative of the Secretary General, and Bishop Belo.

When **Wiranto** visited East Timor he also had direct contact with leaders of pro-autonomy militia groups and was aware of their intentions. On one such occasion following the announcement of the referendum results, a senior leader of the militias told **Wiranto** that the members of the militia did not accept the results and were ready to fight. **Wiranto** told him that if the Timorese wished to engage in violence among themselves, it was "up to you."

Even when **Wiranto** was outside East Timor, he was kept informed on a daily basis concerning events in the region. When he testified at the trial of Timbul Silaen before the Ad Hoc Tribunal in Jakarta, **Wiranto** admitted that he received extensive reports from East Timor concerning the mounting violence. In addition to the daily reports provided by Makarim, **Wiranto** received frequent written and telephone reports from the regional military commander, Damiri, the sub-regional military commander, Suratman, and the regional police chief, Silaen.

Similarly, UN officials such as Martin and other international representatives frequently visited **Wiranto** in Jakarta and reported to him concerning conditions in East Timor and the involvement of the armed forces in the deteriorating situation. These visits included extensive written briefings and Martin directly provided **Wiranto** with reports concerning TNI involvement in the attacks against civilians in Maliana and Liquica. Additionally, Martin told **Wiranto** that the TNI District Command had been directly involved in planning the attack on the UNAMET office in Maliana. As summarized by Martin, "General **Wiranto** made no attempt to refute the points I had made alleging TNI involvement with the militia."

Not only was information concerning the continuing violence supplied directly to **Wiranto**, but it was provided to those immediately below him in the chain of command. Thus Ian Martin and other UNAMET officials

routinely met with Damiri and Suratman to raise the issue of TNI personnel providing direction and support to the militias and to ask that action be taken against them. Both promised to look into the issue. On another occasion, Anwar told Martin that the TNI would restrain the militias, which never occurred.

Finally, the Prosecutor states that the violence against the population of East Timor was so widespread and systematic as to draw international attention. Throughout 1999 the situation in the region was the subject of worldwide media reports and diplomatic activity of which the defendant Wiranto would have been well aware in his position as the supreme Commander of the Indonesian Armed Forces and Minister of Defense and Security.

Consequently, the Prosecutor asserts that the accused knew or had reason to know of the involvement of the Indonesian military forces, police and the pro-autonomy militia in the many crimes committed against the civilian population of East Timor.

Failure to prevent criminal acts or to punish the perpetrators

During 1999 **Wiranto** failed to take necessary and reasonable measures to prevent the crimes being committed by his subordinates and he failed to punish the perpetrators of those crimes.

As supreme commander of all Indonesian armed forces in East Timor and having effective control over the militia, **Wiranto** was in a position to prevent the criminal violence against the civilian population. At the very least, he was in a position to punish such actions once they occurred. Failure to do so amounted to not only a failure to exercise his responsibility as a commanding officer, but it was inconsistent with his usually assertive manner in exercising his authority.

Although some officers in his command were reassigned, such actions were portrayed as a routine rotation of assignments. Moreover, such movement of personnel constituted neither punishment for those responsible nor a means for preventing future crimes.

When he testified before the Ad Hoc Tribunal during the trial of Timbul Silaen, **Wiranto** stated that only one or two TNI soldiers or POLRI officers had violated their duties and it was the responsibility of their local commander to remove them. Moreover, **Wiranto** failed to prevent such criminal acts or to punish the perpetrators.

The Prosecutor contends that the participation of the Indonesian military and police in the violence against the civilian population was pervasive and did not merely involve the actions of rogue elements in the armed forces.

IV. Identification of alleged victims as required by Section 19A.2(b) of UNTAET Regulation No. 2001/25

The alleged victims of a defendant's criminal acts must be identified in an arrest warrant that is issued in accordance with Section 19A.2(b) of UNTAET Regulation No. 2001/25. Accordingly, the names of the alleged victims in Indictment No. 05/2003 are contained in Annex A, which is attached hereto.

Pursuant to Section 24.1 of UNTAET Regulation No. 2000/15 and Section 35.1 of UNTAET Regulation No. 2001/25, Annex A is ordered sealed for the safety and well-being of victims and witnesses in the present matter pending further order of the Court, except that a copy of Annex A shall be provided to the defendant upon service of this Warrant.

V. Reference to the crimes for which arrest is sought as required by Section 19A.2(c) of UNTAET Regulation No. 2001/25

The Prosecutor charges the defendant with criminal responsibility for three offences in Indictment No. 05/2003, as follows:

First

“The murder of hundreds of East Timorese civilians as part of a widespread or systematic attack directed against a civilian population with knowledge of the attack, a Crime Against Humanity - Murder, a crime stipulated under Section 5.1(a) UNTAET Regulation 2000/15.”

Second

“The deportation or forcible transfer of the population of East Timor as part of a widespread or systematic attack directed against a civilian population with knowledge of the attack, a Crime Against Humanity - Deportation or Forcible Transfer of Population, a crime stipulated under Section 5.1(d) UNTAET Regulation 2000/15.”

Third

“The persecution of an identifiable group within East Timor as part of a widespread or systematic attack directed against a civilian population with knowledge of the attack, a Crime Against Humanity - Persecution, a crime stipulated under Section 5.1(h) of UNTAET Regulation 2000/15.”

VI. Judicial Findings

Pursuant to Section 19A.1 of UNTAET Regulation 2001/25, a determination must be made that the evidence presents a reasonable basis for the issuance of an arrest warrant. Accordingly, the Court makes the following findings:

A. There are reasonable grounds to believe that:

- (1) in 1999 there was a widespread and systematic attack against the civilian population of East Timor by Indonesian military forces and police in collaboration with various pro-autonomy militia groups;
- (2) in the course of the continuing widespread and systematic attack against the civilian population of East Timor, the Indonesian military forces and police in collaboration with various pro-autonomy militia groups committed acts of murder, deportation or forcible transfer of population and persecution; and
- (3) the criminal acts of the Indonesian military forces and police in collaboration with various pro-autonomy militia groups were committed with knowledge of the widespread or systematic attack against the civilian population of East Timor.

B. There are also reasonable grounds to believe that:

- (1) the defendant **Wiranto** had command authority over all Indonesian military forces and police in East Timor, which was vested in him as a matter of law and which he exercised in fact.
- (2) the defendant **Wiranto** had command authority with respect to the pro-autonomy militia, over which he had effective control in fact; and

(3) although he knew or had reason to know of the ongoing criminal violence in East Timor and the involvement of the military forces, the police and the pro-autonomy militia in such criminal activities, the defendant **Wiranto** failed to take necessary and reasonable measures either

(a) to prevent the commission of crimes by those over whom he had command authority, or

(b) to punish the perpetrators of those crimes.

C. Consequently, there are reasonable grounds to believe that the defendant **Wiranto**, as a superior officer, bears command responsibility for the criminal actions of the military forces, police and pro-autonomy militia under his authority, including the following crimes alleged in the charges against him, to wit:

(1) Crime Against Humanity – Murder

(2) Crime Against Humanity – Deportation or Forcible Transfer of Population

(3) Crime Against Humanity – Persecution

VII. Issuance of the Arrest Warrant

Although the indictment filed by the Prosecutor charges the defendant **Wiranto** with serious offences, “[n]o trial of a person shall be held *in absentia*,” as stated in Section 5.1 of UNTAET Regulation 20001/25.

It is therefore in the interest of justice that the defendant **Wiranto** be brought before this Court to require that the prosecution prove its case and to permit the defendant to answer the charges against him.

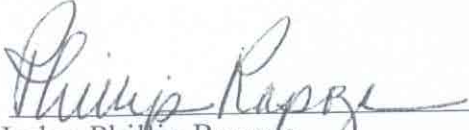
Accordingly:

This warrant authorizes the arrest of the above-named **Wiranto** for:

1. Crime Against Humanity – Murder

2. Crime Against Humanity – Deportation or Forcible Transfer of Population

3. Crime Against Humanity – Persecution


Judge Philip Rapoza
Special Panels for Serious Crimes

Date: 10 May 2004