

EMENDED
INDICTMENT

237



United Nations Nations Unies
United Nations Transitional Administration in East Timor

CASE NO:

THE GENERAL PROSECUTOR OF THE UNITED NATIONS TRANSITIONAL
ADMINISTRATION IN EAST TIMOR

AGAINST

JONI MARQUES
MANUEL DA COSTA
JOAO DA COSTA alias LEMORAI
PAULO DA COSTA
AMELIO DA COSTA
HILARIO DA SILVA
GONSALO DOS SANTOS
ALARICO FERNANDES
MAUTERSA MONIS
GILBERTO FERNANDES
SYAFUL ANWAR

A.**AMENDED INDICTMENT**

The General Prosecutor for East Timor, pursuant to his authority under UNTAET Regulations 2000/15 and 2000/16 charges:

**JONI MARQUES
 MANUEL DA COSTA
 JOAO DA COSTA alias LEMORAI
 PAULO DA COSTA
 AMELIO DA COSTA
 HILARIO DA SILVA
 GONSALO DOS SANTOS
 ALARICO FERNANDES
 MAUTERSA MONIS
 GILBERTO FERNANDES
 SYAFUL ANWAR**

with **CRIMES AGAINST HUMANITY** as set forth in this Indictment.

B.**NAME AND PARTICULARS OF THE ACCUSED****01.**

Name : Joni Marques
 Date of Birth/Age : 15 June 1964
 Place of Birth : Luturula Sub Village, Leuro Village, Los Palos Sub District,
 Lautem District
 Nationality : East Timorese
 Location : Detained since 31 October 1999.
 Function : Commander of Team Alpha (*Tim Alfa*) Militia, 1994 to 1996.
 Member of the Special Forces Command of the Indonesian
 Armed Forces (KOPASSUS).

02.

Name : Manuel da Costa
 Date of Birth/Age : 7 May 1950
 Place of Birth : Maupite Sub Village, Maupite Village, Los Palos Sub District,
 Lautem District
 Nationality : East Timorese
 Location : Detained since 31 October 1999.
 Function : Platoon Commander, Team Alfa

03.

Name : Joao da Costa, *alias* Lemorai
 Date of Birth/Age : 5 September 1972
 Place of Birth : Adawari Sub Village, Serelau Village, Lautem Sub District,
 Lautem District
 Nationality : East Timorese
 Location : Detained since 31 October 1999.
 Function : Member, Team Alfa Militia

04.

Name : Paulo da Costa
 Date of Birth/Age : 5 May 1972
 Place of Birth : Soro Kecil Sub Village, Leuro Village, Los Palos Sub District,
 Lautem District
 Nationality : East Timorese
 Location : Detained since 21 October 1999.
 Function : Associated with Team Alfa Militia

05.

Name : Amelio da Costa
 Date of Birth/Age : 9 June 1978
 Place of Birth : Soro Kecil Sub Village, Leuro Village, Los Palos Sub District,
 Lautem District
 Nationality : East Timorese
 Location : Detained since 5 October 1999
 Function : Member of Pengamanan Swakarsa (*PAM swakarsa*)
 (Self-initiated security group), Associated with Team Alfa.

06.

Name : Hilario da Silva
 Date of Birth/Age : 1970 (30 years).
 Place of Birth : Soro Kecil Sub Village, Leuro Village, Los Palos Sub District,
 Lautem District
 Nationality : East Timores
 Location : Detained since 5 August 2000
 Function : Associated with Team Alfa Militia

07.

Name : Gonsalo dos Santos
 Date of Birth/Age : 1975 (25 years)
 Place of Birth : Soro Kecil Sub Village, Leuro Village, Los Palos Sub District,
 Lautem District
 Nationality : East Timorese
 Location : Detained since 30 September 2000
 Function : Associated with Team Alfa Militia

08.

Name : Alarico Fernandes
 Date of Birth/Age : 1969 (31 years)
 Place of Birth : Soro Kecil Sub Village, Leuro Village, Los Palos Sub District,
 Lautem District
 Nationality : East Timorese
 Location : Detained since 9 October 2000
 Function : Associated with Team Alfa Militia

09.

Name : Gilberto Fernandes
 Date of Birth/Age : 2 March 1973
 Place of Birth : Carano Village, Los Palos Sub District, Lautem District
 Nationality : East Timorese
 Location : Detained since 9 October 2000
 Function : Member of Team Alfa Militia

10.

Name : Mautersa Monis
 Date of Birth/Age : unknown
 Place of Birth : unknown
 Nationality : East Timorese
 Location : unknown
 Function : Member of Team Alfa Militia

11.

Name : Syaful Anwar
 Date of Birth/Age : unknown
 Place of Birth : unknown
 Nationality : Indonesian
 Location : unknown, believed to be in Indonesia
 Function : 1st Lieutenant Infantry, Deputy Commander of Special
 Forces of the Indonesian Armed Forces (KOPASSUS),
 stationed in 1999 in Los Palos.

C. INTRODUCTORY STATEMENT OF FACTS

1. Widespread and systematic attacks directed against the civilian population were committed in East Timor in 1999. These attacks were marked by two interconnected periods of intensified violence; that following the announcement on 27 January 1999 by the Government of the Indonesia, that the people of East Timor would be allowed to choose between autonomy with Indonesia or Independence, to 4 September 1999, the date of the announcement of the result of the popular consultation in which 78.5 per cent voted against the proposed special autonomy within the Unitary State of the Republic of Indonesia; and that between this date and 25 October 1999. The attacks were part of an orchestrated campaign of violence, that included incitement, intimidation and threats to life carried out by pro-autonomy militia, members of the Indonesian Armed Forces, ABRI (*Angkatan Bersenjata Republik Indonesia*), renamed TNI (*Tentara Nasional Indonesia in 1999*), and of the Indonesian Police Force (POLRI) with the acquiescence and active participation of Civilian and Military Authorities.

2. These large-scale attacks were indiscriminately directed against civilians of all age groups, the most frequent type of lethal injury being death by sharp force injury, gun shot injury, blunt force trauma and a combination of the three. Attacks were also directed against property and livestock. Systematic acts of violence caused the internal displacement of thousands of persons (IDPs). Additionally, the forcible transfer and deportation of the civilian population within East Timor and to West Timor, Indonesia was an essential feature of that violence.

3. Pro autonomy militia groups and their activities were organized and directed by the paramilitary umbrella organization, the Integration Fighting Forces (PPI), (*Pasukan Pejuang Integrasi*) which had the official backing of the TNI and the Civil Administration. PPI Commanders issued, called upon and incited militia groups and their members to intimidate pro independence supporters and those perceived to support them, such as members of the Clergy.

4. During the events referred to in this Indictment, the Indonesian Armed Forces in East Timor consisted of both the regular territorial forces (BTT) and special combat forces, i.e. the Strategic Reserve Command (KOSTRAD), (*Komando Strategis Angkatan Darat*) and Special Forces Command (KOPASSUS) (*Komando Pasukan Khusus*), all of which had units, staff officers and soldiers stationed in East Timor.

5. Between February and October 1999, the TNI forces present in Lautem District were the 745 Battalion (based in Fuloro village), the 621 and 623 Battalions (based primarily in Rasa and Assailiano), KODIM (District Military Command) Unit 1629 (based at Lospalos and divided into five sub-district military commands (KORAMIL)) and KOPASSUS (based at Laruara in Los Palos).

6. From January to October 1999, the Indonesian Armed Forces in East Timor also comprised the Indonesian Police Force (POLRI), the state agency for upholding the law and public order. It also included the Mobile Police Brigade (BRIMOB), whose Units and members were stationed in East Timor, including Lautem District. The District level Police (POLRES) headed by a District Police Chief (Kapolres) was based in Los Palos.

7. The terms of the 5 May 1999 Agreements, between Indonesia, Portugal and the United Nations on the popular consultation, under which the appropriate Indonesian security authorities (TNI and POLRI) had the responsibility to ensure a safe environment devoid of violence or other forms of and intimidation as well as the general maintenance of law and order were not met. No attempt was made to disarm or neutralize Team Alfa members. They were allowed to act with impunity.

8. Between February and September 1999, the Civil Administration of Lautem District was headed by the *Bupati* (District or Regency Administrator), who was appointed by the local parliament and Governor of East Timor with the approval of the Minister of Interior of the Republic of Indonesia. The *Bupati* of Lautem District was Edmundo da Conceicao e Silva. As head of the civil administration he governed Lautem District along with the TNI Commander for the District (Dandim). *Bupati* Edmundo da Conceicao was an Honorary Member of KOPASSUS and participated in meetings on strategic military planning affecting Lautem District.

9. In Lautem District, Indonesian military forces worked in close cooperation with armed groups, namely Team Alfa, Barisan Rakyat Timor Timur (BRTT) and the Pengamanan Swakarsa, '*PAM Swakarsa*', (self-initiated security groups). Team Alfa (sometimes also referred to as *Jati Merah Putih* (i.e. Authentic Red and White,) was established in 1986 by Captain Luhut Panjaitan of KOPASSUS as a locally recruited and constituted armed paramilitary group (Ratih) to fight against the FALANTIL (Armed Forces for the National Liberation of East Timor). KOPASSUS Commanders directed the activities of Team Alfa.

10. Between March and September 1999, **Lt. SYAFUL ANWAR** was one of the Commanders of KOPASSUS in Lautem District. He had authority and control over members of Team Alfa, and issued orders and instructions which were executed by the team.

11. Between January and October 1999, Team Alfa and KOPASSUS operated out of the same building in Laruara, Los Palos. They shared logistic support, including transportation. Team Alfa members were armed equipped and trained by the TNI, including KOPASSUS. The cooperation between the Militia and the TNI included joint operations and attacks in which members of Team Alfa

unlawfully arrested and abducted civilians who were subsequently taken to and interrogated at TNI barracks, particularly at the Battalion 745 base.

12. Between February and September 1999, influential district pro autonomy leaders, including, Francisco Correia Pinto (President of the District Assembly, Dewan Perwakilan Rakyat Daerah Tingkat II), and others exercised authority and control over Team Alfa, BRTT and PAM swakarsa. All were honorary members of KOPASSUS and gave instructions to Team Alfa. Team Alfa members, in particular **JONI MARQUES**, provided security to *the Bupati*. Members of Team Alfa received salaries from the Forum for Unity, Democracy and Justice Forum (FPDK), (*Persatuan untuk Demokrasi dan Keadilan*), a pro-autonomy front that was controlled by the *Bupati*, as well as from the TNI, which also provided them with food rations.

13. Between 27 January and 30 August 1999 acts of intimidation and violence by elements of the TNI and armed Militia groups increased in Lautem District. Such attacks included the unlawful arrest, torture and murder of Evaristo Lopes on 21 April 1999, and the murder of the Liurai (King) of Lospalos, Verissimo Dias Quintas, on 27 August 1999, and the burning of his home, which had been the office of the CNRT (National Council of Timorese Resistance) in Los Palos.

14. From 4 September 1999, the campaign of violence against civilians escalated in Lautem District. This included intimidation, widespread arson, plunder and looting. It was also marked by the deportation or forcible transfer of the civilian population, which was forced out of the villages to Military Barracks, to the Battalion 745 base, to the port of Com and to Kupang, West Timor or to other parts of Indonesia. The attacks, coerced population transfers and deportations of people from Leuro and other villages (e.g. Foemaa, Souro, Omakano), along with the abduction and murder of Alexio Oliveira on 11 September 1999, charged in this Indictment, took place within this context.

15. On 3 September 1999, there was a meeting at the Laruara base in Los Palos between the *Bupati*, Edmundo da Conceicao e Silva, Francisco Correia Pinto (Head of District Assembly), KOPASSUS commanders and officers and about twenty Team Alfa members, including **JONI MARQUES**. The meeting discussed Team Alfa's past incidents, including the killing of Evaristo Lopes. At this gathering, *the Bupati* and the KOPASSUS present stressed the need for Team Alfa to be as clean as possible when undertaking operations such as kidnapping and arson. Pro -autonomy leaders also blamed the clergy for the result of the popular consultation, as they were believed to have encouraged the population to vote in favour of independence.

16. For each count charging Crimes against Humanity, the acts or omissions by the accused were undertaken as part of a widespread or systematic attack directed against the civilian population, with knowledge of the attack.

D. INDIVIDUAL CRIMINAL RESPONSIBILITY

17. Each of the accused is individually criminally responsible for the crimes alleged against him in this indictment pursuant to Section 14 of UNTAET Regulation 2000/15. Under Section 14.2 and 14.3 (a) to (d) individual criminal responsibility results if the individual committed, planned, instigated, ordered, solicited, induced, aided, abetted or otherwise assisted in the crimes commission, or attempted commission. In addition, individual criminal responsibility results if an individual attempts to commit a crime and takes a substantial step towards its execution. Finally, individual criminal responsibility results if an individual in any other way contributes to the commission or attempted commission of the crime, if such contribution is intentional and is either (i) made with the aim of furthering the criminal activity or purpose of a group or (ii) is made with the knowledge of the intention of the group to commit the crime.

E. DESCRIPTION OF CRIMES AND STATEMENT OF FACTS

E. I. Torture and Murder of Evaristo Lopes on 21 April 1999

18. On or about the 21 April 1999, Team Alfa members, including **JONI MARQUES, MAUTERSA MONIS, JOAO DA COSTA alias LEMORAI** and other members of Team Alfa, constructed a roadblock near Tito's shop in Los Palos. The members of the group were armed with iron rods and swords.

19. The group stopped the vehicle in which Evaristo Lopes, a clandestine FALINTIL member was travelling. **JOAO DA COSTA alias LEMORAI** forced the occupants out. Evaristo Lopes, who had long hair, was immediately targeted. **JOAO DA COSTA alias LEMORAI, JONI MARQUES, MAUTERSA MONIS** and others beat him with iron rods. The beating went on for several minutes before **SYAFUL ANWAR**, Deputy Commander of KOPASSUS, who was watching in a vehicle, parked close by, intervened to stop it. **SYAFUL ANWAR** ordered the group to take Evaristo Lopes to the nearby Team Alfa base at Laruara, which was also the KOPASSUS base.

20. **JONI MARQUES, GILBERTO FERNANDES** and the other members of Team Alfa took Evaristo Lopes to their base at Laruara. There, his arms and feet were bound, and he was again beaten with iron rods, punched, kicked and stamped upon by **JOAO DA COSTA alias LEMORAI, JONI MARQUES, MAUTERSA MONIS, GILBERTO FERNANDES, SYAFUL ANWAR**, and others. Evaristo Lopes was questioned about his involvement with FALINTIL. **JOAO DA COSTA alias LEMORAI** and **JONY MARQUES** removed his trousers and shirt, leaving him in his underwear. **SYAIFUL ANWAR** pushed an iron bar into

Evaristo Lopes' genitals as he was being questioned. **JOAO DA COSTA** alias **LEMORAI** hit Evaristo Lopes with an electrical cable. **JOAO DA COSTA** alias **LEMORAI** and **JONI MARQUES** cut Evaristo Lopes' hair. **JOAO DA COSTA** alias **LEMORAI** stabbed Evaristo Lopes with a knife, and parts of his body were mutilated. **JOAO DA COSTA** alias **LEMORAI** held Evaristo Lopes while **SYAFUL ANWAR** slit his throat and killed him. Thereafter **JONI MARQUES SAYFUL ANWAR** and others transported the body and dumped it around Los Palos.

II. Attacks on Leuro and other villages and the deportation and forcible transfer of the civilian population, 8 September 1999 to 30 September 1999.

21. The village of Leuro, administratively part of Los Palos Sub-District, is comprised of the sub-villages of Carano, Leuro, Luturala and Soro Kecil.

22. On or around 8 September 1999, following the announcement of the popular consultation, **JONI MARQUES, ALARICO FERNANDES** and other members of Team Alfa went to Leuro. They were armed with rifles, machetes and swords and carried a container of kerosene. Together with the Village Chief (*Kepala Desa*), **FELISBERTO SAVIO**, they began to intimidate and threaten the villagers of Leuro in order to make them leave for West Timor. The Village Chief ordered the villagers to leave for Kupang, West Timor and warned that no one was to run away. The BRT unit in Leuro was also present and told the villagers that they had two days to pack their possessions and place them outside their homes for the transfer. The BRT also provided security during the operation to ensure that no one escaped. **JONI MARQUES, ALARICO FERNANDES**, and others threatened to kill all the villagers if they did not leave. They burnt and shot at houses and animals. Florinda Suriano and her family were threatened that unless they went to Kupang, their house would be burned and they would be killed. During the incident Florinda Suriano's father, Antonio Suriano, who did not want to be transferred or leave his house and who was believed to be collaborating with CNRT (National Council for Timorese Resistance) was stabbed in the head. Their houses were also burnt. The villagers were told that if they did not leave they would be killed by the notorious 700 ABRI/TNI Battalion (whose acts in 1985 is attributable to numerous killings) would be returning to East Timor from Indonesia. While this operation was in progress, TNI soldiers at the nearby checkpoint took no steps to prevent the violence or protect the villagers. Instead they shouted words of encouragement.

23. On or around 10 September 1999, a large yellow truck and a red minibus, Registration Number DF 77 88 N, marked 'Cruz Ero' arrived in Leuro village. The minibus was driven by **PAULO DA COSTA** and carried armed members of Team Alfa, including **JONI MARQUES** and **ALARICO FERNANDES**. **ALARICO FERNANDES** burnt the houses of Jose da Costa Nunes and Anselmo Correia Pinto. **JONI MARQUES** and other armed members of Team Alfa, threatened the

villagers and forced them to leave their homes and get onto the two vehicles. The villagers were transferred to the base of the TNI 745 Battalion in Fuiloro village, under armed guard, in the minibus driven by **PAULO DA COSTA**. From there, they were taken to the port of Com. Some were transported to West Timor. While this operation was in progress, TNI soldiers at the nearby checkpoint took no steps to prevent the violence or protect the villagers. They shouted out words of encouragement to Team Alfa members.

24. On or around 11 September 1999, **JONI MARQUES, PAULO DA COSTA, ALARICO FERNANDES, GONSALO DOS SANTOS** and others returned to Leuro village. **JONI MARQUES** and **ALARICO FERNANDES** armed with rifles, heralded and forced the remaining villagers into a red minibus marked with the words 'Cruz Ero'. **PAULO DA COSTA** drove the villagers, under armed guard, to the TNI 745 Battalion base in Fuiloro village. From there, they were taken to the port of Com and some transported to West Timor. While this operation was in progress, TNI soldiers at the nearby checkpoint took no steps to prevent the violence or protect the villagers. They encouraged Team Alfa members.

25. From Leuro village, the team continued their operation and burnt numerous houses at Foema, Souro, and Omokano villages, and killed livestock and birds, as part of the campaign to deport and forcibly transfer villagers to the TNI 745 Battalion's Base, to Com and to West Timor.

III. Abduction and Murder of Alexio Oliveira on 11 September 1999

26. On or around 11 September 1999, at approximately 1630 hours, Alexio Oliveira and his mother, Jacinta dos Santos, were standing by the road near the Elementary School in Foemaa sub-village. A red minibus marked 'Cruz Ero' driven by **PAULO DA COSTA** and a motorbike driven by **JONI MARQUES** stopped near them. The red minibus was carrying villagers from Leuro who were being deported under armed guard by Team Alfa members.

27. **JONI MARQUES** pointed his rifle at Alexio Oliveira and accused him of being a CNRT member. **JONI MARQUES** then forced Alexio Oliveira into the red minibus driven by **PAULO DA COSTA**. **JONI MARQUES** shot at the feet of Jacinta dos Santos to prevent her from entering the bus. Alexio Oliveira was taken to his house in Sawarica village where his motorbike was stored. **JONI MARQUES** fired his gun in the air and made Alexio Oliveira give him his motorbike and key. Alexio Oliveira was then forced back into the red minibus driven by **PAULO DA COSTA**.

28. **JONI MARQUES, PAULO DA COSTA** and the other members of Team Alfa brought Alexio Oliveira to the base of 745 Battalion in Fuiloro village. There he was forced to register to go to West Timor. **PAULO DA COSTA, GONSALO DOS SANTOS, HORACIO KUSUMOKO (Deceased)** and two TNI soldiers, one

of whom was known as 'Okto Bere' escorted him behind the base. There he was attacked and stabbed to death with a sword.

IV. Murders of Alfredo de Araujo alias Jose Lemorai and Kalistu Rodrigues near the Sub-Village of Ira-Ara, Parlamento Village, on 21 September 1999.

29. On or around 21 September 1999 at ~~or~~ around 1200 hours, Team Alfa members, including **JONI MARQUES**, **PAULO DA COSTA** and **ALARICO FERNANDES** were in a coconut grove in the vicinity of the sub-village of Ira-Ara, Parlamento village, gathering food.

30. Alfredo de Araujo alias Jose Lemorai was walking through the coconut grove when he encountered the group of Team Alfa members. **JONI MARQUES** shot him three times.

31. Later on, at approximately 1400 hours on the same day, Joanico de Carmo Vieira, Olavio de Jesus and Kalistu Rodrigues were walking through a nearby forest towards the coconut grove when the group of Team Alfa members sighted them. They were told to stop or be killed but before any of them could react, **JONI MARQUES** shot at Kalistu Rodrigues, injuring him in the leg. The others managed to escape, in spite of one of them being wounded. **PAULO DA COSTA** approached Kalistu Rodrigues, who was lying on the ground and shot him in the head.

32. Alfredo de Araujo and Kalistu Rodrigues died from the injuries.

V. Murders of the group of Clergy and of Agus Muliawan, Izino Freitas Amaral and others near Lautem Junction on 25 September 1999

33. On or about 25 September 1999 at around 1500 hours, at the port of Com, Los Palos, **JONI MARQUES** learnt that a group of clergy that had been in Lautem distributing food and medicines was about to travel with their vehicle from Los Palos towards Baucau.

34. **JONI MARQUES** organized a group of Team Alfa members, including **JOAO DA COSTA** alias **LEMORAI** to join him in an attack on the group of clergy. Members of the group were armed with SKS rifles. **JONI MARQUES** also called upon **PAULO DA COSTA**, **AMELIO DA COSTA** and others to join them. Acting on the instructions of **JONI MARQUES**, **PAULO DA COSTA** and **AMELIO DA COSTA** obtained a container of additional fuel prior to the group's departure.

35. **PAULO DA COSTA** drove the group to Lautem in a red minibus, registration number DF 77 88 N, marked with the words 'Cruz Ero' on the outside. At the rice warehouse in Lautem, they met with **MANUEL DA COSTA**,

HILARIO DA SILVA and other armed Team Alfa members who joined the group under the command of **JONI MARQUES**.

36. At around 1600 hours, the mini bus passed Lautem junction and approached the vicinity of the village of Verokoco. The road passes along the River Malailana. Two teenage boys, Izino Freitas Amaral and Jose Perreira were pushing a cart. **JONI MARQUES** ordered **PAULO DA COSTA** to stop the vehicle and catch the boys. **PAULO DA COSTA** stopped the vehicle and pursued them. He caught Izino Freitas Amaral, and **HILARIO DA SILVA** tied him to a tree along the road. Jose Perreira jumped down the river bank and was able to escape from shots fired at him by **JOAO DA COSTA** alias **LEMORAI** and stones aimed at him by **HILARIO DA SILVA**, **GONSALO DOS SANTOS** and others.

37. **JONI MARQUES** then ordered that a roadblock be erected on the road with large rocks, and placed members of his group in strategic locations on the western and eastern approaches to reinforce security. **JONI MARQUES**, **MANUEL DA COSTA** and **JOAO DA COSTA** alias **LEMORAI** positioned themselves in the middle of the road. The remaining members of the group, including **PAULO DA COSTA**, **AMELIO DA COSTA**, **GONSALO DOS SANTOS** and **HILARIO DA SILVA** hid themselves near the roadside.

38. Shortly thereafter, a Toyota Hilina vehicle approached the roadblock from the direction Lautem towards Baucau. In the vehicle were Brother Jacinto Xavier, Brother Fernando dos Santos, Brother Valerio da Conceicao, Sister Erminia Cazzagina, Sister Celeste de Carvalho, Agus Muliawan, Cristovao Rudy Barreto and Titi Sandora Lopes. **JONI MARQUES** shouted out that this was the vehicle they had been waiting for. **JONI MARQUES**, **MANUEL DA COSTA** and **JOAO DA COSTA** alias **LEMORAI** ordered the vehicle to stop. The vehicle stopped and **JONI MARQUES**, **MANUEL DA COSTA** and **JOAO DA COSTA** alias **LEMORAI** opened fire at it and it's occupants, killing some and wounding others.

39. After the shooting stopped, the members of Team Alfa approached the Vehicle. Those inside the vehicle and those who had managed to get outside, were attacked with machetes by **GONSALO DOS SANTOS**, **HILARIO DA SILVA**, **HORACIO KUSUMOKO (DECEASED)** and others. An attempt was made by **HILARIO DA SILVA**, **PAULO DA COSTA**, **AMELIO DA COSTA** and others to set the vehicle and the bodies on fire with the fuel that had been purchased earlier in Com. A male survivor attempted to escape from the vehicle and was shot by **JONI MARQUES**. **HILARIO DA SILVA**, **PAULO DA COSTA**, **AMELIO DA COSTA**, **GONSALO DOS SANTOS** and others then pushed down the vehicle, with the bodies in it, into the river.

40. At the instruction of **JONI MARQUES**, members of the group the attacked the two remaining survivors, an injured nun and Izino Freitas Amaral. The nun

had been dragged to the side of the road and she was praying in a kneeling position. She was attacked with a machete by **HORACIO KUSUMOKO (DECEASED)** and was eventually shot by **JONI MARQUES**. **GONSALO DOS SANTOS** and others then threw her body into the river. Izino Freitas Amaral, who had been tied to a tree, was attacked with machetes and was killed by **JOAO DA COSTA** alias **LEMORAI**, **HILARIO DA SILVA**, **HORACIO KUSUMOKO (DECEASED)**. His body was then thrown into the river. **JONI MARQUES** shot at the bodies and threw a grenade in the river to ensure there were no survivors.

F. PURSUANT TO THE ABOVE THE PROSECUTOR CHARGES:

I. Torture and Murder of Evaristo Lopes, 21 April 1999

By their acts and omissions in relation to events described under C and E I of this indictment **JONI MARQUES**, **JOAO DA COSTA** alias **LEMORAI**, **MAUTERSA MONIS** and **GILBERTO FERNANDES** committed:

Count 1 Murder, a **CRIME AGAINST HUMANITY**, punishable under section 5.1(a) of UNTAET Regulation 2000/15

On or about 21 April 1999, in Los Palos Sub-District, Lautem District, **Joni Marques**, **Joao da Costa** alias **Lemorai**, **Mautersa Monis** and **Gilberto Fernandes** did, with deliberate intent and premeditation, commit, aid, abet or otherwise assist in the murder of Evaristo Lopes, knowing that it was part of a widespread or systematic attack directed against a civilian population in violation of section 5.1(a) of UNTAET Regulation 2000/15.

Count 2 Torture, a **CRIME AGAINST HUMANITY**, punishable under section 5.1(f) of UNTAET Regulation 2000/15

On or about 21 April 1999 in Los Palos Sub-District, Lautem District, **Joni Marques**, **Joao da Costa** alias **Lemorai**, **Mautersa Monis** and **Gilberto Fernandes** did with intention commit, aid, abet or otherwise assist in inflicting severe pain or suffering upon Evaristo Lopes, a person in the custody or under the control of the accused, knowing that it was part of a widespread or systematic attack directed against a civilian population in violation of section 5.1(f) of UNTAET Regulation 2000/15

II. Attacks on Leuro and other villages and the deportation and forcible transfer of the civilian population, 8 to 30 September 1999.

By their acts and omissions in relation to events described under C and E II of this indictment **JONI MARQUES, ALARICO FERNANDES, PAULO DA COSTA and GONSALO DOS SANTOS** committed:

Count 3: Deportation or forcible transfer of population, a **CRIME AGAINST HUMANITY** punishable under section 5.1(d) of UNTAET Regulation 2000/15.

On days between the 8th and 30th September 1999 at Leuro and other villages, Los Palos Sub-District, Lautem District, **Joni Marques, Alarico Fernandes, Paulo da Costa and Gonsalo dos Santos** did, without grounds, commit, aid, abet or otherwise assist in the forcible displacement of persons by expulsion or coercive acts from the area in which they were lawfully present in violation of section 5.1 (d) of UNTAET Regulation 2000/15.

Count 4: Persecution, a **CRIME AGAINST HUMANITY**, punishable under section 5.1(h) of UNTAET Regulation 2000/15

On days between the 8th and 30th September 1999 at Leuro and other Villages, Los Palos Sub-District, Lautem District, **Joni Marques, Alarico Fernandes, Paulo da Costa and Gonsalo dos Santos** did intentionally commit, aid, abet or otherwise assist in the severe deprivation of fundamental rights of persons by reasons of the identity of their group or collectivity in violation of section 5.1(f) of UNTAET Regulation 2000/15

III. Abduction and Murder of Alexio Oliveira, 11 September 1999

By their acts and omissions in relation to events described under C and E III of this indictment **JONI MARQUES, PAULO DA COSTA and GONSALO DOS SANTOS** committed:

Count 5: Murder, a **CRIME AGAINST HUMANITY**, punishable under section 5.1(a) of UNTAET Regulation 2000/15

On or about 11 September 1999, in Los Palos Sub-District, Lautem District, **Joni Marques, Paulo da Costa and Gonsalo dos Santos** did, with deliberate intent and premeditation, commit, aid, abet or otherwise assist in the murder of Alexio Oliveira, knowing that it was part of a widespread or systematic attack directed against a civilian population in violation of section 5.1(a) of UNTAET Regulation 2000/15.

IV. Murder of Alfredo Araujo alias Jose Lemorai and Kalistu Rodrigues, 21 September 1999

By their acts and omissions in relation to events described under C and E IV of this indictment **JONI MARQUES, ALARICO FERNANDES and PAULO DA COSTA** committed:

Count 6: Murder, a **CRIME AGAINST HUMANITY**, punishable under section 5.1(a) of UNTAET Regulation 2000/15

On or about 21 September 1999, near Ira-Ara Sub-Village, Parlamento Village, Lautem District, **Joni Marques, Alarico Fernandes and Paulo da Costa** did, with deliberate intent and premeditation, commit, aid, abet or otherwise assist in the murder of Alfredo de Araujo alias Jose Lemorai and Kalistu Rodrigues, knowing that it was part of a widespread or systematic attack directed against a civilian population in violation of section 5.1(a) of UNTAET Regulation 2000/15.

V. Murders of a group of clergy, Agus Muliawan and Izno Freitas, 25 September 1999

By their acts and omissions in relation to the events described under C and E V of this indictment, **JONI MARQUES, JOAO DA COSTA, PAULO DA COSTA, AMELIO DA COSTA, MANUEL DA COSTA, HILARIO DA SILVA and GONSALO DOS SANTOS** committed:

Count 7: Murder, a **CRIME AGAINST HUMANITY**, punishable under section 5.1(a) of UNTAET Regulation 2000/15

On or about 25 September 1999, in Los Palos Sub-District, Lautem District, **Joni Marques, Joao da Costa alias Lemorai, Paulo da Costa, Amelio da Costa, Manuel da Costa, Hilario da Silva and Gonsalo dos Santos** did, with deliberate intent and premeditation, commit, aid, abet or otherwise assist in the murder of Brother Jacinto Xavier, Brother Fernando dos Santos, Brother Valerio da Conceicao, Sister Erminia Cazzaniga, Sister Celeste de Carvalho, Agus Muliawan, Cristovao Rudy Barreto, Titi Sandora Lopes and Izino Freitas Amaral, knowing that it was part of a widespread or systematic attack directed against a civilian population in violation of section 5.1(a) of UNTAET Regulation 2000/15.

F. LIST OF VICTIMS

The List of Victims, which forms an integral part of this Indictment, is attached as Annex A.

G. REQUEST FOR TRIAL

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

Date: 11 December 2000
Amended on 6th March 2001



Mohamed Othman
The General Prosecutor for East Timor

Stuart Alford
Prosecutor for Serious Crimes

