

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

-AGAINST-

BERNADINO DA COSTA A.K.A MATA SATU

I. INDICTMENT

The General Prosecutor of the United Nations Transitional Administration in East Timor, pursuant to his authority under UNTAET Regulations 2000/16 and 2000/30 charges:

BERNADINO DA COSTA A.K.A. MATA SATU

WITH

CRIMES AGAINST HUMANITY OF :

**MURDER, SEVERE DEPRIVATION OF PHYSICAL LIBERTY IN VIOLATION OF
FUNDAMENTAL RULES OF INTERNATIONAL LAW, DEPORTATION OR
FORCIBLE TRANSFER OF POPULATION and PERSECUTION**

as set forth in this indictment .

II. NAME AND PARTICULARS OF THE ACCUSED

1. Name: **BERNADINO DA COSTA a.k.a. MATA SATU**

Place of birth: Leubrema Village, Same Subdistrict, Manufahi District

Age/Date of birth: unknown

Sex: Male

Nationality: East Timorese

Address: unknown (believed to be in West Timor)

Occupation: Sub-District Commander (Danrim) Tim Sasurut Ablai Militia, Same Sub-District

9. From February 1999 to October 1999, the Indonesian Police Force (POLRI), the state agency for upholding the law and public order were also present in East Timor. It included a Mobile Police Brigade (BRIMOB), whose Units and members were stationed in East Timor, including in Manufahi District.

IV GENERAL ALLEGATIONS

10. 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, and especially targeting those who were considered to be pro-independence, linked to or sympathetic to the independence cause for East Timor, with knowledge of the attack.

Individual Criminal Responsibility

11. For each accused charged with individual responsibility under this indictment, the accused is responsible under Section 14 UNTAET Regulation 2000/15, if he :

- “(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 of the intention of the group to commit the crime;”*

Superior Criminal Responsibility

12. **Bernadino Da Costa** is criminally responsible as superior for the acts of his subordinates pursuant to Section 16 of UNTAET Regulation 2000/15. Superior criminal responsibility is the responsibility of a superior for the acts of his

III. INTRODUCTORY STATEMENT OF FACTS

1. A widespread or systematic attack directed against the civilian population was committed 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 with 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 confinements, assaults, forced displacements, 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*) with the acquiescence and active participation of civilian and military authorities.
3. In 1999, numerous militia groups operated throughout East Timor. Their goal was to support autonomy within Indonesia. The militia groups participated in the widespread or systematic attack and acted and operated with impunity.
4. This large-scale attack was directed against civilians of all age groups, predominantly against individuals who supported or were perceived to support independence and resulted in lethal injury including death by sharp force injury, gun shot injury, blunt force trauma or a combination of the three.
5. As part of the widespread 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 attack resulted in the internal displacement of thousands of persons (IDPs). 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 terms of the 5 May 1999 Agreements, between Indonesia, Portugal and the United Nations on the popular consultation, the Indonesian security authorities (TNI and POLRI) had the responsibility to ensure a safe environment devoid of violence or other forms of intimidation as well as the general maintenance of law and order before and during the popular consultation. The TNI and POLRI failed to meet these obligations and made no attempt to disarm or neutralize the militia groups. They were allowed to act with impunity.
8. The Indonesian Military in East Timor consisted of both regular territorial forces (BTT) and Special Combat Forces, i.e. the Strategic Reserve Command (KOSTRAD), (*Komando Strategis Angkatan Darat*) and Special Forces Command (KOPASUS), (*Komando Pasukan Khusus*), all of which had units, staff officers and soldiers stationed in East Timor.

subordinates if the superior 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 necessary steps or reasonable measures to prevent such acts or to punish the perpetrators thereof.

V. STATEMENT OF FACTS

13. Same is a Sub -District of Manufahi District, which is one of the thirteen districts of East Timor.
14. Between April 1999 and October 1999 the Ablai Militia Group (*Aku Berjuang Lestarikan Amanat Integrasi* ("I struggle for a perpetual integration mandate")) operated throughout Manufahi District. It comprised about 2,000 members under the command of Nazario Corte Real, Francisco Capela and Guilhermino Marcal. The Ablai militia was divided into several teams which operated in various villages and sub-villages.
15. *Tim Sasurut Ablai* was one of the militia groups under the Ablai Militia. It was established sometime between March 1999 and April 1999 . The inauguration ceremony was presided over by Eurico Gutteres and the commanders of Ablai including Nazario Corte Real, Francisco Capela and Guilhermino Marcal.
16. **Bernadino Da Costa** (Danrim) was the First Sub-District Commander of the Tim Sasurat Ablai militia group in Same Sub-District. Benjamin Sarmiento (Dandim) was the Deputy Sub-District Commander and Romeiro Tilman (Danru) was Third-In-Charge of the Sub-District militia command. **Bernadino Da Costa** had authority, command and control of all the members of Tim Sasurut Ablai Militia. **Bernadino Da Costa** led and commanded many of the operations of and attacks by Tim Sasurut Ablai Militia. Both Benjamin Sarmiento and Romeiro Tilman and other members of Tim Sasurut Ablai Militia carried out the orders of **Bernadino Da Costa**. *Tim Sasurut Ablai Militia* comprised many sections including the *Saldado Section*, *Leubrema Section*, and *Carbalao Section* .
17. The Tim Sasurat Ablai militia group operated in collaboration with other militia teams of the Ablai Militia group, in particular *Tim Hadomi Ablai Militia*.
18. Between April 1999 and October 1999 *Tim Sasurat Ablai* militia operated from Leubrema Village around Orema Village in Same Sub-District , Manufahi District. During this period *Tim Sasurat Ablai* militia under the command and control of **Bernadino Da Costa** carried out acts of violence against those members of the civilian population in Same Sub-District who were considered to be pro-independence, linked to or sympathetic to the independence cause. The attacks included intimidations, threats, unlawful detentions, arsons, murders, forcible deportations and other acts of persecution. Many acts were directed against civilians who were presumed to be members or supporters of FALINTIL (Forças Armadas De Libertacao Nacional De Timor Leste: Armed Forces for the Liberation of East Timor) or supporters of independence.
19. **Bernadino Da Costa**, Benjamin Sarmiento and Romeiro Tilman as commander and deputy commanders respectively of the *Tim Sasurut Ablai Militia* , had authority and control over its members.

20. The Commanders of *Tim Sasurut Ablai Militia* held regular meetings with members of the militia. During these meetings, **Bernadino Da Costa** briefed the militia about some of their plans and gave them instructions as to how to carry them out.
21. Members of the *Tim Sasurut Ablai Militia* put up guard posts in many places in Same sub-district including in Anilumu, Blaro, Datina, Grotu Lau, Hailesu, Leubrema, Orema, Suri-Rema, Tionai, Titikua and Trilolo. The militia members who were guarding these posts were instructed to arrest any supporter of independence or Falintil who attempted to pass through the militia posts. They also patrolled all the villages and sub-villages in the Sub-District in search of independence supporters.

MURDER

22. Sometime in April 1999 members of the *Tim Sasurut Ablai Militia* were ordered to arrest and kill any supporters of independence who attempted to pass through the militia guard posts. Several meetings were held by *Tim Sasurut Ablai Militia* in several villages including Orema and Leubrema in which **Bernadino Da Costa**, Benjamin Sarmiento and Romeiro Tilman ordered the members of the militia to kill all supporters of independence.
23. The members of *Tim Sasurut Ablai Militia* carried out the orders issued by its commanders and thereby committed several murders.

MURDER OF CARLITO DE ARAUJO a.k.a TILMAN (MAULITO)

24. On or about 17 April 1999 **Bernadino Da Costa** and Benjamin Sarmiento held a meeting with the members of the Ablai Militia in Leubrema. **Bernadino Da Costa** and Benjamin Sarmiento ordered the militia members to attack Grotu Lau Village. **Bernadino Da Costa** and Benjamin Sarmiento also ordered the militia to kill supporters of independence in Grotu Lau. **Bernadino Da Costa** gave a list of targeted supporters of independence to Domingos Mendonca. That list included the name of the victim Carlito De Araujo a.k.a Tilman (Maulito). **Bernadino Da Costa** and Benjamin Sarmiento also told the militia members that the attack on Grotu Lau Village was because the people of Grotu Lau village were believed to be supporters of independence.
25. When Benjamin Sarmiento spoke at the meeting, he told the militia members that they were going to Grotu Lau Village and they were to bring their machetes and spears along with them to Grotu Lau Village.
26. The villagers of Grotu Lau received information that there was going to be a militia attack on the village and that the militia were going to kill the men. Upon hearing this, the men ran into hiding in the jungles and the women remained in the village.
27. Soon after the meeting members of the *Tim Sasurat Ablai Militia* led by **Bernadino Da Costa**, Benjamin Sarmiento and Romeiro Tilman and other

militia groups (Fahiluhan and Carbalau) attacked Grotu Lau Village. Among the *Tim Sasurut Ablai Militia* members present were, Domingos Mendonca, Joao Sarmiento, Moisses Raffael, Domingos Mauclau, Antonio De Jesus, Reskoli Tiago (Mausera), Armindo Da Costa, Francisco Mendonca and Abdullah Ernesto.

28. **Bernadino Da Costa** ordered the women they found in Grotu Lau village to call out to the men in hiding to return to the village, otherwise they would be killed. After the women had called out to the men to come out of hiding only a few of them came out into the village, one of whom was Carlito De Araujo a.k.a Tilman (Maulito).
29. Carlito De Araujo a.k.a. Tilman (Maulito) was interrogated by **Bernadino Da Costa**. After the interrogation, on the order of **Bernadino Da Costa**, Benjamin Sarmiento and a few other militia members led Carlito De Araujo a.k.a Tilman about 100metres away. Benjamin Sarmiento then stabbed Carlito De Araujo a.k.a Tilman (Mautino) with a spear in the back and Domingos Mauclau cut his neck. Benjamin Sarmiento and another militia member then threw Carlito De Araujo a.k.a. Tilman's body into the bushes. Upon returning to the militia post in Leubrema Benjamin Sarmiento told the other militia members " I stabbed "Maulito" with my spear and Domingos Mauclau cut his neck".

MURDER OF AGAPITO DE ARAUJO AND MURDER OF LUIS BOCO-SIRI

30. During the period prior to the popular consultation *Tim Sasurut Ablai Militia* threatened the villagers in Orluli. Sometime in April 1999, **Bernadino Da Costa** told the villagers that all those who did not vote pro-autonomy would be killed.
31. On or about 17 April 1999 members of *Tim Sasurat Ablai Militia* led by **Bernadino Da Costa**, and Benjamin Sarmiento and two other militia groups attacked the village of Orluli. About 78 militia members took part in the attack. When the members of the Ablai militia arrived in Orluli, they divided into three groups. Two of the groups (Fahiluhan and Carbalao) secured the outskirts of the village. Members of *Tim Sasurut Ablai Militia*, (the third group) under the command of **Bernadino Da Costa** attacked the village. Before the attack most of the villagers had run into the jungle to hide from the militia. The militia beat the villagers they found in the village. Some of the other members of Tim Sasurut Ablai Militia who took part in the attack included Benjamin Sarmiento, Joao Sarmiento, Domingos Mendonca, Abilio Quintao, Antonio De Jesus, Abdullah Ernesto, Ahmad, Armindo, Tiago Mausera, Alberto, Fancisco Mendonca ("Resimau"), Resikoli.
32. Luis De Araujo, Maria Prego, Agapito De Araujo and Luis Boco-Siri were among those who remained in the village and did not run away.
33. Luis Boco-Siri was standing near his house when members of the *Tim Sasurut Ablai Militia* attacked the village. Under the command of **Bernadino Da Costa**, some members of Tim Sasurut Ablai Militia including Joao Sarmiento and Francisco Mendonca ("Resimau") attacked Luis Boco Siri. There were four other men hiding in the house of Luis Boco Siri. The men were supporters of independence. When the militia attacked Luis Boco Siri the four men ran away to the jungle. Some militia members chased them but could not catch them.

Joao Sarmento and Francisco Mendonca ("Resimau") beat up Luis Boco Siri with sticks and also kicked him. They stabbed him and killed him.

34. Agapito De Araujo, his brother Luis De Araujo and their mother Maria Prego were in their house when members of the *Tim Sasurut Ablai Militia* under the command of **Bernadino Da Costa** attacked the village. All of them came out of the house. Members of Tim Sasurut Ablai Militia attacked Agapito De Araujo and severely beat him up with fists and sticks. Soon after Luis Boco Siri was killed, Joao Sarmento and Francisco Mendonca ("Resimau") joined the other militia members who were beating up Agapito De Araujo.
35. Agapito De Araujo suffered severe injuries from the beating. He was bleeding profusely from his head, ears and eyes. His mother Maria Prego ran to him and embraced him trying to shield him from further beatings.
36. The members of Tim Sasurut Ablai Militia under the command of **Bernadino Da Costa** pulled Maria Prego away from her son Agapito De Araujo and stabbed him to death with spears. Some of the other members of Tim Sasurut Ablai Militia who took part in the beating and killing of Agapito De Araujo were Benjamin Sarmento, Domingos Mendonca, Abdullah Ernesto, Ahmad, Armindo, Tiago Mauseira, Alberto and Resikoli.

MURDER OF AFONSO DA COSTA

37. Students at the University in Dili were believed to be supporters of independence for East Timor.
38. Afonso Da Costa was an 18 years old student at the University. He was from Trilolo village. On or about 24th April Afonso Da Costa was returning to Holarua from Dili. When he arrived at Anilumo Village (which is about 1½ kilometres from Orema Sub-Village) he was arrested by members of the *Tim Sasurut Ablai Militia*. He was taken to Orema Sub-Village and handed over to Bernadino Da Costa.
39. **Bernadino Da Costa** ordered the militia to take Afonso Da Costa to the top of the mountain above Orema and kill him there. The militia members including Benjamin Sarmento, Domingos Mendonca, Antonio Goreta, Manuel Fatima, Ahmad and Mariano Mobili tied Afonso da Costa's hands behind his back and took him up the mountain. When they reached the top of the mountain Benjamin Sarmento stabbed Afonso Da Costa in the back with his spear and a militia member, Manuel Fatima chopped Afonso Da Costa's neck. On the order of Benjamin Sarmento, Domingos Mendonca, Afonso Da Costa (*militia member bearing the same name as the victim*) and Victor De Jesus lifted the body and threw it over the mountain.

MURDER OF ARMINDO DA COSTA (ARMINDO TILMAN) AND CARLITO DA COSTA (ALBERTO XIMENES)

40. On 30 August 1999 a large group of villagers from Datina Village were on their way back to Datina after having voted in Holarua Village. Among this group were Armindo Da Costa (also known as Armindo Tilman) and Carlito Da Costa

(also known as Alberto Ximenes). Both men were believed to be supporters of Falintil and of independence for East Timor. As the group reached the outskirts of Datina a big truck full of members of *Tim Sasurut Ablai Militia* under the command of **Bernadino Da Costa** stopped near them.

41. **Bernadino Da Costa** ordered the group to board the truck and the group was taken to the Militia checkpoint / guard post in Datina. There Armindo Da Costa and Carlito Da Costa were separated from the group, tied up and led by Romeiro Tilman and other militia members to a nearby coffee plantation.
42. At the coffee plantation **Bernadino Da Costa**, Benjamin Sarmento and Romeiro Tilman and other members of Tim Sasurut Ablai Militia including Joao Sarmento, Ahmad Ernesto, Clementino Bere Leki, Baltazar and Domingos Mendonca strangled Armindo Da Costa and Carlito Da Costa with a rope.
43. **Bernadino Da Costa**, then ordered the other militia members to kick and punch Armindo Da Costa and Carlito Da Costa. Some of the militia members who participated in the beating were Joao Sarmento, Domingos Mendonca, Ahmad Ernesto, Clementino Bere Leki, Baltazar. On the order of **Bernadino Da Costa**, Luis Magno cut off the head of Armindo Da Costa and Domingos Mauclau cut off the head of Carlito Da Costa.
44. After Armindo Da Costa and Carlito Da Costa were killed, **Bernadino Da Costa** ordered members of Tim Sasurut Ablai Militia to take the heads of Armindo Da Costa (Armindo Tilman) and Carlito Da Costa (Alberto Ximenes) to the house of **Bernadino Da Costa** and hang them on a tree outside his house.

MURDER OF LORENZO TILMAN

45. After the announcement of the result of the popular consultation on 4 September 1999 the members of the *Tim Sasurut Ablai Militia* under the command of **Bernadino Da Costa** forced villagers from Faliluhan area (Villages of Orema, Grotu Lau, and Leubrema) to go to Datina Village where they were all detained in "community houses". Lorenzo Tilman was one of the villagers who was taken by the Ablai militia to Datina Village and detained at a "community house".
46. On 9 September 1999 **Bernadino Da Costa** ordered all the villagers detained in the "community houses" to board the trucks to be transported to West Timor, otherwise they will be killed. All the villagers present boarded the trucks.
47. Lorenzo Tilman refused to board the truck claiming that he would rather die in East Timor than in West Timor. Pursuant to the order of **Bernadino Da Costa**, Joao Sarmento and Benjamin Sarmento then forcibly took Lorenzo Tilman to a coffee plantation near the militia guard post. Joao Sarmento held Lorenzo Tilman and Benjamin Sarmento stabbed him in the back with his spear, thereby killing him.
48. Joao Sarmento and Benjamin Sarmento returned to the truck. On the truck Benjamin Sarmento told the other militia members present that he and Joao

Sarmiento had killed Lorenzo Tilman. They re-enacted how they killed Lorenzo Tilman and all the militia members rejoiced over it.

SEVERE DEPRIVATION OF PHYSICAL LIBERTY IN VIOLATION OF FUNDAMENTAL RULES OF INTERNATIONAL LAW AND DEPORTATION OR FORCIBLE TRANSFER OF POPULATION

DETENTION AT LEUBREMA

49. On 30 August 1999 villagers from Orema, Grotu Lau and Leubrema went to vote in Holarua. While returning back to their village members of *Tim Sasurut Ablai Militia* under the command of **Bernadino Da Costa** stopped them and forced them all to go to **Bernadino Da Costa's** house in Leubrema. On the order of **Bernadino Da Costa**, Benjamin Sarmiento, Romeiro Tilman and other members of *Tim Sasurut Ablai Militia* went to Orema and Grotu Lau villages and forced the villagers they found there to go to Leubrema. The villagers were detained there until the results of the referendum were announced on 4 September 1999.
50. About 400 people from these villages were detained at **Bernadino Da Costa's** house in Leubrema from 30 August 1999 to 4 September 1999.

DETENTION AT DATINA

51. After the announcement of the results of the popular consultation, on or about 5 September 1999, **Bernadino Da Costa** ordered that all the villagers who were detained in Leubrema be taken to Datina. Other villagers from Datina and Grotu Lau and those previously detained at Leubrema were taken to Datina and detained there in "community houses" for about five days.

DEPORTATION OR FORCIBLE TRANSFER OF POPULATION

52. After the announcement of the results of the popular consultation in which the East Timorese voted overwhelmingly in favour of independence of East Timor, **Bernadino Da Costa** and other members of *Tim Sasurut Ablai Militia* commenced operations to forcibly transfer the population of the villages around Leubrema to West Timor. In pursuance of this operation, the militia arranged for trucks in which the villagers were transported.
53. The villagers who were detained in Leubrema and Datina were then forcibly transported in trucks to Betano where they waited for about one week before they were transported to Metamauk in West Timor. Some villagers were transported to Atambua in West Timor in trucks while others were transported to Kupang, West Timor by ship belonging to the Indonesian Navy.

54. **Bernadino Da Costa** and other members of *Tim Sasurut Ablai Militia* threatened the villagers that if they did not go to West Timor they would be killed by the militia.
55. Many villagers were forcibly taken to West Timor by the Ablai Militia together with members of *Tim Sasurut Ablai Militia* under the command of **Bernadino Da Costa**. Villagers forcibly transferred or deported to West Timor were as follows:
- (i) From Grotu Lau village 17 families were forcibly taken to West Timor.
 - (ii) From Orema 19 families were forcibly taken to West Timor.
 - (iii) From Datina 40 families were forcibly taken to West Timor.
 - (iv) From Leubrema 20 families were forcibly taken to West Timor.
 - (v) From Trilolo village 170 people were forcibly taken to West Timor.
 - (vi) People from other neighbouring villages including Suri-remam were also deported.
56. In all more than 15,000 villagers from Same were forcibly assembled in Betano and thereafter forcibly taken to West Timor.

PERSECUTION

57. Between April 1999 and September 1999 **Bernadino Da Costa**, and other members of *Tim Sasurut Ablai Militia* campaigned for autonomy in Same Sub District. During this period they terrorised the villagers living in and around Same Sub District, in particular Datina, Grotu Lau, Leubrema, Orema, Orluli, and Suri-remam. People from these villages were forced to support autonomy by **Bernadino Da Costa** and members of *Tim Sasurut Ablai Militia* otherwise they would be killed. Villagers were intimidated, their properties seized and/or destroyed and animals killed.
58. Villages inhabited mostly by supporters of Falintil and independence for East Timor were targeted and attacked.

OREMA VILLAGE

59. On or about 17 April 1999 the villagers of Orema were ordered by **Bernadino Da Costa** to go to his house in Leubrema and he threatened the villagers that they would be killed if they did not go. **Bernadino Da Costa** was present together with Benjamin Sarmiento, Joao Sarmiento and Domingos Mauclau. They were all armed with machetes and spears. Benjamin Sarmiento spoke at the meeting and said that all those who supported independence would be killed and only those who supported autonomy would be allowed to live.
60. **Bernadino Da Costa** and other members of *Tim Sasurut Ablai Militia* went to Orema Village several times between April 1999 and September 1999. During this period **Bernadino Da Costa** and members of *Tim Sasurut Ablai Militia* under his command threatened, intimidated and assaulted the villagers from Orema who were perceived to be supporters of independence. The men fearing for their lives ran away to hide in the jungles. On the order of **Bernadino Da Costa**, the militia killed animals belonging to the villagers and forced the women to cook the animals and serve them the food.

61. After the announcement of the results of the referendum on 4 September 1999 **Bernadino Da Costa** and other members of *Tim Sasurut Ablai Militia* under his command attacked Orema Village. All the people in the village except the men who were hiding in the hills were forcibly taken to West Timor. During the attack members of *Tim Sasurut Ablai Militia* under the command of **Bernadino Da Costa** burned down about 9 houses belonging to the villagers.

DATINA VILLAGE

62. The villagers of Datina supported the independence of East Timor.
63. Sometime in April 1999 members of *Tim Sasurut Ablai Militia* under the command of **Bernadino Da Costa** attacked Datina Village. The men from Datina Village feared that they would be killed by members of *Tim Sasurut Ablai Militia* and they fled to the mountains.
64. The militia not finding any men in the village killed goats, chicken and pigs belonging to the villagers and ordered the women to cook the animals for them. The militia under the command of **Bernadino Da Costa** threatened the women in the village that they had to ask the men to return to the village and vote for autonomy.
65. Joao Sarmento and Domingos Mendonca being members of *Tim Sasurut Ablai Militia* under the command of **Bernadino Da Costa** came to Datina Village frequently with other militia members and threatened and intimidated the villagers that the men would have been killed if they were present. Joao Sarmento and Domingos Mendonca were ordered by **Bernadino Da Costa** to perform guard duties around Datina Village. When the militia conducted patrol in Datina, Joao Sarmento and Domingos Mendonca would go to the house of villagers and forced the women to cook meals and serve them and other militia members present.
66. After the announcement of the results of the referendum on 4 September 1999 **Bernadino Da Costa** and other members of *Tim Sasurut Ablai Militia* attacked Datina Village. All the people in the village except the men who were hiding in the hills were forcibly taken to West Timor. During the attack members of *Tim Sasurut Ablai Militia* under the command of **Bernadino Da Costa** burned down about 22 houses belonging to the villagers.

GROTU LAU VILLAGE

67. On or about 18 April 1999 approximately 90 members of the *Tim Sasurat Ablai* militia attacked Grotu Lau Village led by **Bernadino Da Costa**. At the time the militia came to the village all the men in the village were hiding in the forest. A member of the militia Tiago threatened the villagers that they would be killed if they supported the independence movement. **Bernadino Da Costa** ordered the women in the village to call out to the men to come out of hiding or they would be killed. Some of the women were beaten by the militia members under the command of **Bernadino Da Costa**. Some of the villagers who were in hiding came out. **Bernadino Da Costa** threatened the villagers that they would be killed if they supported independence of East Timor.

68. The militia members under the command of **Bernadino Da Costa** killed a goat, a pig and some chickens belonging to the villagers then forced the women to cook and serve the food to them.
69. Members of *Tim Sasurut Ablai Militia* under the command of **Bernadino Da Costa** came to Grotu Lau Village frequently and threatened and intimidated the villagers to vote for autonomy and that the men would have been killed if they were present.
70. After the announcement of the results of the referendum on 4 September 1999 **Bernadino Da Costa** and other members of *Tim Sasurut Ablai Militia* attacked Grotu Lau Village. All the people in the village except the men who were hiding in the hills were forcibly taken to West Timor.

ORLULI VILLAGE

71. On or about 17 April 1999 members of *Tim Sasurat Ablai Militia* led by **Bernadino Da Costa** and two other militia groups attacked the village of Orluli. About 78 militia members took part in the attack. When the members of the Ablai militia arrived in Orluli, they divided into three groups. Two of the groups (Fahiluhan and Carbalao) secured the outskirts of the village. Members of *Tim Sasurut Ablai Militia* under the command of **Bernadino Da Costa** attacked the village. Before the attack most of the villagers had run into the jungle to hide from the militia. The militia beat the villagers they found in the village. Some of the other members of *Tim Sasurut Ablai Militia* who took part in the attack included Joao Sarmiento, Domingos Mendonca, Abilio Quintao, Antonio De Jesus, Abdullah Ernesto, Ahmad, Armindo, Tiago Mausera, Alberto, Fancisco Mendonca ("Resimau"), Resikoli.
72. Members of *Tim Sasurut Ablai Militia* under the command of **Bernadino Da Costa** threatened the villagers that they would be killed if they did not vote for autonomy. Some of the villagers present were then beaten by the militia.

LEUBREMA VILLAGE

73. After the announcement of the results of the referendum on 4 September 1999 **Bernadino Da Costa** and other members of *Tim Sasurut Ablai Militia* attacked Leubrema Village. All the people in the village except the men who were hiding in the hills were forcibly taken to West Timor. During the attack members of *Tim Sasurut Ablai Militia* under the command of **Bernadino Da Costa** burned down about 20 houses belonging to the villagers.

SURI-REMA VILLAGE

74. On or about 10 April 1999 members of the *Tim Sasurut Ablai Militia* under the command of **Bernadino Da Costa** attacked Suri-Rema Village. The militia

killed pigs, horses, dogs, goats and chicken belonging to the villagers and forced the women to cook and serve them the food.

75. **Bernadino Da Costa** threatened the villagers to show their support for autonomy or they would be killed. On the order of **Bernadino Da Costa** members of the militia cut the fingers of some of the villagers including Antonio Lopes and extract their blood which was then mixed in a vessel containing the blood of the animals the militia had killed and alcohol. **Bernadino Da Costa** then forced about 400 villagers to drink the concoction of blood and alcohol as a demonstration of their support. The villagers fearing for their lives drank the concoction.
76. After the announcement of the results of the referendum on 4 September 1999 **Bernadino Da Costa**, Benjamin Sarmento, Romeiro Tilman, Joao Sarmento, Domingos Mendonca and other members of *Tim Sasurut Ablai Militia* attacked Suri-Rema Village. All the people in the village except the men who were hiding in the hills were forcibly taken to West Timor. During the attack members of *Tim Sasurut Ablai Militia* under the command of **Bernadino Da Costa** burned down about 33 houses belonging to the villagers.
77. On 30 August 1999 members of *Tim Sasurut Ablai Militia* under the command and control of **Bernadino Da Costa** detained about 400 villagers from Grotu Lau, Orema and Leubrema at his house in Leubrema. They were detained there for about four days and on the order of **Bernadino Da Costa** taken to Datina. In Datina the villagers were detained in "community houses" for a further period of about five days before they were deported or forcibly transferred to West Timor on the order of **Bernadino Da Costa**.
78. Between April 1999 and September 1999 (inclusive) members of *Tim Sasurut Ablai Militia* under the command and control of **Bernadino Da Costa** killed the following people in Same Sub-District :
- (i) Carlito De Araujo a.k.a Tilman ("Maulito")
 - (ii) Agapito De Araujo
 - (iii) Luis Boco Siri
 - (iv) Afonso Da Costa
 - (v) Armindo Da Costa (Armindo Tilman)
 - (vi) Carlito Da Costa (Alberto Ximenes)
 - (vii) Lorenzo Tilman

VII. Pursuant to the above the General Prosecutor charges:

The Accused BERNADINO DA COSTA

Counts 1 to 9

Count 1. Crimes Against Humanity: Murder

By his acts or omissions in relation to the events described in paragraphs 24 to 29 (inclusive), **Bernadino Da Costa** is responsible for the murder of Carlito De Araujo a.k.a Tilman (Maulito), on or about 17 April 1999 in Grotu Lau Village,

Same Sub- District, Manufahi District as part of a widespread or systematic attack against a civilian population with knowledge of the attack and thereby committed a CRIME AGAINST HUMANITY, MURDER a crime stipulated under Section 5.1(a) of UNTAET Regulation 2000/15 and for which he is individually responsible under Sections 14 and/or 16 of UNTAET Regulation 2000/15.

Count 2. Crimes Against Humanity: Murder

By his acts or omissions in relation to the events described in paragraphs 30 to 36 (inclusive), **Bernadino Da Costa** is responsible for the murders of Luis Boco Siri and Agapito De Araujo, on or about 17 April 1999 in Oruli Village, Same Sub- District, Manufahi District as part of a widespread or systematic attack against a civilian population with knowledge of the attack and thereby committed a CRIME AGAINST HUMANITY, MURDER a crime stipulated under Section 5.1(a) of UNTAET Regulation 2000/15 and for which he is individually responsible under Sections 14 and/or 16 of UNTAET Regulation 2000/15.

Count 3. Crimes Against Humanity: Murder

By his acts or omissions in relation to the events described in paragraphs 37 to 39 (inclusive), **Bernadino Da Costa** is responsible for the murder of Afonso Da Costa, on or about 24 April 1999 in Orema, Same Sub- District, Manufahi District as part of a widespread or systematic attack against a civilian population with knowledge of the attack and thereby committed a CRIME AGAINST HUMANITY, MURDER a crime stipulated under Section 5.1(a) of UNTAET Regulation 2000/15 and for which he is individually responsible under Sections 14 and/or 16 of UNTAET Regulation 2000/15.

Count 4. Crimes Against Humanity: Murder

By his acts or omissions in relation to the events described in paragraphs 40 to 44 (inclusive), **Bernadino Da Costa** is responsible for the murders of Armindo Da Costa (Armindo Tilman) and Carlito Da Costa (Alberto Ximenes) on or about 30 August 1999 in Datina Village, Same Sub- District, Manufahi District as part of a widespread or systematic attack against a civilian population with knowledge of the attack and thereby committed a CRIME AGAINST HUMANITY, MURDER a crime stipulated under Section 5.1(a) of UNTAET Regulation 2000/15 and for which he is individually responsible under Sections 14 and/or 16 of UNTAET Regulation 2000/15.

Count 5. Crimes Against Humanity: Murder

By his acts or omissions in relation to the events described in paragraphs 45 to 48 (inclusive), **Bernadino Da Costa** is responsible for the murder of Lorenzo Tilman, on or about 9 September 1999 in Datina, Same Sub- District, Manufahi District as part of a widespread or systematic attack against a civilian population with knowledge of the attack and thereby committed a CRIME AGAINST HUMANITY, MURDER a crime stipulated under Section 5.1(a) of UNTAET Regulation 2000/15 and for which he is individually responsible under Sections 14 and/or 16 of UNTAET Regulation 2000/15.

Count 6. Crimes Against Humanity: Imprisonment or Other Severe Deprivation Of Physical Liberty In violation of Fundamental Rules of International Law

By his acts or omissions in relation to events described in paragraphs 49 and 50, **Bernadino Da Costa** is responsible for the imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law, villagers from Orema, Grotu Lau and Leubrema from 30 August 1999 to about 4 September 1999 in Leubrema Village, as part of a widespread or systematic attack against a civilian population with knowledge of the attack, and thereby committed a CRIME AGAINST HUMANITY, IMPRISONMENT OR OTHER SEVERE DEPRIVATION OF PHYSICAL LIBERTY IN VIOLATION OF FUNDAMENTAL RULES OF INTERNATIONAL LAW, a crime stipulated under Section 5.1(e) UNTAET Regulation 2000/15 and for which he is individually responsible under Sections 14 and/ or 16 of UNTAET Regulation 2000/15.

Count 7. Crimes Against Humanity: Imprisonment Or Other Severe Deprivation Of Physical Liberty In violation of Fundamental Rules Of International Law

By his acts or omissions in relation to events described in paragraph 51 **Bernadino Da Costa** is responsible for the imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law, villagers from Datina, Grotu Lau, Leubrema and Orema from about 5 September 1999 to about 9 September 1999 in Datina Village, as part of a widespread or systematic attack against a civilian population with knowledge of the attack, and thereby committed a CRIME AGAINST HUMANITY, IMPRISONMENT OR OTHER SEVERE DEPRIVATION OF PHYSICAL LIBERTY IN VIOLATION OF FUNDAMENTAL RULES OF INTERNATIONAL LAW, a crime stipulated under Section 5.1(e) UNTAET Regulation 2000/15 and for which he is individually responsible under Sections 14 and/ or 16 of UNTAET Regulation 2000/15.

Count 8. Crimes Against Humanity: Deportation or Forcible Transfer of Population

By his act or omissions in relation to the events described in paragraphs 52 to 56 (inclusive), **Bernadino Da Costa** is responsible for the deportation or forcible transfer of population from Same Sub-District, in particular from Grotu Lau Village, Orema, Datina, Leubrema, Trilolo, and other neighbouring villages, to West Timor during September 1999 as part of a widespread or systematic attack against a civilian population with knowledge of the attack and thereby committed a CRIME AGAINST HUMANITY, DEPORTATION OR FORCIBLE TRANSFER OF POPULATION a crime stipulated under Section 5.1(d) of UNTAET Regulation 2000/15 and for which he is individually responsible under Sections 14 and/ or 16 of UNTAET Regulation 2000/15.

Count 9. Crimes Against Humanity: Persecution

By his acts or omissions in relation to the events described in paragraph 57 to 78 **Bernadino Da Costa** is responsible for the persecution of supporters of independence of East Timor in Same Sub-District, Manufahi District, in

particular the villagers of Orema, Datina, Grotu Lau, Orluli, Leubrema, and Suri-Rema between April 1999 and September 1999, as part of a widespread or systematic attack against a civilian population with knowledge of the attack and thereby committed a CRIME AGAINST HUMANITY, PERSECUTION a crime stipulated under Section 5.1(h) of UNTAET Regulation 2000/15 and for which he is individually responsible under Sections 14 and/ or 16 of UNTAET Regulation 2000/15.

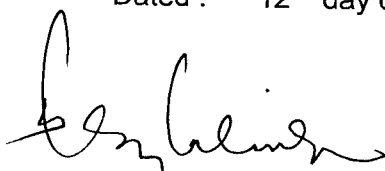
VIII. LIST OF VICTIMS

The list of victims, which forms part of this indictment is attached as Annex "A".

IX. REQUEST FOR TRIAL

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

Dated : 12th day of February 2002



Longuinhos Monteiro

General Prosecutor For the United Nations Transitional Administration of East Timor