

DISTRICT COURT OF DILI

BEFORE THE SPECIAL PANEL FOR SERIOUS CRIMES

Case No: 17/2003

INDICTMENT

THE DEPUTY GENERAL PROSECUTOR FOR SERIOUS CRIMES

- Against -

JOSE LOPEZ DA CRUZ MENDONCA (aka Jose 'Fahiten')

I: INDICTMENT

The Deputy General Prosecutor for Serious Crimes pursuant to his authority under UNTAET Regulations 2000/16 and 2000/30 as amended by 2001/25, charges **Jose Lopez da Cruz Mendonca (aka Jose 'Fahiten')** with a **CRIME AGAINST HUMANITY - MURDER**, as set forth in this indictment.

II: NAME AND PARTICULARS OF THE ACCUSED:

- | | | |
|----|-------------------------|------------------------------------------------|
| 1. | Name: | Jose Lopez da Cruz Mendonca |
| | Place of Birth: | Dili, East Timor |
| | Date of Birth/Age: | 1979 (approx) |
| | Sex: | Male |
| | Nationality: | East Timorese |
| | Address: | Believed to be in Loloa, West Timor, Indonesia |
| | Occupation at the time: | Aitarak militia member |

III: INTRODUCTORY STATEMENT OF FACTS

1. A widespread or systematic attack was committed against the civilian population in East Timor in 1999. The attack occurred during two interconnected periods of intensified violence. The first period followed the announcement on 27 January 1999 by the Government of Indonesia that the people of East Timor would be allowed to choose between autonomy within the Republic of Indonesia or independence. This period ended on 4 September 1999, the date of the announcement of the result of the popular consultation in which 78.5 per cent voted against the autonomy proposal. The second period followed the announcement of the result of the popular consultation on 4 September through 25 October 1999.
2. The widespread or systematic attack was part of an orchestrated campaign of violence, that included among other things, incitement, threats to life, intimidation, unlawful confinement, assault, forced displacement, arsons, murders, rapes, torture and other forms of violence carried out by members of the pro-autonomy militia, members of the Indonesian Armed Forces, ABRI (Angkatan Bersenjata Republik Indonesia) renamed TNI (Tentara Nasional Indonesia) in 1999 and members of the Indonesian Police Forces POLRI (Kepolisian Republik Indonesia) with the acquiescence and active participation of civilian and military authorities.
3. With the backing of the TNI and the Civil Administration, more than twenty five militia groups operated throughout East Timor. Their goal was to support

autonomy with Indonesia. The Integration Fighting Forces, PPI (Pasukan Pejuang Indonesia) under the command of Joao Tavares and Eurico Guterres was the umbrella organization under which these militia groups were organized. With the acquiescence of TNI and the Civil Administration, PPI commanders issued and called upon and incited militia groups and their members to intimidate independence supporters and those perceived to support them. The militia groups participated widespread or systematic attacks, acting and operating with impunity.

4. The widespread or systematic attack was directed against civilians and predominantly against individuals who supported or were perceived to support independence and resulted in lethal injury including death by sharp force injury, gun shot injury, blunt force trauma or a combination of the three.
5. As part of the widespread or systematic attack against the civilian population, the militia destroyed property including houses and livestock belonging to the civilian population.
6. The widespread or systematic attacks resulted in the internal displacement of thousands of persons. Additionally, the forcible transfer of the civilian population within East Timor and deportation to West Timor, Indonesia, was an essential feature of the orchestrated campaign of violence.
7. Under the terms of the 5 May 1999 Agreements, between the Indonesia, Portugal and the United Nations on the popular consultation, the Indonesian security authorities (TNI and POLRI) had the responsibility to ensure a safe environment devoid of violence or other forms of intimidation as well as the general maintenance of law and order before and during the popular consultation. The TNI and POLRI failed to meet these obligations.
8. The Indonesian Military in East Timor consisted of both regular territorial forces and Special Combat Forces ie the Strategic Reserve Command (KOSTRAD) (Kommando Strategis Angkatan Darat) and Special Forces Command (KOPASUS) (Kommando Pasukan Khusus) all of which had units, staff officers and soldiers stationed in East Timor.
9. From February 1999 to October 1999, the Indonesian Police Force (POLRI) the state agency for upholding law and public order were also present in East Timor. It included a Mobile Police Brigade BRIMOB, (Brigade Mobil) whose units and members were stationed in East Timor, including in Dili district.

IV: SPECIFIC STATEMENT OF FACTS

10. Dili is one of the thirteen districts of East Timor and is comprised of five sub-districts, namely Dom Aleixio, Nain Feto, Cristo Rei, Metinaro and Atauro.

11. Between April 1999 and September 1999 the Aitarak militia group operated throughout Dili District. It comprised of hundreds of members. The Aitarak militia operated in collaboration with units of the TNI and POLRI in Dili. During this period members of the Aitarak militia carried out acts of violence directed against civilians who were perceived to be members or supporters of FALINTIL (Forças Armadas De Libertacao Nacional De Timor Leste: Armed Forces for the Liberation of East Timor), supporters of independence or linked to or sympathetic to the independence cause. The attack included acts of intimidation, threats, unlawful detention, arsons, murders, forcible deportation and other acts of persecution.
12. From approximately April 1999 to September 1999, Eurico Guterres was the Commander of the Aitarak militia which operated in Dili.
13. **Jose Lopez da Cruz Mendonca (aka Jose 'Fahiten')** was an Aitarak militia member from Mascarinhas under the command and control of the Aitarak militia commander for Company A (Caicoli and Mascarinhas region), Beny Ludji.
14. During 1999 Aitarak militia members under the command and control of Beny Ludji conducted daily and nightly patrols through Mascarinhas and Caicoli. They were armed with knives, machetes, Samuari swords, spears and rakitans (home made guns). During the patrols Beny Ludji stated that he would kill anyone that supported independence and also made threats to kill Guido Alves Correia, who was a member of CNRT and an active campaigner for independence.
15. On the night of 1 September 1999 Beny Ludji ordered Aitarak militia members under his command and control, to conduct patrols in Mascarinhas and Caicoli. Aitarak militia members including **Jose Lopez da Cruz Mendonca** began to patrol through the streets of Mascarinhas attacking houses and firing into the air. **Jose Lopez da Cruz Mendonca** was armed with a spear.
16. Late in the night, Aitarak militia members, including **Jose Lopez da Cruz Mendonca**, reached the house of Guido Alves Correia. The militia members surrounded the house and attacked the house. Suddenly someone inside the house turned the light off. An Aitarak militia member then called out to the other militia members, including **Jose Lopez da Cruz Mendonca**, that there was someone inside the house.
17. As Guido Alves Correia ran out the door of his house, **Jose Lopez da Cruz Mendonca** threw a spear at him hitting him in the back.
18. Guido Alves Correia fell to the ground, then stood up and continued to run. Several militia members, ran after Guido Alves Correia. Guido Alves Correia then fell down again and the militia members hacked at him with machetes until he was dead. The militia members then reported to their commander Beny Ludji that they had killed Guido Alves Correia. Following the killing, **Jose Lopez da**

Cruz Mendonca gave his spear to another Aitarak militia member who then asked his father to bury the spear in the garden of his house.

19. Beny Ludji ordered the militia members to bring Guido Alves Correia's body to his house. Beny Ludji and a number of other militia members then took the body in the back of a Kijang truck to Tasitolu on the outskirts of Dili where it was buried in a shallow grave.

V: GENERAL ALLEGATIONS

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

VI. CRIMINAL RESPONSIBILITY

(a) Individual Criminal Responsibility

21. The accused **Jose Lopez da Cruz Mendonca** is charged with individual criminal responsibility in this indictment. An 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; and*

...

VII: THE CHARGE

Pursuant to the above the Deputy General Prosecutor for Serious Crimes charges:

Count 1: Crime Against Humanity: Murder

By his acts or omissions in relation to the events described in paragraphs 15-19 of this indictment **Jose Lopez da Cruz Mendonca** is responsible as an individual for the murder of Guido Alves Correia on or about 1 September 1999 in Mascarinhas, Dili District which was committed 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) UNTAET Regulation 2000/15.

VIII: VICTIM AND EVIDENCE FOR TRIAL

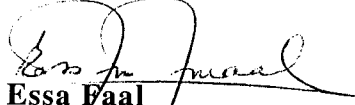
The victim is Guido Alves Correia.

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

IX: REQUEST FOR TRIAL

The Deputy General Prosecutor for Serious Crimes hereby requests that the Special Panel for Serious Crimes of the District Court of Dili tries this case expeditiously.

Dated 2nd June 2003



Essa Faal

Acting Deputy General Prosecutor for Serious Crimes