

DISTRICT COURT OF DILI

BEFORE THE SPECIAL PANEL FOR SERIOUS CRIMES

Case No: 18a/2003

INDICTMENT

THE DEPUTY GENERAL PROSECUTOR FOR SERIOUS CRIMES

Against

APRECIO GUTERRES a.k.a. MAU BUTI

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:

Aprecio GUTERRES a.k.a. MAU BUTI

With

CRIMES AGAINST HUMANITY:

MURDER

As set forth in this indictment.

II. NAME AND PARTICULARS OF THE ACCUSED

Name:	Aprecio GUTERRES a.k.a. MAU BUTI
Place of birth:	Marobo, Bobonaro District
Age/Date of birth:	1979
Sex:	Male
Nationality:	East Timorese
Address:	Atambua, West Timor, Indonesia
Occupation at the time:	Member of the Dadrus Merah Putih militia

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 an 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 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 (*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 Fighters Forces, PPI (*Pasukan Perjuangan Integrasi*) under the command of Joao Da Silva Tavares and Eurico Gutteres was the umbrella organization under which these militia groups were organized. With the acquiescence of TNI and the Civil Administration, PPI commanders issued, called upon and incited militia groups and their members to intimidate independence supporters and those perceived to support them. The militia groups participated in widespread or systematic attacks, acting and operating with impunity.
4. Militia groups were an armed wing of the United Forum for Democracy and Justice, FPDK (*Front Perdamaian, Demokrasi dan Keadilan*) established at a meeting at Makhota Hotel in Dili on 27 January 1999 by Pro-integration elements in East Timor as a political front for the integrationist cause.
5. 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.

6. 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.
7. The widespread or systematic attack 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.
8. Under terms of the 5 May 1999 Agreements, between Indonesia, Portugal and the United Nations on the popular consultation, the Indonesian security authorities 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.
9. The Indonesian Military in East Timor consisted of both regular territorial forces, BTT (*Batalyon Teritorial*) 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.
10. 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 (*Brigade Mobil*), whose units and members were stationed in East Timor, including in the Bobonaro District.
11. From June to September 1999 special POLRI units known as the Kontingen Loro'Sae operated in East Timor. Kontingen Loro'Sae was created in order to assist the regular POLRI units in performing their tasks defined under the 5 May agreement.

IV. SPECIFIC STATEMENTS OF FACTS

A. Background facts.

12. Bobonaro District is one of the thirteen districts of East Timor, situated at the north-western part of the country, along the border with West Timor, a part of Nusa Tenggara Timur Province of Indonesia. In 1999 Bobonaro District consisted of six sub-districts: Atabae, Balibo, Bobonaro, Cailaco, Lolotoe and Maliana.
13. Maliana town is recognized as the capital of the district. In 1999 all district authorities including the District Administration Office, PEMDA (*Pemerintah Daerah II*), managed by a Head of the District Administration (*Bupati*), the

District Military Command, KODIM 1636 (*Komando Distrik Militer*), commanded by a District Military Commander, DANDIM (*Komandan Distrik Militer*), the District POLRI Headquarters, POLRES (*Polisi Resort*), commanded by a District Police Commander, KAPOLRES (*Kepala Polisi Resort*) were situated in Maliana.

14. In 1999, the following militia groups, among others, operated in Bobonaro District: the *Dadurus Merah Putih*, (DMP) in the Sub-district of Maliana; the *Halilintar* and the *Harmoi Merah Putih*, in the Sub-district of Atabae; the *Hametin Merah Putih*, in the Sub-district of Bobonaro; the *Firmi Merah Putih* and the *Saka Loromonu* (SLM), in the Sub-district of Balibo; the *Guntur Merah Putih*, in the Sub-district of Cailaco and the *Kaer Metan Merah Putih*, in the Sub-district of Lolotoe.
15. The DMP militia inauguration ceremony was held on 19 April 1999 at the sports stadium, GOR (*Gedung Olah Ragah*) in Maliana. Pro-autonomy leaders from Bobonaro District attended the ceremony, as well as the main militia commanders from other districts, TNI and POLRI officers and Civil Servants, along with many hundreds of others, including members of the public. During the ceremony, the TNI soldiers, who had been appointed as DMP militia commanders and were recruited predominantly from the Intelligence Section of KODIM 1636, were introduced. Some of the pro-autonomy leaders then gave speeches, encouraging people to support autonomy and threatening those who would support independence with death.
16. From April 1999 to September 1999 **Aprecio GUTERRES** was a member of the DMP militia.

B. Situation in Maliana after the Popular Consultation.

17. After the Popular Consultation TNI and DMP members started executing a pro-autonomy forces' policy for post-consultation period expressed in, dated 17 July 1999 Joao DA SILVA TAVARES' letter to commanders of militia groups operating in East Timor, in which he ordered the militia commanders to launch a "sweep operation" against independence supporters; this included all males and females from the age 15 years, without exceptions.
18. From 31 August 1999, POLRI officers, TNI soldiers and the DMP militia members, have been walking or driving vehicles equipped with loudspeakers around Maliana town and its villages. They announced that the pro-independence supporters must move to the POLRES compound, whereas pro-autonomy supporters were moved to the KODIM compound.

19. As of 2 September 1999 few families had left their homes to move to the POLRES compound. The DMP militia members and TNI soldiers then intensified their campaign of violence against the civilian population in Bobonaro District.
20. In the afternoon of 2 September two members of pro-independence youth organization “Young Lorico Heroes” (*Juventude Lorico Asswain – JLA*) were killed in Maliana during attack of joined forces of TNI and DMP members and with active participation of some POLRI officers.
21. In the evening the same day, two local UNAMET workers were killed in Raifun village by DMP militia members commanded by TNI soldiers.
22. Since the morning of 3 September 1999 the DMP militia members and TNI soldiers have attacked villages in and around Maliana town. While threatening to kill the population if they failed to move to the POLRES compound, they burnt and destroyed buildings and structures including dwelling houses and government buildings, and stole or destroyed personal property including livestock.
23. The killings that occurred on 2 September 1999 and further events caused a massive displacement of the civilian population. Hundreds of villagers fled their homes, and moved to the POLRES compound in Maliana. The DMP and TNI then destroyed these villages. The POLRES compound filled with displaced persons.
24. The displaced persons stayed in several locations within the POLRES: including POLRI officer’s accommodation, while the others stayed in the area of the garage building, internal roadways, or erected their shelters on grounds of the POLRES compound.
25. In the days leading up to 8 September 1999, DMP militia members entered the POLRES compound, openly carrying weapons. They visited all areas of the compound where the displaced persons were gathered.
26. In the afternoon of the 8th of September 1999 TNI soldiers commanding DMP militia groups held meetings of their militia members; they were held at several locations in and around Maliana town including Ritabou village.
27. In the Ritabou village the DMP militia members gathered at the house of Natalino Monteiro Goncalves, who was the Commander of this group. One of SGI soldiers being present at the meeting provided the DMP militia members with a list of names. The list included Manuel MAGALHAES – a leader of the National Council for Timorese Resistance, CNRT (*Concelho Nacional da Resistencia Timorense*), Manuel BARROS – a member of DPRD II and the CNRT leader and Domingos PERREIRA – a Village Chief (*Kepala Desa*) of the Ritabou Village and other prominent CNRT leaders and independence supporters, Carlos MAIA

- and Julio BARROS. The DMP militia members were instructed to go to the POLRES Compound, locate the people listed and kill them.
28. The DMP militia members were ordered into two vehicles and driven to the Maliana KORAMIL 1636-01.
 29. Sgt Francisco Fernandes then spoke to the militia groups. He repeated militia members the names of people who were to be killed. The DMP militia members were informed about locations of the victims within the compound and ordered to kill them.
 30. When the briefing ended the DMP militia groups went to the POLRES Compound and started executing their orders.
 31. During the attack there were at least 13 victims killed including: Domingos Pereira, Manuel Barros and Julio Barros.
 32. Some of the victims including Lorenza Da Cunha and Alberto Afonso were attacked by militia members and sustained injuries, but managed to escape.

C. The Mulau Massacre

1) Escapees from the POLRES Massacre.

33. Carlos MAIA survived the beginning of the POLRES attack hiding together with Lamberto DE SA BENEVIDES in a rolled mattress in his tent. They then joined Manuel MAGALHAES and escaped from the POLRES Compound.
34. A second group of escapees consisted of Abilio MARQUES VICENTE, Augusto DOS SANTOS MARQUES, Jose BARRETO, Pedro LUIS, Ernesto DA COLI, Lucas DOS SANTOS, Paul DA SILVA, Deolindo CARDOSO, Luis SOARES (a.k.a. DOS SANTOS), Jeroni LOPES and Domingos TITI MAU.
35. Dinis NACIMENTO escaped alone. He met Lamberto DE SA BENEVIDES, Manuel MAGALHAES and Carlos MAIA at the back of the Compound.
36. Both groups met behind the school in Holsa Village.
37. They walked together along the riverbed until they got near the Soso bridge.
38. After a short discussion they decided to split into smaller groups, fearing for their safety.

39. Dinis NACIMENTO and Deolindo CARDOSO went together ahead towards Utedai Village.
40. They waited for the others on the way, but they never appeared.

2) Discovery of the escapees.

41. In the morning of 9 September 1999 the DMP militia members, including TNI Sgt Miguel Soares gathered at the house of Natalino Monteiro Goncalves in Ritabou Village.
42. At about 1 pm one of the villagers came to the house of Natalino Monteiro Goncalves, and informed the DMP militia members, including TNI Sgt Miguel Soares, that he had discovered a group of escapees from the POLRES compound, and that they were hiding on the riverbank near Mulau Village, about 2 km from Ritabou.
43. The DMP militia were ordered by their commanders, to accompany TNI Sgt Miguel Soares to Mulau, where they were to kill the escapees.
44. DMP militia members including **Aprecio GUTERES** walked in the direction of Mulau Village.
45. On the way they told other militia waiting by the road with their belongings to join them.

3. Attack on the Mulau area.

46. When the DMP militia group reached the area of Mulau, Sgt Miguel Soares ordered them to form a cordon and search the forest adjacent to the riverbank, where the escapees were suspected to be hiding.
47. Sgt Miguel Soares and the militia came across Lamberto DE SA BENEVIDES, Manuel MAGALHAES and Carlos MAIA.
48. Lamberto DE SA BENEVIDES was shot to death by Sgt Miguel Soares.
49. Manuel MAGALHAES was stabbed to death by Joao Dos Santos Nunes.
50. Carlos MAIA attempted to escape running down the hill. He was caught by Luis Mali Dao and **Aprecio GUTERRES**. Both militia members were armed with samurai swords. As the victim was running Luis Mali Dao stabbed him in the back and he fell to the floor. **Aprecio GUTERRES** the stabbed him on his right

side. Carlos MAIA was just left on the floor to die. Luis Mali Dao and **Aprecio GUTERRES** came back up towards the group.

51. Sgt Miguel Soares and the Militia walked towards the river, leaving the victim's body at the scene.
52. Abilio MARQUES VICENTE, Augusto DOS SANTOS MARQUES, Jose BARRETO, Pedro LUIS, Lucas DOS SANTOS, Luis SOARES (DOS SANTOS), Jeroni LOPES and Domingos TITI MAU were discovered on the riverbank. They were surrounded by a group of DMP militia members.
53. Sgt Miguel Soares approached the group of escapees saying 'If you want surrender stay where you are'. He then ordered all the victims to kneel down and raise their hands. When they did so Sgt Miguel Soares shot each victim, one after the other, with his automatic rifle.
54. Ernesto DA COLI was arrested by Joao Kometa and Daniel (LNU) on the far side of the river. They walked to the river and pushed the victim into the water. Sgt Miguel Soares ordered Ernesto DA COLI to come closer. When he did so Sgt Miguel Soares shot him. Joao Kometa then stabbed the victim, killing him.
55. Paul DA SILVA tried to surrender, whilst standing in the middle of the river. Sgt Miguel Soares shot him several times, killing him.

4. Disposal of the victim's dead bodies.

56. After the massacre one section of the DMP militia returned to Ritabou, whilst the remainder stayed at the crime scene.
57. After dark a yellow dump truck was brought to the scene. The bodies of the victims, except that of Paul DA SILVA's, were loaded onto the truck, which was manned by several DMP militia members including Justino Bili and Justino Soares, under the supervision of a TNI soldier. The vehicle drove to Batugade.
58. On arriving in Batugade they stopped at the SLM militia checkpoint located at the house of Ruben Tavares. They met with Ruben Tavares and Ruben Monteiro Goncalves – the commanders of the SLM militia in Batugade. The SLM members joined with the DMP group.
59. Then both vehicles proceeded together to the beach in Batugade where several members of the SLM militia group were already waiting.
60. The members of the SLM militia group unloaded the bodies from the truck.

61. Under the command of Ruben Tavares and Ruben Monteiro Goncalves the SLM militia members filled up sandbags from the beach. The sacks were tied up to the bodies. Then bodies were loaded into several fishing boats, brought to the sea and dumped.
62. The dead body of Paul DA SILVA was discovered at the Mulau area in September 1999 and buried.
63. The remains of Carlos MAIA and Lamberto DE SA BENEVIDES were discovered later at the beach in Batugade and buried.

V. INDIVIDUAL CRIMINAL RESPONSIBILITY

64. Under Section 14 UNTAET Regulation 2000/15 the accused is responsible for a crime, 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*
- (ii) 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;”*

VII. THE CHARGES

Pursuant to the above, the Deputy General Prosecutor charges **Aprecio Guterres** with:

Crime Against Humanity: Murder

By his acts or omissions in relation to the events described in paragraphs 46 to 55 **Aprecio GUTERRES** is responsible as an individual for the murder of Carlos MAIA, Manuel MEGALHAES, Lamberto DE SA BENEVIDES, Abilio MARQUES VICENTE, Augustinho DOS SANTOS MARQUES, Pedro LUIS, Jose BARRETO, Paul DA SILVA, Ernesto DA COLI, Lucas DOS SANTOS, Luis SOARES a.k.a. DOS SANTOS, Geronimo a.k.a. Jeroni LOPES and Domingos TITI MAU, on or about 9 September 1999 at the Mulau area, Maliana Sub-District, Bobonaro 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.

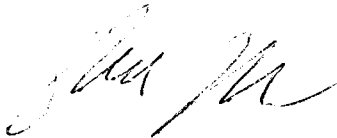
VII. VICTIMS

The list of victims that form part of this indictment are attached as Annex "A".

VII. REQUEST FOR TRIAL

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

Dated at Dili, 18 June 2004



Nicholas KOUMJIAN

Deputy General Prosecutor for Serious Crimes