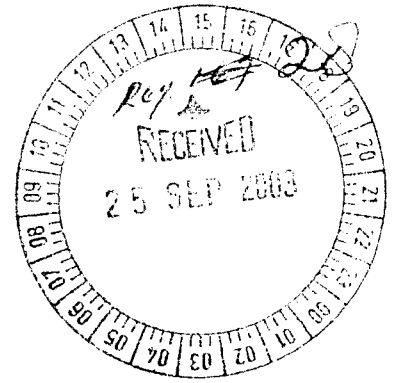


7/10



DISTRICT COURT OF DILI

BEFORE THE SPECIAL PANEL FOR SERIOUS CRIMES

Case No: 24/C.G/2003/P.D. DIL.

INDICTMENT

THE DEPUTY GENERAL PROSECUTOR FOR SERIOUS CRIMES

- Against -

MATEUS DE CARVALHO (1)
ANTONIO ADOLFO (2)
LUIS DA COSTA
OLIVEIRA(3)
(aka LUIS METAN)
LT AGUS YULI (4)
LT UNTUNG (5)
ANTONIO PINTO (aka
ANTONIO B or
'MAUTERSA')(6)
MARIO MALEKAT (7)

LINO 'WATULARI' (8)
MANUEL DA SILVA (9)
GASPAR DA SILVA (10)
FLORINDO MALIMETA (11)
DOMINGOS BEREMAU (12)
PEDRO SOUSA (13)
DOMINGOS TEEBUTI (14)
MATEUS MALIMETA (15)
JOSE SOARES (16)
MATIAS SOARES (17)
JOAQUIM GUDINHO (18)

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 **Mateus de Carvalho, Antonio Adolfo, Luis da Costa Oliveria, Lt Agus Yuli, Lt Untung, Antonio Pinto (aka Antonio B or 'Mautersa'), Mario Malekat, Lino 'Watulari', Manuel da Silva, Gaspar da Silva, Florindo Malimeta, Domingos Beremau, Pedro Sousa, Domingos Teebuti, Mateus Malimeta, Jose Soares, Matias Soares and Joaquim Gudhino** with **CRIMES AGAINST HUMANITY: MURDER, TORTURE, INHUMANE ACTS, IMPRISONMENT, PERSECUTION and DEPORTATION OR FORCIBLE TRANSFER OF POPULATION** as set forth in this indictment.

II: NAME AND PARTICULARS OF THE ACCUSED:

1. Name: **Mateus de Carvalho**
 Place of Birth: East Timor
 Date of Birth/Age: Approx. 40-45 years old
 Sex: Male
 Nationality: East Timorese
 Address: Believed to be in the Republic of Indonesia
 Occupation at the time: Commander of Aitarak militia Company D (Hera)
2. Name: **Antonio Adolfo**
 Place of Birth: East Timor
 Date of Birth/Age: Not known
 Sex: Male
 Nationality: East Timorese
 Address: Believed to be in the Republic of Indonesia.
 Occupation at the time: Commander of Aitarak militia in Metinaro
3. Name: **Luis da Costa Oliveira (aka Luis Metan)**
 Place of Birth: East Timor
 Date of Birth/Age: Not known
 Sex: Male
 Nationality: East Timorese
 Address: Believed to be in the Republic of Indonesia
 Occupation at the time: Deputy Commander of Aitarak militia in Metinaro
4. Name: **Lt Agus Yuli**
 Place of Birth: Surabaya, Indonesia
 Date of Birth/Age: Not known

- Sex: Male
Nationality: Indonesian
Address: Believed to be in the Republic of Indonesia
Occupation at the time: Commander of TNI Rajawali in Hera
5. Name: **Lt Untung**
Place of Birth: Java, Indonesia
Date of Birth/Age: Not known
Sex: Male
Nationality: Indonesian
Address: Believed to be in the Republic of Indonesia
Occupation at the time: Sub-district Commander of TNI in Metinaro (Danramil)
6. Name: **Antonio Pinto (aka Antonio B or 'Mautersa')**
Place of Birth: East Timor
Date of Birth/Age: More than 40 years old
Sex: Male
Nationality: East Timorese
Address: Believed to be in the Republic of Indonesia
Occupation at the time: TNI soldier
7. Name: **Mario Malekat**
Place of Birth: East Timor
Date of Birth/Age: Approximately 40 years old
Sex: Male
Nationality: East Timorese
Address: Believed to be in the Republic of Indonesia
Occupation at the time: TNI soldier
8. Name: **Lino 'Watulari'**
Place of Birth: East Timor
Date of Birth/Age: Not known
Sex: Male
Nationality: East Timor
Address: Believed to be in the Republic of Indonesia
Occupation at the time: Aitarak militia member
9. Name: **Manuel da Silva**
Place of Birth: East Timor
Date of Birth/Age: Not known
Sex: Male
Nationality: East Timorese
Address: Believed to be in the Republic of Indonesia
Occupation at the time: Aitarak militia member

10. Name: **Gaspar da Silva**
 Place of Birth: East Timor
 Date of Birth/Age: Not known
 Sex: Male
 Nationality: East Timorese
 Address: Believed to be in the Republic of Indonesia
 Occupation at the time: Aitarak militia member
11. Name: **Florindo Malimeta**
 Place of Birth: East Timor
 Date of Birth/Age: Not known
 Sex: Male
 Nationality: East Timorese
 Address: Believed to be in the Republic of Indonesia
 Occupation at the time: Aitarak militia member
12. Name: **Domingos Beremau**
 Place of Birth: East Timor
 Date of Birth/Age: Not known
 Sex: Male
 Nationality: East Timorese
 Address: Believed to be in the Republic of Indonesia
 Occupation at the time: Aitarak militia member
13. Name: **Pedro Sousa**
 Place of Birth: East Timor
 Date of Birth/Age: Not known
 Sex: Male
 Nationality: East Timorese
 Address: Believed to be in the Republic of Indonesia
 Occupation at the time: Aitarak militia member
14. Name: **Domingos Teebuti**
 Place of Birth: East Timor
 Date of Birth/Age: Not known
 Sex: Male
 Nationality: East Timorese
 Address: Believed to be in the Republic of Indonesia
 Occupation at the time: Aitarak militia member
15. Name: **Mateus Malimeta**
 Place of Birth: East Timor
 Date of Birth/Age: Not known
 Sex: Male
 Nationality: East Timorese
 Address: Believed to be in the Republic of Indonesia

- Occupation at the time: Aitarak militia member
16. Name: **Jose Soares**
 Place of Birth: East Timor
 Date of Birth/Age: Not known
 Sex: Male
 Nationality: East Timorese
 Address: Believed to be in the Republic of Indonesia
 Occupation at the time: TNI soldier
17. Name: **Matias Soares**
 Place of Birth: East Timor
 Date of Birth/Age: Not known
 Sex: Male
 Nationality: East Timorese
 Address: Believed to be in the Republic of Indonesia
 Occupation at the time: Aitarak militia member
18. Name: **Joaquim Gudhino**
 Place of Birth: East Timor
 Date of Birth/Age: Not known
 Sex: Male
 Nationality: East Timorese
 Address: Believed to be in the Republic of Indonesia
 Occupation at the time: TNI soldier

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, Christos Rei, Metinaro and Atauro.

A Background to TNI and Aitarak militia in Hera and Metinaro

11. Akanunu, Hera and Metinaro are on the main road between Dili and Bacau, approximately 10-15 km outside of Dili.
12. Between April and September 1999 the Aitarak militia and the TNI in Hera and Metinaro worked closely together and engaged in a campaign of violence including intimidation, assault, destruction, murder and deportation.
13. There were two distinct phases of the violence in the Hera/Metinaro area. The first phase commenced with the inauguration of the Aitarak militia in Dili on 17 April 1999 and continued until the announcement of the results of the popular consultation on 4 September 1999. During this phase the militia and TNI threatened, intimidated, assaulted and killed persons suspected to be pro-independence supporters.
14. The second phase occurred between 4 September 1999 and the arrival of the INTERFET (International Force for East Timor) troops on 20 September 1999. During this phase the militia and TNI went on a rampage through Hera and Metinaro, burning houses, assaulting and killing alleged supporters of independence and deporting the civilian population into West Timor.
15. The Aitarak militia in Dili were divided into four companies, A, B, C and D. **Mateus de Carvalho** was the Commander of Aitarak Company D which covered Hera. Throughout 1999 **Mateus de Carvalho** exercised effective command and control over Aitarak militia members in Akanunu and Hera.
16. The militia in Hera operated from a number of militia posts including from the home of **Mateus de Carvalho** in Akanunu. They also manned a number of roadblocks at which they stopped persons traveling between Dili and Bacau and arrested, assaulted and killed persons they suspected of being pro-independence supporters.
17. **Lino 'Watulari', Manuel Silva, Gaspar da Silva, Florindo Malimeta, Domingos Beremau, Pedro Sousa, Domingos Teebuti and Mateus Malimeta** were members of the Aitarak militia in Hera and Akanunu during 1999.
18. The Commander of the militia in Metinaro was **Antonio Adolfo**. Throughout 1999 **Antonio Adolfo** exercised effective command and control over Aitarak

militia members in Metinaro. **Luis da Costa Oliveira** was the Deputy Commander of the Aitarak militia in Metinaro.

19. **Matias Soares** was a member of the Aitarak militia in Metinaro during 1999.
 20. During 1999 there were both Timorese and Indonesian TNI soldiers stationed in Hera. The Indonesian TNI were known as the 'Rajawali' and were specialist combat troops. Both groups operated out of the TNI compound in Hera (also known as the 'Rajawali compound'). Both groups had separate command and reporting structures but often worked together.
 21. **Lt Agus Yuli** was the Commander of the Indonesian TNI 'Rajawali' troops in Hera. The Rajawali troops arrived in Hera in March 1999 and were part of Rajawali IV who were deployed to Timor Leste between 1998 and 1999. The Rajawali were under the overall command of the Military Commander of Timor Leste (Danrem) Col. Tono Suratman. During 1999 **Lt Agus Yuli** exercised command and control over the Indonesian TNI soldiers in Hera.
 22. Marcelino Soares was the Senior Non-Commissioned Officer for Village Guidance or Babinsa (*Bintara Pembina Desa*) of the Timorese TNI in Hera. Marcelino Sores reported directly to the Sub-district Military Command, KORAMIL (*Komando Rayon Militer*) in Becora. The KORAMIL in Becora was one of 4 KORAMILS in Dili which was part of the District Military Command, KODIM (*Komando Distrik Militer*) in Dili.
 23. **Antonio Pinto (aka Antonio B or 'Mautersa'), Mario Malekat and Rudolfo Alves Correia (aka Adolfo)** were Timorese TNI soldiers in Hera during 1999 under the command and control of Marcelino Soares.
 24. **Lt Untung** was the Sub-District Military Commander (Danramil) of KORAMIL Metinaro. During 1999 **Lt Untung** exercised command and control over TNI soldiers in Metinaro.
 25. **Jose Soares and Joaquim Gudhino** were Timorese TNI soldiers in Metinaro during 1999 under the command and control of **Lt Untung**.
- B: **The attack on Rafael de Jesus Amaral, Felipe de Sousa and Luis Dias Soares in Hera on 20 April 1999**
26. Rafael de Jesus Amaral (aka Joao), Felipe de Sousa and Luis Dias Soares were members of a pro-independence clandestine group (ESTAFET) during 1999.
 27. On the morning of 20 April 1999 Rafael de Jesus Amaral, Felipe de Sousa and Luis Dias Soares had come from Remixiu, Alieu with a letter from their group requesting food and assistance for clandestine supporters in Alieu when they were

- arrested by Timorese and Indonesian TNI soldiers, including **Antonio Pinto (aka Antonio B or 'Mautersa')** and **Mario Malekat** in Hera. The three men were then taken to a building next to the TNI post for questioning.
28. A knife and the letter requesting food and assistance was found in the possession of Luis Dias Soares. Luis Dias Soares was singled out for being an alleged supporter of FALINTIL (*Forças Armadas de Libertação Nacional de Timor Leste*) and taken to a separate room by an Indonesian TNI soldier where his hair was cut off.
 29. Following their questioning Luis Dias Soares, Rafael de Jesus Amaral and Felipe de Sousa were detained in separate rooms where they were severely beaten with sticks and rifle butts by East Timorese and Indonesian TNI soldiers.
 30. Rafael de Jesus Amaral was beaten by TNI soldiers including, **Antonio Pinto, Mario Malekat** and other Indonesian Rajawali soldiers. During the assault **Antonio Pinto** accused Rafael de Jesus Amaral of being a pro-independence supporter and supporting resistance leader Xanana Gusmao. Rafael de Jesus Amaral was also cut, assaulted, and burnt with hot metal. Rafael de Jesus Amaral was tortured until he lost consciousness.
 31. Following his assault Rafael de Jesus Amaral was left in the room bound by his hands and feet. During the night Rafael de Jesus Amaral was able to escape through the window of his room and out of the building.
 32. During the same night, Luis Dias Soares was beaten to death by Indonesian and Timorese TNI soldiers including **Antonio Pinto and Mario Malekat**. His body was placed in two sacks bound with rope. Around midnight Timorese TNI soldiers including **Antonio Pinto and Mario Malekat** along with Indonesian TNI soldiers loaded the body of Luis Dias Soares into a Kijang truck and took the body to be buried in an unmarked grave in Sukar Laran, close to the TNI post.
 33. Felipe de Sousa was held captive in the TNI building for four days. During this time he was severely beaten by East Timorese and Indonesian TNI soldiers including **Antonio Pinto**, who hit him with metal pipes and rifle butts and also slashed him with their knives. After four days, Felipe de Sousa was released from detention with the assistance of his cousin, also a TNI soldier.
- C: **The abduction of Longuinos da Silva de Jesus in Hera on or about 1 May 1999.**
34. Longuinos da Silva de Jesus was a known pro-independence supporter who lived in Metinaro.

35. During 1999 Aitarak militia members in Hera and Akanunu had specific instructions from their commander **Mateus de Carvalho** to detain any suspected pro-independence supporters.
36. In the late afternoon of 1 May 1999 Longuinos da Silva de Jesus was traveling through Hera on a truck when Aitarak militia members Domingos Amati, Antonio Maukasa, Jorge Manuel Lopes and Jose Lopes stopped him in the Hera market place and searched him. They found a knife and a religious charm on him and accused him of being a pro-independence supporter.
37. Domingos Amati, Antonio Maukasa, Jorge Manuel Lopes and Jose Lopes then began to assault Longuinos da Silva de Jesus and dragged him towards the Rajawali/TNI compound in Hera. At the Rajawali compound, Domingos Amati questioned Longuinos da Silva de Jesus about his support for the independence movement.
38. Later that evening **Mateus de Carvalho** attended the Rajawali compound and took Longuinos da Silva de Jesus away.
39. The body of Longuinos da Silva de Jesus was found on the beach at Susekar near Hera by fishermen a few days later. It was taken by POLRI to the Dili Military Hospital and later buried in the Santa Cruz cemetery.

D: The murder of Thomas Ximenes and Sebastiao Gusmao in Akanunu on or about 8 May 1999.

40. In the afternoon of 8 May 1999 a number of Aitarak militia members including Florindo Morreira, Alarico Mesquita, Domingos Amati, Fransisco Matos and **Lino 'Watulari'** stopped a car containing Thomas Ximenes and two other persons at a militia roadblock in Akanunu.
41. Aitarak militia member, Alarico Mesquita, pulled Thomas Ximenes out of the truck. Militia members Florindo Morreira and **Mateus Guterres** then began to beat Thomas Ximenes with wooden sticks and Alarico Mesquita, Domingos Amati, Fransisco Matos, Angelino da Costa, **Manuel da Silva**, Laurindo da Costa and **Lino 'Watulari'** joined in and began to punch and kick Thomas Ximenes. Thomas Ximenes was badly injured during this attack. Militia members including **Manuel da Silva**, Domingos Amati and Alarico Mesquita then tied the hands of Thomas Ximenes and took him to the front of the TNI compound, close to the militia roadblock.
42. A short time later a number of Aitarak militia members including Alarico Mesquita, Florindo Morreira, Domingos Amati and Fransiso Matos stopped a

truck containing Sebastiao Gusmao. Alarico Mesquita accused Sebastiao Gusmao of being a trouble maker and ordered Sebastiao Gusmao down from the truck.

43. Militia members including Alarico Mesquita, Laurindo da Costa, **Mateus Guterres**, Florindo Morreira, **Lino 'Watulari'**, Domingos Amati and Fransisco Matos then began to assault Sebastiao Gusmao. Sebastiao Gusmao was badly beaten during this attack. He was then taken to the front of the TNI compound by militia members including Alarico Mesquita, Florindo Morreira, Domingos Amati and Fransisco Matos.
 44. Sebastiao Gusmao and Thomas Ximenes were tied by the hands, feet and neck outside the TNI compound by militia members including **Gaspar da Silva** and **Florindo Malimeta**. Thomas Ximenes was beaten in the face, chest and legs by militia members including Laurinda da Costa, Lourenco Tavares and **Mateus Guterres**.
 45. **Mateus de Carvalho** was present during the arrest and torture of Sebastiao Gusmao and Thomas Ximenes and gave orders to his militia members during the attack.
 46. During the evening Sebastiao Gusmao died of the injuries sustained during the attack on him. His body was placed into an empty petrol drum. In the late evening the body was loaded into a Kijang truck parked outside.
 47. Later that same evening, militia members led Thomas Ximenes out of the TNI/militia compound towards the Kijang car in which Sebastiao Gusmao's body had been placed. After he saw the corpse of Sebastiao Gusmao, Thomas Ximenes attempted to run from the militia. **Mateus de Carvalho** shot at Thomas Ximenes a number of times killing him.
 48. The militia members, under the directions of **Mateus de Carvalho**, then placed the body of Thomas Ximenes into the car with the body of Sebastiao Gusmao. Militia members including **Mateus de Carvalho**, Alaricio Mesquita, Laurindo da Costa and Domingos Amati then took the bodies of Sebastiao Gusmao and Thomas Ximenes to the Ramean cemetery in Hera where they were buried.
 49. Following the burial of the two bodies, Florindo Morreira called the militia members together at the home of **Mateus de Carvalho** and advised them not to disclose anything about the killings.
- E: The attack on Estevao Pereira and Agostinho Carvalho at the Hera Polytechnic on 20 May 1999.**
50. During 1999 hundreds of students studied at the Polytechnic Institute in Hera, including Estevao Pereira and Agostinho Carvalho. Both of them were supporters

of independence and the Polytechnic was viewed by members of TNI and the militia as a centre of pro-independence activism.

51. Early on the morning of 10 May 1999, the TNI commanded by **Lt Agus Yuli** and members of the Aitarak militia led by **Mateus de Carvalho** surrounded the Polytechnic armed with rifles and other weapons. There were many hundreds of students inside the campus at the time. After a stand-off of many hours, many of the students including Estevao Pereira and Agostinho Carvalho were evacuated by POLRI to the POLDA compound in Comoro, Dili.
52. After 10 May 1999 the Hera Polytechnic was occupied by TNI and the militia and the classes stopped
53. On 20 May 1999 a number of students including Estevao Pereira and Agostinho Carvalho decided to return to the Polytechnic to try and collect their possessions.
54. Once inside the grounds of the Polytechnic, Estevao Pereira and Agostinho Carvalho were stopped and searched by Indonesian TNI soldiers from the Rajawali together with members of the Aitarak militia. The TNI soldiers then came and questioned the other persons who had accompanied Estevao Pereira and Agostinho Carvalho to the Polytechnic. The TNI and militia then assaulted Estevao Pereira and Agostinho Carvalho, tied their hands with rope and led them away.
55. The TNI soldiers took the two students to the security room at the Polytechnic where they interrogated them, kicked them and assaulted them with sticks and rifle butts.
56. The bodies of Estevao Pereira and Agostinho Carvalho were later recovered in Akanunu, near Hera.

F: The murder of Mantus de Araujo and Martinho Vidal in Akanunu on 31 August.

57. Mantus de Araujo was an active member of CNRT (*Concelho Nacional da Resistencia*) in Same whilst Martinho Vidal was a member of KONTRAS (Organisation for Disappeared Persons and Victims of Violence) (*Komisi Untuk Orang Hilang Dan Korban Tindak Kekerasan*).
58. On 31 August 1999 a number of Aitarak militia under the command of **Mateus de Carvalho** stopped Mantus de Araujo and Martinho Vidal who were traveling towards Dili on a motorbike. The two men were stopped at a militia roadblock in Akanunu. The militia then searched Mantus de Araujo and Martinho Vidal and found documentation on them confirming their membership of CNRT and KONTRAS.

59. The two men were forced by the militia to the house of **Mateus da Carvalho** where they were beaten with metal pipes and wooden sticks by militia members including **Domingos Beremau, Pedro Sousa, Domingos Teebuti, Mateus Malimeta** and Florindo Moreira. Following their beating, **Mateus de Carvalho** told his men 'go and do your job'.
60. Mantus de Araujo and Martinho Vidal were then taken into the Aitarak militia post across the road where they were beaten and stabbed by militia members including **Domingos Beremau** and Florindo Morreira. Mantus de Araujo and Martinho Vidal died of their injuries.
61. Militia members then put the bodies of the two men into rice sacks and buried the bodies on the beach in Hera.

G: Attack on civilian population of Metinaro between 5-8 September 1999

62. The results of the popular consultation were announced on 4 September 1999. On the night of 5-6 September 1999 a number of automatic weapons were brought to the KORAMIL in Metinaro from the KODIM in Dili by **Lt Untung** and **Mateus de Carvalho**. The weapons were distributed to militia members, including **Antonio Adolfo** and **Luis da Costa Oliveira**.
63. Between 5-8 September 1999 members of the Aitarak militia under the control of **Antonio Adolfo** and including **Luis da Costa Oliveira** as well as TNI soldiers including Julio Fernandes went on a rampage in Metinaro attacking and shooting at the homes of pro-independence supporters and burning them down, assaulting civilians and forcing the civilian population to the KORAMIL in Metinaro in preparation for deportation into West Timor. The militia members were armed with rakitans, machetes and automatic weapons
64. Once the militia had gathered the civilian population at the KORAMIL in Metinaro, **Antonio Adolfo** announced that everyone would be deported to West Timor and those that refused would be killed. **Lt Untung** was present when Antonio Adolfo made this announcement. The civilians were then loaded into TNI trucks and private vehicles and taken to Dili.
65. Over 90% of the approximately 700 buildings in Metinaro were destroyed during the attack. Over 2,000 of the inhabitants of Metinaro were forced to leave for West Timor whilst others fled to the mountains nearby.

H: The murder of Domingos Nu Nu Alves in Hera on 6 September 1999

66. On 6 September 1999 a number of villagers including Paul Pinto, Domingos Nu Nu Alves and Domingos de Jesus Alves returned to Hera from the mountains where they had been hiding from the militia and TNI. They had returned to try and find food to bring back to their families in the mountains.
67. Whilst the three men were at the home of Paul Pinto, a number of TNI soldiers including Rudolfo Alves Correia (aka Adolfo) and **Antonio Pinto (aka Antonio B or 'Mautersa')** arrived and arrested them. The TNI soldiers asked them why they had been hiding in the mountains and accused them of assisting FALINTIL. The TNI soldiers including Rudolfo Alves Correia and **Antonio Pinto** then began to assault Paul Pinto, Domingos Nu Nu Alves and Domingos de Jesus Alves in the face and stomach.
68. The men were forced to walk to the main road and towards the Hera Polytechnic. Once the men reached the main road Rudolfo Alves Correia questioned Domingos Nu Nu Alves about his whereabouts the previous evening. When Domingos Nu Nu Alves replied that he had gone to the mountains and then returned home, Rudolfo Alves Correia accused him of lying and told **Antonio Pinto** to shoot Domingos Nu Nu Alves. **Antonio Pinto** shot Domingos Nu Nu Alves killing him.
69. Paul Pinto ran from the TNI soldiers who began shooting after him. Domingos de Jesus Alves also managed to escape from the TNI.
70. Domingos Nu Nu Alves' family later returned to recover and bury his body.

I: The murder of Antonio Saldanha Fernandes in Metinaro on 7 September 1999.

71. Antonio Saldanha Fernandes was the principal of the primary school in Metinaro. He was also an active member of CNRT and a well known supporter of independence.
72. On 6 September 1999 Antonio Saldanha Fernandes went to the Metinaro police station to report an incident of militia intimidation at his house the previous night. The police advised him to remain at the police station. After a number of hours Antonio Saldanha and his family were advised to board a TNI truck to take them into West Timor.
73. As he was boarding the truck, Antonio Saldanha Fernandes was arrested by members of the Aitarak militia who took him to the KORAMIL in Metinaro. His family remained in the TNI truck and were deported to West Timor

74. After he was brought to the KORAMIL. TNI soldier **Jose Soares** shot Antonio Saldanha Fernandes a number of times killing him instantly. **Jose Soares** was armed with a TNI issue assault rifle.
75. **Lt Untung** was present at the KORAMIL at time of the killing of Antonio Saldanha Fernandes.

J: Assault on villagers from Metinaro on 12 September 1999

76. During September 1999 many villagers fled from Metinaro into the nearby mountains to escape the attacks upon them by TNI and the militia.
77. On 12 September 1999 a number of villagers including Alberto da Costa Escoreal came down from the mountains towards Metinaro to forage for food.
78. Near Cotamorin hill, the villagers were attacked by TNI soldiers and militia members including Julio Fernandes, **Luis da Costa Oliveira, Jose Soares, Joaquim Gudinho** and **Matias Soares** who were all armed. The TNI soldiers and militia members fired repeatedly at the villagers, hitting Alberto da Costa Escoreal five times in the legs. Alberto da Costa Escoreal was seriously injured but managed to escape.

V: GENERAL ALLEGATIONS

79. 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

80. The accused **Mateus de Carvalho, Antonio Adolfo, Luis da Costa Oliveria, Lt Untung, Antonio Pinto (aka Antonio B or 'Mautersa'), Mario Malekat, Lino 'Watulari', Manuel da Silva, Gaspar da Silva, Florindo Malimeta, Domingos Beremau, Pedro Sousa, Domingos Teebuti, Mateus Malimeta, Jose Soares, Matias Soares** and **Joaquim Gudinho** are 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 or the intention of the group to commit the crime; and

...

(b) Superior Criminal Responsibility

81. In addition the accused **Mateus de Carvalho, Antonio Adolfo, Lt Agus Yuli** and **Lt Untung** are charged with superior criminal responsibility in this indictment. An accused is responsible under Section 16 UNTAET Regulation 2000/15 for the acts of his subordinates:

“ . . . if he knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.”

VII: THE CHARGES

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

Count 1 : Crimes Against Humanity: Imprisonment

By his acts or omissions in relation to the events described in paragraphs 27-33 of this indictment, **Lt Agus Yuli** is responsible as a superior for the imprisonment of Luis Dias Soares, Rafael de Jesus Amaral and Felipe de Sousa on or about 20 April 1999 in Hera.

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: IMPRISONMENT, a crime stipulated under Sections 5.1(e) of UNTAET Regulation 2000/15.

Count 2: Crimes Against Humanity: Torture

By their acts or omissions in relation to the events described in paragraphs 29-33 of this indictment, **Lt Agus Yuli** is responsible as a superior and **Antonio Pinto (aka Antonio B or 'Mautersa')** and **Mario Malekat** are responsible as individuals for the torture of Luis Dias Soares, Rafael de Jesus Amaral and Felipe de Sousa on 20 April 1999 in Hera, 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: TORTURE, a crime stipulated under Sections 5.1(f) and 5.2(d) of UNTAET Regulation 2000/15.

Count 3: Crimes Against Humanity: Murder

By their acts or omissions in relation to the events described in paragraph 32 of this indictment, **Lt Agus Yuli** is responsible as a superior and **Antonio Pinto (aka Antonio B or 'Mautersa')** and **Mario Malekat** are responsible as individuals for the murder of Luis Dias Soares in Hera, Dili District on 20 April 1999 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.

Count 4: Crimes Against Humanity: Persecution (Abduction)

By his acts or omissions in relation to the events described in paragraphs 35-38 of this indictment, **Mateus de Carvalho** is responsible as an individual or a superior for the persecution by abduction of Longuinos da Silva de Jesus on 1 May 1999 in Hera, 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: PERSECUTION, a crime stipulated under Section 5.1(h) and 5.2(f) of UNTAET Regulation 2000/15.

Count 5: Crimes Against Humanity: Persecution (Abduction)

By their acts or omissions in relation to the events described in paragraphs 40-47 of this indictment, **Mateus de Carvalho** is responsible as an individual or a superior and **Lino 'Watulari'** is responsible as an individual for the persecution by abduction of Sebastiao Gusmao and Thomas Ximenes on 8 May 1999 in Akanunu, 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:

PERSECUTION, a crime stipulated under Section 5.1(h) and 5.2(f) of UNTAET Regulation 2000/15.

Count 6: Crimes Against Humanity: Torture

By their acts or omissions in relation to the events described in paragraphs 41-45 of this indictment, **Mateus de Carvalho** is responsible as an individual or as a superior and **Mateus Guterres, Manuel da Silva, Lino 'Watulari', Gaspar da Silva** and **Florindo Malimeta** are responsible as individuals for the torture of Sebastiao Gusmao and Thomas Ximenes on 8 May 1999 in Akanunu, 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: TORTURE, a crime stipulated under Section 5.1(f) and 5.2(d) of UNTAET Regulation 2000/15.

Count 7: Crimes Against Humanity: Murder

By his acts or omissions in relation to the events described in paragraphs 41-47 of this indictment, **Mateus de Carvalho** is responsible as an individual or as a superior for the murder of Sebastiao Gusmao and Thomas Ximenes on 8 May 1999 in Akanunu, 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.

Count 8: Crimes Against Humanity: Imprisonment

By his acts or omissions in relation to the events described in paragraphs 54-55 of this indictment, **Lt Agus Yuli** is responsible as a superior for the imprisonment of Estevao Pereira and Agostinho Carvalho on 20 May 1999 in Hera, 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 CRIMES AGAINST HUMANITY: IMPRISONMENT, a crime stipulated under Section 5.1(e) UNTAET Regulation 2000/15.

Count 9: Crimes Against Humanity: Torture

By his acts or omissions in relation to the events described in paragraphs 54-55 of this indictment, **Lt Agus Yuli** is responsible as a superior for the torture of Estevao Pereira and Agostinho Carvalho on 20 May 1999 in Hera, 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: TORTURE, a crime stipulated under Section 5.1(f) and 5.2(d) of UNTAET Regulation 2000/15.

Count 10: Crimes Against Humanity: Torture

By their acts or omissions in relation to the events described in paragraphs 59 of this indictment, **Mateus de Carvalho** is responsible as an individual or a superior and **Domingos Beremau, Pedro Sousa, Domingos Teebuti** and **Mateus Malimeta** are responsible as individuals for the torture of Mantus de Araujo and Martinho Vidal on 31 August 1999 in Akanunu, Dili District with knowledge of the attack and thereby committed a CRIME AGAINST HUMANITY: TORTURE, a crime stipulated under Section 5.1(f) and 5.2(d) of UNTAET Regulation 2000/15.

Count 11: Crimes Against Humanity: Murder

By their acts or omissions in relation to the events described in paragraphs 59-60 of this indictment, **Mateus de Carvalho** is responsible as an individual or a superior and **Domingos Beremau** is responsible as an individual for the murder of Mantus de Araujo and Martinho Vidal on 31 August 1999 in Akanunu in 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.

Count 12: Crimes Against Humanity: Persecution (Destruction of Property)

By their acts or omissions in relation to the events described in paragraph 63-65 of this indictment, **Antonio Adolfo** and **Lt Untung** are responsible as individuals or superiors and **Luis da Costa Oliveira** is responsible as an individual for acts of persecution, namely the destruction of property, between 5-8 September 1999 in Metinaro 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: PERSECUTION, a crime stipulated under Section 5.1(h) and 5.2(f) of UNTAET Regulation 2000/15.

Count 13: Crimes Against Humanity: Deportation or Forcible Transfer of Population

By their acts or omissions in relation to the events described in paragraphs 63-65 of this indictment, **Antonio Adolfo** and **Lt Untung** are responsible as individuals or superiors and **Luis da Costa Oliveira** is responsible as an individual for the forcible transfer of the population of Metinaro which was committed between 5-8 September 1999 in Metinaro 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) and 5.2(c) of UNTAET Regulation 2000/15.

Count 14: Crimes Against Humanity: Murder

By his acts or omissions in relation to the events described in paragraph 68 of this indictment, **Antonio Pinto (aka Antonio B or 'Mautersa')** is responsible as an individual for the murder of Domingos Nu Nu Alves on 6 September 1999 in Hera 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.

Count 15: Crimes Against Humanity: Murder

By their acts or omissions in relation to the events described in paragraphs 74-75 of this indictment, **Lt Untung** is responsible as a superior and **Jose Soares** is responsible as an individual for the murder of Antonio Saldanha Fernandes on 7 September 1999 in Metinaro 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.

Count 16: Crimes Against Humanity: Inhumane Acts

By their acts or omissions in relation to the events described in paragraph 78 of this indictment, **Jose Soares, Luis da Costa Oliveira, Matias Soares and Joaquim Gudhino** are responsible as individuals for inhumane acts committed against Alberto da Costa Escoreal and other villagers of Metinaro, including Luis Soares, Carlito Dias, Joao da Costa Faria, Venancio Mendonsa, Antonio da Costa dos Santos and Fransisco Cardoso on or about 12 September 1999 in Metinaro 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: INHUMANE ACTS, a crime stipulated under Section 5.1(k) UNTAET Regulation 2000/15.

VIII: VICTIMS AND EVIDENCE FOR TRIAL

A list of the victims is contained in Annex A to this indictment.

A list of the evidence supporting this indictment is contained in Annex B to this indictment.

IX: REQUEST FOR TRIAL

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



Dated

27/9/13



Acting Deputy General Prosecutor for Serious Crimes
Essa Faal