

# DISTRICT COURT OF DILI

BEFORE THE SPECIAL PANEL FOR SERIOUS CRIMES

Case No: 25/C.G/2003/PD-DIL.

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INDICTMENT

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THE DEPUTY GENERAL PROSECUTOR FOR SERIOUS CRIMES

- Against -

**JULIO FERNANDES**

## 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 **Julio Fernandes** with **CRIMES AGAINST HUMANITY: PERSECUTION (Destruction of Property), DEPORTATION OR FORCIBLE TRANSFER OF POPULATION and INHUMANE ACTS** as set forth in this indictment.

## II: NAME AND PARTICULARS OF THE ACCUSED:

- |    |                         |                                      |
|----|-------------------------|--------------------------------------|
| 1. | Name:                   | <b>Julio Fernandes</b>               |
|    | Place of Birth:         | Dili, East Timor                     |
|    | Date of Birth/Age:      | 12 June 1958                         |
|    | Sex:                    | Male                                 |
|    | Nationality:            | East Timorese                        |
|    | Address:                | Metinaro, Dili District, East Timor. |
|    | 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. Between April and September 1999 the Aitarak militia and the TNI in Metinaro worked closely together and engaged in a campaign of violence including intimidation, assault, destruction, murder and deportation.
11. **Julio Fernandes** was a Timorese TNI soldier in Metinaro during 1999.
12. The results of the popular consultation were announced on 4 September 1999.
13. Between 5-8 September 1999 members of the Aitarak militia 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.
14. During the course of the attack, **Julio Fernandes** and Aitarak militia members attacked the house of Martinho Mendonsa. **Julio Fernandes** repeatedly assaulted Manuel Mendonsa and Martinho da Silva. They were then forced outside by **Julio Fernandes** and militia members to join the other villagers being deported from Metinaro. In the house of Fransisco Carceres, a known CNRT supporter who had fled to the hills, **Julio Fernandes** threatened Augusto Carceres with his gun before burning the house down.
15. Once the TNI and 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. The civilians were then loaded into TNI trucks and private vehicles and taken to Dili.
16. 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. Many other villagers fled from Metinaro into the nearby mountains to escape the attacks upon them by TNI and the militia.
17. On 12 September 1999 a number of villagers including Alberto da Costa Escoreal came down from the mountains towards Metinaro to forage for food.
18. 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

19. 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

20. The accused **Julio Fernandes** 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 or the intention of the group to commit the crime; and*

...

## VII: THE CHARGES

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

### **Count 1: Crimes Against Humanity: Persecution (Destruction of Property)**

By his acts or omissions in relation to the events described in paragraph 13-16 of this indictment, **Julio Fernandes** 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 (Destruction of Property) a crime stipulated under Section 5.1(h) and 5.2(f) of UNTAET Regulation 2000/15.

### **Count 2: Crimes Against Humanity: Deportation or Forcible Transfer of Population**

By his acts or omissions in relation to the events described in paragraphs 13-16 of this indictment, **Julio Fernandes** 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 3: Crimes Against Humanity: Inhumane Acts**

By his acts or omissions in relation to the events described in paragraph 18 of this indictment, **Julio Fernandes** is responsible as an individual 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.

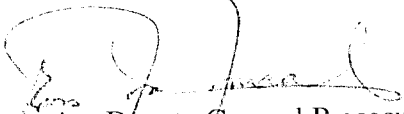
A list of the evidence supporting this indictment is contained in Annex B to this indictment.

### **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

25/9/03



Acting Deputy General Prosecutor for Serious Crimes  
Essa Faal