

DISTRICT COURT OF DILI

BEFORE THE SPECIAL PANEL FOR SERIOUS CRIMES

Case No: 28/C.G/03/PD-DIL.

INDICTMENT

THE DEPUTY GENERAL PROSECUTOR FOR SERIOUS CRIMES

- Against -

- ALARICO MESQUITA (1)
- FLORINDO MORREIRA (2)
- DOMINGOS AMATI (3)
- FRANSISCO MATOS (4)
- LAURINDO DA COSTA (5)
- LAURENCO TAVARES (6)
- MATEUS GUTERRES (7)
- ANGELINO DA COSTA (8)

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 **Alarico Mesquita, Florindo Morreira, Domingos Amati, Fransisco Matos, Laurindo da Costa, Laurengo Tavares, Mateus Guterres and Angelino da Costa**, with **CRIMES AGAINST HUMANITY: TORTURE and PERSECUTION (Abduction)** as set forth in this indictment.

II: NAME AND PARTICULARS OF THE ACCUSED:

1. Name: **Alarico Mesquita**
 Place of Birth: East Timor
 Date of Birth/Age: Approximately 50 years old
 Sex: Male
 Nationality: East Timorese
 Address: Akanunu, Dili District, East Timor
 Occupation at the time: Aitarak militia member
2. Name: **Florindo Morreira**
 Place of Birth: East Timor
 Date of Birth/Age: Not known
 Sex: Male
 Nationality: East Timorese
 Address: Believed to be in Atsabe sub-district, Ermera, East Timor
 Occupation at the time: Aitarak militia member
3. Name: **Domingos Amati**
 Place of Birth: Hera, Dili District, East Timor
 Date of Birth/Age: Not known
 Sex: Male
 Nationality: East Timorese
 Address: Hera, Dili District
 Occupation at the time: Aitarak militia member
4. Name: **Fransisco Matos**
 Place of Birth: Hera, Dili District, East Timor
 Date of Birth/Age: 1 October 1966
 Sex: Male
 Nationality: East Timorese

- Address: Hera Dili District, East Timor
Occupation at the time: Aitarak militia member
5. Name: **Laurindo da Costa**
Place of Birth: Lolesu, Hera, Dili District, East Timor
Date of Birth/Age: Approx. 40 years old
Sex: Male
Nationality: East Timorese
Address: Akanunu village, Hera Dili District, East Timor
Occupation at the time: Aitarak militia member
6. Name: **Laurenco Tavares**
Place of Birth: Lolesu, Hera, Dili District, East Timor
Date of Birth/Age: 4 April 1970
Sex: Male
Nationality: East Timorese
Address: Akanunu, Hera, Dili District, East Timor
Occupation at the time: Aitarak militia member
7. Name: **Mateus Guterres**
Place of Birth: Lolesu, Hera, Dili District, East Timor
Date of Birth/Age: Approx. 40-45 years old
Sex: Male
Nationality: East Timorese
Address: Lolesu, Hera, Dili District, East Timor
Occupation at the time: Aitarak militia member
8. Name: **Angelino da Costa**
Place of Birth: Akanunu, Hera, Dili District, East Timor
Date of Birth/Age: 1964
Sex: Male
Nationality: East Timorese
Address: Akanunu, Hera Dili District, East Timor
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. Between April and September 1999 the Aitarak militia and the TNI in Hera worked closely together and engaged in a campaign of violence including intimidation, assault, destruction, murder and deportation.
11. 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 Baucau and arrested, assaulted and killed persons they suspected of being pro-independence supporters.
12. 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.
13. 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. The militia members were under instructions from the Aitarak militia commander of Hera, Mateus de Carvalho, to detain any suspected pro-independence supporters.
14. 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.
15. A short time later a number of Aitarak militia members including **Alarico Mesquita, Florindo Morreira, Domingos Amati** and **Francisco 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.

16. 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**.
17. 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, Laurenco Tavares** and **Mateus Guterres**.
18. 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.
19. 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.
20. 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.
21. 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, **Alarico 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.
22. 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.

V: GENERAL ALLEGATIONS

23. 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

24. The accused **Alarico Mesquita, Florindo Morreira, Domingos Amati, Fransisco Matos, Laurindo da Costa, Laurencio Tavares, Mateus Guterres, and Angelino da Costa** 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*

...

VII: THE CHARGES

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

Count 1: Crimes Against Humanity: Persecution (Abduction)

By their acts or omissions in relation to the events described in paragraphs 13-16 of this indictment, **Alarico Mesquita, Florindo Morreira, Domingos Amati and Fransisco**

Matos and are responsible as individuals 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 (ABDUCTION) a crime stipulated under Section 5.1(h) and 5.2(f) of UNTAET Regulation 2000/15.

Count 2: Crimes Against Humanity: Torture

By their acts or omissions in relation to the events described in paragraphs 14-17 of this indictment, **Alarico Mesquita, Florindo Morreira, Mateus Guterres, Domingos Amati, Fransisco Matos, Angelina da Costa, Laurindo da Costa, and Laurencio Tavares** 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.

VIII: VICTIMS AND EVIDENCE FOR TRIAL

The victims of the crimes charged in this indictment are Sebastiao Gusmao and Thomas Ximenes.


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

25/4/03


Acting Deputy General Prosecutor for Serious Crimes
Essa Faal