

# BEFORE THE SPECIAL PANEL FOR SERIOUS CRIMES

DISTRICT COURT OF DILI

CASE NO: 33/2003



## INDICTMENT

DEPUTY GENERAL PROSECUTOR FOR SERIOUS CRIMES

-AGAINST-

RICHARD HUTADJULU (TNI)  
KAREL POLLA (TNI)  
IRWAN (LNU) (TNI)  
FAUSTINO DOS SANTOS (TNI)  
TOMAS CARDUSO AKA TOMAS MAURADE (TNI)  
MANUEL ARIATE (TNI/MILITIA)  
AGUSTINHO SOARES (TNI)  
ADELINO FREITAS (TNI)  
JERONEMO SOARES (TNI/MILITIA)  
DOMINGOS FILIPE AKA DUOLI (TNI/MILITIA)  
DOMINGOS ALAGUIA (TNI)  
JOANICO CESARIO BELO (TNI/MILITIA)  
IGIDIO SARMENTO (TNI/MILITIA)  
CELESTINO MOREIRA (MILITIA)  
COSME MOREIRA AKA COSME COOGAMA (MILITIA)  
VERGILIO SOARES AKA VERGILIO HUMBERTO (MILITIA)  
CRISTIANO XIMENES (MILITIA)

ORIGINAL IN ENGLISH

## **I. INDICTMENT**

The Deputy General Prosecutor for Serious Crimes, pursuant to his authority under UNTAET Regulations 2000/16 and 2000/30 (as amended by Regulation 2001/25), charges:

**RICHARD HUTADJULU  
KAREL POLLA  
IRWAN (LNU)  
FAUSTINO DOS SANTOS  
TOMAS CARDUSO AKA TOMAS MAURADE  
MANUEL ARIATE  
AGUSTINHO SOARES  
ADELINO FREITAS  
JERONEMO SOARES  
DOMINGOS FILIPE AKA DUOLI  
DOMINGOS ALAGUIA  
JOANICO CESARIO BELO  
IGIDIO SARMENTO  
CELESTINO MOREIRA  
COSME MOREIRA AKA COSME COOGAMA  
VERGILIO SOARES AKA VERGILIO HUMBERTO  
and  
CRISTIANO XIMENES**

WITH

**CRIMES AGAINST HUMANITY:  
MURDER, TORTURE, PERSECUTION and OTHER INHUMANE ACTS**

As set forth in this indictment:

## II. NAMES AND PARTICULARS OF THE ACCUSED

1. Name: **Richard Hutadjulu**  
Place of birth: Sumatra, Indonesia  
Age/Date of birth: Approximately 45-50yrs  
Sex: Male  
Nationality: Indonesian  
Address: Believed to be in Indonesia  
Position held in 1999: Lieutenant Colonel, DANDIM (District Military Commander) of Baucau District
  
2. Name: **Karel Polla**  
Place of birth: Manado, Sulawesi, Indonesia  
Age/Date of birth: Approximately 45-50yrs  
Sex: Male  
Nationality: Indonesian  
Address: Believed to be in Indonesia  
Position held in 1999: Captain, KASDIM (Chief of Staff) and Deputy District Military Commander of Baucau District
  
3. Name: **Irwan (LNU)**  
Place of birth: Lombok, Indonesia  
Age/Date of birth: Approximately 45yrs  
Sex: Male  
Nationality: Indonesian  
Address: Believed to be in Indonesia  
Position held in 1999: 1<sup>st</sup> Sergeant, Intelligence Section, KODIM 1628
  
4. Name: **Faustino Dos Santos**  
Place of birth: Bobonaro District  
Age/Date of birth: Approximately 45yrs  
Sex: Male  
Nationality: East Timorese  
Address: Believed to be in Indonesia  
Position held in 1999: 1<sup>st</sup> Sergeant, Intelligence Section, KODIM 1628
  
5. Name: **Tomas Carduso aka Tomas Maurade**  
Place of birth: Saelari village, Laga sub-district  
Age/Date of birth: Approximately 45yrs  
Sex: Male  
Nationality: East Timorese  
Address: Believed to be in Indonesia  
Position held in 1999: 2<sup>st</sup> Sergeant, Intelligence Section, KODIM 1628

6. Name: **Manuel Ariate**  
Place of birth: Lelalai village, Quelicai sub-district  
Age/Date of birth: Approximately 35-40yrs  
Sex: Male  
Nationality: East Timorese  
Address: Believed to be in Indonesia  
Position held in 1999: 2<sup>nd</sup> Sergeant, Intelligence Section, KODIM 1628, Tim Saka Commander for Baucau sub-district
7. Name: **Agustinho Soares**  
Place of birth: Laivai village, Lautem district  
Age/Date of birth: Approximately 40yrs  
Sex: Male  
Nationality: East Timorese  
Address: Believed to be in Indonesia  
Position held in 1999: 1<sup>st</sup> Corporal, Intelligence Section, KODIM 1628
8. Name: **Adelino Freitas**  
Place of birth: Macalaco village, Quelicai sub-district  
Age/Date of birth: Approximately 45yrs  
Sex: Male  
Nationality: East Timorese  
Address: Believed to be in Indonesia  
Position held in 1999: 1<sup>st</sup> Private, Intelligence Section, KODIM 1628
9. Name: **Jeronemo Soares**  
Place of birth: Bagaia village, Quelicai sub-district  
Age/Date of birth: Approximately 30-40yrs  
Sex: Male  
Nationality: East Timorese  
Address: Believed to be in Indonesia  
Position held in 1999: 1<sup>st</sup> Private, KODIM 1628, Tim Saka member
10. Name: **Domingos Filipe aka Duoli**  
Place of birth: Saelari village, Laga sub-district  
Age/Date of birth: Approximately 40yrs  
Sex: Male  
Nationality: East Timorese  
Address: Believed to be in Indonesia  
Position held in 1999: 2<sup>nd</sup> Private, Intelligence Section, KODIM 1628, Tim Saka member
11. Name: **Domingos Alaguaia**  
Place of birth: Unknown  
Age/Date of birth: Unknown  
Sex: Male  
Nationality: East Timorese  
Address: Believed to be in Indonesia

- Position held in 1999: Member of KODIM 1628
12. Name: **Joanico Cesario Belo**  
 Place of birth: Bahu village, Baucau Town  
 Age/Date of birth: Approximately 40yrs  
 Sex: Male  
 Nationality: East Timorese  
 Address: Believed to be in Indonesia  
 Position held in 1999: Commander of Tim Saka, Commander of PPI for Sector A, 1<sup>st</sup> Sergeant, KOPASSUS
13. Name: **Igidio Sarmento**  
 Place of birth: Abo village, Quelicai sub-district  
 Age/Date of birth: Approximately 45yrs  
 Sex: Male  
 Nationality: East Timorese  
 Address: Believed to be in Indonesia  
 Position held in 1999: Deputy Commander of Tim Saka, Battalion Commander (DANYON) of PPI for Sector A, 1<sup>st</sup> Private, KODIM 1628
14. Name: **Celestino Moreira**  
 Place of birth: Uaitame village, Quelicai sub-district  
 Age/Date of birth: Approximately 45yrs  
 Sex: Male  
 Nationality: East Timorese  
 Address: Believed to be in Indonesia  
 Position held in 1999: Deputy Commander of Tim Saka in Quelicai
15. Name: **Cosme Moreira aka Cosme Coogamu**  
 Place of birth: Uaitame village, Quelicai sub-district  
 Age/Date of birth: Approximately 40yrs  
 Sex: Male  
 Nationality: East Timorese  
 Address: Believed to be in Indonesia  
 Position held in 1999: Deputy Commander of Tim Saka in Quelicai
16. Name: **Vergilio Soares aka Vergilio Humberto**  
 Place of birth: Unknown  
 Age/Date of birth: Unknown  
 Sex: Male  
 Nationality: East Timorese  
 Address: Believed to be in Indonesia  
 Position held in 1999: Deputy Commander of Tim Saka in Quelicai

17. Name: **Cristiano Ximenes**  
Place of birth: Baguia village, Quelicai sub-district  
Age/Date of birth: Approximately 40yrs  
Sex: Male  
Nationality: East Timorese  
Address: Believed to be in Indonesia  
Position held in 1999: Commander of Rajawali in Quelicai, Indonesian Civil Servant

### III. INTRODUCTORY STATEMENT OF FACTS

1. A widespread or systematic attack directed against the civilian population was committed in East Timor in 1999. The attack occurred during two interconnected periods of intensified violence. The first period followed the announcement on January 27, 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 in what became known as the popular consultation. This period ended on September 4, 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 through to October 25, 1999.
2. The widespread or systematic attack was part of an orchestrated campaign of violence, that included among other things, 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 Armed Forces of Indonesia [*Angkatan Bersenjata Republik Indonesia-ABRI*, renamed *Tentara Nasional Indonesia-TNI* from April 1999. Hereafter "TNI" in all instances] and members of the Indonesian Police Forces [*Polisi Republik Indonesia-POLRI*] with the acquiescence and active participation of civilian and military authorities.
3. The widespread or systematic attack was directed against civilians of all ages, but predominantly against individuals who were believed to be independence supporters. Those persons who were believed to be active members of the National Council of Timorese Resistance [*Conselho Nacional da Resistencia Timorese-CNRT*] were targeted in particular.
4. This widespread or systematic attack often resulted in lethal injury including death by sharp force injury, gun shot injury, blunt force trauma or a combination of the three.
5. The widespread or systematic attack resulted in the internal displacement of thousands of persons. In addition, the forcible transfer of the civilian population within East Timor and to West Timor, Indonesia was an essential feature of the orchestrated campaign of violence.
6. The TNI in East Timor consisted of both regular territorial forces [*Batalyon Tentara Teritorial-BTT*] and Special Combat Forces, i.e., the Strategic Reserve

Command [*Komando Cadangan Strategis Angkatan Darat- KOSTRAD*] and Special Forces Command [*Komando Pasukan Khusus- KOPASSUS*], all of which had units, staff officers and soldiers stationed in East Timor, including Baucau district.

7. In 1999, *Komando Resort Militier 164* [KOREM 164] was the TNI military Region command, based in Dili, East Timor. The DANREM [*Komandan Korem*] headed the KOREM.
8. During 1999, there was one *Komando Distrik Militer* [KODIM] in each of the 13 Districts in East Timor. Specifically, KODIM 1628 was located in Baucau district.
9. Each of these KODIMs had responsibility over the *Komando Rayon Militer* [KORAMIL]. The KORAMILs were located at the sub-district level.
10. POLRI is the Indonesian Police Force, the state agency for upholding the law and public order. Up to April 1, 1999 POLRI was part of the TNI, under the command and control of the Commander in Chief of the Armed Forces of Indonesia.
11. On April 1, 1999 POLRI was separated from the TNI. Despite this separation, POLRI remained under the command and control of the Commander in Chief of the Armed Forces of Indonesia. The POLRI headquarters was in Jakarta. POLRI had seventeen regional commands within the Republic of Indonesia [*Polisi Daerah-POLDA*].
12. The Indonesian Police was structured much like the TNI's territorial system. As mentioned above, there were seventeen POLDA. Some of these POLDA corresponded to a single province and others to two or more provinces. Below the POLDA there was a hierarchical chain of units covering multiple districts [*Polisi Wilayah-POLWIL*], individual districts [*Polisi Resort-POLRES*] and sub-districts [*Polisi Sektor-POLSEK*]. The Indonesian Police Force also included the Mobile Police Brigade [*Brigade Mobil-BRIMOB*], whose units and members were stationed in East Timor, including Baucau district.
13. In 1999 there was a POLDA in East Timor. Its headquarters was at Comoro, Dili.
14. In the period leading up to the popular consultation, the Government of Indonesia and the TNI were instrumental in the establishment of pro-Indonesian militias. They provided training, funding, weapons and other forms of material support to these militias. In some districts, TNI commanders appointed their TNI subordinates to lead militia groups.
15. TNI and civilian government officials also helped establish an umbrella organisation under which all militia groups were organised. The organisation was called the Integration Fighters' Force [*Pasukan Pejuang Intergrasi-PPI*].
16. During 1999, more than 25 militia groups operated throughout East Timor. Their goal was to intimidate and persuade the population of East Timor to support the option of autonomy within Indonesia at the popular consultation.

17. Once the militia groups were established, TNI commanders in the districts of East Timor ordered and directed the militia in their conduct. The militia groups, with the support and assistance of the TNI and acting together with TNI soldiers, participated in a widespread or systematic attack against the civilian population.
18. Under the terms of the May 5, 1999 Agreements between the Governments of Indonesia and 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 to ensure the general maintenance of law and order before, during and immediately after the popular consultation.
19. The TNI and POLRI failed to meet these obligations and made no attempt to disarm or neutralize the militia groups. They allowed the militia groups to act with impunity.

#### **IV. SPECIFIC STATEMENT OF FACTS**

20. Baucau District is one of the thirteen districts of East Timor. Baucau District is comprised of six sub-districts namely, Vemasse, Baucau, Venilale, Quelicai, Laga and Baguai.
21. During 1999, the TNI forces present in Baucau District included the KODIM 1628 based at Baucau town, a KORAMIL in each of the six sub-districts, KOPASSUS based in Baucau town and Infantry Battalion 745 based at Fatumaka.
22. In Baucau District Indonesian military forces, including the Intelligence Section of KODIM 1628, worked in close cooperation with a militia group called Tim Saka. Tim Saka was established in the early 1980's by the TNI. It was a locally recruited, armed paramilitary group that received its orders directly from TNI commanders including members of the Intelligence Section. Those orders included attacks upon civilians believed to be supporters of independence for East Timor.
23. Tim Saka members were armed, equipped and trained by the TNI. They also shared logistical support and transportation. Tim Saka members received regular wages from the TNI as payments for their services. Tim Saka also received funding from the Baucau District Administration.
24. In Baucau District Indonesian military forces, including the Intelligence Section of KODIM 1628, also worked in close cooperation with a militia group called Rajawali. Rajawali was established by the TNI in 1999. It was a locally recruited, armed paramilitary group that received its orders directly from TNI commanders including members of the Intelligence Section. Those orders included attacks upon civilians believed to be supporters of independence for East Timor.
25. Rajawali members were armed and equipped by the TNI and also shared logistical support and transportation.

26. In 1999, **Richard Hutadjulu** was the Military District Commander (DANDIM) of Baucau District and had effective command and control over all TNI officers stationed in Baucau in 1999.
27. In 1999, **Karel Polla** was the military Chief of Staff in Baucau District (KASDIM) and the Deputy Military District Commander of Baucau District.
28. In 1999, **Irwan (LNU)** was a member of the Intelligence Section of KODIM 1628. He coordinated and led operations in the field with members of the TNI and Tim Saka after receiving confirmation from the DANDIM to do so.
29. In 1999 **Faustino Dos Santos, Tomas Carduso** aka **Tomas Maurade, Manuel Ariate, Agostinho Soares, Adelino Freitas** and **Domingos Filipe** aka **Duoli** were all members of the Intelligence Section of KODIM 1628. **Domingos Alaguia** and **Jeronemo Soares** were both members of KODIM 1628. **Manuel Ariate** was also the Tim Saka Commander for Baucau sub-district. **Domingos Filipe** and **Jeronemo Soares** were also members of Tim Saka.
30. In 1999 **Joanico Cesario Belo** was the Commander of Tim Saka. He had effective command and control over the deputy commanders and members of Tim Saka militia. **Joanico Belo** was also the Commander of PPI for Sector A which consisted of the districts Baucau, Manatutu, Los Palos and Viqueque. **Joanico Belo** was also a member of KOPASSUS.
31. In 1999 **Igidio Sarmiento** was the Deputy Commander of Tim Saka. He was also a Battalion Commander (DANYON) of PPI for Sector A and a member of KODIM 1628.
32. In 1999 **Celestino Moreira, Cosme Moreira** aka **Cosme Coogama** and **Vergilio Soares** aka **Vergilio Humberto** were all Deputy Commanders of Tim Saka based in Quelicai sub-district.
33. In 1999 **Cristiano Ximenes** was the Commander of the Rajawali militia based in Quelicai and had effective command and control over the Rajawali members in Quelicai sub-district.
34. In 1999 Tim Saka were provided with lists of names of pro-independence supporters by the TNI and ordered to make observations and report on the meetings of pro-independence supporters. Tim Saka established checkpoints and carried out checks on vehicles in conjunction with the TNI and Indonesian Police.

## OFFENCES COMMITTED BETWEEN JANUARY 27, 1999 AND SEPTEMBER 4, 1999

### Murder of Ildefonso Pereira Francisco aka Ildefonso Faria, Nazarito Xavier and Estefania Frietas (March 26, 1999)

35. Ildefonso Pereira Francisco aka Ildefonso Faria and Nazarito Xavier lived in the village of Garuai in Baucau sub-district. They were both supporters of independence.
36. On the afternoon on March 26, 1999 Ildefonso Pereira Francisco and Nazarito Xavier were traveling in a *Microlet* (public bus) from the market place at the village of Uailili to their homes in Gariuai village. On the way they passed another vehicle coming along the road in the opposite direction. The people in the other vehicle warned the passengers in the *Microlet* that TNI were traveling behind them and firing their weapons from their vehicles.
37. Shortly afterwards the *Microlet* met a convoy of TNI vehicles coming along the road in the opposite direction. The driver of the *Microlet* slowed down and pulled over to the side of the road to allow the convoy to pass by. As he did so Ildefonso Pereira Francisco and Nazarito Xavier jumped off the *Microlet* and ran into the fields by the side of the road. The *Microlet* continued traveling in the direction it was going.
38. The vehicles in the convoy stopped and TNI soldiers, including **Irwan (LNU)**, descended from the vehicles. The TNI soldiers chased after Ildefonso Pereira Francisco and Nazarito Xavier and shot at them.
39. Ildefonso Pereira Francisco and Nazarito Xavier ran across the field towards Estefania Freitas and continued running past her. Estefania Freitas was working in the fields by the side of the road at the time. The TNI soldiers shot Estefania Freitas as she worked in the field. The TNI soldiers shot Ildefonso Pereira Francisco and Nazarito Xavier as they ran away.
40. Estefania Freitas, Ildefonso Pereira Francisco and Nazarito Xavier all died as a result of their injuries.
41. One of the TNI vehicles drove off the road and into the fields where the victims had been shot. TNI soldiers loaded the bodies of the three victims onto the back of the vehicle. The vehicle then returned to the road where the rest of the convoy was still parked. The convoy then continued traveling along the road towards Baucau Town.
42. Later that afternoon a number of people including friends and relatives of the victims, as well as village heads, went to the Baucau Hospital and at the hospital mortuary found the dead bodies of Estefania Freitas and Ildefonso Pereira Francisco. The bodies were taken and buried by the families of the deceased.

43. The body of Nazarito Xavier has, to date, never been found.

**Murder of Julio Caitano Ximenes and the torture of five others (May 27, 1999)**

44. On the morning of May 27, 1999 a number of people were gathered at a house in the sub-village of Daregata in Uailili village, Baucau sub-district including Julio Caitano Ximenes, Domingos Da Costa Frietas aka Duarte Belo, Alberto Da Costa Martins Belo aka Alberto Mosaic, Manuel Ribeiro Belo, Domingos Ximenes aka Domingos Belo and Januario Moreira. The six people were all supporters of independence.
45. A group of TNI soldiers from KODIM 1628 and members of Tim SAKA led by **Irwan (LNU)** arrived at the sub-village of Daregata.
46. **Irwan (LNU)** approached the house and Alberto Belo greeted him. **Irwan (LNU)** accused Alberto Belo of giving food and assistance to the Armed Forces for the National Liberation of East Timor [*Forças Armadas de Libertação Nacional de Timor Leste-Falintil*].
47. Julio Caitano Ximenes and Domingos Freitas came out of the house and began to run away. As they ran away members of the group recognised them as being supporters of independence.
48. **Jeronemo Soares** shot at Julio Caitano Ximenes.
49. **Manuel Ariate** then shot Julio Caitano Ximenes and he died as a result of his injuries.
50. **Irwan (LNU)** shot Domingos Freitas and wounded him.
51. The soldiers began to shoot indiscriminately. They also stole possessions from the residents.
52. A relative of Julio Caitano Ximenes ran over to his body and began to cry. **Manuel Ariate** accused the relative of cooking food for Falintil and threatened to kill her.
53. Domingos Freitas, Alberto Belo, Manuel Belo, Domingos Ximenes and Januario Moreira were all arrested.
54. Alberto Belo, Manuel Belo, Domingos Ximenes and Januario Moreira were ordered to load the dead body of Julio Caitano Ximenes into the back of the KODIM 1628 patrol car. Domingos Freitas was also made to lie in the back of the patrol car with the dead body of Julio Caitano Ximenes.
55. Alberto Belo, Manuel Belo, Domingos Ximenes and Januario Moreira had their hands tied and were forced to walk to where some TNI vehicles were parked. They were forced into the back of a truck.

56. While in the truck they were forced to lie face downwards in the back of the truck while TNI soldiers stood on their backs and shoved sticks into their noses and ears.
57. Domingos Freitas, Alberto Belo, Manuel Belo, Domingos Ximenes and Januario Moreira were all taken to KODIM 1628. At KODIM 1628 TNI soldiers **Karel Polla, Manuel Ariate** and **Igidio Sarmento** questioned them about their knowledge of Falintil.
58. At KODIM 1628 Domingos Freitas, Alberto Belo, Manuel Belo, Domingos Ximenes and Januario Moreira were beaten and kicked, had their limbs crushed between sticks, were poked or cut with knives, had live electrical wires pressed against their skin, were burnt with cigarettes and were hit with various objects by TNI soldiers including **Irwan (LNU), Igidio Sarmento, Manuel Ariate, Faustino Dos Santos, Domingos Alaguia, Adelino Freitas** and **Domingos Filipe** aka **Duoli**.
59. While this was occurring, TNI soldiers including **Karel Polla, Irwan (LNU), Manuel Ariate** and **Igidio Sarmento** continued to question the victims.
60. This continued until the early hours of May 28, 1999.
61. **Richard Hutadjulu** came into the room where the victims were being held and told the TNI soldiers present to take a rest. He also ordered the soldiers to take the victims to the "dark room". The victims were then taken into a dark room where, in the presence of **Richard Hutadjulu, Manuel Ariate** kicked Januario Moreira until he fell to the ground and continued kicking him as he lay on the ground.
62. The victims were then handed over to the Indonesian Police.
63. On May 28, 1999 a relative of Julio Caitano Ximenes went to the mortuary in Baucau and claimed his body. He was buried on 29 May 1999 at Didibora Cemetery, Uailili.

## **OFFENCES COMMITTED BETWEEN SEPTEMBER 5, 1999 AND DECEMBER 15, 1999**

### **The destruction and looting of Abo Lir village and Quelicai Town (September 11, 1999)**

64. At approximately midnight on September 10, 1999 **Manuel Ariate, Igidio Sarmento** and **Celestino Moreira** held a private meeting before calling Tim Saka and Rajawali members to assemble at the Quelicai KORAMIL. **Manuel Ariate, Igidio Sarmento** and **Celestino Moreira** were all present at the assembly and issued orders to the Tim Saka and Rajawali members to go to Abo Lir and look for Tim Saka members who had not come to Quelicai Town with their families as they had been ordered to do. The group was ordered to arrest them and bring them back to Quelicai Town so they could be taken to West Timor. The group was also ordered to destroy houses at Abo Lir sub-village and

in Quelicai Town. **Igidio Sarmiento** told the group that they had permission from **Joanico Belo** to destroy all the shops and the houses in Quelicai and to kill whoever stood against them.

65. After receiving the orders, Tim Saka and Rajawali members started walking towards Abo Lir sub-village. The group arrived at Abo Lir sub-village in the early hours of the morning.
66. **Manuel Ariate** was the Tim Saka commander in charge of the operation. His deputies were Tim Saka platoon commanders **Cosme Moreira** aka **Cosme Coogamu** and **Virgilio Soares** aka **Virgilio Humberto** and Rajawali commander **Cristiano Ximenes**.
67. When the group arrived at Abo Lir sub-village some of the residents had already fled from the sub-village and gone into hiding in the surrounding mountains and jungle. Other residents fled when they heard the group approaching.
68. The group found one of the Tim Saka members who was hiding with his family. They forced him and his family to come with them to Quelicai Town so they could be taken on to West Timor.
69. Members of the group led by **Manuel Ariate**, **Cosme Moreira**, **Virgilio Soares** and **Cristiano Ximenes** searched for the residents of Abo Lir sub-village, threatening and assaulting those they found. Members of the group fired their weapons at the residents and their houses and killed their livestock. Members of the group stole possessions from the residents and set fire to approximately sixty two buildings in Abo Lir sub-village.
70. In Quelicai Town Tim Saka members looted shops and destroyed buildings before boarding trucks and traveling to Baucau Town for further transport to West Timor.

#### **Murder of Pedro Da Cruz Soares (September 11, 1999)**

71. Pedro Da Cruz Soares was a supporter of independence and lived in the sub-village of Abo Lir in Quelicai sub-district.
72. Pedro Da Cruz Soares was present in the sub-village of Abo Lir when the group led by **Manuel Ariate**, **Cosme Moreira**, **Virgilio Soares** and **Cristiano Ximenes** attacked the sub-village in the early hours of September 11, 1999.
73. Pedro Da Cruz Soares was near his home when Tim Saka member **Cosme Moreira** approached him. **Cosme Moreira** accused Pedro Da Cruz Soares of supporting Falintil. **Cosme Moreira** then aimed his rifle at Pedro Da Cruz Soares and shot him twice. Pedro Da Cruz Soares died as a result of his injuries.
74. **Manuel Ariate** contacted **Igidio Sarmiento** by radio and informed him that Tim Saka members had killed Pedro Da Cruz Soares at Abo Lir sub-village. **Igidio Sarmiento** then contacted **Joanico Belo** by radio and informed him also that Tim Saka members had killed Pedro Da Cruz Soares at Abo Lir sub-village.

75. On September 12, 1999 residents of Abo Lir sub-village buried the body of Pedro Da Cruz Soares in the sub-village cemetery.

#### **Murder of Armindo Belo Pires (September 11, 1999)**

76. Armindo Belo Pires was an independence supporter living in Soba village in Laga sub-district.
77. At around midday on September 11, 1999 Armindo Belo Pires walked down to Laga beach to visit some relatives who had gathered there to wait for a ship to West Timor.
78. At that time there were several hundred people waiting at Laga beach for ships that were meant to transport them to West Timor.
79. Shortly after arriving at Laga beach Armindo Belo Pires was attacked by TNI members **Faustino Dos Santos, Agostinho Soares** and **Tomas Carduso** aka **Tomas Maurade** in open view of the many people waiting for ships to West Timor. As **Faustino Dos Santos, Agostinho Soares** and **Tomas Carduso** aka **Tomas Maurade** attacked Armindo Belo Pires, they accused Armindo Belo Pires of being a member of Fretelin.
80. As a result to the attack, Armindo Belo Pires died.
81. **Faustino Dos Santos** threatened to kill the family members of Armindo Belo Pires.
82. A policeman attempted to approach the body of Armindo Belo Pires. **Faustino Dos Santos** and **Agostinho Soares** pointed their weapons at the policeman and the policeman retreated.
83. The body of Armindo Belo Pires was buried that same day in the dry rice fields close to where he was killed.

#### **Murder of Marcela Buti Fatima (September 12, 1999)**

84. On September 12, 1999 Marcela Buti Fatima was staying in the house of relatives in the sub-village of Kaicasalare in Tekinomata village, Laga sub-district. She had fled there together with her family and relatives because of the escalating violence in East Timor at the time and rumors they had heard that the TNI would kill people living close to the main roads.
85. On that day a group of TNI soldiers from Baucau KODIM 1628 and Laga KORAMIL traveled from Laga to conduct patrols in the area of Tekinomata.
86. **Faustino Dos Santos** and **Agostinho Soares** were the leaders of the TNI soldiers going on patrol.
87. After arriving near Tekinomata the TNI soldiers dismounted from the vehicle and **Agostinho Soares** ordered them to kill any man or woman they saw.

88. The TNI soldiers commenced patrolling. They approached the sub-village of Kaicasalare and the house where Marcela Buti Fatima was staying.
89. Marcela Buti Fatima was holding her baby and standing behind the back door, which was half open.
90. As he approached the house **Faustino Dos Santos** fired his weapon at the back door and shot Marcela Buti Fatima in her leg.
91. **Faustino Dos Santos** then took out a box of matches and attempted to set fire to the wall of the house while there were still people inside it. He was unsuccessful at setting it alight.
92. Marcela Buti Fatima died that evening as a result of her injuries.
93. On September 14, 1999 the body of Marcela Buti Fatima was buried at Samagia Cemetery, Tekinomata village by her family and relatives.

## V. GENERAL ALLEGATIONS

95. For each count charging crimes against humanity, the acts or omissions of the accused were undertaken as part of a widespread or systematic attack directed against the civilian population, and especially targeting those who were considered to be independence supporters, linked to or sympathetic to the independence cause of East Timor, with knowledge of the attack.

## VI. CRIMINAL RESPONSIBILITY

### Individual Criminal Responsibility

96. For each accused charged with individual responsibility under this indictment, the 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*
    - (ii) purpose of the group, where such activity or purpose involves the commission of a crime within the jurisdiction of the panels; or*
    - (iii) be made in the knowledge of the intention of the group to commit the crime; ...”**

### Superior Criminal Responsibility

97. **Richard Hutadjulu** and **Joanico Belo** are criminally responsible as superiors for the acts of their subordinates pursuant to Section 16 of UNTAET Regulation 2000/15. Superior criminal responsibility is the responsibility of a superior for the acts of his subordinates if the superior “*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*”.

**PURSUANT TO THE ABOVE, THE DEPUTY GENERAL PROSECUTOR CHARGES:**

**Count 1. Crime Against Humanity: Murder** [Ildefonso Pereira Francisco, Nazarito Xavier and Estefania Freitas]

By his acts or omissions in relation to the events described in paragraphs 35 to 43 of this indictment, **Irwan (LNU)** is responsible as an individual for the murder of Ildefonso Pereira Francisco, Nazarito Xavier and Estefania Freitas, on or about March 26, 1999 in Baucau sub-district, Baucau 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.

**Count 2. Crime Against Humanity: Murder** [Ildefonso Pereira Francisco, Nazarito Xavier and Estefania Freitas]

By his acts or omissions in relation to the events described in paragraphs 35 to 43 of this indictment, **Richard Hutadjulu** is responsible as an individual or as a superior for the murder of Ildefonso Pereira Francisco, Nazarito Xavier and Estefania Freitas, on or about March 26, 1999 in Baucau sub-district, Baucau 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.

**Count 3. Crime Against Humanity: Murder** [Julio Caitano Ximenes]

By their acts or omissions in relation to the events described in paragraphs 44 to 49 of this indictment, **Irwan (LNU), Manuel Ariate and Jeronemo Soares** are responsible as individuals for the murder of Julio Caitano Ximenes, on or about May 27, 1999 in Baucau sub-district, Baucau 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.

**Count 4. Crime Against Humanity: Murder** [Julio Caitano Ximenes]

By his acts or omissions in relation to the events described in paragraphs 44 to 49 of this indictment, **Richard Hutadjulu** is responsible as an individual or as a superior for the murder of Julio Caitano Ximenes, on or about May 27, 1999 in Baucau sub-district, Baucau 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.

**Count 5. Crime Against Humanity: Other Inhumane Acts** [Domingos Da Costa Freitas]

By his acts or omissions in relation to the events described in paragraph 50 of this indictment, **Irwan (LNU)** is responsible as an individual for the inhumane acts against Domingos Da Costa Freitas, on or about May 27, 1999 in Baucau sub-district, Baucau 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, OTHER INHUMANE ACTS a crime stipulated under Section 5.1(k) of UNTAET Regulation 2000/15.

**Count 6. Crime Against Humanity: Other Inhumane Acts** [Domingos Da Costa Frietas]

By his acts or omissions in relation to the events described in paragraph 50 of this indictment, **Richard Hutadjulu** is responsible as an individual or as a superior for the inhumane acts against Domingos Da Costa Frietas, on or about March 26, 1999 in Baucau sub-district, Baucau 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, OTHER INHUMANE ACTS a crime stipulated under Section 5.1(k) of UNTAET Regulation 2000/15.

**Count 7. Crime Against Humanity: Torture** [Domingos Da Costa Frietas, Alberto Da Costa Martins Belo, Manuel Ribeiro Belo, Domingos Ximenes and Januario Moreira]

By their acts or omissions in relation to the events described in paragraphs 53 to 63 of this indictment, **Karel Polla, Irwan (LNU), Igidio Sarmento, Manuel Ariate, Faustino Dos Santos, Domingos Alaguia, Adelino Freitas** and **Domingos Filipe** are responsible as individuals for the torture of Domingos Da Costa Frietas, Alberto Da Costa Martins Belo, Manuel Ribeiro Belo, Domingos Ximenes and Januario Moreira, on or about May 27 and May 28, 1999 in Baucau sub-district, Baucau 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, TORTURE a crime stipulated under Section 5.1(f) of UNTAET Regulation 2000/15.

**Count 8. Crime Against Humanity: Torture** [Domingos Da Costa Frietas, Alberto Da Costa Martins Belo, Manuel Ribeiro Belo, Domingos Ximenes and Januario Moreira]

By his acts or omissions in relation to the events described in paragraphs 53 to 63 of this indictment, **Richard Hutadjulu** is responsible as an individual or as a superior for the torture of Domingos Da Costa Frietas, Alberto Da Costa Martins Belo, Manuel Ribeiro Belo, Domingos Ximenes and Januario Moreira, on or about May 27 and May 28, 1999 in Baucau sub-district, Baucau 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, TORTURE a crime stipulated under Section 5.1(f) of UNTAET Regulation 2000/15.

**Count 9. Crime Against Humanity: Persecution (by Destruction and Looting of Property)**

By their acts or omissions in relation to the events described in paragraphs 64 to 70 of this indictment, **Manuel Ariate, Igidio Sarmiento, Celestino Moreira, Cosme Moreira, Virgilio Soares** and **Cristiano Ximenes** are responsible as individuals for the persecution of the residents of Abo Lir sub-village, on or about September 11, 1999 in Quelicai sub-district, Baucau 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, PERSECUTION a crime stipulated under Section 5.1(h) of UNTAET Regulation 2000/15.

**Count 10. Crime Against Humanity: Persecution (by Destruction and Looting of Property)**

By his acts or omissions in relation to the events described in paragraphs 64 to 70 of this indictment, **Joanico Cesario Belo** is responsible as an individual or as a superior for the persecution of the residents of Abo Lir sub-village and Quelicai Town, in September 1999 in Quelicai sub-district, Baucau 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, PERSECUTION a crime stipulated under Section 5.1(h) of UNTAET Regulation 2000/15.

**Count 11. Crime Against Humanity: Murder [Pedro Da Cruz Soares]**

By their acts or omissions in relation to the events described in paragraphs 71 to 75 of this indictment, **Manuel Ariate, Igidio Sarmiento, Celestino Moreira** and **Cosme Moreira** are responsible as individuals for the murder of Pedro Da Cruz Soares, on or about September 11, 1999 in Quelicai sub-district, Baucau 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.

**Count 12. Crime Against Humanity: Murder [Pedro Da Cruz Soares]**

By his acts or omissions in relation to the events described in paragraphs 71 to 75 of this indictment, **Joanico Belo** is responsible as an individual or as a superior for the murder of Pedro Da Cruz Soares, on or about September 11, 1999 in Quelicai sub-district, Baucau 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.

**Count 13. Crime Against Humanity: Murder [Armindo Belo Pires]**

By their acts or omissions in relation to the events described in paragraphs 76 to 83 of this indictment, **Faustino Dos Santos, Agostinho Soares and Tomas Cardoso** are responsible as individuals for the murder of Armindo Belo Pires, on or about September 11, 1999 in Laga sub-district, Baucau 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.

**Count 14. Crime Against Humanity: Murder [Marcela Buti Fatima]**

By their acts or omissions in relation to the events described in paragraphs 84 to 93 of this indictment, **Faustino Dos Santos and Agostinho Soares** are responsible as individuals for the murder of Marcela Buti Fatima, on or about September 12, 1999 in Laga sub-district, Baucau 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.

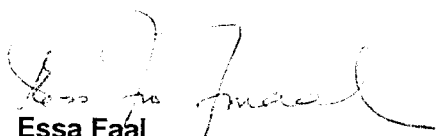
## **VII. LIST OF VICTIMS**

The list of victims, which forms part of this indictment, is attached as Annex "A".

## **VII. REQUEST FOR TRIAL**

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

Dated this 7<sup>th</sup> day of October 2003



**Essa Faal**

Acting Deputy General Prosecutor for Serious Crimes