



DISTRICT COURT OF DILI

BEFORE THE SPECIAL PANEL FOR SERIOUS CRIMES

Case No: *34/2003*

INDICTMENT

THE DEPUTY GENERAL PROSECUTOR FOR SERIOUS CRIMES

-Against-

FRANCISCO PEREIRA aka SIKU GAGU

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:

FRANCISCO PEREIRA aka SIKU GAGU

WITH

**CRIMES AGAINST HUMANITY: MURDER
CRIMES AGAINST HUMANITY: PERSECUTION**

As set forth in this indictment.

Name and Particulars of the Accused

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1. Name: **Francisco Pereira aka Siku Gagu**
Place of birth: Mape village, Zumalai sub-district, Covalima District
Age/Date of birth: Approximately 24 years of age
Sex: Male
Nationality: East Timorese
Address: Bebora sub-village, Mape village, Zumalai
Occupation: farmer / former member of Mahidi Militia

INTRODUCTORY STATEMENT OF FACTS

1. A widespread or systematic attack was directed 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 militias, 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*) with the acquiescence and active participation of civilian and military authorities.
3. In 1999, more than twenty-five militia groups operated throughout East Timor. Their goal was to support autonomy with Indonesia. The Integration Fighter's Force (PPI), (*Pasukan Pejuang Integrasi*) under the command of Joao Tavares and Eurico Guterres was the umbrella organization under which these militia groups were organized. It had the backing of the TNI and the Civil Administration. PPI Commanders issued, called upon and incited militia groups and their members to intimidate independence supporters and those perceived to support them. The militia groups participated in the widespread or systematic attacks and acted and operated with impunity.
4. This large-scale attack was directed against civilians of all age groups, 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 (IDPs). 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 Republic of 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 and made no attempt to disarm or neutralize the militia groups. They were allowed to act with impunity.
8. The Indonesian Military in East Timor consisted of both regular territorial forces (BTT) and Special Combat Forces, i.e. the Strategic Reserve Command (KOSTRAD), (*Komando Strategis Angkatan Darat*) and Special Forces Command (KOPASUS) (*Komando 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), whose units and members were stationed in East Timor.

SPECIFIC STATEMENT OF FACTS

10. Covalima is one of the thirteen districts of East Timor and is comprised of six sub-districts: Suai, Tilomar, Fatumean, Fatululik, Fohorem, and Zumalai.
11. Between January 1999 and October 1999 the Mahidi Militia group operated throughout Zumalai Sub-District. It comprised of hundreds of members. The Mahidi Militia operated in collaboration with units of the TNI and the POLRI in Zumalai. During this period members of the Mahidi Militia carried out acts of violence directed against civilians who were perceived to be members or supporters of FALINTIL (*Forças Armadas De Libertacao Nacional De Timor Leste: Armed Forces for the Liberation of East Timor*), supporters of independence or linked to or sympathetic to the independence cause. The attack included acts of intimidations, threats, unlawful detention, arsons, murders, forcible deportation and other acts of persecution.

12. In 1999, Francisco Pereira aka Siku Gagu was a registered Danton of the Mahidi militia in Zumalai sub-district, Covalima district under the command of Danki Lino Barreto and was a guard at the Mahidi militia camp in Zumalai, which was located at the house of Zumalai Mahidi commander Vasco da Cruz.

MURDER OF ALVARO TILMAN

13. In 1999, Alvaro Tilman was an active independence supporter and youth leader from Culawan village, Zumalai sub-district, Covalima district. Members of the Mahidi militia, including **Francisco Pereira aka Siku Gagu**, were aware of the activities of Alvaro Tilman.
14. On 17 April 1999, the Mahidi militia arrested Alvaro Tilman in Culawan and detained him at the Mahidi militia post in Zumalai. On 18 April 1999, Alvaro Tilman managed to escape from the Mahidi militia camp.
15. After discovering that Alvaro Tilman had escaped, the Mahidi militia, including **Francisco Pereira aka Siku Gagu**, began to search for him. The militia found Alvaro Tilman near the junior high school in Zumalai, close to the Mola river and began shouting his name, "Alvaro, Alvaro."
16. The militia threw stones and arrows at Alvaro Tilman. Alvaro fell down in the Mola river.
17. **Francisco Pereira aka Siku Gagu**, then approached Alvaro Tilman and hacked him on the neck with his Surik sword and Lino Baretto shot him. Alvaro Tilman died as a result of his injuries.

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PERSECUTION OF RAIMUNDO MAGNO, JOSE MANEK, MATHEUS BARRETO, LUIS SARMENTO, AND ALVARO TILMAN

18. Between April 1999 and September 1999, **Francisco Pereira aka Siku Gagu** and other members of the Mahidi militia campaigned for autonomy in Zumalai subdistrict, Covalima district. During this period, **Francisco Pereira aka Siku Gagu**, terrorised villagers living in and around Zumalai sub-district. People from these villages were forced to support autonomy otherwise they would be killed.
19. Villagers supporting Falintil and independence for East Timor were targeted and intimidated, beaten, tortured, illegally detained, and killed

Persecution of Raimundo Magno

20. In 1999, Raimundo Magno was pro-independence and a supporter of Falintil from Aisaleu sub-village, Lepo village in 1999.
21. On 3 April 1999, **Francisco Pereira aka Siku Gagu**, and other members of the Mahidi militia arrested Raimundo Magno as he was returning home from a funeral. During the arrest, **Francisco Pereira aka Siku Gagu** carried a samurai sword on his shoulder. He beat Raimundo Magno in the chest with his sword and cut his hair. **Francisco Pereira aka Siku Gagu** told Raimundo "You are supporting Fretilin who are seeking independence. You are people who don't know how to make matches but want to get independence. For those of you involved in politics with Fretilin it is better to kill them."
22. **Francisco Pereira aka Siku Gagu**, along with other members of the Mahidi militia brought Raimundo Magno to the TNI camp in Lepo. **Francisco Pereira aka Siku Gagu** was present as the TNI questioned and tortured Raimundo Magno at the TNI post in Lepo.
23. After Raimundo Magno was questioned by the TNI, **Francisco Pereira aka Siku Gagu** tied Raimundo Magno's hands behind his back with plastic rope and transported him to the Mahidi camp in Zumalai where Raimundo Magno was detained for approximately three weeks. **Francisco Pereira aka Siku Gagu** was a guard at the Mahidi militia camp in Zumalai at the material time.

Persecution of Jose Manek

24. In 1999, Jose Manek was member of the Clandestine and was the Clandestine contact person for Aisaleu village, Zumalai sub-district.

25. On 3 April 1999, the Mahidi militia abducted Jose Manek from his home in Aisaleu village, suspecting him of being a Clandestine member and of taking TNI weapons to the Clandestine supporters in Same.
26. The Mahidi militia took Jose Manek to the TNI camp at Lepo for interrogation. **Francisco Pereira aka Siku Gagu** was present at the TNI camp. During the questioning, the TNI tortured Jose Manek. **Francisco Pereira aka Siku Gagu** took off Jose Manek's shoes, put them on his own feet, and kicked Jose Manek on the chest and back many times. **Francisco Pereira aka Siku Gagu** told Jose Manek, "you are the person who is walking around the jungle and because of your involvement with the Clandestine, we will kill you." The militia put some white powder into the eyes of Jose Manek and he suffered a brief period of blindness.
27. **Francisco Pereira aka Siku Gagu**, along with another Mahidi militia member, threw Jose Manek into a truck to transport him to the TNI post in Zulo. While travelling to Zulo, **Francisco Pereira aka Siku Gagu**, and other TNI and militia beat Jose Manek. **Francisco Pereira aka Siku Gagu** again kicked Jose Manek in the chest and back. From the TNI post in Zulo, the militia and TNI took Jose Manek to the Mahidi militia post in Zumalai.
28. Jose Manek was detained at the Mahidi camp in Zumalai for approximately 16 days. **Francisco Pereira aka Siku Gagu** beat Jose Manek while at the Zumalai camp. **Francisco Pereira aka Siku Gagu** was a guard at the Mahidi militia camp in Zumalai at this time.

Persecution of Matheus Barreto

29. Sometime in April 1999, Matheus Barreto, along with Alipio Dos Nascimento and Manuel Barreto, were in Bemian village, Zumalai hiding from the Mahidi militia.
30. Sometime in April 1999, **Francisco Pereira aka Siku Gagu**, along with other members of the Mahidi militia, arrested Matheus Barreto, Alipio Dos Nascimento, and Manuel Barreto in Bemian.
31. **Francisco Pereira aka Siku Gagu**, along with other members of the Mahidi militia beat and kicked Matheus Barreto during the arrest.
32. **Francisco Pereira aka Siku Gagu**, along with other members of the Mahidi militia then took Matheus Barreto to the Betete TNI camp.
33. The Mahidi militia then took Matheus Barreto to the Mahidi militia camp in Zumalai where he was detained for one week. During that time, **Francisco**

Pereira aka Siku Gagu, along with other members of the Mahidi militia, beat and kicked Matheus Barreto on various occasions.

Persecution of Luis Sarmento

34. In 1999, Luis Sarmento was an active member of the clandestine movement and campaigned for independence in different villages.

35. On the morning of 20 May 1999, members of the Mahidi militia, including **Francisco Pereira aka Siku Gagu**, came to Luis Sarmento's house in Usucain Atas and arrested him. **Francisco Pereira aka Siku Gagu** was carrying a sword and wearing a black mahidi t-shirt and a TNI uniform jacket. The militia tied the hands of Luis Sarmento and, along with **Francisco Pereira aka Siku Gagu**, took him to the Mahidi post in Mape Atas sub-village. **Francisco Pereira aka Siku Gagu**, ordered Luis Sarmento not to run or he would be killed.

36. At the Mahidi post in Mape Atas, Luis Sarmento was beaten.

37. **Francisco Pereira aka Siku Gagu**, and other members of the Mahidi militia then took Luis Sarmento to the Mahidi militia camp in Zumalai where Luis Sarmento was detained for two months. **Francisco Pereira aka Siku Gagu** was a guard at the Mahidi militia camp in Zumalai at the material time.

Persecution of Alvaro Tilman

38. Alvaro Tilman was an active independence supporter and youth leader from Culawan village, Zumalai sub-district, Covalima district.

39. On 17 April 1999, **Francisco Pereira aka Siku Gagu**, participated in the killing of Alvaro Tilman as described in paragraphs 13-17 above.

INDIVIDUAL CRIMINAL RESPONSIBILITY

40. The accused in this indictment is charged with individual criminal responsibility for the crimes alleged, pursuant to Section 14.3 of UNTAET Regulation 2000/15. Under this section, an accused has individual criminal responsibility if he/she:

"(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;

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- (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;"*

41. Pursuant to the Above, The Deputy General Prosecutor for Serious Crimes Charges

Francisco Pereira aka Siku Gagu with:

Count 1. Crimes Against Humanity: Murder

By his acts or omissions in relation to the events described in paragraphs 13 through 17, **Francisco Pereira aka Siku Gagu** is responsible for the murder of Alvaro Tilman, on or about 18 April 1999 in Zumalai Sub-District, Covalima District as part of a widespread and systematic attack against a civilian population with knowledge of the attack and thereby committed a CRIME AGAINST HUMANITY: MURDER, a crime proscribed under Section 5.1(a) of UNTAET Regulation 2000/15 and for which **Francisco Pereira aka Siku Gagu** is individually responsible under Section 14 of UNTAET Regulation 2000/15.

Count 2. Crimes Against Humanity: Persecution

By his acts or omissions in relation to the events described in paragraphs 18 through 39, **Francisco Pereira aka Siku Gagu** is responsible for the persecution for the following acts:

- (i) the detention and assault of Raimundo Magno
- (ii) the detention and torture of Jose Manek
- (iii) the detention and torture of Matheus Barreto

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- (iv) the detention of Luis Sarmento
 - (v) the murder of Alvaro Tilman

during April and May 1999 in Zumalai Sub-District, Covalima District as part of a widespread and systematic attack against a civilian population with knowledge of the attack and thereby committed a CRIME AGAINST HUMANITY: PERSECUTION, a crime proscribed under Section 5.1(h) of UNTAET Regulation 2000/15 for which **Francisco Pereira aka Siku Gagu** is individually responsible under Section 14 of UNTAET Regulation 2000/15.

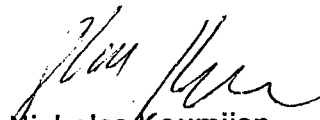
Evidence List

The evidence in support of this indictment is contained in Annex A, which forms part of this indictment.

Request for Trial

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

Dated this 14th day of November 2003



Nicholas Koumjian
Deputy General Prosecutor For Serious Crimes