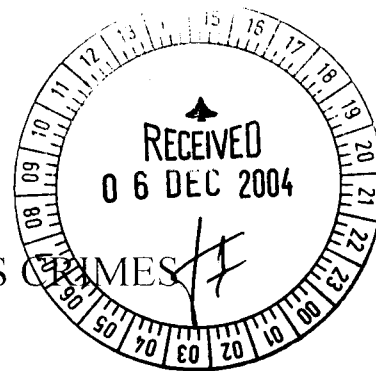


**DISTRICT COURT OF DILI**

BEFORE THE SPECIAL PANEL FOR SERIOUS CRIMES



Case No: *08/2004*

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**INDICTMENT**

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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:

**DOMINGOS MAU BUTI aka DOMINGOS NORONHA (1)  
ADRIANO NASCIMENTO (2)**

**WITH**

**CRIMES AGAINST HUMANITY: MURDER, ATTEMPTED MURDER, RAPE**

As set forth in this indictment.

## NAMES AND PARTICULARS OF THE ACCUSED

1. Name: **Domingos MAU BUTI aka Domingos NORONHA**  
Date of birth: unknown  
Place of birth: Believed to be Lepo village, Zumalai, Covalima, TIMOR LESTE  
Nationality: East Timorese  
Address: Believed to be Atambua, West Timor, REPUBLIC OF INDONESIA  
Occupation: In 1999, Mahidi militia member in Mape village, Zumalai, Covalima
  
2. Name: **Adriano Nascimento**  
Date of birth: unknown  
Place of birth: unknown  
Nationality: East Timorese  
Address: Believed to be Atambua, West Timor, REPUBLIC OF INDONESIA  
Occupation: In 1999, Mahidi militia member in Mape village, Zumalai, Covalima

## INTRODUCTORY STATEMENT OF FACTS

1. A widespread and 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 and lasted through 25 October 1999 when INTERFET intervened and stabilized East Timor.
2. The widespread and 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 João 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 and systematic attacks and acted and operated with impunity.
4. That 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 and systematic attack against the civilian population, the militia destroyed the infrastructure of East Timor, including housing and livestock belonging to the civilian population.
6. The widespread and 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 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 across East Timor.
9. From February 1999 to October 1999, the Indonesian Police Force (POLRI), the state agency responsible for upholding law and public order, was also present in East Timor. It included a Mobile Police Brigade (BRIMOB), whose units and members were also stationed in East Timor.
10. The militia groups operated in all 13 districts in East Timor with the backing of the TNI and the civil administration. In Covalima District, two militia groups were active in 1999, namely Laksaur and Mahidi. The Mahidi militia primarily operated in Zumalai Sub-district and the Laksaur militia primarily operated in the other five Sub-districts of Tilomar, Suai, Fatumean, Fatululik, and Fohorem.

#### **SPECIFIC STATEMENT OF FACTS**

11. Paragraphs 1 through 10 are incorporated by reference.
12. Covalima is one of the thirteen districts of East Timor and is comprised of six sub-districts: Suai, Tilomar, Fatumean, Fatululik, Fohorem, and Zumalai.
13. 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.
14. In 1999 **Domingos MAU BUTI (1)** and **Adriano NASCIMENTO (2)** were Mahidi members in Mape village, Zumalai Sub-district, Covalima.

**Murder of Luis da Silva and Sabina Mesquita and Murder and Rape of Fátima Mesquita (17 April 1999)**

15. In 1999, Luis da Silva was an independence supporter.
16. On 27 March 1999, militia under the command and control of Lino Barreto and Guilhermino de Araujo gathered at Lino Barreto's house in Mape. Among the militia present there were **Domingos MAU BUTI (1)**, **Adriano NASCIMENTO (2)**, Francisco Pereira, Manuel Magno, Joaquim da Costa, Mateus Soares, Martino Pereira, Filomeno Lopes, Inácio Mau Sano, Orlando Lopes, Martino (LNU), Tomas Barros, and Armindo Pereira.
17. Manuel Magno told other militia members that they were all to attend a funeral. On the way to the funeral, Manuel Magno told his fellow militiamen that instead of attending the funeral, they were going on an operation to abduct the family of Luis da Silva.
18. Upon arriving at Luis da Silva's house, the militia, including **Domingos MAU BUTI (1)**, **Adriano NASCIMENTO (2)** and Francisco Pereira, entered the house and tied up Luis da Silva, his wife Fátima Mesquita (who was pregnant) and their 6-year-old daughter Sabina Mesquita.
19. Manuel Magno ordered militia to take Luis da Silva, Fatima Mesquita, and Sabina Mesquita to SP1 subvillage in two separate vehicles. Some militia took Luis da Silva in the first vehicle, while other militias took Fátima and Sabina Mesquita in a second vehicle.
20. On the way to SP1, **Adriano NASCIMENTO (2)** stabbed Sabina Mesquita in the chest because she was crying. Sabina Mesquita died as a result. The militia then threw Sabina's body in an irrigation canal.
21. Upon arrival at SP1, Mahidi militia members, including **Domingos MAU BUTI (1)**, **Adriano NASCIMENTO (2)**, and Francisco Pereira raped Fátima Mesquita on the side of the road
22. **Adriano NASCIMENTO (2)** then stabbed Luis da Silva and **Domingos MAU BUTI (1)** hacked da Silva in the head with a samurai sword. Luis de Silva died from the injuries. **Domingos MAU BUTI (1)**, **Adriano NASCIMENTO (2)** and Francisco Pereira then killed Fatima Mesquita. **Domingos MAU BUTI (1)** hacked Fatima Mesquita in the head with a samurai sword. The militia then dismembered the bodies and dumped them into a deep well.

**Murder of Jose Pereira aka Jose Espotong and Attempted Murder of Joaquim Barros (18 June 1999)**

23. Jose Pereira aka Jose Espotong was an active member of the pro-independence movement in 1999.

24. On the morning of 18 June 1999, Jose Pereira and Joaquim Barros were walking in Lour village when approximately 5 Mahidi militia approached them, including **Domingos MAU BUTI (1)** and Armando Maucora.
25. **Domingos MAU BUTI (1)** and Armando Maucora, began shooting at Jose Pereira and Joaquim Barros. These initial shots did not hit Perieria or Barros. More militia immediately arrived on the scene in two trucks and one mikrolet and chased Pereira and Barros while firing their weapons.
26. Joaquim Barros was able to run away. As Joaquim Barros was running from the scene, he heard Jose Pereira crying and begging the militia not to kill him.
27. At about 1:00pm on the same day, a truck filled with Mahidi militia, including Guilhermino de Araujo, drove by Jose Pereira's house and announced to Pereira's mother, Bêndita Lopes, "we have killed Jose Espotong!"
28. Later that afternoon, Joaquim Barros heard that Jose Pereira was dead. Barros went to the place where the militia had confronted him and Pereira. At that spot, he was able to identify Jose Pereira's dead body.

#### **Murder of Luis Barros (13 September 1999)**

29. Beginning on 5 September 1999, the Mahidi militia began forcing all villagers in the Zumalai subdistrict to assemble in Zumalai town to be deported to West Timor.
30. On 13 September 1999, Luis Barros, a 19 year old from Lour village, arrived in Zumalai town, by mikrolet. The Mahidi militia, who were guarding the civilians being deported, stopped Barros.
31. **Adriano NASCIMENTO (2)** was armed with a homemade weapon and ordered the militia to arrest Luis Barros, saying, "Arrest him because his family ran away to the forest." Then **Adriano NASCIMENTO (2)**, another Mahidi militiaman, and two TNI soldiers, brought Barros to the river about 40 meters away, fired their weapons, and returned without Barros.
32. Nine days later, the dead body of Barros was found near the river where he had been brought.

#### **INDIVIDUAL CRIMINAL RESPONSIBILITY**

33. 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;*
- (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; ....”*

**PURSUANT TO THE ABOVE, THE DEPUTY GENERAL PROSECUTOR FOR SERIOUS CRIMES CHARGES**

**Count 1. Crime Against Humanity: Murder of Luis da Silva**

By his acts or omissions in relation to the events described in paragraphs 11-22, **Domingos MAU BUTI (1)** and **Adriano NASCIMENTO (2)** are responsible as individuals under Section 14.3 (a), (c) and (d) of Regulation 2000/15 for the murder of Luis da Silva on 17 April 1999 in Mape village, Zumalai Sub-district Covalima as part of a widespread and systematic attack against a civilian population with knowledge of the attack. **Domingos MAU BUTI (1)** and **Adriano NASCIMENTO (2)** 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 of Sabina Mesquita**

By his acts or omissions in relation to the events described in paragraphs 11-22, **Domingos MAU BUTI (1)** and **Adriano NASCIMENTO (2)** are responsible as

individuals under Section 14.3 (c) and (d) of Regulation 2000/15 for the murder of Sabina Mesquita on 17 April 1999 in Mape village, Zumalai Sub-district Covalima as part of a widespread and systematic attack against a civilian population with knowledge of the attack. **Domingos MAU BUTI (1)** and **Adriano NASCIMENTO (2)** 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: Rape of Fátima Mesquita**

By his acts or omissions in relation to the events described in paragraphs 11-22, **Domingos MAU BUTI (1)** and **Adriano NASCIMENTO (2)** are responsible as individuals under Section 14.3 (a), (c) and (d) of Regulation 2000/15 for the rape of Fátima Mesquita on 17 April 1999 in Mape village, Zumalai Sub-district Covalima as part of a widespread and systematic attack against a civilian population with knowledge of the attack. **Domingos MAU BUTI (1)** and **Adriano NASCIMENTO (2)** thereby committed a CRIME AGAINST HUMANITY: RAPE, a crime stipulated under Section 5.1(g) of UNTAET Regulation 2000/15.

**Count 4. Crime Against Humanity: Murder of Fatima Mesquita**

By his acts or omissions in relation to the events described in paragraphs 11-22, **Domingos MAU BUTI (1)** and **Adriano NASCIMENTO (2)** are responsible as individuals under Section 14.3 (a), (c) and (d) of Regulation 2000/15 for the murder of Fatima Mesquita on 17 April 1999 in Mape village, Zumalai Sub-district Covalima as part of a widespread and systematic attack against a civilian population with knowledge of the attack. **Domingos MAU BUTI (1)** and **Adriano NASCIMENTO (2)** 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: Murder of Jose Pereira aka Jose Espotong**

By his acts or omissions in relation to the events described in paragraphs 11 and 23-28, **Domingos MAU BUTI (1)** is responsible as an individual under Section 14.3 (a), (c) and (d) of Regulation 2000/15 for the murder of Jose Pereira aka Jose Espotong on 18 June 1999 in Mape village, Zumalai Sub-district Covalima as part of a widespread and systematic attack against a civilian population with knowledge of the attack. **Domingos MAU BUTI (1)** thereby committed a CRIME AGAINST HUMANITY: MURDER, a crime stipulated under Section 5.1(a) of UNTAET Regulation 2000/15.

**Count 6. Crime Against Humanity: Attempted Murder of Joaquim Barros**

By his acts or omissions in relation to the events described in paragraphs 11 and 23-28, **Domingos MAU BUTI (1)** is responsible as an individual under Section 14.3 (a), (c) and (d) of Regulation 2000/15 for the attempted murder of Joaquim Barros on 18 June 1999 in Mape village, Zumalai Sub-district Covalima as part of a widespread and systematic attack against a civilian population with knowledge of the attack. **Domingos MAU**

**BUTI (1)** thereby committed a CRIME AGAINST HUMANITY: MURDER, a crime stipulated under Section 5.1(a) read together with Section 14.3(f) of UNTAET Regulation 2000/15.

**Count 7. Crime Against Humanity: Murder of Luis Barros**

By his acts or omissions in relation to the events described in paragraphs 11 and 29-32, **Adriano NASCIMENTO (2)** is responsible as an individual under Section 14.3 (a)-(d) of Regulation 2000/15 for the murder of Luis Barros on 13 September 1999 in Zulo village, Zumalai Sub-district Covalima as part of a widespread and systematic attack against a civilian population with knowledge of the attack. **Adriano NASCIMENTO (2)** thereby committed a CRIME AGAINST HUMANITY: MURDER, a crime stipulated under Section 5.1(a) of UNTAET Regulation 2000/15.

**LIST OF VICTIMS**

The list of victims is contained in Annex A, which forms part of this indictment.

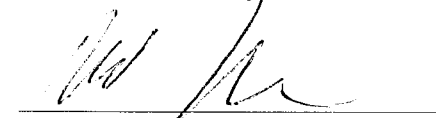
**EVIDENCE LIST**

The evidence in support of this indictment is contained in Annex B, 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

Dated this    th day of December 2004



Nicholas Koumjian  
Deputy General Prosecutor for Serious Crimes