

PLSP

**DISTRICT COURT OF DILI**

**BEFORE THE SPECIAL PANEL FOR SERIOUS CRIMES**

Case No:

**INDICTMENT**

**DEPUTY GENERAL PROSECUTOR**

- against -

**HULMAN GULTOM**

**ORIGINAL IN ENGLISH**

000001

## **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:

**HULMAN GULTOM**

-with-

**CRIMES AGAINST HUMANITY:**

**MURDER, PERSECUTION and DEPORTATION OR FORCIBLE TRANSFER  
OF POPULATION**

## **II. NAME AND PARTICULARS OF THE ACCUSED**

Name:	HULMAN GULTOM
Place of Birth:	Unknown
Date of Birth:	January 7, 1957
Nationality:	Indonesian
Address:	Believed to be in Indonesia
Position held in 1999:	Lieutenant Colonel; KAPOLRES of the Dili District from June 27, 1998

## **III. INTRODUCTORY STATEMENT OF FACTS**

### **BACKGROUND**

1. On January 27 1999, the government of Indonesia announced that the people of East Timor would be allowed to choose between autonomy within the Republic of Indonesia or independence through a vote referred to as a "Popular Consultation."
2. On May 5 1999 the governments of Indonesia and Portugal signed an agreement with the United Nations setting out the process and modalities for a popular consultation. The agreement provided:

*"The Government of Indonesia will be responsible for maintaining peace and security in East Timor in order to ensure that the popular consultation*

*is carried out in a fair and peaceful way in an atmosphere free of intimidation, violence or interference from any side."*

*"Officials of the Governments of Indonesia and Portugal will not participate in the campaign in support of either option."*

*"East Timorese government officials may campaign in their personal capacity. All such campaigning will be carried out ... without use of public funds and government resources or recourse to pressure of office."*

*"A secure environment devoid of violence or other forms of intimidation is a prerequisite for the holding of a free and fair ballot in East Timor. Responsibility to ensure such an environment as well as for the general maintenance of law and order rests with the appropriate Indonesian security authorities. The absolute neutrality of the TNI [Armed Forces of Indonesia] and the Indonesian Police is essential in this regard."*

*"The police will be solely responsible for the maintenance of law and order."*

3. From April through September 1999, militia and official security forces carried out a widespread and systematic attack against the civilian population in East Timor. The attack began after the announcement of the popular consultation on January 27 1999. The violence intensified after the September 4 1999 announcement that 78.5 per cent of the votes were against the autonomy option.
4. The attack was carried out by the joint action of East Timorese pro-autonomy militia and official security forces, including the Indonesian military [TNI] and police [POLRI]. The widespread and systematic attack included an orchestrated campaign of violence with threats to life, intimidation, physical and sexual assaults and killings. The attack also included widespread arson and destruction of property. It resulted in the internal displacement of thousands of civilians and the forcible transfer of large parts of the population to West Timor.
5. The widespread and 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.

#### **ESTABLISHMENT AND ORGANISATION OF MILITIA GROUPS**

6. When the Government of Indonesia announced that there would be a popular consultation whereby the people of East Timor would be allowed to choose between autonomy within Indonesia or independence, Timorese civilians were formed into pro-autonomy militia groups to promote the autonomy option.

7. These militia groups were organized, financed, trained and sometimes armed by Indonesian military and security officials. Violent groups were organized to threaten, coerce or intimidate the population into voting for autonomy. The various local militias were brought under one umbrella organization, the Integration Fighter's Force [*Pasukan Pejuang Integrasi-PPI*], headed by Joao Tavares, which closely coordinated action with the top Indonesian security officials.
8. Between February 1999, and September 1999, East Timorese pro-integration leaders, commanders and members of the militia, as well as members of the TNI, frequently threatened in private and public statements that there would be violence if autonomy lost the vote and everything that East Timor had gained as a province of Indonesia would be destroyed.
9. Joao Tavares, the Supreme Commander of the Integration Fighter's Force sent a letter dated 17 July 1999 to all militia forces and copied to Timbul Silaen and **HULMON GULTOM** among others. In the letter, Tavares instructed the militias to gather their men and immediately become proactive in eliminating the influence of anti-integration forces by 'continuing the terrorism and intimidation' of parties 'thought to be influencing the people not to accept Special Autonomy...' in the event Integration lost the vote, Tavares instructed the militia forces to 'immediately and with full force launch Operation Sweeping against pro-independence supporters from the age of fifteen and up, male and female, without exception.'
10. On July 24 1999, a meeting was held at the KOREM in Dili. The meeting was attended by, among others, **HULMON GULTOM** and Timbul Silaen. Six points were discussed: [1] militia forces were to be activated at the time of the referendum campaign; [2] the military command and the Regional Police command would supply intelligence personnel and, together with members of *Aitarak*, monitor and encourage militias to disrupt the campaign; [3] these militia would be fully equipped and their families taken care of by the Indonesian Government; [4] Given the popular sentiment in favor of integration, pro-integration forces must, in any way possible, take advantage of the opportunity at campaign time to wipe out the independence supporters; [5] if the autonomy option loses the vote, they would engage in terrorist activities and all equipment and logistical support would be organized by Indonesia to assist them, and finally, [6] they agreed that Indonesia would not withdraw from East Timor even if threatened with expulsion from the United Nations.

11. The *Aitarak* militia, led by Eurico Guterres, Deputy Commander of the PPI, was the principal militia group based in Dili. *Aitarak* was widely regarded as the most powerful and well-connected militia in East Timor.
12. Between April and September 1999, *Aitarak* operated throughout Dili District and carried out acts of violence directed against civilians it perceived to be independence supporters. The attacks included acts of unlawful detention, arson, murder and other acts of persecution, including forcible deportation.

## THE AUTHORITY AND STRUCTURE OF THE INDONESIA POLICE FORCE

13. Articles 2 and 5 of the Law of the Republic of Indonesia regarding the State Police provides that it is the duty of the police to maintain order, protect the public and enforce the law. The Indonesian Police Force was commonly referred to as the "POLRI" [*Polisi Republik Indonesia*].
14. Originally, POLRI was part of the Armed Forces of Indonesia [ABRI-renamed *Tentara Nasional Indonesia-TNI*], under the command and control of the Commander in Chief of the Armed Forces of Indonesia. On April 1 1999, POLRI was officially separated from the TNI. The POLRI headquarters were in Jakarta. In Indonesia, the POLRI had seventeen regional commands [*Polisi Daerah-POLDA*]. The Indonesian Police Force also included the Mobile Police Brigade [*Brigade Mobile-BRIMOB*].
15. In 1999, the Regional Police Command in East Timor had its headquarters in Comoro, Dili. In 1999, it was headed by Timbul Silaen, the Chief of Police [*Kepala Polisi Daerah-KAPOLDA*]. Each of the 13 districts of East Timor had a District Police Headquarters [*Polisi Resort-POLRES*], headed by the District Police Chief, known as the KAPOLRES. The District Police Chief had command and control over the POLRI officers in their respective districts
16. Between June 27 1998 and September 1999, **HULMAN GULTOM** was the District Police Commander in Dili district [KAPOLRES]. During this period he exercised command and control over all the POLRI officers stationed in the district.
17. On July 8 1999, following reports of violence, the Secretary General of the United Nations called upon POLRI to carry out its obligations and to conduct proper investigations leading to the arrest and prosecution of those engaging in criminal activities

18. On July 12 and 13, Silaen and Ali Alatas, the Indonesian Foreign Minister, met with representatives of the United Nations to discuss how the militia threats could be curbed.
19. Within Dili district, militia members openly carried firearms, including rifles, in view of POLRI officers, despite the fact that possession of guns by civilians was a crime under Indonesian law. Militia openly maintained roadblocks and harassed the civilian population. POLRI allowed the militia to commit violence against supporters of independence with impunity.
20. From April through September 1999, numerous civilians were murdered and persecuted by militia groups within the Dili district. The police in Dili district made no attempt to disarm the militia, prevent the militia violence, arrest or punish the perpetrators, or investigate the crimes. In some cases, POLRI officers actively participated in the violence. The violence perpetrated by the militia and POLRI were perpetrated as part of the widespread and systematic attack directed against the civilian population supporting independence. The crimes included, but were not limited to, the following instances in Dili District:

#### **BRIMOB ATTACK - February 14 1999**

21. On February 14 1999 BRIMOB started firing their weapons at a crowd gathered outside the BRIMOB compound at Bairo Pite.
22. Bendito De Jesus was one of the people in the crowd. He was shot by a member of BRIMOB and died as a result of his injuries.
23. A large crowd had gathered and demanded the arrest of the person responsible for the shooting. Silaen arrived on the scene and promised the gathering that POLRI would investigate the death. Despite the promise, POLRI did not conduct any investigation.

#### **MILITIA INAUGURATION & ATTACK ON CARRASCALAO HOUSE - April 17**

24. Official support for *Aitarak* militia from Senior Officials of POLRI was clear from the beginning of the militia's establishment in 1999. **GULTOM** attended the *Aitarak* militia inauguration ceremony held outside the Governor's Building in Dili on April 17 1999.
25. Joao Tavares, Supreme Commander of PPI, and Eurico Guterres, Deputy Commander of PPI and Commander of *Aitarak* militia, were present at the inauguration ceremony.

26. Joao Tavares was the first to address the militia groups. In his address, he spoke of the strengthening of militia groups and the elimination of independence supporters.
27. Eurico Guterres then addressed the crowd present and singled out the Carrascalao family, stating that they were traitors and should be killed. He ordered the militia to attack the Carrascalao residence and instructed that those who tried to flee should be shot, and those who resisted should be stabbed.
28. Immediately following the inauguration ceremony, the *Aitarak* and BMP militia went on a violent rampage through Dili. **GULTOM**, despite being the District Police Commander, made no effort to prevent the attacks.
29. By April 17 1999, because of the widespread and systematic attacks against independence supporters in the District of Liquica and other locations, over 100 independence supporters had sought refuge at the house of Manuel Carrascalao.
30. At about 11:30 hrs on April 17 1999, Carrascalao and his daughter left their residence to go to the airport and while away from their home, received news that the militias were gathering at their house and that it was going to be attacked.
31. Carrascalao and his daughter attempted to go back to their house. When they got to a point directly across from the Resende Hotel in Dili, Manuel Carrascalao approached several BRIMOB officers in two BRIMOB patrol vans parked on the street.
32. The BRIMOB were armed with weapons. Manuel Carrascalao informed them that his house was under attack and pleaded for their help. The BRIMOB officers took no immediate action.
33. At approximately 13:00 hrs, the militia had surrounded the Carrascalao residence, and were armed with homemade guns [*rakitan*], automatic rifles, machetes, samurai swords and knives, and then began their attack upon the house and its occupants.
34. During the attack, twelve people were killed, including Manelito Carrascalao, the son of Manuel Carrascalao. Several people were also badly injured during the attack.
35. Carrascalao's house was destroyed during the attack and all the items inside the house were either damaged or stolen by the militia.

36. After about one hour, BRIMOB and other POLRI members stopped the militia attack.
37. Shortly after the attack, a neighbor of Carrascalao asked the POLRI officers whether he and his medically trained parents could assist the injured. The POLRI officers told him that they had been given no orders to initiate medical assistance.
38. Members of the BRIMOB and POLRI took the survivors of the attack to the District Police Headquarters [POLRES] station near the market in Dili and then to the Regional Police Headquarters [POLDA] in Comoro.
39. Many of the survivors were detained at the POLDA. The survivors were detained against their will for periods of time ranging from 3 to 40 days. While these survivors were at the POLDA, no effort was made to interview them for purposes of identifying the perpetrators of the attack on the Carrascalao house.
40. While detained, the survivors were also coerced by the POLRI to say that the persons killed at the Carrascalao's residence were killed by FALANTIL and not by the Indonesian Military, Indonesian Police or the militia, and to abandon support for independence.

#### **KULUHUN BRIDGE ATTACK - August 27 1999**

41. On August 27 1999, autonomy campaigners, *Aitarak* militia members and two BRIMOB contingents gathered around the Kuluhun Bridge as part of the autonomy campaign that proceeded the popular consultation on August 30 1999.
42. The *Aitarak* militia had been setting houses on fire in the Kuluhun village that day.
43. There were several clashes between autonomy campaigners and independence supporters, who had also gathered at the Kuluhun Bridge.
44. Bernadino Guterres and his nephew were standing near the bridge with other independence supporters. There were several clashes between autonomy campaigners and independence supporters, who had also gathered at the Kuluhun Bridge.
45. Guterres and his nephew decided to go home, as they did not want to become involved in an altercation with BRIMOB. As they walked home, the BRIMOB noticed that Guterres was carrying a rock. A member of BRIMOB then attempted to kick Guterres.

46. Guterres then made a gesture to BRIMOB. Immediately after making this gesture a group of approximately 10 BRIMOB chased him, heading towards Jalan Kuluhun.
47. One BRIMOB member who was chasing Guterres stopped in the middle of the road and shot at Guterres as he ran away. As a result of his injuries, Guterres died.

#### **PRELUDE TO ATTACKS IN DILI ON SEPTEMBER 5 and 6 1999**

48. Between September 1 and 6 1999, many civilians in Dili sought refuge at the Dili Diocese and the home of Bishop Belo from attacks by militias. By the morning of September 5 1999, there were over 300 refugees at the Dili Diocese. By the next day, there were over 5,000 refugees at the home of Bishop Belo and over 2,000 refugees at the compound of the International Committee of the Red Cross [Red Cross Compound]. The Dili Diocese, the home of Bishop Belo and the Red Cross Compound, were perceived by members of the East Timorese community to be places where they would be safe from attack by militia groups operating in Dili.
49. Prior to September 5 1999, Bishop Belo contacted the Chief of Police for East Timor, Timbul Silaen, to urge him to take action with respect to militia activity in Dili. Silaen attended Bishop Belo's residence on September 2 and 4 1999, on account of militia activity in the area. On September 4 1999, militias were harassing people in the area outside Bishop Belo's compound. Police were present but did not intervene.
50. On the morning of September 5 1999, Bishop Belo and Manuel Abrantes, Director of the Justice and Peace Commission of the Dili Diocese, went to the sub-Regional Military Command [*Komando Resort Militer-KOREM*], to speak with the Regional Military Commander for East Timor Colonel Noer Muis, about the security situation in Dili, particularly with respect to the security of refugees sheltering at the home of Bishop Belo. Muis invited Bishop Belo to a meeting to be held with senior Indonesian military officials later that morning.
51. Between 12:00 and 14:00 hrs that day a meeting to discuss the escalating violence was held at Muis' house in the suburb of Farol, Dili, between high-ranking Indonesian military and police officials, autonomy leaders, and other selected civilians. Present at the meeting was Silaen, among many others.
52. During the meeting the Dili Diocese was attacked by militia groups operating with the acquiescence and assistance of POLRI.

## ATTACK ON THE DILI DIOCESE - September 5 1999

53. Large numbers of *Aitarak* militia began to gather outside the Dili Diocese. They were armed with weapons including pistols, machetes, long knives, *rakitans* and swords. At the same time there were a large number of POLRI officers outside the Dili Diocese and Hotel Mahkota who observed the militia build-up outside the Diocese but did nothing to disperse or disarm them.
54. Father Jose Antonio da Costa telephoned the Regional Police Headquarters office to advise them that the Diocese was under attack. Regional Police Headquarters advised that they were immediately sending additional officers to the Diocese. However the additional officers never arrived.
55. The POLRI officers who were stationed outside the Diocese did nothing to prevent the militia attack.
56. The militia entered the compound from a number of directions firing weapons, attacking the buildings where the refugees were hiding, screaming for the refugees to leave the compound, and assaulting them. Militia members also destroyed and set fire to the Diocese office and other buildings within the compound. The attack continued until the late afternoon.
57. A number of POLRI officers also participated in the attack. An unidentified Indonesian POLRI officer shot Thomas Belo in the legs. The officer then began firing his gun into a room that was filled with refugees.
58. The militia and POLRI forced the refugees out of the Diocese compound and across the road to the Dili harbor. Militia members continued to attack the refugees whilst they were leaving the Diocese and moving to the harbor.
59. Once the militia had forced the refugees across the road to Dili harbor, the POLRI then separated men from the women and children. At the Harbor, POLRI observed members of the militia beating male refugees but did not intervene or arrest the militia. POLRI also participated in the violence.
60. The women and children were then driven to the Regional Police Headquarters in Comoro, leaving the men behind.

## ATTACK ON BISHOP BELO'S RESIDENCE IN DILI - September 6 1999

61. In the early morning of 6 September 1999, Bishop Belo telephoned Silaen to ask him for help in protecting the refugees gathered in his compound and in evacuating the refugees from the compound. Silaen advised Bishop Belo to contact Colonel Noer Muis, as POLRI could not help.
62. By mid-morning, militia attacked Bishop Belo's compound. The militia drove around the compound, firing guns and throwing Molotov cocktails inside. The gunfire continued for about 5 to 10 minutes. The militia members then entered the compound through the gates and over the walls, firing their weapons and screaming for all the refugees to come out. The POLRI were present and did nothing to prevent the attack or arrest those involved.
63. The entire compound was destroyed. At least one unidentified person is known to have been killed in the attack. Approximately 15 people went to the Dili National Hospital in Bidau for treatment for injuries sustained, including gunshot wounds, lacerations and bruises.
64. Members of POLRI actively participated in the attack. Specifically, police entered the compound firing automatic weapons, assaulting refugees and ordering them outside. Police ordered the refugees out and into the park. One member of POLRI set Bishop Belo's house alight with a number of gerry-cans of petrol.
65. The POLRI and militias intimidated and harassed the refugees in the park by asking them whether they were independence or autonomy supporters and threatening them with weapons. The militia then forced the refugees to hand over motorcycle and car keys and drove away with their vehicles while the POLRI stood by and did nothing.
66. Later in the afternoon, refugees were ordered by the *Aitarak* militia members and POLRI to walk towards Dili harbour. From there, they were loaded on boats which took them to Kupang. The militia also instructed the some refugees to board trucks that took them to Regional Police Headquarters in Comoro, with some refugees then being transported to West Timor. Militia members threatened to kill any refugees who did not obey these commands.
67. Whilst the refugees were gathered at the Taman Bunda Maria park, a POLRI vehicle arrived outside the compound. A POLRI officer spoke with militia and then to Bishop Belo, telling him that he had been ordered to bring him to safety. Bishop Belo was then driven to Dili Police Headquarters.

68. When he arrived at the Dili Police Headquarters, Bishop Belo spoke to Timbul Silaen. Silaen told the Bishop that the police were forced to take action because whenever there was a problem the Timorese always sought shelter within the Church. Silaen then received a phone call from the head of the Indonesian Police in Jakarta and he told the Indonesian head of Police, "We've already done it."

#### **ATTACK ON THE CANOSSIAN CONVENT IN DILI - September 6 1999**

69. On September 6 1999, there were more than 100 refugees sheltering at the Canossian Convent, located immediately behind the house of Bishop Belo. There were also approximately nine Canossian Sisters inside.
70. At the same time as the attack on Bishop Belo's compound, *Aitarak* militia and POLRI began to attack the Canossian Convent. The refugees inside the Convent were ordered to go out onto the gardens outside Bishop Belo's house, where they were guarded by the militia and POLRI. The militia destroyed most of the property inside the Convent.

#### **ATTACK ON THE RED CROSS COMPOUND IN DILI - September 6 1999**

71. By the morning of September 6 1999, there were more than 2,000 refugees seeking shelter at the Red Cross Compound, which was located next to the house of Bishop Belo on Rua Avenida Marchal Carmona. Red Cross officials requested police protection for the refugees inside the compound.
72. At approximately the same time as the attack on Bishop Belo's compound, *Aitarak* militia armed with automatic weapons, *rakitans* and machetes attacked the Red Cross compound. Militia members entered the compound opening fire and forcing refugees and local and international staff of the Red Cross out of the compound. Some members of POLRI participated in the attack and others were present outside the compound and did nothing to prevent the attack or arrest the militia who committed the violence.
73. During the course of the attack a number of people were seriously injured. At least one person died inside the compound, which was destroyed.
74. Following the attack, the eleven international staff of the Red Cross, along with international staff from several other humanitarian agencies, were separated from local persons and taken at gunpoint to the Regional Police Headquarters in Comoro.

## DEPORTATION OF REFUGEES FROM EAST TIMOR

75. Between September 5 and 9 1999, both POLRI and the *Aitarak* militia forced the deportation of thousands of refugees.
76. Refugees were forced from various locations around Dili, including the Dili Diocese, Bishop Belo's house, the Canossian Convent and the Red Cross compound. They were required to register with the POLRI and were later deported to West Timor.
77. *Aitarak* militia were present inside and outside the Regional Police Headquarters in Comoro and threatened violence against the refugees waiting inside unless they traveled to West Timor. Although present, the POLRI did nothing to prevent the militia intimidation.
78. From September 7 to 9 1999, many of the refugees were deported directly from the District Police Headquarters and Regional Police Headquarters into West Timor by truck, *mikrolet* [minibus] or any other available vehicle. Other refugees were taken to Comoro airport and deported by Indonesian Air Force planes.
79. Other refugees were forced by militia and POLRI to move to Dili harbor to be deported by boat to West Timor. *Aitarak* militia members patrolled the harbour to threaten civilians if they did not leave East Timor and to search for independence supporters.
80. In September 1999, an *Aitarak* militia commander was issuing '*Surat Jalan*' or Travel Permits from the *Aitarak* militia headquarters at the Tropical Hotel to facilitate the travel of refugees to West Timor. During the month of September, more than 280,000 people were forcibly deported from Dili into West Timor.

## DESTRUCTION OF PROPERTY

81. Following the announcement of the results of the Popular Consultation, militia, TNI and POLRI forces carried out a large-scale destruction of the infrastructure of East Timor. It has been estimated 70 per cent of the buildings in East Timor, including 40 per cent of all dwelling houses, were destroyed by arson.
82. Throughout Dili district private homes, government buildings and commercial structures were burnt. The arson was directed at the East Timorese civilian population who had supported independence in order to punish them for their choice. These discriminatory acts of property

destruction violated the fundamental rights of the civilian population of Dili district.

#### IV. RESPONSIBILITY AND KNOWLEDGE OF THE ACCUSED

83. At all material times covered by this indictment, **HULMAN GULTOM** held the rank of Lieutenant Colonel and was District Police Chief of Dili [KAPOLRES]. **HULMAN GULTOM** was the highest-ranking police officer in the Dili district and had command and control over all the POLRI officers in the district. He had the responsibility for maintaining public law and order in the Dili district.
83. On April 17 1999, **GULTOM** attended the militia inauguration ceremony outside the Governors office in Dili that preceded the attack on the home of Manuel Carrascalao.
84. From April through September 1999, **HULMAN GULTOM** failed to take necessary and reasonable measures to prevent the crimes being committed by his subordinates in the Dili District and he failed to take necessary and reasonable measures to punish the perpetrators of those crimes.
85. By reason of the above, **GULTOM** is criminally responsible for his conduct as an individual pursuant to section 14 UNTAET Regulation 2000/15 and for the acts of his subordinates pursuant to section 16 UNTAET Regulation 2000/15.

#### V. GENERAL ALLEGATIONS

##### CRIMES AGAINST HUMANITY

86. For each count charging Crimes Against Humanity under Section 5 UNTAET Regulation 2000/15, the acts or omissions by **HULMAN GULTOM** described in this indictment were undertaken as part of a widespread and systematic attack directed against the civilian population of East Timor, and **GULTOM** had knowledge that the crimes that occurred were committed in the context of this widespread and systematic attack.

## INDIVIDUAL CRIMINAL RESPONSIBILITY

87. **GULTOM** is criminally responsible as an individual for the crimes alleged in this indictment pursuant to Section 14 of UNTAET Regulation 2000/15. Section 14.3 states that:

*“... a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the panels if that person:*

*[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 of the intention of the group to commit the crime...”*

## SUPERIOR CRIMINAL RESPONSIBILITY

88. **GULTOM** is criminally responsible for the crimes of his subordinates alleged in this indictment pursuant to Section 16 of UNTAET Regulation 2000/15. Section 16 states that, a superior is responsible for the criminal acts of his subordinates if he:

*“...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 perpetrator thereof.”*

## **VI. CHARGES AGAINST THE ACCUSED**

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

### **COUNT 1: CRIMES AGAINST HUMANITY – MURDER**

By his acts or omissions in relation to the events described in paragraphs 21 to 74 of this indictment, and with knowledge that the crime occurred in the context of widespread and systematic attack against a civilian population, **HULMAN GULTOM** is responsible as a superior pursuant to Section 16 of Regulation 2000/15 for the murders of East Timorese civilians in Dili District, including:

- a. The killing of Bendito De Jesus on February 14 1999;
- b. The killing of 12 persons on April 7 1999 at Manuel Carrascalao's house; and
- c. The killing of Bernardino Guterres at Kuluhun Bridge on August 27 1999.

**HULMAN GULTOM** thereby committed a CRIME AGAINST HUMANITY – MURDER, a crime stipulated under Section 5.1[a] 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 76 to 81 of this indictment, and with knowledge that the crime occurred in the context of widespread and systematic attack against a civilian population, **HULMAN GULTOM** is responsible as an individual pursuant to Article 14.3 and as a superior pursuant to Article 16 of Regulation 2000/15 for the deportation or forcible transfer of the civilian population of Dili District between September 5 and 9, 1999 and thereby committed a CRIME AGAINST HUMANITY – DEPORTATION OR FORCIBLE TRANSFER OF POPULATION, a crime stipulated under Section 5.1[d] of UNTAET Regulation 2000/15

### **COUNT 3: CRIMES AGAINST HUMANITY - PERSECUTION**

By his acts or omissions in relation to the events described in paragraphs 22 to 82 of this indictment, and with knowledge that the crime occurred in the context of a widespread and systematic attack against a civilian population, **HULMAN GULTOM** is responsible as an individual pursuant to Article 14.3 and as a superior pursuant to Article 16 of Regulation 2000/15 for the persecution of an the civilian population of East Timor. The persecution consisted of

- a. Murders, as described in paragraphs 22 to 74 of this indictment;
- b. Physical assaults and threats of physical assaults;
- c. Unlawful detentions. These detentions often occurred on POLRI premises, that is, the District Police Headquarters [POLRES] and the Regional Police Headquarters [POLDA] in Dili; and
- d. Destruction of property as described in paragraph 81 to 82 of this indictment.

**HULMAN GULTOM** thereby committed a CRIME AGAINST HUMANITY – PERSECUTION, a crime stipulated under Section 5.1[h] of UNTAET Regulation 2000/15.

### **VII. LIST OF VICTIMS**

The list of victims that forms a part of this indictment is attached and marked “ANNEX A”.

### **VIII. REQUEST FOR TRIAL**

The Deputy General Prosecutor for Serious Crimes hereby requests that the Special Panels for Serious Crimes of the District Court of Dili try this case.

December 9, 2004



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Nicholas Koumjian  
Deputy General Prosecutor for Serious Crimes