

DISTRICT COURT OF DILI

BEFORE THE SPECIAL PANEL FOR SERIOUS CRIMES



CASE NO: *73/2004*

INDICTMENT

**THE DEPUTY GENERAL PROSECUTOR FOR SERIOUS
CRIMES**

-AGAINST-

**NAZARIO VITAL DOS SANTOS CORTE REAL
FRANCISCO CAPELA FERRAO
CAPTAIN SUGYONO**

I. INDICTMENT

The Deputy General Prosecutor for Serious Crimes of the Democratic Republic of East Timor, pursuant to his authority under UNTAET Regulations 2000/16 and 2000/30 as amended by UNTAET Regulation 2001/25 charges:

**NAZARIO VITAL DOS SANTOS CORTE REAL
FRANCISCO CAPELA FERRAO
CAPTAIN SUGYONO**

WITH

PERSECUTION, A CRIME AGAINST HUMANITY

II. NAME AND PARTICULARS OF THE ACCUSED PERSONS

1. Name: **Nazario Vital Dos Santos CORTE REAL**
Date of Birth: 22 January 1953. Also reported to be born in 1931.
Place of Birth: Hata Udo subdistrict, Ainaro District
Sex: Male
Nationality: East Timorese
Address: Currently believed to be in West Timor, INDONESIA. In 1999, lived in Letefoho village, Same subdistrict, Manufahi
Occupation: In 1999, Founder and Overall Commander of ABLAI Militia in Manufahi
2. Name: **Francisco CAPELA FERRAO**
Date of Birth: 15 August 1952
Place of Birth: Alas subdistrict, Manufahi District
Sex: Male
Nationality: East Timorese
3. Name: **Captain SUGYONO**
Sex: Male
Nationality: Indonesian
Address: Believed to be in INDONESIA
Occupation: In 1999, Head of KOPASSUS, Manufahi District and Founder of ABLAI Militia in Manufahi

Address: Currently believed to be in West Timor,
INDONESIA. In 1999, lived in Babulu village,
Same subdistrict, Manufahi

Occupation: In 1999, Vice-Commander of all ABLAI Militia in
Manufahi and Commander of Same Area

III. INTRODUCTORY STATEMENT OF FACTS

1. Military, police and militia forces carried out a widespread and systematic attack on the civilian population of East Timor in 1999. The attack began following the announcement on 27 January 1999 by the Government of Indonesia that the people of East Timor would be allowed to choose between autonomy with the Republic of Indonesia or independence. It intensified after the announcement on 4 September 1999 of the result of the Popular Consultation in which 78.5 per cent voted against the autonomy proposal.
2. The widespread and systematic attack was part of a coordinated campaign of violence, carried out by members of the pro-autonomy militia, members of the Indonesian Armed Forces, ABRI (*Angkatan Bersenjata Republik Indonesia*) renamed TNI (*Tentara Nasional Indonesia*) in 1999, and members of the Indonesian Police Forces (*POLRI*) with the acquiescence and active participation of civilian and military authorities. The attack was directed against civilians of all ages, but predominantly against individuals who were believed to be independence supporters. The attack resulted in massive and widespread destruction of property, the internal displacement or forcible transfer outside of East Timor of thousands of persons and the infliction of serious injury or death on thousands of victims
3. 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, including in Covalima District.

IV. FORMATION OF ABLIA MILITIA IN MANUFAHI DISTRICT AND CRIMINAL PURPOSE

4. Manufahi is one of the thirteen districts of East Timor and in 1999 was comprised of four sub-districts namely, Same Sub-District, Fatuberliu Sub-District, Turisca Sub-District and Alas Sub-District.

5. In 1999, Lieutenant Colonel Suwondo was the Military District Commander (Dandim) of Manufahi District in Manufahi District in 1999. Lieutenant SUMINO was the Sub-District Military Commander (Danramil) in Same Sub-District.
6. In 1999, **Captain SUGYONO** was the head of TNI KOPASSUS in Manufahi District.
7. Sometime in January or February 1999, **Nazario Vital Dos Santos CORTE REAL** sent a letter, through Lieutenant Colonel Suwondo, to the main TNI Headquarters in Dili, asking for permission to form the ABLAI militia and asking for funding, which he subsequently received.
8. On 11 March 1999, **Nazario Vital Dos Santos CORTE REAL**, along with KOPASSUS **Captain SUGYONO**, formally created the ABLAI Militia (*Aku Berjuang Lestarikan Amanat Integrasi (I struggle for a perpetual integration mandate)*) in Manufahi District at an inauguration ceremony at Same market.
9. **Nazario Vital Dos Santos CORTE REAL** assumed the role as overall commander of the ABLAI militia, and, along with First Vice-Commander **Francisco Capela FERRAO**, and **Captain SUGYONO**, exercised command and control over the ABLAI militia. **Nazario Vital Dos Santos CORTE REAL's** house served as the headquarters for the ABLAI militia and the centre for radio communications.
10. In April 1999, **Nazario Vital Dos Santos CORTE REAL** presided over a meeting. Various ABLAI militia commanders made speeches stating that if pro-autonomy did not win there would be blood and Indonesia would destroy everything to the ground. In July 1999, **Nazario Vital Dos Santos CORTE REAL** made another speech saying that militia members who also supported the independence movement would be killed.
11. **Nazario Vital Dos Santos CORTE REAL** appointed Guilermino Marcal as Sub-District Militia Commander for Same Sub-District and Jose Larenzeira as the Danki (militia company commander) for Daisua Village, Same Sub-District.
12. **Captain SUGYONO**, together with the KOPASSUS forces under his command, helped train and arm the ABLAI militia. KOPASSUS in Manufahi issued a written request to the Dandim, Lieutenant Colonel Suwondo, and requesting weapons for the ABLAI. The Dandim issued the weapons to KOPASSUS, who in turn, issued them to the ABLAI militia when the violence in Same commenced.
13. Between January 1999 and October 1999, the ABLAI militia, in close collaboration with the TNI KODIM in Manufahi and KOPASSUS forces, carried out widespread and systematic attacks against the civilian

population in Manufahi District, in particular against those civilians who were perceived to be supporters of or linked to the independence cause.

14. **Nazario Vital Dos Santos CORTE REAL**, and **Francisco Capela FERRAO**, as commander and deputy commander of the ABLAI militia, each had effective command and control over all other members of the ABLAI militia and each had the ability to prevent the crimes charged in this indictment or to punish the perpetrators thereof.
15. As was the case in other areas and with other militia in East Timor in 1999, the ABLAI militia was under the effective control of the TNI. TNI assisted with the organization and helped finance ABLAI. The TNI trained militia members, and provided firearms and communication equipment to the militia. Some TNI soldiers were also members of the ABLAI militia, which could not have happened without the consent of TNI command. TNI soldiers directed many ABLAI operations.
16. **Captain SUGYONO** as the head of KOPASSUS in the Manufahi also had the power to prevent the crimes of the militia or to punish the perpetrators thereof.
17. **Nazario Vital Dos Santos CORTE REAL**, **Francisco Capela FERRAO** and **Captain SUGYONO** were each members of a joint criminal enterprise operating within Manufahi District between January and October 1999. This was part of a larger joint criminal enterprise operating throughout the territory of East Timor during the same time period involving military (TNI) police (POLRI) and pro-autonomy militia forces. The initial objective of the joint criminal enterprise was to deny the East Timorese population the right to a free and fair vote in the Popular Consultation on autonomy. The strategy was to intimidate the population through a campaign of persecutions primarily directed at independence supporters. The persecutions and campaign of intimidation was carried out through the use of unlawful detentions, beatings and torture, enforced disappearance of persons, sexual assaults and murder.
18. Following the announcement that the results of the Popular Consultation overwhelmingly favoured independence, the objective of the joint criminal enterprise evolved to seek to punish the East Timorese people for their choice, create chaos in the country and prevent implementation of the separation of East Timor from Indonesia. The tactics employed included physically destroying housing and infrastructure in the country and the deportation or forcible transfer outside of East Timor of a large portion of the population, in addition to continuing the persecution campaign described in the preceding paragraph.
19. **Nazario Vital Dos Santos CORTE REAL**, **Francisco Capela FERRAO** and **Captain SUGYONO** worked closely together, stayed in communication

with each other, and together helped plan operations by the ABLAI militia to carry out this joint criminal enterprise within Manufahi district. Each of the three accused made speeches to ABLAI members encouraging the killing of independence supporters.

V. FACTUAL SUMMARY OF PARTICULAR CRIMES

MURDERS

MURDERS OF AGAPITO DE ARAUJO and LUIS BOCO-SIRI (17 April 1999)

20. On or about 17 April 1999 morning, about 200 members of the ABLAI militia in Same Sub-District gathered at the house of Guilhermino Marcal. At the meeting Guilhermino Marcal ordered his militia to go to Orluli Village on a pro-autonomy campaign.
21. Pursuant to this order, on or about 17 April 1999 members of ABLAI Militia led by Bernadino Da Costa and two other militia groups, attacked the village of Orluli. About 78 militia members took part in the attack. When the members of the ABLAI militia arrived in Orluli, they divided into three groups.
22. Luis Boco-Siri was standing near his house when members of the ABLAI militia attacked the village. Members of the ABLAI militia including Joao Sarmiento and Francisco Mendonca aka Resimau stabbed him and killed Luis Boco-Siri.
23. Agapito De Araujo was in his house when members of the militia attacked the village. Agapito de Araujo came out of his house with his family and the militia attacked him, beat him severely, and stabbed him to death with spears.

MURDER OF CARLITO DE ARAUJO (17 April 1999)

24. Sometime in April 1999, the villagers of Grotu Lau Village, Same Sub-District received information that the ABLAI militia was going to attack the village and kill the men. Upon hearing this, the men ran into hiding in the forest and the women remained in the village.
25. On or about 17 April 1999, ABLAI militia members including Bernadino Da Costa, Benjamin Sarmiento and Romeiro Tilman attacked Grotu Lau Village.

26. ABLAI militia threatened to kill the women they found in Grotu Lau village unless they called their husbands to return to the village. A few men came out of hiding into the village, including Carlito De Araujo, also known as "Tilman," or "Maulito."
27. Carlito De Araujo was interrogated by Bernadino Da Costa. After the interrogation, Bernadino Da Costa, Benjamin Sarmiento and a few other militia members led Carlito De Araujo about 100metres away. Benjamin Sarmiento stabbed Carlito De Araujo with a spear in the back and Domingos Mauclau cut his neck. Benjamin Sarmiento and another militia member then threw Carlito De Araujo's body into the bushes.

MURDER OF DUARTE LOPES (17 April 1999)

28. On 17 April 1999, a group of ABLAI militia, including Afonso da Costa, Domingos Mendonca, Carlito Cardoso, Victor De Jesus, Bendito Mendonca, Domingos Doutel Sarmiento, Orlando from Tirilolo, Alarico De Deus and Felis Cardoso, proceeded to Fahikeo to guard a militia post there.
29. At Fahikeo, they were joined with another group of ABLAI militia, also consisting of ten men. ABLAI militia member Armindo Resicoli spotted Duarte Lopes in Fahikeo and hit Duarte twice with an iron rod covered with rubber. Duarte fell to the ground and was unable to get up.
30. Armindo Resicoli ordered Felis Cardoso to get a rope from his house and tie up Duarte Lopes. Cardoso got the rope, gave it to Horacio Mauadoa from Tirilolo who tied Duarte's hands behind his back. Abdullah Melkoli from Orema was ordered by Armindo Resicoli to kill Duarte Lopes.
31. Abdullah stabbed Duarte Lopes with his spear through the right side just below his chest. Duarte fell on his side and whilst he was lying on the ground, Abdullah continued to stab him. Duarte died from these injuries. The militia then threw the body down the slope of the hill.

MURDER OF AFONSO DA COSTA (24 April 1999)

32. Afonso da Costa was an 18-year-old student at the University of Dili. Students at the University of Dili were believed to be supporters of independence for East Timor. On or about 24 April 1999, Afonso da Costa was returning to Holarua village, Same Sub-District from Dili. When he arrived at Anilumo village, members of the ABLAI militia arrested him.
33. ABLAI militia members including Bernadino Da Costa, Benjamin Sarmiento, Domingos Mendonca, Antonio Goreta, Manuel Fatima, Ahmad and Mariano Mobili tied Afonso da Costa's hands behind his back and took him up the mountain above Orema (about 1½ kilometers away).

34. When they reached the top of the mountain Benjamin Sarmiento stabbed Afonso Da Costa in the back with his spear and ABLAI militia member Manuel Fatima chopped Afonso Da Costa's neck. Domingos Mendonca, a militia who happened to have the same name as the victim, Afonso Da Costa, and Victor De Jesus lifted the body and threw it over the mountain.

MURDER OF MOISES SOARES (28 April 1999)

35. On or about 24 April 1999, members of the Mahidi militia in Beikala village, Hataudo Sub-District, Ainaro took Moises Soares prisoner, suspecting him of being an independence supporter.
36. On 28 April 1999, a group of ABLAI militia members (including Jose Laranzeira, Alexandre (LNU) and Leonito (LNU)) and KOPASSUS members under the command and control of **Captain SUGYONO**, including Gualtar Vidigal traveled to Beikala and met with Jesito Da Neves, who was the village chief of Beikala and Company "B" Commander of Mahidi militia based in Hataudo Sub-District.
37. At the meeting, the ABLAI and KOPASSUS members asked Jesito Das Neves if they could take Moises Soares to Same. The KOPASSUS said they suspected Moises Soares of killing a fellow KOPASSUS in Alas Sub-District, Manufahi.
38. After meeting with Jesito Das Neves, the ABLAI and KOPASSUS traveled to the Mahidi post in Beikala and took control of Moises Soares, who was still detained in that post. They put a cloth over Moises Soares' head and tied his hands to his bent knees.
39. The ABLAI and KOPASSUS put Moises Soares into a vehicle, owned by **Nazario Vital dos Santos CORTE REAL**.
40. Jose Laranzeira and Alexandre (LNU) were in the back of the vehicle guarding Moises Soares and the TNI were in the front of the vehicle. The vehicle drove towards Same Sub-District in Manufahi.
41. The following day, on 29 April 1999, Moises Soares was found dead in Betano village. Moises Soares was naked, his hand and feet were tied, and he had been hacked on the back of his head.
42. On 29 April 1999, Alexandre (LNU) confessed to a witness that he and others had "picked up a man in the eastern part and killed him in Betano." ABLAI militia member Domingos Sousa Marques, confirmed to same witness that it was Moises Soares who Alexandre spoke about.

MURDER OF ARMINDO DA COSTA AND CARLITO DA COSTA (30 August 1999)

43. Armindo Da Costa, also known as "Armindo Tilman" and Carlito Da Costa, also known as "Alberto Ximenes" were believed to be independence supporters.
44. On 30 August 1999 a large group of villagers, including Armindo Da Costa and Carlito Da Costa were on their way back to Datina after having voted in Holarua village.
45. As the group reached the outskirts of Datina, a truck full of ABLAI militia members stopped near them and illegally arrested them, putting them on the truck.
46. Members of the ABLAI militia took these men to the militia guard post in Datina. The militia then separated Armindo Da Costa and Carlito Da Costa from the rest of the group, tied them up and took them to a nearby coffee plantation.
47. At the coffee plantation Bernadino Da Costa, Benjamin Sarmento and Romeiro Tilman and other members of the ABLAI militia strangled Armindo Da Costa and Carlito Da Costa with a rope.
48. Militia members then kicked and punched Armindo Da Costa and Carlito Da Costa. Militia member Luis Magno cut off the head of Armindo Da Costa and Domingos Mauclau cut off the head of Carlito Da Costa.
49. After Armindo Da Costa and Carlito Da Costa were killed, members of the ABLAI militia took the heads of Armindo Da Costa and Carlito Da Costa to the house of ABLAI commander Bernadino Da Costa and hung them on a tree outside his house.

MURDER OF BENDITO MONIZ (3 September 1999)

50. During the period prior to the Popular Consultation vote, Guilhermino Marcal threatened the villagers that all those who did not vote pro-autonomy would be killed.
51. Bendito Moniz was a known pro-independence supporter.
52. On or about 3 September 1999, Bendito Moniz went to his house in Letefo sub-village, Holarua village to take his personal belongings. Sancho Marcal, a militia member, reported to Guilhermino Marcal that Bendito Moniz was at his house.

53. Guilhermino Marcal ordered members of the militia under to arrest Bendito Moniz and to bring him to the ABLAI militia Headquarters in Same, which was the house of Guilhermino Marcal, and that they would "make a meal out of him". Pursuant to these orders Bendito Moniz was arrested and brought to the ABLAI Headquarters.
54. At the ABLAI Headquarters, Guilhermino Marcal ordered militia members to tie Bendito Moniz's hands and feet. The militia, then beat and killed Bendito Moniz.
55. Guilhermino Marcal ordered members of the militia to bring the yellow truck parked outside the POLRI compound to his house. The next day, members of the ABLAI militia including Domingos Da Costa and Antonino Lopes took the dead body of Bendito Moniz and disposed of it by throwing it over the cliff.

MURDER OF LORENZO TILMAN (9 September 1999)

56. After the announcement of the result of the Popular Consultation on 4 September 1999, the ABLAI militia forced villagers from Faliluhan area (villages of Orema, Grotu Lau, and Leubrema) including Lorenzo Tilman to go to Datina village where they were all detained in "community houses."
57. On 9 September 1999, ABLAI militia including Bernadino Da Costa, Benjamin Sarmento and Romeiro Tilman ordered all the villagers detained in the "community houses" to board trucks to be transported to West Timor.
58. Lorenzo Tilman refused to board claiming that he would rather die in East Timor than in West Timor. ABLAI members Joao Sarmento and Benjamin Sarmento then forcibly took Lorenzo Tilman to a coffee plantation near the militia guard post. Joao Sarmento held Lorenzo Tilman and Benjamin Sarmento stabbed him in the back with his spear, killing him.
59. Joao Sarmento and Benjamin Sarmento returned to the truck. On the truck Benjamin Sarmento told the other militia members present that he and Joao Sarmento had killed Lorenzo Tilman.

MURDER OF JOAO DA SILVA aka JOAO AMARAL (9 September 1999)

60. After the Popular Consultation on 30 August 1999, most of the villagers from Fahiluhan ran to the mountains out of fear of the ABLAI militia.
61. ABLAI militia threatened that they would kill all villagers who did not leave for Atambua. Joao da Silva aka "Joao Amaral", Angelino de Araujo,

Mario Sarmento, and Orlando da Costa were among the villagers who fled to the mountains.

62. On 9 September 1999, at approximately 11:00 am, Joao da Silva, Angelino de Araujo, Mario Sarmento, and Orlando da Costa came down from the mountains to gather food.
63. At approximately 12:00 noon, ABLAI militia vice-commander **Francisco Capela FERRAO**, together with KOPASSUS members Asman (LNU) and Karia A (LNU) under the command and control of **Captain SUGYONO**, ordered militia to prepare a truck to bring refugees to Betano for transport to West Timor.
64. **Francisco Capela FERRAO**, ASMAN (LNU) and KARIA (LNU), along with more than ten ABLAI militia members boarded the truck and commenced their plan to bring refugees to Betano.
65. At Fatu Maromak, the truck came across Joao da Silva, Angelino de Araujo, Mario Sarmento, and Orlando da Costa.
66. The truck stopped and Asman (LNU) and Karia (LNU) began firing their guns. Joao da Silva was hit by this gunfire and fell to the ground. He did not immediately die from the gunshot injury.
67. Angelino de Araujo, Mario Sarmento, and Orlando da Costa were able to run away. ABLAI militia member Clementino Alves shouted, "now all of you will die!"
68. One of the KOPASSUS soldiers ordered Clementino Alves to kill Joao da Silva. The KOPASSUS member shouted, "Clementino, kill him."
69. Clementino Alves then stabbed Joao da Silva two times in the back with a spear. The militia and KOPASSUS members boarded the truck and proceeded on the journey.

MURDER OF LORENCO DA COSTA (12 SEPTEMBER 1999)

70. On 12 September 1999, members of the ABLAI militia arrived in Ailule sub-village, Letefoho village, Same Sub-District and began burning down houses.
71. Lorenzo da Costa was a bedridden villager in Ailule. He was unable to leave his house and died in the fire.

MURDER OF MARCELINO VERDIAL (16 September 1999)

72. On 16 September 1999, a group of ABLAI militia arrived in Ladiki sub-village, Letefoho village, Same.
73. In Ladiki, the militia killed Marcelino Verdial in front of his 8-year-old daughter.

MURDER OF FLORINDO PEREIRA SOARES, MARTEN GASPAR SOARES, REMEZIO DA COSTA FERNANDO CURADO, AND EGAS MONIS TILMAN (24 SEPTEMBER 1999)

74. On 23 September 1999, ABLAI commander **Nazario Vital CORTE REAL** called for a meeting in Atambua ordering all available drivers and vehicles to return to Manufahi and pick up remaining refugees.
75. At 8:00 pm on 23 September 1999, TNI Lieutenant Sumino led a convoy of TNI and ABLAI militia from Atambua.
76. On the morning of 24 September 1999, the convoy was forced to stop at Bematan sub-village, Betano village, due to fallen trees in the road.
77. While the convoy was clearing the road, the TNI and ABLAI militia spotted Florindo Pereira Soares, a mentally ill man. The group arrested Florindo Pereira Soares and Jose Laranzeira placed him on one of the trucks.
78. The convoy continued on to Betano village. And along the way, Lieutenant Sumino spotted Marten Gasper Soares. Lieutenant Sumino shouted orders to shoot Marten Gasper Soares. Marten Gasper Soares ran into his house.
79. The TNI and ABLAI surrounded Marten Gasper Soares' house. Lieutenant Sumino entered the house, brought Marten Gasper Soares outside, and shot him once in the chest with an M16 rifle.
80. After the shooting, Lieutenant Sumino ordered the convoy to continue.
81. The convoy then stopped again when it spotted Remezio da Costa. ABLAI Danton Raimero Ferrao from Alas began questioning Remezio da Costa Fernando Curado. During questioning, ABLAI militia member Jose Lobato shot Remezio da Costa Fernando Curado from behind. ABLAI militia Alexander (LNU), seeing that he was not dead, hacked Remezio twice on the head with a machete.
82. The convoy continued from Betano village to Daisua village, picking up refugees along the way. Florindo Pereira Soares was still on board the truck driven by ABLAI member Cipriano Gusmao.
83. Upon reaching Karau-Ulun bridge, Lieutenant Sumino stopped the convoy. Jose Laranzeira and another ABLAI militia member took Florindo Soares Pereira off the truck. Jose Laranzeira and another ABLAI militia

member both repeatedly stabbed Florindo Pereira Soares. Jose Laranzeira then pushed the dead body of Florindo Pereira Soares off the side of the bridge into the riverbed.

84. As the convoy reached Betano, the ABLAI militia confronted Egas Monis Tilman and began chasing him. Many militias began beating and stabbing Egas Monis Tilman. Reimero Ferrao then shot Tilman in the chest at close range.
85. The convoy then returned to Atambua carrying many refugees.

MURDER OF GUILERMINO TILMAN (September 1999)

86. In September 1999, the Babinsa (TNI Sub-District commander) of Betano, Mohammad Ruri, and KOPASSUS member Gualter Vidigal led a group of ABLAI militia, in an operation to burn down houses in Betano village, particularly in the sub-villages of Selihasan, Lulik, Loro and Leoway.
87. Guilermino Tilman was a resident of Selihasan village who suffered from paralysis in both legs. When his house was set on fire, he was able to crawl outside, but was badly burned. He died three days later from his burns.

MURDER OF MARIA IMACULADA (2 OCTOBER 1999)

88. In September 1999, Maria Imaculada and other villagers were hiding from the militia in the forests of Beikala sub-district, Ainaro district.
89. On 2 October 1999, Maria Imaculada and Alcina de Araujo came out of the forest to retrieve food from their village.
90. While crossing the main road of Hatudo-Same, a group of ABLAI militia approached. Maria Imaculada and Alcina de Araujo immediately began running away. The ABLAI militia yelled, "don't run or we will kill you!" The militia then opened fire on the two women.
91. Alcina de Araujo escaped back to the forest.
92. The following day, Maria Immaculada's brother Manuel de Araujo and others went to the scene of the incident and found Maria Immaculada's dead body. Her head had been hacked and there was blood on her clothes and on the ground.

ATTEMPTED MURDER OF ANTERO DA COSTA (5 August 1999)

93. On 5 August 1999, members of KOPASSUS under the command and control of **Captain SUGYONO**, TNI and members of the ABLAI militia led personally by **Nazario Vital dos Santos CORTE REAL**, came to the church in Same. It was a joint operation among the TNI, ABLAI and KOPASSUS to search for pro-independence people, clandestine members and students.
94. Members of the ABLAI militia immediately began to assault students present at the church with knives.
95. ABLAI militia member Alexandre (LNU) was seen stabbing clandestine member Antero da Costa. Antero da Costa was stabbed in the back and hand with a samurai sword in the presence of **Nazario Vital dos Santos CORTE REAL**.

INHUMANE ACTS AGAINST ARTWER LARANZEIRA, TERESINA CARVALHO, ORLANDO CARVALHO AND JULIANA CORTE REAL (2 September 1999)

96. Artwer Laranzeira was a known pro-independence supporter. On or about 2 September 1999, Artwer Laranzeira was in his house in Holarua Village with his family, including his wife, Teresina Carvalho, his eight year-old son Orlando Carvalho and his four year-old daughter Juliana Corte Real.
97. On or about 2 September 1999, members of the ABLAI went to Holarua Village to the house of Artwer Laranzeira. Guilhermino Marcal led the group and it included Mateus Tilman and Joao (LNU).
98. Guilhermino Marcal stood outside the houses and shouted insults at Artwer Laranzeira accusing him of being a pro-independence supporter and saying that he would kill all those who did not vote for pro-autonomy.
99. Guilhermino Marcal and his son Jaimeto set fire to the house of Artwer Laranzeira, knowing the family was inside.
100. When Artwer Laranzeira ran out of the house, Mateus Tilman and Joao attacked him with a machete, striking him on his face, head, neck and leg. Artwer Laranzeira sustained severe injuries as a result of the attack.
101. When Orlando Carvalho ran out of the house, an arrow hit him on his lower left cheek coming out the other side through his neck and the militia struck him with a machete on his right ankle. Orlando Carvalho sustained severe injuries as a result of the attack.
102. Teresina Carvalho and her daughter Juliana Corte Real were trapped inside the burning house. They had to run through the fire to escape.

Teresina Carvalho suffered severe burns to her feet, legs and arms. Juliana Corte Real suffered burns to her arms.

103. Outside the house, a militia member struck Teresina Carvalho across her head with his machete causing a cut to her forehead.

DETENTIONS OF VILLAGERS FROM OREMA, GROTU LAU AND LEUBREMA

104. On 30 August 1999 villagers from Orema, Grotu Lau and Leubrema went to vote in Holarua. While returning back to their village members of the ABLAI militia including Bernadino Da Costa, Benjamin Sarmiento and Romeiro Tilman stopped the villagers and forced them all to go to Bernadino Da Costa's house in Leubrema. Benjamin Sarmiento, Romeiro Tilman and other ABLAI members went to Orema and Grotu Lau villages and forced the villagers they found there to go to Leubrema.
105. About 400 people from these villages were detained at Bernadino Da Costa's house in Leubrema from 30 August 1999 to 4 September 1999.
106. After the announcement of the results of the Popular Consultation, on or about 5 September 1999, ABLAI militia members Bernadino Da Costa, Benjamin Sarmiento and Romeiro Tilman, ordered that all the villagers who were detained in Leubrema be taken to Datina. Other villagers from Datina and Grotu Lau and those previously detained at Leubrema were taken to Datina and detained there in "community houses" for about five days to approximately 9 September 1999.

DEPORTATION AND FORCIBLE TRANSFER OF POPULATION

107. After the announcement of the results of the Popular Consultation, on or about 1 September 1999, the commanders of the ABLAI, **Nazario Vital Dos Santos CORTE REAL** and **Francisco Capela FERRAO**, with the active encouragement and support of KOPASSUS **Captain SUGYONO**, TNI officers commenced operations to forcibly transfer villagers from Manufahi District to West Timor.
108. On or about 6 September 1999 there was a meeting held at the Manufahi Kodim Office attended by Lt. Col. Suwondo, **Nazario Vital Dos Santos CORTE REAL** and **Francisco Capela FERRAO**, amongst others. The meeting was to discuss the strategy for the forcible deportation of villagers to West Timor.
109. In pursuance of this operation, the militia under the command and control of **Nazario Vital dos Santos CORTE REAL**, **Francisco Capela FERRAO**, as well as the TNI and the KOPASSUS under the command and control of **Captain**

SUGYONO organized military and civilian trucks to facilitate the deportation of civilians from Manufahi.

110. On 23 September 1999, ABLAI commander **Nazario Vital Dos Santos CORTE REAL** called for a meeting in Atambua ordering all available drivers and vehicles to return to Manufahi and pick up remaining refugees.
111. At 8:00 pm on 23 September 1999, TNI Lieutenant Sumino led the convoy of TNI and ABLAI militia from Atambua. Lt. Sumino was driving the lead vehicle.
112. **Nazario Vital dos Santos CORTE REAL, Francisco Capela FERRAO** and other members of the ABLAI militia threatened to kill the villagers if they did not go to West Timor.
113. From Same Sub-District, more than 15,000 villagers were forcibly assembled in Betano and thereafter forcibly taken to West Timor.
114. As an example, villagers detained in Leubrema and Datina were forcibly transported by members of the ABLAI under the command and control of **Nazario Vital dos Santos CORTE REAL** and **Francisco Capela FERRAO** in trucks to Betano. Other villagers taken from Trilolo were detained in the KODIM and then forcibly taken to Betano.
115. In Betano, they waited for about one week before they were transported to Metamauk in West Timor. Some villagers were transported to Atambua in West Timor in trucks while others were transported to Kupang, West Timor by ships belonging to the Indonesian Navy.

DESTRUCTION OF PROPERTY

116. Both before and after the announcement of the result of the 30 August 1999 Popular Consultation, ABLAI militia together with KOPASSUS soldiers and other elements of the TNI systematically destroyed houses and other property in Manufahi district, particularly targeting property belonging to those thought to be pro-independence.
117. On 5 September 1999, the house of the Bupati Nazario de Andrade was attacked by militia under the command of Guilhermino Marcal. The house was broken into, ransacked and damaged by gunfire.
118. In July 1999, members of the ABLAI militia carried out extensive destruction of property in the village of Holarua.
119. On 31 August 1999, **Nazario Vital dos Santos CORTE REAL, Francisco Capela FERRAO** and Lieutenant Sumino discussed on short-wave radio their strategy of searching for pro-independence individuals and burning houses in or around Holarua.

120. Five groups of militia and soldiers set out to search for and kill independence supporters in the three sub-villages of Ailuli, Raeubu and Ladiki, and to burn the houses. The five groups were: (i) Holarua (2 groups), commanded by Guilhermino Marcal; (ii) Malus Hun (1,5 groups), commanded by Mateus (LNU) from KODIM; and (iii) Akadiru (1,5 groups), commanded by Marcelino Borges.
121. On 1 September 1999, in pursuance of this plan, Lieutenant Sumino, accompanied by Capt. Suheli and others, came by military motorcycle to the house of Francisco da Costa in Raeubu. The group led by Lieutenant Sumino burned the house of Francisco da Costa.
122. On 2 September 1999, members of the ABLAI militia attacked Holarua village by extensively burning buildings and terrorizing the civilian population. The village was divided in two sections. The upper part, which included the sub-villages of Belaroc, Datina, Fahiluhan, Russu, Trilolo and Leobremo, was attacked by a group commanded by **Francisco Capela FERRO**. A group under the command of Guilhermino Marcal attacked the lower part, including Fatuku and Urfu sub-villages.
123. After the announcement of the results of the referendum on 4 September 1999, members of the ABLAI militia including Bernadino Da Costa, Benjamin Sarmento, Romeiro Tilman, Joao Sarmento, Domingos Mendonca and others attacked Orema, Datina, Leubrema and Suri-Rema villages. All the people in the village except the men who were hiding in the hills were forcibly taken to West Timor. During the attack ABLAI militia members burned down 84 houses belonging to the villagers.
124. In the village of Betano, ABLAI militia, led by Jose Laranzeira destroyed property and terrorized the civilian population.

IV. GENERAL ALLEGATIONS

125. Each crime alleged in this indictment was part of a widespread and systematic attack directed against the civilian population of East Timor, particularly targeting those who were considered to be independence supporters, and each accused had knowledge of this attack.

V. CRIMINAL RESPONSIBILITY

INDIVIDUAL CRIMINAL RESPONSIBILITY

126. For each accused charged with individual responsibility under this indictment, the accused is responsible under Section 14.3 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:

a. 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

b. be made in the knowledge of the intention of the group to commit the crime;"

SUPERIOR CRIMINAL RESPONSIBILITY

127. **Nazario Vital Dos Santos CORTE REAL, Francisco Capela FERRAO, and Captain SUGYONO** are criminally responsible as superiors for the acts of their subordinates pursuant to Section 16 of UNTAET Regulation 2000/15.

128. A superior bears criminal responsibility for crimes against humanity of 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."*

VI. CHARGES

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

COUNT 1. CRIME AGAINST HUMANITY: PERSECUTION

By their acts or omissions in relation to the events described in this indictment, and with knowledge that the crime was part of a widespread and systematic attack on a civilian population, **Nazario Vital Dos Santos CORTE REAL, Francisco Capela FERRAO** and **Captain SUGYONO** are responsible as individuals under Section 14.3 (b), (c) and (d) and as superiors under Section 16 of Regulation 2000/15 for the persecution of civilians in Manufahi District between February 1999 and 25 October 1999. The persecution included:

A. Murders, including the following killings:

- (i) killings of Agapito de Araujo and Luis Boco-Siri on 17 April 1999 in Orluli village (as described in paragraphs 20 to 23);
- (ii) killing of Carlito de Araujo on or around 17 April 1999 in Grotu Lau village (as described in paragraphs 24 to 27);
- (iii) killing of Duarte Lopes on 17 April 1999 in Fahikeo (as described in paragraphs 28 to 31);
- (iv) killing of Afonso da Costa on 24 April 1999 in Same sub-district (as described in paragraphs 32 to 34);
- (v) killing of Moises Soares on 28 April 1999 in Beikala village (as described in paragraphs 35 to 42);
- (vi) killings of Armindo da Costa and Carlito da Costa on 30 August 1999 in Datina village (as described in paragraphs 43 to 49);
- (vii) killing of Bendito Moniz on 3 September 1999 in Holarua village (as described in paragraphs 50 to 55);
- (viii) killing of Lorenzo Tilman on 9 September 1999 in Datina village (as described in paragraphs 56 to 59);
- (ix) killing of Joao da Silva on 9 September 1999 in Fahiluhan (as described in paragraphs 60 to 69);
- (x) killing of Lorenzo da Costa on 12 September 1999 in Ailule subvillage, Letefoho village (as described in paragraphs 70 to 71);
- (xi) killing of Marcelino Verdial on 16 September in Ladiki subvillage, Letefoho village (as described in paragraphs 72 to 73);
- (xii) killings of Florindo Perreria, Marten Gaspar Soares, Remezio da Costa Fernando Curado and Egas Monis Tilman on 24 September 1999 near Betano village (as described in paragraphs 74 to 85);
- (xiii) killing of Guilermينو Tilman in September 1999 in Selihasan subvillage, Betano village (as described in paragraphs 86 to 87);
- (xiv) killing of Maria Imaculada on 20 October 1999 in Beikala sub-district (as described in paragraphs 88 to 92).

- B. The attempted murder of Antero da Costa on 5 August 1999 in Same (as described in paragraphs 93 to 95).
- C. The infliction of serious bodily injury on Artwer Larenzeira, Teresinha Carvalho, Orlando Carvarlho and Juliana Corte Real in Holorua on 2 September 1999 (as described in paragraphs 96 to 103).
- D. The unlawful detention of villagers from Orema, Grotu Lau and Leubrema from 30 August 1999 to approximately 9 September 1999 (as described in paragraphs 104 to 106).
- E. The forcible relocation of the population of Manufahi district to West Timor between 5 September 1999 and 25 October 1999 (as described in paragraphs 107 to 115).
- F. The widespread destruction of property in Manufahi district between August and 25 October 1999 (as described in paragraphs 116 to 124).

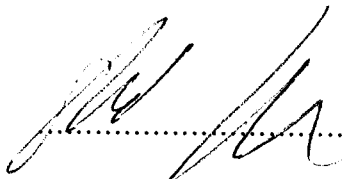
VII. LIST OF VICTIMS

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

IX. 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.

Dated day of DECEMBER 2004



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Nicholas Koumjian
Deputy General Prosecutor For Serious Crimes