



Case Status Soedjarwo

Updated 5 July 2002

I. SUMMARY OF CASE:

Accused: Soedjarwo, Dandim Dili in September 1999

Summary of Case:

Soedjarwo as Dandim 1627 Dili, was indicted on 31 May 2002. The indictment was publicly read on 25 June 2002. There are two charges:

1. Primary charge of murder as a crime against humanity in violation of Art.9(a) using Art.42(1) Military Command Responsibility.
2. Secondary charge of assault as a crime against humanity in violation of Art.9(h) using Art.42(1) Military Command Responsibility.

Factual allegations

This case is to do with the attacks on the Diocese of Dili and the home of Bishop Belo. The prosecution argues for the following.

a. Primary Charge: Murder as a Crime against Humanity

From 3 September 1999 until 5 September 1999, refugees in ever growing numbers gathered at the Diocese of Dili and increased to approximately 5000 people.

On Sunday 5 September 1999, around 1400 Eastern Indonesian time after the result of the Referendum was announced the pro-autonomy group attacked the pro-independence refugees who were sheltering in Bishop Belo's residence by shooting using rakitans, stabbing and slashing using machetes and samurai swords resulting in the death and suffering of civilians and refugees, namely:

- Nelio Masquita Da Costa Rego
- Monato Soares
- Joao Berhandino Soares
- Vicente AG De Sousa

The attack was accompanied by the burning of the Diocese of Dili, resulting in its destruction.

According to the prosecution, the attack happened because the pro-autonomy group suspected that there had been fraud that is the falsification of electoral papers committed through the cooperation between UNAMET and Lektoral the majority of who were pro-independence and then afterwards they

found out that there were ballot papers scattered along the road and the entrance to the office of the Diocese of Dili and the residence of Bishop Belo.

On Monday 6 September 1999 around 1100 hours the integration group comprised of members of militia and several TNI dressed as militia approached the residence of Bishop Belo and forced the refugees from pro-independence who were sheltering there out and gathered them in the park outside the residence; not long after there was heard the shout 'attack' and the pro-integration group comprised of militia and several TNI dressed as militia attacked by shooting [*the rest is illegible*].

b. Subsidiary charge: Assault as a crime against humanity

On 5 September 1999 following announcement of the result of the Referendum the pro-integration groups became angry with pro-independence supporters.

On Monday 6 September 1999 around 0915 Eastern Indonesian time there occurred destruction and burning at the residence of Bishop Belo committed by militia, TNI and POLRI together with pro-autonomy and [*the rest is illegible*].

The accused should have anticipated there would be disturbance and rioting among the East Timorese in Dili who had differences of opinion on integration with the people and nation of Republic Indonesia, even before the announcement of the result of the Referendum.

According to the indictmen, KODIM 1627 was assisting POLRI at the time in securing UNAMET and the foreign journalists at Hotel Mahkota that had also been invaded, and the security apparatus had to hide from shots and there were sounds of shooting coming from the two groups who had been quarrelling with each other since the result of the Referendum was announced. At that time KOREM were still in a standby position. TNI and POLRI should have been responsible for peace and ensuring security so the result of the Referendum could be implemented in a peaceful and calm way in an environment free of intimidation, violence and interference from the fighting between the groups gathered at the port.

Seeing the large numbers of pro-autonomy, pro-independence ran to the Diocese of Dili to shelter. The pro-autonomy masses pushed into the Diocese of Dili and burnt and destroyed, but the accused did not take maximal steps to direct his forces to restore the situation at the Diocese of Dili with the result that several people died and others were wounded, both heavy and serious.

Alleged basis of criminal responsibility:

a. Murder as a Crime against Humanity

The accused as a military commander should have controlled TNI troops who took part in gross violations of human rights that is the attack on the Diocese of Dili and the residence of Bishop Belo, but failed to do so. After the incidents, the accused as a military commander should have surrendered the TNI who took part in gross violations of human rights that is the attack on the Diocese of Dili and the residence of Bishop Belo resulting in loss of life and injury but failed to do so.

b. Assault as a Crime against Humanity

The accused should have anticipated there would be disturbance and rioting among the East Timorese in Dili who had differences of opinion on integration with the people and nation of Republic Indonesia, even before the announcement of the result of the Referendum.

The accused did not take maximal steps to direct his forces to restore the situation at the Diocese of Dili with the result that several people died and others were wounded, both heavy and serious.

Possible sentences if convicted:

Convictions under Art.42 (command responsibility) carry the same sentences as direct perpetration. Therefore, a conviction under Art. 9(a) for murder as a crime against humanity may lead to punishments ranging from death or life in prison to a maximum of 25 (twenty-five) years in prison and no less than a minimum of 10 (ten) years in prison. A conviction under Art.9(h) for assault as a crime against humanity may lead to a maximum sentence of 20 (twenty) years in prison and to a minimum of 10 (ten)years in prison.