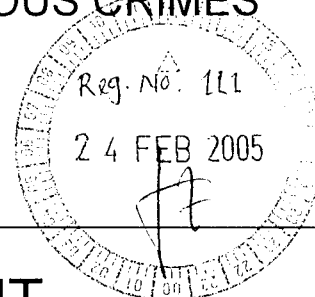


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DISTRICT COURT OF DILI

BEFORE THE SPECIAL PANEL FOR SERIOUS CRIMES

Case No: 04/2001



AMENDED INDICTMENT

THE DEPUTY GENERAL PROSECUTOR FOR SERIOUS CRIMES

-Against-

**LT. BAMBANG INDRA
FRANCISCO NORONHA**

INDICTMENT

The Deputy General Prosecutor for Serious Crimes, pursuant to his authority under UNTAET Regulations 2000/16 and 2000/30 (as amended by Regulation 2001/25), charges:

**LT. BAMBANG INDRA
FRANCISCO NORONHA**

WITH

CRIMES AGAINST HUMANITY OF:

**MURDER, TORTURE, RAPE, SEVERE DEPRIVATION OF PHYSICAL LIBERTY IN
VIOLATION OF FUNDAMENTAL RULES OF INTERNATIONAL LAW, and
PERSECUTION**

as set forth in this indictment .

I. NAME AND PARTICULARS OF THE ACCUSED

1. Name: Bambang Indra
Place of birth: Indonesia
Age/Date of birth: unknown
Sex: Male
Nationality: Indonesian
Address: Indonesia (believed to be)
Occupation : Sub-District Military Commander (Danramil) of TNI in Lolotoe Sub-District, Bobonaro District

2. Francisco Noronha
Place of birth: East Timor
Age/Date of birth: unknown
Sex: Male
Nationality: East Timorese
Address: Indonesia (believed to be)
Occupation: Kaer Metin Merah Putih, ex-local nurse, Lolotoe Sub-District, Bobonaro District

II. INTRODUCTORY STATEMENT OF FACTS

1. Widespread or systematic attacks were directed against the civilian population in East Timor in 1999. The attacks 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 with the Republic of Indonesia or independence. This period ended on 4 September 1999, the date of the announcement of the result of the popular consultation in which 78.5 per cent voted against the autonomy proposal. The second period followed the announcement of the result of the popular consultation on 4 September through 25 October 1999.

2. The widespread or systematic attacks were part of an orchestrated campaign of violence, that included among other things incitement, threats to life, intimidation, unlawful confinement, assaults, forced displacement, arson, murders, rapes, and other forms 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.

3. In 1999, more than twenty-five militia groups operated throughout East Timor. Their goal was to support autonomy with Indonesia. The Integration Fighting Forces (PPI), (*Pasukan Pejuang Integrasi*) under the command of Joao Tavares was the umbrella organization under which these militia groups were organized. It had the backing of the TNI and the Civil Administration. PPI Commanders issued, called upon and incited militia groups and their members to intimidate independence supporters and those perceived to support them. The militia groups participated in the widespread or systematic attack and acted and operated with impunity.

4. 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.

5. These large-scale attacks were 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.

6. Widespread or systematic attacks were also carried out against property and livestock, including mass destruction of houses by fire, stealing of property, killing and stealing of livestock.

7. The widespread or systematic attack resulted in the internal displacement of thousands of persons (IDPs). Additionally, the forcible transfer and deportation of the civilian population within East Timor and to West Timor, Indonesia was an essential feature of that orchestrated campaign of violence.

8. Under terms of the 5 May 1999 Agreements, between Indonesia, Portugal and the United Nations on the popular consultation, the Indonesian security authorities 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 (which were the Indonesian Security Authorities) failed to meet these obligations and made no attempt to disarm or neutralize the militia groups. They were allowed to act with impunity.

9. Between April and October 1999, the TNI forces present in Bobonaro District were KODIM 1636 with its headquarters in Maliana. There were six sub-district Military Commands (KORAMIL) each headed by a DANRAMIL. In 1999, the KORAMIL in Lolotoe sub-district was initially under the command of Sergeant Elias. After his deputy, Sergeant Caetano, was killed, he was replaced by 2nd Lt. Bambang Indra.

10. From February to October 1999, the Indonesian Police Force (POLRI), the state agency for upholding the law and public order were also present in East Timor. It also included a Mobile Police Brigade (BRIMOB), whose Units and members were stationed in East Timor, including in Bobonaro District.

11. Between February and September 1999, the Civil Administration in Bobonaro District was headed by the *Bupati* (District or Regency Administrator), who was appointed by the local parliament and Governor of East Timor with the approval of the Minister of Interior of the Republic of Indonesia. The villages were headed by village Chiefs (*Kepala Desa*).

12. Lolotoe is a Sub -District of Bobonaro, which is one of the thirteen districts of East Timor. The village in the centre of Lolotoe Sub -District is Villa. The villages in close proximity to Villa are Raimea and Opa.

13. In Lolotoe sub-district, the Indonesian Armed Forces in particular the TNI under the command and control of 2nd Lt. **Bambang Indra**, worked in close cooperation with two of the principal armed militia groups, namely Kaer Metin Merah Putih and the Dadurus Merah Putih (Red and White Typhoon).

14. On or about 5th May 1999, Joao Tavares as Supreme Commander of the PPI presided over the inauguration ceremony of the KMP militia.

15. No attempt was made by the TNI and POLRI to disarm or neutralize the KMP militia or the DMP militia. They were allowed to act with impunity.

16. The TNI in Lolotoe Sub-District under the command of 2nd Lt. Bambang Indra provided KMP militia with logistic support.

17. Many members of the KMP militia received some form of compensation from the Indonesian Government for their actions against the civilian population of Lolotoe Sub-District in support of autonomy for East Timor.

18. Between April and October 1999, both the TNI in Lolotoe sub-district and the KMP militia conducted acts of violence against those members of the civilian population in Lolotoe sub-district who were considered to be pro-independence, linked to or sympathetic to the independence cause. The concerted attacks included intimidation, threats, unlawful arrests and detention, interrogations, arsons, murders, torture, inhumane and degrading acts, and other acts of persecution. Many acts were directed in particular against women whose husbands were presumed to be FALINTIL (Forças Armadas De Libertacao Nacional De Timor Leste: Armed Forces for the Liberation of East Timor) or supporters of independence.

III. GENERAL ALLEGATIONS

19. For each count charging crimes against humanity, the acts or omissions by the accused were undertaken as part of a widespread or systematic attack directed against the civilian population, and especially targeting those who were considered to be pro-independence, linked to or sympathetic to the independence cause for East Timor, with knowledge of the attack.

CRIMINAL RESPONSIBILITY

Individual Criminal Responsibility

20. Each of the accused is individually criminally responsible for the crimes alleged against them in this indictment in violation of Section 14 of UNTAET Regulation 2000/15. Under section 14.2 and 14.3(a) to (c) individual criminal responsibility results if the individual committed, planned, instigated, ordered, solicited, induced, aided, abetted or otherwise assisted in the commission of the crimes, or attempted commission. Individual criminal responsibility also results if an individual in any other way contributes to the commission or attempted commission of the crime, if such contribution is intentional and is either (i) made with the aim of furthering the criminal activity or purpose of a group; or (ii) is made with the knowledge of the intention of the group to commit the crime.

Superior Criminal Responsibility

21. 2nd Lt. Bambang is criminally responsible as superiors for the acts of their subordinates in violation of Section 16 of UNTAET Regulation 2000/15. Superior criminal responsibility is the responsibility of a superior for the acts of his 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 necessary steps or reasonable measures to prevent such acts or to punish the perpetrators thereof.

IV. STATEMENT OF FACTS

22. 2nd Lt. **Bambang Indra** as commander (DANRAMIL) of the sub-district military had authority and control over the TNI in Lolotoe sub-district. At all material times, 2nd Lt. Bambang Indra had knowledge of the activities and crimes being committed by the KMP militia.

23. On 5th May 1999, Joao Tavares as Supreme Commander of the PPI appointed Joao Franca Da Silva alias Jhoni Franca, and Jose Cardoso Ferreira alias Mouzinho as Commander and Deputy Commander, respectively, of the KMP militia.

24. Joao Franca Da Silva alias Jhoni Franca, and Jose Cardoso Ferreira alias Mouzinho as Commander and Deputy Commander, respectively of the KMP militia had authority and control over members of the KMP militia

25. Joao Franca Da Silva alias Jhoni Franca remained a member of the KMP militia until he was removed as its Commander and replaced by Jose Cardoso Ferreira alias Mouzinho sometime in early June 1999.

26. At all material times, Sabino Gouveia Leite was the Chief (Kepala Desa) of Guda Village, Lolotoe Sub-District.

Severe Deprivation Of Physical Liberty In Violation Of Fundamental Rules Of International Law & Torture

Bendito Da Costa, Amelia Belo and family

27. On or about 22 May 1999 Jose Cardoso Ferreira alias Mouzinho together with other members of the KMP militia members went to the house of Bendito Da Costa and Amelia Belo where they stayed with two of their children. Jose Cardoso Ferreira alias Mouzinho was armed with a rifle and the other members of the KMP militia were armed with machetes, swords and knives. Jose Cardoso Ferreira alias Mouzinho asked Bendito Da Costa and Amelia Belo where their son Mario was. At the material time Mario was a FALINTIL member. Bendito Da Costa informed Jose Cardoso Ferreira alias Mouzinho that he did not know where Mario was. Jose Cardoso Ferreira alias Mouzinho and the other militia members started to beat Bendito Da Costa.

28. Jose Cardoso Ferreira alias Mouzinho ordered the others to tie Bendito Da Costa to a pole in his house. He remained tied up there until the next day.

29. On the next day Jose Cardoso Ferreira alias Mouzinho returned with other members of the KMP militia. Jose Cardoso Ferreira alias Mouzinho ordered the KMP militia present to tie Bendito Da Costa and Amelia Belo's hands behind their backs. Bendito Da Costa, Amelia Belo and their two children were forced to walk to Lolotoe. It was approximately a 2-hour walk. When they arrived at Lolotoe, Bendito Da Costa, Amelia Belo and their two children were taken to the KORAMIL, where they were placed in a small room and locked up. Bendito Da Costa, Amelia Belo and their two children remained in detention until sometime in July 1999.

Adao Manuel

30. Adao Manuel was a supporter of independence for East Timor.

31. On or about 22nd May 1999, due to the threats against the supporters of independence, Adao Manuel was hiding at the church in Villa with Mario Goncalves, Jose Afonso and Afonso Noronha. The KMP militia knew about his presence at the church. Members of the KMP militia went to the church and forcibly brought out Adao Manuel from the church. His hands were tied and he was taken to the KORAMIL in Lolotoe sub-district.

32. At the KORAMIL in Lolotoe sub-district Jose Cardoso Ferreira alias Mouzinho and Joao Franca Da Silva alias Jhoni Franca subjected Adao Manuel to severe physical violence. Jose Cardoso Ferreira alias Mouzinho cut Adao Manuel's right ear with a knife. Jose Cardoso Ferreira alias Mouzinho and Joao Franca Da Silva alias Jhoni Franca continuously beat Adao Manuel for two hours, after which he was dragged out to the playground, where he was still being beaten while being interrogated about his involvement with FALINTIL. Adao Manuel was detained in the KORAMIL in Lolotoe sub-district until July 1999, during which time he was subjected to further severe beatings by Jose Cardoso Ferreira alias Mouzinho and Joao Franca Da Silva alias Jhoni Franca while being interrogated .

Mario Goncalves

33. Mario Goncalves was a supporter of independence and a member of CNRT. Mario Goncalves gave public speeches in Guda Village encouraging the people to support and vote for the independence of East Timor. Mario Goncalves was afraid that he would be killed by the TNI/KMP militia and went to hide in the jungle for one month. Mario Goncalves then came out of hiding and sought refuge in the church in Villa.

34. On or about 24th May 1999 about one hundred members of the KMP militia led by Jose Cardoso Ferreira alias Mouzinho and Joao Franca Da Silva alias Jhoni Franca went to the church. Mario Goncalves was ordered to come out of the church. When Mario Goncalves came out of the church he was beaten by the KMP militia members whilst being dragged to the field outside the CNRT office. At the field, Sabino Gouveia Leite, Jose Cardoso Ferreira alias Mouzinho and Joao Franca Da Silva alias Jhoni Franca ordered members of the KMP Militia to beat Mario Goncalves in turns. Approximately thirty-seven KMP militia members beat Mario Goncalves. Joao Franca Da Silva alias Jhoni Franca also attacked Mario Goncalves with a machete, cutting him on his right arm and stabbing him in the left shoulder.

35. Jose Cardoso Ferreira alias Mouzinho and Joao Franca Da Silva alias Jhoni Franca to cut off Mario Goncalves' ear. Jose Cardoso Ferreira alias Mouzinho pointed his rifle at Mario Goncalves whilst Joao Franca Da Silva alias Jhoni Franca cut off Mario Goncalves' right ear. His ear was thrown on the ground and Sabino Gouveia Leite, Jose Cardoso Ferreira alias Mouzinho and Joao Franca Da Silva alias Jhoni Franca forced Mario Goncalves to eat it. Mario Goncalves feared for his life and did as he was ordered by eating his right ear.

36. Jose Cardoso Ferreira alias Mouzinho and Joao Franca Da Silva alias Jhoni Franca ordered that Mario Goncalves to be held with the other detainees in the KORAMIL building in Lolotoe. Mario Goncalves was detained there until sometime in July 1999.

Jose Gouveia Leite

37. Jose Gouveia Leite was the vice-secretary for CNRT in Lolotoe. At the material time he was a supporter of the independence movement.

38. On or about 24 April 1999 Jose Gouveia Leite feared for his life and ran into the jungle as he had heard that the members of Dadurus Merah Putih militia had come to his village of Guda and were looking for him. On or about 7 May 1999 he received a letter through his brother in law Anebel purporting to be from his godson Sabino Gouveia Leite. In the letter, Sabino Gouveia Leite requested that Jose Gouveia Leite come down to Lolotoe and report to the leaders so that he can be freed.

39. On or about 21 May 1999 Jose Gouveia Leite left the forest and went to Lolotoe to the house of Sabino Gouveia Leite. Shortly after his arrival, Sabino Gouveia Leite left his house and returned with Joao Franca Da Silva alias Jhoni Franca and Jose Cardoso Ferreira alias Mouzinho. Joao Franca Da Silva alias Jhoni Franca and Jose Cardoso Ferreira alias Mouzinho took Jose Gouveia Leite to the elementary school, where they ordered the militia members present to beat him up. Jose Gouveia Leite was thereafter taken to the CNRT office in Lolotoe sub-district and again beaten continuously along the way.

40. At the playground outside the CNRT office, Jose Cardoso Ferreira alias Mouzinho and Joao Franca Da Silva alias Jhoni Franca told Jose Gouveia Leite to confess his involvement with FALINTIL. He confessed. Jose Cardoso Ferreira alias Mouzinho and Joao Franca Da Silva alias Jhoni Franca ordered 6 KMP militia members to beat Jose Gouveia Leite again. Jose Gouveia Leite was cut above his eye and bled.

41. Jose Cardoso Ferreira alias Mouzinho took Jose Gouveia Leite to the Sub District Police Office where they met an Indonesian officer, Martin. Jose Gouveia Leite was then taken to the KORAMIL in Lolotoe sub-district and interrogated and beaten. Jose Gouveia Leite was detained in the KORAMIL Lolotoe sub-district with the other detainees. He was released sometime in July 1999.

Aurea Cardoso

42. On or about 20th May 1999, Aurea Cardoso and her two children were hiding at the house of Euzebio Da Costa because they feared for their lives as she and her husband were supporters of independence. The house was surrounded by approximately 60 members of the KMP militia led by Jose Cardoso Ferreira alias Mouzinho. Among the KMP militia present, Aurea Cardoso recognized one Antonio Bere whom she knew to be from Guda sub-village. Antonio Bere knocked on the door and called for Aurea Cardoso to come out. She could not find the keys to the front door and when she delayed in coming out, the KMP militia present started throwing stones. Aurea Cardoso then exited the house with her two children through the window.

43. Jose Cardoso Ferreira alias Mouzinho informed Aurea Cardoso that she and her two children were to be arrested by the militia because they could not locate her husband Sebastiano Amaral. Jose Cardoso Ferreira alias Mouzinho and the other militia members took her and her children first to Zoilpo Village where they stayed overnight and thereafter to Lolotoe. They were detained at the Koramil.

44. On the next day Joao Franca Da Silva alias Jhoni Franca interrogated Aurea Cardoso on the whereabouts of her husband and whether she supplied food to FALINTIL while threatening her that if she did not speak the truth he would cut off one of her children's ear and force her to eat it.

45. Aurea Cardoso and her two children were detained at the KORAMIL in Lolotoe sub-district. Aurea Cardoso and her two children were released sometime in July 1999.

46. Sometime in July 1999, Jose Cardoso Ferreira alias Mouzinho released Bendito Da Costa from the KORAMIL and ordered him to fetch some sandalwood. Bendito Da Costa brought 500,000–600,000 Rupiah worth of sandalwood and gave it to Jose Cardoso Ferreira alias Mouzinho and on that day Jose Cardoso Ferreira alias Mouzinho agreed to release Bendito Da Costa and the others.

47. The letter of release was typed by Sabino Gouveia Leite and signed by Jose Cardoso Ferreira alias Mouzinho and 2nd Lt. Bambang Indra. Subsequently Bendito Da Costa and the others detained in the KORAMIL were released sometime July 1999.

48. During their detention at the various places in Lolotoe sub-district, Bendito Da Costa, Amelio Belo and their two children, Adao Manuel, Mario Goncalves, Jose Gouveia Leite, Aurea Cardoso, and other detainees were locked in a small room without proper sanitation facilities. The detainees were subjected to extremely unhygienic conditions and were not given food or water regularly.

Herminio De Graca

49. Herminio De Graca was a member of the CNRT and was its chief representative in Zoilpo sub-village in Guda Village. In discharging his duties as Chief Representative of CNRT in the sub-village, Herminio Da Graca spoke to the local population about democracy, self-determination, freedom from colonization and freedom of choice. He addressed approximately six thousand people in seven villages.

50. Herminio Da Graca's name was given to the TNI by Francisco Noronha (the local militia intelligence officer) and Sabino Gouveia Leite. Sometime in May 1999, as Herminio Da Graca was on his way to Maliana on his motorbike, he was stopped by two KMP members, one of whom was Jose Mauputa (the brother of Jose Cardoso Ferreira alias Mouzinho). They informed Herminio Da Graca that Jose Cardoso Ferreira alias Mouzinho and Joao Franca Da Silva alias Jhoni Franca wanted to see him. The 2 members escorted Herminio Da Graca back to Lolotoe to the house of Joao Franca Da Silva alias Jhoni Franca. There, Joao Franca Da Silva alias Jhoni Franca and Jose Cardoso Ferreira alias Mouzinho questioned Herminio Da Graca about FALINTIL. After 2 hours Herminio Da Graca was ordered to report to the KORAMIL on the next day, which he did .

51. On the next day, a TNI sergeant interrogated Herminio Da Graca at the KORAMIL about his links to FALINTIL. While questioning him, the sergeant sat on a chair and placed the chair leg on Herminio Da Graca's foot. Herminio Da Graca was then sent to the house of Manuel Da Costa, a low-ranking TNI official, where he was detained until sometime in July 1999.

Mariana Da Cunha

52. On or about 20 May 1999 about 50 KMP militia members and a few TNI soldiers led by Jose Cardoso Ferreira alias Mouzinho went to Guda village to the house of Jacob Da Costa Barros, a pro-autonomy supporter.

53. While there, Jose Cardoso Ferreira alias Mouzinho ordered that the villagers be assembled outside the house of Jacob Da Costa Barros. Jose Cardoso Ferreira alias Mouzinho gave a speech to the villagers present telling them that he had information that the villagers were supporting FALINTIL with food and that some of the female villagers were having relationships with FALINTIL members.

54. Jose Cardoso Ferreira alias Mouzinho read out from a sheet of paper, the names of Mariana Da Cunha, Victim A, Victim B and Victim C, accusing them of having relationships with FALINTIL members.

55. Mariana Da Cunha, Victim A, Victim B and Victim C were independence supporters and that there was common knowledge of this fact.

56. After Jose Cardoso Ferreira alias Mouzinho finished his speech he informed the villagers that he and the KMP militia present would go to Tobur sub-village and ordered the villagers present to remain at the house of Jacob Da Costa Barros until they returned.

57. Later on that day, Jose Cardoso Ferreira alias Mouzinho returned to the house of Jacob Da Costa Barros with other members of the KMP militia. Jose Cardoso Ferreira alias Mouzinho ordered that Mariana Da Cunha and others be taken to Lolotoe. Mariana Da Cunha was then taken to the house of Sabino Gouveia Leite, where she was held against her will six nights.

58. On or about 27 May 1999 Joao Franca Da Silva **alias Jhoni Franca** came to the house of Sabino Gouveia Leite and released her.

Victim A, Victim B and Victim C

59. Sometime in May 1999, members of the KMP Militia and TNI, led by Jose Cardoso Ferreira alias Mouzinho went to the residences of Victim A, Victim B and Victim C in Guda Village. Jose Cardoso Ferreira alias Mouzinho was wearing a TNI uniform. He was armed with a grenade; other members of the KMP militia and TNI were armed with automatic weapons, machetes and knives.

60. On the orders of Jose Cardoso Ferreira alias Mouzinho, Victim A, Victim B and Victim C were taken to the house of the village chief Sabino Gouveia Leite. Joao Franca Da Silva alias Jhoni Franca was at the house, Victim A, Victim B and Victim C were held against their will at Sabino Gouveia Leite's house for approximately one week, during which time they were forced to cook for the Sabino Gouveia Leite's family and members of the militia.

61. Sometime in May 1999, Joao Franca Da Silva alias Jhoni Franca, Jose Cardoso Ferreira alias Mouzinho and other KMP militia members thereafter took Victim A, Victim B and Victim C to the PKK building in Lolotoe. Victim A, Victim B and Victim C were held against their will at the PKK building for 3 days.

62. A few days later, Victim A, Victim B and Victim C were later moved to the house of Joao Franca Da Silva alias Jhoni Franca and were forced to stay there for approximately one month. During this time, Victim B and Victim C were forced to cook for Joao Franca Da Silva alias Jhoni Franca.

63. On two occasions in June 1999 **Jose Cardoso Ferreira alias Mouzinho** and other militia members forcibly took Victim A, Victim B and Victim C to militia parties.

64. On or about 26 June 1999, Victim A, Victim B and Victim C were taken to the house of Jose Cardoso Ferreira alias Mouzinho in Lolotoe. Jose Cardoso Ferreira alias Mouzinho and **Francisco Noronha** took Victim A, Victim B and Victim C to Atambua in an ambulance. They arrived in Atambua on or about 26 June 1999.

65. On or about 28 June 1999, Jose Cardoso Ferreira alias Mouzinho, **Francisco Noronha**, and **2nd Lt. Bambang Indra** took Victim A, Victim B and Victim C back to Lolotoe to Joao Franca Da Silva alias Jhoni Franca's house.

66. On or about 8 July 1999 Victim A, Victim B and Victim C were taken back to Guda Village and were then returned to their respective homes.

67. Throughout the period of their detention, Victim A, Victim B and Victim C were guarded and their movements controlled. They lived on the threat of death and believed that they had no option other than to obey their captors.

RAPE

Rape of Victim A, Victim B and Victim C

68. On or about 27 June 1999, while in Atambua, **2nd Lt. Bambang Indra**, **Francisco Noronha** (an intelligence officer for the TNI) and Jose Cardoso Ferreira alias Mouzinho forced Victim A, Victim B and Victim C to go to Atapupu Beach with them, where they had lunch. At the beach, Francisco Noronha told Victim A that she would sleep with Jose Cardoso Ferreira alias Mouzinho, Victim B would sleep with **2nd Lt. Bambang Indra**, and Victim C would sleep with Francisco Noronha. Francisco Noronha told the victims that if they refused they would be killed. **2nd Lt. Bambang Indra** and Jose Cardoso Ferreira alias Mouzinho carried weapons. They all returned to Hotel Merdeka.

69. Jose Cardoso Ferreira alias Mouzinho and **Francisco Noronha** told Victim A, Victim B and Victim C on the way back to Hotel Merdeka that if any of them refused to have sexual intercourse with them, they would be killed.

70. In the evening, Victim A, Victim B and Victim C were held together in one room in Hotel Merdeka. **Francisco Noronha** came into the room and injected a substance into the buttocks of Victim B and Victim C, which he said would prevent them from getting pregnant.

71. Thereafter, Victim A was taken to the room where Jose Cardoso Ferreira alias Mouzinho was waiting. **2nd Lt Bambang Indra** took Victim B into another room. **Francisco Noronha** and Victim C remained in the first room.

72. Jose Cardoso Ferreira alias Mouzinho told Victim A that if she did not have sexual intercourse with him, he would kill her. Jose Cardoso Ferreira alias Mouzinho was armed with an AK47 automatic weapon. Jose Cardoso Ferreira alias Mouzinho forcibly and without Victim A's consent had sexual intercourse with her.

73. **2nd Lt. Bambang Indra** and **Francisco Noronha** also forcibly had sexual intercourse with Victim B and Victim C respectively without their consent.

74. On or about 28 June 1999 Victim A, Victim B and Victim C were taken by Jose Cardoso Ferreira alias Mouzinho, **Francisco Noronha** and **2nd Lt. Bambang Indra** back to Lolotoe to Joao Franca Da Silva alias Jhoni Franca's house.

MURDER

Murder of Mariana Da Costa and Carlito Freitas.

75. In the weeks before the popular consultation on 30 August 1999 **2nd Lt. Bambang Indra** and Jose Cardoso FERREIRA alias Mouzinho addressed a number of local meetings in and around Lolotoe Sub-District. At these meetings they told people who attended that if they voted for independence they would be killed. At this time Joao Franca Da Silva alias Jhoni Franca had been removed as the Commander of the Kaer Metin Merah Putih militia, and Jose Cardoso FERREIRA alias Mouzinho was now in charge. He also told the people that those who were campaigning for independence should desist from such activities or else will be killed .

76. As a result of these threats, many people went to hide in the hills around Lolotoe Sub-District due to fear for their lives.

77. After the announcement of the results of the popular consultation and the confirmation that the East Timorese voted overwhelmingly in favour of independence, the TNI under the command of **2nd Lt. Bambang Indra** and KMP militia started to carry out their threat. They attacked an area called Sibi on or about 8 September 1999. This area is approximately one and a half kilometres from a sealed road between the villages of Opa and Villa

78. The attack commenced with a large amount of automatic gunfire. The TNI under the command of **2nd Lt. Bambang Indra** and KMP militia jointly attacked from three directions. There was heavy shooting although none of the civilians in the area was armed. Jose Cardoso FERREIRA alias Mouzinho led and commanded the joint TNI/KMP militia attack.

79. Mariana Da Costa and Carlito Freitas were both unarmed civilians present in the area. During the attack Mariana Da Costa was in her farm-house preparing a meal. The attackers shot and killed her. Her body was thereafter brutally mutilated by the TNI under the command of **2nd Lt. Bambang Indra** and members of the KMP militia.

80. During the TNI/KMP militia attack, Carlito Freitas was hiding in the bushes about 250 meters from where Mariana Da Costa was killed. Soon after the attack he was found dead.

Murder of Augusto Noronha

81. Augusto Noronha was a teacher and a member of CNRT (National Council of Timorese Resistance), a group working for the promotion of independence.

82. On or about 16 September 1999, the TNI under the command of **2nd Lt. Bambang Indra** and the KMP militia under the command of Jose Cardoso Ferreira alias Mouzinho, armed with rifles and swords arrived at the playground in Raimea village. A short while later, Jose Cardoso Ferreira alias Mouzinho and the other militia members including Justinho Gampang, Paulus and Yoseph Loko broke down the front door of the house of Augusto Noronha where he was staying with his wife Anapaula Ximines and their children. Augusta Noronha was dragged out of his house. The militia members attacked Augusto Noronha and stabbed him with their swords. As he tried to escape Yoseph Loko aimed his gun at Augusto Noronha and fired. He fell down a few metres away. Immediately after the attack Augusto Noronha was found dead and later buried by his relatives.

Murder of Antonio Franca

83. Antonio Franca was an independence supporter and member of the student solidarity council. He distributed pro-independence pamphlets, in Raimea Village. On the day of the popular consultation, on 30 August 1999, Antonio Franca was involved in the monitoring of polling stations.

84. On or about 16 September 1999, the TNI under the command of 2nd Lt. Bambang Indra and the KMP Militia under the command of Jose Cardoso Fereira alias Mouzinho went to the house of Antonio Franca in Raimea Village. At that time Antonio Franca was together with his cousins Noberto Belo and Joao Belo. Among the TNI members present were Inacio De Assie, Eslaquen Vitente and Anacieto and among the KMP militia members present were Armando, Petrus Loe, Blasus Soro and Adao. The KMP militia and TNI members present started throwing stones at Antonio Franca's house. Antonio Franca attempted to escape from his house. The TNI and militia caught him and beat him with sticks and stabbed with swords causing him injuries on the head, hands and ribs. Antonio Franca died as a result of these injuries.

Persecution

85. The allegations contained in paragraphs 1 to 84 are herein incorporated in this section.

86. Acts of violence and threats directed against the civilian population in Lolotoe Sub-District targeted those who supported or were perceived to support independence, principally for political reasons. Members of the civilian population were subjected to orchestrated violence because of their opinion on the future political status of East Timor, because they supported FALANTIL or were sympathetic to it or its members.

87. The crime of persecution were perpetrated, executed and carried out by or through the following means;

- (a) the deprivation of physical liberty and unlawful arrests and detention of Herminio Da Graca, Mariana Da Cunha, Victim A, Victim B, Victim C Bendito Da Costa and Amelia Belo, Adao Manuel, Mario Goncalves, Jose Gouveia Leite, and Aurea Cardoso and her two children in Lolotoe sub-district, Bobonaro district, between May and July 1999 ;
- (b) the inhumane, humiliating and degrading acts and conduct committed against the civilians detained at the KORAMIL in Lolotoe sub-district, between May 1999 and July 1999 and Mario Goncalves ;
- (c) the beatings, severe maltreatment and torture of Bendito Da Costa, Adao Manuel, Mario Goncalves and Jose Gouveia Leite, between May and July 1999 in Lolotoe sub-district ;
- (d) the rape of Victim A, Victim B and Victim C; and
- (e) the murders of Mariana Da Costa, Carlito Freitas, Augustu Noronha and Antonio Franca

88. **2nd Lt. Bambang Indra** knew or had reason to know that the TNI and Militia under his command and control were committing the acts described above, or had done so. Additionally he failed to take necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

v. In Pursuance of the above the Prosecutor Charges :

The Accused : LT. BAMBANG INDRA

Count 1. Crimes Against Humanity: Rape

By his act or omissions in relation to the events described in paragraphs 68 to 74, **2nd Lt. Bambang Indra** is responsible for the rape of Victim A, Victim B and Victim C on or about 27 June 1999 at Hotel Merdeka, in Atambua, West Timor, as part of a widespread or systematic attack against a civilian population with knowledge of the attack and thereby committed a CRIME AGAINST HUMANITY, RAPE a crime stipulated under Section 5.1(g) of UNTAET Regulation 2000/15 and for which he is individually responsible under Section 14 of UNTAET Regulation 2000/15.

Count 2. Crimes Against Humanity: Persecution

By his act or omissions in relation to the events described in paragraph 85 to 88, **2nd Lt. Bambang Indra** is responsible for the persecution of supporters of independence of East Timor in Lolotoe Sub-District, Bobonaro District, between May and September 1999, as part of a widespread or systematic attack against a civilian population with knowledge of the attack and thereby committed a CRIME AGAINST HUMANITY, PERSECUTION a crime stipulated under Section 5.1(h) of UNTAET Regulation 2000/15 and for which he is individually responsible under Sections 14 and or 16 of UNTAET Regulation 2000/15.

The Accused : FRANCISCO NORONHA

Count 3. Crimes Against Humanity: Rape

By his act or omissions in relation to the events described in paragraphs 68 to 74, **Francisco Noronha** is responsible for the rape of Victim A, Victim B and Victim C on or about 27 June 1999 at Hotel Merdeka, in Atambua, West Timor, as part of a widespread or systematic attack against a civilian population with knowledge of the attack and thereby committed a CRIME AGAINST HUMANITY, RAPE a crime stipulated under Section 5.1(g) of UNTAET Regulation 2000/15 and for which he is individually responsible under Section 14 of UNTAET Regulation 2000/15.

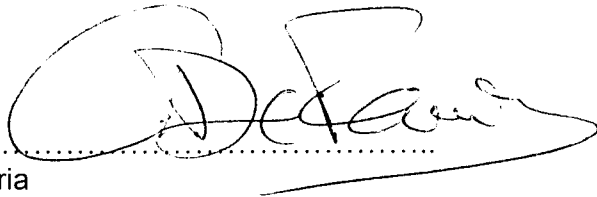
V. LIST OF VICTIMS

The List of Victims, which forms an integral part of this Indictment, is attached as "Annex A".

VI. REQUEST FOR TRIAL

The Deputy General Prosecutor for Serious Crimes hereby requests the Special Panel for Serious Crimes of the District Court of Dili to assume jurisdiction and.

24th day of February 2005

A handwritten signature in black ink, appearing to read 'Carl Defaria', written over a horizontal dotted line.

Carl Defaria
Deputy General Prosecutor for Serious Crimes