



REPÚBLICA DEMOCRÁTICA DE TIMOR- LESTE  
**TRIBUNAL DISTRIAL DE DILI**  
Special Panels for Serious Crimes

Case Number: **04/2002**

Accused: **X**

**CERTIFICATION**

I certify that I removed from the judgment all references to place and date of birth as well as any reference to the gender of the accused of the case 02-2002, pursuant to the order of the Presiding Judge Maria Pereira (p.514-516).

Dili, 2 May 2005.

Katia Galindo Malaquias Romijn  
Court Clerk



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REPUBLICA DEMOCRATICA DE TIMOR LESTE

PROCURADORIA GERAL DA REPUBLICA

GABINETE DO PROCURADOR GERAL DA REPUBLICA

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THE GENERAL PROSECUTOR OF THE  
DEMOCRATIC REPUBLIC OF EAST TIMOR

CASE No OE-12-B-99-SC

AGAINST

X

**I. AMENDED INDICTMENT**

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

**X**

**WHITH**

**MURDER**

As set forth in this Amended Indictment.

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

Name: X

Age:

Date of Birth:

Place of Birth:

Location:

Occupation:

confidential information

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### III. STATEMENT OF FACTS

#### A) INTRODUCTORY STATEMENT OF FACTS

1. A widespread or systematic attack directed against the civilian population was committed in East Timor in 1999. The attack occurred during two interconnected periods of intensified violence. The first period followed the announcement on 27 January 1999 by the Government of Indonesia that the people of East Timor would be allowed to choose between autonomy 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 attack was part of an orchestrated campaign of violence, that included among other things incitement, threats to life, intimidation, unlawful confinements, assaults, forced displacements, arsons, murders, rapes, torture 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, numerous militia groups operated throughout East Timor. Their goal was to support autonomy within Indonesia. The militia groups participated in the widespread or systematic attack and acted and operated with impunity.
4. This large-scale attack was directed against civilians of all age groups, predominantly against individuals who supported or were perceived to support independence and resulted in lethal injury including death by sharp force injury, gun shot injury, blunt force trauma or a combination of the three.
5. As part of the widespread or systematic attack against the civilian population, the militia destroyed property including houses and livestock belonging to the civilian population.
6. The widespread or systematic attack resulted in the internal displacement of thousands of persons, the Internal Displaced Persons (IDPs). Additionally, the forcible transfer of the civilian population within East Timor and deportation to West Timor, Indonesia was an essential feature of the orchestrated campaign of violence.
7. Under 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 failed to meet these obligations and made no attempt to disarm or neutralize the militia groups. They were allowed to act with impunity.
8. The Indonesian Military in East Timor consisted of both regular territorial forces (BTT) and Special Combat Forces, i.e. the Strategic Reserve Command (KOSTRAD), (*Komando Strategis Angkatan Darat*) and Special Forces Command (KOPASUS), (*Komando Pasukan Khusus*), all of which had units, staff officers and soldiers stationed in East Timor.
9. From February 1999 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 included a Mobile Police Brigade (BRIMOB), whose Units and members were stationed in East Timor, including in Oecussi District.

## B) SPECIFIC STATEMENT OF FACTS

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10. The district of Oecussi is an enclave of East Timor and is about 43 km away from the rest of East Timor. It is landlocked on three sides by Indonesian territory of West Timor. The Selat Ombai Sea is to the north.
11. The district of Oecussi is divided into four (4) Sub districts, Pantemakassar A and B, Nitibe, Oessilo and Passabe.
12. The Sakunar militia operated within the district of Oecussi from approximately April to October 1999.
13. Simao Lopes was the supreme commander of Sakunar militia and Laurentino Soares alias Moko was the de facto deputy commander of the Sakunar militia throughout Oecussi.
14. In each village there was a Sakunar commander who reported to Simao Lopes. In Passabe village, Gabriel Kolo, a police officer and also chief of the village, was the commander. Some TNI soldiers, such as Andre Ulan, were also members of the same militia.
15. X was a member of Sakunar Militia.
16. On 9<sup>th</sup> September 1999, Gabriel Kolo and Andre Ulan went to the village of Nuahake and ordered a group Sakunar militia members including X to report to the office of the village chief of Passabe.
17. When they arrived at the said office, they met with Sakunar militia members who had come from other villages; and there, Gabriel Kolo ordered all of them to search for CNRT (National Council of Timorese Resistance) members who were believed to be hiding in the neighborhood and to take them to the office of the village chief in Imbate in West Timor.
18. The militia members including X, pursuant to the orders, searched for CNRT members; but, during the course of their operation, they didn't find any CNRT member, and afterwards, they went to report to Gabriel Kolo who had already arrived in the office of the village chief in Imbate.
19. At Imbate, many people including the villagers from Nibin, Tumin and Kiobiselo and members of the Sakunar militia had gathered. The villagers were forced to register at the sub-district office by the militia members.
20. About seventy-five young men including Marcus Baquin, Josefino Ulan, Pedro Cono, Cipriano Bobo, Sebastiano Sunef (Ulan Sufa), Augustino Ase (Afoan Ase), Mateus Kusi, Sebastiao Sufa, Elias Colo and Domingos Kelo Kaet were separated from the other people. The young men were all from the villages of Tumin and Kiobiselo. The young men were put into pairs and tied together using bindings by the Sakunar militia members including X.
21. At or around midnight, the young men were forced to leave Imbate on foot. A large group of militia including X escorted them. The young men were taken back from Imbate in West Timor towards Passabe in East Timor.
22. At or around 3 am on 10<sup>th</sup> September 1999, the group reached the border between East and West Timor at Tionlasi. Here the group crossed the Noel Passabe River into East Timor.
23. Once the group had crossed the river, at a place called Nifu Panef, the militia members including X commenced the killing of the young men who were still tied together by bindings. The victims were either shot or hacked with machetes or swords. In total, more than forty-seven were killed. Some young men including Sebastiao Sufa, Elias Colo and Domingos Kelo Kaet managed to escape while some others including Marcus Baquin, Josefino Ulan, Pedro Cono, Cipriano Bobo, Sebastiano Sunef (Ulan Sufa), Augustino Ase (Afoan Ase) and Mateus Kusi survived but were badly injured.

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24. X took part in the killing of the young men. X was armed with a machete, which X used to strike to death three young men. X made the first two victims to face the river while X stayed on the right side and then hit the first on left cheek and the second on the side of his neck causing both victims to fall dead on the ground. Then after X made the third victim to face the river while X positioned 'X' self on his left side and then hit him on the left side of his neck.

#### **IV. CRIMINAL RESPONSIBILITY**

##### **Individual Criminal Responsibility**

The accused is individually responsible for the crime alleged against 'X' in this indictment pursuant to Section 14 of UNTAET Regulation 2000/15 and to Section 45.1 of UNTAET Regulation 2000/30 as amended by UNTAET Regulation 2001/25.

Under Section 14 of UNTAET Regulation 2000/15 individual responsibility results if the individual:

*"(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, abet 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;"*

*(e)...*

*(f) Attempts to commit such a crime by taking action that commences its execution by means of a substantial step, but the crime does not occur because of circumstances independent of the person's intentions..."*

Under Section 45.1 of UNTAET Regulation 2000/30 as amended by UNTAET Regulation 2001/25:

*" minors between 12 and 16 years of age may be prosecuted...for any offence which under applicable law constitutes murder, rape, or a crime of violence in which serious injury is inflicted upon a person".*

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**V. PURSUANT TO THE ABOVE THE GENERAL PROSECUTOR CHARGES:**

The accused X:

COUNT 1: MURDER

By 'X' acts or omissions in relation to the events described in paragraphs 16 to 24 of the present amended indictment, X is responsible together with others for the murder of three unidentified men from the villages of Tumin and Kiobiselo, Nitibe sub District, Oecussi district, at Nifu Panef, on or around 10<sup>th</sup> September 1999, in violation of Section 338 of Indonesian Penal Code and for which 'X' is individually responsible under Section 14 of UNTAET Regulation 2000/15.

**VI. WITNESSES AND EVIDENCE**

Pursuant to UNTAET Regulation 2000/30 Section 24.2, the list of witnesses and evidence that supports this indictment is contained in Annex A, which forms an integral part of this Indictment.

**VII. REQUEST FOR TRIAL**

The General Prosecutor hereby requests the Special Panel for Serious Crimes of the District Court of Dili to try this case expeditiously.

Dated, 23<sup>rd</sup> October 2002



Siri Frigaard

Deputy General Prosecutor For Serious Crimes