



DISTRICT COURT OF DILI

BEFORE THE SPECIAL PANEL FOR SERIOUS CRIMES

Case No: 07/2004

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:

TOMAS LOPES MAIA UDIN aka TOMAS SAUNUDIN BASO aka UDIN

WITH

CRIMES AGAINST HUMANITY: MURDER AND ATTEMPTED MURDER

As set forth in this indictment.

NAMES AND PARTICULARS OF THE ACCUSED

Name: **Tomas LOPES MAIA UDIN aka SAUNUDIN BASO aka UDIN (1)**
Date of birth: 24 April 1964
Nationality: East Timorese, Indonesian
Address: Believed to be in Atambua, West Timor, INDONESIA
Occupation: In 1999, Deputy Mahidi militia company commander in Beco I, village, Suai subdistrict, Covalima
Name of Spouse: Olinda Lopes

INTRODUCTORY STATEMENT OF FACTS

1. A widespread and systematic attack was directed against the civilian population 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 within 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 and lasted through 25 October 1999 when INTERFET intervened and stabilized East Timor.
2. The widespread and systematic attack was part of an orchestrated campaign of violence, that included, among other things, incitement, threats to life, intimidation, unlawful confinement, assault, forced displacement, arsons, murders, rapes, torture and other forms of violence carried out by members of the pro-autonomy militias, 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 Fighter's Force (PPI, *Pasukan Pejuang Integrasi*) under the command of João Tavares and Eurico Gutteres 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 and systematic attacks and acted and operated with impunity.
4. That 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 and systematic attack against the civilian population, the militia destroyed the infrastructure of East Timor, including housing and livestock belonging to the civilian population.
6. The widespread and systematic attacks resulted in the internal displacement of thousands of persons. 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 the terms of the 5 May 1999 Agreements between the Republic of Indonesia, Portugal and the United Nations on the popular consultation, the Indonesian security authorities (TNI and POLRI) 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 across East Timor.
9. From February 1999 to October 1999, the Indonesian Police Force (POLRI), the state agency responsible for upholding law and public order, was also present in East Timor. It included a Mobile Police Brigade (BRIMOB), whose units and members were also stationed in East Timor.
10. The militia groups operated in all 13 districts in East Timor with the backing of the TNI and the civil administration. In Covalima District, two militia groups were active in 1999, namely Laksaur and Mahidi. The Mahidi militia primarily operated in Zumalai Sub-district and the Laksaur militia primarily operated in the other five Sub-districts of Tilomar, Suai, Fatumean, Fatululik, and Fohorem.

SPECIFIC STATEMENT OF FACTS

11. Paragraphs 1 through 10 are incorporated by reference.
12. Covalima is one of the thirteen districts of East Timor and is comprised of six sub-districts: Suai, Tilomar, Fatumean, Fatululik, Fohorem, and Zumalai.
13. Between January 1999 and October 1999 the Mahidi Militia group operated throughout Zumalai Sub-District. It comprised of hundreds of members. The Mahidi Militia operated in collaboration with units of the TNI and the POLRI in Zumalai. During this period members of the Mahidi Militia carried out acts of violence directed against civilians who were perceived to be members or supporters of FALINTIL (Forças Armadas De Libertacao Nacional De Timor Leste: Armed Forces for the Liberation of East Timor), supporters of independence or linked to or sympathetic to the independence cause. The attack included acts of intimidations, threats, unlawful detention, arsons, murders, forcible deportation and other acts of persecution.
14. In 1999 **Tomas LOPES MAIA UDIN** was the Deputy to Danki Simao Tasion in Beco1 village, Suai Sub-district, Covalima. **Tomas LOPES MAIA UDIN** and Siamo Tasion took direct orders from Zumalai Mahidi coordinator Vasco da Cruz.

Murder of Mateus Mota and Attempted Murder of Afonso do Carmo in Kamenasa (12 September 1999)

15. On 24 September 1999, a group of Mahidi and Laksaur militia attacked villagers who were in Wekes rice field in Kamenasa village, Suai Sub-district. The Mahidi militia included **Tomas LOPES MAIA UDIN**, Antonio Atulia, Rafael Matan and Jose Bere. The Laksaur militia included Mouzinho (LNU), Bere Talo, and Rui Bere.
16. **Tomas LOPES MAIA UDIN**, the deputy of Simão Tasion, was armed with a G3 gun. He shouted, "Do not run away, if you run away, you are dead." **Tomas LOPES MAIA UDIN** then shot his rifle in the air.
17. The militia started arresting villagers and Mateus Mota and Afonso do Carmo began running away.
18. **Tomas LOPES MAIA UDIN** and Bere Talo began shooting at Mateus Mota and Afonso do Carmo. Mateus Mota fell to the ground about 100 meters away from the militia.
19. Three days later, Afonso do Carmo and others went back to where Mateus Mota was shot. A villager, Abilio Nahak, told Afonso do Carmo that Mateus Mota was injured and on the beach.
20. Afonso do Carmo and others noticed that Mateus Mota had a large bullet wound through his back and out his shoulder.
21. Afonso do Carmo and others took Mateus Mota to Seogone forest and treated him with traditional medicine.
22. Mateus Mota died 3 days later on 30 September from his gunshot injuries.

INDIVIDUAL CRIMINAL RESPONSIBILITY

23. The accused in this indictment is charged with individual criminal responsibility for the crimes alleged, pursuant to Section 14.3 of UNTAET Regulation 2000/15. Under this section, an accused has individual criminal responsibility if he/she:

"(a) commits such a crime, whether as an individual, jointly with another or through another person, regardless of whether that other person is criminally responsible;

(b) orders, solicits or induces the commission of such a crime which in fact occurs or is attempted;

- (c) *for the purpose of facilitating the commission of such a crime, aids, abets or otherwise assists in its commission or its attempted commission, including providing the means for its commission;*
- (d) *in any other way contributes to the commission or attempted commission of such a crime by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:*
 - (i) *be made with the aim of furthering the criminal activity or criminal*
 - (ii) *purpose of the group, where such activity or purpose involves the commission of a crime within the jurisdiction of the panels; or*
 - (iii) *be made in the knowledge of the intention of the group to commit the crime;”*

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

Count 1. Crime Against Humanity: Murder of Mateus Mota

By his acts or omissions in relation to the events described in paragraphs 11-22, **Tomas LOPES MAIA UDIN** is responsible as an individual under Section 14.3 (a), (b) and (d) of Regulation 2000/15 for the murder of Mateus Mota on 12 September 1999 in Kamenasa village, Suai Sub-district Covalima as part of a widespread and systematic attack against a civilian population with knowledge of the attack. **Tomas LOPES MAIA UDIN** thereby committed a CRIME AGAINST HUMANITY: MURDER, a crime stipulated under Section 5.1(a) of UNTAET Regulation 2000/15.

Count 2. Crime Against Humanity: Attempted Murder of Afonso do Carmo

By his acts or omissions in relation to the events described in paragraphs 11-22, **Tomas LOPES MAIA UDIN** is responsible as an individual under Section 14.3 (a), (b) and (d) of Regulation 2000/15 for the attempted murder of Afonso do Carmo on 12 September 1999 in Kamenasa village, Suai Sub-district Covalima as part of a widespread and systematic attack against a civilian population with knowledge of the attack. **Tomas LOPES MAIA UDIN** thereby committed a CRIME AGAINST HUMANITY: ATTEMPTED MURDER, a crime stipulated under Section 5.1(a) read together with Section 14.3 (f) of UNTAET Regulation 2000/15.

LIST OF VICTIMS

The list of victims is contained in Annex A, which forms part of this indictment.

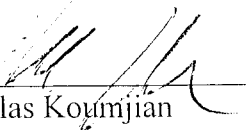
EVIDENCE LIST

The evidence in support of this indictment is contained in Annex B, which forms part of this indictment.

REQUEST FOR TRIAL

The Deputy General Prosecutor For Serious Crimes hereby requests the Special Panel for Serious Crimes of the District Court of Dili try this case

Dated this 3rd day of December 2004



Nicholas Koumjian
Deputy General Prosecutor for Serious Crimes