



DISTRICT COURT OF DILI

BEFORE THE SPECIAL PANEL FOR SERIOUS CRIMES

Case No: 09/2004

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:

ALFREDO BREOK

WITH

CRIMES AGAINST HUMANITY: MURDER

As set forth in this indictment.

NAMES AND PARTICULARS OF THE ACCUSED

- | | |
|----------------|---|
| Name: | Alfredo BREOK |
| Date of birth: | unknown |
| Nationality: | East Timorese |
| Address: | Believed to be in Atambua, Indonesia |
| Occupation: | In 1999, Mahidi member in Zumalai Covalima and Cassa, Ainaro. |

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. **Alfredo BREOK** lived in Webaba Village sub district Zumalai in 1999 and was a Danton in the Zumalai Mahidi Militia.

Murder of Fernando da Cruz (24 January 1999)

15. Fernando da Cruz was the grandson of Mateus Araujo, who was a supporter of independence.
16. On 24 January, Mateus Araujo and his grandson Fernando da Cruz were traveling by motorcycle to Webaba subvillage in Mape to hire a tractor. Fernanda da Cruz was driving and Mateus Araujo was the pillion rider.
17. Unable to locate the tractor, they were returning to Webaba when a red Kijang, owned by Mahidi coordinator Cancio Lopes de Carvalho, and filled with militia, approached and shouted, “stop, stop!”
18. Among the militia in the Kijang were Lino Barreto, Jaime de Jesus, and **Alfredo BREOK**, all carrying rifles and dressed in TNI uniforms. The driver of the Kijang was Americo Lopes.
19. Fernando da Cruz stopped his motorcycle and **Alfredo BREOK** said “capture them, capture them”. **Alfredo BREOK** then shot Fernando da Cruz in his head, at a distance of approximately two and a half meters. The shot hit the right side of his head. Fernando da Cruz died on the spot. Mateus Araújo managed to run away.
20. The militia, including **Alfredo BREOK**, then ordered two local villagers to bury the body of Fernando da Cruz where he had died.

Murder of Mateus Mota in Fatuleto (12 September 1999)

21. Mateus Mota was an independence supporter in 1999.
22. On 12 September 1999, a UN vehicle commandeered and driven by the Mahidi militia arrived at the house of Mateus Mota. Inside the vehicle were **Alfredo BREOK**, Lino Barreto, Marcelino de Oliveira Sequira, and Alfredo Salsinha. **Alfredo BREOK** was armed with a sword. Lino Barreto was armed with a long barrel rifle.
23. The militia ordered Mateus Mota into the UN vehicle. **Alfredo BREOK** pushed him into the vehicle. The vehicle then drove towards the Mola River.
24. About one hour later, Mateus Mota’s body was found dead a few kilometers from his house, alongside the dead body of Gaspar de Carvalho.

INDIVIDUAL CRIMINAL RESPONSIBILITY

25. 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 Fernando da Cruz

By his acts or omissions in relation to the events described in paragraphs 11 and 15-20, **Alfredo BREOK** is responsible as an individual under Section 14.3 (a) of Regulation 2000/15 for the murder of Fernando da Cruz on 24 January 1999 in Mape village, Zumalai Sub-district Covalima as part of a widespread and systematic attack against a civilian population with knowledge of the attack. **Alfredo BREOK** 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: Murder of Mateus Mota in Fatuleto

By his acts or omissions in relation to the events described in paragraphs 11 and 21-24, **Alfredo BREOK** is responsible as an individual under Section 14.3 (a), (c) and (d) of Regulation 2000/15 for the murder of Mateus Mota on 12 September 1999 in Fatuleto village, Zumalai Sub-district, Covalima as part of a widespread and systematic attack against a civilian population with knowledge of the attack. **Alfredo BREOK** thereby committed a CRIME AGAINST HUMANITY: MURDER, a crime stipulated under Section 5.1(a) 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