



UNTAET

United Nations Transitional Administration in East Timor

Case No. LI-04-99-SC

LI-05-99-SC

**THE GENERAL PROSECUTOR OF THE
UNITED NATIONS TRANSITIONAL
ADMINISTRATION FOR EAST TIMOR**

AGAINST

I. INDICTMENT

The General Prosecutor of the United Nations Transitional Administration for East Timor, pursuant to his authority under UNTAET Regulations 1999/1, 2000/11, 2000/15, 2000/16 and 2000/30 charges:

ANASTACIO MARTINS

AND

DOMINGOS GONCALVES

WITH

**CRIMES AGAINST HUMANITY: MURDER AND CRIMES AGAINST
HUMANITY: DEPORTATION OR FORCIBLE TRANSFER OF POPULATION**

as set forth in this indictment and requests the Serious Crimes Panel of the District Court of Dili to assume jurisdiction in this matter expeditiously.

II. NAME AND PARTICULARS OF THE ACCUSED

01.

Name: Anastacio Martins
Date of Birth/Age: Approximately 43 years
Place of Birth: Unknown
Nationality: East Timorese
Location: Presently in detention in Becora Prison
Function: Farmer, BMP member

02.

Name: Domingos Goncalves
Date of Birth/Age: Approximately 38 years
Place of Birth: Unknown
Nationality: East Timorese
Location: Presently in detention in Becora Prison
Function: Farmer, BMP member

III. STATEMENT OF THE FACTS

A) INTRODUCTORY STATEMENT OF FACTS

1. Widespread or systematic attacks directed against the civilian population were committed in East Timor in 1999. These attacks occurred during two interconnected periods of intensified violence. The first period followed the announcement on 27 January 1999 by the Government of the Indonesia, that the people of East Timor would be allowed to choose between autonomy with Indonesia or Independence until the 4th September 1999, the date of the announcement of the result of the popular consultation in which 78.5 per cent voted against the proposed special autonomy within the Unitary State of the Republic of Indonesia. The second period followed the announcement of the result of the popular consultation on the 4th September through the 25th October 1999.

2. The attacks were part of an orchestrated campaign of violence, that included, among other things, incitement, intimidation, threats to life, murders, assaults, rapes, kidnappings and other forms of violence, carried out by pro-autonomy militia, members of the Indonesian Armed Forces, ABRI (*Angkatan Bersenjata Republik Indonesia*), renamed TNI (*Tentara Nasional Indonesia in 1999*), and of the Indonesian Police Force (POLRI) with the acquiescence and active participation of Civilian and Military Authorities.

3. 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.

4. 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.
5. These widespread or systematic attacks 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.
6. Under the terms of the 5 May 1999 Agreements, between Indonesia, Portugal and the United Nations on the popular consultation, under which the appropriate Indonesian security authorities (TNI and POLRI) had the responsibility to ensure a safe environment devoid of violence or other forms of and intimidation as well as the general maintenance of law and order. The TNI and POLRI failed to take the necessary measures to meet their obligations and made no attempt to disarm or neutralize the militia groups.
7. In 1999 more than twenty-four militia groups existed, the goal of which were to support autonomy with Indonesia. These militia groups were organized under the pro-integration forces (*Pasukan Pejuang Intigrasi or PPI*) and were allowed to act with impunity.
8. In Liquica District, the BMP (*Besih Merah Putih*) militia was first created in Maubara around December 1998 and rapidly recruited militia members throughout the district, including Metagou, Bazartete and Leorema. The members of the BMP militia carried out widespread or systematic attack in the Liquica district throughout the period of April to September 1999.
9. Indonesian military forces worked in close cooperation with armed groups, namely BMP (*Besih Merah Putih*) militia. Such was the case on the 6th April 1999, where TNI soldiers, members of POLRI, members of BRIMOB and BMP militia surrounded and attacked the Liquica Church and murdered civilians. These people sought refuge at the church the previous days in order to escape the violence to which they were victims.
10. The cooperation between the Militia and the TNI included joint operations and attacks in which members of BMP (*Besih Merah Putih*) militia unlawfully arrested and abducted civilians who were subsequently taken to and interrogated at TNI barracks.
11. The violence carried out by pro-autonomy militias in 1999 in East Timor continued in West Timor, where thousands of East Timorese were deported and forcibly transferred. Pro-autonomy militias continued their campaign of violence, that included, intimidation, forced coercion to join the militia, threats to life, murders, assaults and other forms of violence. Furthermore, refugees were often forced to stay in West Timor, prevented to come back to East Timor.
12. 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, with knowledge of the attack.

B) INDIVIDUAL CRIMINAL RESPONSIBILITY

13. Each of the accused are individually criminally responsible for the crimes alleged against them in this indictment pursuant to Section 14 of UNTAET Regulation 2000/15. Under Section 14.2 and 14.3 (a) to (d) individual criminal responsibility results if the individual committed, planned, instigated, ordered, solicited, induced, aided, abetted or otherwise assisted in the crimes commission, or attempted commission. In addition, individual criminal responsibility results if an individual attempts to commit a crime and takes a substantial step towards its execution. Finally, individual criminal responsibility 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.

14. On the 4th April 1999, **Anastacio Martins** joined the BMP militia in Metagou Village, Sub district of Bazartete, District of Liquica. Before and after joining the militia **Anastacio Martins** was also a member of KAMRA (*Keamanan Rakyat*) and acted as a police assistant. **Anastacio Martins** received police training and was provided with a police uniform.

15. On the 5th April 1999, BMP militia and TNI soldiers, including Domingos Mendez aka Doingos Ascopa, in the presence of **Anastacio Martins**, planned to kill Herminio Dos Santos because he was a member of CNRT. They left the Dandim office to find and kill him.

16. **Anastacio Martins** informed Herminio Dos Santos and his family about it. On the advise of **Anastacio Martins**, Herminio Dos Santos decided to bring his family at the TNI military post III, known as 143 BTT from Bandar Ampung and located near Herminio Dos Santos' house and near the T.V Satellite tower in Liquica, to seek refuge against the attack.

17. While they were at the military post they heard noises coming from the direction of their house and Herminio Dos Santos informed Commander Agus of the situation. The commander went to Herminio Dos Santos' house to see what was happening and came back to the post shortly after. Immediately after the Commander's return, Domingos Mendez, TNI soldiers and BMP militiamen arrived at the military post.

18. When they arrived they said to Herminio Dos Santos that he was the person they were looking for and start to beat him. They then tied Herminio Dos Santos' hands behind his back and left the military post. Upon leaving, they said they were bringing Herminio Dos Santos to the District Military Station at Nartutu. Commander Agus did not intervene or prevent either the beating of Herminio Dos Santos or his abduction by the TNI soldiers and the militiamen. Herminio Dos Santos was taken near the river, about 200 meters from the TNI post III, and killed by Domingos Mendez and another TNI soldier. They cut his neck and stabbed him to death.

19. On the 6th April 1999, BMP militia and TNI soldiers surrounded and attacked the refugees at the Liquica church and wounded and murdered dozens of people.

20. From April to August 1999, **Anastacio Martins** went around villages, including Leorema, Buka

Mera and Metagou, harassing people, telling them that they had to chose and vote for autonomy and threatening that if they did not vote for autonomy they would all be killed.

21. In May 1999 **Domingos Goncalves** joined the BMP militia, in Leorema, Sub-district of Bazartete, District of Liquica.

22. On or around the 27 May 1999, BMP militiamen, including **Domingos Goncalves** and TNI soldiers arrested Arlindo Goncalves, Miguel Dos Santos and 2 other persons. These individuals were arrested because they were suspected of supporting independence. They were brought to the BMP post in Bazartete where they were beaten and forcibly confined for several days.

23. On 15 June 1999, TNI soldiers and members of BMP militia went to Metagou Village to warn the people that if they did not vote for autonomy on 30th August 1999 they would all be killed.

24. On 2 September 1999, the accused **Anastacio Martins** and **Domingos Goncalves** attended a BMP militia meeting that was held at the sport field in Bazartete. At this meeting militiamen were told by Jacinto Goncalves and Laurindo Ribero that the Villages of Leorema and Buka Mera were strongholds of Falantil and that they should be attacked. They were told that they should destroy the villages and kill the people who did not vote for autonomy. No specific date for the attack was mentioned.

Attack in Metagou Village: BMP Post and behind the school

25. On 3 September, 1999, a group of TNI soldiers and BMP militia, including the accused **Anastacio Martins**, arrested Adalino Castro, Herminingildo dos Santos, Pedro Alves, Jacinto dos Santos and Francisco Da Silva and forcefully brought them to a house in Metagou Village. The prisoners were transferred shortly after to the BMP Militia Post in Metagou. The BMP Militia Post was located beside the village office and very close to the TNI post.

26. Adalino Castro, Herminingildo dos Santos, Pedro Alves, Jacinto dos Santos and Francisco Da Silva were arrested because they were suspected to be supporters of CNRT and supporters of pro-independence.

27. During the night of the 3rd to 4th September 1999, BMP militiamen including **Anastacio Martins** beat and tortured the prisoners.

28. On the 4th September 1999, on the orders of Henrique, a TNI commander, Pedro Alves was forcefully brought to Bazartete to be questioned by TNI officers. Three hours later, Pedro Alves was brought back to the militia Post in Metagou.

29. During the same morning just after the announcement of the result of the popular consultation, **Anastacio Martins** accompanied by another militiaman Domingos Goncalves AKA Domingos *Limen Sanak* came back to the BMP militia Post. Both of them were armed with traditional weapons. On their way back Domingos *Limen Sanak* shouted that autonomy had lost and that it was time to clean the CNRT. When they reached the BMP militia post **Anastacio Martins** kicked Francisco Da Silva and Domingos *Limen Sanak* kicked Jacinto dos Santos. Then another militiaman, in the presence of

Anastacio Martins took a piece of wood and beat Jacinto dos Santos several times and hit Herminigildo dos Santos with a piece of wood injuring his arm severely.

30. Following this beating, **Anastacio Martins** and Domingos *Limen Sanak* went to the TNI office and stayed there for a short period of time, while the prisoners were kept under guard at the militia post. Then, **Anastacio Martins** and Domingos *Limen Sanak* left the TNI building, accompanied by several TNI soldiers, and went behind a school, which was located a very short distance from both the TNI office and the BMP militia post. BMP militia had previously ordered villagers to dig a grave there.

31. Shortly after, Jacinto Dos Santos was dragged behind the school. At that time he was already severely injured from the previous beating. Jacinto Dos Santos was then thrown into the grave where Domingos *Limen Sanak* shot him with a traditional home made gun and a second militia member stabbed him in the chest. Jacinto Dos Santos died from those injuries. Immediately afterwards, villagers were ordered to bury Jacinto Dos Santos.

32. The second person to be executed was Pedro Alves. **Anastacio Martins** and Domingos *Limen Sanak* brought Pedro Alves from the BMP militia post to the same location behind the school. When he was brought there, villagers, on the orders of militiamen, were already digging two additional graves. Then a militiaman hit Pedro Alves on the head with a piece of wood and another militiaman shot him in the back. Since Pedro Alves was still standing Domingos *Limen Sanak* hit him on the right side of the face with a shovel. Pedro Alves then fell on the ground where a third militiaman stabbed him in the back. Pedro Alves died from these injuries and was buried immediately by villagers.

33. The third person to be executed was Francisco Da Silva. When Francisco Da Silva was brought to the gravesite he had already been severely beaten. His clothes were covered in blood. When he arrived at the gravesite Domingos *Limen Sanak* shot him in the back with a traditional weapon and a second militiaman hit him with a piece of wood in the head. Then **Anastacio Martins** shot him twice, once in the head and once in the chest, and stabbed him in the right side of his chest with a bayonet. Lastly a fourth militiaman stabbed Francisco Da Silva in the chest. Francisco Da Silva died from those injuries and was buried immediately by villagers.

Attack in Muka Bera village

34. On 5 September 1999 members of the BMP militia, including the accused **Domingos Goncalves**, **Anastacio Martins**, as well as Victor Da Cruz, Domingos *Limen Sanak* and members of the TNI went to Muka Bera Village and burned many of the houses there. The BMP militia also stole property and livestock. The militia burnt more than 80 houses in the village; among them were the houses of Manuel Goncalves and Paulo Goncalves. Manuel Goncalves and Paulo Goncalves were alleged to be CNRT supporters. **Domingos Goncalves** and Victor Da Cruz set Paulo Goncalves' house of on fire.

35. After burning the houses the group of militia and TNI soldiers forced some of the villagers, mainly women and children, to go to Bazartete. They were ordered to leave their home and to walk to Bazartete, threatened to be killed if they did not obey. In Bazartete they were detained at the District Military house and were deported to Atambua, West Timor on or around 10 September 1999. Before leaving Muka Bera the militia warned the villagers that they would come back the next day to kill them.

36. On 7 September 1999, BMP militia, including the accused **Domingos Goncalves**, **Anastacio Martins** and TNI soldiers did return to Muka Bera Village. **Domingos Goncalves** and Victor Da Cruz proceeded to the house where Paulo Goncalves was staying since his house had been burned two days before. When they reached the house they called out for Paulo Goncalves. At that time, both **Domingos Goncalves** and Victor Da Cruz were armed.

37. When Paulo Goncalves came out, Victor Da Cruz hit Paulo Goncalves twice with a machete, once in the head and once in the chest, causing his death.

38. On the 7 September 1999, BMP militia, including the accused **Domingos Goncalves**, and TNI soldiers proceeded to the home of Guilherme Alves and called out the occupants. When they were approaching the houses, **Domingos Goncalves** said out loud, “*you the people who wanted independence, come and wait here*”. When Guilherme Alves and other occupants came out of their house, Guilherme Alves went to talk to Victor da Cruz. Victor da Cruz told Guilherme Alves that he would not kill him but asked him to get his sons. Guilherme’s sons were in hiding at that time. When Guilherme Alves turned his back to get his sons, Victor shot him several times. Guilherme Alves died and family members buried him several hours later.

39. After killing Guilherme Alves militiamen burned his house. The militia had brought petrol in plastic containers that they used to burn down the house.

40. On that same day, 7 September 1999, members of the BMP militia, including **Domingos Goncalves** surrounded the home of Clementino Gonsalves.

41. After surrounding his home, members of the BMP, including Victor Da Cruz dragged Clementino Goncalves out of the house where militiamen severely beaten him. During this event, members of the militiamen were saying that the villagers had provided food and support to Falantil. They said that the villagers were told to vote for autonomy but they would not listen so they should die. Then Victor Da Cruz killed Clementino Goncalves by shooting him in the head at close range.

42. Members of the TNI who were present did not intervene or prevent either the killing of Clementino Goncalves, Guilherme Alves or Paulo Goncalves.

43. After the murders of Guilherme Alves, Paulo Goncalves and Clementino Goncalves, members of the militia, including **Anastacio Martins** and **Domingos Goncalves** forced the villagers at gunpoint to walk to Bazartete. The people were then brought to Liquica where they were finally deported by boat to West Timor. In Liquica, **Anastacio Martins** and other militiamen told the women that their husbands were dead. They said that since they were all supporters of independence they all had to be killed.

44. Around the 8th September 1999, following the result of the popular consultation armed BMP militia, including the accused, **Anastacio Martins** and TNI soldiers went to Legumea Village and forced the villagers, including Celestino Coreia, to get into trucks. They threatened to kill them if they did not obey their orders.

45. After forcing the people into the trucks, BMP militia and TNI members burned several houses. TNI soldiers had brought big cans of petrol with them that was used to burn down the houses. The villagers were taken to Liquica where they were detained for one night. The next day they were forcibly deported to Atambua, West Timor. They were transported to West Timor in an Indonesian military boat.

Murder in Kolam Susu-atapupu, Atambua, West Timor

46. On 14 September 1999, about a week after Celestino Coreia had been forced to leave East Timor to Kolam Susu-atapupu, Atambua, **Anastacio Martins**, jointly with others, killed him.

47. On 14 September 1999, around 3:00 in the afternoon, Gudino Goncalves went to the tent of Celestino Coreia in the refugee camp and asked him to join the militia. Gudino Goncalves was armed with a traditional weapon. A heated argument developed after Celestino Coreia had refused to join the militia. Celestino Coreia tried to force Gudino out of his tent. During this incident Gudino Goncalves was slightly injured and brought to the clinic.

48. A short time later Gudino's father, Paul Goncalves accompanied by **Anastacio Martins**, Guilherme Da Costa Freitas and Pedro came to Celestino Coreia's tent. All of them were armed. **Anastacio Martins** was carrying a *rakitan*, a traditional pistol.

49. When they arrived at the tent, **Anastacio Martins** shouted at Celestino that he was a bad man and that he would kill him. Then Guilherme Da Costa Freitas forcibly removed Celestino Coreia's clothing and bound his hands behind his back, using ropes and wires. Afterwards Paul Goncalves told the three others to beat Celestino Coreia. **Anastacio Martins** and the two others started to kick, slap and punch Celestino Coreia several times.

50. When Celestino managed to get up, **Anastacio Martins** struck him on the back of the head with his *rakitan* and held him while Pedro continued to hit him. During the attack, **Anastacio Martins** also used a shovel to hit Celestino Coreia.

51. After being severely beaten for more than an hour, Celestino Coreia was dragged to a gravesite. At that time, Celestino Coreia was still alive. At the gravesite, **Anastacio Martins** gave his weapon to one of the militiamen, took a rock and threw it on Celestino Coreia's head. He then took a shovel and hit him again on the head. Celestino Coreia died from his injuries. Afterwards Celestino Coreia was buried. During all this time Celestino Coreia had his hands tied behind his back.

52. Several times during this event **Anastacio Martins** threatened the people present that if they cried, screamed or talk he would kill them.

Pursuant to the above the Prosecutor

IV. CHARGES:

THE ACCUSED: ANASTACIO MARTINS

COUNT 1: CRIMES AGAINST HUMANITY: MURDER

By his acts or omissions related in the present indictment in relation to events described in paragraphs 25 to 33, **Anastacio Martins** is responsible for the murders of Jacinto Dos Santos, Francisco Da Silva and Pedro Alves committed on 4th September 1999, in Metagou Village, Sub district of Bazartete, District of Liquica, as part of a widespread or systematic attack against a civilian population, with knowledge of this attack and thereby committed a **CRIME AGAINST HUMANITY**, murder, pursuant to Sections 14 and 5.1 (a) of UNTAET Regulation 2000/15 and

COUNT 2: CRIMES AGAINST HUMANITY: MURDER

By his acts or omissions related in the present indictment in relation to events described in paragraphs 34 to 42, **Anastacio Martins** is responsible for the murders of Guilherme Alves, Cemetino Goncalves, Paulo Goncalves committed on 7th September 1999, in Buka Mera Village, Sub-District of Bazartete, District of Liquica, as part of a widespread or systematic attack against a civilian population, with knowledge of this attack and thereby committed a **CRIME AGAINST HUMANITY**, murder, a crime stipulated in Section 5.1 (a) of UNTAET Regulation 2000/15 and for which he is individually responsible pursuant to Section 14.3 and which is punishable in reference to Section 10.1 of UNTAET Regulation 2000/15.

COUNT 3: CRIMES AGAINST HUMANITY: MURDER

By his acts or omissions related in the present indictment in relation to events described in paragraphs 46 to 52, **Anastacio Martins** is responsible for the murder of Celestino Coreia committed on 14th September 1999, in in Kolam Susu-atapupu, Atumbua, West Timor, as part of a widespread or systematic attack against a civilian population, with knowledge of this attack and thereby committed a **CRIME AGAINST HUMANITY**, murder, a crime stipulated in Section 5.1 (a) of UNTAET Regulation 2000/15 and for which he is individually responsible pursuant to Section 14.3 and which is punishable in reference to Section 10.1 of UNTAET Regulation 2000/15.

COUNT 4: CRIMES AGAINST HUMANITY: DEPORTATION OR FORCIBLE TRANSFER OF POPULATION

By his acts or omissions related in the present indictment in relation to events described in paragraphs 35, 43, 44 and 45, **Anastacio Martins** is responsible for the deportation or forcible transfer of population committed between the 5th September 1999 and 11 September 1999, from Metagou, Muka Bera, Legumea Villages within East Timor and to West Timor, as part of a widespread or systematic attack against a civilian population, with knowledge of this attack and thereby committed a **CRIME AGAINST HUMANITY**, deportation or forcible transfer of population, a crime stipulated in Section

5.1 (d) of UNTAET Regulation 2000/15 and for which he is individually responsible pursuant to Section 14.3 and which is punishable in reference to Section 10.1 of UNTAET Regulation 2000/15.

THE ACCUSED: DOMINGOS GONCALVES

COUNT 1: CRIMES AGAINST HUMANITY: MURDER

By his acts or omissions related in the present indictment in relation to events described in paragraphs 34 to 42, **Domingos Goncalves** is responsible for the murders of Guilherme Alves, Cemetino Goncalves, Paulo Goncalves committed on 7th September 1999, in Buka Mera Village, Sub-District of Bazartete, District of Liquica, as part of a widespread or systematic attack against a civilian population, with knowledge of this attack and thereby committed a **CRIME AGAINST HUMANITY**, murder, a crime stipulated in Section 5.1 (a) of UNTAET Regulation 2000/15 and for which he is individually responsible pursuant to Section 14.3 and which is punishable in reference to Section 10.1 of UNTAET Regulation 2000/15.

COUNT 2: CRIMES AGAINST HUMANITY: DEPORTATION OR FORCIBLE TRANSFER OF POPULATION

By his acts or omissions related in the present indictment in relation to events described in paragraphs 35 and 43, **Domingos Goncalves** is responsible for the deportation or forcible transfer of population committed between the 5th September 1999 and 11 September 1999, from Metagou, Muka Bera, Legumea Villages within East Timor and to West Timor, as part of a widespread or systematic attack against a civilian population, with knowledge of this attack and thereby committed a **CRIME AGAINST HUMANITY**, deportation or forcible transfer of population, a crime stipulated in Section 5.1 (d) of UNTAET Regulation 2000/15 and for which he is individually responsible pursuant to Section 14.3 and which is punishable in reference to Section 10.1 of UNTAET Regulation 2000/15.

V. 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.

Dili, 1 May 2001

Mohamed C. Othman
General Prosecutor