

UNITED NATIONS



NATIONS UNIES

UNMISET

United Nations Mission of Support in East Timor



DISTRICT COURT OF DILI

BEFORE THE SPECIAL PANEL FOR SERIOUS CRIMES

Case No:

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**INDICTMENT**

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DEPUTY GENERAL PROSECUTOR FOR SERIOUS CRIMES

-AGAINST-

WIRANTO  
ZACKY ANWAR MAKARIM  
KIKI SYAHNAKRI  
ADAM RACHMAT DAMIRI  
SUHARTONO SURATMAN  
MOHAMMAD NOER MUIS  
YAYAT SUDRAJAT  
ABÍLIO JOSE OSORIO SOARES

ORIGINAL IN ENGLISH

## I. INDICTMENT

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

WIRANTO (1)  
ZACKY ANWAR MAKARIM (2)  
KIKI SYAHNAKRI (3)  
ADAM RACHMAT DAMIRI (4)  
SUHARTONO SURATMAN (5)  
MOHAMMAD NOER MUIS (6)  
YAYAT SUDRAJAT (7)  
ABILIO JOSE OSORIO SOARES (8)

-with-

**CRIMES AGAINST HUMANITY:**

**MURDER, DEPORTATION and PERSECUTION**

## II. NAMES AND PARTICULARS OF THE ACCUSED

- (1) Name: **WIRANTO**  
Place of Birth: Yogyakarta, Indonesia  
Date of Birth: April 4, 1947  
Nationality: Indonesian  
Address: Believed to be in Indonesia  
Position held in 1999: General; Indonesian Minister of Defence and Security; Commander of the Armed Forces of Indonesia
- (2) Name: **Zacky Anwar MAKARIM**  
Place of Birth: Indonesia  
Date of Birth: 1948  
Nationality: Indonesian  
Address: Believed to be in Indonesia  
Position held in 1999: Major General; Head of the Special Team/Adjutant General's Task Force; Member of the Task Force to Oversee the Popular Consultation in East Timor
- (3) Name: **KIKI SYAHNAKRI**  
Place of Birth: Karawang, West Java, Indonesia  
Date of Birth: April 24, 1947  
Nationality: Indonesian  
Address: Believed to be in Indonesia  
Position held in 1999: Major General; Assistant for Operations to the Army Chief of Staff; Commander of the Martial Law Operations Command in East Timor

- (4) Name: **Adam Rachmat DAMIRI**  
 Place of Birth: Bandung, West Java, Indonesia  
 Date of Birth: November 29, 1949  
 Nationality: Indonesian  
 Address: Believed to be in Indonesia  
 Position held in 1999: Major General; Commander of Regional Military Command IX (Bali, East and West Nusa Tenggara and East Timor)
- (5) Name: **Suhartono SURATMAN**  
 Place of Birth: Makassar, South Sulawesi, Indonesia  
 Date of Birth: 1952  
 Nationality: Indonesian  
 Address: Believed to be in Indonesia  
 Position held in 1999: Colonel; Commander of Sub-Regional Military Command 164 (East Timor) until August 13, 1999
- (6) Name: **Mohammad Noer MUIS**  
 Place of Birth: Kuala Simpang, Aceh, Indonesia  
 Date of Birth: 1953  
 Nationality: Indonesian  
 Address: Believed to be in Indonesia  
 Position held in 1999: Colonel; Commander of Sub-Regional Military Command 164 (East Timor) from August 13, 1999
- (7) Name: **Yayat SUDRAJAT**  
 Place of Birth: Indonesia  
 Date of Birth: Not known  
 Nationality: Indonesian  
 Address: Believed to be in Indonesia  
 Position held in 1999: Lieutenant Colonel; Commander of the Tribuana VIII Task Force; Commander of the Intelligence Task Force Sub-Regional Military Command 164 (East Timor)
- (8) Name: **Abilio Jose Osorio SOARES**  
 Place of Birth: Laclubar, Manatuto, East Timor  
 Date of Birth: June 2, 1947  
 Nationality: East Timorese  
 Address: Believed to be in Indonesia  
 Position held in 1999: Governor of East Timor

### III. INTRODUCTORY STATEMENT OF FACTS

#### BACKGROUND

1. On December 12, 1975 in response to the Indonesian military intervention during the preceding months, the United Nations General Assembly adopted resolution 3485 which called upon the Government of Indonesia to withdraw its armed forces from the territory of East Timor.
2. On December 22, 1975 the United Nations Security Council adopted resolution 384 which repeated the call for the Government of Indonesia to withdraw its armed forces from East Timor.
3. On July 17, 1976 the President of the Republic of Indonesia declared East Timor to be the 27<sup>th</sup> province of the Republic of Indonesia.
4. The Question of East Timor continued to be the subject of debates within the United Nations General Assembly and Security Council. Efforts to resolve the issue were intensified during 1998, leading to an announcement on January 27, 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.
5. On May 5, 1999 an agreement was reached between the Governments of Indonesia and Portugal, and the United Nations upon the process and modalities for a popular consultation. Included within that agreement and its annexes were the following terms:

*"The Government of Indonesia will be responsible for maintaining peace and security in East Timor in order to ensure that the popular consultation is carried out in a fair and peaceful way in an atmosphere free of intimidation, violence or interference from any side."*

*"Officials of the Governments of Indonesia and Portugal will not participate in the campaign in support of either option."*

*"East Timorese government officials may campaign in their personal capacity. All such campaigning will be carried out ... without use of public funds and government resources or recourse to pressure of office."*

*"A secure environment devoid of violence or other forms of intimidation is a prerequisite for the holding of a free and fair ballot in East Timor. Responsibility to ensure such an environment as well as for the general maintenance of law and order rests with the appropriate Indonesian security authorities. The absolute neutrality of the TNI (Armed Forces of Indonesia) and the Indonesian Police is essential in this regard."*

*"The police will be solely responsible for the maintenance of law and order."*

## THE ARMED FORCES OF INDONESIA IN EAST TIMOR

6. From December 1975 until October 1999 the Armed Forces of Indonesia were present in the territory of East Timor. During this time military structures were established and military personnel deployed within these structures.
7. The Armed Forces' territorial unit in East Timor was Sub-Regional Military Command 164 with its headquarters in Dili. This unit was subordinate to the larger Regional Military Command IX (covering Bali, East and West Nusa Tenggara and East Timor) with its headquarters in Bali.
8. In 1999 territorial and combat military units from outside of Regional Military Command IX were deployed in East Timor. Officers from the Special Forces Command [*Komando Pasukan Khusus* - KOPASSUS] were also assigned to billets in the Sub-Regional Military Command 164.
9. On September 7, 1999 the Government of Indonesia declared martial law in East Timor and the Minister of Defence and Security and Commander of the Armed Forces of Indonesia established the Martial Law Operations Command in East Timor.

## ESTABLISHMENT OF MILITIA GROUPS

10. During the period leading up to the popular consultation, Indonesian officials established and strengthened civilian groups to campaign for the autonomy option. Those groups included both non-violent political groups and violent militia groups who were intended to promote the autonomy option in the popular consultation. In both cases, such groups were established and maintained by the active conduct of officials within the Armed Forces of Indonesia [*Angkatan Bersenjata Republik Indonesia* - ABRI, renamed *Tentara Nasional Indonesia* - TNI from April 1999. Hereafter "TNI" in all instances] and the civilian government.
11. In or about August 1998 **Adam Rachmat DAMIRI** arranged for a pro-Indonesian East Timorese leader to fly from East Timor to Denpasar, Bali for a meeting. At this meeting, **DAMIRI** told the East Timorese leader to establish a group to promote integration.
12. In or about August 1998 **DAMIRI** travelled to Dili and met with TNI commanders and pro-Indonesian East Timorese leaders. **Suhartono SURATMAN** was present at this meeting. **DAMIRI** told the group that international attention was focused on East Timor and this was a problem for Indonesia. He told them that they needed to come up with a plan for creating organisations that would spread pro-Indonesian sentiment throughout East Timor. He told them that they must form a solid civil defense force based on previous TNI-supported models and that this force should be expanded and developed to protect integration.

13. In or about November 1998 **DAMIRI** travelled to East Timor. During this visit he again met with pro-Indonesian East Timorese leaders in Dili, including individuals who later became leaders of militia groups. **DAMIRI** asked the men to join together and assist TNI to fight the pro-independence group Revolutionary Front for an Independent East Timor [*Frente Revolucionaria de Timor Leste Independente* - FRETILIN]. During this meeting with pro-Indonesian leaders, **DAMIRI** praised future militia leader Eurico Guterres as being a young man eager to fight for integration and said that he was willing to give Guterres fifty million rupiah to begin his work.
14. In or about November 1998 **SURATMAN** met with pro-Indonesian East Timorese leaders at his headquarters in Dili. **Yayat SUDRAJAT** was present at this meeting. **SURATMAN** told the group that he wanted future militia leader Eurico Guterres to form a new organisation to defend integration similar to the pro-Indonesian youth organisation *Gada Paksi*.
15. In early 1999 **Zacky Anwar MAKARIM** received the founding members of the pro-Indonesian East Timor People's Front [*Barisan Rakyat Timor Timur* - BRTT] at his office in Jakarta. During the meeting he said that guerilla warfare would be necessary to overcome independence supporters if the autonomy option lost at the ballot.
16. In or about February 1999 **DAMIRI** met with pro-Indonesian East Timorese leaders at Regional Military Command IX headquarters in Denpasar, Bali. **DAMIRI** told the men that TNI was ready to give secret support to pro-Indonesian forces. He explained that it must be secret in order to avoid international scrutiny and criticism. **DAMIRI** asked the men to gather East Timorese who had served in TNI. He told them that they should meet with **SURATMAN** for further instructions.
17. In or about February 1999 **SURATMAN** met with a pro-Indonesian East Timorese leader in Dili. He told him that because TNI was under a reformist regime, it could not take part in open operations against the independence movement. **SURATMAN** asked the pro-Indonesian leader to form a militia group. **SURATMAN** said that TNI was willing to provide any form of assistance required by militia groups.
18. In or about February 1999 **SUDRAJAT** met with TNI personnel and pro-Indonesian East Timorese leaders at Intelligence Task Force headquarters in Dili. **SUDRAJAT** told the group that the Intelligence Task Force had a list of independence supporters that were to be killed. He stated that the Intelligence Task Force and the pro-Indonesian groups would cooperate to carry out these killings. He said that KOPASSUS dressed as thugs would start to carry out murders of pro-independence supporters.

19. In or about March 1999 Kiki SYAHNAKRI met with pro-Indonesian East Timorese leaders at TNI headquarters in Jakarta. SYAHNAKRI told the group that TNI would support their pro-Indonesian efforts and that MAKARIM was responsible for coordinating activities leading up to the popular consultation. SYAHNAKRI told them that firearms had been sent to East Timor, and that when the men returned to Dili they should contact SURATMAN to arrange distribution of the firearms.
20. In early 1999 Abilio Jose Osorio SOARES issued a written directive to government staff stating that any government employee who supported independence would be sacked from their jobs.
21. In early 1999 SOARES encouraged the District Administrators (*Bupati*) to form militia groups in their districts. Some of these District Administrators became militia leaders.
22. In or about March 1999 SOARES held a meeting in his office in Dili. SURATMAN and SUDRAJAT were present at the meeting. SOARES told a group of pro-Indonesian East Timorese leaders that independence supporters who sought protection with priests and nuns were communists and ought to be killed. He also told the group that TNI would supply weapons to pro-Indonesian forces. He said that if TNI could not supply enough weapons, he would do so himself. He said that he would provide the pro-Indonesian organisation BRTT with funding.
23. In or about March 1999 SUDRAJAT and other members of TNI delivered a large number of firearms to a pro-Indonesian East Timorese leader. SUDRAJAT asked the East Timorese leader to give the weapons to pro-Indonesian militia groups.
24. In or about April 1999 MAKARIM told TNI commanders and pro-Indonesian East Timorese leaders that they should work hard for autonomy because if autonomy lost, more blood would flow. He offered pro-Indonesian East Timorese leaders the use of automatic firearms and ordered SURATMAN to arrange for the collection and distribution of these firearms.
25. In or about April 1999 SURATMAN, after being asked by MAKARIM to provide automatic firearms to pro-Indonesian East Timorese leaders, ordered his subordinate SUDRAJAT to arrange for the collection and distribution of the firearms.
26. TNI and civilian government officials helped establish an umbrella organisation under which all militia groups were organised. The organisation was called the Integration Fighters' Force [*Pasukan Pejuang Intergrasi - PPI*]. Joao Tavares was the commander of the organisation and Eurico Guterres was his deputy.
27. On April 17, 1999 PPI organised a rally in front of the main government building in Dili. SYAHNAKRI, SURATMAN and SOARES were present during the rally.

28. In or about April of 1999 **SOARES** requested and received Presidential approval to divert 60% [53 billion rupiah] of East Timor's Regional Development Budget to support the "Socialisation of Autonomy" programme; a programme designed to promote pro-Indonesian sentiment in East Timor.
29. After receiving approval to divert funds to the Socialisation of Autonomy programme, **SOARES** issued a written directive to all District Administrators advising them how the money should be spent. **SOARES** required that at least 20% of this money be used to support militia groups.
30. In or about May 1999 **MAKARIM** held a meeting in Farol, Dili which included pro-Indonesian East Timorese leaders. At the meeting **MAKARIM** said that if independence won the ballot then guerrillas would be used to create disruption in East Timor.
31. In or about June 1999 **SURATMAN** held a meeting at his headquarters in Dili. He informed a group of TNI soldiers and militia that if autonomy lost in the popular consultation, everything that had been given to East Timor by the Government of Indonesia had to be destroyed. **SURATMAN** told them that if independence won, there would be a scorched earth policy so that an independent East Timor would have to start with nothing. He stated that all forces in East Timor would have to carry out the order.
32. In or about July 1999 **SUDRAJAT** gave money to a militia group and instructed one of the militia members to go to Roti Island to buy home made guns.
33. In the period leading up to the popular consultation, the Government of Indonesia and TNI were instrumental in the establishment of pro-Indonesian militias. They provided training, funding, weapons and other forms of material support to these militias. In some districts of East Timor, TNI commanders appointed their TNI subordinates to lead militia groups, in others TNI commanders gave orders and support to the militia groups.
34. During 1999, with the backing of TNI and the civil administration, more than 25 militia groups operated throughout East Timor. Their goal was to intimidate and persuade the population of East Timor to support the option of autonomy within Indonesia at the popular consultation.
35. Once the militia groups were established, TNI commanders in the districts of East Timor ordered and directed the militia in their conduct. The militia groups, with the support and assistance of TNI and acting together with TNI soldiers, participated in a widespread or systematic attack acting and operating with impunity.

## WIDESPREAD OR SYSTEMATIC ATTACK

36. A widespread or systematic attack was directed against the civilian population in East Timor during 1999. The attack occurred during two interconnected periods of intensified violence. The first period followed the announcement on January 27, 1999 by the Government of Indonesia of the popular consultation. This period ended on September 4, 1999, the date of the announcement of the result of the popular consultation in which 78.5 per cent voted against the autonomy option. The second period followed the announcement of the result of the popular consultation on September 4, 1999 through to October 25, 1999.
37. The widespread or systematic attack was carried out by the cooperative action of TNI soldiers and the militia groups whom they controlled. That attack was part of a policy to maintain East Timor under the authority of the Government of Indonesia.
38. The widespread or systematic attack was part of an orchestrated campaign of violence that included threats to life, intimidation, assault and killings. The attack also included widespread arsons and destruction of property.
39. The widespread or systematic attack resulted in the internal displacement of thousands of civilians and the forcible transfer of large parts of the population to West Timor.
40. The widespread or systematic attack was directed against civilians of all ages, but predominantly against individuals who were believed to be independence supporters. Those persons who were believed to be active members of the National Council of Timorese Resistance [*Conselho Nacional da Resistencia Timorese* - CNRT] were targeted in particular.

## **IV. SPECIFIC STATEMENT OF FACTS**

### **MURDER**

41. During 1999 numerous civilians were murdered by TNI or by the militia groups they controlled. The murders were carried out as part of a widespread or systematic attack directed against the civilian population. A common feature of the murders was that the victims were believed to be independence supporters. The widespread or systematic attack included but was not limited to the following murders:

### **BOBONARO DISTRICT**

**Cailaco - April 12, 1999**

42. On April 12, 1999 Manuel Gama, the Head of Finance of Bobonaro District Administration, was killed by unknown assailants while travelling from Cailaco sub-district to Maliana.
43. When the Bobonaro District Military Commander heard of the killing of Gama, he led a group of TNI soldiers and civil administrators to the village of Marco where Gama had lived. From the veranda of Gama's house, the Commander announced that the villagers of Cailaco would be killed. TNI soldiers and militia then began to round up individuals they believed to be independence supporters.
44. TNI soldiers took Joao Evangelista Lima Vidal, Carlito Mau Leto and Domingos Resi Mau to the top of a hill in the village of Poegoa, where they shot and killed them.
45. TNI soldiers and militia took Paulino Soares, Jose Pau Lelo, Antonio Soares and Manuel Maulelo Araujo to the TNI Intelligence post at Marco where they shot and killed them.
46. The Commander told the crowd gathered around Gama's house that, if need be, more independence supporters would be killed.
47. In the days that followed, TNI soldiers and militia travelled to villages surrounding Cailaco and killed further civilians they suspected of being independence supporters.
48. On April 19, 1999 TNI soldiers and militia abducted Aparicio Mali Tae and Carlos Sama Lelo from the TNI post in Purugua. Their dead bodies were found buried near the TNI Intelligence Command in Marco.
49. On April 19, 1999 militia killed Armando Soares and Antonio Bazile by attacking them with swords.
50. On April 20, 1999 TNI soldiers and militia shot and killed Cornelius da Silva and Jose Barros.

**Maliana Police Station - September 8 and 9, 1999**

51. In the months leading up to the popular consultation, elements of TNI stationed in Maliana directed the establishment and activities of the *Dadurus Merah Putih* militia. A TNI Intelligence lieutenant acted as overall commander of the militia.
52. From about September 2, 1999 militia and elements of TNI and police began a campaign to force the civilian population who lived in and around Maliana to leave their homes. They ordered independence supporters to move to the Maliana Police Station and Indonesian supporters to move to the District Military Command in Maliana.
53. On September 2, 1999 TNI soldiers and militia attacked Ruben B. Soares at his house at Raifun. They beat him and stabbed him to death. During the attack, Domingos Pereira intervened and was shot by a TNI soldier; militia then stabbed him to death.
54. By September 8, 1999 a large group consisting mostly of independence supporters had been driven from their homes and were sheltering in the grounds of the Maliana Police Station.
55. On the afternoon of September 8, 1999 there were roll calls at many of the militia posts in Maliana. The roll calls were conducted by TNI Intelligence personnel and other TNI soldiers. At these roll calls, the militia were told to bring their weapons for an operation at the police station. The militia were also provided with swords.
56. On the afternoon of September 8, 1999 at the Maliana Sub-District Military Command a TNI Intelligence officer called together a large number of militia and TNI soldiers. He gave the group the names of several independence supporters seeking refuge at the police station. He ordered the militia to go to the police station and kill them. A TNI sergeant directed the militia to wear masks and blacken their faces.
57. A large group of TNI soldiers and militia drove to the police station and surrounded it. They then attacked the unarmed civilians inside. They attacked them with machetes and other sharp instruments. They killed at least 13 people: Manuel Barros, Julio Barros, Domingos Goncalves Ferreira, Jose da Costa Guterres, Francisco Barreto, Francisco Martins, Jose Abel, Martinho Marques, Jose Barros Soares, Damiao Cruz, Joaquin Monteiro Goncalves, Jose Moniz da Cunha and Daniel Barreto.
58. During the attack, armed members of Police Mobile Brigade [*Brigade Mobil - BRIMOB*] did nothing to protect the civilians inside and in some cases, they prevented people from escaping from the front gate of the compound by beating them back with the butts of their guns. After the attack, the TNI Intelligence officer ordered TNI soldiers and militia to collect the bodies of the people they had killed, load them onto a truck and dispose of them. Following these orders, the bodies were dumped into the sea.

59. On September 8, 1999 TNI soldiers and militia attacked villagers in an area called Sibi. During the attack Mariana da Costa was shot and killed. Carlito Freitas was hiding in the bushes about 250 meters from where Mariana da Costa was killed and he was found dead after the attack.
60. On September 9, 1999 TNI soldiers and militia discovered that a number of men had escaped from the police station during the attack and were hiding in the countryside. A TNI sergeant led militia in a search for these men. They found them hiding in a riverbed near the area of Mulau. They killed at least 13 of these men: Carlos Maia, Manuel Magalhaes, Augustino dos Santos Marques, Lamberto Benevides, Abilio Marques Vicente, Jose Barreto, Paul da Silva Barreto, Ernesto da Coli, Luis Soares, Pedro Luis, Lucas dos Santos, Joni Lopes and Adelino. Afterwards they loaded the bodies onto a truck. The bodies were later dumped into the sea. Most of the bodies were never recovered.
61. On September 16, 1999 militia shot, beat and hacked to death Augusto Noronha at Raimea.
62. On September 16, 1999 TNI soldiers and militia beat to death Antonio Franca, an independence supporter, at Raimea.

#### **COVA LIMA DISTRICT**

63. On April 12, 1999 militia stabbed to death Sabino Gusmao.
64. On April 23, 1999 militia hacked to death Benedito dos Nascimento.
65. On April 23, 1999 TNI soldiers and militia attacked, stabbed and killed Alexio Xiemenes, Tomas Cardoso and Paulus Xiemenes, who were independence supporters.
66. On May 13, 1999 militia shot and hacked to death Jose Afonso Amaral.
67. On May 28, 1999 militia shot and killed Domingos Martins and Gabriel Amaral, who were both independence supporters.
68. On May 28, 1999 militia abducted Vasco Amaral, an independence supporter. His dead body was found two days later.
69. On August 27, 1999 militia stabbed to death Jaime da Costa Nunes, who had been distributing voting cards to independence supporters.
70. On September 4, 1999 militia arrested and beat to death Raimundo Mali, Martinho do Rego and Abel Pereira.
71. On September 5, 1999 militia stabbed to death Felix Mali.
72. On September 6, 1999 militia abducted Albino Nahak, who they believed to be an independence supporter. His dead body was found on 15 October 1999.
73. On 6 September 1999 militia shot, stabbed and killed Agapito Amaral who was an independence supporter. Later they stabbed to death Rosalina Belak, Agapito Amaral's mother.

Suai Church - September 6, 1999.

74. Between January and September 1999 villagers from around the district of Suai sought refuge in the Ave Maria Church, also known as the Suai Church. They sought refuge from violence perpetrated by TNI soldiers and the *Laksaur* militia.
75. On September 4 and 5, 1999 TNI soldiers and militia armed with swords, machetes and firearms, started to move around outside the church compound, discharging their firearms into the air and threatening the villagers who were inside.
76. On September 5, 1999 the villagers were told by one of the priests that the church was no longer safe for them and that there could be an attack on it by TNI soldiers and militia. He advised the villagers to seek refuge elsewhere. Approximately 500 villagers fled the church compound.
77. In the early afternoon of September 6, 1999 militia marched towards the church. The District Administrator, dressed in TNI uniform and armed with a rifle, followed behind the militia. TNI soldiers and militia surrounded the church compound and began to shoot into the compound.
78. As a result of the attack, many civilians including 3 priests were killed and many others sustained serious injuries.
79. On September 7, 1999 TNI soldiers and militia returned to the church and gathered the dead bodies. They piled some of the bodies up and set fire to them. They loaded other bodies onto trucks and took them to West Timor. The bodies of 30 victims of the attack were recovered later from graves in West Timor.
80. On September 7, 1999 TNI soldiers and militia abducted Jose dos Reis, an independence supporter. He was subsequently stabbed and beaten to death by TNI soldiers and militia.
81. On September 7, 1999 militia abducted and killed Domingos Bau Koli, an independence supporter.
82. On September 7, 1999 militia abducted Alfredo Nahak, an active independence supporter. His dead body was found in November 1999.
83. On September 8, 1999 TNI soldiers and militia hacked Suri Atok and Jose Ramos with machetes, killing both of them.
84. On September 8, 1999 militia stabbed and killed Simplicio Doutei Sarmiento.
85. On September 8, 1999 militia abducted Manuel Noronha. His dead body was found later by his family.
86. On September 9, 1999 militia arrested Johanes Tahu and Paulus Xiemenes, who were both independence supporters. On the orders of a TNI officer the militia shot, stabbed and killed both men.
87. On September 9, 1999 TNI soldiers and militia abducted Elizario Martins and Mateus Amaral. The dead bodies of the two men were found later.

88. On September 12, 1999 TNI soldiers and militia attacked the village of Laktos. In the village they shot and killed or hacked to death 14 civilians: Jeraldo Amaral Bau, Ernesto Carvalho, Anito Mali, Anito Carvalho Monis, Danial Monis Aci, Danial Monis Taek, Domingos Luan Amaral, Abel Soares, Alberto Ferreira, Antonio Amaral Bau, Jose do Rego, Anito Amaral, Buaventura de Araujo and Eurico Amaral Bau.
89. On September 15, 1999 militia hacked to death Carlos Yosep and Patricio de Jesus Xiemenes Mauk, both independence supporters.
90. On September 19, 1999 TNI soldiers and militia arrested Jose Pereira Coli, an independence supporter. He was interrogated and severely beaten. A TNI soldier then took him away on a motorcycle. His dead body was found later by his family.
91. On September 25, 1999 militia attacked and shot at a group of villagers hiding in a forest near Nikir, killing Titus Mali, Damiao Xiemenes and Januario Maya.
92. On September 26, 1999 militia attacked and shot at a group of villagers hiding in a forest near Wetabe, killing Paulino Cardoso.
93. On September 26, 1999 militia attacked and shot at a group of villagers hiding in Wesei forest, killing Domingos Barros.
94. On October 5, 1999 militia attacked and shot at a group of villages hiding in Laketo Forest, killing Lorenzo Gusmao and Nazario Guterres.
95. On October 6, 1999 militia attacked the villagers of Lookeu, shooting and killing Fredrico Barros.
96. On October 6, 1999 militia shot and killed Luis Rosaliho.

#### **DILI DISTRICT**

##### **Dili Rally - April 17, 1999**

97. On April 17, 1999 leaders of the Integration Fighters' Force [*Pasukan Pejuang Intergrasi - PPI*] organised a large pro-Indonesian rally and ordered militia members from throughout East Timor to attend.
98. During the rally, Eurico Guterres, Deputy Commander of PPI, addressed the crowd and told them that people who were against integration with Indonesia were the enemy. He told representatives of the state, and those helping state forces, to capture anti-integrationists and shoot them if they resisted. Guterres identified Mario Carrascalao as a traitor and stated that the East Timorese people could not unite because of Carrascalao's existence.
99. Immediately following the rally, TNI soldiers and militia divided into groups and attacked targets around the city. They destroyed property and assaulted civilians they believed to be independence supporters.

100. In one of these attacks, militia and TNI soldiers attacked the home of Manuel Carrascalao, the brother of Mario, where over 100 civilians were seeking refuge. TNI soldiers and militia shot, stabbed or beat 12 of these civilians and killed them. They were Manelito Carrascalao, Eduardo de Jesus, Alberto dos Santos, Antonio da Silva Soares, Januario Pereira, Raul dos Santos Cancela, Joao dos Santos, Crisanto dos Santos, Rafael da Silva, Afonso Riberio, Cesar dos Santos and Augustino Benito. TNI soldiers and militia also destroyed the Carrascalao home.
101. Upon hearing of the attack upon his home, Manuel Carrascalao sought assistance from SURATMAN. SURATMAN laughed at his request and suggested he should get help from CNRT.
102. During April 17, 1999 TNI soldiers and militia attacked civilians and destroyed property in the Benamauk, Mascarenhas, Metiaut, Colmera and Kakaolidum areas of Dili.
103. In Benamauk, TNI soldiers and militia shot and killed Manuel Pinto.

**Dili Diocese and Bishop Belo's Residence – September 5 and 6, 1999**

104. On September 5, 1999 **WIRANTO, MAKARIM, SYAHNAKRI, DAMIRI** and **MUIS** were present at a meeting in Dili. Bishop Carlos Ximenes Felipe Belo asked that **WIRANTO** act to control the militias and return the situation to normal. **WIRANTO** responded by ordering **MUIS** to deal with the militias and return normality.
105. Later that day TNI soldiers and militia attacked the Dili Diocese compound and the people seeking refuge there. Jose Fernando Nilton da Costa was fatally stabbed in the attack and died later that day. Jose Martins de Sousa, Francisco Boavido and Eugenio da Costa were last seen alive after the attack in the presence of militia. Leonel da Silva de Oliveira disappeared during the attack and has not been seen alive since. Many other civilians were seriously injured in the attack.
106. After the attack Cassiano Moraes, Hilario Boavida, Lorenzo Boavido, Jorge Mesquita da Costa Rego, Mario Belo, Thomas Belo, Tiago Kofi, Vergilio Fernanda Augusto da Costa, Marito Mesquita and Alexandre Mesquita da Costa Rego were forced into trucks and taken away by militia. Their dead bodies were found later in Tasi Tolu, near Dili.
107. On September 6, 1999 Bishop Belo telephoned **MUIS** and requested TNI protection for approximately 5,000 civilians seeking refuge from militia violence in the compound of his home. He asked **MUIS** to help evacuate the refugees from the compound where they were in danger of imminent attack. **MUIS** told Bishop Belo that he could not do this because he had no vehicles available.
108. Later that day TNI soldiers and militia attacked Bishop Belo's residence killing at least 1 civilian. They assaulted civilians seeking refuge there and stole their property. TNI soldiers and militia set fire to Bishop Belo's home. TNI soldiers and militia ordered civilians to move to Dili harbour to be transported to West Timor and they threatened to kill those who did not comply.

109. On September 6, 1999 militia attacked the International Committee of the Red Cross compound killing at least 1 civilian.

#### LAUTEM DISTRICT

110. *Tim Alfa* was a militia group that had been established by TNI in the 1980s. In early 1999 elements of TNI and the civil administration strengthened *Tim Alfa* to fight against East Timorese who were believed to be independence supporters.
111. On April 21, 1999 *Tim Alfa* militia and KOPASSUS officers severely beat and mutilated Evaristo Lopes, an independence supporter. His throat was cut and he was killed.
112. On September 21, 1999 *Tim Alfa* militia shot and killed Alfredo de Araujo and Kalistu Rodrigues.

#### *Tim Alfa* at Verukoco - September 25, 1999

113. On September 25, 1999 *Tim Alfa* militia set up a roadblock beside the Malailana River, near the village of Verukoco, to intercept a vehicle carrying priests and nuns who were travelling to Baucau. The militia were armed with SKS rifles.
114. When the vehicle approached the roadblock militia fired their weapons into the vehicle. When the shooting stopped, some of the occupants were able to climb out of the vehicle. Militia hacked and stabbed them with machetes and shot them with their rifles.
115. The militia pushed the bodies and the vehicle into the river. A hand grenade was then thrown into the river to ensure there were no survivors. Finally, another man who had been captured by the militia was hacked to death with a machete and thrown into the river.
116. In the attack, the militia killed Brother Jacinto Xavier, Brother Fernando dos Santos, Brother Valerio da Conceicao, Sister Erminia Cazzagina, Sister Celeste de Carvalho, Agus Mullawan, Cristovao Rudy Barreto, Titi Sandora Lopes and Izino Freitas Amaral.

#### LIQUICA DISTRICT

117. On April 5, 1999 a group of villagers from Liquica encountered TNI soldiers and militia armed with automatic weapons. The TNI soldiers and militia started shooting at the group, including Thomas de Jesus, who was shot and died 4 days later.
118. On April 5, 1999 TNI soldiers and militia found Herminio dos Santos, a CNRT supporter, seeking refuge at a TNI post. A TNI soldier cut his throat and stabbed him to death.
119. On April 5, 1999 militia abducted Laurindo da Costa Goncalves, a CNRT supporter, from his house. Later that day, a TNI soldier informed the relatives of Laurindo da Costa Goncalves that he had been killed.

120. On April 5, 1999 Ildio dos Santos and his family sought refuge at the Sub-District Military Command. Subsequently, 6 militia arrived and killed him with a machete. TNI soldiers and intelligence officers were present and did not intervene to stop the murder.

Liquica Church - April 6, 1999

121. In the days preceding April 6, 1999 a large group of civilians gathered in the Liquica church compound seeking refuge from the *Besi Merah Putih* militia and elements of TNI who were engaged in a campaign of violence in the district. TNI soldiers and militia, as well as police and BRIMOB officers surrounded the church. Militia harassed and intimidated the refugees telling them that they would be killed if they remained in the church. Militia leaders instructed their members that later they would be required to attack the church and kill persons sheltering inside as well as those who attempted to flee.
122. In the early afternoon of April 6, 1999 a gunshot was heard from the direction of the church. BRIMOB officers then opened fire on the church and militia physically attacked the people inside. Tear gas was thrown into the priest's residence forcing many refugees to run outside. As the refugees attempted to flee the church compound, TNI soldiers and militia fired their weapons into the crowd of men, women and children, killing many of them. The militia also attacked the refugees with machetes, knives, arrows and homemade firearms.
123. Indonesian civil and military authorities ordered militia to dispose of the bodies in various locations around Liquica. Police, TNI soldiers and militia loaded dozens of bodies onto trucks. They threw some of the bodies into Lake Masi and buried others in locations around Maubara Village. Not all of the gravesites have been discovered and the exact number of dead is unknown.
124. On April 7, 1999 TNI soldiers, police and militia arrested Fernando da Costa, a CNRT supporter, and stabbed him to death.
125. On April 9, 1999 militia abducted Carlos, a CNRT supporter. His throat was cut and he was stabbed to death.
126. On April 15, 1999 TNI soldiers and militia attacked Henrique Borges, Carlos dos Santos da Costa and Leo Lakon. Henrique Borges was shot and killed, and the other two men were stabbed to death.
127. On April 27, 1999 TNI soldiers, police and militia arrested Tobias Alves Correia and Elias Ataidi whom they believed to be independence supporters. TNI soldiers ordered the militia to kill them and they were both stabbed to death.
128. On August 8, 1999 police and militia arrested Mariano da Costa. TNI soldiers ordered the militia to kill him in West Timor.
129. On September 3, 1999 TNI soldiers and militia abducted Pedro Alves, Jacinto dos Santos and Francisco da Silva whom they believed to be independence supporters. The following day TNI soldiers and militia shot and killed Jacinto dos Santos, and they shot, beat, stabbed and killed Pedro Alves and Francisco da Silva.

130. On September 7, 1999 militia stabbed and killed Paulo Goncalves. They also shot and killed Guilherme Alves and Clementino Goncalves. TNI soldiers present did not intervene to stop these killings.

131. On September 12, 1999 TNI soldiers shot and killed Augusto Goncalves.

### OECUSSI DISTRICT

#### Passabe - September 8 and 10, 1999

132. On September 8, 1999 TNI soldiers and *Sakunar* militia attacked the villages of Nibin, Kiobiselo and Tumin in the Passabe sub-district of Oecussi. They burned houses, killed livestock and attacked the inhabitants they believed to be independence supporters.

133. In Nibin, TNI soldiers and militia killed the village chief: Armando Sani.

134. In Kiobiselo, TNI soldiers and militia killed 8 men: Victor Punef, Yacobus Sici, Jose Noni Maknaun, Augustino Ulan, Zacharias Ena, Mikhael Sasi, Yacobus Oki and Jose Sici.

135. In Tumin, TNI soldiers and militia killed 9 men: Marcos Sufa Afoan, Filippus Tualaka, Laurentino Ulan Cono, Augustino Neno, Naub Lape, Alberto Afoan, Nenu Catu, Ciprianus Anin and Francisco Elu.

136. On September 9, 1999 TNI soldiers and militia returned to the villages. They forced villagers across the border into West Timor and ordered them to register at the sub-district office in Imbate. At this government office, the young men were separated from the rest of the villagers and were tied together in pairs. TNI soldiers and militia then marched these men across the Noel Passabe River back into East Timor to a place called Nifu Panief.

137. At Nifu Panief, TNI soldiers and militia shot, hacked or stabbed 47 of the men to death. After killing the men, TNI soldiers and militia forced the inhabitants of Passabe village to dig graves and bury the bodies of the victims.

#### Makelab - October 20, 1999

138. On October 20, 1999 TNI soldiers and *Sakunar* militia attacked and captured a large number of civilians who were hiding in the Betunes mountains. The TNI soldiers and militia forced the captured civilians to walk to the market place at Makelab. TNI soldiers and militia stood guard over the civilians as they were detained there.

139. Militia took Justiloda Costa and Paulus Kelo, both independence supporters, from the market place and shot and killed them.

140. In the market place, militia ordered Mateus Tone, Domingos Kelo, Fransisco Taek and Joao Talias, who were all independence supporters, to stand up. They were then shot and killed, one by one.

141. Later that day, militia found Domingos Fone hiding in the Betunes Mountains. The militia shot him and stabbed him to death.

142. The remaining villagers were forced by TNI soldiers and militia to go by truck to West Timor.

#### BATTALION 745

143. In 1999 TNI Battalion 745 had its headquarters at Fuiloro Village in Lautem District. In July 1999 the Commander of Battalion 745 ordered the East Timorese soldiers in the battalion to tell the civilians in their villages to support the pro-Indonesian cause and not the independence cause. He told the soldiers that TNI would never leave East Timor and stated that anyone who voted for independence would be killed.
144. A few days before the result of the popular consultation was announced, a TNI platoon commander addressed soldiers from Battalion 745 and told them that if pro-independence won, Battalion 745 would destroy livestock, houses, CNRT members and other independence supporters.
145. On September 8, 1999 Battalion 745 soldiers shot and killed Antonio da Costa. His dead body was found later in a grave close to the Battalion 745 headquarters.
146. On September 9, 1999 Battalion 745 soldiers arrested Ambrosio Bernadino Alves, an independence supporter. He was interrogated and beaten by the soldiers. His dead body was found later in a grave close to the Battalion 745 headquarters.
147. On September 9, 1999 Battalion 745 soldiers attacked Julio de Jesus at Baucau airport and took him away. His dead body was found later at the back of the Battalion 745 base in Fatumaca village, Baucau district.
148. On September 10, 1999 Battalion 745 soldiers killed Florencio Monteiro and Florentino Monteiro.
149. On September 11, 1999 *Tim Alfa* militia took Alexio Oliveira to the Battalion 745 headquarters in Fuiloro village. Later that day he was stabbed to death by a TNI soldier.
150. On September 13, 1999 Battalion 745 soldiers arrested Martinho Branco, Marcelio Branco, Juliao de Assis and Elder de Assis. They were led away by the soldiers in the direction of the sub-village of Horo. All 4 men were independence supporters. The dead bodies of the 4 men were found later in the sub-village of Horo.
151. On September 20, 1999 part of Battalion 745 began to move by road in a convoy towards Dili, on their way to West Timor. There were approximately 60 trucks and motorbikes in the convoy led by the battalion commander. Approximately 120 soldiers and their families rode in these vehicles. As Battalion 745 moved along the coast road toward Dili, soldiers from the convoy killed civilians.
152. On September 20, 1999 TNI soldiers including members of Battalion 745 beat, shot and killed Amilcar Barros, Joao Gomes and Augusto Venacio Soares in Lautem village.

153. On September 21, 1999 Battalion 745 soldiers shot and killed Abreu da Costa and Egas da Silva who were trying to run away from the convoy near the village of Buile.
154. As they approached the village of Buruma, on the outskirts of Baucau, Battalion 745 soldiers shot and killed Lucinda da Silva and Elizete da Silva who were trying to hide from the convoy.
155. In the village of Caibada, near Baucau, Battalion 745 soldiers shot and killed Carlos da Costa Reberio and Victor Belo.
156. In the village of Becora, near Dili, Battalion 745 soldiers shot and killed Manuel Andreas as he was walking alongside the road.
157. Also in Becora, Battalion 745 soldiers shot and killed Dutch journalist Sander Robert Thoenes as he was riding on a motorbike away from the convoy.
158. When the convoy arrived at the Sub-Regional Military Command 164 in Dili, **MUIS** addressed the soldiers of Battalion 745 and instructed them never to tell anyone about what they had done on their way to Dili, not even their wives.

## DEPORTATION OR FORCIBLE TRANSFER

159. Between the announcement of the result of the popular consultation on September 4, 1999 and October 25, 1999 TNI soldiers and militia forcibly transferred approximately 200,000 civilians to West Timor. The forcible transfers were part of the widespread or systematic attack directed against the civilian population of East Timor.
160. As part of the forcible transfers TNI soldiers and militia intentionally created an atmosphere of fear and oppression through threats of force, the use of force and acts of violence. Both TNI soldiers and militia told the civilian population that they would be killed if they did not leave their homes and go to West Timor. TNI soldiers and militia physically attacked civilians who expressed a reluctance to leave their homes. In many places, the threats were accompanied by a campaign to destroy property, including homes, farms, livestock, businesses, cultural monuments and religious sites. As a result of these actions, villages, towns and entire regions were made dangerous and uninhabitable.
161. As a part of the forcible transfers TNI used its facilities as collection points to gather and register civilians before transfer to West Timor. TNI used its own and civilian vehicles to transport large numbers of the population within East Timor and to West Timor. They also used Indonesian Navy ships to transfer civilians from the seaports of Com, Laga, Dili, Liquica, Beacu and Betano to West Timor and to other parts of Indonesia. TNI used military aircraft and chartered commercial aircraft to take civilians from the airports at Comoro and Baucau. In addition, many civilians were forced to cross the border to West Timor on foot or in private vehicles.
162. The means by which civilians were forcibly transferred to West Timor varied between the districts of East Timor. However in every district the forcible transfer was brought about by the cooperation of TNI and militia. The following account represents some of the events which occurred in each of the districts and throughout East Timor:

### **AILEU DISTRICT**

163. Following the announcement on September 4, 1999 TNI soldiers and members of the *Aku Hidup untuk Integrasi* militia began a campaign of violence and commenced a forced transfer of the people in the district.
164. The District Administrator started the campaign on September 4, 1999 at a meeting in front of the government building in Aileu town. He was dressed in TNI uniform and discharged his rifle as a signal for the campaign to commence.

### **AINARO DISTRICT**

165. Following the announcement on September 4, 1999 the commander of the *Mahidi* militia addressed a group of militia at the football field in the village of Cassa. He stated that he would kill anyone who ran away from the village and ordered the villagers to bring all their belongings to the roadside and prepare to go to West Timor.

166. Most of the villagers travelled by their own means, however, there were 5 trucks used by the militia for transportation. The militia commander stated that anyone who stayed in Cassa would be killed. Armed militia escorted each vehicle carrying people to West Timor. The deputy commander of the militia gave orders to burn houses and to secure the villages to prevent people running away.
167. On September 23, 1999 approximately 60 members of the militia attacked the residents of the village of Maununo. The militia were armed with rifles and dressed in TNI uniform and red and white bandanas.
168. The attack resulted in the deaths of 11 people, injury to 6 and the forcible transfer of approximately 75 people. The deputy commander of the militia led the attack during which he shouted that everyone had to report to the village office in order to be transported to West Timor. He said that those who refused would be shot.

#### **BAUCAU DISTRICT**

169. Following the announcement on September 4, 1999 the Baucau District Military Commander and the District Administrator told the people of Baucau to go to West Timor.
170. Civilians were forced to travel to the town of Laga where they waited on the beach for ships to take them to West Timor. At the port of Laga there was a permanent TNI facility which was used as a base from which to coordinate the transfer of civilians.
171. On September 8, 1999 a convoy of TNI trucks, civilian buses, cars and motorcycles arrived in Laga. The vehicles carried TNI soldiers and police officers in uniform, militia and civilians. Individuals on the convoy were firing weapons into the air. TNI soldiers and militia told civilians in Laga that they must go to West Timor.
172. On September 10, 1999 an Indonesian Navy ship arrived at the port. Civilians were threatened, beaten and forced to board the Navy ship. TNI soldiers walked through Laga checking houses for civilians who were still inside.
173. On September 10, 1999 TNI trucks arrived at Laga to take civilians to Baucau airport for flights to West Timor. Those who refused to board the trucks were beaten by TNI soldiers. The TNI used military aircraft as well as commercial aircraft chartered from the state-owned airline, *Garuda Indonesia*, to transport the people.

#### **BOBONARO DISTRICT**

174. On September 2, 1999 30 police officers went to the village of Holsa in Maliana sub-district. They told the people to move to Maliana Police Station and that no responsibility for them would be taken if they did not go. As the villagers gathered their belongings to leave, militia arrived. Some were wearing TNI uniforms and some carried machetes or rifles. The militia burnt houses in the village and forced the villagers to go to the police station, where about 1000 people had gathered.

175. Following the announcement on September 4, 1999 more civilians took refuge in the police station and District Military Command in Maliana. Civilians also took refuge in a building called BP7. The commander of *Dadurus Merah Putih* militia came to the building together with two TNI soldiers who were in civilian clothes. The militia commander shouted at the civilians saying that those who did not go to West Timor would have their houses burnt and they would be killed. As a result of the threats made by the militia, the civilians travelled by road to West Timor.
176. After the attack on the Maliana Police Station [described in paragraphs 51 to 58 of this indictment] TNI organised trucks to transport civilians to West Timor. The civilians put their names on lists compiled by TNI soldiers from which persons who were to be transferred to West Timor were identified.

#### COVA LIMA DISTRICT

177. About one month before the popular consultation members of *Laksaur* militia were describing their plan to force people to go to West Timor if autonomy lost at the ballot. Militia said that this would cast doubt over the legitimacy of the ballot.
178. Following the attack on Suai church [described in paragraph 74 to 78 of this indictment] the District Administrator instructed all women and children to go to the Suai District Military Command. They were held there for about 8 days guarded by TNI soldiers before being transferred to West Timor.
179. On both September 6 and 7, 1999 the commander of the militia drove around Suai town announcing on a loud speaker that if the villagers were still there on September 9, 1999 they would die. The villagers prepared their belongings and put them by the roadside awaiting transport. About 30 trucks were used to transport people out of Suai town.
180. On September 6, 1999 militia arrived in Kunain village in two trucks led by a uniformed TNI soldier, carrying an M-16 rifle. He ordered the villagers to pack up their belongings. Shortly after, the militia burnt down the civilian's houses.
181. Militia went to the village of Maneklik to prepare a register of people to be transferred to West Timor. Militia assaulted the villagers and instructed them to prepare to move to West Timor. As a result some villagers fled to Atambua, West Timor.
182. On September 9, 1999 TNI soldiers transported civilians to the Suai Sub-District Military Command. Once there, a TNI lieutenant gave orders for the civilians to be taken to West Timor.

#### DILI DISTRICT

183. Between September 5 and 9, 1999 thousands of civilian refugees were forcibly transferred from Dili to West Timor. TNI soldiers, police and *Aiterak* militia all actively participated in the movement of the civilian population.

184. Refugees were transferred from various locations around Dili, including the Dili Diocese, Bishop Belo's residence, the Canossian Convent and the International Committee of the Red Cross compound, to TNI, police and militia posts. At the posts they were registered and eventually transported to West Timor.
185. On September 6, 1999 Bishop Belo's residence was attacked. Following the initial attack, the civilians seeking refuge were forced into a park just outside. A few hours later TNI, BRIMOB, police and militia ordered the refugees to move from the park to the beachfront. Later that afternoon, the civilians were ordered to move towards Dili harbour and the militia issued threats of death to anyone who did not comply. Under guard, the civilians were marched towards the harbour and many were forced to register with TNI at the Dili District Military Command.
186. Many civilians were forcibly transferred directly from the East Timor Police headquarters to West Timor by military trucks and other vehicles. Others were taken to Comoro airport and were forcibly transferred to West Timor by Indonesian military planes. Others were forcibly transferred by boat from Dili harbour which was controlled by TNI.

#### LAUTEM DISTRICT

187. Following the announcement on September 4, 1999 TNI soldiers and militia forced villagers throughout Lautem District to go to the seaport of Com for transfer to West Timor. TNI supplied minibuses and trucks to transport the people.
188. Many civilian houses were burnt by TNI soldiers and militia when they went to villages to force the civilians to leave. They made threats that TNI or militia would return to the villages and kill the people if they did not comply.
189. Many civilians were taken to the KOPASSUS and Battalion 745 headquarters in Los Palos and Fuiloro. They were registered and transported to Com to await ships to West Timor.

#### LIQUICA DISTRICT

190. By August 1999 there was a plan in Liquica to forcibly transfer the population to West Timor and the District Administrator had given instructions for vehicles to be hired to transport civilians.
191. Following the announcement on September 4, 1999 civilians were threatened by militia and instructed to go by road to West Timor or to go to Liquica town from where they would be transported to West Timor.
192. On September 5, 1999 a TNI officer gave orders to militia to instruct the residents of Betagou to go to Bazartete on foot, threatening them with guns as they went.
193. In Bazartete the villagers were held at the school for 9 days. Whilst at Bazartete the villagers were threatened that if they did not leave for West Timor they would be arrested.

194. On September 13 and 14, 1999 militia took to the streets of Liquica, shouting at civilians that they must leave East Timor. Villagers gathered near to and inside the Liquica District Military Command, at the police station and at the Sub-District Military Command. TNI soldiers and militia were armed and standing around the streets where the villagers were.
195. Civilian families were required to pay 1 million rupiah for transport to Atambua, West Timor. TNI soldiers and police, including their families, did not pay for transport. TNI trucks were used to transport the people to West Timor.

#### MANATUTO DISTRICT

196. Following the announcement on September 4, 1999 the District Administrator ordered the *Mahodomi* militia to burn the houses and public buildings in Manatuto. Following these orders, the section commanders of the militia led the militia in the forcible transfer of civilians to Manatuto and then to West Timor.
197. The District Administrator arranged for trucks to transfer the civilian population to West Timor. Some of those trucks belonged to TNI. Some of the civilians were forced to pay for their transportation to West Timor.

#### MANUFAHI DISTRICT

198. On September 3, 1999 a meeting was called by a TNI lieutenant at the Sub-District Military Command. He described orders he had received from the Manufahi District Military Commander in the event that autonomy lost at the popular consultation. He said all the people were to be gathered at Betano, where ships and vehicles would take them to West Timor. The lieutenant said there would be a war between TNI and the Armed Forces for the National Liberation of East Timor [*Forças Armadas de Libertacao Nacional de Timor Leste* – FALINTIL] and that all people must be deported and those who refused must be taught a lesson.
199. Following the announcement on September 4, 1999 the commanders of *Ablai* militia commenced operations to forcibly transfer the population to West Timor. The militia burnt houses in the villages and arranged for trucks to transport the villagers. They threatened to kill villagers if they did not go.
200. Civilians went first by truck to the District Military Command, escorted by TNI soldiers who discharged their firearms into the air to scare the people. Civilians were then taken by truck to Betano, where they waited for one week before being transported to West Timor. Some villagers were transported to Atambua by road, others were transported to Kupang by Indonesian Navy ships from the port of Betano.

#### OECUSSI DISTRICT

201. Following the announcement on September 4, 1999 thousands of civilians were forcibly transferred from different parts of Oecussi district to West Timor. TNI soldiers and *Sakunar* militia cooperated in the transfer of the civilian population.

202. On September 9, 1999 TNI sergeants led soldiers and militia to the villages of Nibin, Kiobiselo and Tumin. From the villages they forced civilians to walk to West Timor.
203. On October 20, 1999 after the attack in Makelab market place by TNI soldiers and militia [described in paragraphs 138 to 142 of this indictment], trucks were used to force the civilians to go to West Timor.

#### **VIQUEQUE DISTRICT**

204. Following the announcement on September 4, 1999 TNI soldiers in Viqueque district began to register people who wished to travel to West Timor.
205. The people were required to go to the Viqueque District Military Command to register their names and the number of family members wishing to travel. If the people did not register, they were visited by TNI soldiers or militia and threatened. After registration, the civilians were informed by TNI soldiers to return to their homes, to be collected later.
206. On September 10, 1999 the forcible transfer of the population began in Viqueque district. Many travelled by civilian or military vehicles to Beacu from where they were transported to West Timor by Indonesian Navy ship.

#### **PERSECUTION**

207. During 1999 as a part of the widespread or systematic attack TNI soldiers and militia persecuted the civilian population of East Timor. The persecution violated the fundamental rights of civilians, by discriminatory acts against those who were believed to be supporters of independence. The persecution included the following acts:
  - a. Murders, as described in paragraphs 41 to 158 of this indictment;
  - b. Physical assaults and threats of physical assaults;
  - c. Unlawful detentions. These detentions often occurred at TNI and militia posts and were frequently accompanied by intimidation and beatings, and in some instances ended in the murder of the detainee;
  - d. Destruction of personal property, which resulted in the destruction of approximately 70% of the buildings in East Timor, including 40% of all dwelling houses. Most of these structures were destroyed by arson;
  - e. Destruction of government buildings and other infrastructure essential for the functioning of government and commerce; and
  - f. Destruction of religions sites and monuments.

## V. RESPONSIBILITY AND KNOWLEDGE OF THE ACCUSED

### WIRANTO

208. At all material times covered by this indictment, **WIRANTO** held the rank of General and was the Indonesian Minister of Defence and Security [*Menteri Pertahanan dan Keamanan, Menhankam*] and the Commander of the Armed Forces of Indonesia [*Panglima Angkatan Bersenjata Republik Indonesia* and, as of April 1, 1999 *Panglima Tentara Nasional Indonesia*].
209. As Indonesian Minister of Defence and Security and Commander of the Armed Forces of Indonesia, **WIRANTO** possessed command authority over all branches and personnel of the Armed Forces of Indonesia, including the accused **MAKARIM, SYAHNAKRI, DAMIRI, SURATMAN, MUIS** and **SUDRAJAT**.
210. By the nature of the relationship which existed between TNI and the militia groups operating in East Timor during 1999, whether in person or through his subordinates, **WIRANTO** had effective control over the members of the militia groups.
211. During 1998 and 1999 **WIRANTO** made frequent visits to East Timor. During those visits he met with East Timorese community leaders, members of the press and officials representing the international community, including Military Liaison Officers and other officials from the United Nations Mission in East Timor [UNAMET].
212. At these meetings he was repeatedly informed of acts of violence and other crimes being perpetrated by TNI and militia groups in East Timor. In these meetings requests were made that he control the TNI and militia groups that were committing these crimes.
213. During 1999 **WIRANTO** failed to take necessary and reasonable measures to prevent the crimes being committed by his subordinates and he failed to take necessary and reasonable measures to punish the perpetrators of those crimes.
214. By reason of the above **WIRANTO** is criminally responsible for the acts of his subordinates pursuant to section 16 UNTAET Regulation 2000/15.
215. On November 5, 1999 **WIRANTO** ceased to be Minister of Defence and Security and was appointed the Coordinating Minister for Political and Security Affairs [*Menteri Koordinasi Bidang Politik dan Keamanan, Menko Polkam*] from November 5, 1999 until May 17, 2000. He is now retired from the Armed Forces of Indonesia

**ZACKY ANWAR MAKARIM .**

216. At all material times covered by this indictment, **MAKARIM** held the rank of Major General. In 1999 he held various military positions and was a member of several special teams. In January 1999 he was a Senior Officer at the headquarters of the Armed Forces of Indonesia [*Pati Mabes ABR*]. From May 1999 until September 1999 he was a member of the Task Force to Oversee the Popular Consultation in East Timor [*Tim Pengamanan Penuksesan Penentuan Pendapat Otonomi Khusus Timor Timur - TP4 OKTT*]. As of July 1999 he was Head of the Special Team/Adjutant General's Task Force [*Ketua Tim Khusus/Satgas AJU*]. In one or more of these capacities, **MAKARIM** served as a Liaison Officer between the Armed Forces of Indonesia and UNAMET.
217. During 1999 **MAKARIM** actively participated in the establishment and formation of violent militia groups. As a result of his conduct those militia groups subsequently committed crimes throughout East Timor, including those referred to in this indictment.
218. By the nature of the relationship which existed between TNI and the militia groups operating in East Timor during 1999, whether in person or through his subordinates, **MAKARIM** had effective control over the members of the militia groups.
219. During 1999, **MAKARIM** spent considerable periods of time in East Timor. During those periods he met regularly with East Timorese community leaders, members of the press and officials representing the international community, including Military Liaison Officers and other officials from UNAMET.
220. At these meetings he was repeatedly informed of acts of violence and other crimes being perpetrated by TNI and militia groups in East Timor. In these meetings requests were made that he control the TNI and militia groups who were committing these crimes.
221. During 1999 **MAKARIM** failed to take necessary and reasonable measures to prevent the crimes being committed by his subordinates and he failed to take necessary and reasonable measures to punish the perpetrators of those crimes.
222. By reason of the above **MAKARIM** is criminally responsible for his conduct as an individual pursuant to section 14 UNTAET Regulation 2000/15 and for the acts of his subordinates pursuant to section 16 UNTAET Regulation 2000/15.
223. After the popular consultation in East Timor, **MAKARIM** served as a Senior Officer at the headquarters of the Armed Forces of Indonesia.

## KIKI SYAHNAKRI

224. At all material times covered by this indictment, SYAHNAKRI held the rank of Major General and served as Assistant for Operations to the Army Chief of Staff [*Asisten Operasi KSAD*] from May 1998 to November 1999. He also served as the Commander of the Martial Law Operations Command in East Timor [*Panglima, Komando Operasi Penguasa Darurat Militer*] in September 1999.
225. During 1999 SYAHNAKRI actively participated in the establishment and formation of violent militia groups. As a result of his conduct those militia groups subsequently committed crimes throughout East Timor, including those referred to in this indictment.
226. From the imposition of martial law in East Timor in September 1999, SYAHNAKRI had command authority over all TNI personnel in East Timor.
227. By the nature of the relationship which existed between TNI and the militia groups operating in East Timor during 1999, whether in person or through his subordinates, SYAHNAKRI had effective control over the members of the militia groups.
228. During 1999, and particularly during September, 1999, SYAHNAKRI spent considerable periods of time in East Timor. During those periods he met regularly with East Timorese community leaders, members of the press and officials representing the International community, including Military Liaison Officers and other officials from UNAMET.
229. At these meetings he was repeatedly informed of acts of violence and other crimes being perpetrated by TNI and militia groups in East Timor. In these meetings requests were made that he control the TNI and militia groups that were committing these crimes.
230. During 1999 SYAHNAKRI failed to take necessary and reasonable measures to prevent the crimes being committed by his subordinates and he failed to take necessary and reasonable measures to punish the perpetrators of those crimes.
231. By reason of the above SYAHNAKRI is criminally responsible for his conduct as an individual pursuant to section 14 UNTAET Regulation 2000/15 and for the acts of his subordinates pursuant to section 16 UNTAET Regulation 2000/15.
232. SYAHNAKRI served as the Commander of the Regional Military Command IX/Udayana [*Pangdam IX/Udayana*] from December 1999 until November 2000 and then served as the Deputy Army Chief of Staff [*Wakil KSAD*] from November 2000 to May 2002. He is now retired from the Armed Forces of Indonesia.

**ADAM RACHMAT DAMIRI**

233. At all material times covered by the indictment, DAMIRI held the rank of Major General and served as the Commander of Regional Military Command IX/Udayana [*Pangdam IX/Udayana*], covering Bali, East and West Nusa Tenggara and East Timor, from June 1998 to November 1999.
234. During 1998 and 1999 DAMIRI actively participated in the establishment and formation of violent militia groups. As a result of his conduct those militia groups subsequently committed crimes throughout East Timor, including those referred to in this indictment.
235. As Commander of Regional Military Command IX, DAMIRI possessed command authority over all TNI personnel within Regional Military Command IX, including the accused SURATMAN, MUIS and SUDRAJAT.
236. By the nature of the relationship which existed between TNI and the militia groups operating in East Timor during 1999, whether in person or through his subordinates, DAMIRI had effective control over the members of the militia groups.
237. During 1998 and 1999 DAMIRI's headquarters were located in Denpasar, Bali. He spent considerable periods of time in East Timor. During those periods he met regularly with East Timorese community leaders, members of the press and officials representing the international community, including Military Liaison Officers and other officials from UNAMET.
238. At these meetings he was repeatedly informed of acts of violence and other crimes being perpetrated by TNI and militia groups in East Timor. In these meetings requests were made that he control the TNI and militia groups that were committing these crimes.
239. During 1999 DAMIRI failed to take necessary and reasonable measures to prevent the crimes being committed by his subordinates and he failed to take necessary and reasonable measures to punish the perpetrators of those crimes.
240. By reason of the above DAMIRI is criminally responsible for his conduct as an individual pursuant to section 14 UNTAET Regulation 2000/15 and for the acts of his subordinates pursuant to section 16 UNTAET Regulation 2000/15.
241. In November 1999 DAMIRI was appointed Assistant for Operations to the Chief of the General Staff [*Asisten Operasi Kepala Staf Umum TNI*].

## SUHARTONO SURATMAN

242. At all material times covered by this indictment up until August 13, 1999, **SURATMAN** held the rank of Colonel and between June 1998 and August 13, 1999 was the Commander of the Sub-Regional Military Command 164/Wira Dharma (*Komandan Korem 164/Wira Dharma*), East Timor.
243. During 1998 and 1999 **SURATMAN** actively participated in the establishment and formation of violent militia groups. As a result of his conduct those militia groups subsequently committed crimes throughout East Timor, including those referred to in this indictment.
244. As Commander of Sub-Regional Military Command 164, **SURATMAN** possessed command authority over all TNI personnel within Sub-Regional Military Command 164, including the accused **SUDRAJAT**.
245. By the nature of the relationship which existed between TNI and the militia groups operating in East Timor during 1999, whether in person or through his subordinates, **SURATMAN** had effective control over the members of the militia groups.
246. From August 13, 1999 **SURATMAN** ceased to have command authority over TNI personnel in East Timor and the members of the militia groups.
247. During 1998 and 1999 **SURATMAN**'s headquarters were located in Dili, East Timor. During this period he met regularly with East Timorese community leaders, members of the press and officials representing the international community, including Military Liaison Officers and other officials from UNAMET.
248. At these meetings he was repeatedly informed of acts of violence and other crimes being perpetrated by TNI and militia groups in East Timor. In these meetings requests were made that he control the TNI and militia groups that were committing these crimes.
249. During 1999 **SURATMAN** failed to take necessary and reasonable measures to prevent the crimes being committed by his subordinates and he failed to take necessary and reasonable measures to punish the perpetrators of those crimes.
250. By reason of the above **SURATMAN** is criminally responsible for his conduct as an individual pursuant to section 14 UNTAET Regulation 2000/15 and for the acts of his subordinates pursuant to section 16 UNTAET Regulation 2000/15.
251. In August 1999 **SURATMAN** was posted as the Deputy Head of the Armed Forces of Indonesia Information Center (*Wakil Kepala Puspen TNI*) and was promoted to the rank of Brigadier General.

## MOHAMMAD NOER MUIS

252. At all material times covered by this indictment after August 13, 1999, MUIS held the rank of Colonel and served as the Commander of Sub-Regional Military Command 164/Wira Dharma [*Komandan Korem 164/Wira Dharma*], East Timor from August 13, 1999 until March 3, 2000
253. As Commander of Sub-Regional Military Command 164, MUIS possessed command authority over all TNI personnel within Sub-Regional Military Command 164, including the accused SUDRAJAT.
254. By the nature of the relationship which existed between TNI and the militia groups operating in East Timor during 1999, whether in person or through his subordinates, MUIS had effective control over the members of the militia groups.
255. During 1999 MUIS' headquarters were located in Dili, East Timor. During this period he met regularly with East Timorese community leaders, members of the press and officials representing the international community, including Military Liaison Officers and other officials from UNAMET.
256. At these meetings he was repeatedly informed of acts of violence and other crimes being perpetrated by TNI and militia groups in East Timor. In these meetings requests were made that he control the TNI and militia groups that were committing these crimes.
257. During 1999 MUIS failed to take necessary and reasonable measures to prevent the crimes being committed by his subordinates and he failed to take necessary and reasonable measures to punish the perpetrators of those crimes.
258. By reason of the above MUIS is criminally responsible for the acts of his subordinates pursuant to section 16 UNTAET Regulation 2000/15.
259. In June 2001 MUIS was posted as the Deputy Governor of the Military Academy [*Wakil Gubernur Akademi Militer*] and was promoted to the rank of Brigadier General.

## YAYAT SUDRAJAT

260. At all material times covered by this indictment, SUDRAJAT held the rank of Lieutenant Colonel. In 1999 he held multiple positions. He was the Commander of Tribuana VIII Task Force [*Komandan, Satuan Tugas Tribuana VIII*] and the Commander of the Intelligence Task Force, Sub-Regional Military Command 164/Wira Dharma [*Komandan Satuan Tugas Intelijen, Korem 164/Wira Dharma*], East Timor. Tribuana VIII Task Force was the operations name for a contingent of Special Forces Command [*Komando Pasukan Khusus*] personnel deployed in East Timor. Tribuana VIII personnel were assigned to the Intelligence Task Force.
261. During 1998 and 1999 SUDRAJAT actively participated in the establishment and formation of violent militia groups. As a result of his conduct those militia groups subsequently committed crimes throughout East Timor, including those referred to in this indictment.
262. As Commander of Tribuana VIII Task Force and Commander of the Intelligence Task Force, Sub-Regional Military Command 164, SUDRAJAT possessed command authority over all Tribuana VIII Task Force, Sub-Regional Military Command 164 and Intelligence Task Force personnel.
263. By the nature of the relationship which existed between TNI and the militia groups operating in East Timor during 1999, whether in person or through his subordinates, SUDRAJAT had effective control over the members of the militia groups.
264. During 1998 and 1999 SUDRAJAT's office was located in Dili, East Timor. During this period he met regularly with East Timorese community leaders, members of the press and officials representing the international community, including Military Liaison Officers and other officials from UNAMET.
265. At these meetings he was repeatedly informed of acts of violence and other crimes being perpetrated by TNI and militia groups in East Timor. In these meetings requests were made that he control the TNI and militia groups that were committing these crimes.
266. During 1999 SUDRAJAT failed to take necessary and reasonable measures to prevent the crimes being committed by his subordinates and he failed to take necessary and reasonable measures to punish the perpetrators of those crimes.
267. By reason of the above SUDRAJAT is criminally responsible for his conduct as an individual pursuant to section 14 UNTAET Regulation 2000/15 and for the acts of his subordinates pursuant to section 16 UNTAET Regulation 2000/15.

## **ABILIO JOSE OSORIO SOARES**

268. At all material times covered by this indictment, **SOARES** was the Governor of East Timor.
269. During 1998 and 1999 **SOARES** actively participated in the establishment and formation of violent militia groups. As a result of his conduct those militia groups subsequently committed crimes throughout East Timor, including those referred to in this indictment.
270. By reason of the above **SOARES** is criminally responsible for his conduct as an individual pursuant to section 14 UNTAET Regulation 2000/15.

## **VI. GENERAL ALLEGATIONS**

### **CRIMES AGAINST HUMANITY**

For each count charging Crimes Against Humanity under Section 5 UNTAET Regulation 2000/15, the acts or omissions by the accused persons described in this indictment were undertaken as part of a widespread or systematic attack directed against the civilian population, with knowledge of the attack and especially targeting those who were believed to be supporters of independence for East Timor.

### **INDIVIDUAL CRIMINAL RESPONSIBILITY**

**MAKARIM, SYAHNAKRI, DAMIRI, SURATMAN, SUDRAJAT and SOARES** are criminally responsible as individuals for the crimes alleged in this indictment pursuant to Section 14 of UNTAET Regulation 2000/15. Section 14.3 states that:

*"... a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the panels if that person:*

*(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 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..."*

## **RESPONSIBILITY OF COMMANDERS AND OTHER SUPERIORS**

**WIRANTO, MAKARIM, SYAHNAKRI, DAMIRI, SURATMAN, MUIS and SUDRAJAT** are criminally responsible for the crimes of their subordinates alleged in this indictment pursuant to Section 16 of UNTAET Regulation 2000/15. Section 16 states that, a superior is responsible for the criminal acts of his subordinates if he:

*"...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 the necessary and reasonable measures to prevent such acts or to punish the perpetrator thereof."*

## **VII. CHARGES AGAINST THE ACCUSED**

Pursuant to the above, the Deputy General Prosecutor for Serious Crimes charges:

### **COUNT 1: CRIMES AGAINST HUMANITY – MURDER**

By their acts or omissions in relation to the events described in paragraphs 41 to 158 of this indictment **WIRANTO (1)**, **Zacky Anwar MAKARIM (2)**, **Kiki SYAHNAKRI (3)**, **Adam Rachmat DAMIRI (4)**, **Suhartono SURATMAN (5)**, **Yayat SUDRAJAT (7)** and **Abilio Jose Osorio SOARES (8)** are responsible as individuals and/or as superiors for the murder of hundreds of East Timorese civilians as part of a widespread or systematic attack directed against a civilian population with knowledge of the attack, and thereby committed a **CRIME AGAINST HUMANITY – MURDER**, a crime stipulated under Section 5.1[a] UNTAET Regulation 2000/15.

### **COUNT 2: CRIMES AGAINST HUMANITY – MURDER**

By his acts or omissions in relation to the events described in paragraphs 41 to 158 of this indictment which occurred after August 13, 1999 **Mohammad Noer MUIS (6)** is responsible as a superior for the murder of hundreds of East Timorese civilians as part of a widespread or systematic attack directed against a civilian population with knowledge of the attack, and thereby committed a **CRIME AGAINST HUMANITY – MURDER**, a crime stipulated under Section 5.1[a] UNTAET Regulation 2000/15.

### **COUNT 3: CRIMES AGAINST HUMANITY – DEPORTATION OR FORCIBLE TRANSFER OF POPULATION**

By their acts or omissions in relation to the events described in paragraphs 159 to 206 of this indictment **WIRANTO (1)**, **Zacky Anwar MAKARIM (2)**, **Kiki SYAHNAKRI (3)**, **Adam Rachmat DAMIRI (4)**, **Suhartono SURATMAN (5)**, **Mohammad Noer MUIS (6)**, **Yayat SUDRAJAT (7)** and **Abilio Jose Osorio SOARES (8)** are responsible as individuals and/or as superiors for the deportation or forcible transfer of the population of East Timor as part of a widespread or systematic attack directed against a civilian population with knowledge of the attack, and thereby committed a **CRIME AGAINST HUMANITY – DEPORTATION OR FORCIBLE TRANSFER OF POPULATION**, a crime stipulated under Section 5.1[d] of UNTAET Regulation 2000/15.

#### **COUNT 4: CRIMES AGAINST HUMANITY – PERSECUTION**

By their acts or omissions in relation to the events described in paragraph 207 of this indictment WIRANTO (1), Zacky Anwar MAKARIM (2), Kiki SYAHNAKRI (3), Adam Rachmat DAMIRI (4), Suhartono SURATMAN (5), Yayat SUDRAJAT (7) and Abilio Jose Osorio SOARES (8) are responsible as individuals and/or as superiors for the persecution of an identifiable group within East Timor as part of a widespread or systematic attack directed 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.

#### **COUNT 5: CRIMES AGAINST HUMANITY - PERSECUTION**

By his acts or omissions in relation to the events described in paragraph 207 of this indictment which occurred after August 13, 1999 Mohammad Noer MUIS (6) is responsible as a superior for the persecution of an identifiable group within East Timor as part of a widespread or systematic attack directed 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.

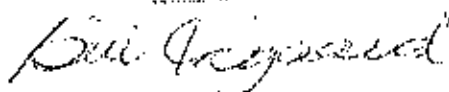
### **VIII. LIST OF VICTIMS**

The list of victims which forms a part of this indictment is attached and marked "ANNEX A".

### **IX. REQUEST FOR TRIAL**

The Deputy General Prosecutor for Serious Crimes hereby requests that the Special Panel for Serious Crimes of the District Court of Dili try this matter expeditiously.

February 22, 2003



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**SIRI FRIGAARD**  
DEPUTY GENERAL PROSECUTOR FOR SERIOUS CRIMES