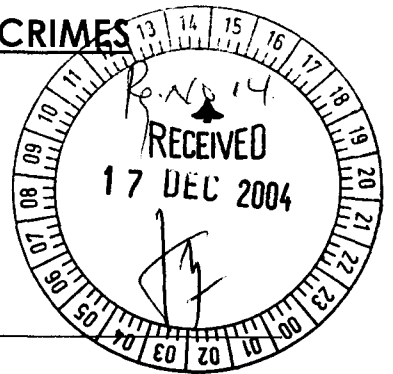


DISTRICT COURT OF DILI

BEFORE THE SPECIAL PANEL FOR SERIOUS CRIMES

CASE NO: *14/2004*



INDICTMENT

THE DEPUTY GENERAL PROSECUTOR FOR SERIOUS CRIMES

-AGAINST-

**LIEUTENANT SUMINO
GUILHERMINO MARCAL
JOSE LARENZEIRA**

I. INDICTMENT

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

**LIEUTENANT SUMINO
GUILHERMINO MARCAL
JOSE LARENZEIRA**

WITH

CRIMES AGAINST HUMANITY OF:

**MURDER, INHUMANE ACTS, FORCIBLE DEPORTATION AND
PERSECUTION**

as set forth in this indictment .

II. NAME AND PARTICULARS OF THE ACCUSED PERSONS

1. Name: **Lieutenant SUMINO**
Date of Birth: 10 October 1952
Place of Birth: Jakarta, INDONESIA
Sex: Male
Nationality: East Timorese / Indonesian
Address: Currently believed to be in INDONESIA. In 1999, lived in Babulu village, Same subdistrict, Manufahi
Occupation: In 1999, Commander ABLAI militia in Manufahi

2. Name: **Guilhermino MARCAL**
Date of Birth: 19 April 1951
Place of Birth: Hata Udo subdistrict, Ainaro District
Sex: Male
Nationality: East Timorese

- Address: Currently believed to be in West Timor, INDONESIA. In 1999, lived in Holorua village, Same subdistrict, Manufahi
- Occupation: In 1999, Commander ABLAI militia in Manufahi
3. Name: **Jose LARENZEIRA**
- Date of Birth: Approximately 1950
- Place of Birth: Daisua village, Same subdistrict, Manufahi District
- Sex: Male
- Nationality: East Timorese
- Address: Currently believed to be in West Timor, INDONESIA. In 1999, lived in Betano village, Same subdistrict, Manufahi
- Occupation: In 1999, Commander ABLAI militia in Manufahi

III. INTRODUCTORY STATEMENT OF FACTS

1. Military, police and militia forces carried out a widespread and systematic attack on the civilian population of East Timor in 1999. The attack began following the announcement on 27 January 1999 by the Government of Indonesia that the people of East Timor would be allowed to choose between autonomy with the Republic of Indonesia or independence. It intensified after the announcement on 4 September 1999 of the result of the popular consultation in which 78.5 per cent voted against the autonomy proposal.
2. The widespread and systematic attack was part of an orchestrated campaign of violence, carried out by members of the pro-autonomy militia, members of the Indonesian Armed Forces, ABRI (*Angkatan Bersenjata Republik Indonesia*) renamed TNI (*Tentara Nasional Indonesia*) in 1999, and members of the Indonesian Police Forces (*POLRI*) with the acquiescence and active participation of civilian and military authorities. The attack was directed against civilians of all ages, but predominantly against individuals who were believed to be independence supporters. The attack resulted in massive and widespread destruction of property, the internal displacement or forcible transfer outside of East Timor of thousands of persons and the infliction of serious injury or death on thousands of victims.

IV. BACKGROUND FACTS: MANUFAHI DISTRICT

3. Manufahi is one of the thirteen districts of East Timor and in 1999 was comprised of four subdistricts namely, Same Subdistrict, Fatuberliu Subdistrict, Turisca Subdistrict and Alas Subdistrict.
4. **Lieutenant SUMINO** was the TNI Danramil (Subdistrict Military Commander) based in Same. **Lieutenant SUMINO** worked under the TNI Dandim (District Military Commander) of Manufahi, Lieutenant Colonel Suwondo.
5. In 1999, the ABLAI militia (*Aku Berjuang Lestarikan Amanat Integrasi (I struggle for a perpetual integration mandate)*) operated in Manufahi District.
6. **Guilhermino MARCAL** was the top ABLAI militia Coordinator for Same subdistrict and the Danki (militia company commander) for Holarua Village, Same Subdistrict.
7. **Jose LARENZEIRA** was the Danki (militia company commander) for Daisua Village, Same Subdistrict

V. STATEMENT OF FACTS

MURDER

MURDER OF AGAPITO DE ARAUJO AND MURDER OF LUIS BOCO-SIRI (17 April 1999)

8. On or about 17 April 1999, about 200 members of the ABLAI militia in Same subdistrict under the command and control of **Guilhermino MARCAL**, gathered at the house of **Guilhermino MARCAL**, which was the Same subdistrict militia headquarters. At the meeting **Guilhermino MARCAL** ordered his militia to go to Orluli Village on a pro-autonomy campaign.
9. Pursuant to the orders of **Guilhermino MARCAL**, on or about 17 April 1999 members of ABLAI militia led by Bernardino Da Costa and two other militia groups, attacked the village of Orluli. About 78 militia members took part in the attack. When the members of the ABLAI militia arrived in Orluli, they divided into three groups.
10. Luis Boco-Siri was standing near his house when members of ABLAI militia attacked the village. Members of the ABLAI militia including Joao Sarmiento and Francisco Mendonca aka "Resimau" stabbed and killed Boco-Siri.

11. Agapito De Araujo was in his house when members of the militia attacked the village. Agapito de Araujo came out of his house with his family and the militia attacked him, beat him severely, and stabbed him to death with spears.
12. After the attack, the militia returned to the house of **Guilhermino MARCAL**.

MURDER OF MOISES SOARES (28 April 1999)

13. On or about 24 April 1999, members of the Mahidi militia in Beikala village, Hataudo subdistrict, Ainaro arrested Moises Soares, suspecting him of being an independence supporter.
14. On 28 April 1999, a group of ABLAI militia members, including **Jose LARANZEIRA**, Alexandre (LNU) and Leonito (LNU) and KOPASSUS members traveled to Beikala and met with Jesito Da Neves, who was the village chief of Beikala and Company "B" Commander of Mahidi militia based in Hataudo subdistrict.
15. At the meeting, the ABLAI and KOPASSUS members asked Jesito Das Neves if they could take Moises Soares to Same. The KOPASSUS said they suspected Moises Soares of killing a fellow KOPASSUS in Alas subdistrict, Manufahi.
16. After meeting with Jesito Das Neves, the ABLAI and KOPASSUS traveled to the Mahidi post in Beikala and took control of Moises Soares, who was still detained in that post. They put a cloth over Moises Soares' head and tied his hands to his bent knees.
17. The ABLAI and KOPASSUS put Moises Soares into a vehicle, owned by Nazario Vital dos Santos Corte Real.
18. **Jose LARANZEIRA** and Alexandre (LNU) were in the back of the vehicle guarding Moises Sores and the TNI were in the front of the vehicle. The vehicle drove towards Same subdistrict in Manufahi.
19. The following day, on 29 April 1999, Moises Soares was found dead in Betano village. Moises Soares was naked, his hand and feet were tied, and he had been hacked on the back of his head.
20. On 29 April 1999, Alexandre (LNU) confessed to a witness that he and others had "picked up a man in the eastern part and killed him in Betano." ABLAI militia member Domingos Sousa Marques, confirmed to same witness that it was Moises Soares who Alexandre spoke about.

MURDER OF BENDITO MONIZ (3 September 1999)

21. During the period prior to the consultation **Guilhermino MARCAL** threatened the villagers that all those who did not vote pro-autonomy would be killed.
22. Bendito Moniz was a known pro-independence supporter.
23. On or about 3 September 1999, Bendito Moniz went to his house in Letefoho subvillage, Holarua village to take his personal belongings. Sancho Marcal, a militia member, reported to **Guilhermino MARCAL** that Bendito Moniz was at his house.
24. **Guilhermino MARCAL** ordered members of the ABLAI militia to arrest Bendito Moniz and to bring him to **Guilhermino MARCAL**'s house, which was the ABLAI militia headquarters in Same. **Guilhermino MARCAL** said that they (the militia) would "make a meal out of him". Pursuant to these orders Bendito Moniz was arrested and brought to the ABLAI Headquarters.
25. At the ABLAI headquarters in Same, **Guilhermino MARCAL** ordered militia members to tie Bendito Moniz' hands and feet. The militia then beat and killed Bendito Moniz.
26. **Guilhermino MARCAL** ordered members of militia to bring the yellow truck parked outside the POLRI compound to his house. The next day, members of the ABLAI militia including Domingos da Costa and Antonio Lopes took the dead body of Bendito Moniz and disposed of it by throwing the body over the cliff.

MURDER OF FLORINDO PEREIRA SOARES, MARTEN GASPER SOARES AND REMEZIO DA COSTA FERNANDO CURADO(24 September 1999)

27. On 23 September 1999, ABLAI commander Nazario Vital Corte Real called for a meeting in Atambua ordering all available drivers and vehicles to return to Manufahi and pick up remaining refugees.
28. At 8:00 pm on 23 September, TNI **Lieutenant SUMINO** led the convoy of TNI and ABLAI militia from Atambua. **Lieutenant SUMINO** was driving the lead vehicle.
29. On the morning of 24 September, the convoy was forced to stop at Bematan sub village, Betano village, due to fallen trees in the road.
30. While the convoy was clearing the road, the TNI and ABLAI militia spotted Florindo Pereira Soares, a mentally ill man. The group arrested Florindo Pereira Soares and **Jose LARANZEIRA** placed him on one of the trucks.
31. The convoy continued on to Betano village. Along the way, **Lieutenant SUMINO** spotted Marten Gasper Soares. **Lieutenant SUMINO** shouted

- orders to shoot Marten Gasper Soares. Marten Gasper Soares ran into his house.
32. The TNI and ABLAI surrounded Marten Gasper Soares' house. **Lieutenant SUMINO** entered the house, brought Marten Gasper Soares outside, and shot him once in the chest with an M16 rifle.
 33. After the shooting, **Lieutenant SUMINO** ordered the convoy to continue.
 34. The convoy then stopped again when it spotted Remezio da Costa. ABLAI Danton Raimero Ferrao from Alas began questioning Remezio da Costa Fernando Curado. During questioning, ABLAI militia member Jose Lobato shot Remezio da Costa Fernando Curado from behind. ABLAI militia Alexander (LNU), seeing that he was not dead, hacked Remezio twice on the head with a machete.
 35. The convoy continued from Betano village to Daisua village, picking up refugees along the way. Florindo Pereira Soares was still on board the truck driven by ABLAI member Cipriano Gusmao.
 36. Upon reaching the Karau-Ulun Bridge, **Lieutenant SUMINO** ordered the convoy to stop for the purposes of killing Florindo Perieria Soares. **Lieutenant SUMINO** and **Jose LARANZEIRA** took Florindo Pereira Soares off the truck. **Lieutenant SUMINO** ordered all of those driving the trucks to lie on the ground so that they could not see. **Jose LARANZEIRA** killed Florindo Pereira Soares with a spear in the presence of **Lieutenant SUMINO**. **Jose LARANZEIRA** then pushed the dead body of Florindo Pereira Soares off the side of the bridge into the riverbed.
 37. As the convoy reached Betano, the ABLAI militia confronted Egas Monis Tilman and began chasing him. Many militias began beating and stabbing Egas Monis Tilman. Reimero Ferrao then shot Tilman in the chest at close range, killing him.
 38. The convoy then returned to Atambua carrying many refugees.

INHUMANE ACTS

INHUMANE ACTS AGAINST ARTWER LARANZEIRA, TERESINA CARVALHO, ORLANDA CARVALHO AND JULIANA CORTEREAL (2 September 1999)

39. Artwer Laranzeira was a known pro-independence supporter. On or about 2 September 1999, Artwer Laranzeira was in his house in Holorua Village with his family, including his wife, Teresina Carvalho, his eight year-

old son Orlando Carvalho and his four year-old daughter Juliana Corte Real.

40. On or about 2 September 1999, **Guilhermino MARCAL** led members of the ABLAI militia including Mateus Tilman and Joao to Holarua village to the house of Artwer Laranzeira. Guilhermino Marcal stood outside the houses and shouted insults at Artwer Laranzeira accusing him of being a pro-independence supporter and that he would kill all those who did not vote for pro-autonomy.
41. **Guilhermino MARCAL** and his son Jaimeto set fire to the house of Artwer Laranzeira. At all material times, Guilhermino Marcal knew that Artwer Laranzeira was inside the house with his family.
42. When Artwer Laranzeira ran out of the house Mateus Tilman and Joao attacked him with a machete with successive blows to his face, head, neck and leg. Artwer Laranzeira sustained severe injuries as a result of the attack.
43. When Orlando Corte Real ran out of the house an arrow hit him on his lower left cheek coming out the other side through his neck and the militia struck him with a machete on his right ankle. Orlando Corte Real sustained severe injuries as a result of the attack.
44. Teresina Carvalho and her daughter Juliana Corte Real were trapped inside the burning house. To escape they had to run through the fire. Teresina Carvalho suffered severe burns to her feet, legs and arms. Juliana Corte Real suffered burns to her arms.
45. Outside the house Teresina Carvalho was confronted by militia Joao who struck her across her head with his machete causing a cut to her forehead.

DEPORTATION OR FORCIBLE TRANSFER OF POPULATIONS AND DESTRUCTION OF PROPERTY

46. On 2 September 1999, members of the ABLAI militia under the orders of **Guilhermino MARCAL** attacked the village of Holarua in Same subdistrict, destroyed property and terrorized the civilian population.
47. On 5 September 1999, militias under the command of **Guilhermino MARCAL** attacked the house of the Bupati Nazario de Andrade. The militia broke in, ransacked the house and damaged it with gunfire.

48. Sometime in September 1999, members of the ABLAI militia under the orders of **Jose LARENZEIRA** attacked the village of Betano in Same subdistrict, destroying property and terrorizing the civilian population.
49. On 4 September 1999, **Guilhermino MARCAL** directed the militia under his command to go to Grotu Lau village in Same subdistrict and order the villagers to go to West Timor.
50. Sometime after the popular consultation, **Guilhermino MARCAL** forced villager Mateus Lopes to go to West Timor. **Guilhermino MARCAL** told Mateus Lopes that if he did not go to West Timor, he would be killed.
51. On 23 September 1999, ABLAI commander Nazario Vital Dos Santos Corte Real called for a meeting in Atambua ordering all available drivers and vehicles to return to Manufahi and pick up remaining villagers and bring them to West Timor.
52. That evening, TNI **Lieutenant SUMINO** and **Jose LARANZEIRA** led a convoy of TNI and ABLAI militia from Atambua. **Lieutenant SUMINO** was driving the lead vehicle. There were approximately ten vehicles in the convoy.
53. **Lieutenant SUMINO** and **Jose LARANZEIRA** led the convoy to Betano village, where it loaded villagers onto the trucks.
54. **Lieutenant SUMINO** and **Jose LARANZEIRA** then led the convoy, with the villagers on board, back to Atambua, West Timor.
55. Sometime after the popular consultation, **Jose LARANZEIRA** threatened villager Silverio Pereira to "go back to the mountain and tell all the people to come back to go to with the militia to Atambua. If they do not comply, the militia will go to the mountain and kill all the villagers as they have done to Florindo." **Jose LARANZEIRA** then said, "go and see the body of Florindo at the bridge." Silverio Pereira went back to the Kalau Ulan Bridge and saw the dead body of Florindo Pereira.

VI. GENERAL ALLEGATIONS

56. For each count charging crimes against humanity, the acts or omissions of the accused were undertaken as part of a widespread and systematic attack directed against the civilian population of East Timor, with knowledge of the attack.

VII. CRIMINAL RESPONSIBILITY

INDIVIDUAL CRIMINAL RESPONSIBILITY

57. For each accused charged with individual responsibility under this indictment, the accused is responsible under Section 14.3 of UNTAET Regulation 2000/15, if he:

"(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:

- a. 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*
- b. be made in the knowledge of the intention of the group to commit the crime;"*

<h3>SUPERIOR CRIMINAL RESPONSIBILITY</h3>

58. **Lieutenant SUMINO, Guilhermino MARCAL, and Jose LARANZEIRA** are criminally responsible as superiors for the acts of their subordinates pursuant to Section 16 of UNTAET Regulation 2000/15.

59. A superior is responsible for crimes against humanity committed by subordinates under international law and Regulation 2000/16 if the superior *"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 perpetrators thereof".

VIII. CHARGES

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

Count 1. Crime Against Humanity: Murder [of Agapito De Araujo and Luis Boco-Siri]

By his acts or omissions in relation to the events described in paragraphs 8 to 12 (inclusive), **Guilhermino MARCAL** is responsible as an individual under Section 14.3 (a), (b) and (d) of Regulation 2000/15 and as a superior under Section 16 of regulation 2000/15 for the murders of Luis Boco Siri and Agapito De Araujo, in Same Subdistrict, Manufahi District, as part of a widespread or systematic attack 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) of UNTAET Regulation 2000/15.

Count 2. Crime Against Humanity: Murder [of Moises Soares]

By his acts or omissions in relation to the events described in paragraphs 13 to 20 (inclusive), **Jose Laranzeira** is responsible as an individual under Section 14.3 (a), (b) and (d) of Regulation 2000/15 for the murder of Bendito Moniz, in Manufahi District, as part of a widespread or systematic attack 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) of UNTAET Regulation 2000/15.

Count 3. Crime Against Humanity: Murder [of Bendito Moniz]

By his acts or omissions in relation to the events described in paragraphs 21 to 26 (inclusive), **Guilhermino MARCAL** is responsible as an individual under Section 14.3 (a), (b) and (d) of Regulation 2000/15 and as a superior under Section 16 of regulation 2000/15 for the murder of Bendito Moniz, in Manufahi District, as part of a widespread or systematic attack 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) of UNTAET Regulation 2000/15.

Count 4. Crime Against Humanity: Murder [of Florindo Pereira Soares]

By their acts or omissions in relation to the events described in paragraphs 27 to 38 (inclusive), **Jose LARANZEIRA** is responsible as an individual under Section 14.3 (a) and (d) of Regulation 2000/15 and **Lieutenant SUMINO** is responsible as an individual under Section 14.3 (a), (b) and (d) of Regulation 2000/15 and as a superior under Section 16 of regulation 2000/15 for the murder of Florindo Pereira Soares, in Manufahi District, as part of a widespread or systematic attack 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) of UNTAET Regulation 2000/15.

Count 5. Crime Against Humanity: Murder [Marten Gaspar Soares, Remezio da Costa Fernando Curado]

By their acts or omissions in relation to the events described in paragraphs 27 to 38 (inclusive), **Lieutenant SUMINO** is responsible as an individual under Section 14.3 (a), (b), (c) and (d) of Regulation 2000/15 and as a superior under Section 16 of regulation 2000/15 for the murders of Marten Gaspar Soares and Remezio da Costa Fernando Curado in Manufahi District, as part of a widespread or systematic attack 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) of UNTAET Regulation 2000/15.

Count 6. Crime Against Humanity: Other Inhumane Acts [against Artwer Laranzeira, Teresina Carvalho, Orlando Carvalho and Juliana Corte Real]

By his acts or omissions in relation to the events described in paragraphs 39 to 45 (inclusive), **Guilhermino MARCAL** is responsible as an individual under Section 14.3 (a), (b) and (d) of Regulation 2000/15 and as a superior under Section 16 of regulation 2000/15 for the inhumane acts committed against Artwer Larenzeira, Teresina Carvalho, Orlando Carvalho and Juliana Corte Real in Manufahi District, as part of a widespread or systematic attack against a civilian population with knowledge of the attack and thereby committed a CRIME AGAINST HUMANITY, OTHER INHUMANE ACTS a crime stipulated under Section 5.1(k) of UNTAET Regulation 2000/15.

Count 7. Crime Against Humanity: Forcible Deportation

By their acts or omissions in relation to the events described in paragraphs 49-55 (inclusive), **Guilhermino MARCAL**, **Jose LARENZEIRA** and **Lieutenant SUMINO** are responsible as individuals under Section 14.3 (a) -(d) of Regulation 2000/15 and as superiors under Section 16 of regulation 2000/15 for the deportation of civilians from Manufahi District between 5 September 1999 and 30 October 1999 to West Timor, Republic of Indonesia as part of a widespread or systematic attack against a civilian population with knowledge of the attack and thereby committed a CRIME AGAINST HUMANITY, DEPORTATION a crime stipulated under Section 5.1(d) of UNTAET Regulation 2000/15.

Count 8. Crime Against Humanity: Persecution

By their acts or omissions in relation to the events described in paragraphs 8 to 54, **Lieutenant SUMINO**, **Guilhermino MARCAL** and **Jose LARENZEIRA** are responsible as individuals under Section 14.3 (a)-(d) of Regulation 2000/15 and as superiors under Section 16 of regulation 2000/15 for the persecution of civilians in

Manufahi District between January 1999 and 30 October 1999 as part of a widespread or systematic attack 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. These persecutions of the civilian population of Manufahi District included:

- a) Murders as described in Paragraphs 8 to 38;
- b) Inhumane Acts, as described in paragraphs 39 to 45;
- c) Destruction of Property, as described in Paragraphs 46 to 48
- d) Forcible Deportation, as described in Paragraphs 49-55.

IX. LIST OF VICTIMS

The list of victims, which forms part of this indictment, is attached as Annex "A".

X. REQUEST FOR TRIAL

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

Dated 16 DECEMBER 2004


.....
Nicholas Koumjian
Deputy General Prosecutor For Serious Crimes