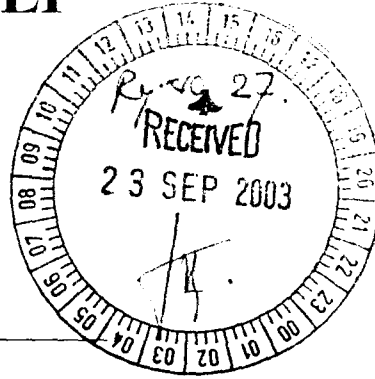


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DISTRICT COURT OF DILI

BEFORE THE SPECIAL PANEL FOR SERIOUS CRIMES

Case No: 23/2003
SCU Case No: LI-109-99-SC



INDICTMENT

THE DEPUTY GENERAL PROSECUTOR FOR SERIOUS CRIMES

Against

RUSDIN MAUBERE

1. INDICTMENT

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

RUSDIN MAUBERE

WITH

**CRIMES AGAINST HUMANITY: ENFORCED DISAPPEARANCE
AND TORTURE**

as set forth in this indictment.

II. NAME AND PARTICULARS OF THE ACCUSED

Name: **RUSDIN MAUBERE**
Sex: Male
Age: 45 years
Place of birth: Metagua village, Bizartete, Liquica District, East Timor
Present location: Becora Prison
Function at the time of the events: BMP Militia Advisor, District of Liquica .

III. INTRODUCTORY STATEMENT OF FACTS

1. In 1999 a widespread or systematic attack directed against the civilian population was committed in East Timor. This attack occurred during two interconnected periods of intensified violence. The first period followed the announcement on 27 January 1999 by the Government of the Republic Indonesia, that the people of East Timor would be allowed to choose between autonomy with the Republic of Indonesia or Independence until 4 September 1999, the date of the announcement of the result of the popular consultation in which 78.5 per cent voted against the proposed special autonomy within the Republic of Indonesia. The second period followed the announcement of the result of the popular consultation on 4 September through 25 October 1999.
2. The attack against the civilian population of East Timor was part of an orchestrated campaign of violence, that included, among other things, incitement, intimidation,

threats to life, murders, assaults, rapes, kidnappings and other forms of violence, carried out by pro-autonomy militia, members of the Indonesian Armed Forces, ABRI (*Angkatan Bersenjata Republik Indonesia*), renamed TNI (*Tentara Nasional Indonesia* in 1999), and of the Indonesian Police Force POLRI (*Polisi Republik Indonesia*) with the acquiescence and active participation of civilian and military authorities.

3. With the backing of the TNI and the civil administration, more than twenty-five militia groups existed and operated in East Timor. Their goal was to terrorise the population of East Timor to support autonomy within Indonesia. These militia groups were organized under the pro-integration forces (*Pasukan Pejuang Integrasi or PPI*) and were allowed to act with impunity.
4. The large-scale attack was directed against civilians of all age groups, predominantly against individuals who supported or who were perceived to support independence and resulted in lethal injury including death by sharp force injury, gun shot injury, blunt force trauma or a combination of the three.
5. As part of the widespread or systematic attack against the civilian population, attacks were also carried out against property and livestock, including mass destruction of houses by fire, stealing of property and the killing and stealing of livestock.
6. The widespread or systematic attack resulted in the internal displacement of thousands of persons (IDPs). Additionally, the forcible transfer and deportation of the civilian population within East Timor and to West Timor, Indonesia was an essential feature of the orchestrated campaign of violence.
7. The Indonesian military in East Timor consisted of both regular territorial forces and special combat forces i.e. the Strategic Reserve Command (KOSTRAD), (*Komando Strategis Angkatan Darat*) and Special Force Command (KOPASSUS)(*Komando Pasukan Khusus*) all of which had units, staff officers and soldiers stationed in East Timor.
8. From February 1999 to October 1999, POLRI, the state agency for upholding law and public order, was also present in East Timor. It included a Mobile Police Brigade (Brigade Mobil also known as BRIMOB) whose units and members were stationed in East Timor.
9. Under the terms of the 5 May 1999 Agreement, between Indonesia, Portugal and the United Nations on the Popular Consultation, the Indonesian security authorities had the responsibility to ensure peace and security and to create a safe environment devoid of violence or other forms of intimidation as well as to ensure general maintenance of law and order before, during and immediately after the popular consultation in East Timor.
10. The Indonesian security authorities failed to take the necessary measures to meet their obligations and made no attempt to disarm or neutralize the militia groups.

11. For each count charging a Crime against Humanity, the acts or omissions by the accused person were undertaken as part of a widespread or systematic attack directed against the civilian population, with knowledge of the attack.

IV. SPECIFIC STATEMENT OF FACTS

12. The District of Liquica is divided into three sub districts – Liquica, Maubara and Bizartete.
13. The BMP militia (*Besi Merah Putih*) was created in 1998 in Liquica District. During the events of 1999, the overall Commander of the BMP militia in the Liquica District was Manuel Sousa. His deputy commanders were Felipe Graciano and Joao Sera aka Joao Loumeza. They were also acting as sub-district Commander and Deputy commanders respectively in the sub-district of Maubara. Each sub-district had a Commander and a Deputy commander. This structure was the same in the villages and sub-villages where BMP militia was organized. The BMP militia was under the command and control of civil administration and military.
14. The members of the BMP militia carried out a widespread and systematic attack in Liquica district from January to September 1999 and acted with impunity. The TNI soldiers worked in close collaboration with the BMP militia. This collaboration included joint operations and attacks against civilians where the militia unlawfully arrested and abducted civilians who were subsequently taken to and interrogated at TNI barracks or militia Posts. It also included acts of intimidation, torture, murders and burning of homes of pro-independence supporters or perceived supporters of independence. Due to the violence in the district, hundreds of civilian, in particular, the male population, fled their houses to seek refuge in other villages, districts or in the mountains.
15. The attack on the Liquica Church, where hundreds of people were taking shelter due to the continued violence by BMP militia in the district, was the worst example of the attack carried out by BMP militia members jointly with the TNI and POLRIs in Liquica district. As a consequence of this attack more than a hundred people were killed or injured.
16. **Rusdin Maubere** was a TNI soldier who served at Liquica District Military Command Office (Kodim) in 1999. He held the rank of Pratu with two red stripes. **Rusdin Maubere** was among those TNI soldiers who used to intimidate and threaten the people in Liquica district.

Torture and Forced Disappearance of Andre De Olivera

17. Andre De Olivera a resident of Caimeo Villa, Liquica, was a member of 'Juventude' organization, which was a part of the pro-independence clandestine movement for the youth.

18. After the attack on the Liquica Church on 6 April 1999, Andre De Olivera ran to the forest in hiding. Andre de Olivera returned on 26 April 1999 and went along with an Indonesian friend to live with his mother in sub village Greda, Village Dato, Liquica.
19. Fearing his safety at his mother's house Andre de Olivera and Gab LNU moved into the nearby house of Manual Dos Santos around 10 pm on 26 April 1999.
20. The same evening Tome Diego, a TNI Sergeant working at Kodim in Liquica, called Armando Dos Santos, BMP Militia Commander at militia post in Lauhata, in Lauhata on radio from Maumeta instructing him to assemble the BMP militia members.
21. Armando Dos Santos then ordered the BMP militia members guarding the militia post in Lauhata to go to the militia post in Maumeta for a line up. There were about 30 militia members at that time.
22. Later that evening, **Rusdin Maubere** together with Tome Diego and other militia members came to the militia post in Lauhata in two vehicles. As soon as they arrived at the post, they ordered the BMP militia members gathered there to join them on patrol.
23. **Rusdin Maubere** together with Tome Diego and the other militia members entered the two vehicles in Lauhata and drove to Maumeta militia post.
24. They picked up other BMP militia members at the militia post in Maumeta.
25. From Maumeta militia post **Rusdin Maubere** together with other BMP militia members drove to sub village Greda, Village Dato, to the house of Andre De Olivera's mother in two pick ups. On the way they picked up Tome Diego at the Kodim at Liquica Town where he was waiting at the gate.
26. Tome Diogo ordered BMP militia members to surround the house of Andre's mother. Andre was not found at his mother's house.
27. **Rusdin Maubere** together with Tome Diogo and other militia members then walked to the nearby house of Manuel Dos Santos. Tome Diogo again ordered the militia members to surround the house of Manuel.
28. Tome Diogo then knocked the door and shouted at Manual Dos Santos asking him to open the door.
29. Manuel opened the door. Gab LNU and Andre De Olivera were sleeping in one room. **Rusdin Maubere** together with Tome Diogo and Izak Riyokele entered the house of Manual Dos Santos. Tome Diogo was armed with a Pistol and stayed by the door. **Rusdin Maubere** was armed with a G3 rifle and Izak Riyokele was also armed with an automatic weapon. There were many other militia members outside Manuel's house. Some of them had covered their faces with black cloth.
30. **Rusdin Maubere** and Tome Diogo dragged Andre de Olivera out from the house of Manual Dos Santos.

31. The militia members removed Andre De Olivera's t-shirt and Luis Cerilo Sausa De Jesus tied his hands behind his back. TNI soldier named Sipriano LNU blindfolded Andre De Olivera. Andre De Olivera was kicked and slapped before being loaded into the pick up, which was parked outside.
32. **Rusdin Maubere** together with Tome Diogo and other militia members drove to Maumeta militia post. At the post, Andre De Olivera was dragged out of the Kijang (pick up). He was still blindfolded and his hands tied behind his back.
33. **Rusdin Maubere** indicating towards Andre De Olivera said to other militia members *Pukul* (beat him)! Tome Diogo, Paulo Dos Santos, Afonso Barreto, Thomas LNU, Armando Dos Santos, and Zakerias LNU also joined shouting 'beat him'!!
34. **Rusdin Maubere** together with Tome Diogo, Paulo Dos Santos, Afonso Barreto, Thomas LNU, Armando Dos Santos, Zacharias LNU, Nelson LNU and others militia members started beating Andre De Olivera. He was punched and kicked until he fell on the ground. When on the ground some of the militia members jumped on his body.
35. The beating continued for a long time Tome Diogo shouted 'take and throw him inside the house'. Then Andre De Olivera was dragged inside a house in the militia post. He was unconscious by that time. Militia members continued beating Andre De Olivera until Tome Diogo ordered the militia members to stop beating Andre.
36. At around midnight, **Rusdin Maubere** together with Tome Diogo, Paulo Dos Santos, Afonso Barreto, Thomas LNU, Armando Dos Santos and Zacharias LNU passed by the militia post, in Aipelu sub viillage, Lauhata village, Liquica, in a pick up.
37. They drove to a big tree near the post on the opposite side of the road. A while later they came to the post and Tome pointed his rifle towards the militia members at the post and threatened to kill if they disclose that there was a dead body buried there. He also told the militia members not to go beyond the big tree.
38. Once **Rusdin Maubere** and others left Aipelu, some of the militia members including Isak Fatima Da Silva Martins went to the place around 50 meters beyond the big tree. They found a newly dug grave there. They dug the grave and uncovered the body of a person they believe to be that of Andre De Olivera. The dead body was covered again with the soil.
39. However the dead body was found missing from the site when exhumation was carried out in May 2003.
40. Andre De Olivera has never been seen alive again since Rusdin Maubere, Tome Diogo and other members of BMP militia took him to the militia post in Maumeta.

V. CRIMINAL RESPONSIBILITY

INDIVIDUAL CRIMINAL RESPONSIBILITY

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The accused **Rusdin Maubere** is individually responsible for the crimes charged against him in this indictment pursuant to Section 14 of UNTAET Regulation 2000/15. Under the Section 14 individual responsibility results if an individual:

- "(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 and..."*

Pursuant to the above the Deputy General Prosecutor for Serious Crimes

VI. CHARGES:

Rusdin Maubere with

COUNT 1. CRIMES AGAINST HUMANITY: ENFORCED DISAPPEARANCE

By his act or omission in relation to event described in paragraphs 17 to 40, **Rusdin Maubere** is responsible, for the enforced disappearance of Andre De Olivera from sub-village Greda, Village Dato, Liquica, committed on 26 of April 1999, as part of a widespread or systematic attack against a civilian population, with knowledge of this attack and thereby committed a CRIME AGAINST HUMANITY, enforced disappearance, a crime stipulated in Section 5.1 (i) of UNTAET Regulation 2000/15 and for which he is individually responsible pursuant to Section 14 and which is punishable under Section 10.1 of UNTAET Regulation 2000/15.

COUNT 2. CRIMES AGAINST HUMANITY: TORTURE

By his act or omission in relation to event described in paragraphs 30 to 35, **Rusdin Maubere** is responsible, for the torture of Andre de Olivera at militia post in Maumeta village, sub-district of Bizartete, district of Liquica, committed on 26 of April 1999, as part of a widespread or systematic attack against a civilian population, with knowledge of this attack and thereby committed a CRIME AGAINST HUMANITY, torture, a crime stipulated in Section 5.1 (f) of UNTAET Regulation 2000/15 and for which he is individually responsible pursuant to Section 14 and which is punishable under Section 10.1 of UNTAET Regulation 2000/15.

VII. WITNESS AND EVIDENCE

Pursuant to UNTAET Regulation 2000/30 Section 24.2 (as amended by UNTAET Regulation 2001/25), the list of witness and evidence that support this indictment is contained in Annex A, which forms an integral part of this indictment.

VIII. REQUEST FOR TRIAL

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



Essa Faal
Acting Deputy General Prosecutor for Serious Crimes

Date: 11 September 2003