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DISTRICT COURT OF DILI

BEFORE THE SPECIAL PANEL FOR SERIOUS CRIMES

CASE NO: 01 /2004

INDICTMENT

THE DEPUTY GENERAL PROSECUTOR FOR SERIOUS CRIMES

-AGAINST-

SISTO BARROS aka XISTO BARROS

CESAR MENDONCA &

JOSEP NAHAK

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:

SISTO BARROS AKA XISTO BARROS

CESAR MENDONCA &

JOSEP NAHAK AKA NAHAK KEHI

WITH

CRIMES AGAINST HUMANITY OF:

**MURDER, ATTEMPTED MURDER, FORCIBLE DEPORTATION
AND PERSECUTION**

as set forth in this indictment .

II. NAME AND PARTICULARS OF THE ACCUSED PERSONS

1. Name: **SISTO BARROS AKA XISTO BARROS**
Place of birth: Lookeu Village, Suai, Covalima District
Age/Date of birth: 6 October 1973
Sex: Male
Nationality: East Timorese
Address: Lookeu Village Suai, Covalima District
Occupation: In 1999, member of Laksaur Militia Group
2. Name: **CESAR MENDONCA**
Place of birth: Debos, Suai Covalima District
Age/Date of birth: 19 April 1971
Sex: Male
Nationality: East Timorese
Address: Lookeu Village, Suai, Covalima District
Occupation: In 1999, member of Laksaur Militia Group
3. Name: **JOSEP NAHAK AKA NAHAK KEHI**
Place of birth: Buburfehan, West Timor
Age/Date of birth: 1964
Sex: Male
Nationality: East Timorese
Address: Dacolo Sub-Village, Nanu Village, Fatumean Sub-District, Covalima District
Occupation: In 1999, member of Laksaur Militia Group

III. INTRODUCTORY STATEMENT OF FACTS

1. A Widespread or systematic attack was directed against the civilian population in East Timor in 1999. The attack occurred during two interconnected periods of intensified violence. The first period followed the announcement on 27 January 1999 by the Government of Indonesia that the people of East Timor would be allowed to choose between autonomy within the Republic of Indonesia or independence. This period ended on 4 September 1999, the date of the announcement of the result of the popular consultation in which 78.5 per cent voted against the autonomy proposal. The second period followed the announcement of the result of the popular consultation on 4 September through 25 October 1999.
2. The widespread or systematic attack was part of an orchestrated campaign of violence, that included among other things incitement, threats to life, intimidation, unlawful confinement, assault, forced displacement, arsons, murders, rapes, torture and other forms of violence carried out by members of the pro-autonomy militia, members of the Indonesian Armed Forces, ABRI (*Angkatan Bersenjata Republik Indonesia*) renamed TNI (*Tentara Nasional Indonesia*) in 1999, and

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members of the Indonesian Police Forces (*POLRI*) with the acquiescence and active participation of civilian and military authorities.

3. In 1999, more than twenty-five militia groups operated throughout East Timor. Their goal was to support autonomy with Indonesia. The Integration Fighting Forces (PFI), (*Pasukan Pejuang Integrasi*) under the command of Joao Tavares and Eurico Guterres was the umbrella organization under which these militia groups were organized. It had the backing of the TNI and the Civil Administration. PFI Commanders issued, called upon and incited militia groups and their members to intimidate independence supporters and those perceived to support them. The militia groups participated in the widespread or systematic attacks and acted and operated with impunity.
4. This large-scale attack was directed against civilians of all age groups, predominantly against individuals who supported or were perceived to support independence and resulted in lethal injury including death by sharp force injury, gun shot injury, blunt force trauma or a combination of the three.
5. As part of the widespread or systematic attack against the civilian population, the militia destroyed property including livestock belonging to the civilian population.
6. The widespread or systematic attacks resulted in the internal displacement of thousands of persons (IDPs). Additionally, the forcible transfer of the civilian population within East Timor and deportation to West Timor, Indonesia, was an essential feature of the orchestrated campaign of violence.
7. Under the terms of the 5 May 1999 Agreements, between the Republic of Indonesia, Portugal and the United Nations on the popular consultation, the Indonesian security authorities (TNI and *POLRI*) had the responsibility to ensure a safe environment devoid of violence or other forms of intimidation as well as the general maintenance of law and order before and during the popular consultation. The TNI and *POLRI* failed to meet these obligations and made no attempt to disarm or neutralize the militia groups. They were allowed to act with impunity.
8. The Indonesian Military in East Timor consisted of both regular territorial forces (BTT) and Special Combat Forces, i.e. the Strategic Reserve Command (KOSTRAD), (*Komando Strategis Angkatan Darat*) and Special Forces Command (KOPASUS) (*Komando Pasukan Khusus*), all of which had units, staff officers and soldiers stationed in East Timor.
9. From February 1999 to October 1999, the Indonesian Police Force (*POLRI*), the state agency for upholding law and public order were also present in East Timor. It included a Mobile Police Brigade (BRIMOB), whose Units and members were stationed in East Timor, including in Covalima District.
10. Covalima is one of the thirteen districts of East Timor and is comprised of five sub-districts namely, Suai Sub-District, Tilomar Sub-District, Fatumean Sub-District, Fatululik Sub-District and Zumalai Sub-District.

11. Between January 1999 and October 1999 the Laksaur Militia group operated throughout Covalima District. It comprised of hundreds of members. The Laksaur Militia operated in collaboration with units of the TNI and the POLRI in Covalima. During this period members of the Laksaur Militia carried out acts of violence directed against civilians who were perceived to be members or supporters of FALINTIL (Forças Armadas De Libertacao Nacional De Timor Leste: Armed Forces for the Liberation of East Timor), supporters of independence or persons linked to or sympathetic to the independence cause. The attack included acts of intimidations, threats, unlawful detention, arsons, murders, forcible deportation and other acts of persecution.
12. **Sisto Barros aka Xisto Barros, Cesar Mendonca and Josep Nahak aka Nahak Kehi** were members of the Laksaur Militia group, and they carried out militia activities jointly with other members of the Laksaur Militia and members of the TNI.

IV. STATEMENT OF FACTS

13. Sometime in October 1999, Olivio Moruk, the Commander of the Covalima Laksaur Militia and Pedro Teles, Danki of the Laksaur Militia ordered members of the Laksaur militia including **Sisto Barros, Cesar Mendonca and Josep Nahak** to go to Lookeu Village and arrest those villagers who were hiding and to forcibly deport them to West Timor and to kill those villagers who were pro-independence supporters.

A. MURDER OF FREDRICO BARROS

14. Fredrico Barros, Manuel Gusmao and Anito Gusmao were pro-independence supporters and clandestine members. Members of the Laksaur Militia knew this.
15. On or about 4 October 1999, Fredrico Barros, Manuel Gusmao and Anito Gusmao were hiding from the Laksaur Militia in the Clinic in Ogues Village. Members of the Laksaur militia who were looting the clinic, found Fredrico Barros, Manuel Gusmao and Anito Gusmao hiding and started to chase them and were shooting towards them.
16. Fredrico Barros and Manuel Gusmao ran towards Lookeu Forest, and Anito Gusmao ran towards Fatulor Sub-Village.
17. In Lookeu forest, Fredrico Barros and Manuel Gusmao ran into members of the Laksaur Militia including **Sisto Barros and Cesar Mendonca** who were both armed with SKS rifles.
18. When they saw Fredrico Barros and Manuel Gusmao, **Sisto Barros and Cesar Mendonca** started firing their guns toward them. Manuel Gusmao was able to escape by running into the bushes. Fredrico Barros ran into an open field and **Sisto Barros and Cesar Mendonca** shot him to death.

B. ATTACK IN LAKITO FOREST IN LOOKEU VILLAGE

19. Lorenzo Gusmao, Nazario Gutteres and Armando Soares Pereira were pro-independence supporters and clandestine members.
20. After the announcement of the results of the popular consultaion in September 1999, Lorenzo Gusmao, Nazario Gutteres and several villagers from Busu Kukun Village went to hide in Lakito Forest in fear for their lives due to the violence against people perceived by members of the Laksaur militia to be supporters of independence.
21. On or about 5 October 1999, at about 6am members of the Laksaur militia including **Sisto Barros, Cesar Mendonca** and **Josep Nahak** attacked the villagers who were hiding there.
22. **Sisto Barros** and **Cesar Mendonca** were armed with rifles and **Josep Nahak** was armed with a sword.
23. Upon seeing the villagers, **Sisto Barros** and **Cesar Mendonca** and the other members of the Laksaur militia started firing their weapons towards the villagers who were hiding there. **Josep Nahak** attacked the villagers with his sword. Some of the villagers were able to run away. Whilst Lorenzo Gusmao was trying to run away **Josep Nahak** hacked him several times with his sword.
24. During the attack, Lorenzo Gusmao and Nazario Gutteres were killed and several villagers including Armando Soares Pereira, Fencencio Soares Pereira and Edmundo Soares Pereira (who was 5 years old at the time of the attack) suffered serious physical injuries.

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C. **PERSECUTION OF VINCENTE ALVES QUINTAO, FRANCISCO DO ESPIRITU SANTOS, FREDRICO BARROS, NAZARIO GUTTERES, LORENZO GUSMAO, FENENCIO SOARES PEREIRA , EDMUNDO SOARES PEREIRA, DOMINGAS DA RESSOURECAO, MARIA DE FATIMA, ANITA MONIZ AND VILLAGERS HIDING IN LOOKEU FOREST**

25. Between April 1999 and September 1999, **Sisto Barros, Cesar Mendonca, Josep Nahak** and other members of the Laksaur militia campaigned for autonomy in Covalima district. During this period, **Sisto Barros, Cesar Mendonca, Josep Nahak**, terrorised villagers living in and around Oegus Village and Lookeu Village in Covalima District.. People from these villages were forced to support autonomy otherwise they would be killed.

26. Villagers supporting Falintil and independence for East Timor were targeted and intimidated, beaten, tortured, illegally detained, forcibly deported and killed

PERSECUTION OF VINCENTE ALVES QUINTAO & FRANCISCO DO ESPIRITU SANTO

27. In 1999, Vincente Alves Quintao was a pro-independence and clandestine group leader in Oges Village and Francisco Do Espitu Santo was a member of the clandestine group.

28. On or about 10 April 1999, Vincente Alves Quintao, Francisco Do Espitu Santo and several other villagers who were working with the clandestine group in Oges Village fled to the forest in fear that they may be arrested by members of the Laksaur Militia. When they felt that it was safe to return to their village, Vincente Alves Quintao and Francisco Do Espitu Santo returned to their village on 26 April 1999.

29. On or about 26th April 1999 at about 9pm Vincente Alves Quintao and Francisco Do Espitu Santo were at the house of Francisco Do Espitu Santo, when there was knock on the door. **Cesar Mendonca** was at the door step, and the house had been surrounded by about 20 other Laksaur militia members. Two militia members brought Vincente Alves Quintao out to the front of the house.

30. **Sisto Barros** and another militia member then brought Francisco Do Espitu Santo, who was inside one of the rooms in the house, out to the front of the house.

31. The militia including **Sisto Barros** tied the hands of Vincente Alves Quintao and Francisco Do Espitu Santo behind them and they were beaten by **Sisto Barros, Cesar Mendonca** and two other militia members. Vincente Alves Quintao and Francisco Do Espitu Santo were then taken to the Koramil in Leogore. All the way from Oges Village to the Koramil, the militia including **Sisto Barros** and **Cesar Mendonca** continued to beat Vincente Alves Quintao and Francisco Do Espitu Santo. Vincente Alves Quintao and Francisco Do Espitu Santo sustained injuries as a result of the beating.

32. Vincente Alves Quintao and Francisco Do Espitu Santo were detained at the Koramil till 10 May 1999. During their detention, Vincente Alves Quintao and Francisco Do Espitu Santo were interrogated by the militia and TNI about their pro-independence activities and they were forced to sign a document pledging their support for the autonomy cause.

PERSECUTION OF FREDRICO BARROS

33. Fredrico Barros was an active independence supporter.

34. On or about 4 October 1999, **Sisto Barros** and **Cesar Mendonca** participated in the murder of Fredrico Barros as described in paragraphs 13-17 above.

PERSECUTION OF NAZARIO GUTTERES, LORENZO GUSMAO, ARMANDO SOARES PEREIRA, FENENCIO SOARES PEREIRA, EDMUNDO SOARES PEREIRA DOMINGAS DA RESSOURECAO, MARIA DE FATIMA, ANITA MONIZ AND VILLAGERS HIDING IN LOOKEU FOREST

35. Nazario Gutteres, Lorenzo Gusmao and Armando Soares Pereira were active independence supporters. Fenencio Soares Pereira and Edmundo Soares Pereira are the children of Armando Soares Pereira.

36. On or about 5 October 1999 **Sisto Barros**, **Cesar Mendonca** and **Josep Nahak** participated in the murder of Nazario Gutteres and Lorenzo Gusmao, and in the attempted murder of Armando Soares Pereira, Fenencio Soares Pereira and Edmundo Soares Pereira as described in paragraphs 18 to 23 above.

37. After the attack, members of the Laksaur militia including **Sisto Barros**, **Cesar Mendonca** and **Josep Nahak** participated in the arrest, forcible deportation and illegal detention of villagers including Domingas Da Ressoureco, Maria De Fatima and Anita Moniz.

38. In West Timor, the women and children were detained at the house of Olivio Moruk, the Commander of the Laksaur Militia for about one month. The house of Olivio Moruk was in the Laksaur Militia Camp. At all material time, about 50 members of the Laksaur Militia including **Sisto Barros**, **Cesar Mendonca** and **Josep Nahak** were present and performed guard duties at the Militia camp where the villagers were detained.

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V. CRIMINAL RESPONSIBILITY

Individual Criminal Responsibility

39. For each count in this indictment charging the accused with individual responsibility, the accused is responsible under Section 14 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:*
 - (i) be made with the aim of furthering the criminal activity or criminal*
 - (ii) purpose of the group, where such activity or purpose involves the commission of a crime within the jurisdiction of the panels; or*
 - (iii) be made in the knowledge of the intention of the group to commit the crime;”*

VI PURSUANT TO THE ABOVE, THE GENERAL PROSECUTOR CHARGES:

COUNT 1 : CRIMES AGAINST HUMANITY MURDER

By their acts or omissions in relation to the events described in paragraphs 13 through 18, **Sisto Barros aka Xisto Barros** and **Cesar Mendonca** are responsible for the murder of Fredrico Barros, on or about 4 October 1999 in Lookeu Forest, Covalima District as part of a widespread and systematic attack against a civilian population with knowledge of the attack and thereby committed a CRIME AGAINST HUMANITY: MURDER, a crime proscribed under Section 5.1(a) of UNTAET Regulation 2000/15 and for which **Sisto Barros aka Xisto Barros** and **Cesar**

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Mendonca are individually responsible under Section 14 of UNTAET Regulation 2000/15.

COUNT 2 : CRIMES AGAINST HUMANITY MURDER

By their acts or omissions in relation to the events described in paragraphs 19 through 24, **Sisto Barros aka Xisto Barros, Cesar Mendonca and Josep Nahak** are responsible for the murder of Nazario Gutteres and Lorenzo Gusmao, on or about 5 October 1999 in Lookeu Forest, Covalima District as part of a widespread and systematic attack against a civilian population with knowledge of the attack and thereby committed a CRIME AGAINST HUMANITY: MURDER, a crime proscribed under Section 5.1(a) of UNTAET Regulation 2000/15 and for which **Sisto Barros aka Xisto Barros, Cesar Mendonca and Josep Nahak** are individually responsible under Section 14 of UNTAET Regulation 2000/15.

COUNT 3 : CRIMES AGAINST HUMANITY ATTEMPTED MURDER

By their acts or omissions in relation to the events described in paragraphs 19 through 24, **Sisto Barros aka Xisto Barros, Cesar Mendonca and Josep Nahak** are responsible for the attempted murder of Armando Soares Pereira, Fenencio Soares Pereira and Edmundo Soares Pereira on or about 5 October 1999 in Lookeu Forest, Covalima District as part of a widespread and systematic attack against a civilian population with knowledge of the attack and thereby committed a CRIME AGAINST HUMANITY: ATTEMPTED MURDER, a crime proscribed under Section 5.1(a) read together with Section 14.3(f) of UNTAET Regulation 2000/15 and for which **Sisto Barros aka Xisto Barros, Cesar Mendonca and Josep Nahak** are individually responsible under Section 14 of UNTAET Regulation 2000/15 .

COUNT 4 : CRIMES AGAINST HUMANITY PERSECUTION

By their acts or omissions in relation to the events described in paragraphs 25 through 38, **Sisto Barros aka Xisto Barros** and **Cesar Mendonca** are responsible for persecution for the following acts:

- (i) the arrest and beating of Vincente Alves Quintao and Francisco Do Espitu Santo
- (ii) the murder of Fredrico Barros
- (iii) the murder of Nazario Gutteres and Lorenzo Gusmao
- (iv) the attempted murder of Armando Soares Pereira, Fenencio Soares Pereira and Edmundo Soares Pereira
- (v) the arrest, forcible deportation and illegal detention of Domingas Da Ressoureco, Maria De Fatima, Anita Moniz and other villagers

during April and October 1999 in, Covalima District as part of a widespread and systematic attack against a civilian population with knowledge of the attack and thereby committed a CRIME AGAINST HUMANITY: PERSECUTION, a crime proscribed under Section 5.1(h) of UNTAET Regulation 2000/15 for which **Sisto**

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Barros aka Xisto Barros and **Cesar Mendonca** are individually responsible under Section 14 of UNTAET Regulation 2000/15.

COUNT 5 : CRIMES AGAINST HUMANITY PERSECUTION

By his acts or omissions in relation to the events described in paragraphs 33 through 38, **Josep Nahak** is responsible for persecution for the following acts:

- (i) the murder of Nazario Gutteres and Lorenzo Gusmao
- (ii) the attempted murder of Armando Soares Pereira, Fenencio Soares Pereira and Edmundo Soares Pereira
- (iii) the arrest, forcible deportation and illegal detention of Domingas Da Ressoureco, Maria De Fatima, Anita Moniz and other villagers

during April and October 1999 in, Covalima District as part of a widespread and systematic attack against a civilian population with knowledge of the attack and thereby committed a CRIME AGAINST HUMANITY: PERSECUTION, a crime proscribed under Section 5.1(h) of UNTAET Regulation 2000/15 for which **Josep Nahak** is individually responsible under Section 14 of UNTAET Regulation 2000/15.

VII. LIST OF VICTIMS

The List of Victims is contained in Annex A which forms part of this indictment.

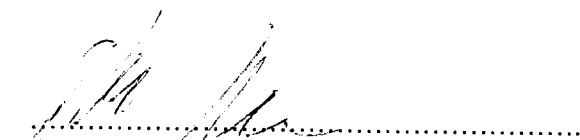
VII. EVIDENCE LIST

The evidence in support of this indictment is contained in Annex B, which forms part of this indictment.

VIII. REQUEST FOR TRIAL

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

Dated this 15 th day of March 2004



Nicholas Koumjian
 Deputy General Prosecutor For Serious Crimes