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United Nations Mission of Support in East Timor

DISTRICT COURT OF DILI

BEFORE THE SPECIAL PANEL FOR SERIOUS CRIMES

Case No: OE-1-99-SC
4/2003-SPSC

AMENDED INDICTMENT

THE DEPUTY GENERAL PROSECUTOR FOR SERIOUS CRIMES

Against

**ANTON LELAN SUFA (1),
AGOSTINHO CLOE (2),
AGOSTINHO CAB (3),
LAZARUS FULI (4),
LINO BENO (5),
ANTON LELAN SIMAO (6),
DOMINGOS METAN (7).**

I. INDICTMENT

The Deputy General Prosecutor for Serious Crimes, pursuant to her authority under UNTAET Regulation 2000/16 and 2000/30 as amended by Regulation 2001/25, charges: **ANTON LELAN SUFA (1), AGOSTINHO CLOE (2), AGOSTINHO CAB (3), LAZARUS FULI (4), LINO BENO (5), ANTON LELAN SIMAO (6)** and **DOMINGOS METAN (7)** with **CRIMES AGAINST HUMANITY: MURDER** and **TORTURE** as set forth in this indictment.

II. NAME AND PARTICULARS OF THE ACCUSED

1. Name: **ANTON LELAN SUFA**
Age: 39 years old
Place of Birth: Lela Ufe, Nitibe, Oecussi
Nationality: East Timorese
Address: Dili
Location: Believed to be in Dili
Occupation at the time: Sakunar militia leader in Bebo village
2. Name: **AGOSTINHO CLOE**
Age: 45 years old
Place of Birth: Bebo, Lela Ufe, Nitibe, Oecussi
Nationality: East Timorese
Address: Bebo, Lela Ufe, Oecussi
Location: Oecussi District.
Occupation at the time: Sakunar militia member in Bebo village
3. Name: **AGOSTINHO CAB**
Age: 29 years old
Place of Birth: Bebo, Lela Ufe, Nitibe, Oecussi
Nationality: East Timorese
Address: Bebo, Lela Ufe, Oecussi
Location: Oecussi District.
Occupation at the time: Sakunar militia member in Bebo village
4. Name: **LAZARUS FULI**
Age: 48 years old
Place of Birth: Cuatenes, Lela Ufe, Nitibe, Oecussi
Nationality: East Timorese
Address: Cuatenes, Lela Ufe, Oecussi
Location: Oecussi District.
Occupation at the time: Sakunar militia member in Bebo village

- 5. Name: **LINO BENO**
 Age: 22 years old (1/9/1979)
 Place of Birth: Bebo, Lela Ufe, Nitibe, Oecussi
 Nationality: East Timorese
 Address: Bebo, Lela Ufe, Oecussi
 Location: Oecussi District.
 Occupation at the time: Sakunar militia member in Bebo village

- 6. Name: **ANTONIO LELAN SIMAO**
 Age: 25-30 years old.
 Place of Birth: Bebo, Lela Ufe, Nitibe, Oecussi
 Nationality: East Timorese
 Address: Bebo, Lela Ufe, Oecussi
 Location: Oecussi District.
 Occupation at the time: Sakunar militia member in Bebo village

- 7. Name: **DOMINGOS METAN**
 Age: 25-30 years old.
 Place of Birth: Bebo, Lela Ufe, Nitibe, Oecussi
 Nationality: East Timorese
 Address: Bebo, Lela Ufe, Oecussi
 Location: Oecussi District.
 Occupation at the time: Sakunar militia member in Bebo village

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 members of the Indonesian Police Force, POLRI (Polisi Republik Indonesia) 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 Force (PPI) (Pasukan Pejuang Integrasi) under the command of Joao Tavares and Eurico Guterres was the umbrella organisation under which these militia groups were organized. It had the backing of the TNI and the Civil Administration. PPI 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 all 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 ie the Strategic Reserve Command (KOSTRAD) (Kommando Strategis Angkatan Darat) and Special Forces Command (KOPASUS) (Kommando 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 Dili district.

IV. SPECIFIC STATEMENT OF FACTS

10. The District of Oecussi is an enclave of East Timor and is about 43 kms away from the rest of East Timor. It is landlocked on three sides by the Indonesian territory of West Timor. The Selat Ombai Sea is to the north.
11. The District of Oecussi is divided into four Sub districts, namely Pantemakassar A and B, Nitibe, Oesilo and Passabe.
12. The Sakunar militia operated within the District of Oecussi from approximately April to October 1999.
13. Simao Lopes was the supreme commander of the Sakunar militia. The Militia Commander for the Sub-district of Nitibe was Martinho Lelan. He was also the village chief of Bebo.
14. **Anton Lelan Sufa (1)** was a Sakunar militia leader in Bebo and commanded a group of Sakunar militia members in the village, **including Agostinho Cloe (2), Agostinho Cab (3), Lazarus Fuli (4), Lino Beno (5), Anton Lelan Simao (6) and Domingos Metan (7).**
15. Following the announcement of the results of the Popular Consultation on 4 September 1999, the Sakunar militia began to systematically attack villages in Oecussi. CNRT members and other perceived independence supporters were targeted.
16. Anton Beto, Leonardo Anin and Fransisco Beto were CNRT members from Bebo village, in Sub-district of Nitibe. During September 1999 Anton Beto, Leonardo and Fransisco Beto Anin were hiding from members of the Sakunar militia who were actively searching for them.
17. On or about 16 September 1999 Anton Nessi informed **Anton Lelan Sufa (1)** that Anton Beto and Leonardo Anin were in their house in the village of Netensuan. **Anton Lelan Sufa (1)** then led a group of militia members including **Agostinho Cloe (2), Agostinho Cab (3), Lazarus Fuli (4), Lino Beno (5), Anton Lelan Simao (6) and Domingos Metan (7)** to attack the village of Netensuan. The militia members were armed with various weapons including machetes, bows and arrows and spears.
18. Upon the arrival to the house of Domingos Nessi **Anton Lelan Sufa (1)** ordered the militia members, including **Agostinho Cloe (2), Agostinho Cab (3), Lazarus Fuli (4), Lino Beno (5), Anton Lelan Simao (6) and Domingos Metan (7)** to

attack Anton Beto, Leonardo Anin and Francisco Beto. Francisco Beto was also inside the house.

19. Pursuant to the orders received from **Anton Lelan Sufa (1)**, militia members, including **Agostinho Cloe (2)**, **Agostinho Cab (3)**, **Lazarus Fuli (4)**, **Lino Beno (5)**, **Anton Lelan Simao (6)** and **Domingos Metan (7)**, then stormed the house and dragged outside the house and beat Anton Beto, Leonardo Anin and Francisco Beto.
20. Outside the house, **Anton Lelan Sufa (1)** ordered the militia members **Agostinho Cab (3)**, **Lino Beno (5)** and **Domingos Metan (7)** to kill Anton Beto. **Agostinho Cab (3)** shot arrows at Anton Beto. Then after, **Lino Beno (5)** and **Domingos Metan (7)** stabbed Anton Beto. **Agostinho Cab (3)** hit Anton Beto on the head with a stone. Anton Beto died of these wounds.
21. Following Anton Beto's killing, **Anton Lelan Sufa (1)** instructed the militia members to bury the body. Militia members then dragged away Anton Beto's body and buried it.
22. **Anton Lelan Sufa (1)** then ordered the militia members **Agostinho Cloe (2)**, **Lazarus Fuli (4)** and **Antonio Lelan Simao (6)** to take Leonardo Anin behind the house and kill him. **Anton Lelan Sufa (1)** instructed those militia members to bring back the ear of Leonardo Anin as proof that he had been killed.
23. **Agostinho Cloe (2)**, **Lazarus Fuli (4)** and **Antonio Lelan Simao (6)** led Leonardo Anin behind the house by a rope tied to his hands. **Antonio Lelan Simao (6)** struck Leonardo Anin with a machete. **Lazarus Fuli (4)** then stabbed Leonardo Anin with a knife. Leonardo Anin died of his injuries. During that attack **Agostinho Cloe (2)** encouraged **Lazarus Fuli (4)** and **Antonio Lelan Simao (6)** to kill Leonardo Anin.
24. **Lazarus Fuli (4)** then cut the ear off the body of Leonardo Anin and, together with **Agostinho Cloe (2)** and **Anton Lelan Simao (6)** buried the body of Leonardo Anin in a shallow grave. **Lazarus Fuli (4)** then brought the ear of Leonardo Anin back to **Anton Lelan Sufa (1)** as proof of the killing.
25. Following his initial assault outside Domingos Nessi's house, Francisco Beto was dragged to a bamboo tree where he was tied up. He was beaten, kicked for a period of about 30 minutes by militia members, including **Anton Lelan Sufa (1)**, **Agostinho Cloe (2)**, **Lazarus Fuli (4)**, **Lino Beno (5)** and **Domingos Metan (7)**. The militia members then discussed about whether they should kill Francisco Beto or not. Francisco Beto begged the militia members not to kill him and offered to give them some of his cows. **Anton Lelan Sufa (1)** then agreed to release him.

26. In the late afternoon, and after the bodies of Anton Beto and Leonardo Anin had been buried, Domingos Nessi performed a traditional ritual for the militia members to cleanse them of their involvement in the killings.

V. GENERAL ALLEGATIONS

27. The acts or omissions by the accused, 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 linked to or sympathetic with the independence cause in East Timor.

VI. CRIMINAL RESPONSIBILITY

Individual Criminal Responsibility

28. The accused **Anton Lelan Sufa (1) Agostinho Cloe (2), Agostinho Cab (3), Lazarus Fuli (4), Lino Beno (5), Anton Lelan Simao (6) and Domingos Metan (7)** are charged with individual responsibility in this indictment pursuant to Sections 14 of UNTAET Regulation 2000/15. Under Section 14 individual responsibility results if the 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;”

Superior Criminal Responsibility

29. The accused **Anton Lelan Sufa (1)** is also charged with superior criminal responsibility in this amended indictment pursuant to Section 16 of UNTAET Regulation 2000/15. Under Section 16 superior criminal responsibility results 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".

VII. THE CHARGES

Count 1: Crimes Against Humanity: Murder

By their acts or omissions in relation to the events described in paragraph 20 of this amended indictment, **Anton Lelan Sufa (1)**, as an individual and as a superior, **Agostinho Cab (3)**, **Lino Beno (5)** and **Domingos Metan (7)**, as individuals, are responsible with others for the Murder of Anton Beto on or about 16 September 1999 in Netensuan, Nitibe sub-district, Oecussi district which was committed 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) UNTAET Regulation 2000/15.

Count 2: Crimes Against Humanity: Murder

By their acts or omissions in relation to the events described in paragraphs 22-24 of this amended indictment, **Anton Lelan Sufa (1)**, as an individual and as a superior, **Agostinho Cloe (2)**, **Lazarus Fuli (4)** and **Anton Lelan Simao (6)**, as individuals, are responsible with others for the Murder of Leonardo Anin on or about 16 September 1999 in Netensuan, Nitibe sub-district, Oecussi district which was committed 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) UNTAET Regulation 2000/15.

Count 3: Crimes Against Humanity: Other Inhumane Acts

By their acts or omissions in relation to the events described in paragraphs 19 and 25 of this amended indictment, **Anton Lelan Sufa (1)**, as an individual and as a superior, **Agostinho Cloe (2)**, **Lazarus Fuli (4)**, **Lino Beno (5)** and **Domingos Metan (7)**, as individuals, are responsible with others for the infliction of Other Inhumane Acts against Francisco Beto on or about 16 September 1999 in Netensuan, Nitibe sub-district, Oecussi District which was committed 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 INHUMANA ACTS, a crime stipulated under Section 5.1(k) UNTAET Regulation 2000/15.

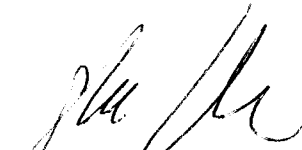
VIII. VICTIMS

The list of evidence and the list of victims, which forms part of this indictment are attached as Annex 'A' and Annex 'B' respectively.

IX. REQUEST FOR TRIAL

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

Dated: 23 July 2004



Nicholas Koumjian
Deputy General Prosecutor for Serious Crimes