

Indictment

Defendant Adam Damiri

Case File No.: 09/HAM/TIM-TIM/07/2002

I. DEFENDANT:

Name : ADAM R. DAMIRI

Place of Birth : Jakarta

Age / Date of Birth : 51 years/ November 20 1949

Sex : Male

Nationality : Indonesian

Address : Komplek Mabes TNI Jati Karya (Bekasi)

Religion : Islam

Occupation : TNI-AD officer

Rank : Army Major General TNI /NRP. 25109

Position : Assistant Operational to Army Chief of General Staff / Former Military Commander IX/Udayana

Education : Military Academy

II. DETAINMENT:

- The defendant was not detained.

III. INDICTMENT:

ONE:

-----He, the defendant ADAM R. DAMIRI as Military Commander IX/Udayana who was appointed since June 15, 1998 until November 27, 1999, on an unspecified day and date in April 1999 and September 1999, at Udayana Military Command Headquarters in Denpasar, Bali or at least in a place within the Republic of Indonesia jurisdictional territory where Human Rights Ad Hoc Court at the Central Jakarta District Court which has the authority to preside and rule over the case under Article 2 PRESIDENTIAL DECREE No. 96/2001 dated August 1, 2001 concerning the Changes of Presidential Decree No.53/2001 concerning the The Establishment of Human Rights Ad Hoc Court of the Central Jakarta District Court. He, the Defendant as a Military Commander or as a person who was effectively acted as a Military Commander knew or based on the situation at that time, should have known; that the troops under his command and effective control or under his authority or effective control, were committing or had just committed grave Human Rights violation, in the form of murder committed as part of a widespread or systematic attack directed against civilians, as a result of inappropriate controlling of the troops, but the defendant did not conduct any proper and necessary action in his authority to prevent or to quell the action nor did he turn the perpetrators over to responsible authorities to be investigated, questioned, and prosecuted; the deeds done by the defendant in the forms of:

1. He, as Commander of Udayana/IX Military Command, has a duty and authority such as:

a. As a Chief Commander:

- To carry out and maintain troops' discipline, order under his command
- To carry out and maintain troops' technical skills
- To maintain troops' and their families' welfare

b. As an Operational Chief Commander:

- To carry out security operational in his territory
- To carry out and execute his duties to the [Garnisun?]
- To lead and coordinate [Muspida?] within his territory
- To control the implementation of territorial guidance

As Commander of Udayana/IX Military Command the defendant ADAM R. DAMIRI supervised several Military Command Posts (KOREM) such as: KOREM 164 Wira Dharma East Timor.

Whereas KOREM 164 Wira Dharma East Timor supervised 13 District Military Command (KODIM) such as:

- KODIM Liquisa;
- KODIM Dilli;
- KODIM Covalima

2. On April 6, 1999 in Liquisa, Pro Integration Merah Putih group led by Manuel Sousa and Jose Affat bringing firearms and knives together with more or less than 100 TNI (Indonesian Army) personel committed an attack towards civilian refugees who were taking shelter at Liquisa church and at Pastor Rafael Dos Santos' residence. Among the TNI troops who were committing the attack, they were:

1. JOSE MATHEUS.
2. TOME DIEGO.
3. ABILIO ALVES.
4. CARLOS (Commander of Maubara Military Subdistrict).
5. ANTONIO GOMES.
6. ISAK DAS SANTOS
7. GEORGE VIEGAS
8. MAURISIO.
9. JEFERINO
10. ZACARIAS.
11. MANUEL MARTINS.
12. JACOB.

As a result of the attack more or less than 22 civilians were killed, they were:

1. JACINTO DA COSTA.
2. AGUSTINHO.
3. JOAMICO.
4. ABRAO DAS SANTOS.
5. AGUSTO MOUZINHO.

6. AMEKO DAS SANTOS.
7. NARSIZO.
8. HERMINO DAS SANTOS.
9. FERNANDO DAS SANTOS.
10. LAURINDO DAS PEREIRA.
11. MERIKI DAS SANTOS
12. MANUEL LISBRA.
13. VICTOR DA COSTA.
14. ALBERTO OLIVEIRA.
15. AMANDIO CESAR DAS SANTOS.
16. CESAR DAS SANTOS.
17. JHONY MAU SAKO.
18. LAURINDA DAS SANTOS.
19. AGUSTINO DAS SANTOS.
20. SANTIAGO.
21. anonymous grave of Liquisa case in Maubara graveyard.
22. anonymous grave of Liquisa case in Maubara graveyard.

3. On Saturday April 17, 1999 Aitarak group and pro integration troops held a rally in front of East Timor office and was attended by Abilio Jose Osorio Soares, the Governor of East Timor, Dominggus Soares, Mathius Mai, Jose Da Silva, Tapares as PPI (Pro Integration Forces) Commander, Eurico Gutteres as Deputy Commander of PPI as second speaker and broadcast live by Dilli Radio had given "a command" :

- All CNRT leaders should be exterminated / killed.
- People who were pro to independence should be killed.
- Kill Manuel Viegas Carascalao.
- Carascalao family should be killed.

After the rally was over, they committed a widespread or systematic attack first to Leandro Isaac's house, after committing abuses and burning Leandro Isaac's house they continued to attack Manuel Viegas Carascalao's house in Jl. Antonio De Carvalho No. 13 Dilli, at that time Manuel Viegas Carascalao's house was sheltering refugees from around Dilli such as Maubara, Liquisa, Turiscal, Alas, and Ainaro totaling more or less than 136 people, the attack was committed by Aitarak group, pro integration forces together with TNI troops using automatic firearms as well as various knives. Among the TNI troops taking part in the attack were:

1. JOSE MATHEUS.
2. THEOFILO DA SILVA.
3. ANTONIO BESKAU.
4. ANTONIO GOMES.
5. MIGUEL.
6. DUARTE.
7. CARLOS AMARAL.
8. BALTIZAR.

The attack resulted in dead victims, they were:

1. MARIO MANUEL VIEGAS CARASCALAO (MANELITO).
2. RAUL DAS SANTOS CANCELA.

3. ALFONSO RIBERIO.
4. RAFAEL DA SIVAA.
5. ALBERTO DAS SANTOS.
6. JOAO DAS SANTOS.
7. ANTONIO DAS SOARES.
8. AGUSTINO B.X. LAY.
9. CRISTANTO DAS SANTOS.
10. EDUARDO DE JESUS.
11. JUANIRO PEREIRA. CESAR DAS SANTOS.

4. - After the ballot / popular consultation was announced on September 4, 1999 in which the pro integration was defeated, pro integrations were angry and committed abuse and murder against pro independence.

- Refugees gathered at East Timor Provincial Police compound in Dilli, Dilli Port compound and other places considered to be safe places.

- The refugees who gathered could not be distinguished between pro integration or pro independence, in the crowded situation at the Port they were struggling to get out of East Timor immediately. In addition, the sound of fire created panic among refugees who were gathering at the Port.

- The situation drove several refugees ran towards Dilli Diocesan which is located in front of the Dilli Port.

On Sunday, September 5, 1999, Dilli Diocesan (Bishop Bello's office) was attacked by pro integration masses started by a fight between pro integration who were examining every pro independence youths who attempted to leave East Timor by boat from Dilli Port. The fighting was immediately spread to the road along the coconut beach (outside of Dilli Port) towards Dilli Diocesan where pro independence men gathered. Pro integration youths together with TNI officers scattered in various places in Dilli had attacked the youths of pro independence resulted in unidentified amount of victims, approximately around 20 people were dead, one of them a person named NUNU.

On Monday, September 6, 1999, there was an attack and burning of Dilli Diocesan and Bishop Carlos Filipe Ximenes Bello, SDB's residence, which was committed by pro integration group together with TNI troops. At that time there were a lot of civilians taking shelter at Dilli Diocesan and Bishop Carlos Felipe Ximenes Bello, SDB's residence.

5. On Monday, September 6, 1999, people of pro integration group who were around Suai Ave Maria Church together with TNI officers among others named:

1. Colonel HERMAN SEDIONO (Covalima Regent).
2. Major ACHMAD SAMSUDIM (Chief of Staff of Covalima District Military)
3. Captain SUGITO (Commander of Subdistrict Military Command)
4. 2nd Sergeant AMERICO SERANG, an officer of KODIM Covalima
5. 2nd Sergeant RAUL HALE, an officer of KODIM Covalima
6. 2nd Sergeant ALARIO PEREIRA, an officer of KODIM Covalima
7. (Praka) ALFREDO AMARAL, an officer of KODIM Covalima

Had committed an attack on pro independence group who were taking shelter inside Suai Ave Maria Church. The attack resulted in more or less than 27 people including 3 Pastors were dead namely:

1. Pastor TARSISIUS DEWANTO
2. Pastor HILARIO MADEIRA
3. Pastor FRANSISCO SOARES

(as mentioned in the report of grave excavation and autopsy of the University of Indonesia's Department of Medical Forensic Report No. TT.3002/SK:II/XI/1999).

6. The attack which was resulted in several civilians killed was part of a widespread or systematic attack aimed directly towards East Timor civilians and was a grave Human Rights violation.

7. The defendant as Commander of Udayana/IX Military Command knew or based on the situation at that time should have known that several TNI officers who were on duty in East Timor had committed a grave Human Rights violation but did not take any effort to prevent or quell the attack nor did he surrendered the perpetrators to appropriate authorities for investigation, question, and prosecution.

-----The defendant was charged under Article 42 paragraph 1 (1) a and b jis, Article 7 (b), Article Article 9 (a), Article 37 Law No. 26/2000 concerning the Human Rights Court.-----

TWO:

-----He, the defendant ADAM R. DAMIRI as Military Commander IX/Udayana who was appointed since June 15, 1998 until November 27, 1999, at the time and in the place mentioned in the first indictment, knew or based on the situation at that time, should have known; that the troops under his command and effective control or under his authority or effective control, were committing or had just committed grave Human Rights violation in East Timor, namely abuses against a certain group or collectivity formed by similarities in political views, race, nationality, ethnic, culture, religion, gender or other reasons universally recognized as the matters prohibited by international law, because of inappropriate control, but the defendant did not conduct any proper and necessary action in his authority to prevent or to quell the action nor did he turn the perpetrators over to responsible authorities to be investigated, questioned, and prosecuted; the deeds done by the defendant in the forms of:

1. He, as Commander of Udayana/IX Military Command, has a military authority in East Timor Province has a duty and authority such as:

c. As a Chief Commander:

- To carry out and maintain troops' discipline, order under his command
- To carry out and maintain troops' technical skills
- To maintain troops' and their families' welfare

d. As an Operational Chief Commander:

- To carry out security operational in his territory
- To carry out and execute his duties to the [Garnisun?]
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Whereas KOREM 164 Wira Dharma East Timor supervised 13 District Military Command (KODIM) such as:

- KODIM Liquisa;
- KODIM Dilli;
- KODIM Suai.

2. On April 6, 1999 in Liquisa, Pro Integration Merah Putih group led by Manuel Sousa and Jose Affat bringing firearms and knives together with more or less than 100 TNI (Indonesian Army) personel committed an attack towards civilian refugees who were taking shelter at Liquisa church and at Pastor Rafael Dos Santos' residence. Among the TNI troops who were committing the attack, they were:

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5. ANTONIO GOMES.
6. ISAK DAS SANTOS.
7. GEORGE VIEGAS.
8. MAURISIO.
9. JEFERINO.
10. ZACARIAS.
11. MANUEL MARTINS.
12. JACOB.

As a result of the attack more or less than 21 civilians were injured, they were:

1. FRANSISCO DAS SANTOS
2. JOAO PARERA
3. JOAMICO
4. JOSE RAMOS
5. JOSE NUMES SERRAO
6. LUCAS SOARES
7. MATEUS PANLERO
8. LUCAS DAS SANTOS
9. RICARDO RODRIQUES PEREIRA
10. LAKUMAO
11. JANUARY

12. JOAO DAS SANTOS
13. JOAO KUDA
14. ARMANDO
15. ANTONIO
16. LUIS
17. EMILIO
18. SEBASTIAN
19. RAMERIO
20. MATIUS ALVES COREIRA
21. FELIS

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3. ANTONIO BESKAU.
4. ANTONIO GOMES.
5. MIGUEL.
6. DUARTE.
7. CARLOS AMARAL.
8. BALTIZAR.

The attack resulted in injured victims, as a result of abuses against anti integration, they were:

1. VICTOR DAS SANTOS (APIN),
2. ALFREDO SANCHES,
3. FLORINDO DE JESUS,
4. BETINDO MBOQUEQUE,
5. JOAO JUNIOR,
6. NIKI.

4. - After the ballot / popular consultation was announced on September 4, 1999 in which the pro integration was defeated, pro integrations were angry and committed abuse and murder against pro independence.

- Refugees gathered at East Timor Provincial Police compound in Dilli, Dilli Port compound and other places considered to be safe places.

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1. LILI, about ten years old
2. NELIO MASQUITA
3. DA COSTA REGO
4. NONATO SOARES
5. JOAO BERNANDINO SOARES

5. On Monday, September 6, 1999, there was an attack and burning of Dilli Diocesan and Bishop Carlos Filipe Ximenes Bello, SDB's residence, which was committed by pro integration group together with TNI troops. At that time there were a lot of civilians taking shelter at Dilli Diocesan and Bishop Carlos Felipe Ximenes Bello, SDB's residence.

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-----The defendant was charged under Article 42 paragraph 1 (1) a and b jis, Article 7 (b), Article Article 9 (h), Article 40 Law No. 26/2000 concerning the Human Rights Court.-----

Jakarta, July 1, 2002

AD HOC PROSECUTING ATTORNEY

ABDUL HAMID, SH.

ACTING AD HOC PROSECUTING ATTORNEY

S. HOZIE, SH.