

Indictment

Defendant Herman Sedyono et al.

Case File No: 03/HAM/TIM-TIM/02/2002

I THE DEFENDANTS

1. Name : Drs. HERMAN SEDYONO

Place of Birth : Malang, East-Java

Age/Date of Birth : 54 years/October 12, 1947

Sex : Male

Nationality : Indonesian

Address : Bonorejo I/34 C Solo

Religion : Catholic

Occupation : ABRI/TNI official (Former Head of Covalima Regency, East Timor)

Education : Bachelor/AKABRI (Academy of Indonesian Army)

2. Name : LILIEK KOESHADIANTO

Place of Birth : Madiun, East-Java

Age/Date of Birth : 49 years/November 18, 1952

Sex : Male

Nationality : Indonesian

Address : Jl. Adityawarman No.40 Surabaya

Religion : Moslem

Occupation : ABRI/TNI official (Former Acting Commander of Suai District Military 1635, East Timor)

Education : AKABRI (Academy of Indonesian Army)

3. Name : Drs. GATOT SUBIYAKTORO

Place of Birth : Blitar, East-Java

Age/Date of Birth : 42 years/October 17, 1959

Sex : Male

Nationality : Indonesian

Address : Jl. A. Yani No. 2 Maros South Sulawesi

Religion : Moslem

Occupation : POLRI official (Former Commander of Suai District Police, East Timor)

Education : Bachelor / Indonesian Police

4. Name : ACHMAD SYAMSUDIN

Place of Birth : Tangerang , West-Java (Province of Banten)

Age/Date of Birth : 37 years/June 21, 1964

Sex : Male

Nationality : Indonesian

Address : PLP Curug Tangerang
Religion : Moslem
Occupation : ABRI/TNI official (Former Suai Chief of Staff of District
Military Command 1635 East Timor)
Education : AKMIL (Military Academy)

5. Name : SUGITO
Place of Birth : Banyuwangi, East-Java
Age/Date of Birth : 49 years/June 14, 1952
Sex : Male
Nationality : Indonesian
Address : Asrama Kodim 1604 Kupang
Religion : Moslem
Occupation : ABRI/TNI official (Former Head of Suai Subdistrict
Military Command East Timor)
Education : STM (Technical High School)

II. DETAINMENT

The defendants (defendants No. 1 to 5) had not been detained during investigation and prosecution.

III. THE DEFENDANTS

PRIMARY:

----- The five defendants are: the defendant 1. Drs. HERMAN SEDYONO as Head of Covalima Regency, the defendant 2. LIELIEK KOESHADIANTO as Acting Commander of Suai District Military 1635, the defendant 3. Drs. GATOT SUBIYAKTORO as Commander of Suai District Police, the defendant 4. ACHMAD SYAMSUDIN as Suai Chief of Staff of District Military Command 1635, and the defendant 5. SUGITO as Head of Suai Subdistrict Military Command of Covalima Regency, whose identities were mentioned above, had allied themselves individually or collectively with East Timor Pro-Integration groups (IZEDIO MANIK, OLIVIO MENDOZA MORUK alias OLIVIA MOU, MARTINUS BERE, MOTORNUS, VASCO DA CRUZ, and MARTINS DONGKI ALFONS (LAKSAUR member), 2nd Sergeant I GEDE SANTIKA, 1st Sergeant I WAYAN SUKA ANTARA, 2nd Sergeant SONY ISKANDAR, 2nd Sergeant AMERICO SERANG, 2nd Sergeant RAUL HALE, 2nd Sergeant ALARICO PEREIRA, (Praka) ALFREDO AMARAL (officer of TNI of Suai District Military Command 1635), 2nd Sergeant BUDI, Mayor Sergeant SYAMSUDDIN, (Serka) MADE SUARSA, 1st Sergeant ARNOLUS NAGGALO, and 2nd Sergeant MARTINUS BERE (Indonesian Police officer).

Each of them would be brought to the trial separately, except OLIVIO MENDOZA MORUK who was dead on September 6, 1999 at 2.00 p.m. Eastern Indonesian Time, or at least in some times in September 1999 in Ave Maria Catholic Church courtyard compound in Suai East Timor, or at other places where Human Rights Ad Hoc Court at the Central Jakarta District Court which has authority to investigate and rule (based on Article 2 PRESIDENTIAL DECREE No. 96/2001 dated August 1, 2001), the defendants 1,2,3,4, and 5 as superordinates / effective military commanders did not take control on their subordinates/troops which are under their effective authority and control, or under their effective command and control,

herewith the defendants 1,2,3,4 and 5 knew or deliberately ignored information that showed obviously that their subordinates/troops were committing or had just committed serious deeds conducted as parts of widespread or systematic attack directed against civilians and they, the defendants 1,2,3,4 and 5, did not conduct or did not take any proper actions which were needed within their authority or to prevent or quell their subordinates/troops' actions or turn the perpetrators over to appropriate authorities for guidance, investigation and prosecution, namely, the defendant 1 as the one responsible for general governance and development, the defendant 2 as the one responsible for security, the defendant 3 as the one responsible for security guidance and public orders, the defendant 4 and the defendant 5 as those responsible for security in Covalima Regency/Suai District did not take action according to their authority based on enacted law, resulted in the attack against civilians who were/sought refuge in Ave Maria Church compound in Suai, leaving more or less than 27 people dead consisted of 17 males and 10 females. Among the 17 male victims, 14 were civilians and 3 other were Pastors, namely 1. Pastor TARSISIUS DEWANTO 2. Pastor HILARIO MADEIRA and 3. Pastor FRANSSISCO SOARES.

----- The deeds of the defendants 1,2,3,4 and 5 were committed in the form of:

----- After the Indonesian government executed a policy to hold ballot/popular consultation for East Timorese under PRESIDENTIAL DECREE No. 3/1999 dated May 18, 1999 concerning the Team for Organizing and Supervising the Agreement between Indonesian Government and Portugal on East Timor Affairs, later followed by Presidential Instruction No.5/1999 concerning the Steps of Execution with regards to the enactment of the Agreement between Indonesian Government and Portugal on East Timor Affairs, and elaborated in the Coordinating Minister of Politics and Security's Decision No. KEP-13/MENKO/Polkam/6/1999 dated June 2, 1999 concerning the Task Force of the Coordinating Minister of Politics and Security Affairs as Head of the Team for Organizing and Supervising the Agreement between Indonesian Government and Portugal on East Timor affairs by enacting a policy to conduct a ballot/popular consultation for East Timorese to determine whether the East Timor Province would join the Indonesian government or would choose to be part of independent government (Pro-Independence) which was held on August 30, 1999, therefore the East Timor Provincial Government set up an organization / Pro-Integration group which joined under Pam swakarsa (civil militia guard) such as MAHIDI and LAKSAUR under the leadership of Olivio Mendoza Moruk alias Olivia Mou which later officially inaugurated by Head of Covalima Regency (defendant I) at Suai's Gedung Wanita.

----- For the LAKSAUR's and MAHIDI's operational organization, equipments and trainings needs were provided by Suai District Military Command 1635 and Suai Subdistrict Military Command, where the defendant II maintained responsibility and control, whereas the payment / salary of LAKSAUR and MAHIDI members were provided by Government of Covalima Regency.

----- Later, after the result of ballot/popular consultation for East Timorese was announced on August 30, 1999 and was won by Pro-Independence group, the heated situation occurred and tension and fights took place between groups who called themselves as pro-independence and pro-integration, then the government enacted civil emergency in East Timor.

----- Beginning on September 3, 1999 as a result of the intense situation above, more or less than 2000 people consisting of people from around Suai town, and priests and nuns, sought refuge inside Ave Maria Catholic Church compound in Suai.

----- Considering the situation, on September 5, 1999, Commander of Provincial Military Command IX/Udayana issued a telegraphed order No. STP/551/1999 to Commander of Military Post Command 164/WD to announce curfew in East Timor territory.

----- The heated situation after the popular consultation expanded and continued when on September 6, 1999 there was a widespread attack, namely, the actions committed by Pro-Integration group consisted of, among others, IZEDIO MANEK, OLIVIO MENDOZA MORUK alias OLIVIA MOU, MARTINUS BERE, MOTORNUS, VASCO DA CRUZ, MARTINS DONGKI ALFON (LAKSAUR member), 2nd Sergeant I GEDE SANTIKA, 1st Sergeant I WAYAN SUKA ANTARA, 2nd Sergeant SONY ISKANDAR, 2nd Sergeant AMERICO SERANG, 2nd Sergeant RAUL HALE, 2nd Sergeant ALARICO PEREIRA, (Praka) ALFREDO AMARAL (officer of Suai District Military Command 1635), 2nd Sergeant BUDI, Mayor Sergeant SYAMSUDDIN, (Serka) MADE SUARSA, 1st Sergeant ARNOLUS NANGGALO, and 2nd Sergeant MARTINUS BERE (Indonesian Police officer), who each of them would be brought to trial separately, namely, the attack against civilians including priests and nuns who were taking refuge inside Ave Maria Catholic Church compound, carried out by firearms and home-made firearms, resulted in widespread consequence, namely, more or less than 27 civilians taking refuge at the Ave Maria church compound were dead, consisted of 17 males and 10 females. Among the 17 male victims, 14 were civilians and 3 others were Pastors, namely 1. Pastor TARSISIUS DEWANTO 2. Pastor HILARIO MADEIRA and 3. Pastor FRANSSISCO SOARES confirmed by grave excavation and autopsy report No. TT.3002/SK-II/XI/1999 of the University of Indonesia's Department of Medical Forensic.

----- Before the attack to civilians who were inside Ave Maria Catholic Church compound in Suai by Pro-Integration group, beforehand they (militia members of LAKSAUR) led by OLIVIO MENDOZA MORUK alias OLIVIA MOU around 9.00 a.m. Eastern Indonesian Time gathered at the defendant I's residence (drs. HERMAN SEDYONO) as Head of Covalima Regency, and at that time the defendant II (LILIEK KOESHARDIANTO) was also present and also the defendant III (GATOT KUSBIANTORO). Then the militias led by OLIVIA MOU headed toward Ave Maria Church Suai to attack..

----- During the attack to civilians who were inside the Ave Maria Catholic Church compound in Suai, the above Defendants committed deeds or actions as parts of the attack, namely:

----- The defendant 1. Drs. HERMAN SEDYONO as Head of Covalima Regency, together with the defendant 2. LILIEK KOESHADIANTO as Commander of Suai District Military Command 1635, and the defendant 3. Drs. GATOT SUBIYAKTORO as Commander of Suai Police, after hearing shots coming from Ave Maria Catholic Church compound, which was assumed that there had been an on-going clash between pro-integration and pro-independence groups, then they (the defendants 1,2 and 3) went together to the location of attack which was in Ave Maria Catholic Church compound in Suai.

----- When the defendants (defendant 1, defendant 2, and defendant 3) arrived at and hang around the Ave Maria Catholic Church compound in Suai there was an attack by Pro-

Integration group, among others, LAKSAUR under the leadership of OLIVIO MORUK against civilians carried out using firearms and home-made firearms.

----- During that time, the time of attack against civilians who were taking refuge and/ shelter inside Ave Maria Catholic Church compound in Suai, the defendant I as Head of Covalima Regency responsible for general governance and development obviously did not prevent, impose security against all possibilities of riots after ballot/popular consultation won by pro-independence group and did not help and take care victims caused by attack against civilians inside the Suai Church compound, that is, did not immediately do any attempt to identify the killed or wounded victims and secure, save, and forward the news to victims' families.

----- Before the attack to the Ave Maria Church Catholic compound in Suai by Pro-Integration group was over, the defendant 1. HERMAN SEDYONO had left the location and headed toward his home.

----- The defendant 2. LILIEK KOESHADIANTO as Acting Commander of Suai Military District Command 1635 who was supposed to bear responsibility in maintaining security in Covalima Regency in East Timor Province was present at the location of attack against civilians at the Catholic Church compound in Suai then gave an order to his subordinate, namely, Chief of Staff of the Suai District Military Command 1635 Major ACHMAD SYAMSUDDIN the defendant 4, to deploy all forces to take control of the situation, in practice the Chief of Staff of Suai District Military Command 1635 (defendant 4) is that the personnels or troops from the Suai District Military Command 1635 under the command of defendant Major ACHMAD SYAMSUDDIN did not secure the situation and prevent the attack, as well as did not attempt to withdraw the troops/groups belong to LAKSAUR group but in fact supported and joined with the Pro-Integration group/LAKSAUR to attack civilians who were inside/taking shelter at the Catholic Church compound in Suai or to allow the attack committed by pro Integration group (LAKSAUR) against civilians at the church compound.

----- Besides that, the defendant 2 LILIEK KOESHADIANTO as Acting Commander of Suai District Military Command 1635 did not do any maximum prevention to anticipate the attack to Suai Catholic Church, since September 5, 1999, there have been occurrences as indication of the event, that is, an ambush by Pro-Integration group against 130 UNAMET staff who were going to take refuge in Dilli.

----- The defendant 3 Drs. GATOT SUBIYAKTORO as Commander of Suai Police, the one who was fully responsible for national security (Kamtibmas) in the territory of Covalima Regency, who was present at location, that is, in Suai Catholic Church compound, together with the defendant 1 Drs. HERMAN SEDYONO and the defendant 2 LILIEK KOESHADIANTO at that time of the attack by Pro-Integration group (LAKSAUR) against civilians who sought refuge inside Suai Catholic Church, the defendant 3 in explaining the 1999 Hanoin Lorosae I Operation Plan and the 1999 Hanoin Lorosae II Operation Plan, did not conduct any necessary legal actions and security measures to subdue the riot/attack or to allow the attack against the civilians, in which the defendant 3 as Commander of Suai Police was supposed to take any anticipations to prevent the attack, in fact the indication that the event would happen was already present at the time the pro-Independence won the ballot/popular consultation.

----- The defendant 5 (1st Lieutenant SUGITO) as Head of the Suai Subdistrict Military Command who was supposed to be also responsible for security in his territory in fact came to the location, that is, the Catholic Church compound in Suai at the time after the attack by pro-Integration (LAKSAUR) took place against civilians who came to seek refuge because the worse security situation after the ballot/popular consultation for East Timorese which was won by Pro Independence group.

----- At the location the defendant 5 (1st Lieutenant SUGITO) found scattered dead bodies of victims of attack committed by pro integration group inside and outside the church, including, among others, corpses of the three pastors of the Suai Catholic Church, the defendant 5 (1st Lieutenant SUGITO) did not take care of the corpses properly, such as making coordination with institutions or responsible parties, to identify, to forward the news to victims' families but the defendant 5 1st Lieutenant SUGITO issued an order to four local people, among others, MOTORNUS, to put the corpses into a car then transported to BETUN to be buried without giving notice to the families.

----- The defendants' deeds are ruled and charged under Article 7 (b) jis Article 9 (a), Article 37, Article 42 paragraph (1) sub a, b of the Law No. 26/2000, Article 55 paragraph (2) of the Criminal Code.