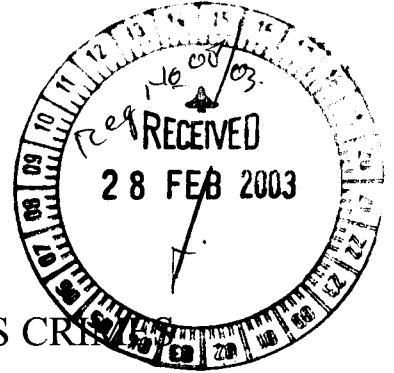


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DISTRICT COURT OF DILI

BEFORE THE SPECIAL PANEL FOR SERIOUS CRIMES

Case No: *08/CG/03/ADM.*

INDICTMENT

THE DEPUTY GENERAL PROSECUTOR FOR SERIOUS CRIMES

-Against-

MIGUEL DA SILVA AKA MIGUEL MAU

I. INDICTMENT

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

MIGUEL DA SILVA AKA MIGUEL MAU

WITH

**CRIMES AGAINST HUMANITY OF:
MURDER, PERSECUTION, EXTERMINATION**

As set forth in this indictment:

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II. NAME AND PARTICULARS OF THE ACCUSED

1. Name: **Miguel Da Silva aka Miguel Mau**
Place of birth: Maubesi Sub-Village, Foholulik Village Tilomar Sub-District, Covalima District, East Timor
Age/Date of birth: 55 years of age
Sex: Male
Nationality: East Timorese
Address: Uma Murah Sub-Village, Salele Village, Tilomar Sub-District, Covalima District
Occupation: formerly member of Laksaur Militia

III. INTRODUCTORY STATEMENT OF FACTS

1. A widespread or systematic attack directed against the civilian population was committed 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 with 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 confinements, assaults, forced displacements, 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 Forces (*POLRI*) with the acquiescence and active participation of civilian and military authorities.
3. In 1999, numerous militia groups operated throughout East Timor. Their goal was to support autonomy within Indonesia. The militia groups participated in the widespread or systematic attack 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 houses and livestock belonging to the civilian population.
6. The widespread or systematic attack 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 terms of the 5 May 1999 Agreements, between 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, during and the immediate aftermath of the popular consultation. The TNI and POLRI failed to meet these obligations and made no attempt to disarm or neutralize the militia groups. They allowed the militia groups 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, including in Cova Lima District.
9. From February 1999 to October 1999, the Indonesian Police Force (POLRI), the state agency for upholding the 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 Cova Lima District.

IV. STATEMENT OF FACTS

10. Covalima District is one of the thirteen Districts of East Timor. It shares a common border with Nusa Tenggara Timor (West Timor), which is part of Indonesia. Covalima is comprised of six sub-districts namely, Tilomar, Suai, Fatumean, Fatululik, Fohorem and Zumalai.
11. Before 1999, the Indonesian army formed paramilitary groups in East Timor including WANRA and Gadapaski. These groups were trained in weapons and armed by KOPASUS.
12. Sometime in April 1999, the Laksaur militia group was formally inaugurated. The goal of the Laksaur militia group was to support

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autonomy within Indonesia. The Laksaur militia group participated in the widespread or systematic attack against the civilian population in Covalima District.

13. The Supreme Commander of the Laksaur militia was Olivio Mendonca Moruk (deceased) and his brother Egidio Manek was his Deputy Commander and the two of them had effective command and control over the other commanders (Danki) and members of the Laksaur militia.
14. **Miguel Da Silva aka Miguel Mau** was a member of the Laksaur militia.

**Murder of Alexio Xiemenes, Tomas Cardoso, Paulus Xiemenes
(23 April 1999)**

15. Alexio Xiemenes, Tomas Cardoso, Paulus Xiemenes were supporters of independence living in Raihun Village in Tilomar Sub-District.
16. On or about 23 April 1999, members of the Laksaur militia under the command and control of Olivio Moruk and Egidio Manek, including **Miguel Da Silva aka Miguel Mau** and members of the TNI from Koramil Salele including Sgt. Major Supoyo aka Pak Poyu (Sub-district military Commander-Salele), Bentu (LNU), and Jaime Pinto attacked Nikir Sub-Village, Raihun Villager in Tilomar Sub-District in search of Joao Da Silva.
17. At that time Alexio Xiemenes, Tomas Cardoso and Paulus Xiemenes were hiding in the house of Hilario Manek. The militia ordered Hilario Manek to bring Alexio Xiemenes, Tomas Cardoso and Paulus Xiemenes out of the house.
18. Hilario Manek Alexio Xiemenes, Tomas Cardoso and Paulus Xiemenes came out of the house and went towards the militia who were standing on the road. On the order of Egidio Manek, members of the militia including **Miguel Da Silva aka Miguel Mau and Nahak stabbed and chopped Alexio Xiemenes, Tomas Cardoso and Paulus Xiemenes with machetes.**
19. Alexio Xiemenes, Tomas Cardoso and Paulus Xiemenes died as a result of the attack.

Murder of Lodificus Rabo (23 April 1999)

20. Lodificus Rabo was an independence supporter. On or about 23 April 1999 Lodificus Rabo was in hiding in his house in Nikir Sub-Village, Raihun Village, Tilomar Sub-District.
21. After killing Alexio Xiemenes, Tomas Cardoso and Paulus Xiemenes, the militia was proceeding to Fatukmetan village. On their way, the members of the Laksaur Militia including **Miguel Da Silva aka Miguel Mau** and members of the TNI from Koramil Salele went to the house of Lodificus Rabo.

22. The militia surrounded the houses of Lodificus Rabo and started shouting for him to come out of the house. When Lodificus Rabo did not respond, a member of the TNI lit a match to set the house on fire, at which point Lodificus Rabo came out of his house.
23. The militia members including **Miguel Da Silva Mau** and Leonito Cardoso beat Lodificus Rabo and tied his hands behind his back.
24. Egidio Manek then ordered the members of the militia to take Lodificus Rabo to the forest and kill him. The members of the militia put Lodificus Rabo in their vehicle and drove away. Lodificus Rabo has never been seen since.
25. On or about 30 April 1999, Leonito Cardoso showed several villagers from Nikir Village a blood stained machete and told them that Lodificus Rabo had been killed by the militia including himself and was cut into pieces and thrown into the forest.

Attack In Fatukmetan Sub-Village, Raihun Village Tilomar-Torture and Persecution by Destruction of Property (23 April 1999)

26. In 1999, Joao Da Silva was the clandestine leader of CNRT in Tilomar sub-district. During the month of April 1999, the Laksaur militia and the TNI were looking for Joao Da Silva who was in hiding at that time.
27. On or about 23 April 1999, members of the Laksaur militia under the command of Olivio Moruk and Egidio Manek including **Miguel Da Silva aka Miguel Mau** went to Nikir village looking for Joao Da Silva.
28. The militia found and interrogated Jose Cardoso and three other villagers about the whereabouts of Joao Da Silva. The villagers were severely beaten y the militia.
29. After the beating the militia threatened Jose Cardoso and the three others with death if they were to follow Joao Da Silva in supporting independence.
30. Later the militia spotted Alexio Xiemenes, Tomas Cardoso, and Paulus Ximenes who were relatives of Joao Da Silva and killed them.
31. The militia then left Nikir and headed for Fatukmetan. On their way, Egidio Manek ordered them to arrest Lodificus Rabu and kill him. Lodificus was arrested and taken to the forest.
32. The militia members and the TNI then proceeded to Fatukmetan.
33. At Fatukmetan, the militia including **Miguel Da Silva aka Miguel Mau** and the TNI gathered the villagers including Cervasio Yosep, Balbina Maia, Rosalinda Abuk (who was the wife of Caetano Xiemenes), Luizina

Maia, Filipos Yosep, Daniel Xiemenes, Markus Xiemenes, Jaime Cardoso and Teofilo da Silva.

34. The said villagers were brought at the roadside and surrounded by the militia including **Miguel Da Silva aka Miguel Mau** and TNI present to prevent them from escaping. They were then questioned about the whereabouts of Joao Da Silva.
35. During the questioning, the villagers including the women were beaten by the militia present. The two women villagers, Rosalinda Abuk and Luizina Maia were handcuffed and also beaten by the members of the militia.
36. The villagers were thereafter taken to the deserted house of Baltazar Xiemenes. While there, Cervasio Yosep and Filipos Yosep were beaten again by Americo Mali who hit them on the head repeatedly with an iron pipe. The villagers suffered severe injury as a result of the beatings.
37. The militia including **Miguel Da Silva aka Miguel Mau** and TNI then destroyed all the eleven houses in Fatukmetan Village. Cervasio Yosep, Balbina Maia, Rosalinda Abuk, Luizina Maia, Filipos Yosep, Daniel Xiemenes, Markus Xiemenes, Jaime Cardoso, Teofilo da Silva and the other villagers were ordered to find places to stay and were ordered not to go to the Suai Church.

Suai Church Massacre (6 September 1999)

38. Between January 1999 and September 1999, members of the Laksaur militia under the command and control of Olivio Moruk, Egidio Manek, Maternus Bere, Cosmas Amaral and Pedro Teles, and members of the TNI and Polri in Cova Lima District terrorized the civilians who were perceived to be supporters of independence.
39. As a result of the campaign of terror and violence by the militia, TNI and Polri, villagers from Suai, Fohorem, Fatululik, Tilomar, Fatumean and Zumalai sought refuge in the Suai Church Compound in fear of their lives.
40. After the popular consultation and before the announcement of the result, armed members of the Laksaur militia and TNI patrolled the church area and threatened the civilians who were who were seeking refuge there.
41. On 4 September 1999 after the announcement of the results of the popular consultation and 5 September 1999, members of the Laksaur militia, armed with rifles, swords and machetes and members of the TNI continued to move around outside the church compound and started firing guns into the air and threatening the villagers who were hiding inside the church compound.
42. As a result of the shooting and the threats by the TNI and militia, on or about 5 September 1999, Father Dewanto went to the POLRI station in Suai and informed Lt. Col. Gatot Subiaktoro (the POLRI Commander) of

the situation and requested for security for the church and the villagers who were hiding in the church.

43. Lt. Col. Gatot Subiaktoro assured Father Dewanto that he would arrange for security for the church and the villagers hiding in the church.
44. On or about 5 September 1999, Father Hilario told the villagers that the church was no longer safe for them and that there may be an attack on the church by the militia and the TNI. Father Hilario advised the villagers to leave the church compound and to seek refuge elsewhere. About 500 villagers fled from the church compound and went into hiding in the surrounding jungles.
45. Sometime during the morning of 6 September 1999, about two members of the Laksaur Militia including Joanico Gusmao came to the Suai Church Compound and informed Father Hilario Mendonca that all the villagers had to go to West Timor and trucks will be sent to the church to transport the villagers.
46. At around 8am on 6 September 1999, a truck full of TNI soldiers arrived at the Salele Koramil which was also the headquarters of the Laksaur Militia in Salele. A TNI officer got off from the truck and went into the Koramil where he spoke with Olivio Moruk, while members of the Laksaur militia including **Miguel Da Silva aka Miguel Mau** were lined up outside the Koramil and being supervised by Egidio Manek.
47. After Olivio Moruk spoke with the TNI officer, he came out and directed the members of the Laksaur Militia present including **Miguel Da Silva aka Miguel Mau** , that they would attack the Ave Maria Church in Suai that day.
48. Members of the Laksaur militia under the command and control of Olivio Moruk and Egidio Manek left the Koramil in Salele and went to the Kodim in Suai. On their way, Egidio Manek ordered militia members from the surrounding area to gather at the Kodim in Suai.
49. At the Kodim in Suai, Olivio Moruk, Egidio Manek, Pedro Teles and Maternus Bere went into the Kodim office while the members of the militia including **Miguel Da Silva aka Miguel Mau** gathered outside and waited for the commanders to come out. Olivio Moruk, Egidio Manek, Pedro Teles and Maternus Bere were armed with rifles and the other members of the Laksaur militia were armed with rifles, swords and machetes.
50. Soon after, the commanders of the Laksaur Militia and several members of the militia left the Kodim and gathered at the house of Herman Sudyono. The militia members were armed with rifles, swords and machetes.
51. At about 2.30 pm members of the Laksaur Militia left the house of Herman Sudyono, the Bupati of Covalima District (Regent of Covalima

- District) and went towards the Suai Church. Herman Sudyono followed behind them dressed in a TNI uniform and armed with a rifle.
52. When they arrived at the church members of the Laksaur Militia and the TNI surrounded the church compound.
 53. Two grenades were thrown into the church compound and then the militia and the TNI started to shoot into the church compound.
 54. The militia and the TNI then entered the church compound and attacked the villagers who were hiding inside the church compound.
 55. During the attack, the TNI and members of the Laksaur Militia killed many civilians including the three priests namely, Father Hilario Madeira, Father Francisco Soares and Father Tarsisius Dewanto and women and children. Several civilians were killed during the attack and many were injured.
 56. Miguel Da Silva aka Miguel Mau was armed with a tradition knife ("surik") participated in the attack in the Church.
 57. After the attack, members of the Laksaur militia and TNI forcibly took the surviving civilians to the Kodim Compound in Suai and some were forcibly taken to the primary school building. The villagers were detained thereat for about 8 days before members of the Laksaur Militia and the TNI forcibly took them to West Timor.
 58. On or about 7 September 1999, at about 7 am, members of the TNI including Lt. Col. Mas Agus and Lt. Sugito, and members of the Laksaur Militia including Egidio Manek went to the church compound and gathered all the dead bodies that were lying there. Some of the bodies were piled up and set on fire. Later all the bodies were loaded onto trucks and taken to West Timor where they were disposed off.
 59. On or about 22 November 1999, about 27 bodies of victims of the massacre at the Suai Church were recovered under the direction of the Indonesian National Inquiry Commission on East Timor from mass graves in West Timor.

VI. CRIMINAL RESPONSIBILITY

Individual Criminal Responsibility

60. 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:

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- "(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;"*

VII PURSUANT TO THE ABOVE, THE DEPUTY GENERAL PROSECUTOR CHARGES:

The Accused Miguel Da Silva aka Miguel Mau

Count 1. Crime Against Humanity: Murder

By his acts or omissions in relation to the events described in paragraphs 15 to 19 (inclusive), **Miguel Da Silva aka Miguel Mau** is responsible for the murder of Alexio Xiemenes, Paulus Xiemenes and Tomas Cardoso, on or about 23 April 1999 in Nikir Village, Tilomar Sub-District, Covalima District 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) of UNTAET Regulation 2000/15 and for which he is individually responsible under Section 14 of UNTAET Regulation 2000/15.

Count 2. Crime Against Humanity: Murder

By his acts or omissions in relation to the events described in paragraphs 20 to 25 (inclusive), **Miguel Da Silva aka Miguel Mau** is responsible for the murder of Lodificus Rabo, on or about 23 April 1999 in Tilomar Sub-District, Covalima District 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) of UNTAET Regulation 2000/15

and for which he is individually responsible under Section 14 of UNTAET Regulation 2000/15.

Count 3. Crime Against Humanity: Persecution

By his acts or omissions in relation to the events described in paragraphs 26 to 37 (inclusive), **Miguel Da Silva aka Miguel Mau** is responsible for the persecution of Cervasio Yosep, Balbina Maia, Rosalinda Abuk, Luizina Maia, Filipos Yosep, Daniel Xiemenes, Markus Xiemenes, Jaime Cardoso and Teofilo da Silva in Fatukmetan Village, on or about 23 April 1999 in Fatukmetan Village, Tilomar Sub-District, Covalima District as part of a widespread or systematic attack against a civilian population with knowledge of the attack and thereby committed a CRIME AGAINST HUMANITY, PERSECUTION a crime stipulated under Section 5.1(h) of UNTAET Regulation 2000/15.

Count 4. Crime Against Humanity: Extermination

By his acts or omissions in relation to the events described in paragraphs 38 to 59 (inclusive), **Miguel Da Silva aka Miguel Mau** is responsible for the extermination of an unknown number of civilians, on or about 6 September 1999 at the Ave Maria Church, Suai Sub-District, Covalima District including Father Hilario, Father Dewanto and Father Francisco 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(b) of UNTAET Regulation 2000/15.

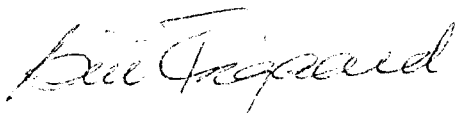
VIII. LIST OF VICTIMS

The list of victims, which forms part of this indictment is attached as Annex "A" .

IX. REQUEST FOR TRIAL

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

Dated this 28th day of February 2003



Siri Frigaard
Deputy General Prosecutor For Serious Crimes