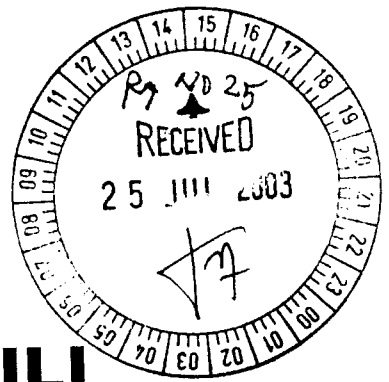




DISTRICT COURT OF DILI

BEFORE THE SPECIAL PANEL FOR SERIOUS CRIMES

Case No: 21/2003

INDICTMENT

THE DEPUTY GENERAL PROSECUTOR FOR SERIOUS
CRIMES

- Against -

MARCULINO SOARES

I. INDICTMENT

The Deputy General Prosecutor for Serious Crimes pursuant to his authority under UNTAET Regulations 2000/16 and 2000/30 (as amended by 2001/25) charges **Marculino Soares** with **CRIMES AGAINST HUMANITY: MURDER, INHUMANE ACTS AND PERSECUTION** as set forth in this indictment.

II. NAME AND PARTICULARS OF THE ACCUSED

Name:	Marculino Soares
Age:	Approximately 35 years old
Place of Birth:	Lakvou, Vaviquina Village, Maubara, Liquica, East Timor
Function at the time of the event:	BMP militia Commander in Guico, Liquica
Present Location:	Becora Prison, Dili, East Timor

III. INTRODUCTORY STATEMENT OF FACTS

1. On August 30, 1999, the United Nations held a referendum in which the people of East Timor voted for either autonomy with Indonesia or independence. In the referendum, approximately 78.5 % of the voters chose independence.
2. Both prior to and after the referendum the Indonesian civilian and military authorities, and members of various militia groups operating in East Timor, carried out a widespread or systematic attack against civilian pro-independence supporters throughout East Timor. The militia groups worked under the instruction of, and in coordination with, members of the Tentara Nasional Indonesia Forces (TNI).
3. The widespread or systematic attack included a campaign of violence against pro-independence supporters consisting of acts of incitement, intimidation, kidnappings, assaults, murders and rapes.
4. Many of the acts of violence resulted in lethal injuries.
5. The widespread or systematic attack also included attacks against property and livestock. For example, throughout East Timor villages were systematically burned by assailants.

- 6. The widespread or systematic attack also included the systematic displacement of civilians. Specifically, the civilian population was systematically displaced within East Timor and deported to West Timor.
- 7. From approximately March - October 1999 over 26 militia groups operated in East Timor. During this time, the Pasukan Pejuang Integrasi or "PPI" (pro-integration forces) was an umbrella organization under which the militia groups in East Timor were organized. The goal of the PPI, and the militia groups, was to work with the Indonesian authorities and support autonomy with Indonesia.
- 8. From April - October 1999 the Besi Merah Putih (BMP) militia group operated in Liquica District and the Aitarak militia group operated in Dili District.
- 9. In April 1999 **Marculino Soares** was a BMP commander in the village of Guico. He exercised control over BMP militia members in Liquica.

IV: SPECIFIC STATEMENT OF FACTS

Travel from Liquica District to Dili for Rally

- 10. In 1999, PPI leaders organized a pro-autonomy rally to be held on 17 April 1999 in Dili and ordered militia members from throughout East Timor to attend the rally. Members of the TNI were instrumental in organizing the rally and also attended the rally.
- 11. The BMP militia from Liquica District was one of the many militia groups that traveled to Dili for the rally and various BMP commanders in Liquica District ordered their BMP members to go. For example, **Marculino Soares** the BMP commander from the village of Guico, ordered his BMP members to go to the Koramil office in Maubara and led some of them there in order to go to the rally. These BMP members and others gathered at the Koramil Office with TNI members on 17 April 1999.
- 12. After their arrival at the Koramil Office a convoy was organized and vehicles full of armed BMP and TNI left the Koramil in Maubara for Dili.
- 13. On the way part of the convoy stopped in Liquica Subdistrict and additional BMP and TNI members joined the convoy there.
- 14. Upon arrival in Dili most of the TNI and BMP militia members from Liquica proceeded to the government headquarters where the rally was beginning.
- 15. Governor Abilio Soares, Colonel Tono Suratman, Colonel Timbul Silaen and Joao Tavares, among others, attended the rally. In addition, Bupatis from the various districts attended the rally.

16. At that rally, Joao Tavares, the commander of the PPI forces, addressed the militia groups there. After that, Eurico Guterres the Deputy Commander of the PPI forces in East Timor and the Commander of the Aitarak militia, addressed the militia groups.
17. During his speech, Eurico Guterres singled out the Carrascalao family, stating that they were traitors.
18. In addition, in his address Eurico Guterres identified anyone who was anti-integration as his 'enemy.' Eurico Guterres then ordered all militia, both ordinary soldiers and commanders, from April 17 onwards 'to seek out and capture' anti-integration individuals and turn them in to 'an international tribunal.' Eurico Guterres further stated that if they resisted 'to shoot them.'
19. Eurico Guterres concluded by stating that I, Eurico Guterres, 'will take full responsibility.'
20. Immediately following his address, Eurico Guterres ordered the militia members to fire into the air, which they did. Eurico Guterres then ordered them to stop, stating 'that's enough', and telling the Commanders to calm their men. He further told them not to fire, or they would run out of bullets.
21. Immediately following the rally, the militia members and TNI members divided up into groups. Eurico Guterres led one group as a convoy through Dili, carrying out various attacks on neighborhoods and civilians thought to support independence. These attacks resulted in 13 deaths, serious injuries and the destruction of property. Another group of militia members went to Aitarak headquarters that was located at the house of Eurico Guterres.

Attack on the individuals seeking refuge at the house of Manuel Carrascalao

22. By 17 April 1999, due to the widespread or systematic attacks against pro-independence supporters in the District of Liquica and other places, over 100 supporters of pro-independence had sought refuge at the house of Manuel Carrascalao located at Antonio de Carvalho Street No. 13, Bairro Lecidere, Dili District. Throughout the morning of 17 April 1999 militia members and others gathered around the house, threatening to attack.
23. On 17 April 1999, sometime prior to 12 noon, Manuel Carrascalao and his daughter, Christina Carrascalao, left their residence to go to the airport and received news that the militias were gathering at their house and that it was going to be attacked. As a result, Manuel Carrascalao and Christina Carrascalao proceeded to Engenheiro Canto Resende, Farol Street, Dili, and met with Colonel Suhartono Suratman, the Indonesian Army Military Region Commander for East Timor.

24. Manuel Carrascalao and Christine Carrascalao informed Colonel Suhartono Suratman that their house was going to be attacked and requested protection for their house. Colonel Suhartono Suratman did not respond to this request for aid.
25. Manuel Carrascalao and Christine Carrascalao then attempted to go to their house. When they got to a point directly across from the Resende Hotel in Dili, Manuel Carrascalao approached several BRIMOB officers in two vehicles parked on the street.
26. The BRIMOB were armed with weapons. Manuel Carrascalao informed them that his house was under attack and pleaded for their help. The BRIMOB officers took no immediate action.
27. Sometime around 1:00 p.m. the beginning of the convoy of militia members led by Eurico Guterres reached the house of Manuel Carrascalao.
28. Sometime after 1:00 p.m. members of the BMP militia and TNI members began attacking the residence and the individuals inside the house. Some militia members who had been with the convoy joined in the attack.
29. After the commencement of the attack, some of the members of the BMP that were eating lunch at the house of Eurico Guterres heard the attack and went and joined in the attack.
30. **Marculino Soares** and other BMP militia members were armed and participated in the attack on the people in the house of Manuel Carrascalao.
31. During the attack twelve people were killed.
32. Specifically, members of the TNI and militia attacked Manelito Carrascalao, shooting and stabbing him. Manelito Carrascalao died from injuries received during the attack.
33. Members of the TNI and militia attacked Eduardo de Jesus. One of the attackers was Antonio Bescau who shot Eduardo de Jesus. Eduardo de Jesus died from injuries received during the attack.
34. Members of the TNI and militia attacked Alberto dos Santos. Specifically, Jose Mateus and Domingos Bondia, with others, killed Alberto dos Santos. Jose Mateus shot Alberto dos Santos and Domingos Bondia bludgeoned Alberto Dos Santos with a wooden plank. Alberto dos Santos died from injuries received during the attack.
35. Members of the TNI and militia attacked Antonio da Silva Soares. Specifically, Floriano da Silva aka Floriano Dato Meta and Domingos Bondia with others, killed Antonio da Silva Soares. Floriano da Silva aka Floriano Dato Meta

- stabbed Antonio da Silva Soares and then ordered Armando dos Santos to stab Antonino da Silva, which he did. Domingos Bondia participated in the attack on Antonio da Silva Soares. Antonio da Silva died from injuries received during the attack.
36. Members of the TNI and militia attacked Januario Pereira. Specifically an unidentified militia member shot Januario Pereira while he was in the house. In addition, Jose Mateus and Fernando Sousa each stabbed him during the attack. Januario Pereira died from injuries received during the attack.
 37. Members of the TNI and militia attacked Raul dos Santos Cancela. Specifically, Jose Mateus and Fernando Sousa with others, killed Raul dos Santos Cancela. Raul dos Santos Cancela died from injuries received during the attack.
 38. Members of the TNI and militia also attacked Joao dos Santos, Crisanto dos Santos, Rafael da Silva, Afonso Riberio, Cesar dos Santos and Augustino Benito X. Lay. These individuals died from injuries received during the attack.
 39. Several people were also seriously injured in the attack.
 40. Members of the TNI and militia, including Mateus Metan and Armindo Carrion attacked Alfredo Sanches, stabbing and shooting him. Alfredo Sanches was seriously injured in the attack.
 41. In addition other members of the TNI and militia attacked Victor dos Santos, Jacinto Cardoso, Niki and Florindo de Jesus with guns, swords and other weapons. Florindo de Jesus saw Domingos Bondia while he was being attacked. Victor dos Santos, Jacinto Cardoso, Niki and Florindo de Jesus were seriously injured in the attack.
 42. After approximately one hour, the attack was stopped by members of the BRIMOB and Indonesian Police Forces.
 43. Following the attack, the BRIMOB and Indonesian Police Forces secured the area. The bodies of the 12 victims were taken to Wira Husada Military Hospital located in Lahane, Dili, where TNI soldiers kept them under guard, until the bodies were removed for burial.
 44. Injured people were taken to and treated at the Wira Husada Military Hospital and the MOTAEL clinic.
 45. Some of the survivors of the attack were taken to the house of Eurico Guterres and later some were transferred to the police station and some were transferred to their villages.

46. Members of the BRIMOB and POLRI took others to the police station near the market in Dili and then to the POLDA station in Comoro. Many were kept at the POLDA station for approximately 40 days.
47. On about 19 April 1999, members of the TNI brought the bodies of 11 of the 12 victims from Dili to Leboke, Liquica, where they were buried.
48. After the series of attacks carried out in Dili, some of the members of the various militia groups went to Eurico Guterres' house. Eurico Guterres addressed the members of the militia and instructed them to return to their respective villages.
49. The attacks that occurred in Dili on 17 April 1999 were widely reported in the media.
50. Before the attacks that occurred in Dili on that day **Marculino Soares** knew or had reason to know that subordinates under his command and control were going to attack civilians and failed to take the reasonable and necessary measures to prevent such acts and/or after the attacks and **Marculino Soares** knew or had reason to know that their subordinates had undertaken the acts and failed to punish the perpetrators thereof.

V: CRIMINAL RESPONSIBILITY

51. **Marculino Soares** is individually responsible for the crimes charged in this indictment. Individual responsibility under Section 14 UNTAET Regulation 2000/15 arises if an accused:

“(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 or the intention of the group to commit the crime; and

... .

(f) attempts to commit such a crime by taking action that commences its execution by means of a substantial step, but the crime does not occur because of circumstances independent of the person's intentions. However, a person who abandons the effort to commit the crime shall not be liable for punishment under the present regulation for the attempt to commit that crime if that person completely and voluntarily gave up the criminal purpose.

52. In addition or alternatively, **Marculino Soares** is responsible for the crimes alleged against him in this indictment under Section 16 UNTAET Regulation 2000/15 as a commander or superior. Under Section 16, a commander or other superior is responsible for the acts of his or her subordinate if:

" . . . if he 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."

VI: THE CHARGES

Count 1. Crimes Against Humanity: Persecution

By his acts or omissions in relation to the events described in paragraphs 9, 22-47 and 50, **Marculino Soares** is responsible jointly with others for the persecution of civilians on political grounds committed in Dili District on 17 April 1999 as part of a widespread or systematic attack against a civilian population with knowledge of the attack and is thereby responsible for a CRIME AGAINST HUMANITY, PERSECUTION, pursuant to Section 5.1(h) and Sections 14 and/or 16 of UNTAET Regulation 2000/15.

Count 2. Crimes Against Humanity: Murder

By his acts or omissions in relation to the events described in paragraphs 9, 22-47 and 50, **Marculino Soares** is responsible jointly with others for the murders of Raul dos Santos Cancela, Manelito Carrascalao, Rafael da Silva, Antonio da Silva, Eduardo de Jesus, Alberto dos Santos, Cesar dos Santos, Crisanto dos Santos, Joao dos Santos, Januario Pereira, Afonso Riberio and Augustino Benito X. Lay committed on 17 April 1999 at Antonio de Carvalho No. 13, Bairro Lecidere, Dili District as part of a widespread or systematic attack against a civilian population with knowledge of the attack and are thereby responsible for a CRIME AGAINST HUMANITY, MURDER pursuant to Section 5.1(a) and Section 14 and/or 16 of UNTAET Regulation 2000/15.

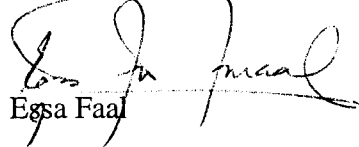
Count 3. Crimes Against Humanity: Other Inhumane Acts

By his acts or omissions in relation to the events described in paragraphs 9, 40-42 and 50 **Marculino Soares** is responsible jointly with others for the inhumane acts committed in Dili on 17 April 1999 as part of a widespread or systematic attack against a civilian population with knowledge of the attack and is thereby responsible for a CRIME AGAINST HUMANITY, OTHER INHUMANE ACTS pursuant to Section 5.1(a) and Section 14 and/or 16 of UNTAET Regulation 2000/15.

VII: 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: 24/7/03



Egza Faal

Acting Deputy Prosecutor General for Serious Crimes