

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

- - - - -x
 :
 JANE DOE, :
 : CA No. 00-674
 Plaintiffs, :
 :
 v. :
 :
 JOHNY LUMINTANG, : DAY 1
 :
 Defendant. :
 :
 - - - - -x

Washington, D.C.
March 27, 2001
9:30 a.m.

Transcript of Bench Trial
Before the Honorable Judge
Alan Kay
United States District Court Magistrate

APPEARANCES:

For the Plaintiffs:
ESQ.

ANTHONY P. DICAPRIO,

JUDITH BROWN CHOMSKY,
ESQ. JENNIFER GREEN,
ESQ.
R. BRIAN HENDRIX, ESQ.
STEVEN M. SCHNEEBAUM,

ESQ.

For the Defendant:

None.

Court Reporter:

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1 P R O C E E D I N G S

2 THE CLERK: Civil Action 2000-674. Jane
3 Doe versus Johnnie Lumintang. Jennifer Green,
4 Steve Schneebaum, Brian Hendrix, Judith Chomsky,
5 and Anthony DiCaprio representing the plaintiffs.

6 No counsel and no defendants present, Your
7 Honor.

8 THE COURT: The Court has before it three
9 motions for admission pro hac vice; is that
10 correct? Who's acting as lead counsel, Mr.
11 Schneebaum?

12 MR. SCHNEEBAUM: Your Honor, I filed the
13 motions. Mr. DiCaprio is lead counsel assuming the
14 Court grants the motion.

15 THE COURT: All right. Well, Mr.
16 Schneebaum, we need someone who is a member of the
17 bar to make the motion. The plaintiffs
18 unfortunately are not members of the bar. So you
19 have been nominated.

20 MR. SCHNEEBAUM: I filed the motions. I
21 am a member of the bar of the Court and that's
22 why--

23 THE COURT: Very well. If you'll go ahead
24 and make your motions on the ... the motions I have
25 before me are not signed. So--

1 MR. SCHNEEBAUM: Your Honor, what happened
2 here--

3 THE COURT: Unless there's a--

4 MR. SCHNEEBAUM: --we filed these motions
5 yesterday and we--oh, actually, I think we filed
6 them last week. We got a call from the Clerk's
7 office yesterday that inadvertently the proposed
8 forms of order had been omitted from the motions.
9 We messengered the proposed forms of order to the
10 Clerk's office, but apparently they didn't get
11 attached last night in the Clerk's office.

12 So what you have before you is a copy--

13 THE COURT: A copy.

14 MR. SCHNEEBAUM: --that I happened to have
15 with me. I'll be pleased to sign it if Your Honor,
16 please--

17 THE COURT: I see. I see. But it's your
18 representation that all three motions have indeed
19 been filed.

20 MR. SCHNEEBAUM: They have indeed, yes,
21 sir.

22 THE COURT: Very well. Why don't you make
23 the motions orally, Mr. Schneebaum, and we'll take
24 care of them one at a time.

25 MR. SCHNEEBAUM: Well, the motions are for

1 the admission pro hac vice of Jennifer Green,
2 Anthony DiCaprio, and Judith Chomsky.

3 THE COURT: I don't have a motion for
4 Jennifer Green. I have a motion for Susan Shaw
5 Roberts.

6 MR. SCHNEEBAUM: Actually, Your Honor,
7 Jennifer Green is a member of this bar, so there's
8 no motion before the Court.

9 THE COURT: Oh, is that right? Okay.

10 MR. SCHNEEBAUM: They're just
11 applications, Your Honor.

12 THE COURT: Well, I also have a motion for
13 the admission of Susan Shawn Roberts.

14 MR. SCHNEEBAUM: That's a third person.
15 I'm sorry, that's quite right. Susan Shawn Roberts
16 is the third person, not Jennifer Green. So it's
17 Shawn Roberts, Anthony DiCaprio, and Judith
18 Chomsky.

19 THE COURT: All right. And Ms. Roberts is
20 a member of the bar of the Supreme Court of
21 California; is that correct?

22 MR. SCHNEEBAUM: Yes, that's correct.

23 THE COURT: And she's currently a member
24 in good standing.

25 MR. SCHNEEBAUM: Yes, that is my

1 understanding.

2 THE COURT: And you vouch for her, Mr.
3 Schneebaum.

4 MR. SCHNEEBBAUM: I do, yes, sir.

5 THE COURT: Very well. Similarly with Ms.
6 Chomsky?

7 MR. SCHNEEBBAUM: Ms. Chomsky is a member
8 of the bar of Pennsylvania and currently--

9 THE COURT: All right. And currently is a
10 member in good standing.

11 MR. SCHNEEBBAUM: Yes, she is.

12 THE COURT: And Mr. DiCaprio is a member
13 of the bar of the State of New York?

14 MR. SCHNEEBBAUM: State of New York, yes.

15 THE COURT: And also is a member in good
16 standing.

17 MR. SCHNEEBBAUM: Yes.

18 THE COURT: Very well. The Court will
19 admit Ms. Chomsky, Ms. Roberts, and Mr. DiCaprio
20 pro hac vice for the purposes of this case.

21 MR. SCHNEEBBAUM: Thank you, sir.

22 THE COURT: Thank you, Mr. Schneebaum. The
23 Court will sign the order.

24 (Document signed by the Court.)

25 THE COURT: Do you want to swear in the

1 interpreter at this time.

2 THE CLERK: Oh, certainly.

3 Would the interpreter, please, stand and
4 raise his right hand.

5 ISILIO COELHO, INTERPRETER, SWORN

6 THE COURT: Your last name is Mr. Coelho;
7 is that correct?

8 THE INTERPRETER: Yes.

9 THE COURT: I see. And your first name
10 is?

11 THE INTERPRETER: Isilio.

12 THE COURT: Isilio. I see. So
13 that--thank you, Mr. Coelho.

14 Counsel, the Court understands that this
15 matter is before the Court today for trial or
16 evidentiary hearing on the issue of damages alone.
17 Is that correct, Mr. DiCaprio? And the liability
18 issues has been resolved by the granting of the
19 default judgment by Judge Kessler.

20 You contemplating putting on live
21 witnesses?

22 MR. DICAPRIO: Yes, we are, Your Honor.

23 THE COURT: And how many witnesses do you
24 anticipate will be called?

25 MR. DICAPRIO: I believe, Your Honor, we

1 have a total of five or six witnesses, three of
2 whom are experts. We also have testimony which we
3 hope to present to the Court, which was done by
4 video deposition in East Timor. That was done on
5 February 26 and February 27. One of those
6 depositions is a deposition of one of the
7 plaintiffs, and the other deposition is the
8 deposition of a witness to some of the events that
9 resulted in the death of one of the plaintiffs.

10 THE COURT: All right. The witnesses are
11 listed in the pleadings as Jane Does and John Does.
12 Will they be identified any further during this
13 hearing?

14 MR. DICAPRIO: We were going to ask the
15 Court for permission to continue to use their
16 pseudonyms because of the situation in which they
17 live. There is some grave concern about
18 retaliation as a result of their bringing this
19 action on an Indonesian military officer. We have
20 an order which has permitted that to this point,
21 and we were hoping that this Court would also allow
22 it.

23 THE COURT: Are the actual names of record
24 in the jacket under seal?

25 MR. DICAPRIO: Yes, Your Honor, they're

1 under seal. And apparently Ms. Green went to the
2 Clerk's office yesterday and they are in an
3 affidavit and they are in the Clerk's vault.

4 THE COURT: Well, the Court will continue
5 to preserve the anonymity of the plaintiffs
6 throughout this hearing and until further order of
7 the Court.

8 MR. DICAPRIO: Thank you, Your Honor.

9 THE COURT: They will be identified as
10 numerically as Jane Doe 1, 2, 3, et cetera?

11 MR. DICAPRIO: Yes. There is a Jane Doe
12 1, and that is the only female plaintiff.

13 THE COURT: Right. The rest our John
14 Does?

15 MR. DICAPRIO: Yes, Judge.

16 THE COURT: One through what? Five?

17 MR. DICAPRIO: One through five.

18 THE COURT: One through five.

19 Mr. DiCaprio, do you know whether there
20 was proposed findings of fact and conclusions of
21 law that was submitted I think to the Chambers of
22 Judge Kessler? Were they also filed with the
23 Court?

24 MR. DICAPRIO: Yes, Your Honor, they
25 were--

1 THE COURT: All right.

2 MR. DICAPRIO: --by local counsel.

3 THE COURT: Ms. Kay, do you know.

4 THE CLERK: No. It comes up as unsealed.

5 THE COURT: Unsealed. All right.

6 Was there a request to unseal the file,

7 Mr. DiCaprio? Are you aware of that?

8 MR. DICAPRIO: I don't believe--

9 MR. SCHNEEBAUM: Yes, there was.

10 MR. DICAPRIO: Was there?

11 Yes, Judge.

12 THE COURT: And Judge Kessler ruled on

13 that?

14 MR. SCHNEEBAUM: Yes, Your Honor.

15 THE COURT: Very well. Thank you. Fine.

16 How do you wish to proceed, Mr. DiCaprio?

17 Do you wish to make an opening statement?

18 MR. DICAPRIO: With the Court's

19 permission, Your Honor, I would like to make an

20 opening statement. I will try to keep it as brief

21 as is possible.

22 THE COURT: You anticipate three days; is

23 that correct?

24 MR. DICAPRIO: We do, Judge. Although--

25 THE COURT: Now, are your witnesses here?

1 You say you have three expert witnesses; is that
2 correct?

3 MR. DICAPRIO: Yes, Your Honor.

4 THE COURT: And they are experts in what
5 field?

6 MR. DICAPRIO: Our first witness is
7 present today in the courtroom. He's professor
8 Richard Tanter. He is a professor at the
9 University in Kyoto, Japan. He teaches
10 international relations. He also has his PhD, and
11 his area of specialty was the Indonesian Military
12 Intelligence Complex.

13 THE COURT: So the Professor Tanto--

14 MR. DICAPRIO: Tanter, T-A-N-T-E-R.

15 THE COURT: T-E-R, Tanter.

16 MR. DICAPRIO: Yes.

17 THE COURT: Professor Tanter is here today
18 and he's prepared to testify?

19 MR. DICAPRIO: Yes, he is, Your Honor.

20 He'll be our first witness.

21 THE COURT: The experts are not here
22 today?

23 MR. DICAPRIO: The other two are--no, they
24 are not, Judge.

25 THE COURT: I see. And you anticipate

1 they will be--

2 MR. DICAPRIO: Yes.

3 THE COURT: --called tomorrow or the day
4 after or?

5 MR. DICAPRIO: I presume that one of the
6 experts will be called tomorrow. That's Professor
7 Theodore Fokey (phonetic). He is a film producer
8 and worked for the United Nations in East Timor.

9 THE COURT: I see. No. I'm trying to get
10 the logistics of how you anticipate having your
11 witnesses and presenting your testimony.

12 MR. DICAPRIO: I'm prepared to give the
13 Court a road map of exactly what we intend to do.
14 And I know that the case is unusual from the
15 perspective that it is a default, and we are asking
16 the Court to a substantial amount of time to hear
17 proof. And we're sensitive to that fact, and I
18 would like to explain the reasons for that.

19 I also would like to start out by thanking
20 the Court, all of us do, for the Court's
21 willingness to hear this case now. I know that the
22 Court had a number of matters that had to be
23 cleared from the Court's documents. So thank you,
24 Your Honor.

25 Your Honor, the case is an unusual case

1 for a number of reasons. And we recognize that
2 much of the testimony that we will be presenting is
3 disturbing. And that's one of the aspects of this
4 case which is unusual. One of the other aspects of
5 the case that the Court has noted that is unusual
6 is that we are presenting live witnesses. And the
7 witness--We're doing this, Your Honor, is because
8 the acts perpetrated upon the plaintiffs were of
9 such a brutal nature that they really cannot be
10 communicated effectively, other than through their
11 testimony. The types of acts that are outside of
12 our normal experience, and I think unless we
13 actually hear the proof, it's difficult to grasp
14 the true severity of these acts.

15 Also, Your Honor, I think the Court will
16 find--we hope the Court will find that the
17 defendant perpetrated not only these acts, but acts
18 against the entire population of East Timor in his
19 position in the Indonesian Military. And because
20 of the egregious nature of these acts, we are
21 seeking both compensatory and punitive damages.

22 As the Court has recognized, there has
23 been a judgement of default, which was dated
24 November 8, 2000, whereby the defendant was found
25 to be legally responsible for war crimes, crimes

1 against humanity, gross violations of Human Rights,
2 and other systematic and...

3 We're also here, Your Honor, pursuant to
4 the provisions of the Torture Victims Protection
5 Act which was passed in 1992 and which verified and
6 justified the holding in the famous case of
7 Florida.

8 And finally, and perhaps most importantly,
9 Judge, we're before this Court in this jurisdiction
10 because the defendant was present in this
11 jurisdiction. He committed the acts that we
12 alleged and this may be the only form in which
13 these plaintiffs can address those acts.

14 THE COURT: He was served in this
15 jurisdiction, Mr. DiCaprio?

16 MR. DICAPRIO: I believe, Your Honor, he
17 was served in the airport at Dulles. Your Honor, I
18 would just like to give the Court a very brief
19 history and just to orient the Court to where East
20 Timor is, if I may.

21 THE COURT: Surely.

22 MR. DICAPRIO: Your Honor, this is the
23 Island of East Timor (indicating), which is
24 approximately the size of Massachusetts.

25 THE COURT: Do you contemplate introducing

1 anything that you refer to into evidence? If you
2 do, Mr. DiCaprio, I hope it's been identified.

3 MR. DICAPRIO: I believe it has been
4 marked, Your Honor.

5 THE COURT: So that the record is clear,
6 if you're referring to any exhibit or potential
7 exhibit, if you could use the exhibit number, it
8 would be helpful.

9 MR. DICAPRIO: Yes, Your Honor. This is
10 the eastern portion of the Island of Timor. The
11 western portion of the Island of Timor is currently
12 part of the Indonesian Nation. To orient the
13 Court, in terms of--

14 THE COURT: You said that is the Island of
15 Timor?

16 MR. DICAPRIO: Yes.

17 THE COURT: So there is a single island
18 called Timor which is divided out into East Timor
19 and West Timor; is that correct?

20 MR. DICAPRIO: That's correct, Your Honor.

21 THE COURT: Where is the boundary on the
22 map that you made reference to earlier?

23 MR. DICAPRIO: This is the western portion
24 of the island, which is West Timor. What we've
25 presented in Exhibit No. 1 is East Timor.

1 THE COURT: So what's depicted there is
2 just East Timor? The island continues on beyond
3 that?

4 MR. DICAPRIO: Yes, Your Honor.

5 THE COURT: I see.

6 MR. DICAPRIO: And here is a map which
7 place East Timor between Indonesia and Australia.
8 It's about an hour and a half plane ride west of
9 Darwin, and the Island of Timor is located right
10 here (indicating).

11 THE COURT: I see.

12 MR. DICAPRIO: This Exhibit No. 2, Your
13 Honor. And to further--

14 THE COURT: On the original exhibits that
15 you were referring to of East Timor is
16 exhibit--what's the number of that exhibit?

17 MR. DICAPRIO: That's Exhibit No. 1.

18 THE COURT: That's Exhibit No. 1?

19 MR. DICAPRIO: Yes. Exhibit No. 2 further
20 orients the location of Timor and between Indonesia
21 and Australia. And that is located, Your Honor,
22 right here (indicating.)

23 The reason the island is broken into West
24 and East Timor is because during the Colonial days,
25 the western portion of the island was a Dutch

1 Colony. The eastern portion of the island was a
2 Portuguese Colony. And the '40s when Indonesia
3 became an independent nation, West Timor became
4 part of Indonesia. East Timor remained a Colony of
5 Portugal until approximately the 1970s when the
6 Portuguese Empire started to decline.

7 And in 1975, on November, 28, 1975, East
8 Timor declared its independence from Portugal. The
9 acts that started the process for which we
10 ultimately are here today, Your Honor, began on or
11 about December 7--excuse me, December 6, 1975, when
12 Indonesia invaded East Timor.

13 This invasion was a brutal invasion, was
14 followed by genocidal acts. And during the period
15 of 1975 through 1979, roughly one-third of the
16 population was killed. That was about 200,000
17 people. Since 1979, the Indonesian Rule has been
18 extremely repressive. There have been numerous
19 executions, force disappearances. The people of
20 East Timor have been subject to the most horrendous
21 forms of torture and repression.

22 One of the dates that's important to the
23 people of East Timor is the date of November 12,
24 1991. That date was the date of a massacre that
25 took place in a cemetery outside of Dili, which is

1 the capitol of East Timor, and I'll try to locate
2 that. It's right here, Your Honor (indicating), on
3 the northern part of the island, like toward the
4 west.

5 The Indonesian Military opened fire upon
6 hundreds of people who had been present at the
7 Santa Cruz cemetery peacefully mourning the death
8 of one of their young men who had been murdered by
9 the Indonesian Military.

10 The violence inflicted upon East Timorese
11 continued with some international attention as a
12 result of Santa Cruz. Eventually, once the
13 President of Indonesia, President Habibie, took
14 control in January of 1999, he announced that the
15 people of East Timor would be allowed to have a
16 vote referred to as the Popular Consultation. They
17 would be given two choices. They could remain as
18 an autonomous, yet integrated part of Indonesia, or
19 they could be an independent nation.

20 Following that announcement, the
21 repression, the torture, and the acts, which we
22 allege in the complaint, increased with greater and
23 rather intensity.

24 Eventually, there was a Popular
25 Consultation, which was held on August 30, 1999.

1 And despite the fact that there was this
2 repression, 98 percent of the population turned out
3 to vote, and almost 79 percent of the population
4 voted for independence. As a result of that vote,
5 there was a waive of terror that was inflicted on
6 the East Timorese by the Indonesian Military, which
7 resulted in the acts for which we are here today.

8 Your Honor, there are three plaintiffs who
9 are present that I would like to identify for the
10 Court by showing them to the Court.

11 Jane No. 1 is in the first bench. She is
12 here on her behalf. She was subject to the initial
13 invasion in 1975. Her home was burned down and she
14 was subsequently in term. And when she was
15 seven-months pregnant and was not released until
16 about two weeks before the birth of her child.

17 She also appears on behalf of her son,
18 John Doe 1, who was a very young man, a political
19 activist who was at the time, after the Popular
20 Consultation, went into hiding, but subsequently
21 encountered Indonesian Military. He was shot
22 because it was impossible to receive medical
23 attention. He ultimately--his foot ultimately
24 became infected and he subsequently died.

25 John Doe 2, Your Honor, who is next to

1 Jane Doe 1, had a similar experience as John Doe 1.
2 John Doe 2 went into hiding and eventually when his
3 food, and those the food of the other people he was
4 with, ran out he returned to Dili. He encountered
5 Indonesian soldiers. They beat him. They took him
6 back to the barracks, beat him with a gun, and he
7 was shot. And because he was unable to get medical
8 attention, his left foot was amputated.

9 John Doe 3, Your Honor, is a Human Rights
10 activist in East Timor, and he had been very active
11 prior to the Popular Consultation educating the
12 people. He had been arrested a number of times
13 after the announcement of the results of the
14 Consultation on September of 1999.

15 He was deported to West Timor where he
16 remained for approximately one month. He also
17 brings this case on behalf of his father, John Doe
18 4. John Doe 4, after the Popular Consultation was
19 announced, was subjected to--his home was burned
20 down and he and most of his family were required to
21 flee their home. John Doe 3 also presents this
22 case on behalf of his deceased brother, his older
23 brother, John Doe 5, who was brutally tortured,
24 mutilated, and then murdered.

25 Your Honor, I made a reference to

1 Professor Tanter. And Professor Tanter will
2 establish a number of things. First of all, he
3 will establish that the defendant had a career as a
4 military officer in the Indonesian Military. He
5 not only took part in the initial invasion of East
6 Timor in 1975 as a junior officer, but he was also
7 present in other areas in Indonesia where gross
8 acts of Human Rights abuses took place.

9 From 1990 onward, the defendant had a very
10 successful career in the Indonesian Military. He
11 became and was a well experienced infantry member.
12 And in 1998 or 1999, he reached the rank of
13 Lieutenant General.

14 In 1999, and during the period of time
15 which the allegations in this lawsuit referred to,
16 he was the Army Deputy Chief of Staff and,
17 therefore, he was the principal aide of the Army
18 Chief of Staff. He was third in command. Above
19 him was the Chief of Staff and above the Chief of
20 Staff was the Commander of the Armed Forces.

21 Dr. Tanter will provide testimony that the
22 defendant was aware of the acts that took place was
23 knew and should have known of the acts that were
24 going to take place. And more importantly, Your
25 Honor, he helped to prepare a military manual which

1 provided the description of the types of skills an
2 Indonesian Military would have, such as terror,
3 kidnapping, psychological operations, sabotage, and
4 agitation.

5 THE COURT: You stated, Mr. DiCaprio,
6 Professor Tanter was No. 3 in command; is that
7 correct?

8 MR. DICAPRIO: Now, the defendant was the
9 third most--

10 THE COURT: No. 3?

11 MR. DICAPRIO: Yes.

12 THE COURT: I see. Was Professor Tanter
13 at that time in the Indonesian Military?

14 MR. DICAPRIO: No, he wasn't.

15 THE COURT: I see. I see.

16 MR. DICAPRIO: No. Your Honor,
17 he--Professor Tanter is an Australian--

18 THE COURT: I see.

19 MR. DICAPRIO: --who has studied and
20 written extensively.

21 THE COURT: Correct. So you're referring
22 to the Defendant Lumintang who came up through the
23 rank and became No. 3--

24 MR. DICAPRIO: That's correct.

25 THE COURT: --during the relevant period

1 here?

2 MR. DICAPRIO: That's correct, Your Honor.

3 THE COURT: The No. 1 was the Army Chief
4 of Staff. Was he located in East Timor or was he
5 located in Indonesia?

6 MR. DICAPRIO: I believe he was located in
7 Indonesia, Your Honor.

8 THE COURT: So essentially the defendant
9 was No. 2 in the hierarchy located in East Timor; is
10 that correct?

11 MR. DICAPRIO: He was the No. 2 in the
12 military, and part of his responsibility was East
13 Timor.

14 THE COURT: Yes.

15 MR. DICAPRIO: And part of his role--

16 THE COURT: Was he located physically in
17 East Timor or--

18 MR. DICAPRIO: He was in and out of East
19 Timor regularly, Your Honor. I believe he had
20 other obligations. But as it relates to this
21 lawsuit, part of his duties included the
22 organization, implementation, and the effectuation
23 of the policy that ultimately drove hundreds of
24 thousands of the East Timorese in deportation in
25 West Timor after the vote was announced and the

1 massive destruction that occurred.

2 It was his job to carry out the plan. And
3 Professor Tanter will describe the very copious
4 plans made by the Indonesian Military in concert
5 with Indonesian militia to effectuate the
6 devastation.

7 As I mentioned, Your Honor, we have also
8 Theodore Fokey, who will present a brief video to
9 give the Court an idea of what East Timor looks
10 like and to give the Court some sense of the
11 destruction. And Stella Xbock (phonetic), who is a
12 clinical licensed social worker, has evaluated each
13 of the plaintiffs. And she will testify as to
14 their current--she will provide a diagnosis and a
15 prognosis to the Court.

16 Our first witness, as I indicated, will be
17 Professor Tanter. And Professor Tanter will be
18 questioned and presented by Judith Chomsky.

19 THE COURT: All right.

20 MR. DICAPRIO: Your Honor, thank you.

21 THE COURT: All right. Thank you, Mr.
22 DiCaprio.

23 Ms. Chomsky or Mr. DiCaprio, I assume Dr.
24 Tanter and the other experts are going to be
25 discussing the circumstances of the environment, if

1 you will, that led up to the--

2 MS. CHOMSKY: Injured.

3 THE COURT: --injuries that occurred. With
4 respect to the damage component, there's going to
5 be testimony from, what, individuals, a videotape
6 will go to the damages. That is the simple issue
7 before this courtroom assessment in measurement of
8 damages?

9 MS. CHOMSKY: I believe that the testimony
10 of the individual plaintiffs will go to the issue
11 of compensatory damages, but we believe the expert
12 testimony; that is, the testimony especially of
13 Professor Tanter, goes to the issue of punitive
14 damages.

15 THE COURT: Very well. You may proceed
16 then.

17 MS. CHOMSKY: Thank you.

18 THE COURT: Swear in Dr. Tanter.

19 RICHARD TANTER, PLAINTIFFS' WITNESS, SWORN

20 DIRECT EXAMINATION

21 BY MS. CHOMSKY:

22 Q Professor Tanter, could you briefly tell
23 us where you're employed--

24 THE COURT: Can we have his name
25 officially, Ms. Chomsky--

1 MS. CHOMSKY: It's Richard Tanter.

2 THE COURT: No, no. I would like it from
3 the--

4 MS. CHOMSKY: Okay.

5 THE COURT: --witness under oath.

6 MS. CHOMSKY: Okay.

7 BY MS. CHOMSKY:

8 Q Would you, please, give us your name and
9 present residence.

10 A My name is Richard Tanter. I presently
11 live in Kyoto, Japan.

12 Q And by whom are you employed?

13 A Kyoto Seika University. Seika, S-E-I-K-A.

14 Q And where is that located?

15 A In the City of Kyoto in Japan.

16 Q Would you describe the area of your
17 specialization?

18 A I am a specialist in international
19 relations and in comparative politics; in
20 particular, Indonesia and Japan. And I have worked
21 on the area of Indonesia, which in this case
22 includes East Timor for some decades now.

23 THE COURT: Could we briefly have
24 Professor Tanter's C.V. or educational background?

25 MS. CHOMSKY: Yes, I'm about to ask him

1 to.

2 THE COURT: Very well.

3 BY MS. CHOMSKY:

4 Q I'm showing you what's been marked Exhibit
5 4 and ask you identify it.

6 A This--

7 MS. CHOMSKY: And I'm going to hand up a
8 copy to the Court.

9 THE COURT: Yes.

10 BY MS. CHOMSKY:

11 Q Professor Tanter, can you identify what's
12 been marked as Exhibit 4?

13 A Yes. This is my curriculum vitae. It
14 lists my education, present position, teaching
15 responsibilities, prior academic experience, and
16 principle publications, and unpublished papers,
17 conference papers.

18 Q Professor Tanter, do you speak and read
19 Indonesian?

20 A I read Indonesian. My spoken Indonesian
21 is now sadly declined since I've been living in
22 Japan for 12 years.

23 Q But you do read?

24 A I do, indeed, read Indonesian, yes.

25 Q Do you lecture at the Military College in

1 Australia?

2 A No. I lecture at the Australian Defense
3 College, which is a little different. The Defense
4 College is for senior commanders at Brigadoon
5 General, and major, general level.

6 Q And what is the area about which you
7 lecture?

8 A When I lecture as a guest lecture there, I
9 lecture on East Asian security issues and, in
10 particular, on Japanese security policy.

11 Q And do you also work as a guest lecture
12 for the United Nations University?

13 A I have done so, yes.

14 Q Would you tell the Court, please, your
15 most recent work with regard to the Indonesian
16 Military and to East Timor.

17 A A book has been published just this month
18 in the United States called Bitter Flowers, Sweet
19 Flowers. East Timor, Indonesia and the world
20 community is by myself, Max Feldon, and Stephen
21 Shalom. And in the course of that book, I also
22 wrote an introduction and conclusion in a major
23 article that's, entitled, East Timor and the Crisis
24 of the Indonesian Intelligence State.

25 I've also been writing recently on--more

1 comprehensively on Indonesian Intelligence State
2 after the end of the circle new order period, which
3 is a period of President Suharto from 1966 to 1998.

4 MS. CHOMSKY: Your Honor, I'd like to
5 offer the testimony of Professor Tanter as an
6 expert.

7 THE COURT: The Court will accept Mr.
8 Tanter's testimony as an expert in Indonesian--what
9 field?

10 MS. CHOMSKY: In the Indonesian Military.

11 THE COURT: An expert in the Indonesian
12 Military?

13 MS. CHOMSKY: Yes. The structure of the
14 Indonesian Military.

15 THE COURT: Professor Tanter, specifically
16 with respect to the Indonesian Military--

17 THE WITNESS: Yes.

18 THE COURT: --as an academic and scholar,
19 you acquire your knowledge of Indonesian Military
20 how?

21 THE WITNESS: In particular in the work I
22 undertook from my doctoral dissertation at Monesh
23 University--

24 THE COURT: Monesh University in
25 Australia?

1 THE WITNESS: In Melbourne, Australia. And
2 the title of the dissertation, which in the
3 Australia system, that's all there is, is a
4 dissertation. So it's pretty large. Is entitled
5 Intelligence Agencies and Third War Militarization,
6 a case study of Indonesia. And it specifically
7 focused on the Indonesia Military Intelligence
8 Organizations, which are an extremely important
9 part of all the Indonesian Military.

10 As part of that I was, of course,
11 required, and as part of the background, I had
12 extensive experience in analyzing in the role of
13 the Indonesian Armed Forces as a military and a
14 political--

15 THE COURT: And this was, what, prior to
16 the dissertation or subsequently?

17 THE WITNESS: Well, in fact, Your Honor,
18 it's been something I--my undergraduate work back
19 in the early '70s was in both Political Science and
20 Indonesian Studies. And I've subsequently been
21 involved for many years, particularly through
22 working on East Timor, with the study of Indonesia.
23 It's been a both simultaneous affair.

24 And I've regularly spoken in academic
25 conferences, academic makings, on the subject. And

1 undertaking visits to Indonesia and spoken with
2 Indonesian sources on this matter.

3 THE COURT: And how recently?

4 THE WITNESS: I have not been to Indonesia
5 for about five years, but I have been following
6 extensively through the media and through other
7 sources.

8 THE COURT: All right. The Court will
9 accept the testimony of Professor Tanter with
10 respect to his knowledge of Indonesia and the
11 Indonesian Military.

12 MS. CHOMSKY: Thank you, Your honor.

13 BY MS. CHOMSKY:

14 Q Professor Tanter, I'm going to ask you--if
15 you need to, you can come down and approach the--

16 THE COURT: I'll give you permission to
17 approach the exhibit, Professor Tanter.

18 BY MS. CHOMSKY:

19 Q Yes. Or if you're more comfortable
20 testifying from the witness stand.

21 Can you identify this document, which is
22 marked Exhibit 1?

23 A Yes. It's a map of what was at the time
24 the Indonesian Province of East Timor. It's
25 published by an Indonesian publisher in the City of

1 Jakarta.

2 Q And would you explain briefly to the Court
3 the relationship of East to West Timor.

4 A Certainly. During the process of the
5 European colonization of Southeast Asia and the
6 Indonesian Nacopelco (phonetic) from the 17th
7 Century onwards, the result was by the end of the
8 19th Century that the Island of Timor was divided
9 into two parts. The western part was under Dutch
10 control; the eastern part under Portuguese control.

11 When the Republic of Indonesia was formed
12 as a result of the war against the Dutch between
13 1945 and 1949, Dutch West Timor became part of the
14 Republic of Indonesia. East Timor remained as a
15 Portuguese Colony at that time. That was the
16 situation which prevailed up until December 1975.

17 Q Approximately what was the population of
18 East Timor in 1975?

19 A About 650,000.

20 Q Now, I'd like to just introduce a few
21 documents, Dr. Tanter, that will help the Court
22 follow the other testimony. Again, I'd just like
23 you to identify these additional maps for the
24 record just to have them authenticated.

25 (The witness left the stand and went to

1 the map.)

2 Q Now, I'm asking you to take a look at
3 Exhibit 2, which I'd appreciate if you identified
4 for the record.

5 A Yes. It's a map of Southeast Asia which
6 reaches between the areas of Australia at the
7 bottom and Mainland East Asia at the top.

8 Q How far is it between East Timor and
9 Australia?

10 A About 400 kilometers. It takes about an
11 hour and a half by a fairly slow plane to get there
12 from the City of Darwin, the capital of the
13 northern territory of Australia.

14 Q Has the Australian Intelligence Services
15 had a specific interest in what's going on in East
16 Timor?

17 A Yes, very much so for a long time. But
18 during the period of the Indonesian invasion in
19 December of '75 and in the run up to that
20 throughout the period of Indonesian occupation. But
21 in particular in the late 1990s, as it became clear
22 that something was going to change the situation,
23 the politics in Indonesia, and the sentiment East
24 Timor was rising to a pitch.

25 And in particular from the period of late

1 1998 through--well, until the present, of course.
2 But particularly during 1999 there was very, very
3 close attention paid to it both by electronic
4 surveillance and by 8:00 o'clock overflights, by
5 satellite imagery, and indeed by the landing of
6 Australian commanders to undertake intelligence
7 operations.

8 Q And have the results of the surveillance
9 by the Australian Intelligence Services become
10 available to this scholarly community studying the
11 Indonesian Military?

12 A Yes, they have. In particular, the work
13 of Professor Desmond Ball, who is a distinguished
14 professor in the Strategic and Defense Study Center
15 of the Australian National University, has recently
16 made available an article about to be published
17 called, Silent Witness, Australian and Intelligence
18 in East Timor.

19 In that article, Professor Ball draws on
20 many published sources. There are many documents
21 which have been leaked to journalists from
22 different parts of the Australian Intelligence
23 Organization. I'd be happy to speak about that.

24 And also at some of his own sources. And
25 Professional Ball is a world-recognized expert on

1 intelligence matters, both at the super, power
2 level, between the United States and the Soviet
3 Union, and also in Eastern Southeast Asia.

4 Q And now I'd like you to identify for the
5 record Exhibit 3.

6 A Yes. That's a map, entitled, The Pacific
7 Ocean, and it shows the whole of the Pacific from
8 the southern ocean reaching up to the Bering
9 Straight with North America and South America on
10 one side and East and Southeast Asia on the other.

11 Q I'd like to show you now Exhibit 4. I'm
12 sorry, Exhibit 5. Can you identify that for me?

13 A Yes. It is a document, entitled,
14 Crinology. It was compiled by Jerry Van Clinkon
15 (phonetic), myself, Jeffrey Gunn, and Stephen
16 Shalom. It appears as part of a special issue, a
17 special double-issue, of the journal, titled,
18 Bulletin of Concern East Asia--sorry--Bulletin of
19 Concerning East Asian Scholars. It appeared in
20 March 2000. Yeah, I think that's all.

21 MS. CHOMSKY: I'd like to move Exhibit 5
22 into evidence.

23 THE COURT: Very well. Plaintiffs'
24 Exhibit 5 for identification will be admitted into
25 evidence.

1 [Plaintiffs' Exhibit No.
2 5 was received into
3 evidence.]

4 BY MS. CHOMSKY:

5 Q I'd now like to show you Exhibit 6.

6 (Document handed to witness.)

7 A I believe I have to copies here.

8 Q Okay. Thank you.

9 A This document entitled, Glossary, which
10 begins on the right-hand side of the facing page,
11 was the glossary prepared by the editors of that
12 special double-issue of the Bulletin Concerning
13 East Asian Scholars and which had the title--the
14 issue at the title, East Timor, Indonesia, and the
15 World. And the glossary was prepared by the
16 editors primarily referring to Indonesian and
17 Portuguese, words which appear relevant to that
18 discussion.

19 Q Now, I'd like you just to explain to the
20 Judge a few of these words that appear in that
21 glossary. The first one being T-N-I.

22 A The TNI is an acronym for Tenata
23 (phonetic) National Indonesia, which means the
24 national--I'm sorry, the Armed Forces of Indonesia
25 or the Indonesia Armed Forces.

1 Q And the other one being C-N-R-T.

2 A CNRT, it appears, is the--I won't
3 pronounce it in Portuguese. It stands in English
4 for the National Council of Timorese Resistance.

5 Q And is that now the government of East
6 Timor?

7 A No. East Timor is, in fact, governed by
8 the United Nations. And by the United Nations
9 administration for East Timor is the intention of
10 the Security Council to consider the Independents
11 of East Timor within two years. During the time of
12 this administration the CNRT is regarded by the
13 UNTAET, the Union Administration as a
14 Representative of the East Timorese people.

15 MS. CHOMSKY: I'd like to move into
16 evidence Exhibit 6 .

17 THE COURT: Professor, the chronology and
18 the glossary, you indicated are a part of a
19 double-issue of a Bulletin of Concerned Asian
20 Scholars?

21 THE WITNESS: Yes, sir.

22 THE COURT: Perhaps you could take a
23 moment and tell me what the Bulletin of Concerned
24 Asian Scholars is? And you say a double-issue--

25 THE WITNESS: Right.

1 THE COURT: --is the magazine that
2 contains articles, but because this chronology and
3 glossary relate to a particular article. And if
4 you know, I think at the completeness of the record
5 it would be helpful to have the name of the article
6 to which this glossary and chronology relate.

7 THE WITNESS: Yes, Your Honor. The
8 Bulletin of Concerned Asian Scholars is an academic
9 journal, a refereed journal, of high repute, which
10 has been in existence for some 25 years or more.
11 The special--

12 THE COURT: Have you contributed?

13 THE WITNESS: I am a contributor, yeah.

14 THE COURT: Go ahead.

15 THE WITNESS: And I'm also on the--

16 THE COURT: So it would, of course, have
17 to be of high review.

18 THE WITNESS: I'm sorry?

19 THE COURT: It would, of course, have to
20 be of high review.

21 (Laughter.)

22 THE WITNESS: I'm delighted that you've
23 mentioned that point. It escapes--sometimes
24 escapes people's notice.

25 The special double-issue--to explain

1 MS. CHOMSKY: Thank you, Your Honor.

2 BY MS. CHOMSKY:

3 Q I'd like you to briefly review the history
4 of Indonesia, beginning with the takeover of
5 General Suharto.

6 A The President of Indonesia between 1949
7 and 1968 was President Sukarno. On the night of
8 September 30 and October 1, 1965, there was a coup
9 d'etat, an unsuccessful coup d'etat against--which
10 claimed to be particularly President Sukarno from a
11 counsel of generals.

12 The next day there was a counter-coup laid
13 by the Major General Suharto also claiming to
14 protect President Sukarno. And as a result of that
15 counter-coup, the initial coup was crushed within a
16 day. And in the aftermath to that, a new Army
17 command was established, which had effective
18 control of the country, akin to national law. That
19 command remained in existence for more than two
20 decades.

21 In the year following the coup, that is
22 between October 1965 and roughly October and
23 November of 1966, the Army, which was effectively
24 led by Major General Suharto, led and encouraged
25 killings of people who were alleged to be members

1 of the Indonesian Communist Party. The initial
2 Communist Party was at that time a legal
3 organization with some three million members.

4 During that roughly one-year period,
5 according to the United States Central Intelligence
6 Agency in a report published in what issue I should
7 say, in 1968, approximately 800,000 people died.
8 We don't know how many people died in reality, but
9 it's of that order.

10 I said a number--a very large number of
11 the victims were alleged communists. Many were
12 also Chinese and are now killed as a result of
13 ethnic prejudice. The killings were carried out by
14 the Army or by political allies of the Army; in
15 particular, Islamic youth groups aided and assisted
16 and encouraged and protected by the Army.

17 President Sukarno signed a letter in March
18 1996, which effectively handed over power to
19 President Suharto, who became acting-President
20 until 1968 when President Sukarno was forced to
21 resign, did resign. And President--and Mr.
22 Suharto, Major General Suharto, then became the
23 President of Indonesia, and he will remain
24 president until May of 1998.

25 MS. CHOMSKY: One moment, please, while I

1 move these documents around.

2 BY MS. CHOMSKY:

3 Q I'm showing you what's been previously
4 been marked Exhibit 7.

5 A Yes.

6 Q Can you identify that for the record?

7 A Yes. These are extracts from a document
8 which is entitled in Indonesia ... (Inaudible),
9 which means the organization and procedures of the
10 Indonesian Army, brackets, T and I, hyphen, AD.
11 It's formally identified as the decision of the
12 Armed Forces Commander. KEP, stroke, 08, stroke,
13 P, stroke, Roman III, 1984. It's issued over the
14 signature of the then-Commander of the Armed Forces
15 General Murdani (phonetic.)

16 Q And you took these extracts yourself--

17 A Yes, I did.

18 Q --is that right? From the whole document?

19 A Yes. Inside, yes, I did, indeed, yes.

20 Q Now, I'd like to bring your attention to a
21 particular part of the exhibit which I've had blown
22 up. These are marked Exhibits 7-A and 7-B. Would
23 you first identify, please, 7-A.

24 (The witness left the stand and went to
25 the exhibit.)

1 A 7-A is entitled, The Indonesian Structural
2 Organization T and A-ID, which means the
3 organizational structural of the Indonesian Army.
4 And is stressed Army rather than military.

5 Q Yes. Now, could you looking at that
6 document, which is marked Exhibit 7-A, explain who
7 is at the top in terms of their position and what
8 organizations they control.

9 A Yes, I will.

10 THE COURT: Ms. Chomsky, I'm happy to
11 admit this. But unfortunately, I cannot read the
12 document from this distance. But there is the last
13 page of the exhibit.

14 Professor Tanter could you confirm--

15 THE WITNESS: Sure.

16 THE COURT: --as to whether or not that
17 reflects the organization chart or the one--

18 THE WITNESS: Okay. In the one that--in
19 the copy I have, the last page is, in fact, the
20 personnel--

21 THE COURT: I see that.

22 THE WITNESS: --militia structure.

23 THE COURT: What about the penotament
24 (phonetic) page?

25 THE WITNESS: The penotament page is

1 indeed the one which is--

2 THE COURT: I see. Verry well.

3 THE WITNESS: --here, the structure.

4 THE COURT: That I can read.

5 THE WITNESS: Okay.

6 THE COURT: Ms. Chomsky?

7 I'm not sure I understand it, but I can
8 see it.

9 MS. CHOMSKY: I hope with Dr. Tanter's
10 help we'll be able to understand.

11 THE COURT: I hope so, too.

12 THE WITNESS: This is a chart of the
13 organizational structure of the Army. At the top
14 is the office of what is called Kasad (phonetic),
15 which stands for the Chief of Staff of the Army,
16 Army Chief of Staff. And immediately beneath it in
17 the same box is Wakisad (phonetic), which means the
18 Army Deputy Chief of Staff.

19 And below and the straight line going down
20 below there, to the very bottom, there are three
21 boxes. One labeled Kostrad, K-O-S-T-R-A-D. One
22 labeled Kopassus, K-O-P-A-S-S-U-S, and one labeled,
23 Kodam, K-O-D-A-M. These, in fact, are the three
24 commands of the Army. Kostrad is the Army
25 Strategic Reserve. It's the elite Army, elite part

1 of the Army. It's the, if you like, the fighting
2 part of the Indonesian Army. And I'll explain what
3 I mean by that a little more.

4 Kopassus is the Army's Special Forces
5 Command, which is like Special Forces in the
6 British Branch, American and French and Russian
7 Armed Forces, and they are basically commanders
8 training secret warfare.

9 Kodam stands for Military Area Command.
10 And in Indonesia--and in Indonesia at the time
11 were--we are talking about in 1999, the country was
12 divided into nine Kodams, nine military area
13 commands. These, in fact, covered the whole
14 country.

15 And beneath these military area commands
16 reaching right now to the smallest village, the
17 smallest part of a major town, there were lower
18 structures with Army personnel all the way down.
19 And these people--these military area commands were
20 permanent. They weren't temporary responding to
21 crisis. They are a permanent part of the
22 Indonesian Army.

23 So that is at the top. You have the Chief
24 of Staff and the Army Chief of Staff and the Army
25 Deputy Chief of Staff. They're line of command

1 goes right down here at this side. It's on the
2 left-hand side. I should explain this upper part
3 here. Tencup Nobias (phonetic) is the headquarters
4 level. This is the command level here. So that's
5 the relationship between headquarters and the Army
6 commands.

7 Going to the headquarters level here,
8 there are four echelons described on the right-hand
9 side. At the top the leadership echelon, the Army
10 Chief of Staff and Deputy Chief of Staff.
11 Secondly, the echelon of staff assistance, direct
12 assistance for specific responsibilities. Then
13 there are specific staff responsibilities for that
14 staff.

15 Q In the period of 1999, where was the
16 Defendant Johny Lumintang in this hierarchy.

17 A From January 1999 to October 1999,
18 Lieutenant General Johny Lumintang was the Army
19 Deputy Chief of staff, and he is in this position
20 here (indicating) which in Indonesia is written is
21 Wakisad (phonetic.)

22 Q And that is like the second person in the
23 Army?

24 A Within the Army, he is the--he holds the
25 second, highest position, indeed, yes.

1 Q Now, I'd like you to take a look at 7-B
2 and explain to the Court what that represents.

3 (Witness reviews document.)

4 A This is the following from that previous
5 chart describing the organization, the structure of
6 the Army. This is the--if you like the structure
7 of positions held by particular individuals.

8 So, again, at the top there is the Chief
9 of Staff and the Army Chief of Staff and the Army
10 Deputy Chief of Staff. The person, as opposed to
11 the officers, so to speak, or their officers. And
12 below them or to the left--sorry, looking on the
13 left-hand side are the personnel staff of the Chief
14 of Staff, the Inspector General of the Army.

15 And then on the third layer down here,
16 this long one going across here, there are a series
17 of assistants to the Army Chief of Staff for
18 Security for Operations and for planning, for
19 logistics, for territorial affairs, and so forth.
20 And below this at the executive level are the heads
21 of those various officers within the Armed Forces
22 Headquarters.

23 And at the very bottom in this direct
24 line--at the very bottom in the picture, not in
25 terms of authority at all, the direct line is to

1 the commanders of the three commands--three types
2 of commands I described before.

3 Firstly, Kostrad, the Commander of the
4 Army Strategic Reserve Command. Number 1 and
5 Number 2, the Commander of Army Special Forces
6 Command, Dom Kopassus. And then the commanders of
7 the nine military area commands called Pamdunts
8 (phonetic.)

9 Q And, again, with regard to the period from
10 January 1999 to October 1999, Defendant Johny
11 Lumintang is the second box?

12 A Yes.

13 Q Okay. Before you sit down, I'd like to
14 show you one more.

15 But, first, I'd like to move into evidence
16 Exhibit 7-A and 7-B.

17 THE COURT: Very well. Plaintiffs'
18 Exhibit 7-A for identification and 7-B for
19 identification will be admitted into evidence.

20 [Plaintiffs' Exhibit
21 Nos. 7-A and 7-B were
22 received into
23 evidence.]

24 BY MS. CHOMSKY:

25 Q I'd like you now to take a look at the

1 Exhibit 8.

2 THE COURT: Your not admitting Exhibit 7;
3 is that correct?

4 MS. CHOMSKY: I don't believe so, no.

5 THE COURT: I see. Okay. And for
6 convenience sake, as Professor Tanter indicated,
7 the last two pages of Exhibit 7 for identification
8 reflect 7-A and 7-B.

9 MS. CHOMSKY: That's correct, Your Honor.
10 You may proceed.

11 THE WITNESS: This is a chart of the
12 Indonesian Military National Command structure.
13 It's taken from a book by Dr. Robert Lowery,
14 entitled, The Armed Forces of Indonesia. Doc
15 Lowery is a former senior strategy military officer
16 who has extensive experience with the Indonesian
17 Army. It describes the command structure, the
18 change of coordination, and the chain of command,
19 the chain of operational command described in of a
20 solid line here.

21 The president is the supreme commander.
22 And directly under him there are--immediately below
23 him is the Armed Forces Headquarters and the
24 Commander in Chief of the Armed Forces.

25 There is also directly beneath the

1 President the Ministry of Defense Security,
2 security emphasizing Internal Security as much as
3 External Defense. Then to its left, the National
4 Agency. There is other ministries which have some
5 relevance to the military. Going to its right of
6 the Armed Forces Headquarters, the National
7 Intelligence Coordinating Agency, BAKIN, and the
8 Technology Agency, as well.

9 And then going from the President down
10 through the chain of command through the Armed
11 Forces Headquarters Commander Chief, there are the
12 four heads of the Indonesian Armed Forces. And
13 from the right, the Air Force Chief of Staff, the
14 Navy Chief of Staff, the Army Chief of Staff, and
15 the Chief of Police, because at that time the
16 police were part of the Armed Forces.

17 Where are we going? Following that chain
18 of command down, there are then a chain of
19 operational command. There are then the commanders
20 of the military area commands, Kodam. I must
21 correct something, I'm sorry. I said there were
22 nine Kodams before. There are, in fact, ten. I was
23 reminded by Dr. Lowery's paper. The military area
24 commands and then the Army Strategic Reserve
25 Command, Kostrad, Special Forces, Kopassus. The

1 Navy divided into two fleets, a reaction force seat
2 of command, air commands, and so forth.

3 Q I'll ask you to refer back to this later
4 when we--

5 A Yeah.

6 Q --talk about the positions that the
7 defendant held. Just to reiterate, the police
8 force under the Indonesian system is part of the
9 military.

10 A It was at that time. It is--legislation
11 has been passed to change that.

12 Q But that's subsequent--

13 A Subsequent to the events in 1999.

14 Q Yes. I'd like to bring your attention to
15 1975, the period beginning the Indonesian
16 occupation of East Timor. Could you describe to
17 the Court what happened.

18 A In the period between August 1975 and
19 early December 1975, it became increasingly clear
20 that Indonesia had decided to increase its pressure
21 on East Timor--oh, I'm sorry--on the Portuguese
22 Colony of East Timor from what had been prior to
23 that time effectively, should we say, strong
24 political persuasion by the neighboring country,
25 including a great deal of political agitation

1 towards using military remains to ensuring that the
2 territory--Portuguese territory of East Timor did
3 not become Independent and indeed became part of
4 Indonesia.

5 Throughout that time of August, October,
6 there were the beginning rising level of bordering
7 incursions by Indonesian Armed Forces. A very
8 famous part of that is the fight part of that was
9 in October at a town called Baubau near the border
10 where Indonesian commandos murdered five Australian
11 journalists to ensure that they could not report
12 what was happening.

13 On December--on December 8--sorry,
14 December 7th, Indonesia invaded East Timor Proper.
15 This took the form of landings by sea, landing by
16 paratroops, and boat troops coming over the border,
17 the land border from West Timor to East Timor.

18 It was--the first weeks of the invasion
19 were quite horrific in the manner in which the
20 population of East Timor was subjugated. There
21 were mass killings in Dili, even on the Port of
22 Dili on the wharf.

23 Now, on many accounts, reliable accounts
24 of people simply being men and women simply being
25 lined up and machine-gunned on the edge of the

1 wharf and their bodies going to the sea.

2 The--on 28th--I should go back. The
3 Pro-Independence Forces in East Timor at that stage
4 declared that East Timor was an Independent Nation,
5 the Democratic Republic of East Timor. Indonesia,
6 of course, rejected this and hence invaded.

7 What happened immediately following the
8 invasion was effectively that the military arm of
9 the Pro-Independence Forces decided to withdraw
10 from Dili--withdraw from the main towns of Dili and
11 withdraw to the hills. I should say that many of
12 these young women and men, particularly, the men,
13 had received training under the Portuguese in NATO.

14 As a part of a NATO Army, they had forts
15 in the Portuguese Colonial Wars in Angola and
16 Mozambique. They were themselves highly
17 experienced junior officers and NCOs and
18 junior--junior ranks.

19 They then started a war of resistance
20 against the Indonesian invasion. And I'd say from
21 the period 1976 to 1977 it--I think many people who
22 were observers at that time were very surprised
23 that the East Timorese were, in fact, able to hold
24 back a very, very considerable Indonesian Military
25 onslaught. The reason they're able to do this is

1 they, in fact, had weapons from the Portuguese
2 onslaught, light weapons. They had well-trained
3 officers and the country is highly suitable to
4 train their own men.

5 Another factor was, in fact, the violence
6 of the Indonesian attack was so extreme that it
7 very rapidly clarified what had previously been
8 somewhat a confused situation. There had been many
9 people, for example, who had thought or perhaps we
10 should continue some association with Portugal.

11 All those thoughts really came to an end
12 when it became clear that they'd been occupied by
13 an extremely brutal and ruthless military force.
14 And so from that period 1976 to '77, there was a
15 surprising level of very successful resistance by
16 the East Timorese. The Indonesians held the main
17 towns, the roads in between, but nothing else.

18 Q Would you describe the effects on the
19 population of the Indonesian occupation in the
20 period from '75 to '78.

21 A Okay. It was a very destructive
22 occupation immediately that I have mentioned there
23 many killings, immediates, and executions of any
24 one who was considered to be in opposition to the
25 Armed Forces and many people who were simply just

1 killed because they were in the way.

2 The period '76, '77, which I described is
3 somewhat a balanced miniature period, that ended
4 sometime in early 1978 when there was a change of
5 military commanders in Indonesia, a change of
6 approach essentially from what had been an invasion
7 force dominated by Intelligence and Operatives and
8 the Army Intelligence people to mainstream elite
9 Army infantry people.

10 And there was a great infusion of new
11 weapons from the outside into the invasion of Armed
12 Forces, including specialists counter-insurgency
13 aircraft. This enabled the invasion Armed Forces
14 to reach much more into the mountains of East Timor
15 and to be--to kill very large numbers of people and
16 attack villages and burn them.

17 There was also a decision taken to
18 establish special camps in the lowlands of East
19 Timor. Most of East Timor is highlands and
20 mountains, very rocky, a very mountainous country.
21 Most people in those mountain areas. There was a
22 decision taken by the Indonesian Armed Forces to
23 force people out of the mountains away from their
24 farms, away from their villages, into these lowland
25 camps.

1 Some people called them concentration
2 camps. They were--certain conditions of these
3 camps were extremely coercive. People, of course,
4 could not farm. Some were provided with food.
5 Health conditions in those camps were extremely
6 bad. The effect was that most people were moved
7 out of the highland areas and they were cleared
8 effectively in military terms of a free-fire zone.
9 And the war in those mountain areas intensified
10 dramatically and many, many people died in that
11 period, particularly, between 1978 and '79, either
12 as a result of direct killing by the Indonesian
13 Armed Forces in combat, if one can call combat of
14 an aircraft striking villages and burning them.

15 Many more people died of disease,
16 particularly, in these camps. And very large
17 numbers of people died of starvation and famine in
18 this time. They had been taken away from their
19 farms.

20 And I was a part of a group in Melbourne,
21 which in the end of 1979 attempted to make an
22 assessment--an assessment of how many people would
23 die and was led by a man named John Waddingham
24 (phonetic), then-Director of the East Timor
25 Information Service.

1 And as a result of that very careful study
2 by Mr. Waddingham, we concluded that depending on
3 one's assumptions about birthrights, which, of
4 course, could be fluctuating in times of war, and
5 comparing an Indonesian census towards the end of
6 1979, and what was known from Portuguese censuses
7 and particularly from church records, Mr.
8 Waddingham concluded that between 133,000 and
9 200,000 people were missing from between the count
10 in 1975, and in 1979, missing and certainly dead.

11 At that time the population of East Timor
12 was about 660,000. In other words, up to a third
13 of the population had disappeared. And that
14 coincided with what we were hearing from refugees
15 in Australia at the time who could collectively say
16 that many villages, a third of the people had gone.
17 And there were uncertainties about that estimate,
18 and we tried our best to verify them. But there's
19 no doubt that something--some population, loss of
20 that order, took place as a result of Indonesian
21 Army actions prior to 1979.

22 Q And was what happened in Indonesia
23 known--what happened in East Timor known outside of
24 East Timor?

25 A Yes and no. It was--there was intense

1 coverage of the actual invasion itself, the
2 immediate invasion. In the major non-Indonesian
3 newspapers, particularly, Australia, Europe, North
4 America, and Japan. And they were, of course, U.N.
5 Security Council resolutions condemning this action
6 which were, of course, reported.

7 However, I should say that from--certainly
8 from sometime in 1976 partly because access to East
9 Timor was impossible for either East Timorese or
10 foreigners or Indonesian citizens, for that matter.
11 And partly because it was a time of other events
12 taking place in the world and the war's attention
13 shifted elsewhere.

14 As information dribbled out, there was
15 less and less public attention. But I should say
16 that in Australia, the country part of Indonesia
17 closest to East Timor, there were continuing
18 reports in the newspapers and great public
19 attention. And there were certainly main groups
20 and movements concerned about--their political
21 parties concerned about it through that time. But,
22 of course, in Indonesia itself, there was no news
23 about East Timor, other than what the government
24 reported. It was simply not possible to say
25 anything else.

1 Q Where was Defendant Johnny Lumintang in
2 terms of his Army career at this time?

3 A He was a young lieutenant or captain.
4 We're not precisely sure. He graduated from the
5 Military Academy in 1970. And we do know that
6 between 1975 and 1979, as an infantry officer, he
7 was posted to both East Timor and Irian Jaya, which
8 is the western part of the Island of New Guinea.
9 And that he took part in operation Surojo
10 (phonetic), which was the general name for the
11 invasion of East Timor.

12 Q With regard to Irian Jaya, just briefly
13 would you describe the nature of the military
14 activity in the Irian Jaya.

15 A Irian Jaya, yes. Irian Jaya was the
16 former Dutch Midland, Dutch New Guinea after--I
17 should just say that when the Republic of Indonesia
18 was formed out of the Netherlands East Indies,
19 Dutch New Guinea was accepted--exerted from that.
20 It remained under Dutch control until 1963 when it
21 passed under effective Indonesian control with the
22 object of an active free choice being supervised by
23 the United Nations in 1968. So, therefore, from
24 1963 onward, it was under Indonesia Military
25 control.

1 Throughout that--the latter period of the
2 1960s and the 1970s and continuing to this day,
3 there were numerous rebellions and forms of
4 resistance by West Poplin (phonetic) people,
5 different people of Irian Jaya. And many of the
6 resistances were put down in the most brutal and
7 bloody way, including bombings and of villages of
8 indigenous people. And there were many reports of
9 military actions against civilians during that
10 time.

11 THE COURT: This area was not part of East
12 or West Timor; is that correct or--

13 MS. CHOMSKY: That's correct. But it was
14 within the areas where the Defendant Johnny
15 Lumintang had assignments?

16 THE COURT: Was it an island? Was it a
17 part of Indonesia itself or?

18 MS. CHOMSKY: It's--

19 THE WITNESS: May I show you the map, Your
20 Honor? Would it be--

21 MS. CHOMSKY: If I may--

22 THE COURT: Great.

23 (The witness left the witness stand to
24 indicate on the map.)

25 THE WITNESS: Your Honor, here is

1 Indonesia and here is Timor, the Island of Timor
2 here (indicating). Half of Australia, west and
3 east. And then going further east, the Island of
4 New Guinea, east and half of which is the country
5 of Papua New Guinea, the western part of which was
6 at the time we were discussing the Providence of
7 Indonesia called Irian Jaya.

8 THE COURT: Thank you.

9 (The witness returned to the stand.)

10 BY MS. CHOMSKY:

11 Q You spoke before about how the Indonesian
12 Military was divided into ten different, basically
13 districts, I guess--

14 A Ovmitzi (phonetic) is the term. District
15 has a separate meaning.

16 Q Oh.

17 A They're military areas.

18 Q Military areas. And Johny Lumintang was
19 assigned to a particular area; is that right?

20 A That's right. He was assigned. At what
21 time?

22 Q In the period '76 to '78.

23 A Well, in--when the information that we
24 have is scanty, but we know that from that
25 period--in that period 1975 to 1979 he was assigned

1 principally to East Timor, but also took part in
2 operations in Irian Jaya.

3 Q Now, did Johnny Lumintang have occasion to
4 be in the United States that you're aware of?

5 A Yes. We have reports that he went to the
6 United States for study on at least three
7 occasions: Once in 1978; once, in 1987; and once
8 in 1990. When he came to the United States by this
9 stage he would have been a senior officer, and he
10 took part in training funded on the International
11 Military Education and Training Program, IMET.

12 Q And that was here in the United States?

13 A In the United States, yes.

14 Q I'd like you bring your attention to
15 November of 1991 and to the events in Santa Cruz.

16 A Yeah.

17 Q Would you describe what happened--

18 A Yes.

19 Q --for the Court.

20 A There had been continuing resistance in
21 East Timor, as I said from the very beginning. But
22 after its wrath through the 1990s it's fair to say
23 that the military resistance by guerrillas
24 lessened. That partly is a result of the assaults.
25 And--but there was a growth, a great growth in what

1 we might call cultural and political resistance and
2 especially by young people in the towns. And this
3 was a very significant form of proposition to the
4 Indonesian rule.

5 And during 1991 feeling sentiment had been
6 growing and growing. And at the time of just prior
7 to the killing there had been an incident which had
8 lead to the deaths of at least one person and there
9 was a funeral that took place. The funeral took
10 place in the cemetery of the Santa Cruz cemetery of
11 Dili. There was a march to the cemetery
12 through--several hundred people present, and there
13 were also several foreign journalists, which was
14 very unusual event at that time.

15 During the actual funeral march in the
16 cemetery, Indonesian Armed Forces personnel opened
17 fire with automatic weapons on the crowd killing
18 people indiscriminately, shooting people who were
19 wounded and crawling, pursuing them. And there are
20 reliable reports that the following day they
21 pursued people who, wounded or not, they thought
22 had taken part in the funeral and killed them
23 secretly and dumped their bodies either at sea or
24 land and were never found again, and a very large
25 number of people died on that day. And there's

1 doubt--absolutely no doubt whatsoever, that it was
2 an action by Indonesian Army troops under the
3 orders of their superiors.

4 Q Was there a public international response
5 to the events in November of 1991?

6 A There was. Such killings had happened
7 before. But as I mentioned, on this occasion there
8 were journalists present. These journalists who
9 included two American journalists and an English
10 film cameraman got their stories out. Their stories
11 were widely publicized.

12 I was in Japan at the time. And certainly
13 in Japan there was very considerable coverage of
14 it. There was enormous outrage at the--about the
15 brutality of the act and the abrasiveness of the
16 act, and the matter was discussed very extensively
17 in the mass media and certainly by the governments
18 of the world that had some concern, some relation
19 to East Timor.

20 Q What happened to the commander of the
21 Armed Forces?

22 A He was--

23 Q Who was responsible?

24 A I'd like to be precise about who we're
25 talking about here. If I just may backtrack one

1 little bit. The Military Area Commands and cover
2 for in the case of East Timor, if I may show a map
3 of Indonesia, it might be more helpful.

4 Q Okay.

5 (The witness left the stand and went to
6 the map.)

7 Q The witness is looking at Exhibit 2.

8 A The military area command No. 9, Kodam 9,
9 has its headquarters in the Island of Bali in the
10 City of Din Pasan (phonetic). And it covers the
11 area from Bali to the west reaching to East Timor
12 in the east. Underneath that military area of
13 command there is another layer of command called
14 the English Military Resort Command. And within
15 Military Area Command 9, there is no true Resort
16 Command 164, which covers the chair tree fall of
17 the Province of East Timor. It's usually called,
18 particularly, acronym KOREN 164.

19 (The witness returned to the stand.)

20 A So to return to your question, the
21 commander at the time of the Santa Cruz killings
22 and the Commander of Military Resort Command 164
23 then Brigadier General Wrauwu, W-R-A-U-W-U, was
24 relieved of his command. And it was said at the
25 order of the President, it was certainly affected

1 by the Commander of the Armed Forces, and he was
2 relieved of his command in a manner of some
3 disgrace.

4 Q Now, going back to Johnny Lumintang. The
5 next time that he was involved in East Timor is
6 1993 to '94; is that correct?

7 A That's correct.

8 Q And what was his position in the period
9 1993 to 1994?

10 A He--in 1993, John Lumintang became the
11 Commander of Military Resort Command 164, KOREN
12 164.

13 Q And what was his situation, just briefly,
14 in East Timor in the period when he was the KOREN
15 Commander.

16 A According to the United States Department
17 of Defense report on Human Rights in East Timor
18 during that time, it was still a time of
19 extreme--of serious tension and anxiety and a sense
20 situation of repressiveness in East Timor. The
21 military presence was very substantial at that
22 time.

23 Q And in terms of repression, we're talking
24 about repression against the civilian?

25 A Oh, indeed, yes.

1 Q What was the next position that Johny
2 Lumintang held?

3 A From--I'm sorry. After Dili he became the
4 Commander of the First Infantry Division of
5 Kostrad. That's the Army Strategic Reserve
6 Command. There are two divisions in Kostrad. He
7 was the commander of one based in Jakarta. It's a
8 very senior position. And indicated that he had
9 obviously been a success in Army terms in East
10 Timor.

11 Q In 1996, he received another promotion; is
12 that right?

13 A Yes. He became the Chief of Staff of
14 Military Area Command 8, which encovers the--the
15 Province of Irian Jaya, the western part of New
16 Guinea and also the Island of Moluccas to the
17 north. But that time the primary concern would
18 have been Irian Jaya.

19 Q And can you show us on Exhibit 8 where
20 Johny Lumintang was in the military hierarchy.

21 A Yes. And at that time he was one of the
22 team commanders of the Military Area Commands. The
23 subsequent follow-up campaign and the following
24 day.

25 Q Moving to June of 19--or actually May of

1 1998. What happened in Indonesia that affected all
2 of the areas that we've been discussing?

3 A Following--there was intense political
4 disturbances or demonstrations, riots, as well as
5 extreme economic crises as a result of what's
6 genre, the Southeast Asian currency in 1997 and
7 '98. President Suharto resigned. And his, vice
8 president, Mr. Habibie, became the President of
9 Indonesia at that time.

10 Q When you talk by it's an unrest, you're
11 talking in this case about things that were going
12 on inside Indonesia Proper?

13 A Yes. They were recurring all
14 over--demonstrations, warfare occurring all over
15 Indonesia. There was a demonstration, a famous
16 demonstration, in Jakarta. I mean, just prior to
17 the recognition at a University known as Tresucty
18 (phonetic) University where troops opened fired on
19 students, and three students were killed. And this
20 was a matter of protest by the then-Secretary of
21 State of the United States to President Suharto.

22 President Suharto eventually resigned.
23 There were, of course, parallel to his within East
24 Timor, which was then as far as the Indonesian
25 government was concerned, the Province of East

1 Timor, there was a course, a swelling of political
2 protests that had been swelling pressure for a
3 referendum on independence, self-determination, and
4 independence, which continued through 1998.

5 Q Now, it's correct, is it not, that
6 President Habibie was President Suharto's
7 successor?

8 A Yes.

9 Q Bringing your attention to January 18,
10 1999--oh, I'm sorry.--to January 1999, what steps
11 did President Habibie take with regard to East
12 Timor?

13 A On January 28th, President Habibie made an
14 announcement, which was most unexpected, in which
15 he announced he was prepared to consider the
16 possibility of a ballot in East Timor to allow the
17 East Timorese people to decide between autonomy as
18 part--I'm sorry, autonomy as a special part of
19 Indonesia or Independence, if they so chose.

20 This was a complete reversal of the
21 previous 24 years of police in Indonesia. So it
22 was something that shocked everyone.

23 Q Now, on January 18, 1999, the Defendant,
24 Johnny Lumintang received another appointment. Could
25 you describe that to the Court?

1 A Yes. In January of 1999, Lieutenant
2 General Lumintang became the Army Deputy Chief of
3 Staff. If we could have the ... yeah.

4 (The witness left the stand to review
5 exhibit.)

6 A This is the organizational structure of--

7 THE COURT: Is that 7-A or -B?

8 MS. CHOMSKY: This is 7-A.

9 THE CLERK: Professor, do you need a
10 microphone?

11 THE WITNESS: I don't know. Do I?

12 THE CLERK: Does he sound fine? Okay.

13 THE WITNESS: This is the organizational;
14 structure of the Army position of Deputy Army Chief
15 of Staff immediately beneath this box beneath the
16 Army Chief of Staff within Army Headquarters.

17 (The witness returned to the stand.)

18 BY MS. CHOMSKY:

19 Q Now, going back--

20 THE COURT: Ms. Chomsky, let me direct
21 you. Do you anticipate that Professor will be
22 testifying for another--

23 MS. CHOMSKY: An hour.

24 THE COURT: An hour, all right. Well, it
25 might be appropriate at this time to take a brief

1 recess so I can give Court personnel an opportunity
2 to take a break.

3 MS. CHOMSKY: Thank you. Your Honor, I
4 hope you won't hold me to the hour. It could be an
5 hour and a half.

6 THE COURT: I'll hold you all to three
7 days.

8 MS. CHOMSKY: Oh, definitely, Your Honor.
9 Thank you.

10 THE COURT: We'll take a ten-minute break.

11 THE WITNESS: Thank you very much.

12 (Recess.)

13 THE COURT: Ms. Chomsky, you may proceed.

14 MS. CHOMSKY: Excuse me, Your Honor?

15 THE COURT: You may proceed.

16 MS. CHOMSKY: Thank you, Your Honor.

17 BY MS. CHOMSKY:

18 Q Bringing your attention to January 18,
19 1999, what happened with regard to Johnny
20 Lumintang?

21 A He became Deputy Army Chief of Staff.

22 Q Would you show the Court, please, where
23 that position--or I'll--

24 THE COURT: I think we went over that, Ms.
25 Chomsky.

1 MS. CHOMSKY: Okay.

2 THE COURT: I think the Professor came
3 down and pointed out that it was the No. 2 box, as
4 I recall, in the center.

5 MS. CHOMSKY: Yes, that's correct.

6 BY MS. CHOMSKY:

7 Q Bringing your attention then to Exhibit 7,
8 which is not admitted, it's in Indonesian. Can you
9 tell us what this document is and what it says
10 about the duties of the Deputy to the Army Chief of
11 Staff?

12 A Yeah. It's the--the document is the
13 manual on the organization and procedures of the
14 Indonesian Army and issued by the Commander in
15 Chief of the Indonesian Army. If you turn to
16 pages--I'm sorry, it's not admitted, is it?

17 Q It's not an--it's--

18 A So I should just--

19 Q --identified, but it's going to be in
20 Indonesian.

21 A Yeah, I thought so.

22 Q So I think that it'll be--

23 A All right.

24 Q --just as--

25 A I'll just speak--

1 Q --useful if you--

2 A --to it.

3 Q --tell us what it says.

4 A Okay. I'm terribly sorry. This--it
5 describes the--as I said, the organizational
6 structure of Army Headquarters and then the Army
7 Principal Command Levels, the Army Strategic
8 Reserve Command, Special--

9 THE COURT: As I think, Ms. Chomsky's
10 question was--

11 THE WITNESS: All right, Judge.

12 THE COURT: --if you would relate the
13 duties of the--

14 THE WITNESS: Yeah.

15 THE COURT: --Deputy Chief of Staff.

16 THE WITNESS: Oh, yeah, yeah. Okay. In
17 Chapter 6--I'm sorry--Chapter 7 it describes-- it
18 specifies, I should say, not describes. It
19 specifies the duties of the Army Chief of Staff, a
20 Deputy Chief of Staff, which if I may read the
21 relevant parts in English. (Witness reading.)

22 "A, the Deputy Chief of Staff of the Army
23 is the principal aide and adviser to the Army Chief
24 of Staff who has the duty and obligation to lead,
25 organize and guide staff and leadership bodies,

1 Central Service and Executive bodies, as well as
2 other duties as instructed by the Chief of Staff
3 with responsibilities as follows:

4 "One, making proposals and suggestions to
5 the Chief of Staff on matters concerning his area
6 of responsibility. Two, leading the Inspector
7 General, General Staff, Special Staff, Budget and
8 Planning Staff, in formulating plans and programs
9 of the execution of the Army's duties.

10 "Three, to ensure coordination is effected
11 and maintained between Army Headquarter Staff and
12 Army field bodies and commands. B, between Army
13 Headquarter staff and the Headquarter Staff of
14 other parts of the Armed Forces and Police. And C,
15 Army Headquarter staff and the staff of Armed
16 Forces Headquarters and the staff of the Military
17 Defense and Security.

18 "Four, to coordinate control and supervise
19 the execution of Army decisions, plans, and
20 programs, as well as personnel, material, and
21 financial arrangements.

22 "Five, to coordinate, supervise, and give
23 direction to the staff Central Service and
24 Executive bodies. B, large B, whenever the Deputy
25 Chief of Staff is prevented from carrying out his

1 duties he'll be replaced by an officer appointed by
2 the Army Chief of Staff. And C, the Deputy Army
3 Chief of Staff is responsible in the execution of
4 his duties as outlined above to the Army Chief of
5 Staff."

6 Q Now, I'd like to bring your attention to
7 February 16, 1999, and a meeting that took place in
8 East Timor. Would you--

9 A Yes.

10 Q --describe that, please?

11 A There was a meeting involving one
12 Lieutenant Colonel Sudrejat, S-U-D-R-E-J-A-T,
13 Sudrejat, who at that time was within the Special
14 Forces Command, Kopassus. He was the head of what
15 was described as the Combined Intelligence Task
16 Force. This was a task force and had the
17 responsibility basically for managing Special
18 Forces Operations in East Timor throughout 1999.

19 It operated in conjunction with the
20 Military Area Command, but was not part of it and
21 was not subordinate to it.

22 Lieutenant Colonel Sudrejat had a meeting
23 with all of the principal militia leaders in which
24 he said--if I can work from that.

25 (Witness reviews document.)

1 A Mr. Sudrejat's demanded according--this is
2 according to a very senior militia leader Tomas
3 Goncalves who defected in April of 1999 and left
4 Indonesia. Goncalves said that at this meeting
5 with militia leaders Sudrejat demanded the
6 Independence leaders and their families be wiped
7 out.

8 Q What is the relationship of the lieutenant
9 colonel to the Defendant Johny Lumintang?

10 A The lieutenant colonel operates within
11 Kopassus, which is one of the three commands of the
12 Army. All of those three--each of those three
13 commands of the Army come under the responsibility
14 of the Army Chief of Staff for their planning,
15 their operations, the implementation of operations,
16 and, specifically, its responsibility of the Army
17 Deputy Chief of Staff to supervise the
18 implementations of planning.

19 Q You testified about the militias. Will
20 you describe, please, the role of the militias and
21 their relationship to TNI to the army?

22 A Okay. The term which is used--militia, in
23 fact, covers a wide range of times of groups. They
24 will have been throughout Indonesia under the Army,
25 various Paramilitary Auxiliary Forces. These were

1 present in East Timor, formerly East Timor, very
2 early on in 1976. But they have also been
3 nonofficial Paramilitary Forces and tolerated by
4 the authorities in working with them.

5 And particularly in the period in late
6 1998, more of these Paramilitary Forces were being
7 formed. Some of them as the representative of
8 political groups. In late 1998--I'm sorry. In
9 August 1998, the Military Resort Commander for 164
10 and Colonel Tono Suratman authorized a number of
11 those militia that existed at that time to be under
12 the command of, under the authority of the Military
13 Resort Command. In other words, they became
14 effectively part of the Indonesian Armed Forces,
15 and that was in August.

16 The formation of militias, in fact, the
17 expansion and the formation and the army of them
18 continued quite rapidly. In December and January,
19 new and more militias were formed, and they spread
20 throughout the territory. They were clearly at
21 that time being instructed, supported, and guided
22 by Indonesian Army officers. And the meeting with
23 Colonel Suratman was part of that operation.

24 To give you one example of what they were
25 doing at that--during that period, let me just take

1 one example of many assaults on unarmed villages
2 throughout East Timor by militia, which started
3 very early. This case comes from January 25th.
4 This is before the announcement by President
5 Habibie of the possibility of a ballot.

6 And an organization called "Mahiti"
7 (phonetic), which in Indonesian stands for
8 integration, life or death, which was formed in
9 December of 1998 in the District of Inadro
10 (phonetic), and it became attached to the military,
11 Local Military District, which is below the
12 Military Resort.

13 In January--on the 25th of January, Mahiti
14 militia personnel entered the village of Galatas
15 (phonetic) in Covalima District, which is in the
16 Southeast of the territory. And then they killed a
17 pregnant woman who's name was Angelina Derouge
18 (phonetic.) She was 24 years-old. After shooting
19 her dead, they cut up her corpse. With a knife,
20 they cut open her abdomen and pulled out the fetus.
21 Five other residents in the village were also
22 killed, including her father, who was beheaded, and
23 her brother who was shot.

24 Before dawn, Galatas Village was empty.
25 Thousands of people joined what rapidly became a

1 makeshift refugee camp in the large town of Suai.
2 This is a reliable report. There were numerous
3 reports of this type.

4 Australian Intelligence reports from that
5 period indicate that organizations such as the
6 Australian Defense Intelligence Organization knew
7 full well what was happening, and they confirmed
8 that, in fact, the Army were directing the militia.
9 They had no doubt about that whatsoever. That's in
10 this earlier period here. There were later events,
11 of course. Is that on some--I'm sorry, I missed
12 your question.

13 Q No.

14 A I'm sorry. They being armed by the
15 Military Area of Command at that time. And, in
16 fact, that following--that meeting with the
17 Lieutenant Saja (phonetic), the informant Thomas
18 Cojole (phonetic), which was the head of the
19 Militia District, received three truck loads of
20 weapons delivered there.

21 THE COURT: Professor, where were the
22 people coming from? Were they Indonesians served
23 in Indonesia?

24 THE WITNESS: Yes.

25 THE COURT: And why did they utilize these

1 individuals who were not part of the military?

2 THE WITNESS: Yeah, okay.

3 THE COURT: I mean, was there a reason for
4 that?

5 THE WITNESS: I believe there was Your
6 Honor. It might be described best as a strategy of
7 using East Timorese to fight East Timorese.

8 THE COURT: Oh. So these people were not
9 Indonesians brought over into East Timor. These
10 were local East Timorese.

11 THE WITNESS: With one exception, which
12 I'll now describe. That we have reliable accounts,
13 particularly, later in the year, but I--it's--it
14 may well be earlier in the year, but certainly
15 later in the year that Special Forces Command
16 soldiers were, in fact, operating in disguise as
17 these militias.

18 That were mostly young men from villages
19 and towns. Tomas Goncalves, himself, who was a
20 very senior leader, claimed that he took part in
21 these actions only because he had in late 1998 been
22 threatened by Colonel Suratman that if he didn't
23 cooperate, he and his family would die.

24 The testimony which has been coming out
25 indicates that people join the militia for a

1 variety of reasons. There were some who one might
2 call families who--from families who had the most
3 to lose, who had very close financial connections
4 with Indonesian occupation, and gained land and
5 wealth at that time.

6 There were other people who were
7 susceptible to, if you'd like, ideological
8 agitation and blandishments. There were many who
9 believed that if they did not cooperate they and
10 their families would suffer. That's been
11 repeatedly testified to. And there were some,
12 particularly, in terms of the terrible killings who
13 were on drugs, and to drive people onwards.

14 THE COURT: So you're saying that some or
15 not many of these acts of brutality that were
16 reported were, in fact, committed by people who
17 were themselves from East Timor?

18 THE WITNESS: Yes. They were Indonesian
19 citizens by law--by Indonesian Law at that time.

20 THE COURT: Well, I would assume that all
21 East Timorese--

22 THE WITNESS: Indeed, sir.

23 THE COURT: --were--

24 THE WITNESS: Yes.

25 MR. RYAN: --Indonesian citizens?

1 THE WITNESS: Yeah.

2 THE COURT: So it doesn't--

3 THE WITNESS: No. Yep.

4 THE COURT: I don't know if that is
5 saying--

6 THE WITNESS: Right. I take your point.
7 Now, they weren't necessarily from outside. I've
8 not heard of the large numbers.

9 THE COURT: But they were people who were
10 residents and--

11 THE WITNESS: Yeah.

12 THE COURT: --and born and lived in East
13 Timor?

14 THE WITNESS: For the most part.

15 THE COURT: Okay.

16 THE WITNESS: Yeah. And then there was a
17 role of the Special Forces soldiers.

18 BY MS. CHOMSKY:

19 Q The Special Forces soldiers being both
20 East Timorese and Indonesians from other parts of
21 Indonesia?

22 A No, I--I can't tell you, but I would think
23 that I'm likely that there was many East Timorese
24 Special Forces soldiers.

25 Q So that those were basically also from

1 outside?

2 A Oh, yes, they were from outside, yes. And
3 also when I say they participate, I'm referring to
4 two things. One is they acted as members of the
5 militia in disguise, but also Kopassus Officer
6 Special Forces were very much directing the militia
7 activity. That was their particular role.

8 Q I'd like to bring your attention now to an
9 incident that occurred on April 6, 1999, and I'd
10 like you to talk both about the conduct of the
11 militia and the role of the military, the regular
12 military, in that incident.

13 A Yes. In Liquica, which is west of Dili, a
14 largest town, late in the afternoon, personnel or
15 young men from a militia group called BMP, Besi
16 Merah Putih, Redwhatta (phonetic) and Reverend
17 Whatbinin (phonetic) in the Indonesian national
18 colors, together with Indonesia troops from the
19 Military Resort Command in the Local Military
20 District, together with police from the Local
21 District and plus Police Mobile Brigade, who were
22 effectively elite military forces themselves they
23 surrounded the church in Liquica where a number of
24 people had gathered following the distress of a
25 killing the day before.

1 And there were a large number of people in
2 this church together with a priest. The police
3 shot TAS into the church, and they fired their guns
4 into the air to create panic and confusion. And to
5 allow the BMP, the militia personnel, to enter the
6 church ground where they began to shoot at people
7 with guns, with arrows and bows, and assault them
8 with hatchets.

9 The people who had been sprayed in the
10 church with tear gas ran out of the church with
11 their eyes closed and then the BMP people began to
12 kill them, as I'd said. And eyewitnesses said at
13 the time that they shot and hacked people as though
14 they were hacking animals. Even when people were
15 raising their arms to surrender, they were still
16 shot and hacked.

17 Fifty-four people died in those church
18 grounds that day. And this fact was attested to,
19 not only by witnesses and by evidence collected by
20 the Catholic Church and religion organizations,
21 but, again, Australian Intelligence Reports, which
22 have been made public, made very clear that the
23 Australian Intelligence Organization knew what
24 happened from radio and telephone excerpts. And
25 they had no doubt whatsoever that at the very least

1 the Marlboro Brigade and military troops stood by
2 while the militia did the killing.

3 And in the words of the Australian
4 Intelligence Report, even if TNI was not active in
5 the killing themselves, they were surely culpable
6 by their passive standing by and watching this
7 happen.

8 And, again, this was not an isolated
9 incident. This was a very large killing, but such
10 killing had been happening on a lesser scale
11 repeatedly and thereafter continued.

12 Q Were the events that occurred at Liquica
13 reported in Indonesia?

14 A Yes, they were. I cannot tell you the
15 details of that. But it was possible for the
16 Indonesian newspapers to report these events at
17 that time.

18 THE COURT: So you have no direct
19 knowledge that they were, indeed, reported in
20 Indonesia--

21 THE WITNESS: I can--

22 THE COURT: --other than the fact that
23 there was no reason why they could not have been
24 reported?

25 THE WITNESS: Your Honor, I can recall I

1 was following these events and these events through
2 the internet at the time. All the Indonesian
3 newspapers are available and I was regularly
4 checking it. And I--all I can say positively is I
5 cannot remember it not being covered, and it would
6 have been a dramatic thing to have not covered.
7 That's all I can say at that point.

8 BY MS. CHOMSKY:

9 Q And this was also widely known outside of
10 Indonesia?

11 A Very widely known, yes, yes.

12 Q You testified earlier that after this
13 Santa Cruz massacre actions were taken to
14 discipline or at least remove the commander, who
15 was responsible; is that correct?

16 A Yes.

17 Q Were any actions taken against the police
18 or other military officers who were present during
19 the massacre?

20 A None whatsoever.

21 Q At that time would Johnny Lumintang have
22 had responsibility for discipline of military
23 personnel?

24 A He would have shared responsibility for
25 discipline. He would have been responsible in for

1 the assessment with the Inspector General, who is a
2 subordinate of his, with the assistant for
3 operations and the assistant for planning, to
4 scrutinize the manner in which operations are
5 carried out, to scrutinize the way in which plans
6 are carried out, and then reported to the Chief of
7 Staff on that matter. In that sense, yes, he would
8 have had a responsibility to assist matters of
9 discipline.

10 THE COURT: And so would the Chief of
11 Staff would have had that responsibility?

12 THE WITNESS: Yes.

13 THE COURT: And the Commander in Chief--

14 THE WITNESS: Yes.

15 THE COURT: --which was the President
16 Habibie?

17 THE WITNESS: Oh, no, no. It's the
18 commander--I'm sorry, the Commander in Chief, yes,
19 but below him.

20 THE COURT: The President Habibie?

21 THE WITNESS: It was President Habibie and
22 below him the--

23 THE COURT: And I think it also would have
24 been the responsibility of--

25 THE WITNESS: Yes.

1 THE COURT: --President Habibie? Following
2 your logic and the Area Commander for Area 8, is
3 it, or 9?

4 THE WITNESS: For Military Area Command 9,
5 Yes.

6 THE COURT: Also, would have had that
7 responsibility?

8 THE WITNESS: Yes.

9 THE COURT: So there was a whole line of
10 people who would have responsibility?

11 THE WITNESS: Indeed. This a system, Your
12 Honor. It's a bureaucracy. But we're talking
13 about a man in the second, top position in the Army
14 of Bureaucracy. And basically Air Force and Navy
15 don't matter in Indonesia in terms of numbers or
16 significant. And a man who's specific job
17 description includes supervision of precisely the
18 manner in which operations are carried out. So,
19 yes, it's a responsibility he undoubtedly shared.
20 But it's part of a system, and he has a very
21 prominent role as holding the second, highest rank
22 in the Armed Forces.

23 THE COURT: Does he have any greater role
24 in the Chief of Staff himself?

25 THE WITNESS: No. I think it could be

1 said that they would have roughly comparable
2 responsibility. Their lieutenant general and
3 general very extreme, the two most, senior ranks.
4 And certainly also one can say that in a very
5 general sense the president of a country shares
6 responsibility. He is the Commander in Chief.

7 THE COURT: And there's no reason why the
8 present country itself would not be aware of that
9 atrocity?

10 THE WITNESS: He would have had the means
11 of finding out of that then, yeah.

12 THE COURT: Well, you suggested that had
13 it not been reported in the Indonesian newspapers
14 that would have struck you as--

15 THE WITNESS: Yes.

16 THE COURT: --an unusual circumstance that
17 caught your attention?

18 THE WITNESS: Yes.

19 THE COURT: So by deduction, if you will,
20 you're assuming that, indeed, it was reported.

21 THE WITNESS: Yes. My only comment would
22 be that--I mean, as I have no doubt that Habibie,
23 in fact, knew of it in the scale of things of what
24 was happening in the presidency at that time. It
25 was one of a number of things, but, indeed, he

1 would have known about it, yes.

2 BY MS. CHOMSKY:

3 Q Bringing your attention to May 5, 1999,
4 would you describe what happened on that day?

5 A There are two events that took place on
6 that day, which are relevant here. The first is in
7 New York an agreement was signed between the United
8 nations and the governments of Indonesia and East
9 Timor, in what is known as the May 5th Agreement.
10 And this agreement--this agreement was the formal
11 International Agreement between the United Nations
12 and these two countries to conduct the popular--what
13 was described formerly as the Popular Consultation
14 of East Timor.

15 Under that term, part of the--the May 5th
16 Agreement, security in the Province of East Timor
17 for the duration of the ballot and its preparation
18 was to be carried by the Indonesian Armed Forces.
19 The second thing which happened on the--on May 5th,
20 which is relevant, is that Lieutenant General
21 Lumintang issued a telegram, an instruction, to
22 Military Resort Commander--the Commander of
23 Military Resort 164.

24 Q I'd like to ask you to identify Exhibit 9.
25 (Document passed to the Court.)

1 BY MS. CHOMSKY:

2 Q Can you identify this?

3 A Yes. This is a copy of a telegram
4 sent--it says on the top line, from the Chief of
5 Staff to the Commander of Military Area 9. And it
6 is--it seems reasonable to me to authenticate it,
7 because of the signature of General Lumintang at
8 the bottom and the stamp of the Army Commander as
9 Army Chief of Staff.

10 Q And can you describe the content of--

11 A Yeah.

12 Q --the Exhibit 9?

13 A This is a telegram--I'm sorry, wrong
14 glasses on--which is--this is a telegram which is
15 sent over the signature of the Deputy Army Chief of
16 staff, formerly from the Chief of Staff to the
17 Commander of Military Area Command. It's addressed
18 to the Chief of Staff, the Deputy Chief of Staff,
19 the Inspector General, the assistance within the
20 Chief of Staff's office, and the Commander of
21 Military Command 164. That is East Timor.

22 And it says, "Aye, aye, aye, referring to
23 the Chief of Staff's letter B, stroke, 50, stroke,
24 Roman IV, stroke, 1999, dated 13th of April 1999,
25 about preparing or regarding the order to

1 anticipate situations which may arise and
2 concerning the choice of options for the people of
3 East Timor.

4 "Item BBB, accordingly, and in accordance
5 to the above, the people receiving this letter, the
6 addresses, are to do the following. One, be ready
7 to confront or to face all possibilities and
8 option--all possibilities about the options for the
9 people of East Timor and from the choice of
10 options.

11 "Two, prepare a security plan" to
12 confront--sorry, start again, please. "Prepare a
13 security plan with the aim of preventing the
14 outbreak of civil war, including preventive action,
15 brackets, creation of conditions, closed brackets,
16 police actions, repressive, stroke, coercive
17 actions, as well as plans for moving back, stroke,
18 evacuation if the first option becomes the choice.

19 "CCC, this is an order. DDD, end."

20 Q Can you explain the reference to possible
21 civil war?

22 A Theoretically--well, theoretically they
23 would--there would have been a claim, a suggestion
24 that they were would have been direct fighting
25 between those who supported integration with

1 Indonesia and those who supported
2 self-determination and independence for East Timor.

3 There was, in fact, no such fighting in
4 the sense of two-sided fighting. There were, in
5 fact, by that stage, assaults by pro-integration
6 forces on anyone who spoke or was believed to be
7 speaking for independence.

8 Q And was there a general pattern of
9 military support for the anti-independence
10 factions?

11 A Yes.

12 Q At about this--are you familiar with a
13 manual that was--went out over General Lumintang's
14 signature at about the same time?

15 A Yes, I am.

16 Q And is that manual--does that manual
17 describe the nature of the kinds of activities that
18 would be carried out in support of the actions in
19 East Timor and elsewhere in the military?

20 A Yes. This is a manual, and for Army
21 Secret Warfare and the organization within in the
22 Army which carries out Secret Warfare, according to
23 Army Doctrine, is Special Forces. And it's a book
24 of development guidelines of how to develop this
25 appropriate with the Army, which includes

1 instructions about education and training of those
2 personnel tasks with Secret Warfare.

3 And in one part, on Page 35 of this
4 manual, if I may read what it says about that. "To
5 training, and to be carried out on the basis of
6 Army Secret Warfare skills or repossessed using the
7 following methods: A, teaching of Army Secret
8 Warfare theory in class arranged in accordance with
9 the schedule of activities of units which covers:
10 One, Tactics and Techniques of what I describe as a
11 war, quoted, War of Nerves." Literally means war of
12 nerves.

13 "Two, Tactics and Techniques of
14 Propaganda. Three, Tactics and Techniques of
15 abduction or killing or kidnapping. Four, Tactics
16 and Techniques of Terror. Five, Tactics and
17 Techniques of Agitation. Six, Tactics and
18 Techniques of Sabotage. Seven, Tactics and
19 Techniques of Infiltration. Eight, Tactics and
20 Techniques of Surveillance. Nine, Tactics and
21 Techniques of bugging," which I mentioned includes
22 wiretapping. "Ten, Tactics and Techniques of Photo
23 Intelligence. And eleven, Tactics and Techniques
24 of Psychological Operations.

25 "B, a written examination will be given to

1 determine how far the member has internalized the
2 teaching of the theory of Army Secret Warfare. And
3 C, a field practice individual group for putting
4 into practice the theory in teaching of Army
5 Secretary Warfare will be given."

6 Q And what was the relationship of Johnny
7 Lumintang to this manual?

8 A He--the manual is--is issued in over his
9 name and signature. And his signature appears on
10 the fourth page of the document and the stamp
11 appears--it's well dated the 30th of June, 1999.
12 It's a--exactly the kind of manual, training
13 manual, that one would expect to be issued from
14 Army Headquarters. I've seen comparable manuals.

15 I have no reason to believe it's not
16 authentic. The layout, the content, the language,
17 is--is quite familiar to me. And it--yeah, it's
18 exactly--it's authentic and I have no doubt that
19 that was the intention was to ensure that those
20 skills and objectives were taught.

21 MS. CHOMSKY: I'd like to now introduce
22 into evidence Exhibit 9, which is the telegram, and
23 also I had previously neglected to introduce into
24 evidence the Maps 1, 2, and 3.

25 THE COURT: Very well. Plaintiffs'

1 Exhibits 1, 2, and 3 for identification will be
2 introduced into evidence. And Plaintiffs' Exhibit
3 9 for identification will be introduced into
4 evidence--will be accepted into evidence, excuse
5 me.

6 MS. CHOMSKY: Thank you, Your Honor.

7 [Plaintiffs' Exhibit
8 Nos. 1 through 3 and 9
9 were received into
10 evidence.]

11 BY MS. CHOMSKY:

12 Q Professor Tanter, during this period after
13 May 5th when the Popular Consultation, as the vote,
14 was anticipated were there complaints from outside
15 of Indonesia to the Indonesian Government about the
16 Army's support of the militia?

17 A I believe they were. We know of one in
18 particular. And it was a mission to decanter by
19 the Vice-Chief of the Australian Defense Force, a
20 vice-martial Doug Riding. And he was sent on a
21 mission to Jakarta equipped with records of--or the
22 results, I should say, and the sanitized results of
23 very, very large numbers of Australian Signal
24 Intelligence Intercepts, which Australian's
25 Intelligence believed indicated, not only that the

1 Indonesia Armed Forces, and in particular Kopassus
2 and the current troops, were aiding, abetting,
3 arming, encouraging, and directing the militia
4 activities in the first--well, at that time the
5 first half of 1999.

6 But they also indicated that they believed
7 that the military chain of command was complete, in
8 tact. There was no suggestion that these were
9 maverick operations. And that the chain of command
10 went in the words of the report all the way to the
11 top.

12 They met Air vice-martial Riding with
13 very, senior officers within the Indonesian Armed
14 Forces Headquarters and made clear the Australian
15 Government's concern about this, the Australian
16 Government's certainty about the question--about
17 the role of TNI and the role of the chain of
18 command in this. And we are told that the
19 Indonesian officers were somewhat offended by the
20 suggestion.

21 Q Were there reports of a specific meeting
22 in June of 1999 with the militia leaders laying out
23 the plan of the Army of the Armed Forces for what
24 was to take place?

25 A There were--there were regular meetings,

1 and we have records of two, which are very
2 important. One in June. And if I might refer to
3 one in March, which I perhaps neglected to mention
4 earlier on.

5 On the 26th of March, and this is from the
6 evidence of Tomas Goncalves, he met with a group of
7 senior Indonesian officials, civil and military, at
8 the Military Headquarters in Dili. And he met in
9 particular with the Commander of Military Resorts
10 and 164, Colonel Tonos Ruffman (phonetic), with the
11 Governor of East Timor, Abilio Soares.

12 And at that meeting Governor Soares said
13 that the militia were to prepare to liquidate all
14 senior Pro-Independence people and their parents,
15 sons, daughters, and grandchildren. If they sought
16 shelter in the churches, kill them, even the nuns
17 and priests. And I might point out that that's
18 March 26th, before the Liquica killings in the
19 church. On--

20 Q Just for a minute. Just would you tell us
21 about the religion of the people of East Timor.

22 A They are overwhelmingly Catholic in
23 religion and there is some Muslim and very small
24 numbers of other religions.

25 Q Yes. Now, if you would tell us about the

1 this second meeting.

2 A Okay. On the June the 18th, there was a
3 meeting, once again, at--in Dili at Military
4 Resorts 164 Headquarters. And the meeting was
5 intended to draw up comprehensive plans. And the
6 people--amongst the people participating in the
7 meeting, were the most senior officers directly
8 involved in East Timor. In particular, Major
9 General Anwar, former Head of Military
10 Intelligence.

11 And at this stage he was the
12 principal--the official head, of security for the
13 Indonesian liaison contingent with UNTAET, the
14 United Nations Administration Assistance for East
15 Timor. And his deputy, the KOREN 164 Commander,
16 Colonel Tono Suratman, the militia heads.

17 But also, another figure, another Major
18 General named Mr. Kiki Syahnakri, K-I-K-I,
19 S-Y-A-H-N-A-K-R-I, Syahnakri. At that meeting, the
20 decision was--the situation was faced that it was
21 possible that Indonesia may not win the vote. And,
22 therefore, it was appropriate to draw up
23 contingency plans.

24 And the contingency plans were in two
25 parts. The first was to--from that time forward,

1 to derail--to attempt to derail, the process, the
2 popular consultation as agreed, under the May 5th
3 agreement either in the run-up to the vote or on
4 the day of the vote.

5 The second approach was that if, in fact,
6 the vote was lost from Indonesia, the militia were
7 to reject the results, demand these Timorese be
8 petitioned into, I imagine, a Pro-Indonesian and an
9 independent part. And that there was to be a
10 forced relocation of the board of the local
11 population and a flooding into the empty regions of
12 East--non-East Timorese. It was, in effect, a plan
13 for cleansing East Timor.

14 Q August 30th there was what is called the
15 Popular Consultation, the referendum on the issue
16 of autonomy or independent. What were the results?

17 A Some 98 percent of the population of the
18 eligible population voted. More than 79 percent of
19 the people voted in favor of independence and
20 against autonomy.

21 Q What was the reaction of the Indonesian
22 Military to the elections or to the referendum
23 result?

24 A To the ballot? Immediately after the
25 announcement of the result on September 4th--but

1 even before that, from August 30th, there was a
2 dramatic escalation of militia violence involving
3 TNI. A violence directed against independence
4 leaders, their families, against ordinary
5 civilians.

6 And it was directed, also, against local
7 East Timorese staff of the United Nations mission
8 in East Timor. And many people were killed
9 immediately. And it was clearly a campaign of
10 terror in the sense that many of the killings were
11 in public and intended to terrorize people to
12 induce them to move.

13 There was also immediate intimidation of
14 UNAMET staff throughout the foreign UNAMET staff
15 throughout the territory, as well as in Dili. And
16 there was the intimidation of journalists. And the
17 effect was to force the United Nations to call for
18 the withdraw of all UNAMET staff first from the
19 regions into Dili, and subsequently to Australia.

20 And all journalists felt obliged to leave
21 or were obliged to leave. And there was basically
22 unrestricted killing and assaults on people by the
23 militia and by elements of the Armed Forces of
24 Indonesia at that time.

25 Q What do you believe to be the relationship

1 between the activities immediately following the
2 election and the directions given at the June 1999
3 meeting?

4 A I believe they exactly carry out that
5 briefly described plan. And, particularly, I
6 talked about the violence and killings. But the
7 second thing which happened, which certainly began
8 to happen a couple of days after the announcement,
9 was the beginnings of the forced evacuations, the
10 deportations of people, as outlined in the June
11 19th meeting and consistent with the diagram of May
12 5. And very large numbers of people from all over
13 the territory but, particularly, the central and
14 western areas closest to the border of West Timor
15 were forced, first, from their homes. Their homes
16 were burnt or the towns were burnt. The villages
17 were burnt. People were killed.

18 They were herded, directed first to the
19 local district or Subdistrict Military Headquarters
20 by militia where they were held either by militia
21 in concert with Armed Forces personnel or by Armed
22 Forces.

23 And then after a shorter or longer time,
24 they were accumulated and driven or forced over the
25 border into West Timor. Some went by ships. The

1 ones that went by land over the border to East
2 Timor, many of them went in Military Headquarters'
3 trucks and jeeps. Others went, and commonly did,
4 in stolen vehicles. The ones that went by ship
5 went under military authority.

6 And that's exactly consistent with the
7 objectives of the June 18th plan. It was clearly
8 intended to move very, very large numbers of people
9 out of East Timor. In fact, according to the
10 United Nations figures, between the result of the
11 developing announcement of September 4th and
12 September 21st at the time that the International
13 Military Force of East Timor entered Dili;
14 according to the United Nations, some 240,000
15 thousand people had crossed the border into West
16 Timor.

17 And according to the testimony of
18 eyewitnesses, including aide workers and U.N.
19 workers; and, b, the number of people who have
20 since crossed back into East Timor once U.N.
21 authority was established, the very large
22 proportion of those people went unwillingly and
23 were forced. And, of course, in the camps in West
24 Timor, they were subject to terror and
25 intimidation, both by militia and by Armed Forces,

1 Indonesia Armed Forces, personnel at that time.

2 Q And the camps in West Timor were they
3 under military control?

4 A Some were directly under military control.
5 Some were in the civil control, but with effective
6 military control, and some were informally
7 controlled by the militia.

8 Q Was there martial law in East Timor after
9 the election?

10 A No, not immediately. Martial law was
11 declared--the ballot was on August the 30th. The
12 result was announced on September the 4th. Martial
13 Law was declared on September 7th. And the Martial
14 Law Administrator appointed was, in fact, made to
15 General Kiki Syahnakri, who had previously been the
16 assistant for operations subordinate to General
17 Lumintang within the deputy--within the Army
18 Headquarters. And it's not clear whether he
19 surrendered his position as assistant for
20 operations or whether he was simply Martial Law
21 Administrator pro tem, but he came directly from
22 that position.

23 Q You testified about the violence against
24 the population of East Timor after the vote on
25 August 30th. What happened to the physical

1 conditions inside East Timor?

2 A I must--extraordinarily and sustained and
3 coordinated program of destruction was clearly put
4 into place. And this has been attested to, not
5 only by eyewitnesses by military observers, by aide
6 observers. And frankly anyone who has been to East
7 Timor could also by the United Nations read the
8 Human Rights report on East Timor and by the
9 Indonesian National Commission of Human Rights
10 report on East Timor.

11 This program of destruction involved the
12 destruction, the blowing up or burning of, a, major
13 building of homes, the destruction of cars, of
14 shops, construction of--the university just went.
15 Most schools were destroyed. Many churches were
16 destroyed. One Australian military observer who
17 entered--seen an officer who entered the Township
18 of Suai on the Southwest Coast, when in the
19 Southwest Coast set in a--they even ring back the
20 trees which were--

21 Q I think you need to explain what that is.

22 A Certainly. It's a very Australian matter
23 and it's--it's a symbol of wanton vandalism that
24 you take, the tree is growing and it has its bark
25 on the outside. You cut a ring around here

1 (indicating). You cut a ring around here
2 (indicating) and you pull the bark off. And that
3 means the tree will die, because the sap cannot
4 rise and the tree cannot grow. It's a standard way
5 of killing trees.

6 And it indicates the degree of
7 destructiveness that was intended by in this
8 undoubted, coordinated plan. This didn't happen
9 just in one or two places. It happened everywhere.
10 And there is also reason to believe that this had
11 been discussed beforehand.

12 There was a report by a man called Former
13 Major General H. R. Garnadi, G-A-R-N-A-D-I, who was
14 the assistant, principal assistant minister to the
15 coordinating minister for politics and security.
16 And--excuse me. And if I might just quote from one
17 section of this report.

18 And the validity of which was accepted by
19 the Indonesian National Human Rights Commission
20 inquiry into events in East Timor. I'm sorry, I
21 don't have it here but I--it's--it's very clear.
22 All right. I'm sorry. Can I just take a minute to
23 find it, please. Is that--

24 Q I believe that will be okay.
25 THE COURT: We are going to break in a

1 matter of moments, Ms. Chomsky, so I don't know
2 whether this would be a good time to break.

3 MS. CHOMSKY: Why don't we do that then?

4 THE COURT: Very well.

5 THE WITNESS: I'm sorry to be--

6 MS. CHOMSKY: Thank you.

7 THE COURT: We'll reconvene at 2:00
8 o'clock.

9 MS. CHOMSKY: Thank you, Your Honor.

10 THE COURT: And you anticipate how much
11 longer with Professor Tanter?

12 MS. CHOMSKY: I would say another half an
13 hour. If I may, Your Honor, how long do you sit
14 during the day?

15 THE COURT: We'll go on until 5:00
16 o'clock.

17 MS. CHOMSKY: Thank you.

18 THE COURT: Do you have other witnesses
19 who will replace the professor?

20 MS. CHOMSKY: Yes, we do.

21 THE COURT: We'll reconvene at 2:00
22 o'clock.

23 [Luncheon recess.]

1 A F T E R N O O N P R O C E E D I N G S

2 [2:00 p.m.]

3 THE COURT: You may continue, Ms. Chomsky.

4 MS. CHOMSKY: Thank you, Your Honor.

5 Whereupon,

6 RICHARD TANTER, PLAINTIFFS' WITNESS, RESUMED

7 DIRECT EXAMINATION

8 BY MS. CHOMSKY:

9 Q You were looking for a report right before
10 the break. Professor, have you located that
11 report?8

12 A Yes, I have. It's a report of the
13 politics and the security team in Dili No. M53,
14 strike, TIM, P4, stroke, OKTT, stroke, 1999. It's
15 addressed to the coordinating minister of politics
16 and security. It's from the Assistant Coordinating
17 Minister 1, stroke, Home Affairs. Mr. H. R.
18 Garnadi, a former major general.

19 It's headed, General Assessment if Option
20 1 loses. Option 1 being integration within
21 Indonesia. It's a five-page discussion about
22 various aspects of that. But in the last page, it
23 moves to the question alternative possibilities,
24 which can be carried out.

25 And Part B of that--or Part A

1 is--maintained a commitment to win special
2 autonomy. But Part B is to create an alternative
3 plan, a contingency plan, in order to face the
4 situation if Option 1 is not accepted. A plan to
5 expedite evacuation for Indonesian civil servants
6 and outsiders before the announcement of the result
7 to the ballot.

8 C, to prepare elements of the TNI near the
9 areas for evacuation. D, prepare the NTT
10 territory. That's Musa Dagara (phonetic). It
11 means Eastern Indonesia, in general. The territory
12 to receive massive refugees, including their
13 security. And E, and this is somewhat curious, if
14 it's only aimed at the withdraw of Pro-Indonesian
15 citizens of Indonesia. A planning and securing the
16 withdraw root, if possible, destroying vital
17 instant lack of facilities or objects. That's the
18 last part there from H.R. Garnadi.

19 I should say that Minister Garnadi, when
20 this document was discovered--that's a document
21 from June--when this was discovered in December, he
22 claimed that he had not written the document.
23 However, the signature is his and the Indonesian
24 National Commission of Human Rights investigation
25 to East Timor accepted, in fact, that the document

1 was valid.

2 Q And this was a document that was created
3 in June of 1990?

4 A That's right. The same--around the same
5 time that Major General Syahnakri from General
6 Lumintang's office was, in fact, meeting with local
7 Koran commanders to plan the concrete version of--

8 THE COURT: June of 1999?

9 THE WITNESS: 1999, yes, sir.

10 THE COURT: Okay.

11 BY MS. CHOMSKY:

12 Q I'd like to bring you back for a moment to
13 the manual that you testified about earlier?

14 A Yes.

15 THE COURT: Are you talking about the Army
16 manual, Ms. Chomsky?

17 MS. CHOMSKY: This is the--the manual that
18 was written by or that included the signature of--

19 THE COURT: Of the defendant?

20 MS. CHOMSKY: --the defendant.

21 (Document handed to witness.)

22 THE WITNESS: Which one are you talking
23 about? Oh, yes, this one. Yes.

24 BY MS. CHOMSKY:

25 Q This is marked as Exhibit 11 and I would

1 like to move it into evidence. However, I--

2 THE COURT: Was it previously identified
3 as Exhibit 11. I don't--

4 MS. CHOMSKY: No, it hadn't been yet.

5 THE COURT: I see.

6 MS. CHOMSKY: I don't have it--

7 THE COURT: So you're showing the witness
8 Exhibit 11.

9 MS. CHOMSKY: Exhibit 11.

10 THE COURT: I see.

11 THE WITNESS: Yes.

12 MS. CHOMSKY: And I apologize to the Court
13 that I don't have a copy.

14 THE COURT: All right.

15 BY MS. CHOMSKY:

16 Q And I'd ask the witness to identify it for
17 the record.

18 A This--this is a document called, A Book of
19 Development Guidelines about Secret Warfare for
20 Army Secret Warfare Number 43, stroke, B, stroke,
21 01. It is issued with a letter of decision from
22 the Army Chief of Staff and dated the 30th of June
23 1999. And that's Army Chief of Staff
24 decision--letter of decision is signed by
25 Lieutenant General Johny Lumintang on the 30th of

1 June. And it is--it has the stamp of the Chief of
2 Staff of the Army.

3 Q You testified, I believe, earlier that the
4 U.N. Forces ultimately arrived in East Timor and
5 took over from the Indonesian Military.

6 A Yes, they did, indeed, yes.

7 Q And do you recall the date of that?

8 A They began to enter on either 20th
9 certainly or the 21st. There were certainly there
10 by the 21st.

11 Q And were these the first--

12 THE COURT: 21st of what?

13 THE WITNESS: I'm sorry, Your Honor. 21st
14 of September.

15 BY MS. CHOMSKY:

16 Q So that the forest evacuation that you
17 testified about earlier essentially took place in
18 about 20 days, less than--

19 A Yeah.

20 Q --20 days?

21 A That's right.

22 Q A third of the population was moved in
23 that--

24 A Yes.

25 Q --time?

1 A Yes.

2 Q In your opinion, was this the result of a
3 long-term planning strategy?

4 A It could not have been otherwise. It
5 was--the number of people, the number of staff that
6 the Indonesian Military and Militia had to the job
7 had to be reasonably rationally allocated.

8 And there was evidence on the ground, the
9 similarity of the way it was done from one village,
10 one town, to another. Moreover, it follows--it's
11 consistent, both with the reports of the June 19th
12 meeting--the June 18th meeting, I should say,
13 involving Major General Syahnakri and Suki Anwar.
14 It's also consistent with the general character of
15 the telegrams sent by Lieutenant General Lumintang
16 on May the 5th. Each is a step more concrete in
17 developing that. It could not have been anything
18 other than a well-organized plan.

19 THE COURT: Professor--

20 THE WITNESS: Yeah.

21 THE COURT: --did the evacuation--and I
22 think you indicated earlier Indonesians and
23 Indonesian sympathizers or those folks who
24 were--well, they're all citizens of Indonesian?

25 THE WITNESS: Yeah, yes, yeah, I take your

1 point.

2 THE COURT: Yes.

3 THE WITNESS: And no. In fact, the
4 evacuation had, if you'd like, three groups of
5 people we can classify as. One is Indonesian civil
6 servants and the like, a relatively small number,
7 many of whom left before the ballot.

8 And secondly, Pro-Indonesian East Timorese
9 who went more as willingly or possibly in some fear
10 of their lives. But a much larger number of East
11 Timorese who went involuntary, forcibly, who were
12 either in favor of independence or neutral. I'm
13 giving that some 80 percent of the population had
14 voted for independence. I think we can reasonably
15 say many of them were Pro-Independents.

16 THE COURT: I don't want you to speculate.
17 And on the other hand, you're familiar with the
18 area of politics. What would be the underlining
19 motive of evacuating those not sympathetic to
20 aligning themselves with Indonesia if, indeed, the
21 vote were to go against Indonesia? Why would they
22 want people who are opposed to joining with
23 Indonesia within their own midst.

24 THE WITNESS: Yes.

25 THE COURT: Who was going to be left--

1 THE WITNESS: All right.

2 THE COURT: --in East Timor, especially
3 the Indonesian Civil Service, those East Timorese
4 who perhaps wanted to go with the Indonesians? They
5 were just vacating the area?

6 THE WITNESS: No. In that June 18th
7 meeting, where the high military officers came to
8 Timor to get both local senior officers and
9 discussed the options. One of--one part of it was
10 the forced evacuation plan. The other matter which
11 was on the other aspect which was discussed there
12 was moving in non-East Timorese after the event.

13 In other words, in that regard, that the
14 planning at that meeting would appear to be forces,
15 a cleansing. Effectively it was cleansing. And
16 then reintroducing, what, non-East Timorese.

17 Now, I believe, in fact, that there was a
18 plan. The Australian Intelligence description of
19 it is quite--simply quite reasonable, which is that
20 there was a comprehensive but flexible plan which
21 adjusted to contingencies. And that the first help
22 was that if the vote went against them, they
23 could--I don't want to say brazen. That's too
24 individual. They could ride it out. After all,
25 they had written out 24 years of severe

1 international criticism, and they believed they
2 could do it again; one of the reasons why the U.N.,
3 UNAMET, teams were forced out, intimidated and
4 forced out.

5 And one reason why the journalists were
6 forced out was the attempt which very nearly
7 succeeded to isolate the territory. And then they
8 could continue with the deportations unobserved and
9 unhindered.

10 I believe there was--that, in fact, they
11 hoped either that--well, sorry--there's a third
12 element, I believe. And I cannot judge this. It
13 was very small evidence but it was some. They
14 hoped that the terror that was unleashed after
15 September 4th, the announcement, would so provoke
16 the Army of the Independence Movement in East
17 Timor, which were up in hills.

18 There were about three or four thousand
19 people up in the hills. It would provoke them to
20 come and defend their own people. And if they
21 could achieve that goal, then it would create the
22 impression of a Civil War. It would be a
23 two-sided, rather than a one-sided event. And the
24 advantage of that would be twofold.

25 Firstly--well, the most important--the

1 most important advantage would be the United
2 Nations would be most unwilling to intervene to
3 send peacekeeping troops to a fighting war and a
4 civil war. Civil wars are complicated. The U.N.
5 wanted to avoid that. And I can certainly say that
6 on the basis of the interviews I had in June at the
7 United Nations that that was one they were worried
8 about.

9 But, they, in fact--events overtook that
10 Indonesian plan, I believe. They got the
11 deportation happening, but it was impossible to
12 bring in other people. And I'm not sure--well,
13 that didn't happen. But the other thing, what did
14 they hope to achieve? Either they held onto it by
15 brazening it out, or what they created by cleansing
16 the population, politically cleansing it, and
17 was--and then by destroying the infrastructure it
18 would be independent, but it would mendicant.

19 THE COURT: No. I understand that.

20 THE WITNESS: No, not necessary--yeah.

21 THE COURT: Yes, I follow the albeit walk
22 rational that they may have engaged in, but I'm
23 still not sure I understand how that duck tails in
24 with removing, forcibly removing, a large group of
25 East Timorese people prior to the events.

1 We were talking about June of '99 was the
2 date of memorandum. And it seems to me if you
3 remove the people ahead of time and you were
4 contemplating fostering the civil war, so you need
5 people who are petrified. Why would you extract
6 the people who are antagonistic. It seems to me--

7 THE WITNESS: Well--

8 THE COURT: --they're there, let them do
9 battle.

10 THE WITNESS: Yeah, it would--what they
11 moved was ordinary people, villages, and
12 townspeople, not guerrillas. And they had been
13 targeting the independent leaders and their
14 families. You know, the villages that were brought
15 up.

16 But the forced deportations didn't start
17 until September. And the plan was there. The
18 restraining intelligence intercepts, which talk
19 about two to three weeks before the--before the
20 ballot. There are intercepts from even quite
21 junior officers, a number of them who talk about
22 the big sweep which is coming. So the plan was
23 there.

24 The logic, Your Honor, is a difficult one.
25 I think my own feeling is that they wanted to keep

1 their options opened. They would control the
2 population of East Timor. You would have 200,000
3 people over the border. And if they held onto the
4 territory, they could completely cleanse in their
5 terms, and the political character of those people
6 and those remaining. If it became independent,
7 well, either they could keep those people in
8 Indonesia, or let them go back or not. But either
9 way East Timor was a crippled country.

10 THE COURT: Okay. Thank you.

11 BY MS. CHOMSKY:

12 Q Indeed, at the present what has happened
13 to the majority of the people who were forcibly
14 relocated to West Timor?

15 A They have returned to--the great--the vast
16 majority of them have returned to East Timor. Many
17 of them were held in militia control camps in West
18 Timor. And they were the subject of numerous
19 protests by, for example, the United States
20 Government and other governments at the U.N. and
21 directly to Indonesia.

22 And, now, we believe that most of the
23 people, not all, but most of the people who are in
24 those camps willing--most of the people who are in
25 the camps are there willingly. But there may be

1 some doubts still about that because some are still
2 controlled by militia, in fact.

3 Q Following the establishment of the U.N.
4 force, a U.N. Military Force in East Timor, what is
5 the nature of the government there?

6 A It's a virtually unique situation.
7 It's--it's a united--it's a non-self-government
8 territory administered by the United Nations and
9 United Nations UNTAET, United Nations
10 Administration for East Timor, which with the
11 intention that the territory should become
12 independent with its own constitution. The time
13 table is shifting a little bit, but certainly
14 within two years.

15 The United Nation's Administrator on East
16 Timor is advised by a council largely made up of
17 representatives from the CNRT, the Catholic Church,
18 and some other organizations. And progressively
19 senior members of that council have
20 responsibilities, administrative responsibilities,
21 have been turned over to them, so many of them are
22 now de facto ministers under this U.N.
23 Administration.

24 Q So that--
25 THE COURT: Ms. Chomsky, you're talking

1 about the present government?

2 MS. CHOMSKY: Yes.

3 THE COURT: What relevance does that have
4 to the issue of damages, be it punitive or
5 otherwise?

6 MS. CHOMSKY: Your Honor, subject to later
7 connection, they'll be some documents that we want
8 to bring in that are authenticated by the de facto
9 government there which is--and that's all I'm
10 trying to establish.

11 THE COURT: All right.

12 BY MS. CHOMSKY:

13 Q Subsequent to September of 1999, have
14 there been any reports or investigations of the
15 events in East Timor by international bodies?

16 A Yes, they have a number. The two most
17 important--or the most important one by an
18 international body was a report commissioned by the
19 United Nations Human Rights Commission and Security
20 Council, jointly, and the United Nations report.
21 And there's also been a national report by--within
22 the Indonesia Government by the National Commission
23 on Human Rights.

24 Q First, with regard to the U.N. report, I'd
25 like to show you Exhibit 10, and ask you to

1 identify it.

2 (Document handed to the witness and the
3 Court.)

4 A This is a document, a United Nations
5 document distribution, General No. S, stroke, 2000,
6 stroke, 59, comma, I, stroke, 54, stroke 726, dated
7 the 31st of January. It commences with letters
8 from the Secretary General to the President of the
9 General Assembly, the President of Security
10 Council, and the Chairperson of the Commission of
11 Human Rights.

12 Q And contained within this document is the
13 report of the International Commission of Inquiry?

14 A Indeed, it is. Yes.

15 MS. CHOMSKY: I'd like to move Exhibit 10
16 into evidence, and I also would like to move
17 Exhibit 11, which was identified, but I failed to
18 move it into evidence.

19 THE COURT: Okay. Plaintiffs' Exhibit 11
20 for identification and Plaintiffs' Exhibit 10 for
21 identification will be admitted into evidence.

22 [Plaintiffs' Exhibit
23 Nos. 10 and 11 were
24 received into evidence.]

25 MS. CHOMSKY: I'd like to--I won't take up

1 the time to read it into the record, but I'd like
2 to draw the Court's attention particularly to
3 Paragraphs 51 through 58, 65, 70, 75 to 82, 84, 93,
4 and 140.

5 THE COURT: Ms. Chomsky, if you would
6 repeat that. 51?

7 MS. CHOMSKY: 51 through 58.

8 THE COURT: Right.

9 MS. CHOMSKY: 65.

10 THE COURT: Right.

11 MS. CHOMSKY: 70. 75 to--

12 THE COURT: I have the rest. 51, 58, 65,
13 70, 75, 82, 84, 93--

14 MS. CHOMSKY: 75 to 82.

15 THE COURT: To 82. 84, 93, and 104.

16 MS. CHOMSKY: That's correct.

17 Excuse me.

18 THE WITNESS: I thought you said 140. That
19 was all.

20 MS. CHOMSKY: 140 was one of them.

21 THE COURT: 140?

22 MS. CHOMSKY: Yes.

23 THE COURT: As opposed to 104?

24 MS. CHOMSKY: Oh, yes.

25 THE COURT: Okay.

1 MS. CHOMSKY: I'm sorry did I say--

2 THE COURT: My bad. It was my error. 140.

3 BY MS. CHOMSKY:

4 Q Do you care to comment any further on this
5 report?

6 A I'll just point out what it says. At the
7 one stage--the United Nations, the people carrying
8 out this inquiry themselves regarded it as
9 preliminary. They regarded that the time is
10 incredibly short prepared. That they had only
11 scratched the surface, and when they prepared the
12 report.

13 And I just stress the--the importance of
14 it, the undoubted basis of it in a great deal of
15 testimony they received in a short period of time,
16 and the diversity of forms of Crimes Against
17 Humanity, which they documented, including gender
18 violence, and intimidation, and terror.

19 Q And could you bring the Court's attention
20 to the major conclusion--

21 A Indeed.

22 Q --of the investigation?

23 A I believe if we--if you look at Paragraph
24 140, which comes at the end of a section of a
25 conclusion, which is, headed, Indonesian Army and

1 Military involvement. That presents in Paragraph
2 140, "The commissioner is of the view that
3 ultimately the Indonesian Army was responsible the
4 intimidation, terror, and killings and other acts
5 of violence experienced by the people of East Timor
6 before and after the population--sorry, the Popular
7 Consultation."

8 And they, in fact--earlier on they--they
9 have--there was much discussion and of the role of
10 the militia, the TNI directional militia, and the
11 role of the TNI itself.

12 THE COURT: Professor, it seems in that
13 first paragraph they suggest, do they not, that the
14 collective data indicates that certain individuals
15 who are particularly with the director involved?

16 THE WITNESS: Yeah.

17 THE COURT: Does the report or is there
18 any underlying raw data that identify the
19 individuals?

20 THE WITNESS: No, not that I have seen.
21 They certainly in the report do not name
22 individuals.

23 THE COURT: When they say "further the
24 evidence collected"--

25 THE WITNESS: Yes.

1 THE COURT: --what do you mean by that? Or
2 do you know what they mean by that or what you
3 think they mean?

4 THE WITNESS: No, I don't. All I know is
5 the general character of the evidence selected the
6 general character of the people they talked to and
7 the kind of evidence that they had--that such
8 weaknesses would have been to override them with.
9 That's all I can tell you, Your Honor. When in a
10 sense that I've--no, they have not given any names
11 at all. And so one can't judge that. They stop at
12 the level of saying the Army, in general, is
13 responsible.

14 BY MS. CHOMSKY:

15 Q You also made reference to an
16 Indonesia-based inquiry.

17 A Indeed. There was a--at virtually the
18 time that the United Nations inquiry was taking
19 place, there was an inquiry by the Commission for
20 Human Rights violations in East Timor, brackets,
21 KPP, hyphen, HAM, closed brackets, which was
22 established by the Indonesian National Commission
23 for Human Rights. And the--it was established on
24 the 22nd of September of 1999, and which was, one
25 may say, somewhat brave decision by a Human Rights

1 Commission at that time within the Habibie
2 Government. And they were very much criticized for
3 doing so.

4 And when they did report in February, I
5 think it's fair to say that many observers,
6 including myself, who expected very little from the
7 Indonesian Government report, were astonished and
8 rather admiring of the penetration of the report
9 and its character.

10 It's--the report, if I just may read from
11 the heading from a section of Part 3, "The Patents
12 of Violence of Human Rights, called in Crimes
13 Against Humanity. Based on facts, documentation,
14 and information of witness testimony, KPP-HAM not
15 only found actions that could be classified as
16 gross Human Rights violations, for which the state
17 is responsible, but also found evidence of crimes
18 that can be classified as crimes of universal
19 jurisdiction. These included crimes--these crimes
20 included systematic and mass murder, extensive
21 destruction, enslavement, forced deportations, and
22 displays of inhumane acts committed against the
23 civil population.

24 "KPP-HAM found evidence in East Timor that
25 a planned systematic and massive scorch earth

1 campaign was launched in various cities, including
2 Dili, Liquica, and others.

3 "The Crimes Against Humanity described
4 above show a systematic program that resulted from
5 extensive planning. And in the period after the
6 Popular Consultation, violence increased
7 drastically throughout East Timor, including
8 murders, kidnappings, rape, poverty destruction,
9 theft of homes and property, the burning and
10 destruction of military installations, offices, and
11 civilian residences, with a goal of forced
12 deportation.

13 Members of the TNI"--Palri (phonetic),
14 that's the Indonesian Police, "and the militias
15 were the key figures responsible for this campaign,
16 which included the creation of conditions." Which
17 is the same phrase that we've heard earlier.

18 "Choice of acts committed, scheduling, and planning
19 of the forced deportation. This campaign was
20 initiated to convince the international community
21 that the results of the Popular Consultation shall
22 be doubted, and the people of East Timor would
23 rather choose to live safely in West Timor."

24 It then goes on to describe the victims
25 and perpetrators in particular. Shall I continue

1 or?

2 Q With regard--

3 THE COURT: Does that identify
4 individuals?

5 THE WITNESS: Yes.

6 THE COURT: That identified the defendant?

7 THE WITNESS: No. May I, perhaps,
8 describe how they described it?

9 BY MS. CHOMSKY:

10 Q Yes, please.

11 A "There are three groups of perpetrators of
12 these Crimes Against Humanity, namely, those who
13 committed crimes in the field, including the
14 militia, and the military, and the police
15 authorities.

16 "Those who ran the field operations in the
17 civilian bureaucracy and those who held
18 responsibility for National Security Policy,
19 including but not limited to high level military
20 officials who actively or passively were involved
21 in these crimes.

22 The involvement of the Civil
23 Administration in the military working together
24 with the pro-integration militia groups in the
25 aforementioned Crimes Against Humanity constitutes

1 a misuse of power of authority, which resulted in
2 the involvement of both military and civil
3 institutions.

4 "In detail, the aforementioned proof
5 demonstrates that members of the civilian and
6 military institutions, including the police are
7 suspected of involvement, but including, but not
8 limited to the following persons."

9 And they name the governor, the Commander
10 of Military Resort 164, the Commander of Military
11 Area Command 164, and the Advisor to the Indonesian
12 Task Force for the consultation Major General Zaky
13 Makarim.

14 Other names and all--and then it goes on
15 to say, All names against inhumanity--oh, I'm
16 sorry. "All Crimes Against Humanity in East Timor
17 directly or indirectly incurred because of the
18 failure of the Armed Forces Commander to guaranty
19 security during the implementation of the
20 announcement of the two options by the government."

21 In view of this--I'm sorry. The police
22 structure, which was at that time still under the
23 command of the Defense Ministry, had weakened the
24 ability of the police force to carry out its
25 security duties based on the New York agreements.

1 In view of this Armed Forces Commander
2 General Roantho (phonetic) is the party that must
3 be asked to be a responsibility.

4 I believe they--General Lumintang was not
5 named, but officers immediately beneath him were
6 named. His Commander in Chief was named. The
7 category of those responsible for National Security
8 Policy and of the Implementation of Planning
9 would--that category was named.

10 THE COURT: When you say "His Commander in
11 Chief," who's Commander in Chief?

12 THE WITNESS: Yes. I'm sorry. The
13 Commander of Chief of Armed forces, not the
14 present. I agree. I should--on this map here, the
15 Armed Forces Commander in Chief.

16 Q Oh, here it would be?

17 A Yeah, yep, yep. No--Yeah, it's not on
18 that.

19 But I should stress that it's clear from
20 the way that this committee has--this commission
21 has reported and that they certainly did not regard
22 those culpable as limited to those that they list.

23 Q In fact, they do so specifically?

24 A They do so.

25 THE COURT: But they did see fit to name

1 some individuals and not others?

2 THE WITNESS: They did.

3 BY MS. CHOMSKY:

4 Q What is Defendant Lumintang's present
5 position?

6 A He is--as of February this year, he is the
7 Secretary of the Department of Defense of
8 Indonesia. That--there's a Minister of Defense
9 above him.

10 Q And is the Military of Indonesia still
11 engaged in the same pattern of crimes against the
12 civilian population of other areas still under
13 their control?

14 A Indeed. In Hat Yai, which is the
15 northwestern tip of Sumatra, it is very fierce, and
16 a struggle continuing there in what was Irian Jaya
17 and has been named Papra (phonetic) Barat, West
18 Papra, and also in parts of the Moluccas.

19 Q I'd now like to show you Exhibit 12.

20 MS. CHOMSKY: And this is a death
21 certificate, which I'm going to ask for you to put
22 under seal since it identifies one of the
23 plaintiffs.

24 BY MS. CHOMSKY:

25 Q And I'd like to ask you, Professor Tanter,

1 to explain once more what the East Timor National
2 Resistance Council is.

3 A The East Timor National Resistance Council
4 is usually known by its Portuguese initials, CNRT,
5 and it is regarded by the United Nations as the
6 representative of the people of East Timor, and the
7 majority of members of the Council advising the
8 United Nations Administrator for East Timor from
9 the CNRT. In practical terms, the CNRT structure
10 throughout East Timor is being used by the United
11 Nations authority for practical administrative
12 purposes.

13 MS. CHOMSKY: We have the original
14 certified copy there, Your Honor. I'd like to move
15 it into evidence as Exhibit 12, and ask that it be
16 placed under seal.

17 THE COURT: The Court will receive into
18 evidence Plaintiffs' Exhibit 12 for identification,
19 the death certificate.

20 MS. CHOMSKY: And I--

21 THE COURT: At this point the Court will
22 admit it under seal. But prior to the close of
23 this hearing, Ms. Chomsky, the Court would want to
24 hear from you or one of your colleagues on the
25 issue of sealing, in view of the fact that the

1 Court is under the impression that the case has
2 been removed from being under seal. And I think
3 Mr. Schneebaum confirmed that. So we may be left
4 with a very narrow component of the case; namely,
5 the names of the parties involved.

6 MS. CHOMSKY: That is actually the only
7 part that--

8 THE COURT: But we'll discuss that later.

9 MS. CHOMSKY: And--

10 THE COURT: But for the moment, this will
11 be admitted and also it will remain under seal.

12 [Plaintiffs' Exhibit
13 No. 12 was received into
14 evidence.]

15 MS. CHOMSKY: I have here Exhibit 13,
16 which is also a certified copy of a death
17 certificate. And I'd like to move that into
18 evidence.

19 THE COURT: Very well. That would be
20 admitted.

21 [Plaintiffs' Exhibit
22 No. 13 was received into
23 evidence.]

24 MS. CHOMSKY: These would be the
25 originals.

1 (Documents handed to the Court.)

2 THE COURT: Ms. Chomsky?

3 MS. CHOMSKY: Yes, Your Honor.

4 THE COURT: There are two death
5 certificates that have been introduced. Are they
6 reflective of any of the named plaintiffs?

7 MS. CHOMSKY: Yes, they are.

8 THE COURT: All right. Perhaps for the
9 record, it would be helpful to have you identify
10 which exhibit relates to which John Doe?

11 MS. CHOMSKY: I believe Exhibit 12 is the
12 death certificate of John Doe 1, and Exhibit 13 is
13 the death certificate of John Doe 4?

14 MR. DICAPRIO: 5.

15 MS. CHOMSKY: 5.

16 THE COURT: Thank you.

17 MS. CHOMSKY: And, Your Honor, I have the
18 original certified copies--

19 THE COURT: Okay.

20 MS. CHOMSKY: --here.

21 May I have a moment, please?

22 THE COURT: Yes.

23 (Briefly confers with co-counsel.)

24 MS. CHOMSKY: I have no further questions
25 and I'd like to--

1 THE COURT: I assume, Ms. Chomsky, you're
2 not prepared or you're not contemplating
3 introducing the Human Rights report of the
4 Indonesian militia?

5 MS. CHOMSKY: It'll all be in Indonesian,
6 Your Honor.

7 THE COURT: Oh, I see. I'm sorry. There's
8 no English translation. Very well. I understand.

9 MS. CHOMSKY: Thank you, Your Honor.

10 THE COURT: Thank you. Professor, you may
11 step down.

12 THE WITNESS: Thank you.

13 THE COURT: The professor is free to go,
14 Ms. Chomsky?

15 MS. CHOMSKY: Yes, he is. I'm sorry.

16 THE COURT: After we try the Kyoto--

17 THE WITNESS: Virus trailer, yes, but
18 soon.

19 THE COURT: Kyoto is a delightful time
20 this time of year.

21 THE WITNESS: The cherry blossom time.

22 THE COURT: Yes, indeed.

23 MS. CHOMSKY: We have cherry blossoms
24 here, as well.

25 [Witness excused.]

1 MS. CHOMSKY: I believe the next witness
2 will be John Doe 3.

3 THE COURT: All right.

4 MR. DICAPRIO: With the Court's
5 permission, Your Honor, we would like the
6 interpreter to be able to be seated in the jury
7 box.

8 THE COURT: Yes.

9 MR. DICAPRIO: Thank you, Judge.

10 And may the witness approach the witness
11 chair, please?

12 THE COURT: Yes.

13 JOHN DOE 3, PLAINTIFFS' WITNESS, SWORN

14 DIRECT EXAMINATION

15 BY MR. DICAPRIO:

16 Q I am going to ask you some questions and I
17 would ask you to keep your answers limited to the
18 questions that I ask. I would ask the interpreter
19 to repeat my question out loud so the Court can
20 hear the interpretation and the rest of the
21 courtroom.

22 THE INTERPRETER: Can you, please, repeat
23 the question.

24 Q I will be asking you questions, And I
25 would ask you that you limit your response to the

1 question that I ask.

2 Are you the plaintiff named as John Doe 3
3 in this proceeding?

4 A Yes.

5 Q And you were born on August 12, 1973; is
6 that correct?

7 A Yes, 1973.

8 Q Is that correct?

9 A Yes, sir.

10 Q You also bring this action on behalf of
11 your father who is John Doe 4 in this action; is
12 that true?

13 A Yes.

14 Q And is it also true that you bring this
15 action on behalf of your older brother who is
16 deceased and named as John Doe 5 in this
17 proceeding?

18 A Yes.

19 Q And do you currently reside in Dili, East
20 Timor?

21 A Yes.

22 Q And is this--

23 THE COURT: Would you spell that for the
24 record--

25 MR. DICAPRIO: Yes, Your Honor.

1 THE COURT: --Mr. DiCaprio?

2 MR. DICAPRIO: D-I-L-I.

3 BY MR. DICAPRIO:

4 Q Can you see the map from where you're
5 sitting?

6 A Yes.

7 Q And is it accurate to say that this is
8 where Dili is located in East Timor?

9 A I can go and see the map.

10 MR. DICAPRIO: May I approach the witness,
11 Your Honor.

12 THE COURT: Yes. Having the record
13 reflect is this East Timor is not going to be very
14 helpful for anyone reading the transcript, Mr.
15 DiCaprio.

16 MR. DICAPRIO: I'm sure. I just want it
17 for the Court's knowledge.

18 BY MR. DICAPRIO:

19 Q Is this where Dili is (indicating)?

20 A Yes.

21 THE COURT: And the record will reflect
22 that you're pointing at a location marked Dili on
23 the map. Is that correct, Mr. DiCaprio?

24 MR. DICAPRIO: Thank you, Judge, yes, sir.
25 [Laughter.]

1 THE COURT: That will be helpful.

2 MR. DICAPRIO: I know I was there, Judge.

3 THE COURT: But that doesn't help the
4 record, Mr. DiCaprio.

5 MR. DICAPRIO: I'm sure it doesn't. Thank
6 you, Judge.

7 THE COURT: If you were pointing to an
8 area, which is marked on the map Dili, then I think
9 the record will be complete.

10 MR. DICAPRIO: Thank you, Your Honor.

11 BY MR. DICAPRIO:

12 Q Now, you were born in Hato-Udo Anaro,
13 which is approximately 90 miles east of--90 miles
14 from Dili, East Timor; is that true?

15 A Yes.

16 Q And you are married and you have two
17 children; is that true?

18 A Yes.

19 Q Are you currently employed in an
20 organization known as Yayasan Hak. That is
21 Y-A-Y-A-S-A-N H-A-K?

22 A Yes, I am.

23 Q And is Yayasan Hak, a Human Rights
24 Organization in East Timor?

25 A Yes, that's right.

1 Q And are you employed in the position of
2 Director of the Advocacy Division?

3 A Yes, I'm a--my position is the Director of
4 the Division of--I forgot--a lawyer.

5 Q And as part of your duties, do you take
6 and maintain reports from victims of Human Rights
7 abuses?

8 A Yes. I'm in charge for the investigation
9 of Human Rights violations in East Timor and all
10 issues about the same file that have been from the
11 victims who are involved--I'm sorry, who are from
12 the victims.

13 Q Now, are you familiar with the current
14 United Nations authority UNTAET, U-N-T-A-E-T, in
15 East Timor?

16 A Yes.

17 Q And is there a Special Crimes Division of
18 UNTAET?

19 A Yes, there is. It's called Serious Crime
20 Unit and Human Rights Unit.

21 Q And are you familiar with the function of
22 that division of UNTAET?

23 A Yes.

24 Q And would you describe what that part of
25 the administration does?

1 A We together with--we are cooperating with
2 the Serious Crime Unit of UNTAET administration of
3 the investigation in this file. And one of the task
4 of this division is collecting the evidence and
5 report about Human Rights issues. For example, we
6 are--try to pick up the bones of people who was
7 killed during the jubulance period. We also give
8 counseling for those people who was in particularly
9 careless who was raped during that period, as well.

10 Q Now, may I ask you: You're referring to a
11 certain period of time. And would you identify by
12 month and year what period of time you're referring
13 to?

14 A I'm referring that period from October '99
15 until the present moment.

16 Q In regard to crimes that were committed
17 from the period of August 30 through the end of
18 September, does a serious crime--

19 THE COURT: Of what year, Mr. DiCaprio?

20 MR. DICAPRIO: I'm sorry, Your Honor.
21 1999.

22 THE COURT: August 30?

23 MR. DICAPRIO: August 30.

24 THE COURT: Through September?

25 MR. DICAPRIO: Yes, Judge.

1 THE COURT: September what?

2 MR. DICAPRIO: 1999.

3 THE COURT: The end of the September? The
4 beginning of September?

5 MR. DICAPRIO: Through the end of
6 September 1999.

7 BY MR. DICAPRIO:

8 Q Are you involved in any investigations
9 relating to crimes that took place during that
10 period of time?

11 THE INTERPRETER: '98? '99?

12 MR. DICAPRIO: 1999.

13 THE WITNESS: Yes, I do.

14 BY MR. DICAPRIO:

15 Q Now do you serve as a liaison between the
16 victims for crimes that occurred during that period
17 of time and the Serious Crimes Unit?

18 A Yes.

19 Q Now, you've completed a degree at East
20 Timor University; is that true?

21 THE INTERPRETER: Would you repeat the
22 question, please?

23 MR. DICAPRIO: Certainly.

24 BY MR. DICAPRIO:

25 Q How far have you gone in school?

1 A I graduate high school in 1992, and then I
2 went to college until 1999.

3 Q I'm sorry. Until when, please?

4 THE INTERPRETER: 1999.

5 Q Did you receive a Bachelor's Degree in
6 Political Science?

7 A Yeah, I graduate from political science at
8 that University of East Timor.

9 Q And was that in April of 1998?

10 A Yes, it was in April '99.

11 Q April of 1999?

12 THE INTERPRETER: Yeah. Not '98. It was
13 in '99.

14 BY MR. DICAPRIO:

15 Q Did you work in any group or organization
16 relating to the Independence Movement in East
17 Timor?

18 A I'm not only involved in the Students
19 Movement or any kind of movement but in favor of
20 the Independence. But I also recognize a small
21 group of the same men in my town and other places
22 that fight or demand activity of this organization
23 is in favor of the self-determination of East
24 Timor.

25 Q What was the name of the group that you

1 worked with?

2 A The group where I belonged to is CNRT.

3 THE INTERPRETER: I don't know how to do
4 translate in English.

5 A National Council of East Timor residents.

6 Q Thank you.

7 A And the other one is Front Inter-political
8 Organization.

9 Q When did you start working with these two
10 organizations?

11 A Since 1992.

12 Q And would you describe generally the
13 nature of your activities with these groups?

14 A My role in these two organizations is an
15 action of intermediary between the headquarter of
16 these two organizations in Dili with my countrymen
17 in the mountain. What I did is try to organize
18 slide demonstration and distribute information from
19 Dili to the mountain and mountain to Dili. I also
20 do public campaign, how to civilize and educate
21 people in political aspect.

22 MR. DICAPRIO: I'm sorry. I didn't
23 understand on the first part of that answer. He
24 also helped to organize a public campaign?

25 THE INTERPRETER: No, no. Yeah, he also

1 organized a public campaign which means they tried
2 to educate and civilize more people politically.

3 MR. DICAPRIO: I would ask the interpreter
4 to try to relax and it's not necessary for to rush
5 your answers.

6 THE INTERPRETER: Okay.

7 MR. DICAPRIO: Thank you.

8 BY MR. DICAPRIO:

9 Q And can you tell me whether or not you
10 were familiar with your, brother, John 5's
11 political activities during his lifetime?

12 A Yes, I know.

13 Q And would you describe your brother's
14 activities, please.

15 A My brother also was involved in every kind
16 of political activity. In particularly in the
17 movement of students in favor of independence, of
18 course. He start involving this kind of activity
19 since he--he was in Indonesia for study.

20 Q Your brother went to college in Indonesia;
21 is that correct?

22 A Yes.

23 Q And your brother is two years older than
24 you are?

25 A Yes.

1 Q And were you aware of the nature of his
2 activities when he was attending college in
3 Indonesia?

4 A Yeah. His main activity or the nature of
5 his activity--activities took part in every action
6 decided by their organization he belonged to and,
7 like, take part in the demonstration or protests
8 against the Indonesian Government toward the
9 violation of Human Rights, not only in East Timor,
10 but in Indonesia, as well.

11 Q All right. And your father, John Doe 4,
12 are you familiar with your father's political
13 activities?

14 A Yes, I know. And my father was also
15 involved in the same organization and do the same
16 activity, yes.

17 Q Did you and your father and brother
18 discuss your political activities, each of your
19 political activities?

20 A Yes. Not only with my father and brother,
21 but with all members of my family. We always and
22 discuss about any kind of activity that relate to
23 the movement in favor of Independence.

24 Q Now, can you tell me, please, prior to
25 August 30, 1999, where your father resided?

1 THE INTERPRETER: I'm sorry. Could you
2 please repeat the question?

3 MR. DICAPRIO: Sure.

4 BY MR. DICAPRIO:

5 Q Where was your father living on August 29,
6 1999?

7 A He was--he lived in Hato-Udo.

8 Q And is that an area in East Timor?

9 A Yes.

10 Q And where does it appear on the map?

11 A It's in the district of Anaro in west-- in
12 the direction to the west of East Timor.

13 THE COURT: Mr. DiCaprio, the reporter is
14 going to have a difficult time unless someone
15 spells those names for him.

16 MR. DICAPRIO: I will do that, Your Honor.
17 Thank you.

18 BY MR. DICAPRIO:

19 Q Now, you said in the district of which is,
20 Ainaro, A-I-N-A-R-O; is that correct?

21 A Yes, it is correct.

22 Q And that essentially is located in the
23 Western portion of East Timor; is that true?

24 A Yes.

25 Q Now, would you spell, please, the name of

1 the village that your father was living in and have
2 the interpreter spell it, please.

3 A Yes, I can. H-A-T-O-U-D-O.

4 Q And did your father hold any position in
5 that village as a member of the CNRT?

6 A Yes. He was coordinator of these
7 organizations or as representative president of his
8 organization in the village where he lived
9 representing especially the group of adults or old
10 ages.

11 THE INTERPRETER: Well, not really old
12 ages. Adults.

13 MR. DICAPRIO: Right.

14 BY MR. DICAPRIO:

15 Q When you say he was the coordinator of
16 these organizations, what organizations are you
17 referring to?

18 A I refer that CNRT, National Council of
19 Residents of East Timor.

20 Q Now, you were advocating for something in
21 your political activity; is that true?

22 THE INTERPRETER: I wonder if this is the
23 answer but he said--

24 THE COURT: What do you mean--

25 THE INTERPRETER: I think--

1 THE COURT: --you wonder whether this is
2 the answer?

3 THE INTERPRETER: Pardon. I don't think--

4 THE COURT: Well, are you saying--

5 THE INTERPRETER: --he understood well the
6 question.

7 MR. DICAPRIO: Would you, please, let the
8 Judge finish his question and then you--

9 THE INTERPRETER: Okay.

10 THE COURT: Are you not sure that he's
11 responsive to the question or you're not sure what
12 his answer is?

13 THE INTERPRETER: I'm not sure what his
14 question--his answer to the question.

15 THE COURT: Whether it's responsive to
16 the--

17 THE INTERPRETER: Yeah.

18 THE COURT: --question? I see. Okay.

19 THE INTERPRETER: So I'd like if you'd
20 repeat the question.

21 THE COURT: Why don't you--

22 MR. DICAPRIO: Even if the answer--I'm
23 sorry, Your Honor. I didn't mean to talk over you.

24 THE COURT: Why don't you repeat the
25 question, Mr. DiCaprio, and the interpreter will

1 determine whether or not this was the answer. But
2 it seems to me that under the circumstances,
3 regardless of whether or not it's responsive, I
4 think the interpreter is required to give whatever
5 answer the witness gave.

6 MR. DICAPRIO: Yes, I believe so, Your
7 Honor.

8 THE COURT: Then you can determine whether
9 or not it's responsive.

10 MR. DICAPRIO: Thank you, Your Honor.

11 Please, do not provide--please, just
12 provide an answer, as indicated by the witness, and
13 then we'll--

14 THE INTERPRETER: Okay.

15 MR. DICAPRIO: If there's a problem with
16 the answer, we'll can ask a different question.

17 BY MR. DICAPRIO:

18 Q The question is: You were advocating for
19 something and so was your father and your brother.
20 What were the things that you were advocating for?

21 A First thing is I try to--try to advocate
22 the Timorese people how they can know about their
23 right of self-determination.

24 Q I'm sorry, self-determination?

25 THE INTERPRETER: Yeah.

1 A Second, it's about the violation that the
2 Indonesian Military did to East Timor. And the
3 third was try to help them how to organize and get
4 aid or support from the international community to
5 help the residents fight another struggle.

6 Q Directing your attention to the years 1992
7 through 1994. During that period of time were you
8 ever arrested or threatened by the Indonesian
9 Military as a result of your political activities?

10 A Yes, I was arrested once, and it was in
11 July 14, 1994.

12 Q And what were the circumstances leading to
13 your arrest?

14 A We did organize a demonstration against
15 the Indonesian Military in my campus, in my
16 university campus.

17 Q And did you organize a demonstration? Is
18 that what you said?

19 A Yes.

20 Q What were you demonstrating against?

21 A We demonstrate against the military of
22 Indonesia.

23 Q Was there a specific incident that had
24 taken place that had led to the demonstrations?

25 A The reasons for this demonstration was

1 that the Indonesian Military assault all the
2 residents, the physical residents of Catholic
3 sisters and threaten them--

4 Q And where did this?

5 A --in Maliana. I'm sorry.

6 MR. DICAPRIO: You said and threaten them?

7 Is that what the last word was?

8 THE INTERPRETER: Yes.

9 MR. DICAPRIO: Thank you.

10 BY MR. DICAPRIO:

11 Q Where did this assault upon these Catholic
12 nuns take place?

13 THE INTERPRETER: I'm sorry.

14 Q Where was the assault?

15 A The assault was in the District of
16 Maliana, M-A-L-I-A-N-A. In the west of East Timor.

17 Q And can you show me approximately--

18 THE INTERPRETER: Yeah.

19 Q --where it is? I'm pointing to which is
20 again in the middle of the country, but almost to
21 the western border of East Timor?

22 A Yes, it's in front here with Western
23 Timor.

24 Q Okay. Would you describe what happened on
25 that occasion to you?

1 A I was asked in front of my campus, and
2 they took me to the police station. And was there
3 for three days and three nights, and there was no
4 legal process against me.

5 Q When you say "they took you to the police
6 station," would you describe who it was, please,
7 that--would you identify the people that arrested
8 you?

9 A Yes. Those who arrest and took me to the
10 police station was a member of the Indonesian
11 Police.

12 Q And you remained in custody for three
13 days; is that correct?

14 A Yes.

15 Q During this period of time were you
16 threatened?

17 A Yes, I was threatened.

18 Q Would you describe what took place,
19 please?

20 A Yes. I was interrogated and they
21 threatened they would kill me. And if they do, so
22 nobody will--I would disappear that--I mean--

23 Q So you were threatened that you would be
24 killed and that you would disappear; is that
25 correct?

1 A Yes.

2 Q And during this three-day period of time
3 how often were these threats made against you?

4 A Many times.

5 Q Did they occur--were these threats
6 regular--I'll withdraw the question.

7 Approximately did these threats--were they
8 made approximately every hour?

9 A It's been during the day and the
10 threatening was less, but in the night it also was
11 aware, watch us--watch me and threatening me almost
12 every, every, every hour.

13 Q All right. Prior to 1994, July of 1994,
14 was there an incident that place where you were
15 demonstrating outside of your university because of
16 some action taken by the Indonesian Military?

17 A Yes.

18 Q And approximately when did this incident
19 take place?

20 A There was an incident prior to '94. It
21 was in April, August, and September in 1993.

22 Q Was there a particular demonstration
23 relating to the monitoring of students by the
24 Indonesia Military at your university?

25 A Yes. In the first demonstration, the

1 reason to make a demonstration was because we were
2 watched almost all the time by the Indonesian
3 Military. And the second one, the reason was the
4 because the Indonesian Military didn't respect the
5 Catholic Sisters.

6 MR. DICAPRIO: And the first occasion, I
7 didn't quite understand. Did you say because you
8 were being watched?

9 THE INTERPRETER: Exactly.

10 MR. DICAPRIO: Is that the word you were
11 using?

12 THE INTERPRETER: Yes.

13 BY MR. DICAPRIO:

14 Q On that occasion, there was a
15 demonstration that you participated in; is that
16 true?

17 A Yes.

18 Q And on that occasion did the Indonesian
19 Military arrive at your campus?

20 A Yes.

21 Q Approximately how many soldiers were
22 present at the campus?

23 A It depends. And sometimes two or three.
24 Sometimes four or five who came over and was on the
25 campus.

1 Q Was there any occasion when the university
2 was surround by Indonesian Army with rifles?

3 A Yes.

4 Q And was this the same occasion when there
5 was demonstration that was taken place because of
6 the monitoring of the students?

7 A Yes.

8 Q And would you will describe what the
9 soldiers did at that time?

10 A They often came over to the university
11 with mobile phone and watched every step of us. And
12 they communicate with the police or other
13 colleagues in the headquarters and the police and
14 other colleagues would come over and watch
15 everything that we did in the campus.

16 Q I'm asking you specifically about the
17 occasion when the Indonesian Army came to the
18 campus armed with rifles. Do you recall that
19 occasion?

20 His answer, please. Did he say yes?

21 THE INTERPRETER: Yes.

22 MR. DICAPRIO: Thank you.

23 BY MR. DICAPRIO:

24 Q And is this the same demonstration
25 relating to the monitoring of students?

1 A Yes.

2 Q And did the Indonesian Army soldiers fire
3 their rifles?

4 THE INTERPRETER: I'm sorry?

5 Q Did the soldiers fire their rifles?

6 A Yes, they did when we do some reaction
7 against them.

8 Q And as a result of them firing their
9 rifles, did the crowd disperse?

10 A Yeah. And then we ran into the college.

11 Q Okay. Now, East Timor is--would you
12 describe the topography of East Timor?

13 A Yes.

14 Q And go ahead and, please, describe it. I'm
15 asking: Is it flat? Is it hilly?

16 A It's a territory on an Island
17 located--insert in a dozen of islands of Indonesia,
18 and it's a hilly territory island. And the
19 majority of the population is Grecian.

20 Q The population?

21 THE INTERPRETER: The people.

22 MR. DICAPRIO: Yes.

23 THE INTERPRETER: And the police.

24 A And it has 13 districts. So the west part
25 makes frontier with Indonesia which--

1 THE INTERPRETER: Well, he said which
2 name--

3 A And it's a frontier with the Moluccas
4 Island which belong to one of the Indonesian
5 Province.

6 Q So it's a hilly country; is it not?

7 A Yes.

8 Q Thank you. Now, directing your attention
9 from 1995 through 1999, and prior to August 30 of
10 1999 during this period of time; that is, from '95
11 through August 30 of 1999, were you ever arrested
12 again?

13 A No.

14 Q Were you ever threatened by any member of
15 the Indonesian Police Force or the Indonesian Army
16 or Military?

17 A Yes.

18 Q And how often were you threatened?

19 A Many times. Every time when we did
20 demonstration against them. In my way back home,
21 they met me or found me or saw me, and they will
22 threaten me.

23 Q When you refer to "they," would you
24 identify, please, the group or the individuals
25 making these threats?

1 A The Indonesian Military. And sometimes
2 they call me to the headquarters and they
3 threatened me. And sometimes they came to my house
4 and watch me over. And then if they met me, they
5 did the same thing.

6 Q What were the threats that were made to
7 you?

8 A Like why did you do, or why do we do
9 demonstration against the Military or against
10 Indonesia? If you do such a kind of action, we can
11 kill you and no one will find you.

12 Q Did you discontinue demonstrating or being
13 involved in political activism?

14 A No.

15 Q Were you afraid for your safety?

16 A Yes. When they threatened me, I'm afraid.
17 But my hope to be involved in the activity of my
18 organization of Pro-Independence was--went on.

19 Q Why did you continue?

20 A Because we, the Timorese people, have no
21 rights yet to be independent from Indonesia. And
22 the second reason because East Timor was occupied
23 by Indonesia and the Indonesia Military were there
24 and brutally tortured people and violate people.

25 Q Directing your attention to the month of

1 March 1999. Was there an incident that took place
2 with a younger brother of yours? And--

3 A Yes.

4 Q Thank you. Did you have a conversation
5 with your younger brother in or about August of
6 1999 regarding this incident that took place?

7 A Yes.

8 Q Now, when did you first learn of this
9 incident?

10 A It was in the middle of March. Two of my
11 younger brothers who told me.

12 Q Two of your younger brothers?

13 A Yes.

14 Q And did you have a conversation with them
15 in March of 1999?

16 A Yes, I did.

17 Q And where did this conversation take
18 place?

19 THE INTERPRETER: When?

20 Q Where?

21 A It was in Dili when they came and
22 report--informed me about what had happened.

23 Q So they traveled to Dili to tell you about
24 what had taken place; is that correct?

25 A Yes.

1 Q All right. What did they say to you?

2 A Yes. They told me that he was
3 interrogated. Why all of us in my family? They
4 didn't take part in the militia organization. And
5 why all of us just involved in the Independent
6 Movement? Just because of this reason, he hadn't
7 finished yet his answer. They start beating and
8 hitting him.

9 Q And who was it that perpetrated these acts
10 against your brother?

11 A Members of Indonesian Military.

12 Q All right. Did you have a discussion with
13 your brother about this incident in August of 1999?

14 A Yes.

15 Q What did your brother say to you?

16 A He told me the same thing that two
17 brothers told me before. Why we in my family when
18 no one take part in the militia organization? But
19 just in the Pro-Independence Movement.

20 Q Did your brother tell you what was done to
21 him?

22 A Yes.

23 Q What did he tell you?

24 A He told me that he was trying to answer
25 their questions, but they didn't give him a chance.

1 And they start beating him in his face and hitting
2 him with a gun tip, glass, or the wood, kind of
3 wood. And then he started bleeding--and started
4 bleeding from his mouth, nose, eyes, and his body
5 started to swell.

6 Q Was your brother hospitalized? And for
7 how long?

8 A My father who took him to the hospital,
9 and he was there for around three weeks.

10 Q Did this have any affect upon you?

11 A Yes.

12 Q Would you describe, please, the affect
13 that this had upon you?

14 A If affect me the way that it make me--made
15 me afraid with the safety of my family.

16 Q And when you say you're afraid--

17 A Because I thought that they could
18 eventually kill my parents or my brothers, and they
19 could make them disappear.

20 Q And how often did you have these thoughts
21 or fears? How often did you experience these
22 fears?

23 A It was a constant way of feeling, because
24 since March of that year the activity of the
25 militia was getting--how do I say--wanting and

1 getting harder.

2 Q Okay. Did you have any trouble sleeping?

3 A Yes. Sometimes in the night I sleep and I
4 start to remember my family. And I think about
5 those threats makes me worry a lot, and I just
6 cannot sleep and sometimes I just cry alone.

7 MR. DICAPRIO: Should I proceed with
8 another line of questions, Your Honor?

9 THE COURT: Why don't we take a 10-minute
10 break now, Mr. DiCaprio, and then we can go on and
11 continue until 5:00 o'clock.

12 MR. DICAPRIO: Yes, Your Honor.

13 THE COURT: How long do you anticipate the
14 balance of the examination of this witness?

15 MR. DICAPRIO: Your Honor, I would
16 anticipate between one and two hours.

17 THE COURT: I see. So you won't be
18 completing this witness today?

19 MR. DICAPRIO: I may, Your Honor. I'm not
20 sure how much longer the bench will take, but it's
21 likely that I will not.

22 THE COURT: That's all right. I'm not
23 rushing you. I'm just trying to get some idea of
24 the logistics.

25 All right. Why don't we take a 10-minute

1 break at this time.

2 (Recess.)

3 THE COURT: Mr. DiCaprio, you may proceed.

4 MR. DICAPRIO: Thank you, Your Honor.

5 THE COURT: We'll go to approximately 5:00
6 o'clock. And if you're finished with the witness,
7 fine. If not, we'll resume tomorrow morning.

8 MR. DICAPRIO: Yes, Judge.

9 BY MR. DICAPRIO:

10 Q You heard the testimony of Dr. Tanter
11 regarding the announcement by President Habibie on
12 January 27, 1999?

13 A Yes, I did.

14 Q After these announcements were made--this
15 announcement was made, were there any announcements
16 made by any members of the Indonesian Military?

17 A Yes.

18 Q Do you recall when the first time you
19 heard an announcement?

20 A Yes. The first time I hear about this
21 announcement was in January 27th in the evening at
22 8:00 o'clock.

23 Q All right. And do you recall who made the
24 announcements?

25 A President of Indonesia B.J. Habibie.

1 Q Okay. After President Habibie's
2 announcements were there any announcements made by
3 the Indonesian Military in response to President
4 Habibie's announcement?

5 A Yes. After the announcement of the
6 President Habibie the military in East Timor made a
7 counter-announcement against the position of the
8 President.

9 Q Could you identify who made the
10 counter-announcement?

11 A Yes. It was made by the Chief of
12 Military, the Indonesian Military in East Timor.

13 Q And do you recall what he said?

14 A Yes. First, they said that they did not
15 agree with the decision taken by the President
16 Habibie. Second, because the Timorese people
17 is--be a part of Indonesian. And that the
18 President, if you want to take any decision, he
19 should consult first the hierarchy of military, the
20 Indonesian Military in East Timor.

21 MR. DICAPRIO: The third was that if
22 before the President made--

23 THE INTERPRETER: Before the President
24 made any decision, he should consult the military,
25 organized military, who was posted in East Timor.

1 MR. DICAPRIO: He should have consulted
2 him?

3 THE INTERPRETER: Yes, he should have
4 consulted.

5 BY MR. DICAPRIO:

6 Q And what was the second part of the
7 announcement?

8 A The second part was that the Timorese
9 people are Independent, being of Indonesia or being
10 integrated in Indonesia. Not in the standpoint of
11 East Timor become an Independent country apart from
12 Indonesia.

13 Q Was the second part of the announcement
14 indicating that the people of East Timor were
15 independent as part of Indonesia?

16 A Yeah, that's the announcement of the
17 Indonesia Military in East Timor.

18 Q Did you observe the reaction of the people
19 in the area where you are residing to this
20 announcement by the Military?

21 A Yes.

22 Q And where were you at this point?

23 THE INTERPRETER: I'm sorry. What was--

24 Q Where were you residing at this time?

25 A I was in Dili.

1 Q What did you observe?

2 A The first thing I observed was the
3 reaction from the youth or the Students Movement
4 against this possession of the Indonesian Military
5 Post in East Timor. They start organize, like,
6 demonstration, and ask for the intervention of the
7 United Nations.

8 And the second, they ask the Indonesian
9 Government to withdraw its Military in East Timor.
10 So the process of people of consultation could be
11 getting out in a climate of peaceful.

12 And from the CRNT, the National Council of
13 East Timor Residents, so it start supporting the
14 decision taken by the President Habibie, and it
15 start work together with the youth or Students
16 Movement to the same direction. I also observed
17 that a representative of other countries in
18 Indonesia start to come to East Timor for visiting.

19 Q Did you notice any response--I'll withdraw
20 that.

21 Was there any change in the Indonesian
22 Military activity after these demonstrations to the
23 military announcement was made?

24 A Yes.

25 Q Would you describe what you observed,

1 please.

2 A First thing, they knew that the team was
3 real--accept the decision of the President Habibie
4 and the result would eventually be the independence
5 of East Timor, and they didn't agree with this
6 decision. And they start--they were--they rarely
7 lose control, because they saw that even the people
8 in the small villages start to organize and think
9 and talking in favor of the independence.

10 Q When you say "they," who are you referring
11 to?

12 A I refer to the Indonesian Military.

13 Q Did you notice the formation of militia?

14 A Yes.

15 Q And were there any threats made against
16 you to join the motion?

17 A Yes.

18 Q And was there an incident that took place
19 on August 17, 1999?

20 A Yes.

21 Q And were you then in the village of
22 Hatudo, H-A-T-U-D-O?

23 A Yes.

24 Q And who was with you?

25 A Me and my father.

1 Q And did you encounter Indonesia Military
2 personnel?

3 A Yes.

4 Q Were these members of the army?

5 A Yes.

6 Q How many were there?

7 A It was a battalion. So probably around 50
8 to 100 persons.

9 Q And would you describe what took place.

10 A After the ceremony of the Indonesian
11 Independence, at that day I was 17, they came to me
12 and they threaten me.

13 Q They?

14 A Yeah, they called me and my father and
15 they threaten us.

16 MR. DICAPRIO: They threatened?

17 THE INTERPRETER: Threaten, yeah.

18 BY MR. DICAPRIO:

19 Q All right. What did they say to you?

20 A They asked me what I did in that village
21 that day. They didn't like my presence in that
22 village, because they knew I was the leader of the
23 Youth Movement.

24 Q Did they make any direct threats against
25 you?

1 A Yes.

2 Q What did they say?

3 A They said that if I organize any
4 demonstration in the village and then they will
5 kill me and they ask me to leave the village as
6 soon as possible.

7 Q Was there an incident that you observed on
8 August 12, 1999 in the village of Same, S-A-M-E.

9 A Yes. I had several incidents, because at
10 that day I went to that village Same--

11 Q Okay.

12 A --S-A-M-E for a public campaign.

13 Q I'm referring specifically to an incident
14 that took place in the market?

15 THE INTERPRETER: I will continue my
16 answer, okay.

17 MR. DICAPRIO: Yes.

18 A And after that I saw the Indonesian
19 Military and policeman assault the market of that
20 village. At that incident they shot in one youth
21 in his legs and they arrest three people.

22 Q I'm sorry, they?

23 THE INTERPRETER: They shot one youth and
24 arrest three other.

25 MR. DICAPRIO: Harassed three others?

1 THE INTERPRETER: Yes.

2 BY MR. DICAPRIO:

3 Q Was anybody else injured?

4 A No, just the only one.

5 Q Was anybody injured with a knife?

6 A Yes, there was one youth who was injured
7 by knife.

8 Q All right. And how was he injured?

9 A They stabbed him from back side.

10 Q Now, the vote took place on August 30,
11 1999; is that correct?

12 A Yes.

13 Q And were you in Dili at that time?

14 A Yes.

15 Q And on September 1, 1999, was there an
16 incident that took place in Matadoro,
17 M-A-T-A-D-O-R-O?

18 A Yes.

19 Q Would you describe what you observed at
20 that time?

21 A So the report was in August 30, 1999, and
22 in the first of September. The Indonesian Military
23 and militia start to prosecuting people and start
24 to open fires and running around in the town.

25 Q All right. When you say that "they

1 started to open fires," would you describe what you
2 mean by that, please.

3 A They were circulating in the city with
4 military trucks and then they--and they just
5 shooting to afraid people. And if they see some
6 youth, and then they will get off from the truck
7 and throw them or prosecute them.

8 Q Was there any damage to homes on that
9 date?

10 A Yes. They burned houses and they also
11 assault many houses. And in the sequence of that
12 many Timorese who reside in Dili at that moment,
13 some of them fled into the mountain and some of
14 them went to the headquarters in Dili. At that
15 time I was there, too.

16 Q Was there an incident that took place in
17 July of 1999 relating to your father?

18 A Yes.

19 Q And did you have a conversation with your
20 father in August of 1999?

21 A Yes.

22 Q And where did this conversation take
23 place?

24 A (In English) In my house in Hatudo,
25 H-A-T-U-D-O?

1 THE INTERPRETER: Yes.

2 Q All right. And was anybody else present?

3 A My brothers were present.

4 Q What did your father say to you on that
5 day?

6 A They came--my father told me that the
7 policemen came to my parents' house and took him to
8 the police station. And he was interrogated
9 why--well, we--he said, children are active in the
10 movement Pro-Independence and not participate in
11 the movement of Indonesia. And they threatened him
12 and asked him why he and--we, his children, are
13 active in the Independence Movement. Why we--my
14 father and some of my brothers were civil servants
15 for the Indonesian Government.

16 Q Did he indicate to you how they threatened
17 him?

18 A Yes.

19 Q What did he say?

20 A He said that they told him if they see or
21 find us taking part in any demonstration in favor
22 of the Independence, then they will harass or kill
23 us. And then they said to my father that if the
24 Independence win in the next election, then they
25 will have no choice. Especially, those who vote

1 for Independence.

2 MR. DICAPRIO: In the last translation of
3 his answer before this last answer, I didn't get
4 the last part. They indicated they would kill all
5 East Timorese?

6 THE INTERPRETER: Exactly. If the
7 Independence win, then they will kill all the
8 Timorese, especially those who vote in favor.

9 BY MR. DICAPRIO:

10 Q Did you observe your father's reaction to
11 this conversation?

12 A Yes. I could see from his face and his
13 attitude or behavior when he talked to me.

14 Q And how did he appear?

15 A He looks sad, frightened, and seems to me
16 that he was really worried about the possibility
17 being killed by the Indonesian Military.

18 Q How did it affect you?

19 A I was so sad and I'm afraid because I was
20 worried about myself and my family.

21 Q Where were you when the results of the
22 Popular Consultation were announced?

23 A I was in Dili. I was in my office.

24 Q What did you observe?

25 A The first thing I observed was the

1 announcement of the final result by the Secretary
2 General of the United Nation Mr. Kofian (phonetic)
3 by international channel TV in my office.

4 Q After this did you see any soldiers?

5 A Many. So many of them.

6 Q How many approximately?

7 A I could not exactly count how many of
8 them, because there were so many. They were in
9 military trucks, and they were in uniform--with
10 their uniforms running around in the city.

11 Q When you said you couldn't estimate
12 because there were so many, were there hundreds, or
13 thousands?

14 A It's more than thousands.

15 Q More than a thousand?

16 THE INTERPRETER: Yeah, more than
17 thousand.

18 BY MR. DICAPRIO:

19 Q Okay. Now, did you observe any violence
20 on that day?

21 A Yes, I did.

22 Q What did you observe?

23 A In the morning of September 5, I observed
24 that they start go to the Dili Diocese. It's the
25 headquarter of the Catholic Churches, and they

1 assault the civilians who live near the Dioceses
2 and they burned the Diocese and a civilian who was
3 in the Diocese.

4 Q Were there any other fires? Were there
5 any other fires? Let me rephrase the question.
6 I'll withdraw the question.

7 Were any other structures set on fire?

8 A Yes.

9 Q Approximately how many to the best of your
10 recollection?

11 A I don't know exactly how many houses. The
12 building was at that day, but it was a lot. I know
13 because in the morning of September 5, I asked a
14 ride of one of my co-worker, and we were traveling
15 by motorcycle in the city. Yeah, that was observed
16 in the morning of September 5.

17 Q Okay. On September 5, 1999, were you
18 arrested by Indonesian police?

19 A Yes. They assault my office in the
20 evening of September 5th, and they arrest me.

21 Q And where were you taken?

22 A I was taken to the police station in,
23 Comoro, C-O-M-O-R-O.

24 Q And is that an area just--is that an area
25 of Dili?

1 A Yes.

2 Q And after you were taken to Comoro where
3 were you taken after that?

4 A I was there for one night. And the next
5 morning my college co-worker from Indonesia, who
6 released me from the police station. This is in a
7 flight from Indonesia to East Timor all together
8 with the police officer. When I met they, took me
9 to the airport. And then I went to Denpasar
10 (phonetic), Indonesia.

11 Q And did you remain in Denpasar until
12 approximately October 16, 1999?

13 A Yes. I arrive in Denpasar at September 6
14 and then I went to Jakarta September 7.

15 Q And you returned to Dili on October 16,
16 1999; is that correct?

17 A Yes, that's true.

18 Q Now, on October 16, 1999, did you have a
19 conversation your brother and your sister?

20 A Yes. When I arrived there, both of my
21 brothers were in my home and then we talked to each
22 other.

23 Q And where was your home located, please?

24 A In Villa Verde.

25 Q V-I-L-L-A--

1 THE INTERPRETER: V-E-R-D-E.

2 BY MR. DICAPRIO:

3 Q Right. And that's also part of Dili; is
4 that correct?

5 A Yes.

6 Q This is your home?

7 A Yes.

8 Q And you had a conversation with your
9 brother and your sister?

10 A Yes.

11 Q What did they say to you?

12 A They told me that in September 4th, the
13 Indonesian Military start to assault the civilian,
14 and my parents and brothers fled to mountain. And
15 they told me that one of my brothers has
16 disappeared. And my father was shot by Indonesian
17 Military, and they burned our house.

18 Q When you say "our house," you're referring
19 to your father's home?

20 A Yes, my parents' house.

21 Q Did they tell you what happened to your
22 older brother John Doe 5?

23 A Yes.

24 Q Please, tell the Court what they said to
25 you.

1 A They told me that when they--the Indonesia
2 Military came in and burned down our houses
3 everybody, all who were at home, was splashed to
4 different directions. And then in September 6,
5 they met again in the other place of our house.
6 And it was the last time that they met each and
7 then everybody go to his own hiding place.

8 Q When did you learn of your brother's
9 death?

10 A So the first time I heard about the death
11 of my brother was from the Timorese was evacuated
12 to the West Timor. We didn't believe the
13 information.

14 Q When was this?

15 A It was in the December when the refugees
16 started coming back to East Timor.

17 Q December?

18 A Yes.

19 Q What did they tell you happened to your
20 brother?

21 A They told us--or they told me that my
22 brother was arrested by the Indonesian Military and
23 was killed and then they burned him.

24 Q Did they tell you that he was tortured?

25 A Yes. They told me that when the

1 Indonesian Military saw my brother they call him
2 for surrounding, and he didn't obey them. He
3 starts running and then they persecute him and,
4 they caught him and they tortured him.

5 Q What did they do to him? Please, let me
6 ask this question. Did they tell you specifically
7 what they done to him before he died?

8 A Yes.

9 Q What did they say?

10 A They told me that he was--and when the
11 Indonesian Military they got close to him and the
12 first thing they did was shot in his legs three
13 times.

14 Q And then what did they do?

15 A When he got the shot, he fall down. And
16 then they came close to him and they start to stab
17 him. And some of them start stabbing him and some
18 of them start throwing away his pieces away at that
19 time. And after--he didn't die by the stabbing.
20 And then one of the Indonesian Military got him and
21 cut his neck.

22 Q When you say "cut his neck," what do you
23 mean?

24 A They cut his neck, not with a knife, but
25 it's kind of a sharp to kill him. And after that

1 day--

2 Q Please, answer the question.

3 THE INTERPRETER: Yeah. After they got
4 his hands and legs in pieces and then they put it
5 together and then they burned him.

6 BY MR. DICAPRIO:

7 Q Then they burned his body?

8 A Yes.

9 MR. DICAPRIO: May I approach the witness,
10 Your Honor.

11 THE COURT: Yes.

12 BY MR. DICAPRIO:

13 Q I'm going to show you Exhibit No. 23.
14 Would you identify that, please.

15 (Witness reviews document.)

16 Q Can you identify Exhibit 23, please?

17 A Yes. It's my brother who is in the
18 middle.

19 Q Was in the middle?

20 A Yes.

21 Q And he's dressed in a gown; is he not?

22 A Yes. It's graduate uniform.

23 Q Is that the cap and gown as a result of
24 his college education?

25 THE INTERPRETER: Could you, please,

1 repeat the question.

2 MR. DICAPRIO: Yes.

3 BY MR. DICAPRIO:

4 Q Was that picture taken on the day of his
5 graduation?

6 A Yes.

7 Q Now, did you have the opportunity to learn
8 of the--where the remains of your brother were?

9 THE INTERPRETER: Excuse me?

10 MR. DICAPRIO: I'll rephrase the question.
11 I'll withdraw the question.

12 May I approach the witness, Your Honor.

13 THE COURT: Yes.

14 BY MR. DICAPRIO:

15 Q Showing you Exhibit No. 19. Can you
16 identify that document, please?

17 A Yes.

18 Q And would you identify it for the Court?

19 A Yes. This letter was sent by a militia
20 member who was present in the death of my brother.

21 Q And does your father read or write?

22 A Yes.

23 Q Was this letter sent to your father?

24 A Yes.

25 Q And did you read this letter to your

1 father?

2 A He would have received the letter, but he
3 could not read, so he asked me to read it for him.

4 Q And did you read it for your father?

5 A Yes.

6 Q When did this take place?

7 A It was in March 1, 2000.

8 Q When was the letter received?

9 A He received the letter on February 27th.

10 Q On March 1st, did you do anything with the
11 letter?

12 A Yes.

13 Q Did you give the letter to the civilian
14 police?

15 A Yes.

16 Q Okay. Now, is that--

17 MR. DICAPRIO: Is the answer to my
18 question yes?

19 THE INTERPRETER: Yes.

20 BY MR. DICAPRIO:

21 Q Did you read the letter to your father
22 first?

23 A Yes.

24 Q Directing your attention to Exhibit No.
25 19, I'm going to ask you to read--

1 May I approach the witness, Your Honor?

2 THE COURT: Yes.

3 BY MR. DICAPRIO:

4 Q First, let me ask you who is this letter
5 written from. What is the person's name?

6 A His true name is or his brother's name is
7 Vetì Sumo Dicosta (phonetic.) And his East Timor
8 name is Vasco Beti (phonetic.)

9 Q And is the letter signed by Vasco Beti?

10 A Yes.

11 Q And this is a copy of the letter; is it
12 not?

13 A (In English) Yeah.

14 Q And it contains a copy of the envelope?

15 A (In English) Yeah.

16 Q And is this copy--the letter itself, is
17 this a true, fair, and accurate copy of the letter
18 that you--

19 A (In English) Yes.

20 Q --wrote your father? And I would like you
21 to read from the second page starting in the first,
22 full paragraph about one-third of the page down.
23 Would you read that, please.

24 (Witness reads document.)

25 Q Please interpret.

1 A Onku Guru (phonetic) Was killed in evening
2 when they burned the house. Before they burned the
3 house they was planning to assault the house. When
4 they arrived, they assault the house and people who
5 were at home fled away. And when they got into the
6 house, Guru and his brothers fled--left the house.
7 And at the same time when they escaped the militia
8 and Indonesian Military persecute them. And they
9 met in the middle way in a hiding place.

10 Q I would ask you when--there was a
11 reference made to your brother's name to refer to
12 that as John Doe 5.

13 THE INTERPRETER: Okay.

14 Q The persons that you've referred to is
15 your brother; is that correct?

16 A Yes, he's John Doe 5.

17 Q Would you continue to read, please.

18 (Witness reads document.)

19 A He was persecuted--John Doe 5 was
20 persecuted to a village name Kadalida (phonetic).
21 And then he was arrested in 6:00 in the morning. He
22 was interrogated where his family.

23 MR. DICAPRIO: Excuse me? He was
24 interrogated?

25 THE INTERPRETER: He was interrogated

1 where--where his family.

2 MR. DICAPRIO: He was asked where his
3 family was?

4 THE INTERPRETER: Yes.

5 THE WITNESS: But it seems like that he
6 left you. That's why he didn't tell where you
7 were. And he sacrificed himself for safe of
8 your--so this is the life of politics. And that's
9 all. Hope to see you soon. Best regard for
10 everyone at home.

11 Q Now, does the letter on the first page
12 also describe where your brother's remains could be
13 found?

14 A Yes.

15 Q And did you go to the place described in
16 the letter?

17 A Yes. But I didn't go along. I went there
18 with the police and many civilians.

19 Q Did your father accompany you?

20 A Yes.

21 Q And where did you go?

22 A We went to the place where this guy put
23 the letter.

24 Q Would you describe what you found when you
25 got there?

1 A First it has--just like what was written
2 in the letter. We follow it and we went to village
3 mentioning the letter. And we went to the exact
4 place where it referred here in the letter in the
5 place where he was killed. The name is Edhowl
6 (phonetic.)

7 Q That's the name of the town?

8 A Yes. It was in a jungle.

9 Q It was in the jungle?

10 A (In English) Yeah.

11 Q Was your father right next to you?

12 A My father and all my brothers. I hold the
13 letter and served as a guide.

14 Q You held the letter and served as a guide?

15 A Yes.

16 Q Would you describe for the Court what you
17 found when you arrived at that location.

18 A It was in a small river. And observed a
19 place that was completely burned. And then we
20 clean it and we start digging.

21 Q You started to dig?

22 A (In English) Yeah.

23 Q What did you find?

24 A As soon as we dig, one of my brother saw
25 the wallet of my brother.

1 Q Could you describe this wallet, please.

2 A It's a brown wallet--brown-colored wallet.
3 And inside the wallet there was his student's card
4 and his picture and some money. It's around 20,00
5 Rupiah.

6 Q And was this your brother's wallet?

7 A Yes, we recognize it by his picture.

8 Q Did you find anything else?

9 A And then we start digging the hole and we
10 find pieces of body.

11 Q Pieces of his body?

12 A Yeah. Yes, marked bone of fingers and--
13 Because the police--when the police was present,
14 they resisted the doctor and we--the family got in
15 all the bones together, and we took it home.

16 Q You said that there were a number of
17 people also present. About how many other people
18 were there?

19 A It was around 200 people.

20 Q Were these people from your village?

21 A Yes.

22 Q Why were there so many people there?

23 A Because my brother was well-known in the
24 village. And his dad was known by everyone, and
25 everybody liked him because he was the only one who

1 graduated--graduate person from that village.

2 And everyone in the village knew that he
3 was the person who held--keyed in the information
4 about the referendum which helped people for the
5 voting. And he is very peaceful, calm, and a
6 mature person. That's why his death was a loss for
7 the village.

8 Q Do you know what was done with his remains
9 after--

10 THE INTERPRETER: I'm sorry?

11 Q Do you know what was done with the remains
12 that were found?

13 A We took home and after seven days we
14 buried.

15 Q Did you observe the affect that this had
16 on your father on the day that you found your
17 brother's remains?

18 A Yes.

19 Q Would you describe that, please.

20 A He cried. And after that he started
21 losing weight and get sick easily.

22 Q Did this have any affect on you?

23 A Yes.

24 Q Would you describe the affect that it had
25 upon you?

1 A It makes me sad every time I remember him
2 and--on one hand. On the other hand, it makes me a
3 little angry.

4 Q Did you--

5 A In the night, if I remember him, it bring
6 me back to the past memory, and I cannot hold
7 crying. I cry.

8 Q You cry? How often do you think of your
9 brother?

10 A Yes.

11 Q How often?

12 (Witness crying.)

13 Q Do you want to--

14 MR. DICAPRIO: Your Honor, may we take a
15 recess for the evening?

16 THE COURT: Very well.

17 MR. DICAPRIO: Your Honor, may I ask the
18 witness to step down.

19 THE COURT: Surely.

20 [Witness stepped down.]

21 THE COURT: We'll recess at this time.

22 Mr. DiCaprio, we'll reconvene tomorrow at
23 9:30.

24 MR. DICAPRIO: Thank you, Your Honor.
25 (Proceedings adjourned at 5:00 p.m. to

1 reconvene at 9:30 a.m, Wednesday, March 28, 2001.)
2 - - -