

Case No. ICTR-2001- -I

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Lewin

## *INDICTMENT*

The Prosecutor of the International Criminal Tribunal of Rwanda charges **Emmanuel NDINDABAHIZI** with *GENOCIDE*, a crime stipulated in Article 2(3)(a) of the Statute, in that on or between the dates of 7 April 1994 and 14 July 1994 in Kibuye

*préfecture*, Rwanda, **Emmanuel NDINDABAHIZI** was responsible for killing or causing serious bodily or mental harm to members of the civilian population identified as Tutsi, with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group;

*Pursuant to Article 6(1) of the Statute:* By virtue of his affirmative acts in planning, instigating, ordering, participating in or otherwise aiding and abetting the planning, preparation or execution of the crime charged; **and**

*Pursuant to Article 6(3) of the Statute:* By virtue of his actual or constructive knowledge of the acts or omissions of soldiers, gendarmes, communal police, *Interahamwe*, civilian militia or civilians acting under his authority, and his failure to take necessary and reasonable measures to stop or prevent them, or to discipline or punish them, for their acts in the preparation or execution of the crime charged;

**or alternatively,**

## **Count 2: COMPLICITY IN GENOCIDE**

The Prosecutor of the International Criminal Tribunal of Rwanda charges **Emmanuel NDINDABAHIZI** with **COMPLICITY IN GENOCIDE**, *a crime stipulated in Article 2(3)(e) of the Statute*, in that on or between the dates of 7 April 1994 and 14 July 1994 in Kibuye *préfecture*, Rwanda, **Emmanuel NDINDABAHIZI** was responsible for killing or causing serious bodily or mental harm to members of the civilian population identified as Tutsi, with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as follows:

*Pursuant to Article 6(1) of the Statute:* By virtue of his affirmative acts in planning, instigating, ordering, participating in or otherwise aiding and abetting the planning, preparation or execution of the crime charged, in that:

### **Concise Statement of Facts for Counts 1 and 2:**

1. From the first week of April 1994 through May and into June 1994, **Emmanuel NDINDABAHIZI** led a campaign of extermination against the civilian population identified as Tutsi in Kibuye *préfecture*. The campaign was concentrated in the region where **Emmanuel NDINDABAHIZI** made his childhood home and had previously risen through the local and regional political administration to become a government minister. Bands of communal police and civilian militia under **Emmanuel NDINDABAHIZI**'s influence systematically attacked and pillaged homes, and physically assaulted, raped and killed persons identified as Tutsi in a campaign of violence that intended the destruction of the Tutsi, as a group.
2. The campaign partly consisted in public incitement of Hutu civilians to isolate and kill their Tutsi neighbors. During April, May and June 1994 **Emmanuel NDINDABAHIZI** circulated about Gitesi, Gishyita and Mabanza *communes*

and instructed or supervised local administrative officials and civilian militias and local residents to kill persons identified as Tutsi.

3. During April, May and June 1994, **Emmanuel NDINDABAHIZI** distributed weapons to civilian militias to facilitate the killing of persons identified as Tutsi. In particular, **Emmanuel NDINDABAHIZI** personally monitored, visited or supervised several roadblocks to facilitate the distribution of weapons, including machetes and grenades, and participated in organizing convoys of *Interahamwe* to reinforce the civilian militias at sites of large-scale attacks.
4. During April, May and June 1994 **Emmanuel NDINDABAHIZI** specifically directed persons at roadblocks in Kibuye *préfecture* to kill civilians identified as Tutsi, at times individually addressing local administrative officials and naming particular persons to be killed. The public response to **Emmanuel NDINDABAHIZI**'s pronouncements was usually quite swift: within days, and sometimes within hours, local residents and civilian militias attacked and killed persons identified as Tutsi, particularly those that were previously individually targeted.
5. On or about 9 April 1994, **Emmanuel NDINDABAHIZI** addressed a crowd that assembled at a roadblock in Gisharu *cellule*. Present at the roadblock were the chief of the local *Interahamwe*, Joel NDABUKIYE, and local residents, including a woman known as Tatiane NYIRAMARITETIE, a prosperous teacher identified as Tutsi. **Emmanuel NDINDABAHIZI** publicly addressed the crowd and called for the killing of Tutsi, specifically targeting Tatiane NYIRAMARITETIE and directing that her payment of cattle to Joel NDABUKIYE should not spare her life.
6. On or about the following day, Joel NDABUKIYE and his *Interahamwe* followers found Tatiane NYIRAMARITETIE in a field near her house and killed her in accordance with the public call from **Emmanuel NDINDABAHIZI**.
7. Sometime in early May 1994, **Emmanuel NDINDABAHIZI**, accompanied by a soldier, stopped at a roadblock in Gisharu *cellule*. Present at the roadblock was the chief of the local *Interahamwe*, Joel NDABUKIYE. **Emmanuel NDINDABAHIZI** thanked the public in attendance for their efforts, but warned that two men known as KAREGEYA and MUKANTABANA were still alive. **Emmanuel NDINDABAHIZI** publicly called for their deaths and stated that Joel NDABUKIYE would be appointed as the new *préfet* and NDABUKIYE's son would be *bourgmestre* and Augustin KARARA would be a new member of parliament if all of the Tutsis in the area were killed.
8. Shortly thereafter, later that same day, Joel NDABUKIYE and his son killed KAREGEYA and MUKANTABANA with clubs and *Interahamwe* killed other civilians identified as Tutsi in the *cellule*, as ordered by **Emmanuel NDINDABAHIZI**.

9. During May 1994 at Gitaka Centre in Gasharu *cellule*, in front of Joel NDABUKIYE's house, **Emmanuel NDINDABAHIZI** supervised or participated in activities at a roadblock by requiring or directing *Interahamwe* and other persons present to kill civilians identified as Tutsi.
10. On or about 20 May 1994, **Emmanuel NDINDABAHIZI** monitored or supervised the activities at a roadblock at or near Gaseke by directing BIGIRIMANA Bicikabaraguza, apparently the chief of the roadblock, and other persons present, including KOMEZA and Gaspard BAVURIKI, to kill civilians identified as Tutsi. **Emmanuel NDINDABAHIZI** distributing a quantity of machetes to approximately twenty men whom were present at the roadblock. **Emmanuel NDINDABAHIZI** addressed BIGIRIMANA Bicikabaraguza, stating, in substance, '*Many Tutsi pass by here, why aren't you killing them?*' Immediately following **Emmanuel NDINDABAHIZI**'s departure, the men at the roadblock killed the occupant of a vehicle that approached the roadblock.
11. Towards the end of May 1994, at or near the Nyabahangha Bridge, **Emmanuel NDINDABAHIZI** supervised or participated in a roadblock by directing *Interahamwe* and other persons present to kill civilians identified as Tutsi and by distributing a quantity of machetes to men at the roadblock, including Hasan BYIYINGOMA, and by stating, in substance, '*Are you standing well - Have you killed Tutsi women married to Hutus ? ... Go and kill them - They risk to poison you - Take arms.*'
12. Also in late-May 1994 in Kayenzi *secteur*, at or near Faye, **Emmanuel NDINDABAHIZI** supervised or participated in attacks upon the Tutsi by requiring or directing *Interahamwe* and other persons present to kill civilians identified as Tutsi.
13. During April and June 1994 **Emmanuel NDINDABAHIZI** led or directly participated in attacks upon civilians identified as Tutsi in Kibuye *prefecture* by personally using weapons or by distributing weapons and directing that they be used, and by transporting attackers and weapons to the attack sites.
14. On or about 10 April 1994 at Karongi Hill, **Emmanuel NDINDABAHIZI** facilitated the killings of civilians identified as Tutsi by transporting soldiers armed with guns and grenades or *Interahamwe* armed with machetes and clubs to attack Tutsi refugees, resulting in numerous deaths.
15. Over the course of several days, approximately between 13 and 26 April 1994, at Gitwa Hill, **Emmanuel NDINDABAHIZI** led or participated in a series of attacks on civilians identified as Tutsi by transporting soldiers or *Interahamwe* to Gitwa Hill and by discharging a firearm or by directing attackers to kill Tutsi refugees with guns, grenades, machetes and clubs, resulting in numerous deaths.
16. On or about 13 or 14 April 1994, at Gitwa Hill, **Emmanuel NDINDABAHIZI** commanded, facilitated or participated in killings of civilians identified as Tutsi by throwing an explosive grenade and by

transporting or directing soldiers or *Interahamwe* to attack with guns, grenades, machetes and clubs, resulting in numerous deaths.

17. On or about 20 April 1994 at Bisesero Hill in Gishyita *commune*, **Emmanuel NDINDABAHIZI** led or participated in an attack on civilians identified as Tutsi, resulting in numerous deaths, by transporting or directing soldiers or *Interahamwe* for the purpose of killing with guns, grenades, machetes and clubs.
18. Similarly, on or about 10 June 1994 at Bisesero Hill in Gishyita *commune*, **Emmanuel NDINDABAHIZI** led or participated in an attack on civilians identified as Tutsi by transporting or directing soldiers or *Interahamwe* for the purpose of killing with guns, grenades, machetes and clubs, resulting in numerous deaths.
19. **Emmanuel NDINDABAHIZI** was appointed Minister of Finance in the Interim Government of 8 April 1994 and remained a member of that government throughout the period of April - July 1994 when its policies were known to include arming and encouraging the formation of civilian militias, mounting roadblocks to contain the internal movement of Tutsi refugees, and characterizing and targeting the Tutsi as the enemy.
20. On or about 3 May 1994, a delegation of Interim Government ministers, including **Emmanuel NDINDABAHIZI**, addressed a public forum at the *bureau communal* in Kibuye. The meeting was nationally re-broadcast on Radio Rwanda on or about 9 May 1994. **Emmanuel NDINDABAHIZI** shared the podium of speakers and honored guests with Prime Minister Jean KAMBANDA, Minister of Information Éliézer NIYITEGEKA, MDR Secretary-General Donat MUREGO, MRND vice-president Edouard KAREMERA, and *préfet* Clément KAYISHEMA, among others.
21. By the very nature of his approving public association with, and endorsement of, the other Interim Government ministers and the policies of Jean KAMBANDA's Interim Government, as expressed during that 3 May 1994 meeting, **Emmanuel NDINDABAHIZI** both increased his personal authority in Kibuye *préfecture* and conferred the allegiance of his Kibuye constituents upon the Interim Government and its policies.
22. Following his public address on 3 May 1994, Prime Minister KAMBANDA was questioned about the safety of Tutsi children at the Kibuye hospital that survived the massacres at the Home St. Jean, and what the government would do to protect them. Prime Minister Jean KAMBANDA deferred in his response to Kibuye residents Éliézer NIYITEGEKA and Donat MUREGO, who responded that the children were also the enemy and should not be assisted. Neither the Prime Minister nor anyone else on the podium, including **Emmanuel NDINDABAHIZI**, came to the defense of the children or expressed any contrary response.

With the conclusion of the meeting on 3 May 1994, *Interahamwe* transported most of the Tutsi children from the Kibuye hospital to the shores of

Lake Kivu. At least one child managed to escape when the *Interahamwe* arrived. With the exception of the one known survivor and a few others believed to have survived, the children were never to be seen again and are presumed dead.

24. Towards the end of May 1994 **Emmanuel NDINDABAHIZI** was present at a gathering at the home of *bourgmestre* Augustin KARARA in Gitesi *commune*. Among the 10 or so guests were Annonciata MUKANGIRYÉ, the *bourgmestre*'s wife and communal policeman BARAYATA. While sharing drinks with those present, **Emmanuel NDINDABAHIZI** stated that he had given instructions for the killing of Tutsi, that he had accomplished the extermination of Tutsi civilians in his *cellule*, and further instructed those present that Hutu men married to Tutsi women should also be killed.
25. During the period between 6 April and 14 July 1994, many thousands of civilians identified as Tutsi were killed in Kibuye *préfecture* and throughout Rwanda. Killings took place at victims' homes, on hillsides and open fields, at roadblocks on public thoroughfares, in public buildings where refugees sought shelter, and even in churches. **Emmanuel NDINDABAHIZI** participated in the killings by publicly targeting particular individuals and by ordering generalized attacks against civilians identified as Tutsi under circumstances where he knew or ought to have known that civilians were, or would be, killed by persons acting under his authority. The identity of each victim and the proximate number of fatalities and the exact circumstances of each attack cannot be detailed exhaustively due to the overwhelming devastation of the attacks and the near-complete extermination of the intended victim-class, persons identified as Tutsi and Hutu civilians perceived to be politically opposed to the MRND and MRND-aligned political parties.
26. In planning, instigating, ordering, participating in or otherwise aiding and abetting the killings in Kibuye *préfecture* **Emmanuel NDINDABAHIZI** joined or furthered the national Government campaign against the RPF, particularly the strategy of enlisting local administrative authorities and civilians, organized as civilian militias or acting individually, to destroy the Tutsi, as such.
27. By virtue of his position of leadership as a government Minister, particularly as derived from his influential status as Minister of Finance, **Emmanuel NDINDABAHIZI** ordered or directed or otherwise authorized government armed forces, civilian militias or civilians to kill or facilitate the killing of civilians identified as Tutsi. By virtue of that same authority **Emmanuel NDINDABAHIZI** had the ability and the duty to halt, prevent, discourage or sanction persons that committed, or were about to commit, such acts, and he failed or omitted to do so.
28. **Emmanuel NDINDABAHIZI**, in his position of authority and acting in concert with others, participated in the planning, preparation or execution of a common scheme, strategy or plan to exterminate the Tutsi, by his own affair or through persons he assisted or by his subordinates with his knowledge.

### Count 3: DIRECT AND PUBLIC INCITEMENT TO COMMIT GENOCIDE:

The Prosecutor of the International Criminal Tribunal of Rwanda charges **Emmanuel NDINDABAHIZI** with **DIRECT AND PUBLIC INCITEMENT TO COMMIT GENOCIDE**, a crime stipulated in Article 2(3)(c) of the Statute, in that on or between the dates of 7 April 1994 and 14 July 1994 in Kibuye *préfecture*, Rwanda, **Emmanuel NDINDABAHIZI** was responsible for directly and publicly inciting persons, including, but not limited to, soldiers, local administrative officials, communal police, civilian militias and local residents, to kill or cause serious bodily or mental harm to members of the civilian population identified as Tutsi, with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as follows:

*Pursuant to Article 6(1) of the Statute:* by virtue of his affirmative acts in planning, instigating, ordering, committing or otherwise aiding and abetting the planning, preparation or execution of the crime charged, in that:

29. During April, May and June of 1994, **Emmanuel NDINDABAHIZI** circulated about Kibuye *préfecture* and publicly urged soldiers, *Interahamwe*, civilian militias and local residents to kill persons identified as Tutsi. **Emmanuel NDINDABAHIZI** often directed his exhortations to kill the Tutsi to armed persons at roadblocks where his pronouncements were likely to generate an immediate response.
30. During April and June of 1994, **Emmanuel NDINDABAHIZI** publicly urged attacks upon the Tutsi by his own example. By discharging a firearm into a group of Tutsi refugees and by launching an explosive grenade in the direction of a group of refugees, **Emmanuel NDINDABAHIZI**'s affirmative acts were a call to action to soldiers, *Interahamwe*, civilian militias and local residents to join in the generalized attacks against the Tutsi.
31. By virtue of his approving public association with, and endorsement of, the other Interim Government ministers and the policies of Jean KAMBANDA's Interim Government, particularly as expressed during a public forum on 3 May 1994 at the Kibuye *bureau communal*, **Emmanuel NDINDABAHIZI** acquiesced in or aided and abetted a public call for the killing of the enemy, at that time identified as Tutsi children at the Kibuye hospital that had survived the massacres at the Home St. Jean.
32. **Emmanuel NDINDABAHIZI**'s inciting activities in word and in deed, by example and by public association and endorsement, are pleaded with greater particularity in paragraphs 4 through 25, above, which are reiterated and incorporated herein by reference.

#### Count 4: EXTERMINATION as a CRIME AGAINST HUMANITY:

The Prosecutor of the International Criminal Tribunal of Rwanda charges **Emmanuel NDINDABAHIZI** with **EXTERMINATION as a CRIME AGAINST HUMANITY**, *as stipulated in Article 3(b) of the Statute*, in that on or between the dates of 7 April 1994 and 14 July 1994 in Kibuye *préfecture*, Rwanda, **Emmanuel NDINDABAHIZI** was responsible for killing persons or causing persons to be killed as part of a widespread or systematic attack against a civilian population on political, ethnic or racial grounds, as follows:

*Pursuant to Article 6(1) of the Statute:* By virtue of his affirmative acts in planning, instigating, ordering, participating in or otherwise aiding and abetting the planning, preparation or execution of the crime charged; **and**

*Pursuant to Article 6(3) of the Statute:* By virtue of his actual or constructive knowledge of the acts or omissions of soldiers, gendarmes, communal police, *Interahamwe*, civilian militia or civilians acting under his authority, And his failure to take necessary and reasonable measures to stop or prevent them, or to discipline or punish them, for their acts in the preparation or execution of the crime charged, in that:

33. Over the course of several days, approximately between 13 and 26 April 1994, **Emmanuel NDINDABAHIZI** commanded, facilitated or participated in attacks upon civilian Tutsi refugees that had gathered at Gitwa Hill. **Emmanuel NDINDABAHIZI** transported, or facilitated the transportation of, soldiers or *Interahamwe* or weapons to Gitwa Hill and led attacks against civilian Tutsi by his own example in discharging a firearm into a group of refugees or by launching an explosive grenade in the direction of a group of refugees or by ordering and directing the attackers to kill the refugees.
34. As direct consequences of orders or instructions from **Emmanuel NDINDABAHIZI** at Gitwa Hill, there were numerous killings of family members and entire families, including:
  - (a) Judith NIYRANTAMARI and her husband and five children;
  - (b) Suzanne MUKARUSAGARA and her seven children;
  - (c) Jeanne MUKASANGA and her four children;
  - (d) Tabea MUKARUSANGA, Habeli BISANGWA and their five daughters, two sons, six grandchildren and their daughter-in-law;
  - (e) SEKAGANDA and his three sons, daughter, two brothers and five neighbors, NDWANIYE, KARIMBA, Emmanuel, Catherine and MUKAMPFIZI;
  - (f) KARIMBA and his two nephews.
35. On or about 20 April 1994 **Emmanuel NDINDABAHIZI** commanded, facilitated or participated in an attack upon civilian Tutsi refugees that had gathered at Bisesero Hill in Gishyita *commune*. Numerous Tutsi civilians were killed during the attacks.

36. Similarly, on or about 10 June 1994, **Emmanuel NDINDABAHIZI** commanded, facilitated or participated in continued attacks against civilian Tutsi refugees at Bisesero Hill in Gishyita *commune*. Numerous Tutsi civilians were killed during the attacks.
37. **Emmanuel NDINDABAHIZI's** participation in the attacks at Bisesero Hill included leading a convoy of ONATRACOM buses with *Interahamwe* and a truck with *gendarmes* and machetes to Bisesero Hill, distributing weapons, including machetes, to *Interahamwe*, ordering the *Interahamwe* to attack and directing that they should kill all the Tutsi, including the babies, and throwing a grenade in the direction of refugees.
38. **Emmanuel NDINDABAHIZI's** affirmative acts in commanding, facilitating or participating in the killings of civilian Tutsi refugees at Gitwa Hill and Bisesero Hill are pleaded with greater particularity in paragraphs 4 through 25, above, which are reiterated and incorporated herein by reference.

#### Count 5: MURDER as a CRIME AGAINST HUMANITY:

The Prosecutor of the International Criminal Tribunal of Rwanda charges **Emmanuel NDINDABAHIZI** with **MURDER as a CRIME AGAINST HUMANITY**, *as stipulated in Article 3(a) of the Statute*, in that on or between the dates of 7 April 1994 and 14 July 1994 in Kibuye *préfecture*, Rwanda, **Emmanuel NDINDABAHIZI** was responsible for killing persons or causing persons to be killed as part of a widespread or systematic attack against a civilian population on political, ethnic or racial grounds, as follows:

*Pursuant to Article 6(1) of the Statute:* By virtue of his affirmative acts in planning, instigating, ordering, participating in or otherwise aiding and abetting the planning, preparation or execution of the crime charged; *and*

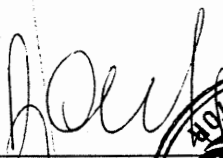
*Pursuant to Article 6(3) of the Statute:* By virtue of his actual or constructive knowledge of the acts or omissions of soldiers, *gendarmes*, communal police, *Interahamwe*, civilian militia or civilians acting under his authority, And his failure to take necessary and reasonable measures to stop or prevent them, or to discipline or punish them, for their acts in the preparation or execution of the crime charged, in that:

39. During mid-April 1994, **Emmanuel NDINDABAHIZI** publicly directed persons at roadblocks in Kibuye *préfecture* to kill civilians identified as Tutsi, at times individually addressing local administrative officials and naming particular civilians to be killed. The public response to **Emmanuel NDINDABAHIZI's** pronouncements were usually quite swift; within days, and sometimes within hours, local residents and civilian militias attacked and killed civilians identified as Tutsi, particularly those that were previously individually targeted.

40. On or about 9 April 1994, **Emmanuel NDINDABAHIZI** addressed a crowd that assembled at a roadblock in Gisharu *cellule* and called for the killing of Tutsi, specifically targeting Tatiane NYIRAMARITETIE, a Tutsi civilian. Shortly thereafter, on or about the following day, Joel NDABUKIYE and his *Interahamwe* killed Tatiane NYIRAMARITETIE. **Emmanuel NDINDABAHIZI's** public call for the killing included the directive that Tatiane NYIRAMARITETIE's prior payment of cattle to Joel NDABUKIYE should not spare her life.
41. Sometime in early May 1994, **Emmanuel NDINDABAHIZI** publicly called for the deaths of KAREGEYA and MUKANTABANA, civilian Tutsis, and offered rewards of public office to Joel NDABUKIYE and Augustin KARARA if all of the Tutsis in the area were killed. Shortly thereafter, later that same day, Joel NDABUKIYE and his son killed KAREGEYA and MUKANTABANA with clubs and *Interahamwe* killed other Tutsi civilians in the *cellule*.
42. The killings of Tatiane NYIRAMARITETIE, KAREGEYA and MUKANTABANA were in direct response to orders or instructions from **Emmanuel NDINDABAHIZI**.

*The acts and omissions of Emmanuel NDINDABAHIZI detailed herein are punishable in reference to Articles 22 and 23 of the Statute.*

Dated: Arusha, this 7 day of June 2001:

  
Carla del Ponte  
Prosecutor

