

UNITED NATIONS



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International Criminal Tribunal for the
Prosecution of Persons Responsible for
Genocide and Other Serious Violations of
International Humanitarian Law committed
in the territory of Rwanda and Rwandan
Citizens responsible for genocide and other
such violations committed in the territory of
neighbouring States, between 1 January 1994
and 31 December 1994

Case No. ICTR-2000-56-I

Date :

ENGLISH

Original : FRENCH

THE PROSECUTOR
vs.
AUGUSTIN BIZIMUNGU
AUGUSTIN NDINDILYIMANA
FRANÇOIS-XAVIER NZUWONEMEYE
INNOCENT SAGAHUTU

2004 JUL 26 10 34 AM
[Signature]

AMENDED INDICTMENT
(Joinder)

The Prosecutor of the International Criminal Tribunal for Rwanda, by virtue of the power vested in him under Article 17 of the Statute of the International Criminal Tribunal for Rwanda (the "Statute of the Tribunal") charges:

AUGUSTIN BIZIMUNGU, AUGUSTIN NDINDILYIMANA, FRANÇOIS-XAVIER NZUWONEMEYE and INNOCENT SAGAHUTU

with **CONSPIRACY TO COMMIT GENOCIDE, GENOCIDE** or in the alternative, **COMPLICITY IN GENOCIDE, CRIMES AGAINST HUMANITY, and VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND ADDITIONAL PROTOCOL II**, offences punishable under Articles 2, 3, 4, 22 and 23 of the Statute of the Tribunal and under Rwandan Criminal Law, to the extent that the latter is not contrary to the Statute of the Tribunal.

PII03-0075 (E)

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Translation certified by LSS, ICTR

I. THE ACCUSED

Augustin Bizimungu

1. **Augustin Bizimungu** was born on 28 August 1952 in Mukaranje *commune*, Byumba *préfecture*, Rwanda.
2. At the time of the events referred to in this indictment, **Augustin Bizimungu** held the post of Chief of Staff of the Rwandan Army. He was appointed to that post on 16 April 1994 and was promoted to the rank of Major-General at the same time. Previously, he had been the Commander of Military Operations in Ruhengeri *préfecture*.
3. In his capacity as Chief of Staff of the Rwandan Army, **Augustin Bizimungu** exercised authority over all soldiers in the Rwandan Army.

Augustin Ndindiliyimana

4. **Augustin Ndindiliyimana** was born in 1943, in Nyaruhengeri *commune*, Butare *préfecture*, Rwanda.
5. At the time of the events referred to in this indictment, **Augustin Ndindiliyimana** held the post of Chief of Staff of the *Gendarmerie nationale*. He was appointed to that post on 2 September 1992.
6. In his capacity as Chief of Staff of the *Gendarmerie nationale*, **Augustin Ndindiliyimana** exercised authority over the entire *Gendarmerie nationale* and had disciplinary power over all *gendarmes*, even when the latter were on temporary detachment.

François-Xavier Nzuwonemeye

7. **François-Xavier Nzuwonemeye** was born on 30 August 1955 in Kigali-rural *préfecture*, Rwanda.
8. At the time of the events referred to in this indictment, **François-Xavier Nzuwonemeye** held the post of Commander of the Reconnaissance Battalion (RECCE) within the Rwandan Army.
9. In his capacity as Commander of the Reconnaissance Battalion of the Rwandan Army, **François-Xavier Nzuwonemeye** exercised authority over all the units of that Battalion.

Innocent Sagahutu

10. **Innocent Sagahutu** was born in Cyangugu *préfecture*, Rwanda.

11. At the time of the events referred to in this indictment, **Innocent Sagahutu** held the post of Second-in-Command of the Reconnaissance Battalion (RECCE) within the Rwandan Army and of company commander of A Company of the said Battalion. He held the rank of Captain.
12. In his capacity as Second-in-Command or Acting Commander of the Reconnaissance Battalion of the Rwandan Army, Innocent Sagahutu exercised authority over all the units of that Battalion.

II. THE MILITARY POWER STRUCTURE

13. The *Forces armées rwandaises* (FAR) was composed of the *Armée rwandaise* (AR) and the *Gendarmerie nationale* (GN).
14. The *Forces armées rwandaises* did not have a unified general staff. They were supervised by the Minister of Defence, under the direct authority of the President of the Republic, the Commander-in-Chief of the *Forces armées rwandaises*.
15. Both the Chief of Staff of the Rwandan Army and that of the *Gendarmerie nationale* were each assisted by four bureaux: G-1 (Personnel and Administration), G-2 (Intelligence), G-3 (Military Operations) and G-4 (Logistics).
16. Regarding the Army, the territory of Rwanda was divided into various sectors of military operations. Each sector was headed by a military commander. The troops were divided into companies and units within each sector. There were several elite units in the Rwandan Army, including the Presidential Guard, the Para-Commando Battalion and the Reconnaissance Battalion.
17. According to the laws in force in Rwanda in 1994, the Rwandan Army was responsible for defending the national territory and, if necessary, cooperating with the *Gendarmerie nationale* in maintaining public order (see *ordonnance législative no. R85/25 du 10 mai 1962 portant création de l'Armée rwandaise*) [Legislative Ordinance No. R85/25 of 10 May 1962 relating to the establishment of the Rwandan Army].
18. The *Gendarmerie nationale* was, for its part, responsible for maintaining public law and order and enforcing the laws in force in Rwanda. Its members were assigned to public security territorial companies and brigades (see *Décret-Loi du 23 janvier 1974 portant création de l'Armée rwandaise*) [Legislative decree of 23 January 1974 relating to the establishment of the *Gendarmerie*].
19. As of 1973, in Rwanda, the *Gendarmerie* had replaced the National Police force which had been abolished and integrated into the National Army (see *Arrêté Présidentiel no. 86/08 du 26 juin 1973 portant intégration de la Police dans l'Armée rwandaise*) [Presidential Decree No. 86/08 of 26 June 1973 relating to the integration of the Police force into the Rwandan Army].

20. Each of the military forces (Army and *Gendarmerie*) could, following well defined procedures, when necessary, join forces in order to fulfill its public service mandate (see *Décret-Loi du 23 janvier 1974 supra*) [Legislative decree of 23 January 1974, *supra*].
21. Under law, officers of the Rwandan Army had the duty to enforce general rules of discipline in respect of all soldiers under their authority, even those who were not members of their units (see *Arrêté Présidentiel no. 413/02 du 13 décembre 1978 modifié, portant Règlement de discipline des Forces armées rwandaises*) [Amended Presidential Decree No. 413/02 of 13 December 1978 establishing the Rules of Discipline of the Rwandan Armed Forces].

III. CHARGES, including a CONCISE STATEMENT OF THE FACTS:

COUNT 1: CONSPIRACY TO COMMIT GENOCIDE

22. The Prosecutor of the International Criminal Tribunal for Rwanda charges **Augustin Bizimungu, Augustin Ndindiliyimana, François-Xavier Nzuwonemeye and Innocent Sagahutu** with **Conspiracy to Commit Genocide**, an offence punishable under Article 2 (3) (b) of the Statute, in that, before 6 April 1994, and, after the tragic death of President Juvénal Habyarimana, between 6 April and July 1994, in Rwanda, **Augustin Bizimungu, Augustin Ndindiliyimana, François-Xavier Nzuwonemeye and Innocent Sagahutu** decided and executed a common scheme with some or all of the following: Presidents Juvénal Habyarimana and Théodore Sindikubwabo, Prime Minister Jean Kambanda, Defence Minister Augustin Bizimana, General Déogratias Nsabimana, Colonels Théoneste Bagosora, Gratien Kabiligi and Anatole Nsengiyumva, Major Aloys Ntabakuze, Major Protais Mpiranya, the MRND Chairman and officials, Mathieu Ndirumpatse, Joseph Nzirorera and Juvénal Kajelijeli, *Préfet-Colonel* Tharcisse Renzaho, Nyaruhengeri *Bourgmestre* Charles Kabeza, Joseph Kanyabashi from Butare, and numerous other administrators, soldiers and civilians who espoused their cause to destroy, in whole or in part, the Tutsi ethnic group which was one of the component elements of the Rwandan population;

Pursuant to Article 6(1) of the Statute: either by their acts or obstinate refusal to mobilise the *Forces armées rwandaises* to fulfill their legal mandate to maintain and safeguard public peace, the Accused, in concert with the other actors mentioned above, planned, incited, ordered, committed, or otherwise, aided and abetted the planning, preparation or execution of the planned extermination of the Tutsi ethnic group, as follows:

23. In late 1990, after the massive attack launched inside Rwandan territory by the Rwandan Patriotic Front (RPF) – a politico-military movement which recruited its members essentially from the Tutsi of the diaspora – Government officials from the *Mouvement Républicain National pour la Démocratie et le Développement* (MRND) and a number of Hutu military officers in positions of authority in the *Forces armées rwandaises* had conceived the idea that the neutralization, indeed even the extermination of the Tutsi population of Rwanda would be

the best approach in order to defeat the invaders and, by the same stroke, prevent the sharing of power, which seemed increasingly inevitable, given the configuration of forces at the time.

24. Between 1991 and July 1994, that radical doctrine steadily gained in consistency, focusing on specific objectives and adopting bellicose plans of action that heralded exclusion.
25. The visible components of the strategy for perpetrating the genocide were as follows: the definition of the enemy by the most senior officials of the Habyarimana regime, incitement to hatred and the vindication of ethnically motivated crimes by the elite who claimed to be the "conscience of the Hutu", without any judicial measures whatsoever, the training of MRND *Interahamwe* militiamen and the distribution of weapons to them by elements of the *Forces armées rwandaises*, the establishment, by senior military officers, of lists of people to be eliminated, the numerous obstructions to the implementation of the Arusha Accords consecrating the return to peace and institutionalised power-sharing between the various political and/or military factions, the deliberate refusal, after the massacres of the civilian population had begun, to restore order, to quell the upheaval and to seek out the perpetrators.

a. Preparation for the genocide

26. In the above context, in December 1991, Juvénal Habyarimana, then Commander-in-Chief of the *Forces armées rwandaises* and Head of State, set up a military commission to formulate a plan to defeat the enemy militarily, in the media and politically. That commission, in whose deliberations Théoneste Bagosora and Anatole Nsengiyumva took part, issued a report in which the enemy was defined as: '*... le Tutsi de l'intérieur ou de l'extérieur, extrémiste et nostalgique du pouvoir, qui n'a jamais reconnu et ne reconnaît toujours pas les acquis de la révolution sociale de 1959 et qui cherche à reconquérir le pouvoir par tous les moyens, y compris par les armes*' [Tutsi from inside or outside the country, who are extremists and nostalgic for power, who do not recognize and have never recognized the realities of the Social Revolution of 1959, and are seeking to regain power in Rwanda by any means, including taking up arms.] The document specified that the enemy was being recruited from amongst the Tutsi inside the country, the Hutu who were dissatisfied with the present regime and foreigners married to Tutsi women. The then Chief of Staff of the Rwandan Army, Déogratias Nsabimana, ordered that extracts from the commission report be circulated among the troops.
27. In the course of 1992, 1993 and 1994, the political and military authorities, including Théoneste Bagosora, **Augustin Bizimungu** and Protais Mpiranya, provided military training and weapons to MRND *Interahamwe* militiamen. The training took place in Ruhengeri, Cyangugu, Gisenyi, Butare *préfectures* and in Mutara *secteur*. The training sites were the Gako, Gabiro, Mukamira and Bigogwe military camps.
28. To legitimize, if necessary, the process, President Juvénal Habyarimana declared in 1993 in Ruhengeri that the *Interahamwe* had to be equipped so that, come the right time, "*ils descendent*" [they should swing into action].

29. At the same time, in Ruhengeri, between 1992 and 1994, **Augustin Bizimungu**, accompanied by Juvénal Kajelijeli and others, regularly took part in meetings that were generally held on Saturdays at the home of Joseph Nzirorera, the MRND National Secretary. The purpose of the meetings was to devise a strategy for fighting the Tutsi enemy.
30. In January 1993, **Augustin Bizimungu**, in his capacity as Commander of Ruhengeri Operational sector, while addressing his troops, stated that the enemy was known and the enemy was the Tutsi, thereby echoing the speech made by President Habyarimana and the doctrine professed by senior officers in the Army.
31. **Augustin Bizimungu** reiterated that statement in February 1994 when he declared that if the RPF attacked Rwanda again, he did not want to see one Tutsi alive in his sector of operations.
32. During the same period preceding the genocide, on 7 January 1994, **Augustin Ndindiliyimana** and other influential MRND members participated in a meeting at the MRND headquarters in Kigali to oppose the disarmament program that was included in the Arusha Accords and which was to be supervised by the United Nations Mission (UNAMIR). It was decided at the meeting to resist by all possible means the implementation of the program and to hide weapons at various locations in Kigali.
33. Furthermore, in early 1994, due to the proliferation of weapons in Kigali-city *préfecture*, UNAMIR put in place a disarmament program entitled Kigali Weapon Security Area (KWSA). Concurrently, in cooperation with the Chief of Staff of the *Gendarmerie*, **Augustin Ndindiliyimana**, UNAMIR organized search operations in Kigali. The effectiveness of the operations was compromised by **Augustin Ndindiliyimana** who gave information on the search targets to Mathieu Ngirumpatse, MRND Chairman. The latter passed the information on to his *Interahamwe* militiamen.
34. In January and February 1994, Major **François-Xavier Nzuwonemeye**, in keeping with the same dissimulation strategy as **Ndindiliyimana**, had about 20 armoured vehicles and about ten jeeps equipped with machine guns, belonging to the Reconnaissance Battalion, hidden in Gisenyi and at certain of President Habyarimana's residences in Kiyovu and Rambura. Early in the morning of 7 April 1994, those vehicles were brought back to Kigali to assist the ground troops charged with tracking down the civilian population.
35. Moreover, on 5 January 1994, at the swearing-in ceremony of the Broad-Based Transitional Government in Kigali, the *Interahamwe* organized a demonstration in cooperation with members of the Presidential Guard. On that occasion, Major Protais Mpiranya, despite several attempts by UNAMIR to negotiate with him, prevented access by political opponents or a significant number of them into the premises of the CND. In the end, only President Juvénal Habyarimana was sworn in on that day and the Broad-Based Transitional Government provided for in the Arusha Accords never came into being.

36. In this regard, it should also be noted that, when Radio Télévision Libre des Milles Collines (RTLM), of sad memory, was founded, **Innocent Sagahutu** subscribed a certain number of shares in that company and blatantly campaigned among the *Forces armées rwandaises* to encourage the buying of shares in that new media organ which advocated total war against the Tutsi.
37. Lastly, although incitement to ethnic or racial hatred and violence against the Tutsi were rife in the broadcasts of that radio station, **Augustin Ndindiliyimana**, the highest ranking judicial police officer in Rwanda, for his part, avoided investigating or ordering any judicial probe whatsoever of the journalists who were, on a daily basis, committing criminal offences (incitement to ethnic or racial hatred and violence)...

b. Acts associated with Genocide

38. On 7 April 1994, in Kigali, elements of the Reconnaissance Battalion commanded by **François-Xavier Nzuwonemeye** and **Innocent Sagahutu**, in concert with elements of the Presidential Guard commanded by Protais Mpiranya, killed the Prime Minister of the Transitional Government, Agatha Uwilingiyimana, and the ten Belgian UNAMIR soldiers who had been assigned to escort her. The Prime Minister had intended to go to the radio station to address the nation and forewarn the various protagonists about engaging in excesses and to make an appeal for calm. Those murders, and others, annihilated several obstacles that stood in the way of the genocide.
39. Shortly before those murders were committed, **François-Xavier Nzuwonemeye**, had assembled his troops at Kigali military camp and informed them of the death of President Juvénal Habyarimana and that of the Chief of Staff of the Rwandan Army, Déogratias Nsabimana. In his address, **François-Xavier Nzuwonemeye** identified the enemy as the RPF; he also called on his troops to eliminate all its accomplices within the country before taking on the enemy.
40. Between 7 and 11 April 1994, elements of the Presidential Guard commanded by Protais Mpiranya assassinated many Rwandan political figures, including Boniface Ngulinzira, the Minister of Foreign Affairs of the out-going Government, who was the main architect of the Arusha Accords. RTLM announced the death of Minister Ngulinzira in the following terms: "*nous avons exterminé tous les complices du FPR; Boniface Ngulinzira n'ira plus vendre le pays au profit du FPR, à Arusha. Les Accords de paix ne sont plus que des chiffons de papier, comme l'avait prédit notre papa Habyarimana*" [we have exterminated all the accomplices of the RPF; Boniface Ngulinzira will no longer go and sell the country to the RPF in Arusha. The Peace Accords are now only scraps of paper, as our father, Habyarimana, had predicted].
41. In Kigali, in April and May 1994, **Innocent Sagahutu** and Protais Mpiranya distributed weapons on several occasions to fanaticized militiamen, whose criminal activities were well known to them, while asking them to persevere in the undertaking to exterminate the Rwandan

Tutsi.

42. In Butare, on or about 19 April 1994, the interim President, Théodore Sindikubwabo, gave a speech at a public rally, advocating nothing less than ethnic cleansing. After the message had been delivered, elements of the Presidential Guard, commanded by Protais Mpiranya, set out to concretize that sinister scheme by murdering several thousand Tutsi in Butare and the vicinity.
43. In Gitarama, on or about 21 April 1994, the Prime Minister of the interim Government, Jean Kambanda, praised RTLM, knowing full well that that radio station was calling for the extermination of the Tutsi and their supposed accomplices. At the time, he described the radio station as the "*arme indispensable pour combattre l'ennemi*" [indispensable weapon for fighting the enemy].
44. **Augustin Ndindiliyimana** and **Augustin Bizimungu** were not uninvolved in all this.
45. On 7 April 1994, following the death of President Juvénal Habyarimana and the Chief of Staff of the Rwandan Army, Major General Déogratias Nsabimana, Major **Augustin Ndindiliyimana**, the highest ranking officer in active service in the Rwandan Army, was appointed by his peers to chair the Military Crisis Committee which was to fill the power vacuum, pending the establishment of new institutions.
46. **Augustin Ndindiliyimana** and Théoneste Bagosora, in full agreement, supported the institution of an interim Government composed solely of Hutu extremists.
47. On 7 April 1994, between 10 a.m. and 1 p.m., the Military Crisis Committee met at the *École Supérieure Militaire* (ESM), about 50 meters from Kigali camp. In the course of the meeting, Commander Nubaha of Kigali camp came and informed **Augustin Ndindiliyimana** and Théoneste Bagosora who were chairing the meeting that Rwandan soldiers were killing Belgian UNAMIR soldiers. **Augustin Ndindiliyimana** and Théoneste Bagosora allowed the meeting to continue without taking the slightest action either directly or through the intermediary of the commanders whose subordinates were implicated in the killings. Hence, the assassination of the ten soldiers from the Belgian contingent, the largest in the UN peacekeeping mission, and the withdrawal of the Belgian contingent as of 11 April 1994.
48. Between 7 and 11 April 1994, elements of the Presidential Guard, the Reconnaissance Battalion and *Interahamwe* militiamen murdered or sought to murder all political figures in the opposition who had been designated to occupy prominent positions in the Broad-Based Transitional Government which was to be put in place pursuant to the Arusha Accords. The Prime Minister of the Transitional Government who was in office until 7 April, Agathe Uwilingiyimana, Ministers Frédéric Nzamurambaho, Faustin Rucogoza, Landouald Ndasingwa, Boniface Ngulinzira as well as the President of the Constitutional Court, Joseph Kavaruganda, were among the unfortunate victims.

49. Although the *Gendarmerie* which he commanded was responsible for protecting the said authorities, and although he had been informed of the threat to the lives of those political figures, well before the events, **Augustin Ndindiliyimana** took no adequate steps to protect them from being killed; nor did he in any way reorganize the security system after the first massacres were committed.
50. The murder of the Belgian soldiers prompted the withdrawal of the Belgian contingent; the murder of political figures who supported the implementation of the Arusha Accords had created an institutional vacuum which was perniciously filled by **Augustin Ndindiliyimana** and Théoneste Bagosora. Two major obstacles to the spread and continuation of the massacres were thus removed.
51. In April 1994, **Augustin Ndindiliyimana** had Majors Cyriaque Habyarimana and Jabo, who had refused to be involved with the massacres in Butare and Kibuye, transferred to the frontline.
52. From April to June 1994, **Augustin Ndindiliyimana**, Chief of Staff of the *Gendarmerie*, issued many *laissez-passer* to *Interahamwe* leaders to enable them to scour the country and coordinate the massacres of the Tutsi population.
53. From April to June 1994, General **Augustin Ndindiliyimana** received daily situation reports (SITREPS) from his troops, notably during meetings held at the *Gendarmerie* headquarters at Kacyiru camp. Those reports indicated the scale and scope of the massacres being perpetrated against the civilian population. Moreover, he went to various *préfectures* to assess the situation. Although he had at his disposal several *Gendarmerie* units not involved in combat to defend Rwandan territory, **Augustin Ndindiliyimana**, Chief of Staff of the *Gendarmerie* who, under law, was responsible for maintaining public order, and protecting people and their property, took no significant action to quell the upheaval or to seek out the perpetrators.
54. On 7 April 1994, in Ruhengeri, **Augustin Bizimungu** congratulated a *Conseiller* of Mukamira *secteur* for successfully tracking down Tutsi and encouraged him to continue his work in "*exterminant les petits cancrelats*" [exterminating the small cockroaches].
55. During the morning of 7 April 1994, **Augustin Bizimungu** went to Joseph Nzirorera's house in Ruhengeri and told MRND militants that "*l'heure est venue de mettre en pratique les recommandations qui vous avaient été faites. Je viens de m'entretenir au telephone avec Nzirorera et nous avons convenu que vous devez commencer à tuer tous les Tutsis. Commencez par vos quartiers respectifs, avant de vous déplacer dans les autres endroits de la commune ...*" [the time has come to put into practice the recommendations made to you. I have just been talking on the phone with Nzirorera and we have agreed that you should start killing all the Tutsi. Start with your respective neighbourhoods before moving into the other areas of the commune...]. He then assured them that weapons had been placed at their disposal at the Ruhehe armoury and he promised to provide them with fuel for burning the homes of Tutsi. The following day he made good his promise by distributing fuel in Cyohoha-Rukeri in the company

of Lieutenant Mburuburengero.

56. On 8 April 1994, at a meeting in Ruhengeri attended by over 700 people, **Augustin Bizimungu** castigated the *Inkotanyi* calling them perpetrators of genocide and urging the audience to follow the example of the *Interahamwe* in Mukingo *commune* whose performance he praised: over 200 Tutsi killed in Busogo parish. He then called for the murder of all the Tutsi.
57. On or about 18 May 1994, **Augustin Bizimungu** took part in a meeting during which the military hierarchy of which he was a member praised the performance of the militiamen and underscored the need to better arm them.
58. On or about 21 May 1994, **Augustin Bizimungu** visited Remera-Rukoma Hospital where he congratulated the militiamen who had just killed about ten people at the hospital and in its vicinity, and he asked them to double their vigilance in hunting down the Tutsi.
59. From mid-April to late June 1994, while the genocide was being perpetrated, **Augustin Bizimungu** deliberately abstained from ensuring that the Rwandan Army, which was under his command, fulfilled its duty to restore order, as required by Rwandan laws and regulations.
60. In May 1994, when the US State Department approached him, asking that he put an end to the killings, **Augustin Bizimungu** refused to take any action whatsoever. His response to the American diplomat was: "*faites cesser les bombardements du FPR, et je m'engage à arrêter les tueries*" [Tell the RPF to stop the bombings and I will undertake to stop the killings].

COUNT 2: GENOCIDE

61. The Prosecutor of the International Criminal Tribunal for Rwanda charges **Augustin Bizimungu** and **Augustin Ndindiliyimana** with **Genocide**, an offence punishable under Article 2.2 (a) and (b), 2.3 (a) of the Statute, in that in 1994, in Rwanda, **Augustin Bizimungu** and **Augustin Ndindiliyimana** were responsible for killing and causing serious bodily or mental harm, committed by soldiers, gendarmes and *Interahamwe* and *Impuzamugambi* militiamen, against members of the Tutsi population with the intent to destroy, in whole or in part, a racial or ethnic group;

Pursuant to Article 6(1) of the Statute: by their acts referred to in paragraphs 63 to 66, 71 and 72 below, in that the Accused, **Augustin Bizimungu** and **Augustin Ndindiliyimana** planned, instigated, ordered, committed or otherwise aided and abetted the planning, preparation or execution of the said crimes; and

Pursuant to Article 6(3) of the Statute: in that the Accused knew or had reason to know that their subordinates had committed or were about to commit the acts referred to in paragraphs 67 to 70, 73 to 77 below, and did not take the reasonable and necessary measures to prevent such acts or to punish the perpetrators thereof.

ALTERNATIVELY TO COUNT 2

COUNT 3: COMPLICITY IN GENOCIDE

62. The Prosecutor of the International Criminal Tribunal for Rwanda charges **Augustin Bizimungu** and **Augustin Ndindiliyimana** with **Complicity in Genocide**, an offence punishable by Article 2 (3) (e) of the Statute, in that in ordering, providing the means, aiding and abetting, the Accused knowingly assisted the perpetrators of the crimes referred to in paragraphs 63 to 66, 71 and 72, as follows:

AUGUSTIN BIZIMUNGU

63. On or about 7 April 1994, following the speech made to them by **Augustin Bizimungu** in Joseph Nzirorera's home, cited in paragraph 55 above, the MRND *Interahamwe* militiamen killed 150 Tutsi in Rwankeri *secteur*, in Ruhengeri, and, on the same day, under the supervision of soldiers from Kanombe and Bigogwe camps, which were under the authority of **Augustin Bizimungu**, participated in the attack in which more than 200 Tutsi were killed in Busogo Parish.
64. On or about 8 April 1994, **Augustin Bizimungu**, accompanied by *Sous-Préfet* Nzanana, went to meet the said group of militiamen, and asked them to prepare to intervene at the Ruhengeri Court of Appeal where Tutsi, who, according to him, were destined for extermination, had sought refuge.
65. Those militiamen, and others, went to meet **Augustin Bizimungu** on or about 14 April, shortly before 12 noon, in front of the building in which the "refugees" had sought refuge. **Augustin Bizimungu** pointed to the building and withdrew after the first grenade was thrown. Over 100 people were killed at that location following the said attack. In the evening, **Augustin Bizimungu** had broadcast an announcement on the radio, alleging that the refugees had died under RPF bombs.
66. On 16 June 1994, at a meeting held at EGENA, **Augustin Bizimungu** told militiamen to set up roadblocks to unmask the *Inkotanyi* who had hidden among Hutu fleeing the combat zones. As a result of those orders, a large number of Tutsi civilians and Hutu mistaken for Tutsi were killed in that area in the following hours and days.
67. On 7 April 1994, Lieutenant Mburuburengero of Mukamira camp, subordinate to **Augustin Bizimungu**, told a group of militiamen to exterminate the Tutsi in Ruhengeri. As a result of that order, and by dint of the weapons and fuel provided by the soldiers, 60 to 70 Tutsi were killed in the morning in the Byangabo neighbourhood, after their houses had been set aflame in order to flush them out.

68. Finally, from mid-April to late June 1994, while **Augustin Bizimungu** was exercising his functions as Chief of Staff of the Rwandan Army, soldiers under his command committed murders and caused serious bodily or mental harm to many Tutsi, with the intent to destroy, in whole or in part, the Tutsi ethnic group, at places in Kigali, Gitarama, Butare, Gisenyi, Cyangugu, Kibuye and Ruhengeri.
69. Such acts of violence were specifically observed at Charles Lwanga Church on 8 and 10 June 1994; at the Josephite Brothers compound, on 8 April and 7 June 1994; at ETO-Nyanza, on 11 April 1994; at the *Centre Hospitalier de Kigali*, during the months of April, May and June 1994; at the Kicukiro *conseiller's* office, during the months of April and May 1994; at Kabgayi Primary School, from April to June 1994; at the Musambira *commune* office and Dispensary, in April and May 1994; at TRAFIPRO, in April and May 1994; in Butare, from 19 April to late June 1994; in Gisenyi, Kibuye and Ruhengeri, during the months of April, May and June 1994.
70. Although he knew or had reason to know – in view of the intelligence resources at his disposal – that his subordinates were about to commit or had committed such acts of violence, **Augustin Bizimungu** did not take any of the necessary and reasonable steps to prevent the said crimes and he did not at any time use his statutory powers to punish the perpetrators or to institute proceedings against them.

AUGUSTIN NDINDILIIYIMANA

71. On or about 15 April 1994, **Augustin Ndingiliyimana** went to Kabakubwa hill accompanied by Colonel Tharcisse Muvunyi and instructed the latter to make sure that all the Tutsi refugees who had gathered there were killed within 24 hours. As a result of those instructions, the following day, Joseph Kanyabashi, Colonels Muvunyi and Alphonse Nteziryayo mobilised a number of youths in Butare to go and fulfill that vile task. That day, between 3 p.m. and 6 p.m., several hundred Tutsi refugees were murdered on Kabakubwa hill.
72. Around late May or early June 1994, **Augustin Ndingiliyimana**, accompanied by Nzabirinda, also known as Biroto, and *gendarmes*, led six Tutsi civilians to the outskirts of Butare. When they got there, very near a bridge, he drew his gun and shot and killed two of them - a woman and her baby - leaving his companions to kill the four others. **Augustin Ndingiliyimana** later urged those present to treat all Tutsi in the same way so as to prevent them from giving their testimony to future investigators from the international community.
73. On 20, 21 and 22 April 1994, many massacres were committed in Nyaruhengeri *commune* while **Augustin Ndingiliyimana** was present there. Those massacres, which were orchestrated and supervised by *gendarmes* assigned to guard **Augustin Ndingiliyimana's** family; they provided weapons and fuel to the killers who caused the death of over a thousand people in Nyaruhengeri and its vicinity, particularly in Kansi Church where more than 10,000 Tutsi had sought refuge.

74. On or about 21 April 1994, gendarmes on duty at **Augustin Ndindiliyimana's** residence opposite Nyaruhengeri gave two grenades to an *Interahamwe* militiaman known as Kajuga Pierre and told him to use them to exterminate the Tutsi. The grenades were handed over quite openly, during the day, at **Augustin Ndindiliyimana's** residence, where his wife and children were living.
75. On or about 22 April 1994, Pierre Kajuga threw a grenade into the Nyaruhengeri *secteur* office where many Tutsi had sought refuge, blowing off both legs of Adolphe Karakesi and wounding many other refugees.
76. On or about 13 April 1994, *gendarmes* from the Nyamirambo unit, accompanied by militiamen, attacked Saint-André College, in Kigali, where hundreds of people, mainly Tutsi, had sought refuge between 7 and 8 April 1994. After checking their identity, the attackers selected all the Tutsi men and killed them outside the college. The said *gendarmes* were under **Augustin Ndindiliyimana's** command.
77. On or about 22 April 1994, a group of about 60 Tutsi was selected at the CELA, where they had sought refuge, and led to the Muhima *Gendarmerie* unit purportedly for questioning. In fact, the *gendarmes*, instead of questioning them, handed them over to *Interahamwe* militiamen who killed them on the road leading to the CND. Not more than five people survived that massacre. Those *gendarmes* were under **Augustin Ndindiliyimana's** command.

COUNT 4: CRIMES AGAINST HUMANITY (Murder)

78. The Prosecutor of the International Criminal Tribunal for Rwanda charges **Augustin Bizimungu, Augustin Ndindiliyimana, François-Xavier Nzuwonemeye and Innocent Sagahutu** with Murder, as a Crime against Humanity, an offence punishable under Article (3) (a) of the Statute, in that, in 1994, in Rwanda, **Augustin Bizimungu, Augustin Ndindiliyimana, François-Xavier Nzuwonemeye and Innocent Sagahutu** were responsible for several murders committed against Rwandan nationals, as part of widespread or systematic attacks against a civilian population, on national, political, ethnic, racial or religious grounds; in that also, at the same time and place, **François-Xavier Nzuwonemeye and Innocent Sagahutu** were responsible for the murder of ten UNAMIR peacekeeping troops, whose mandate did not include combat and who were, moreover, disarmed, during the same attacks led against the victims on national, racial or ethnic grounds;

Pursuant to Article 6(1) of the Statute: by their individual acts, the Accused planned, instigated, ordered, committed or otherwise aided and abetted the planning, preparation or execution of the crimes referred to in paragraphs 79, 80 and 81, 92 and 93, 103 and 107 below; and

Pursuant to Article 6(3) of the Statute: because the Accused knew or had reason to know that soldiers under their command or civilians obeying their orders had committed or were about to commit the crimes referred to in paragraphs 82 to 91, 94 to 102, 103 to 108 below, and did not

take the reasonable and necessary measures to prevent such crimes or to punish the perpetrators thereof.

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79. On or about 7 April 1994, **Augustin Bizimungu**, Commander of Military Operations in Ruhengeri *préfecture*, was informed that massacres of the civilian population had begun and that several civilians had sought refuge at Ruhengeri military camp. He ordered his subordinates to chase the civilians out of the camp and prevent them in the future from coming in. As he left the camp, two civilians begged him for his assistance; he ordered that they be pushed away and armed civilians executed them in his presence. Finally, as he was continuing on his way, that same group of armed civilians set upon a group of women and children and massacred them in front of **Augustin Bizimungu**, who took no action whatsoever.
80. On or about 7 April 1994, in a complex near Rwankeri, **Augustin Bizimungu** came across militiamen busy killing refugees and he vigorously encouraged them. During that attack, the militiamen had found a young women in her twenties, hidden under the roof of a building, **Augustin Bizimungu** asked that she be burnt alive and watched the unbearable scene. **Augustin Bizimungu** then rewarded the militiamen with money for what they had done.
81. Between 11 and 14 April 1994, **Augustin Bizimungu** went to a roadblock located near the Ruhengeri Agronomic centre with four bound Tutsi in the rear cabin of his vehicle that the soldiers of his escort were stamping on without restraint. **Augustin Bizimungu** asked the militiamen manning the roadblock to do their duty by killing the four Tutsi. The militiamen complied.
82. As of 7 April 1994, in Kigali, thousands of civilians had sought refuge at the *Ecole Technique Officielle* (ETO) in order to place themselves under the protection of the UNAMIR Belgian contingent. On 11 April 1994, immediately after the Belgian contingent withdrew, soldiers from the Presidential Guard and the Para-commando battalion, assisted by militiamen, lead the refugees in the direction of Nyanza on a two-kilometre forced march, after which they massacred several thousands of civilians: men, women, the elderly and children.
83. Right from the beginning of the massacres, the *Centre hospitalier de Kigali* (CHK) took in many injured Tutsi from the various districts of the city. Soldiers from the Reconnaissance battalion guarded the hospital. On several occasions, those soldiers selected Tutsi patients and killed them on the spot. Moreover, a list of Tutsi staff members was drawn up and several of them were killed.
84. On 10 June 1994, at the Charles Lwanga church in Kigali, soldiers from the Rwandan Army and militiamen forced the refugees hiding there into trucks. They took the refugees in the direction of Rwampara and executed them along the way.

85. On or about 7 June 1994, soldiers from the Rwandan Army surrounded the house of the Josephite brothers in Kigali, they made those who were inside come out and shot them.
86. Between April and June 1994, several persons sought refuge at Kabgayi primary school in Gitarama *préfecture*. Throughout this whole period, soldiers from the Rwandan Army and *Interahamwe* abducted and killed young boys who had sought refuge at that location.
87. In April and May 1994, a large number of civilians sought refuge at Musambira *commune* office and dispensary, in Gitarama *préfecture*. During that period, soldiers from the Rwandan Army and militiamen abducted and killed several Tutsi men and young boys who had sought refuge at that location.
88. In April and May 1994, thousands of civilians gathered in the TRAFIPRO compound in Gitarama in order to protect themselves from ethnic violence that was rampant in the region. Throughout that period, soldiers from the Rwandan Army abducted and killed several Tutsi men and young boys who had sought refuge at that location.
89. In Butare, starting on 19 April 1994, soldiers from the Rwandan Army and *Interahamwe* abducted and killed many civilians from the *préfecture* office, the Episcopal church of Rwanda (EER), Gishamvu church and Nyumba parish.
90. In Gisenyi, on 7 April 1994, Anatole Nsengiyumva, the military area commander, ordered certain political leaders, local authorities and militiamen to assemble at the military camp. Anatole Nsengiyumva addressed the gathering, ordering all present to kill all RPF accomplices and all Tutsi, after which Anatole Nsengiyumva ordered his subordinates to distribute rifles and grenades to the militiamen that were present. Thus, between April and July 1994, militiamen acting under the orders of Anatole Nsengiyumva tracked down, abducted and killed several members of the Tutsi and moderate Hutu population of Gisenyi.
91. In Cyangugu *préfecture*, in the course of April and May 1994, members of the Tutsi population who were being hunted down in their *communes* sought refuge at Kamarampaka stadium, as well as in the Nyarushishi camp compound. During this period, soldiers from the Rwandan Army and *Interahamwe* abducted and killed many of those civilian refugees.

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92. Towards the end of April 1994, **Augustin Ndindiliyimana**, accompanied by armed back-up troops, went to a compound in Butare where civilian Tutsis had sought refuge. One Nzabirinda was amongst those accompanying him and he called out the names of 12 ill-fated persons who were immediately led to the banks of the Cyamwakiza River and killed. On this occasion, **Augustin Ndindiliyimana** killed four of the persons thus abducted with an assault rifle.
93. On 5 May 1994, in Nyaruhengeri, a group of *Interahamwe* including Pierre Kajuga went to the

residence of Ignace Habimana and killed the latter, as well as Célestin Munyanshagore, following orders the murderers claimed to have received from **Augustin Ndindiliyimana**.

94. On or about 7 April 1994, in Kigali, *gendarmes* under the command of **Augustin Ndindiliyimana**, accompanied by *Interahamwe*, went to Kabeza where they killed Gerard Kalinditwari and the members of his family composed of seven to eight persons. Those persons were killed because they were Tutsi.
95. On or about 8 April 1994, a group of *gendarmes* under the command of **Augustin Ndindiliyimana**, led by Sergeant Major Come, went to Kabeza led by an *Interahamwe* militiaman and massacred a Rwandan civilian answering to the name Kanamugire and all of the members of his family.
96. In the month of April 1994, militiamen erected a roadblock near Kacyiru Camp, the headquarters of the *Gendarmerie*. At the roadblock, which was supervised by two NCO *gendarmes*, the militiamen killed several Tutsi as well as some Hutu who had come to seek refuge at the camp and whom the *gendarmes* had handed over to them.
97. Towards the end of April, on the orders of Appollinaire Biganiro, commander of the Gisenyi *gendarmerie* unit, and a subordinate of **Augustin Ndindiliyimana**, Omar Serushago, Bernard Munyagishari, Thomas Mugiraneza, one Damas and others, went to Rwandex, a company located in Gisenyi, to abduct and kill the Tutsi who had sought refuge there. When they arrived, they beat to death a man of Tutsi origin who attempted to dissuade them from so doing. Subsequently, they abducted four persons of Tutsi origin, identified by *gendarmes* present at that location, and took them to the cemetery where they were executed.
98. Still towards the end of April, on the orders of the same Apollinaire Biganiro, Omar Serushago, Thomas Mugiraneza, Bernard Munyagishari, Hassan Gitoki, Damas and Michel Abuba went to the military camp to collect several Tutsi civilians detained at the *gendarmerie* unit's gaol. With the assistance of the guards who were present at that location and a few *Interahamwe*, they led some ten Tutsi to the place called "*commune rouge*" and executed them there.
99. In the last few days of April 1994, Antoine Bisonimbwa, **Augustin Ndindiliyimana**'s uncle, was informed that the people of Nyaruhengeri refused to kill Gahoki, a Tutsi tradesman. He went to the residence of **Augustin Ndindiliyimana**, to collect three *gendarmes* who went to kill the tradesman. After killing him, the *gendarmes* seized the motorcycle belonging to the deceased and took it to the residence of **Augustin Ndindiliyimana** to be used in their daily movements.
100. In Kigali, in early May 1994, *gendarmes* under the command of **Augustin Ndindiliyimana** killed Aloys Niyoyita, a Tutsi civilian, member of the Liberal Party.
101. In Kigali, in early May 1994, *gendarmes* under the command of **Augustin Ndindiliyimana**

killed Phocus Kananeri, a Tutsi civilian, inside his house.

102. In Kigali, in April 1994, at Nyamirambo, *gendarmes* under the command of **Augustin Ndindiliyimana** occupied one of the many roadblocks erected in that *secteur*. They would check the ethnic origin of the passers-by at the roadblock by examining their identity cards. Anyone who was of Tutsi origin or was suspected of belonging to that ethnic group was summarily executed. The executioners would then invariably accuse their victims of being “*Inkotanyi accomplices*”.

FRANÇOIS-XAVIER NZUWONEMEYE AND INNOCENT SAGAHUTU

103. During the morning of 7 April 1994, elements of the Reconnaissance battalion under the command of **François-Xavier Nzuwonemeye** and led by **Innocent Sagahutu**, acting in concert with members of the Presidential Guard and *Interahamwe* militiamen hunted down, tortured and killed Prime Minister Agathe Uwilingiyimana. They also killed three members of the Prime Minister’s entourage, including her husband.
104. Shortly before the Prime Minister was murdered Captain **Innocent Sagahutu** informed his hierarchical supervisor, **François-Xavier Nzuwonemeye**, by radio that “*tous avaient été déjà tués à l’exception de Agathe Uwilingiyimana et de Faustin Twagiramungu*” [everyone had already been killed except Agathe Uwilingiyimana and Faustin Twagiramungu].
105. During the morning of 7 April 1994, ten UNAMIR Belgian peacekeepers were arrested at the residence of Agathe Uwilingiyimana by soldiers from the Reconnaissance battalion under the command of **François-Xavier Nzuwonemeye** and led by **Innocent Sagahutu**, assisted by their colleagues from the Presidential Guard. After being disarmed, the Belgian peacekeepers were led to Kigali Camp where they were horribly killed and mutilated by an unleashed horde composed of soldiers from the Reconnaissance Battalion, the Presidential Guard and the Music Company.
106. During the whole of that morning of 7 April, Sergeant Major Bizimungu who led the Reconnaissance battalion unit that had participated in the arrest of the peacekeepers had remained in radio contact with Captain **Innocent Sagahutu**.
107. Thus, when at the beginning of the morning of 7 April, the NCO asked Captain **Innocent Sagahutu** what he should do if the Belgian soldiers were to resist the arrest of the Prime Minister, he was ordered to use his armoured vehicles if that were to be the case. Later that same day when Sergeant Major Bizimungu asked **Innocent Sagahutu** if Prime Minister Agathe Uwilingiyimana should be taken to Kigali Camp he answered scathingly “*pour quoi faire?*” [what for?]. Thereupon Prime Minister Agathe Uwilingiyimana was killed.
108. In Kigali, as soon as the massacres began in April 1994, the *Centre hospitalier de Kigali* (CHK) took in many Tutsi who were injured or simply refugees from the various districts of the

city. Soldiers from the Reconnaissance battalion under the command of **François-Xavier Nzuwonemeye** and belonging to the A squad led by **Innocent Sagahutu** guarded the hospital. On several occasions, those soldiers selected patients or refugees and killed them there. Moreover, a list of Tutsi staff members was drawn up and several of them were killed

COUNT 5: CRIMES AGAINST HUMANITY (Extermination)

109. The Prosecutor of the International Criminal Tribunal for Rwanda charges **Augustin Bizimungu** and **Augustin Ndindiliyimana** with Extermination, as a Crime against Humanity, an offence punishable under Article (3) (b) of the Statute, in that, in 1994, in Rwanda, **Augustin Bizimungu** and **Augustin Ndindiliyimana** were responsible for murders committed on a large scale against the Rwandan civilian population, as part of widespread or systematic attacks, on ethnic, racial or political grounds;

Pursuant to Article 6(1) of the Statute: the Accused **Augustin Bizimungu** by his acts planned, incited to commit, ordered, committed or otherwise aided and abetted the planning, preparation or execution of the crimes referred to in paragraph 79 above; **and**

Pursuant to Article 6(3) of the Statute: in that the Accused **Augustin Bizimungu** and **Augustin Ndindiliyimana** knew or had reason to know that soldiers under their command or militiamen obeying their orders had committed or were about to commit the crimes referred to in the paragraphs 82, 84, 85, 89, 90, 73 and 102 above and did not take reasonable and necessary measures to prevent such crimes or to punish the perpetrators thereof.

COUNT 6: CRIMES AGAINST HUMANITY (Rape)

110. The Prosecutor of the International Criminal Tribunal for Rwanda charges **Augustin Bizimungu**, **François-Xavier Nzuwonemeye** and **Innocent Sagahutu** with Rape, as a Crime against Humanity, an offence punishable under Article (3) (g) of the Statute, in that, in 1994, in Rwanda, **Augustin Bizimungu**, **François-Xavier Nzuwonemeye** and **Innocent Sagahutu** were responsible for several rapes committed against Tutsi civilians by soldiers under their command or by civilians over whom they had authority, as part of widespread or systematic attacks against a civilian population, on national, racial, ethnic, or political grounds, as follows:

Pursuant to Article 6(3) of the Statute: in that the Accused knew or had reason to know that their subordinates had committed or were about to commit the rapes referred to in paragraphs 111 to 117, in respect of **Augustin Bizimungu**, in paragraph 112 in respect of **Innocent Sagahutu** and **François-Xavier Nzuwonemeye**, and did not take reasonable and necessary measures to prevent such crimes or to punish the perpetrators thereof.

111. In April and May 1994, soldiers from the Rwandan Army went daily to the office of the *conseiller* of Kicukiro in Kigali, to abduct Tutsi women and young girls whom they raped in the vicinity of the office.

112. During the months of April, May and June 1994, soldiers from the A squad of the Reconnaissance battalion, led by **Innocent Sagahutu** and under the command of Major **François-Xavier Nzuwonemeye**, who guarded the *Centre hospitalier de Kigali*, and their *Interahamwe* accomplices abducted several Tutsi women from the hospital who had come to seek treatment or simply to seek refuge; they raped them or mistreated them. Those rapes often took place inside the kiosks at the entrance to the hospital.
113. Between April and June 1994, several persons sought refuge at Kabgayi primary school in Gitarama *préfecture*. Throughout that period, soldiers from the Rwandan Army and *Interahamwe* militiamen selected and abducted Tutsi women and young girls that they took to the rooms reserved for injured soldiers or in nearby places and woods where they raped them.
114. In April and May 1994, at the Musambira *commune* office and dispensary, in Gitarama *préfecture*, soldiers from the Rwandan Army and militiamen frequently abducted Tutsi women and young girls to take them to nearby places and woods where they raped them. Those rapes were often accompanied by humiliating and degrading treatment.
115. In April and May 1994, at the Trafipro centre in Gitarama, soldiers from the Rwandan Army and militiamen abducted Tutsi women that they led to neighbouring places where they raped them. Those rapes were often accompanied by humiliating and degrading treatment.
116. In Butare, starting on 19 April 1994, soldiers from the Rwandan Army and *Interahamwe* militiamen went on a regular basis to the *préfecture* office, to the Episcopal church of Rwanda (EER), to Gishamvu church and Nyumba parish to abduct the female refugees and rape them. Those rapes were often accompanied by humiliating and degrading treatment.
117. In Cyangugu, during the months of April and May 1994, soldiers from the Rwandan Army and *Interahamwe* regularly abducted Tutsi refugee women at Kamarampaka stadium and raped them and assaulted them morally.

COUNT 7: VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND ADDITIONAL PROTOCOL II (Murder)

118. The Prosecutor of the International Criminal Tribunal for Rwanda charges **Augustin Bizimungu, Augustin Ndindiliyimana, François-Xavier Nzuwonemeye and Innocent Sagahutu** with Murder, as a violation of Article 3 common to the Geneva conventions and Additional Protocol II, an offence punishable under Article (4) (a) of the Statute, in that, in the course of 1994 in Rwanda, soldiers under their command or civilians over which they had authority committed, in the context of a non-international armed conflict opposing the *Forces armées régulières du Rwanda* (FAR) to the *Front patriotique rwandais* (FPR), and in direct relation to that conflict, many murders of members of the Rwandan civilian population who were not participating in the hostilities; moreover, at the same place and time, soldiers under the

command of **François-Xavier Nzuwonemeye** and **Innocent Sagahutu** killed ten Belgian UNAMIR peacekeepers, whose mandate did not include combat (see Chapter 6 of the United Nations Charter), whom moreover were disarmed, allegedly because there was collusion between the Kingdom of Belgium and the Rwandan Patriotic Front;

Pursuant to Article 6(1) of the Statute: by virtue of their acts, the Accused planned, incited to commit, ordered, or otherwise aided and abetted the planning or execution of the crimes referred to in paragraphs 66, 92 and 103 to 107 above; and

Pursuant to Article 6(3) of the Statute: in that the Accused knew or had reason to know that their subordinates had committed or were about to commit the crimes referred to in paragraphs 86 to 88 and 90, 76, 77 and 102, 103 to 108 above, and in that they did not take reasonable and necessary measures to prevent such crimes from being committed or to punish the perpetrators thereof.

COUNT 8: VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND ADDITIONAL PROTOCOL II (Rape, humiliating and degrading treatment)

119. The Prosecutor of the International Criminal Tribunal for Rwanda charges **Augustin Bizimungu, François-Xavier Nzuwonemeye** and **Innocent Sagahutu** with Rape, and other humiliating and degrading treatment, an offence punishable under Article 3 common to the Geneva Conventions and Additional Protocol II, under Article 4 (e) of the Statute, in that, in 1994, in Rwanda, soldiers from the Rwandan Army, under their authority, in concert with militiamen, raped several Tutsi civilian women, in the context of a non-international armed conflict inasmuch as those Rwandan civilians were categorized by their tormentors as being virtual members of the RPF or accomplices of that movement;

Pursuant to Article 6(3) of the Statute: in that the Accused knew or had reason to know that their subordinates had committed or were about to commit the rapes referred to in paragraphs 111 to 117, in respect of **Augustin Bizimungu**, and 112, in respect of **François-Xavier Nzuwonemeye** and **Innocent Sagahutu**, and did not take reasonable and necessary measures to prevent such crimes or to punish the perpetrators thereof.

Done at Arusha (Tanzania)

 July 22nd, 2004

The Prosecutor
Hassan Bubacar Jallow