

ICTR-95-1A-I
14-09-1999
(202-192)

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INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

CASE NO: ICTR-95-1A-I

**THE PROSECUTOR OF
THE TRIBUNAL**

ICTR
CRIMINAL REGISTRY
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AGAINST

IGNACE BAGILISHEMA

AMENDED INDICTMENT

1. The Prosecutor of the International Criminal Tribunal for Rwanda, pursuant to his authority under Article 17 of the Statute of the International Criminal Tribunal for Rwanda ("the Statute of the Tribunal") charges:

IGNACE BAGILISHEMA

with **GENOCIDE, COMPLICITY IN GENOCIDE; CRIMES AGAINST HUMANITY; and SERIOUS VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II** as set forth below.

2. The present indictment contains charges against an individual who committed serious violations of international humanitarian law in Kibuye Prefecture, Territory of Rwanda where thousands of men, women and children were killed and a large number of persons wounded in April, May and June 1994.

3. THE ACCUSED

- 3.1 **Ignace Bagilishema** was born in 1955 in Rubengera Sector, Mabanza Commune, Kibuye Prefecture, Rwanda. Bagilishema's father was Louis Ntaganda, and his mother was Kampundu. **Ignace Bagilishema** was appointed as Bourgmestre of Mabanza Commune on February 8, 1980.
- 3.2 **Ignace Bagilishema** acted as Bourgmestre until the end of July 1994. At all times relevant to this indictment **Ignace Bagilishema** was the Bourgmestre of Mabanza Commune. In this capacity, **Ignace Bagilishema** exercised authority and control over employees of this commune, including his subordinates, in particular, his assistants Semanza Celestin, Nsengimana Apollinaire, both Assistant Bourgmestres of Mabanza Commune, and a Nzanana Emile.
- 3.3 In his capacity as Bourgmestre of Mabanza commune, **Ignace Bagilishema** also exercised authority and control over members of the Police Communale and *Gendarmerie Nationale*.

4. CONCISE STATEMENT OF FACTS

- 4.1 Unless specifically stated herein, the violations of International Humanitarian Law referred to in this indictment took place in Rwanda between 1st April and 31st July 1994.
- 4.2 During the events referred to in this indictment, Tutsis, Hutus and Twas were identified as ethnic or racial groups.
- 4.3 During the events referred to in this indictment, there were in Rwanda, widespread or systematic attacks directed against a civilian population on political, ethnic or racial grounds.
- 4.4 During the events referred to in this indictment, there was a non-international armed conflict in the territory of Rwanda. The victims referred to in this indictment were persons protected under Article 3 common to the Geneva Conventions of 1949 and additional protocol II thereof, and who took no active part in the conflict.
- 4.5 During the events referred to in this indictment, Rwanda was divided into eleven prefectures, one of which was Kibuye. The Prefecture of Kibuye consists of nine communes namely; Rutshiro, Mabanza, Kivumu, Gitesi,

Bwakira, Mwendo, Giosvu , Gishyita, and Rwamatamu communes.

- 4.6 The events which form the basis of this indictment, occurred in Mabanza, Gitesi, Gishyita and Gisovu communes within the Prefecture of Kibuye.
- 4.7 On 6 April 1994, the plane transporting President Juvénal Habyarimana of Rwanda crashed on its approach to Kigali airport, Rwanda. Attacks and killings of civilians began soon thereafter throughout Rwanda.
- 4.8 Following the news of the death of President Habyarimana, **Ignace Bagilishema** between 9-13 April 1994, attended several meetings with the prefet of Kibuye, Clement Kayishema and other local authorities including the Commanding officer of the Gendarmerie Nationale stationed in Kibuye Prefecture.
- 4.9 From about 9 April 1994 through 30 June 1994, thousands of men, women and children sought refuge in various locations in Mabanza, Gitesi, Gisovu and Gishyita communes. These men, women and children were predominantly Tutsis and were seeking refuge from attacks on Tutsis, which had occurred throughout the Prefecture of Kibuye.

Attacks in Mabanza Commune.

- 4.10 In Mabanza commune, members of the Tutsi population sought refuge in various areas within the 13 secteurs of the commune. These individuals were regularly attacked, throughout the period of 9 April 1994 through to 30 June 1994. The attackers, comprising of members of the Gendarmerie Nationale, communal policemen and Interahamwe militiamen, used guns, grenades, machetes, spears, pangas, cudgels and other weapons to kill the Tutsis in Mabanza commune.
- 4.11 Throughout April, May, and June 1994, **Ignace Bagilishema**, in concert with others, including but not limited to Clement Kayishema, Semanza Celestin, Nsengimana Apollinaire, Nzanana Emile and Munyampundu, brought to the area of Rubengera sector, Mabanza commune, armed individuals and directed them to attack the people residing and/or seeking refuge at various locations therein, including the commune office.
- 4.12 In addition, **Ignace Bagilishema** personally attacked and killed persons residing or seeking refuge in Mabanza commune.

- 4.13 Throughout April, May and June 1994, **Ignace Bagilishema**, in concert with others, committed acts of Murder and encouraged others to capture, torture and kill Tutsi Men, women and children, seeking refuge from attacks within the area of Mabanza, Gitesi, Gishyita and Gisovu communes, Kibuye Prefecture.
- 4.14 In particular, **Ignace Bagilishema** acting in concert with others including Clement Kayishema, Semanza Celestin, Nsengimana Apollinaire, Nzanana Emile and Munyampundu, between 9 April and 30 June 1994 permitted and encouraged Interahamwe militiamen to set up roadblocks at strategic locations in and around Mabanza commune. The primary purpose of the said roadblocks was to screen individuals in order to identify and single out Tutsis. Between 9 April and 30 June 1994 **Ignace Bagilishema** ordered the detention of several Tutsis at the various roadblocks within Mabanza. Such detainees were handed over to Ignace Bagilishema and were subsequently killed by the communal police, the Gendarmerie Nationale, interahamwe and armed civilians under his authority and control.
- 4.15 **Ignace Bagilishema** between 9 April and 30 June 1994 detained over 100 Tutsi refugees at the commune office jailhouse at Mabanza. On or about 15 April 1994, **Ignace Bagilishema** allowed Interahamwe militiamen, access to the said jailhouse, following which several Tutsi refugees detained therein, were tortured and killed.
- 4.16 **Ignace Bagilishema** between 9 April and 30 June 1994 ordered Interahamwe militiamen to dig a mass grave within the precinct of the commune office in Mabanza..
- 4.17 The remains of several Tutsi refugees killed during attacks at both the commune office and elsewhere within Mabanza commune, were between 9 April and 30 June 1994, with the knowledge, consent and acquiescence of **Ignace Bagilishema**, buried in a mass grave within the precinct of the commune office in Mabanza.
- 4.18 From 9 April 1994, **Ignace Bagilishema** encouraged thousands of Tutsi men, women and children seeking refuge from attacks in the commune, to seek safe refuge within the premises of the communal office at Mabanza. Many others, who had fled to the hills, were on the instructions of **Ignace Bagilishema**, ferried back to the communal office in vehicles belonging

to the commune and confined to the jailhouse therein on the instructions of **Ignace Bagilishema**.

- 4.19 By 11 April 1994, **Ignace Bagilishema** had placed communal policemen outside the commune office with instructions to them to prevent the refugees gathered therein from leaving the said office. **Ignace Bagilishema** also instructed the communal policemen to admit incoming refugees to the communal office.
- 4.20 On 12 April 1994, **Ignace Bagilishema** met with Prefet Clement Kayishema, during which the latter commented that Mabanza commune was the only commune left in Kibuye with "scum and filth" The refugees that had sought refuge in the communal office in Mabanza were on the instruction of **Ignace Bagilishema** divided into 2 groups. The first group comprising of intellectuals were put in a military truck and driven towards Kibuye and were never seen again. The second group of refugees comprising mostly of peasants were detained at the communal office in Mabanza and were subsequently transferred to Gatwaro stadium in Kibuye Town where they were killed.

Attacks in Kibuye Town, Gitesi Commune.

- 4.21 On or about 13 April 1994, **Ignace Bagilishema** ordered members of the Tutsi population, who at his request, had gathered at the communal office for protection, to go to Gatwaro stadium in Kibuye Town, Gitesi commune.
- 4.22 On arrival in Kibuye town, Gitesi commune, on 13 April 1994, **Ignace Bagilishema** acting in concert with others including Clement Kayishema, Semanza Celestin, Nsengimana Apollinaire, Nzanana Emile and Munyampundu, divided the refugees into two groups. **Ignace Bagilishema** ordered the first group to seek refuge at the Catholic Church and Home St. Jean complex (hereinafter "the complex"); and the second group to Gatwaro stadium (hereinafter, "the Stadium") both in Kibuye town Gitesi commune.
- 4.23 By about 17 April 1994, thousands of men, women and children from various locations sought refuge in the Catholic Church and Home St. Jean Complex (the Complex) and at the Gatwaro stadium located in Kibuye town. These men, women and children were unarmed and were

predominantly Tutsis. They were in the Complex seeking protection from attacks on Tutsis which had occurred throughout the Prefecture of Kibuye.

- 4.24 After people gathered in the complex and at the stadium, these locations were surrounded by persons under **Ignace Bagilishema's** control, including members of the Gendarmerie Nationale and communal policemen. These persons prevented the men, women and children held therein from leaving, thus denying them access to basic amenities such food and water for several days.
- 4.25 On 17 April 1994 those individuals who were ordered by **Ignace Bagilishema** to seek refuge at the complex, were attacked by a combined force of attackers consisting of the Gendarmerie Nationale, communal police Interahamwe and armed civilians. The attackers used guns, grenades, machetes, spears, cudgels and other weapons to kill the people in the Complex.
- 4.26 On 18 April 1994, **Ignace Bagilishema**, acting in concert with others, including, Clement Kayishema, Semanza Celestin, Nsengimana Apollinaire, Nzanana Emile and Munyampundu, brought to Gatwaro stadium, the Gendarmerie Nationale, communal police, Interahamwe and armed civilians, and directed them to attack the people seeking refuge there.
- 4.27 In addition, **Ignace Bagilishema**, on 18 and 19 April 1994, personally attacked and killed persons seeking refuge at Gatwaro stadium, Kibuye town. The attack on refugees at Gatwaro the Stadium continued on 19 April 1994.
- 4.28 In ordering the Tutsi men women and children to the complex and stadium, **Ignace Bagilishema** knew or had reason to know that attacks at these locations was imminent.

Attacks in Gishyita and Gisovu Communes.

- 4.29 Gishyita and Gisovu communes are divided into 8 and 9 secteurs respectively. Tutsi individuals seeking refuge in the area of Bisesero which spans both communes, were regularly attacked, throughout the period of 9 April 1994 through to 30 June 1994. The attackers

comprising of members of the Gendarmerie Nationale, communal policemen and Interahamwe militiamen used guns, grenades, machetes, spears, pangas, cudgels and other weapons to kill the Tutsis in Gishyita and Gisovu communes.

- 4.30 Throughout April, May and June 1994, **Ignace Bagilishema** acting in concert with others, including Clement Kayishema, Semanza Celestin, Nsengimana Apollinaire, Nzanana Emile and Munyampundu brought to the area of Bisesero armed individuals, including members of the Gendarmerie Nationale, communal policemen and Interahamwe militiamen and directed them to attack the people seeking refuge there. In addition, **Ignace Bagilishema** personally attacked and killed persons seeking refuge on Gitwa hill in the area of Bisesero.
- 4.31 Ignace Bagilishema, during the months of April, May, and June 1994, in Mabanza, Gitesi, and Gisovu communes, Kibuye Prefecture, in the Territory of Rwanda, did commit other inhumane acts including but not limited to, persistently searching for Tutsis, separating Tutsis from other ethnic or racial groups, beating Tutsis, knowingly leading Tutsis to the massacre sites, and unlawfully confining the Tutsis at the commune office and Gatwaro Stadium without water, sanitation or food, thereby forcing the Tutsis to eat grass.
- 4.32 The attacks described above resulted in thousands of deaths and numerous injuries to the men, women and children within Mabanza, Gitesi, Gisovu and Gishyita communes, Kibuye Prefecture.

5. CHARGES

- 5.1 For all the acts outlined in the paragraphs specified in each of the counts, the accused either planned, instigated, ordered, committed, or otherwise aided and abetted in the planning, preparation and execution of the said acts, or knew or had reason to know that persons acting under his authority and control had committed or were about to commit the said acts and he failed to take necessary and reasonable measures to prevent the said illegal acts or punish the perpetrators thereof.

Count 1:

By his acts in relation to the events referred to in paragraphs 4.9 – 4.31 above, **Ignace Bagilishema** is individually responsible for the crimes alleged below, pursuant to Article 6(1) and 6(3) of the Statute of the Tribunal:

Ignace Bagilishema, during the months of April, May and June 1994, in Mabanza, Gitesi, Gishyita and Gisovu communes, Kibuye Prefecture, in the Territory of Rwanda, is responsible for the killing or causing of serious bodily or mental harm to members of the Tutsi population with the intent to destroy, in whole or in part, an ethnic or racial group as such and has thereby committed **GENOCIDE** in violation of Article 2(3)(a) and punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

Count 2:

By his acts in relation to the events referred to in paragraphs 4.14 - 4.25 above, **Ignace Bagilishema** is individually responsible for the crime alleged below, pursuant to Article 6(1) and 6(3) of the Statute of the Tribunal:

Ignace Bagilishema, during the months of April, May and June 1994, in Mabanza, Gitesi, Gishyita and Gisovu communes, Kibuye Prefecture, in the Territory of Rwanda, is an accomplice to the killing and causing of serious bodily or mental harm to members of the Tutsi population and has thereby committed **COMPLICITY IN GENOCIDE** in violation of Article 2(3)(e) and punishable in reference to Article 22 and 23 of the Statute of the Tribunal.

Count 3:

By his acts in relation to the events referred to in paragraphs 4.10 - 4.31 above, **Ignace Bagilishema** is individually responsible for the crime alleged below, pursuant to Article 6(1) and 6(3) of the Statute of the Tribunal:

Ignace Bagilishema, during the months of April, May and June 1994, in Mabanza, Gitesi, Gishyita and Gisovu communes, Kibuye Prefecture, in the Territory of Rwanda, is responsible for the **MURDER** of civilians,

as part of a widespread or systematic attack against a civilian population on political, ethnic, or racial grounds, and has thereby committed a **CRIME AGAINST HUMANITY** in violation of Article 3(a) and punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

Count 4:

By his acts in relation to the events referred to in paragraphs 4.10 - 4.30 above, **Ignace Bagilishema** is individually responsible for the crime alleged below, pursuant to Article 6(1) and 6(3) of the Statute of the Tribunal:

Ignace Bagilishema during the months of April, May and June 1994, in Mabanza, Gitesi, Gishyita and Gisovu communes, Kibuye Prefecture, in the Territory of Rwanda, is responsible for the **EXTERMINATION** of civilians, as part of a widespread or systematic attack against a civilian population on political, ethnic, or racial grounds, and has thereby committed a **CRIME AGAINST HUMANITY** in violation of Article 3(b) and punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

Count 5:

By his acts in relation to the events referred to in paragraphs 4.10 - 4.31 above, **Ignace Bagilishema** is individually responsible for the crime alleged below, pursuant to Article 6(1) and 6(3) of the Statute of the Tribunal:

Ignace Bagilishema, during the months of April, May and June 1994, in Mabanza, Gitesi, Gishyita and Gisovu communes, Kibuye Prefecture, in the Territory of Rwanda, did commit **OTHER INHUMANE ACTS**, including but not limited to, the causing of serious physical and mental harm, such as the persistent search for Tutsis in the months following the attack, the separation of Tutsis from other ethnic or racial groups, severe beating of Tutsis, knowingly leading Tutsis to the massacre sites, and unlawfully confining the Tutsis at the commune office and Gatwaro Stadium without water, sanitation or food, thereby forcing the Tutsis to eat grass as part of a widespread and systematic attack against a civilian population on political, ethnic, or racial grounds, and has thereby committed a **CRIME AGAINST HUMANITY** in violation of Article

3(i) and punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

Count 6:

By his acts in relation to the events referred to in paragraphs 4.10 – 4.31 above, **Ignace Bagilishema** is individually responsible for the crime alleged below, pursuant to Article 6(1) and 6(3) of the Statute of the Tribunal:

Ignace Bagilishema, during the months of April, May and June 1994, in Gisovu and Gishyita communes, Kibuye Prefecture, in the Territory of Rwanda, is responsible for causing violence to life, health and physical or mental well-being of persons, in the course of a non-international armed conflict, in particular, murder as well as cruel treatment such as torture or any form of corporal punishment, and has hereby committed **SERIOUS VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II thereof**, in violation of Article 4 (a) and punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

Count 7:

By his acts in relation to the events referred to in paragraphs 4.10 – 4.31 above, **Ignace Bagilishema** is individually responsible for the crime alleged below, pursuant to Article 6(1) and 6(3) of the Statute of the Tribunal:

Ignace Bagilishema, during the months of April, May and June 1994, in Mabanza, Gitesi, Gisovu and Gishyita communes, Kibuye Prefecture, in the Territory of Rwanda, is responsible for causing outrages upon personal dignity of women, including humiliating and degrading treatment, in the course of a non-international armed conflict, and has thereby committed **SERIOUS VIOLATIONS OF ARTICLES 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II thereof**, in violation of Article 4(e) and punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

At Arusha, Tanzania this seventeenth day of September 1999.

For the Prosecutor

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the left.

Bernard A Muna
Deputy Prosecutor