

KIBUYE INDICTMENT - SUMMARY OF SUPPORTING DOCUMENTATION

Key:

Centered, Underlined and Bold Heading = Section of Indictment.

Underlined and Bold Paragraph = Paragraph number corresponding to number in indictment.

Bold = facts alleged within that paragraph.

Italics = Proof of fact alleged within that paragraph. (Where this proof is a quote from a witness statement, the quote begins with a letter identifying the witness statement, and a number identifying the page on which the quote appears).

Indictment

THE MASSACRE SITES

PARAGRAPH 2:

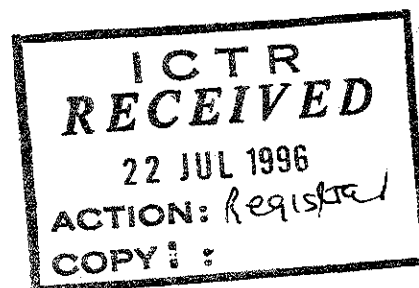
The Republic of Rwanda is divided into eleven Prefectures. These eleven Prefectures are further divided into communes. The Prefecture of Kibuye consists of nine communes. The massacres which form the basis of the charges in this indictment occurred in the Prefecture of Kibuye, in Gitesi, Gishyita and Gisovu communes.

Maps of Rwanda and Kibuye.

PARAGRAPH 3:

The first massacre site addressed in this indictment, the Catholic Church and Home St. Jean complex, is located in Kibuye town, in Gitesi Commune, on a promitory which is surrounded on three sides by Lake Kivu. A road runs past the entrance to the Catholic Church and Home St. Jean complex. The Catholic Church is visible from the road. The Home St. Jean is behind the Church and is not visible from the road.

African Rights, Rwanda Death, Despair and Defiance, August, 1995, page 416.



The parish sits on a beautiful hilltop and enjoys a spectacular view of the lake and mountains of both Rwanda and Zaire. One of the main massacres in Kibuye was at the Parish of Kibuye itself, in the commune of Gitesi.

The Home St. Jean is part of the complex of the parish of Kibuye and was attacked on the same day, 17 April.

PARAGRAPH 4:

The second massacre site addressed in this indictment, the Stadium, is located near the main traffic circle in Kibuye town, Gitesi Commune. The town's main road runs past the Stadium. Immediately behind the Stadium is a high hill.

*African Rights, Rwanda Death, Despair and Defiance, August, 1995, page 424.
One of the major massacres was in the Gatwaro Stadium.*

PARAGRAPH 5:

The third massacre site addressed in this indictment, the Church in Mubuga, is located in Gishyita Commune. Gishyita Commune is located in the southern part of Kibuye Prefecture. The Church in Mubuga is located approximately 20 kilometers from Kibuye town.

PARAGRAPH 6:

The fourth massacre site addressed in this indictment is the area of Bisesero. The area of Bisesero extends through two communes in the Prefecture of Kibuye: Gishyita and Gisovu. Bisesero is an area of high, rolling hills located in the southern portion of Kibuye Prefecture. The hills are very large, and are often separated by deep valleys.

*African Rights, Rwanda Death, Despair and Defiance, August, 1995, pages 660, 662.
In the south and west of Rwanda, people could not take refuge in the swamps, and instead, those who did not vainly seek safety in parishes took to the hills.*

The region of Bisesero....in the commune of Gisovu in Kibuye....Gishyita in Kibuye....

BACKGROUND

PARAGRAPH 7:

The structure of the executive branch, and the authority of the members therein, is set forth in the laws of Rwanda. In the Prefecture, the Prefect is the highest local representative of the government, and is the trustee of the State Authority.

The Prefect has control over the government and its agencies throughout the Prefecture.

[Rwandan Laws] 11 Mars 1975 - Decret-Loi no. 10/75 [Organization and function of the Prefecture], art. 3.

PARAGRAPH 8:

In each commune within a prefecture there exists the council of the commune, which is lead by the Bourgemestre of that commune. The Bourgemestre of each commune is nominated by the Minister of the Interior and appointed by the President. As representative of the executive power, the Bourgemestre is subject to the hierarchical authority of the Prefect, but, subject to this authority, the Bourgemestre is in charge of governmental functions within his commune.

[Rwandan Laws] 23 Novembre 1963 - Loi. [Communal Organization], articles 1, 2, 38, 59.

PARAGRAPH 9:

The Prefect is responsible for maintaining the peace, public order, and security of persons and goods within the prefecture. In fulfilling his duty to maintain peace, the Prefect can demand assistance from the army and from the Gendarmerie Nationale.

[Rwandan Laws] 23 Janvier 1974 - Decret-Loi. [Creation of the Gendarmerie], article 8-2.

The Bourgemestre also has authority over those members of the Gendarmerie National stationed in his commune.

[Rwandan Laws] 23 Janvier 1974 - Decret-Loi. [Creation of the Gendarmerie], article 104.

PARAGRAPH 10:

The Gendarmerie National is an armed force established to maintain the public order and execute the laws. It is lead by the Minister of Defense, but can exercise its function of safeguarding the public order at the request of the competent national authority, which is the Prefect.

[Rwandan Laws] 23 Janvier 1974 - Decret-Loi. [Creation of the Gendarmerie], articles 2, 3, 4, 24, and 47.

The Gendarmerie Nationale has an affirmative duty to report to the Prefect information which has a bearing on the public order,

[Rwandan Laws] 23 Janvier 1974 - Decret-Loi. [Creation of the Gendarmerie], articles 37 and 40.

as well as a duty to assist any person who, being in danger, requests its assistance.

[Rwandan Laws] 23 Janvier 1974 - Decret-Loi. [Creation of the Gendarmerie], articles 29, 30, 31, and 32..

From January - July of 1994, they were approximately 200 gendarmes in the Prefecture of Kibuye.

J -15: In Kibuye, there was a gendarmerie unit that was called Groupement de Kibuye. There were about 200 to 250 gendarmes.

PARAGRAPH 11:

Members of the executive branch also have control over the communal police. Each commune has Police Communale, who are engaged by the Bourgemestre of that commune. Normally the Bourgemestre has exclusive authority over the members of the Police Communale. In case of public calamities, however, the Prefect can claim the policemen of the Police Communale and place them under his direct control.

[Rwandan Laws] 23 Novembre 1963 - Loi. [Communal Organization], articles 103, 104.

PARAGRAPH 12:

The Interahamwe, an unofficial paramilitary group composed almost exclusively of extremist Hutus, had significant involvement in the events charged in this indictment. The National Revolutionary Movement for Development (MRND) party, the ruling party in Rwanda during all times relevant to this indictment, created the Interahamwe as a military training organization for MRND youth and based the Interahamwe's leadership on the MRND's own structure, with leaders at the national, prefectoral, and communal levels. There was no official link between the Interahamwe and the Rwandan military, but members of the Army and Presidential Guard trained, guided and supported the Interahamwe. Occasionally, members of the Army or Presidential Guard participated in Interahamwe activities.

African Rights, Rwanda Death, Despair and Defiance, August, 1995, pages 53 - 58.

PARAGRAPH 13:

On 6 April 1994, the airplane carrying then-president of Rwanda Juvinal Habyarima was shot down during its approach into Kigali airport in Rwanda. Almost immediately, the massacre of civilians began throughout Rwanda. During

that time individuals seeking Tutsis were able to focus their activities on specific locations because Tutsis, who believed themselves to be in danger, often fled in large numbers to perceived safe areas, such as churches and communal buildings. This practice, which was widely known, was based on the fact that in the past Tutsis who had sought refuge in such places had not been attacked. Thus, during the period of time relevant to this indictment, groups of people seeking refuge in the same area were most likely predominately Tutsis.

UN Document E/Cn.4/1995/7, 28 June 1994, Report on the situation of human rights in Rwanda submitted by Mr. R. Degi-Segui, Special Rapporteur - page 5, 17: The death of President Juvenal Habyarimana [on 6 April 1994] was the spark to the powder keg which set off the massacre of civilians. The next day, fighting resumed between the Government forces and the FPR [Rwandan Patriotic Front].

H complement 3: We went to the church because during previous time of trouble, we tutsis were safe in churches. We thought we would be safe again.

W - 4: We followed the urgings of the Mabanza Bourgemestre to go to the church and stadium in Kibuye. We thought that protection would be better in a large group and at points of sanctuary - as in 1959.

CC - 1: Tutsi people from here and neighboring communes began to congregate in churches and in the stadium to be safe because in 1959 people who had been in those places survived.

PARAGRAPH 14:

Also, during the times relevant to this indictment, the Rwandan government required all Rwandans to carry, at all times, identity cards that designated the bearer's status as Hutu, Tutsi, Twa or "naturalized". Individuals seeking Tutsis could identify their targets simply by requiring individuals to show their identification card.

B (complement) - 3: ...There had been roadblocks since April. They were permanent and were kept by the population in turns. They were organized by bourgemestres and counsellors. The aim was to stop people, to search vehicles. Tutsis were killed on the spot (identity cards were requested).

Il (complement) - 2 to 3: The refugees in the stadium were Hutu and Tutsi. The girls [survivors from the stadium] told me that before the massacre identity cards were checked and the Hutus and Tutsis were separated. The Hutu left and were only killed if they stayed with the Tutsis.

African Rights, Rwanda Death, Despair and Defiance, August, 1995, pages 6, 47.

GENERAL ALLEGATIONS

PARAGRAPH 15:

All acts or omissions by the accused set forth in this indictment occurred during the period of 1 January 1994 to 31 December 1994.

Statements supporting charges below.

PARAGRAPH 16:

In each paragraph charging genocide, a crime recognized by Article 2 of the Tribunal Statute, the alleged acts or omissions were committed with intent to destroy, in whole or in part, an ethnical or racial group.

There is both direct and circumstantial evidence that each of the accused acted with the intent to destroy in whole or part, members of the Tutsi ethnical or racial group. Delineated below is first general evidence of the fact that the massacres that occurred in Kibuye were committed with the intent to destroy in whole or part Tutsis. After this, evidence that each of the eight Accused acted with the requisite intent is delineated.

I. General evidence of intent to destroy, in whole or part, Tutsis in Kibuye Prefecture.

The events in Kibuye prefecture alone demonstrate that the killings in Kibuye were undertaken with the intent to destroy, in whole or part, Tutsis in Kibuye. According to the publication *Death, Despair and Defiance* Kibuye used to have the highest population of Tutsis of any prefecture, with a pre-April 1994 population of approximately 252,000 Tutsis. After July 1994, there were only 7,000 - 8,000 Tutsis left alive. (African Rights, *Rwanda Death, Despair and Defiance*, August, 1995, page 394).

The Strategy of the killings consisted of directing Tutsis to areas of supposed safety, and then sending gendarmes, military, Interahamwe and others to kill them. The four massacres sites with which this indictment is concerned are examples of places where Tutsis were told to congregate for security reasons and were subsequently killed. The fact that at each of these 4 massacre sites the people were predominately members of the Tutsi ethnical or racial group provides evidence of the fact that the intent was to destroy the Tutsis as such. In addition, the following excerpts from witness statements provide general evidence of the fact that the killings in Kibuye prefecture were committed with the intent to destroy, in whole or part, Tutsis.

B (complement) - 3: ...There had been roadblocks since April. They were permanent and were kept by the population in turns. They were organized by bourgemestres and counsellors. The aim was to stop people, to search vehicles. Tutsis were killed on the spot (identity cards were requested).

H (complement) - 1, 2: From December 93, certain persons - Hutus - were bragging about military training they were receiving. I heard these hutus talking about the training - while they were drinking and frequently drunk. These Hutus would come to bars to drink after training. Sometimes they - the Hutus - para military would provoke fight with Tutsis in bars....

We went to the Church [in Mubuga] because during previous times of trouble, we tutsis were safe in churches....Interahamwe and civilians sang songs of the extermination of Tutsis.

J - 4, 14: [What happened at the meeting on 13 April 1994?]

I was told by the Bourgemestre of Gitesi (Augustin Karara) that it was at this reunion that the decision to kill all of the Tutsis in the Stadium was made....He also told me other minor details of the meeting, but what I vividly remember is the decision to kill the Tutsis gathered in the Stadium.

Everybody understood that the aim was to exterminate the Tutsis and anybody who threatened the security of the Prefecture. The end result was that all the Tutsis in the area were killed.

II. Evidence of the intent of each of the eight accused.

Evidence of intent of Clement Kayishema. (Charged for the massacres at the Catholic Church and Home St. Jean Complex, the Stadium, the Church at Mubuga, and the area of Bisesero).

The actions of **Clement Kayishema**, which are documented in the supporting documentation with respect to each massacre site, combined with the following excerpts from witness statements, evidence that **Clement Kayishema** acted with the intent to destroy in whole or part members of the Tutsi ethnical or racial group.

K - 1: My husband and I know well the Prefect, Clement KAYISHEMA. We met him at this time. He also said that Tutsis were in cooperation with the attackers and that they had to be killed, otherwise they would themselves kill Hutus. He said that everyone had to be killed, even the women and children. I myself heard KAYISHEMA say that during a discussion....When we arrived, killings were almost over. There were some people (Tutsis) left in the mountains. It was clear that these people had to be found and killed.

H - 4: While in the church at MUBUGA, it was learned that two of KAYISHEMA's nephews were there. The mother of the boys was TUTSI. KAYISHEMA sent a car for the nephews - they left but the mother had to stay.

H (complement) - 4: I know Kayishema's brother, his wife and children. I heard the person driving Kayishema's car ask for these children.

J - 4, 14: [What happened at the meeting on 13 April 1994?] I was told by the Bourgemestre of Gitesi (Augustin Karara) that it was at this reunion that the decision to kill all of the Tutsis in the Stadium was made....He also told me other minor details of the meeting, but what I vividly remember is the decision to kill the Tutsis gathered in the Stadium.... Since Kayishema was the prefect, he was the Chairman of the meeting and drafted the agenda

[At the meetings after the massacres was there a sense of remorse?] On the contrary, people were quite happy about it. At the official visit of the interim president....Kayishema was congratulated by the interim president on May 16 for "carrying out the mission." Everyone there understood what was meant - that is the mass killings. The meeting on May 16 was not a public meeting, but an extended

meeting of the Security Council, i.e. also with all the bourgemestres and all the counsellors....At public meetings it was said the country was at war and the people of the country should search for enemies and be aware of infiltrations. Kayishema and the president themselves said this at meetings. It was clear they were talking about Tutsis. The message was clear to everybody who attended the meetings - people had license to kill because the country was at war. Everybody understood that the aim was to exterminate the Tutsis and anyone who threatened the security of the Prefecture. The end result of this was that all the Tutsis in the area were killed.

W - 2: I saw him [Kayishema] at Cyumbati (part of Kibuye) talking to a group of HUTUS. I heard KAYISHEMA urging this group to go to Bissesero. KAYISHEMA said they should go and kill and to be sure no one survived. KAYISHEMA said that it was the TUTSIS who should be killed because they were accomplices....

RR - 2: When I saw him on these occasions, it was from my house near the road. KAYISHEMA stopped his car and told people nearby to destroy the TUTSI houses - everything - every trace should be destroyed - were his directions.

Evidence of the intent of **Ignace Bagilishema** (Charged for the massacres at the Home St. Jean Complex and at the Stadium).

The actions of **Ignace Bagilishema**, which are documented in the section of the supporting documentation dealing with the massacres at the Home St. Jean Complex and the stadium, combined with the following excerpts from witness testimony, evidence that **Ignace Bagilishema** acted with the intent to destroy in whole or part members of the Tutsi ethnical or racial group.

EE - 3: In Gihara, Tutsi women married to Hutu men were being killed until a debate ensued in which it was determined that killing Tutsi wives of Hutu men was dividing the Hutus. We left Gihara. My husband went to the bourgemestre to get something in writing to the effect that I need not be killed. The bourgemestre said that it was decided that no more Tutsi wives of Hutus would be killed. He gave my husband a letter to this effect to give to the counsellor and to those killers from Gihara threatening me. The counsellor read the statement that Hutu's Tutsi wives would no longer be killed in the market....The Bourgemestre [Ignace Bagilishema] was present at the meeting in which Tutsi wives were discussed.

RR - 4: The Bourgemestre held meetings in May 1994 where the issue of TUTSI wives of HUTUS was discussed. The Bourgemestre said that the decision was made not to kill TUTSI wives of HUTUS. I don't know who made this decision. In my sector, RUBENGERA this order was respected. In others, it was not, and the killing of TUTSI wives continued.

Evidence of the intent of **Charles Sikubwabo** (Charged for the massacres that occurred at the Church in Mubuga and in the area of Bisesero)

The actions of **Charles Sikubwabo**, which are documented in the section of the supporting documentation dealing with the massacres at the Church in Mubuga and the area of Bisesero, combined with the following excerpts from witness testimony evidence

that **Charles Sikubwabo** acted with the intent to destroy in whole or part members of the Tutsi ethnical or racial group.

H - 2: Then a person named RYANNKAYO [Ryandikayo] brought a letter from the Bourgemestre SIKUBWABO. The letter was given to a person NTAKIYIMANA - business friend of the courier. The letter directed HUTUS to separate from TUTSIS - or be killed with them....It became clear at this point that there was no longer greedy people looting the property of neighbors with the excuse of war. It was clear that the TUTSIS were being considered accomplices of the rebel force the RPF and therefore the enemy.

H (complement) - 2: On Tuesday the 12th the invaders brought rifles and the letter from SIKUBWABO that I told you about. At this point we realized that we were no longer fighting thieves and robbers; we were fighting an organized war with the government - this was my impression and that of my neighbor. NTAKIYIMANA, our Hutu neighbor, met the messenger from SIKUBWABO. He read a letter and discussed with messenger, RYANDIKAYO and returned to us. He explained the message and the letter. He said that the letter from SIKUBWABO endorsed the Prefect Kayishema's instructions and permission the execute the separation of Hutus and Tutsis in Murangara. On the 12th, after the message to separate, the weaker Tutsis were caught and killed.

L - 1 to 2: After the President's death, the bourgemestre [SIKUBWABO] organized meetings between the Ngoma sector and Mpembe. The Bourgemestre would go from sector to sector or other centres where alot of people could be found and say that if a Tutsi was found in a Hutus house both would be killed....He also said anyone hiding Tutsis should be brought to the meeting immediately and killed.

I myself had a problem with this. I had hid 4 Tutsis in my house. Some people came to my house at midnight and I was beaten with a Cudgel.

II - 2: During this time I saw Kayishema's car passing through the communes. I also saw the bourgemestre of Gishyita Sikubwabo and RUZINDA at a checkpoint near my house. They passed by nearly every day and gave instructions to the commune police at the checkpoint at Gataka. I heard SIKUBWABO say to the soldiers to kill all Tutsis and Hutu women married to Tutsis....Every time SIKUBWABO came to the checkpoint he issued instructions to the people there to kill Tutsis and those in interethnic marriages.

On the radio RTLM, at the end of May I heard SIKUBWABO say to the president that he had almost finished cleaning the area but were running out of ammunition and needed more equipment.

II (complement) 4: I know Ruzindana and Sikumwabo were responsible for the checkpoint because when something went wrong at the checkpoint they would beat the people at the checkpoint themselves.

Evidence of the intent of **Aloys Ndimbati**. (Charged with the massacres at Bisesero).

The actions of **Aloys Ndimbati**, which are documented in the section of the supporting documentation dealing with the massacres at Bisesero, evidence that **Aloys Ndimbati** acted with the intent to destroy in whole or part members of the Tutsi ethnical or racial group.

Evidence of the intent of **Ryandikayo** (Charged with the massacre at the Church in Mubuga).

The actions of **Ryandikayo**, which are documented in the section of the supporting documentation dealing with the massacre at the Church in Mubuga, combined with the following excerpts from witness testimony, evidence that **Ryandikayo** acted with the intent to destroy in whole or part members of the Tutsi ethnical or racial group.

H - 2, 4: Then a person named RYANNKAYO [Ryandikayo] brought a letter from the Bourgemestre SIKUBWABO. The letter was given to a person NTAKIYIMANA - business friend of the courier. The letter directed HUTUS to separate from TUTSIS - or be killed with them....It became clear at this point that there was no longer greedy people looting the property of neighbors with the excuse of war. It was clear that the TUTSIS were being considered accomplices of the rebel force the RPF and therefore the enemy.

Gendarmes were guarding the Church. One gendarme warned the Tutsis that he could do nothing and that they would be attacked.

H (complement) - 2: On Tuesday the 12th the invaders brought rifles and the letter from SIKUBWABO that I told you about. At this point we realized that we were no longer fighting thieves and robbers; we were fighting an organized war with the government - this was my impression and that of my neighbor. NTAKIYIMANA, our Hutu neighbor, met the messenger from SIKUBWABO. He read a letter and discussed with messenger, RYANDIKAYO and returned to us. He explained the message and the letter. He said that the letter from SIKUBWABO endorsed the Prefect Kayishema's instructions and permission the execute the separation of Hutus and Tutsis in Murangara. On the 12th, after the message to separate, the weaker Tutsis were caught and killed....We went to the Church [in Mubuga] because during previous times of trouble, we tutsis were safe in churches....Interahamwe and civilians sang songs of the extermination of Tutsis.

Evidence of the intent of **Obed Ruzindana** (Charged for massacres at Bisesero).

The actions of **Obed Ruzindana**, which are documented in the section of the supporting documentation dealing with the massacres at Bisesero, combined with the following excerpts from witness testimony evidence that **Obed Ruzindana** acted with the intent to destroy in whole or part members of the Tutsi ethnical or racial group.

II - 2: During this time I saw Kayishema's car passing through the communes. I also saw the bourgemestre of Gishyita Sikubwabo and RUZINDA [Ruzindana] at a checkpoint near my house. They passed by nearly every day and gave instructions to the commune police at the checkpoint at Gataka. I heard SIKUBWABO say to the soldiers to kill all Tutsis and Hutus women married to Tutsis....Every time SIKUBWABO came to the checkpoint he issued instruction to the people there to kill Tutsis and those in interethnic marriages.

II (complement) 4: I know Ruzindana and Sikumwabo were responsible for the checkpoint because when something went wrong at the checkpoint they would beat the people at the checkpoint themselves.

Evidence of the intent of **Muhimana Mika** (Charged for massacres at Bisesero).

The actions of **Muhimana Mika**, which are documented in the section of the supporting documentation dealing with the massacres in the area of Bisesero, combined with the following excerpts from witness testimony, evidence that Muhimana Mika acted with the intent to destroy in whole or part members of the Tutsi ethnical or racial group.

LL - 1, 2: *[Before the war, did you notice any unusual activity in the commune?]*

I noticed meetings held at the counsellor's house near my home. MUHIMANA, Mika is the name of the Counsellor. I heard that he was conducting some training in the coffee plantation under the guise of a coffee cooperative. I believe it was Interahamwe. The training was funded by RUZINDANDA, Obed. I was RUZINDANA's friend and in fact the best man at his wedding. My brother told me he witnessed RUZINDANA giving money to MUHIMANA to do the thing.

Nearly every day [at Bisesero] I saw the bourgemestre SIKUBWABO, RUZINDANA and MIKA all armed and fighting.

H - 1: Heard of secret training going on at the former Bourgemestre office, supervised by a councilor named MIKA (sector Gishyita). The Bourgemestre was leading the training effort - and was the Military himself - in the FAR as an adjutant....First heard of this military training in October 1993, in the bars from the persons being trained. The recruit were young strong men from the country side who would drink in the bars and brag about being trained to be Interehamwe (MRND).

Evidence of intent of **Vincent Rutaganira** (Charged for massacre at the Church in Mubuga).

The actions of **Vincent Rutaganira**, which are documented in the section of the supporting documentation dealing with the massacre at the Church in Mubuga, evidence that **Vincent Rutaganira** acted with the intent to destroy in whole or part members of the Tutsi ethnical or racial group.

PARAGRAPH 17:

In each paragraph charging crimes against humanity, crimes recognized by Article 3 of the Tribunal Statute, the alleged acts or omissions were part of a widespread or systematic attack against a civilian population on political, ethnic or racial grounds.

There is both direct and circumstantial evidence of the fact that the crimes against humanity that are alleged in this indictment were in fact part of a widespread and systematic attack against a civilian population on political, ethnic or racial grounds in Kibuye.

- (a) Witness statements for each of the 4 massacres sites.

The supporting documentation for each of the four massacres sites evidence the fact that the attacks were part of a widespread or systematic attack against a civilian population on political, ethnic or racial grounds. Evidence of this contained in the witness statements includes, but is not limited to, several of the accused being reported as saying that all Tutsis had to be killed. The paragraphs of the supporting documentation that evidence the widespread or systematic nature of the attack against a civilian population on political, ethnic or racial grounds are:

- (1) For the Massacre at the Catholic Church and Home St. Jean Complex see paragraphs 36 - 42 and its supporting documentation.
- (2) For the Massacre at the Stadium see paragraphs 43 - 49 and its supporting documentation.
- (3) For the Massacre at the Church at Mubuga see paragraphs 50 - 55 and its supporting documentation.
- (4) For the Massacres at Bisesero see paragraphs 56 - 61 and its supporting documentation.

(b) Additionally, ten massacre sites located in Kibuye Prefecture are documented on pages 394 - 455 of the book Rwanda Death, Despair and Defiance. (African Rights, Rwanda Death, Despair and Defiance, August, 1995). For each of the ten massacre sites, the book documents the fact that men, women and children were targeted because they were members of the Tutsi political, ethnic or racial group. The massacres with which this indictment is concerned are part of this widespread or systematic attack that occurred in the Prefecture of Kibuye.

PARAGRAPH 18

At all times relevant to this indictment, the victims referred to in this indictment were protected under Article 3 common to the Geneva Conventions and by Additional Protocol II thereto.

Civilian nature of victims as shown by witness statements.

PARAGRAPH 19

At all times relevant to this indictment, there was an internal armed conflict occurring within Rwanda.

UN Document E/Cn.4/1995/7, 28 June 1994, Report on the situation of human rights in Rwanda submitted by Mr. R. Degi-Segui, Special Rapporteur - page 5, 17: The death of President Juvenal Habyarimana [on 6 April 1994] was the spark to the powder keg which set off the massacre of civilians. The next day, fighting resumed between the Government forces and the FPR [Rwandan Patriotic Front].

The United Nations should: Demand that the parties to the conflict put an immediate end to the war....

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PARAGRAPH 20

At all times relevant to this indictment, Clement Kayishema was Prefect of Kibuye and exercised control over the prefecture of Kibuye, including his subordinates in the executive branch and members of the gendarmerie nationale.

The Rwandan laws which describe the power of the Prefect, delineated in the supporting documentation at paragraphs 7 and 8, evidence the authority which Clement Kayishema had while he was Prefect of Kibuye.

In addition, as evidenced in witness statements, throughout the time period of which this indictment is concerned, Clement Kayishema regularly called meetings attended by the general population, meet with and gave orders to his subordinates, meet with and gave orders to the gendarmerie nationale, etc. This is evidenced in the paragraphs of supporting documents for the charges. Further, below are excerpts from witness statements that highlight some of the times when Clement Kayishema exercised control.

(a) Evidence of Control of Kayishema in general.

B - 1: [Did he [Clement Kayishema] have, from April to July 1994, frequent contact with the burgomasters?]

Yes, he had commandeered vehicles for the meetings. The Prefect told the burgomasters what they had to do....I can add that a meeting took place, at the request of Kayishema, gathering all staff of the prefecture. It was held after the massacres and shortly before he went.

D - 3: [Was Kayishema in charge during the events?]

Yes. For instance it was him who led the session in which was participating the German Consul.

E - 1: About the 13 April 1994 I went with...to the Prefect Clement Kayishema to ask for protection for the Home St. Jean....he rebuked me because I did not first approach the bourgmestre....The second time I saw the Prefect Clement Kayishema was the day of my departure. As the militiamen had stole my papers, the Prefect established a Laissez-passer, making it possible for me to go to Gitarama....There were roadblocks on the way, but we could pass without any problem because of the laissez passer of the Prefect.

F - 1: Monday April 11, 1994...rang the Prefect, Dr. Clement Kayishema to send soldiers. She was told that it was none of our business and we had to leave the area.

J - 6: I personally spoke with Dr. Kayishema on 13, 14, and 15 April about the situation of the lack of security in the hospital. I asked Dr. Kayishema to provided security for the hospital.

XX - 1: On the 14th, the official in charge of Security and the official fro Immigration came on behalf of the Prefect. We were told that we could remain \, as could the students and members of the staff whose names were appear on a list signed by the Prefect....Aunt Emma wasn't doing very well. She asked the Prefect to allow her to be evacuated. Her request was granted....On 3 May 1994, The Prime Minister Jean Kambanda arrived in KIBUYE. The Prefect spoke...the Prime Minister advocated a return to peace....He expressed his support for what the Prefect had done....On 16 May

the President arrived by helicopter with the Minister of Justice and a deputy from the Region. All the bourgmestres of the neighboring communes were there. The Prefect again started a speech and indicated that calm had returned to Kibuye.

(b) Evidence of control of Kayishema over Gendarmerie Nationale.

C - 1: I was outside of the commune office in the evening with my sister...when the Prefect Kayishema arrived with some gendarmes....

E: About the 13 April 1994 I went....to the Prefect Clement Kayishema to ask for protection for the Home St. Jean. The Prefect was with the commander of the gendarmerie....he told the priest that security was guaranteed at the stadium, that he had no more gendarmes to provide security elsewhere.

E (complement): Kayishema was the one who chose the three gendarmes to actually go with the journalist from ORINFOR and I was able to take advantage of the trip.

S - 2: Every 2 days Kayishema came to the church....The Prefect brought gendarmes to the church. The gendarmes would not permit anyone to leave....The Gendarmes were brought by Kayishema on April 10

RR - 2: The gendarmes told me and others nearby that he (Kayishema) sent them to fight the resistors from Rubengera.

PARAGRAPH 21

At all time times relevant to this indictment, Aloys Ndimbati was the Bourgmestre of Gisovu Commune, Charles Sikubwabo was the Bourgmestre of Gishyita Commune, and Ignace Bagilishema was the Bourgmestre of Mabanza Commune. Each exercised control over his respective commune, including his subordinates in the executive branch and members of the police communale and gendarmerie nationale.

The Rwandan laws which describe the power of the bourgmestre, delineated in the supporting documentation at paragraph 8, evidence the authority which Aloys Ndimbati, Charles Sikubwabo and Ignace Bagilishema had while they were bourgmestres of their respective communes.

In addition, many of the witness statements show that each bourgmestre was in control in his commune.

For the statements that evidence the control of Charles Sikubwabo, see the supporting documentation for the charges relating to the massacre at the Church in Mubuga, paragraphs. 50 - 55.

For the statements that evidence the control of Ignace Bagilishema, see the supporting documents for the charges relating to the massacre at the Stadium and at the Home St. Jean and Catholic Church Complex, paragraphs 36 - 49.

For the statements that evidence the control of Aloys Ndimbati, see the supporting documentation for the charges relating to the massacres at Bisesero, paragraphs 56 - 61.

PARAGRAPH 22

Each of the accused is individually responsible for the crimes alleged against him in this indictment, pursuant to Article 6(1) of the Tribunal Statute. Individual responsibility includes planning, instigating, ordering, committing or otherwise aiding and abetting in the planning, preparation or execution of any of the crimes referred to in Articles 2 to 4 of the Tribunal Statute.

Tribunal Statute Article 6(1).

PARAGRAPH 23

In addition, Clement Kayishema, Aloys Ndimbati, and Charles Sikubwabo are also or alternatively individually responsible as superiors for the criminal acts of their subordinates in the administration, gendarmerie nationale, and communal police with respect to each of the crimes charged, pursuant to Article 6(3) of the Tribunal Statute. Superior individual responsibility is the responsibility of a superior for the acts of his subordinate if he knew or had reason to know that his subordinate was about to commit such criminal acts or had done so and failed to take necessary and reasonable measures to prevent such acts, or to punish the perpetrators thereof.

Tribunal Statute Article 6(3)

The Accused

PARAGRAPH 24:

Clement Kayishema was born in 1954 in Bwishyura Sector, Gitesi Commune, Kibuye Prefecture, Rwanda. Kayishema's father was Jean Nayigiziki, and his mother was Catherine Nyiramaronko. He was appointed to the position of Prefect of Kibuye on July 3, 1992, and assumed his responsibilities as Prefect soon after. Clement Kayishema acted as Prefect of Kibuye until his departure to Zaire in July 1994. He is believed to be currently in Bukavu, Zaire.

B (2nd complement) - 1: He was born in 1954. He was born here, in the Bwishivra sector....He has been nominated on 3 July 1992 and took up his post a few days after the passation of duties of the one he was replacing.

PARAGRAPH 25:

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 Bourgemestre of Mabanza Commune on February 8, 1980. Bagilishema acted as Bourgemestre until the end of July 1994. He is believed to be currently in Zambia.

C - 1: *The bourgemestre Bagirishema [Bagilishema], Ignace....*

Organizational Document of Kibuye Prefecture.

PARAGRAPH 26:

Charles Sikubwabo is believed to have been born in the early to mid-1940s in Gishyita Sector, Gishyita Commune, Kibuye Prefecture, Rwanda. Sikubwabo's father was Ferdinand Seburikoko. Charles Sikubwabo was appointed as Bourgemestre of Gishyita Commune in 1993. Before this appointment, Sikubwabo was a Chief Adjutant in the Armed Forces of Rwanda. Charles Sikubwabo acted as Bourgemestre until the end of July 1994. He is believed to be currently in Bukavu, Zaire.

B (2nd complement) - 2: Charles Sikubwabo [was the bourgemestre of Gishyita].

Organizational Document of Kibuye Prefecture.

PARAGRAPH 27:

Aloys Ndimbati is believed to have been born in the early to mid-1950s in Gitabura Sector, Gisovu Commune, Kibuye Prefecture, Rwanda. Aloys Ndimbati was appointed as Bourgemestre of Gisovu Commune in 1990. Aloys Ndimbati acted as Bourgemestre until the end of July 1994. He is believed to be currently in Zaire.

B (2nd complement) - 2: Aloys Ndimbati [was the bourgemestre of Gisovu].

Organizational Document of Kibuye Prefecture.

PARAGRAPH 28:

Vincent Rutaganira is believed to have been born in the early 1940s in Mubuga Sector, Gishyita Commune, Kibuye Prefecture, Rwanda. Rutaganira's father was Telesphore Bulimwinyundo, and his mother was Saverine Nyiramakuta. Vincent Rutaganira was elected as Counselor of Mubuga Sector, Gishyita Commune in 1980. Vincent Rutaganira acted as Counselor until the end of July 1994. He is believed to be currently in Bukavu or on Ijwi Island, Zaire.

HH - 2: the counsellor Rutaganira, Vincent.

African Rights, Rwanda Death, Despair and Defiance, August, 1995, page 669
Vincent Rutaganira, the former councillor of Mubuga.

PARAGRAPH 29:

Mika Muhimana is believed to have been born around 1950 in Gishyita Sector, Gishyita Commune, Kibuye Prefecture, Rwanda. Muhimana's father was Manasse

Ntamakemwa, and his mother was Tamar Mukamugema. Mika Muhimana was elected as Counsellor of Gishyita Sector, Gishyita Commune in 1988. Before his election, Mika Muhimana was a commercial trader. Mika Muhimana acted as Counselor until the end of July 1994. He is believed to be currently somewhere in Zaire.

QQ: Mika, councillor for the Gishyita.

African Rights, Rwanda Death, Despair and Defiance, August, 1995, page 669
Mika Muhimana, former councillor of Gishyita.

PARAGRAPH 30:

Ryandikayo has no first name. He is believed to have been born around 1961 in Musenyi Sector, Gishyita Commune, Kibuye Prefecture, Rwanda. Ryandikayo's father was Rwuma (no first name), and his mother was Nyirabukeye (no first name). Ryandikayo was the manager of a restaurant in Mubuga Sector, Gishyita Commune during the time period in which the crimes alleged in this indictment occurred. He is believed to be currently somewhere in Zaire.

PARAGRAPH 31:

Obed Ruzindana is believed to have been born around 1959 in Gisovu Sector, Gisovu Commune, Kibuye Prefecture, Rwanda. Ruzindana's father was Elie Murakaza. Obed Ruzindana was a commercial trader in Kigali and in Rwamatamu Commune, Kibuye Prefecture during the time period in which the crimes alleged in this indictment occurred. He is believed to be currently somewhere in Zaire.

African Rights, Rwanda Death, Despair and Defiance, August, 1995, page 669
Obed Ruzindana, a businessman from Rwamatamu.

CHARGES

THE AGREEMENT TO KILL ALL THE TUTSIS

COUNT 1

PARAGRAPH 32:

On or about 9 April 1994, a meeting took place at the Prefect's office in Kibuye Town, Kibuye Prefecture. The people who were present at this meeting included, but were not limited to, Clement Kayishema, the Prefect of Kibuye; Ignace Bagilishema, the Bourgemestre of Mabanza Commune; Charles Sikubwabo, the

Bourgemestre of Gishyita Commune and Aloys Ndimbati, the Bourgemestre of Gisovu Commune. During the course of this meeting, Clement Kayishema, Ignace Bagilishema, Charles Sikubwabo, and Aloys Ndimbati agreed with each other that they would act together to kill all of the Tutsis in Kibuye Prefecture.

B - 2: [Did he have, from April to July 1994, frequent contacts with the bourgemestres?] Yes, he [Kayishema] had commandeered vehicles for the meetings. The prefect told the bourgemestres what they had to do. In particular, he asked them to disseminate information.... The sub-prefect from the Birambo sub-prefecture, Anacret Rudakubana has also been very active. I have personally heard Kayishema chatting on the doorstep with this sub-prefect: the latter was saying that it was finished in his sub-prefecture and asked why it was not in the other parts.

O -1, 2: The Prefect of Kibuye Mr. Clement Kayishema called for a meeting at the 9 April. Present in this meeting was all of the Prefecture's Bourgemestre, except Mr. Furere Abel Bourgemestre of Rwamatamu, who was in Kigali at that time.

The day after (10 April) I saw a lot of Tutsi houses put on fire, and I saw people attacking the houses by throwing stones.

O (complement) 1: I was told by some Tutsi friends who worked at the Prefect's office that the meeting took place there.

BB- 4: Prior to the massacres at the stadium and the church I saw the bourgemestres of other communes in Gitesi. I suspect they were meeting with the prefect. I saw the Gishyita, Gisovu and Kivumu bourgemestres.

PARAGRAPH 33:

At various times after about 9 April 1994, Ryandikayo, Obed Ruzindana, Vincent Rutaganira and Mika Muhimana joined the agreement, reached on or about 9 April 1994, to kill all of the Tutsis in Kibuye Prefecture. Each of these four accused joined this agreement before he participated in the crimes for which he is charged in other parts of this indictment.

Ryandikayo and Obed Ruzindana

H - 5: The Civilians leading the attack on the church were the courier - Ryandikayo.....and Rutaganira, Vincent (former counsieller Mubuga).

H (complement) - 5: Most of the time I was pinned against the wall. I saw Sikubwabo through the windows near a tree. He had a rifle on his shoulder. This was before the shooting started.

S - 3: On Sunday I heard Sikubwabo tell Rutaganiro to go to Kibuye Monday and tell the Prefect to send a bulldozer to enable them to bury the dead because of the smell

S (complement) - 1, 3, 5, 6: On the day the shooting started, SIKUBWABO and RUTAGANIRA, Vincent were present. It was Friday...and I could see them at the front door of the church asking for the number of refugees so they could bring relief.... The

70

shooting started very shortly after that - maybe 5 minutes later. SIKUBWABO was among those shooting. He had an R4 rifle.

Rutaganira came to the church twice a day because he lived very close to it. MUHIRWA came sometimes after 10:00 am. SIKUBWABO came every day also.

The conversation between SIKUBWABO and RUTAGANIRA about getting bulldozers from KAYISHEMA took place inside the church.... On Sunday KAYISHEMA also came to the church about 3 times. I heard him discussing the bulldozer with Vincent later the same day. I recognized that Vincent and SIKUBWABO were talking to the Prefect [KAYISHEMA] because they addressed him as "your excellency" and the voice was familiar....

The conversation on Monday between SIKUBWABO and KAYISHEMA took place inside the church. In addition to KAYISHEMA saying he hope there were no survivors and that the work has been done, as I said in my first statement, I heard him say "if you do as well in Bisesero as you did here you will have done well." He was thanking him. I heard SIKUBWABO say he hoped he had carried out the job and finished it.

Y - 2: The next day, the 18th, Sikubwabo, the Counselor Vincent, and Ryandikayo came with one bus of Interahamwe and Military.... The Bourgemestre then instructed the Interahamwe/Military group to attack and kill the person outside the church - then the people inside. Sikubwabo and Vincent remained outside with guns while Ryandikayo went inside to kill with machete.

PP - 2: On the morning of the 13th, the church was attacked by military and Interahamwe and traders. There was no protection for the church. There I recognizedRyandikayo....

PP (complement) - 1, 2: I spent the nights of April 12th and 13th at the church in Mubuga. On the morning of the 14th, Thursday, the church was attacked.

I recognized Andre Munyantwari, Ryandikayo and Ndabaqiriye, Charles among the attackers because they were all well known businessmen.... I saw Sikubwabo with the counsellor Vincent on the day of the shooting after the attack.

Vincent Rutaganira and Mika Muhimana

H - 3: At Bisesero during the fighting, I saw the leaders Sikubwabo; Mika; Ruzindana, Obeti (Business leader); and Nitegeka, Iagizi (Deputy from Kigali); and Kananira (Former Bourgemestre Assistant).

N - 4: I saw the Bourgemestres of Gishyita (Sindikubwayo) [Sikubwabo] and Gisovu [Ndimbatij] coming into the hills of Bisesero to kill people.

P - 4: In June....[s]omebody asked if it was necessary to go on going to Bisesero; he [Kayishema] answered that he would tell them when to stop going there.

S - 3: While I was there [Bisesero] I saw Kayishema twice a week and Sikubwabo about every day. They were with Interahamwe. I saw Kayishema with a rifle. He did not chase people but he supervised. I could not hear him but I could see him gesturing and pointing directions to people. I saw Sikubwabo fighting in the open and shooting at people with other soldiers very often.... Kayishema and Sikubwabo brought 3 buses of people dressed in white or banana leaves to do the killing.... I saw Ruzindana driving

people to kill in Bisesero. He drove a white Daihatsu van. Ruzindana was well known in the area.

U - 1 to 2: I saw the Bourgemestre burning the first home and leading the attack in Bisesero. . . . I saw a business man, named Mr. Ruzindana, Obedi, leading the attacks and shooting at the same time at people....

Y - 3: While fighting everyday [at Bisesero] I saw Sikubwabo at the battle site with a gun....Sikubwabo was always with and leading the Interehamwe.

GG - 1 to 2, 3, 4: After 7 April 1994 I saw him [Kayishema] for the first time on the 13 May, when he came in a car, together with 3 other cars to the Bisesero area. Kayishema was in the third car and the cars were filled up with soldiers and Interehamwe. It seemed that Kayishema was the leader. They met the Bourgemestre of Gisovu {Ndimbatij} at the same place....They started shooting the people (Tutsis) nearest them, and the people who did not die immediately, were killed by the Interehamwe using their machetes.

HH - 2: I think [the fighting started] around April 10....The people on the bus had guns, cudgels, sharpened bamboo. At first they wore white clothes and it was hard to tell whether it was military or civilian.... I saw RUZINDANA, Mika, SIKUBWABO, the counsellor RUTAGINARA Vincent, KARIBANO, and SENANI (a miner) leading the attacks. Mika, SIKUBWABO, KARIBANA and RUZINDANA were all shooting at people. RUZINDANA provided transport. I could see them from the hill.

JJ - 1 to 2: I have not seen the prefect, but I have seen the bourgemestres of Gishyita and Gisovu. The former I saw shooting people with a gun, as did the others who had guns, policemen or military....Otherwise those in possession of machetes were the ones to do the killing. As for the bourgemestre of Gisovu, I saw him driving a light truck loaded with Interehamwe and policemen, also in Bisesero.... There have been more than 10 000 dead in Bisesero.

LL - 2,3: Nearly every day I saw the bourgemestre Sikubwabo, Ruzindana and Mika, all armed and fighting....Ruzindana drove my van every day carrying peasants armed with pangas and cudgels.

QQ: I have personally seen the Gisovu bourgemestre, Ndambati, in the car of the commune. He was wearing a hand gun. I have also seen with my own eyes five persons who were organizing the massacres, and who, coming from different locations, met in Bisesero. These people I saw several times during the whole period. They were: Kayishema, prefect of Kibuye; Ruzindana, Obedi, who often was with the prefect; Sikubwabo, Gishyita bourgemestre; Mika, councillor for the Gishyita; Nyakana, councillor for the Twumba sector, Gisovu commune....I think of other people: Rutaganira Vincent, councillor of Mobuga sector / Gishyita commune; Muhirwa, councillor of Musenyi sector / Gishyita commune.

PARAGRAPH 34:

In furtherance of the aims of this agreement, between about 9 April 1994 and about 30 June 1994, the above-named individuals murdered and assisted in the murder of Tutsis throughout Kibuye Prefecture. The massacres which resulted

from this agreement include, among others, the four which form the basis for Counts 2 through 25 of this indictment.

Evidence supporting charges below.

PARAGRAPH 35

By these actions, Clement Kayishema, Ignace Bagilishema, Charles Sikubwabo, Aloys Ndimbati Vincent Rutaginira, Mika Muhimana, Ryandikayo and Obed Ruzindana are criminally responsible for:

Count 1: CONSPIRACY TO COMMIT GENOCIDE, a violation of Article 2(3)(b) of the Tribunal Statute.

THE MASSACRE AT THE CATHOLIC CHURCH AND HOME ST. JEAN COMPLEX

COUNTS 2 - 7

PARAGRAPH 36

By about 17 April 1994, thousands of men, women and children from various locations had sought refuge in the Catholic Church and Home St. Jean complex (the Complex) located in Kibuye town.

UU - 2: The church was absolutely full, and a lot of people were around the building. On the 15th ...the priest made a census for food distribution. He counted 8,200 people, in the church only (so, without taking the Home Saint-Jean into account).

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.

O - 3: On the 11th of April in the morning I saw the first people arriving Kibuye from the different communes around. I later learned that massacres had already started in the mountains around Kibuye and the different Bourgemestres told the people to go to Kibuye and take protection...the people who arrived did not have any weapons as far as I could see....

W - 1: Hutus started burning and looting Tutsi houses and Tutsis were seeking refuge in the Church, Home St. Jean, and the Stadium.

BB - 1: On 12 April some street children started throwing stones at Tutsi houses and looting....The same day Tutsis began to seek refuge in the church and the stadium. Gendarmes at the doors of the church and the stadium disarmed the Tutsis as they entered the premises. I saw this when I went out of my house to see what was going on.

CC - 1: Tutsi people from here and neighboring communes began to congregate in churches and in the stadium....

NN - 3: Dr. Clement Kayishema explained that at various places he told Tutsis to go to Kibuye for their own safety or to stay at home.

UU - 2: Whole families were gathered there. So there were a lot of women and even more children. Almost all the people were Tutsi, but at the beginning, there were also a few Hutus, who had also found shelter because they thought there was a war. Most of them came back home later. I only know one Hutu, whose wife was a Tutsi, who did not want to leave his family, and thus, who was killed....on the 16th, around 11 o'clock, a group of about 100 people, Hutus, coming from elsewhere, arrived from the roundabout, carrying machetes, clubs, spears and pruning knives. The refugees pushed them back by throwing stones.

PARAGRAPH 37

Some of the people who sought refuge in the Complex did so because Ignace Bagilishema ordered them to go there, while others did so because Clement Kayishema ordered them to go there.

C - 1: I was outside of the commune office in the evening with my sister...when the Prefect Kayishema arrived with some gendarmes....I was standing by the window of the bourgemestre's office and could hear what was being said within. The bourgemestre Bagilishema, Ignace, the Prefect, and 3 gendarmes were at the meeting. The Prefect told the bourgemestre that he had come with the Gendarmes to kill the refugees. The bourgemestre responded that the population of refugees was too large and that there was not enough space in the commune buildings for all the refugees. If the killing was done here the commune buildings would be damaged. He (the bourgemestre) suggested that the refugees be brought to Kibuye. The Prefect told the bourgemestre to send the refugees to Kibuye the next morning.

O - 3: On the 11th of April in the morning I saw the first people arriving Kibuye from different communes....The first people who arrived were told by the Prefect, who was standing at the roundabout in the center, to go to the church, close to Home St. Jean....

R - 2: [Between 9 and 11 April] I heard Mr. Kayishema told the people to leave the commune center and go to Kibuye. This because the place was too small and the people would be protected in Kibuye. We were told to go directly to the Stadium, and join other people from other areas. The Bourgemestre agreed to what Kayishema said, and added that it would be wiser to go to Kibuye since the Prefect told them to.

W - 4: We followed the urgings of the Mabanza Bourgemestre [Ignace Bagilishema] to go to the Church and stadium in Kibuye.

EE - 2: As refugees came into Mabanza, the bourgemestre [Ignace Bagilishema] told them to go to Kibuye for their safety. I heard this from Albertine and others.

NN - 3: Dr. Clement Kayishema explained that at various places he told Tutsis to go to Kibuye for their own safety or to stay at home.

UU - 1: Then we headed to the roundabout. There, the gendarmes told us to go either to the Stadium, or to the church.

When Clement Kayishema and Ignace Bagilishema ordered people to the Complex, both of them knew or had reason to know that an attack on the Complex was going to occur.

C - 1: I was outside of the commune office in the evening with my sister....when the Prefect Kayishema arrived with some gendarmes....I was standing by the window of the bourgemestre's office and could hear what was being said within. The bourgemestre Bagilishema, Ignace, the Prefect, and 3 gendarmes were at the meeting. The Prefect told the bourgemestre that he had come with the Gendarmes to kill the refugees. The bourgemestre responded that the population of refugees was too large and that there was not enough space in the commune buildings for all the refugees. If the killing was done here the commune buildings would be damaged. He (the bourgemestre) suggested that the refugees be brought to Kibuye. The Prefect told the bourgemestre to send the refugees to Kibuye the next morning.

E: About the 13 April 1994 I went with....to the Prefect Clement Kayishema to ask for protection for the Homes St. Jean.

P - 3: On Friday the 15th, there was a massacre on one of Kibuye Hill, Nyamishaba....I understood that the next step would be the church....I was explained that the people with going towards the church, incited by Emmanuel, member of the select security counsel and real right hand of Kayishema....I then saw Emmanuel at the roundabout, at the entrance of the town, who channeled armed people towards the church

KK - 1 (self-authored statement at "2nd statement"): The day before the Genocide in the church and the stadium, I drove Kayishema from his home to the city. When we got there we met....we were told that the former Bourgemestre of Gitesi....had refused to kill the Inyenzi at the church and the stadium. He [Kayishema] told them to go and kill at the stadium and at the church and that if Karara [the former bourgemestre of Gitesi] continued, he should be put there to be murdered with them.

PARAGRAPH 38

After people gathered in the Complex, the Complex was surrounded by persons under Clement Kayishema's control, including members of the gendarmerie nationale. These persons prevented the men women and children within the Complex from leaving the Complex at a time when Clement Kayishema knew or had reason to know that an attack on the Complex was going to occur.

W - 4: All around the Stadium and the Church area and Kibuye itself there were checkpoint or gate to control us - to keep us where we were.

UU - 3: At 10 am, about 400 people arrived, taking position around the church, surrounding us completely and eliminating any possibility of escape.

PARAGRAPH 39

On about 17 April 1994, Clement Kayishema ordered members of the gendarmerie nationale, communal police of Gitesi Commune, Interahamwe and armed civilians to attack the Complex, and personally participated in the attack.

KK - 1 (self-authored statement at "2nd statement"): The day before the Genocide in the church and the stadium, I drove Kayishema from his home to the city. When we got there we met....we were told that the former Bourgemestre of Gitesi had refused to kill the Inyenzi at the church and the stadium. He told them to go and kill at the stadium and at the church and that if Karara [the former bourgemestre of Gitesi] continued, he should be put there to be murdered with them.

OO: First the Interahamwe attacked with machete. Then the Prefect KAYISHEMA arrived by car (one could see that it was an official car). I saw him, less than 10 meters from me. As from his arrival, the gendarmes fired. I don't know how many there were. They came by car with him. I did not hear the prefect give the orders, but I saw him doing it.

The attackers used guns, grenades, machetes, spears, cudgels and other weapons to kill the people in the Complex.

W - 3: I met these people and we went to the Home St. Jean. The attack started on the 17th.

CC - 2: On Saturday or Sunday, April 17, I saw that a military barracks on a hill above the Home St. Jean had pointed gun trucks at the church (Home St. Jean). From my house I saw people running from the Church and being shot at and cut with Machetes. I saw armed men chasing people. Cars of killers came from Rutsiro commune.

O - 4: The Interahamwe came with machine guns and killed a lot of people.

UU - 3 to 4: At 10 am about 400 people arrived, taking position around the church, surrounding completely and eliminating any possibility of escape. There were civilian Hutu, military and members of the militia. Hutu were carrying traditional weapon....The military or rather the gendarmes, were equipped with guns and wore uniforms....Members of the militia had MRND caps, red, green or black. Some did not wear any. Most of them were youth from the region....I saw all those people coming and when the attack began, around 10:30, I took refuge in the church. [after the attack] I hid in the church under corpses. A lot of them died on the first day because of grenades that had been thrown through the windows. Everyday, they came to kill them with machetes.

PARAGRAPH 40

The attack resulted in thousands of deaths and numerous injuries to the people within the Complex (Attachment A contains a list of some of the individuals killed in the attack). During the two weeks following the attack, the gendarmerie of Kibuye Prefecture, Interahamwe and armed civilians searched for and killed injured survivors of the attack.

NN - 1: At the St Jean massacre site the church had been already cleaned, however, there were bloodstains on the walls and hand imprints on the walls. Outside the church there was an outhouse that had been forced open and there were remnants of bodies inside and outside the outhouse. There was a banana plantation near the church that went down to the lake. There were many bodies of children and women in the fields of this plantation. There was also a recently dug mass grave behind the church.

UU - 1, 2: The church was absolutely full, and a lot of people were around the building. On the 15th...the priest made a census for food distribution. He counted 8,200 people in the church only.

[After the massacre] I hid in the church, under corpses. A lot of them died on the first day because of grenades....I remained like this, under the corpses, until Sunday, two weeks later. During the night, survivors would go to the lake to drink and get water for the injured people....When one started to take the corpses out, we were afraid to be discovered....I think that more than 8,000 people died in the church, because I have never seen anybody again....

J - 11: I asked questions about the 72 survivors of the massacre at Home St. Jean. Many of these survivors were children and they were at the hospital....When I went back to the hospital at approximately 4:00 pm, I found out that the survivors were not in the hospital anymore and that all of the survivors had been murdered and buried.

PARAGRAPH 41

Before the attack on the Complex Clement Kayishema did not take measures to prevent an attack, and after the attack Clement Kayishema did not punish the perpetrators.

E: About the 13 April 1994, I went with...the priest Boniface Senyenzi to see the Prefect Clement Kayishema to ask for protection for the Home St. Jean. The Prefect was with the commander of the gendarmerie....On this occasion he told the priest that security was guaranteed at the stadium, that he had no more gendarmes to provide security elsewhere. The commander of the gendarmerie whispered to us that we could advise the people to flee.

J - 10: No. Never [at any of these meetings was apprehension and punishment of the perpetrators of the massacres discussed].

K - 2: Kayishema then also said that one had not to speak about the massacres and the pits, that what happened had to be hidden....That was the essential part of what Kayishema said, meaning to hide what had happened.

P - 5: In June....he [Kayishema] ordered me to gather the population in the stadium where he held a speech lacking in consistency. Outside the country, they started to talk about genocide. He stated that, no doubt, people would be asking them where went the Tutsi and that they should answer that they did not know, that it could be in Zaire.

V - 1: Besides, I have participated in a meeting called by the Prefect. It was about putting everything back in place, to clear out everything before the arrival of an important member of the government....Kayishema asked the population to clean the squares, especially the stadium and the church....Some people asked questions regarding the present situation. Kayishema answered that if anybody asked where were the Tutsi, one had to say that they were gone, and he added that if anyone admitted that they were dead, "he would be responsible for what he had said", which meant that he would be killed.

BB - 2, 3: During this time the Prefect never made any statements to discourage the violence. The prefect tried to justify the massacres at a meeting held at a playground in late May by saying the Hutus were angry about the President's death. His speech suggested it was a good idea to hide the bodies before the foreign journalists began to investigate. He seemed to indicate killing was okay but just to hide the bodies. The prefect organized mass burials shortly thereafter. I saw the prefect doing this organization and paying those doing the burying work.

NN - 4:Dr. Clement Kayishema explained that I must understand that every Tutsi had a gun or a grenade, and he estimated that for Kibuye alone there were 40,000 armed Tutsis to attack Hutus in Kibuye and that these Tutsis were part of the RPF plan to take over the country. [He] explained that the fighting in Kibuye town was a civil war and that the battles lasted three days....Dr. Clement Kayishema explained that all of the deaths were the result of this civil war....At some point I mentioned that there were many women and children killed. Dr. Clement Kayishema responded that women and children were also RPF fighters.

RR - 5: It is important to recognize that the people followed authority. The Bourgemestre followed the Prefect's orders and the people followed the Bourgemestre. If the administration had taken appropriate action, nothing would have happened. Our leaders did nothing - not even the first steps of telling people not to kill.

Note: The massacre at the Complex is also discussed in *Rwanda Death, Despair and Defiance*, at pages 416 - 424 (African Rights, Rwanda Death, Despair and Defiance, August, 1995).

PARAGRAPH 42

By these acts and omissions Clement Kayishema and Ignace Bagilishema are criminally responsible for:

Count 2: GENOCIDE, a violation of Article 2(3)(a) of the Tribunal Statute;

- Count 3: CRIMES AGAINST HUMANITY, a violation of Articles 3(a) (murder) of the Tribunal Statute;
- Count 4: CRIMES AGAINST HUMANITY, a violation of Article 3(b) (extermination) of the Tribunal Statute;
- Count 5: CRIMES AGAINST HUMANITY, a violation of Article 3(i) (other inhumane acts) of the Tribunal Statute;
- Count 6: A VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS, a violation of Article 4(a) of the Tribunal Statute; and
- Count 7: A VIOLATION OF ADDITIONAL PROTOCOL II, a violation of Article 4(a) of the Tribunal Statute.

THE MASSACRE AT THE STADIUM

COUNTS 8 - 13

PARAGRAPH 43

By about 18 April 1994, thousands of men, women and children from various locations had sought refuge in the Stadium located in Kibuye town.

J - 5: There were over 4,000 men, women and children in the stadium

African Rights, Rwanda Death, Despair and Defiance, August, 1995, page 424.

One of the major massacres was in the Gatwaro Stadium. One French Officer, Colonel Patrick Sartre, told Reuters that at least four thousand and five hundred Tutsis, including men, women and children were slaughtered in the Kibuye Stadium on 16 and 17 April. (Quoted in Reuters Dispatch, 14 August 1994). Another, Lt. Col. Eric de Stabentrath, the commander of Gikongoro sector of the "safe zone" spent several weeks in Kibuye investigating the killing. He estimated that there were a minimum of seven thousand corpses in the stadium. (quoting Keith Richburd, "Saving Refugees in Rwanda: Is the Sympathy misplaced?" International Herald Tribune, 9 August 1994).

These men, women and children were unarmed and were predominantly Tutsis.

J - 5: All of the individuals in the stadium were Tutsis.

BB - 1- 2: The same day [12 April] Tutsis began to seek refuge in the church and the stadium....Gendarmes at the doors to the church and the stadium disarmed the Tutsis as they entered the premises.

O - 3 to 4: On the 11 April in the morning I saw the first people arriving Kibuye from the different communes around. I later learned that the massacres had already started in

the mountains around Kibuye and the different Bourgemestres told the people to go to Kibuye and take protection.... The people who arrived did not have any weapons as far as I could see.... The next day the 12 April, people was told to go to the Stadium to get protected. This because the Church was filled.

W-1: Hutus started burning and looting Tutsi houses and Tutsis were seeking refuge in the Church, Home St. Jean, and the Stadium.

They were in the Stadium seeking refuge from attacks on Tutsis which had occurred throughout the Prefecture of Kibuye.

J - 4: In the communes, individuals began going to the bourgemestres for protection. Many individuals walked to the Stadium from these communes.

O - 3 to 4: On the 11 April in the morning I saw the first people arriving Kibuye from the different communes around. I later learned that the massacres had already started in the mountains around Kibuye and the different Bourgemestres told the people to go to Kibuye and take protection.... The people who arrived did not have any weapons as far as I could see.... The next day the 12 April, people was told to go to the Stadium to get protected. This because the Church was filled.

PARAGRAPH 44

Some of the people who sought refuge in the Stadium did so because Clement Kayishema ordered them to go there, while others did so because Ignace Bagilishema ordered them to go there.

C - 2: The next morning [12 April] around 6h00 the bourgemestre came and told the refugees they had move to Kibuye for assistance. He told them to go to the Stadium....

R - 2: [Between 9 and 11 April] I heard Mr. Kayishema told the people to leave the commune center and go to Kibuye. This because the place was too small and the people would be protected in Kibuye. We were told to go directly to the Stadium, and join other people from other areas. The Bourgemestre agreed to what Kayishema said, and added that it would be wiser to go to Kibuye since the Prefect told them to. On the 11 April I went to the stadium and in the following days people continued to come to the stadium.

W - 4: We followed the urgings of the Mabanza Bourgemestre [Ignace Bagilishema] to go to the church and stadium in Kibuye.

EE - 2: As refugees came into Mabanza the bourgemestre told them to go to Kibuye for their safety.

UU - 1: Then we headed to the roundabout. There, the gendarmes told us to go either to the Stadium, or the church.

When Clement Kayishema and Ignace Bagilishema ordered people to go to the Stadium, both of them knew or had reason to know that an attack on the Stadium was going to occur.

C - 1 (In April 11, 1994 after Habyarimana's death (approximately a week afterwards)....it was Monday, near 19h00....The bourgemestre BAGILISHEMA, Ignace, the Prefect and 3 gendarmes were at the meeting. Prefect told the bourgemestre that he had come with the gendarmes to kill the refugees. The bourgemestre responded that the population of refugees was too large and that there was not enough space in the commune buildings for all the refugees. If the killing was done here the commune buildings would be damaged. He suggested that the refugees be brought to Kibuye. The Prefect told the bourgemestre to send the refugees to Kibuye the next morning.

J - 4: I was told by the bourgemestre of the commune of Gitesi (Augustin Karara) that it was at this reunion [13 April 1994] that the decision to kill all of the Tutsis in the Stadium was made....Since Kayishema was the prefect, he was the chairman of this meeting and drafted the agenda.

P - 4: Then, I was worried about the stadium....For this reason, on the Monday morning, I asked four people who had come to see me to accompany me to meet him [Kayishema] and to ask him to take steps so as to protect the refugees who were in the stadium....The discussion was difficult, Kayishema did not take sides. Whilst we were talking, Cyprian Tuyisenge....came into the office and stated that people assembled in the stadium had attacked the population as well as people who were hospitalized. Kayishema insulted us, saying that we were pleading for these people when we did not even know what they were doing. He forced us to leave his office.

CC - 2: The next day I went with the Bourgemestre Augustin Karara to see Prefect Kayishema to see what could be done to stop the killing.

KK - (self-authored statement at "2nd statement), 4: The day before the genocide at the church and at the stadium....He [Kayishema] told them to go and kill at the stadium.

Referring to 2nd paragraph of my statement, Kayishema wanted killings to start in the stadium.

PARAGRAPH 45

After people gathered in the Stadium, the Stadium was surrounded by persons under Kayishema's control, including members of the gendarmerie nationale. These persons prevented the men women and children within the Stadium from leaving the Stadium at a time when Clement Kayishema knew or had reason to know that an attack on the Complex was going to occur.

J - 4, 5 to 6: I was told by the bourgemestre of the commune of Gitesi (Augustin Karara) that it was at this reunion [13 April 1994] that the decision to kill all of the Tutsis in the Stadium was made....Since Kayishema was the prefect, he was the chairman of this meeting and drafted the agenda.

Later, on April 17, they [the gendarmes] started preventing people from leaving the Stadium. The massacres started on the 18th at 3.00 pm. The massacres continued on the morning of the 19th. The gendarmes remained around the Stadium.

P - 4: Then, I was worried about the stadium....For this reason, on the Monday morning, I asked four people who had come to see me to accompany me to meet him [Kayishema] and to ask him to take steps so as to protect the refugees who were in the

stadium....The discussion was difficult, Kayishema did not take sides. Whilst we were talking, Cyprian Tuyisenge....came into the office and stated that people assembled in the stadium had attacked the population as well as people who were hospitalized. Kayishema insulted us, saying that we were pleading for these people when we did not even know what they were doing. He forced us to leave his office.

W - 4: All around the Stadium and the Church area and Kibuye itself there were checkpoints or gate to control us - to keep us where were.

CC - 2: The next day I went with the Bourgemestre Augustin Karara to see Prefect Kayishema to see what could be done to stop the killing.

KK - (self-authored statement at "2nd statement"), 4: The day before the genocide at the church and at the stadium....He [Kayishema] told them to go and kill at the stadium.

Referring to 2nd paragraph of my statement, Kayishema wanted killings to start in the stadium.

TT: I understood that it was easier to get in then out of there [the Stadium].

PARAGRAPH 46

On or about the 18 April 1994, Clement Kayishema, went to the Stadium and ordered members of the gendarmerie nationale, communal police of Gitesi Commune, Interahamwe and armed civilians to attack the Stadium. Clement Kayishema initiated the attack by firing a gun into the air. In addition Clement Kayishema personally participated in the attack. The attackers used guns, grenades, pangas, machetes, spears, cudgels and other weapons to kill the people in the Stadium. There were survivors of the attack on 18 April 1994. During the night of 18 April 1994 and the morning of 19 April 1994 gendarmes surrounding the Stadium prevented the survivors from leaving. The attack on the Stadium continued on 19 April 1994. Throughout the attacks, men, women and children attempting to flee the attack were killed.

J - 5 to 6: The massacres started on the 18th at 3.00 p.m. The massacres continued on the morning of the 19th. The gendarmes remained around the stadium.

R - 3, 4 to 5: It [the attack] was at about 10 am, and I cannot tell the exact date. The gendarmerie threw tear gas into the Stadium and shooting into the Stadium started afterwards. Grenades were also thrown into the Stadium. People who succeeded to escape the massacre were killed by the Interahamwe outside the Stadium.

Yes, I myself saw Mr. Kayishema together with other people at the entrance to the Stadium. Kayishema was carrying a weapon....The shooting started while Kayishema was standing close to the entrance.

CC - 3: At 2 p.m. on the 18th military positions had been placed on both sides of the hill on either side of the stadium. The military started shooting at the stadium....Surrounding the stadium were people with sharpened bamboo and machetes. To ease the task of the community the stadium was shot and hit with grenades and tear gas. The military was unable to kill everyone that day so they placed guards outside to keep survivors in so that they could be killed the next day.

KK (self-authored statement at "2nd statement") - The day before the genocide in the church and at the stadium, I drove Kayishema from his home to the city. When we got there....we were told that the former bourgemestre of Gitesi (Augustin Karara) had refused to kill the Inyenzi at the church and at the stadium. He told them to go and kill at the stadium and at the church and that if Karara continues, he should be put there to be murdered with them.

MM - 1: Around 2 pm [the killing started]. This is the Prefect Kayishema who gave the signal. I saw him close to the entrance, very close to me. He shot in the air and everything started.

PARAGRAPH 47

The two days of attacks resulted in thousands of deaths and numerous injuries to the men, women and children within the Stadium (Attachment B contains a list of some of the individuals killed in the attacks).

J - 5: There were over 4,000 men, women and children in the stadium

African Rights, Rwanda Death, Despair and Defiance, August, 1995, page 424.

One of the major massacres was in the Gatwaro Stadium. One French Officer, Colonel Patrick Sartre, told Reuters that at least four thousand and five hundred Tutsis, including men, women and children were slaughtered in the Kibuye Stadium on 16 and 17 April. (Quoted in Reuters Dispatch, 14 August 1994). Another, Lt. Col. Eric de Stabentrath, the commander of Gikongoro sector of the "safe zone" spent several weeks in Kibuye investigating the killing. He estimated that there were a minimum of seven thousand corpses in the stadium. (quoting Keith Richburt, "Saving Refugees in Rwanda: Is the Sympathy misplaced?" International Herald Tribune, 9 August 1994).

PARAGRAPH 48

Before the attacks on the Stadium Clement Kayishema did not take measures to prevent an attack from occurring, and after the attacks Clement Kayishema did not punish the perpetrators.

J - 9: No. Never [at any of these meetings was apprehension and punishment of the perpetrators of the massacres discussed]."

K-2: Kayishema then also said that one had not to speak about the massacres and the pits, that what happened had to be hidden....That was the essential part of what Kayishema said, meaning to hide what had happened.

P - 4, 5: Then, I was worried about the stadium....For this reason, on Monday morning, I asked four people who had come to see me to accompany me to meet him [Kayishema] and to ask him to take steps so as to protect the refugees who were in the stadium....The discussion was difficult, Kayishema did not take sides. Whilst we were talking, Cyprian Tuyisenge....came into the office and stated that people assembled in the stadium had attacked the population as well as people who were hospitalized, just next door. Kayishema insulted us, saying that we were pleading for these people when we did not even know what they were doing. He forced us to leave his office.

In June....he [Kayishema] ordered me to gather the population in the stadium where he held a speech lacking in consistency. Outside the country, they started to talk about genocide. He stated that, no doubt, people would be asking them where went the Tutsi and that they should answer that they did not know, that it could be in Zaire.

V - 1: Some people asked questions regarding the present situation. Kayishema answered that if anybody asked where were the Tutsi, one had to say that they were gone, and added that if anyone admitted that they were dead, "he would be responsible for what he said", which meant that he would be killed.

BB - 2, 3: During this time the Prefect never made any statements to discourage the violence. The prefect tried to justify the massacres at a meeting held at a playground in late May by saying the Hutus were angry about the President's death. His speech suggested it was a good idea to hide the bodies before the foreign journalists began to investigate. He seemed to indicate killing was okay but just to hide the bodies. The prefect organized mass burials shortly thereafter. I saw the prefect doing this organization and paying those doing the burying work.

CC - 2 to 3: The next day [18April] I went with the Bourgemestre Augustin Karara to see Prefect Kayishema to see what could be done to stop the killing....The meeting lasted 3 hours....At some point in the meeting someone came in and said that the Tutsis in the stadium were killing Hutu patients in the hospital. Kayishema left immediately and went immediately to the military camp. Karara and I went to the hospital to see if it was true. We found it was a lie and the hospital was calm. At 2 p.m. on the 18th military positions had been placed on both sides of the hill on either side of the stadium. The military started shooting at the stadium.

KK - 7: During the evening after the stadium massacre, tutsi children were brought to my house. I saw Kayishema driving so I stopped him and asked for transport to the ICRC to care for the injured children. Kayishema asked me who put me in charge of the children and that I should "leave them were the others were." Kayishema then left. I fed and hid the children until they could leave.

NN - 4: Dr. Clement Kayishema explained that the killing of the Tutsi was a spontaneous reaction of the population to stop an attempted coup de etat by the RPF....[He] explained that I must understand that every Tutsi had a gun or a grenade, and he estimated that for Kibuye alone there were 40,000 armed Tutsis to attack Hutus in Kibuye and that these Tutsis were part of the RPF plan to take over the country. [He] explained that the fighting in Kibuye town was a civil war and that the battles lasted three days....Dr. Clement Kayishema explained that all of the deaths were the result of this civil war....At some point I mentioned that there were many women and children killed. Dr. Clement Kayishema responded that women and children were also RPF fighters.

RR - 5: It is important to recognize that the people followed authority. The Bourgemestre followed the Prefect's orders and the people followed the Bourgemestre. If the administration had taken appropriate action, nothing would have happened. Our leaders did nothing - not even the first steps of telling people not to kill.

Note: The massacre at the Stadium is also discussed in Rwanda Death, Despair and Defiance, at pages 424 - 430 (African Rights, Rwanda Death, Despair and Defiance, August, 1995).

PARAGRAPH 49

By these acts and omissions Clement Kayishema and Ignace Bagilishema are criminally responsible for:

- Count 8: GENOCIDE, a violation of Article 2(3)(a) of the Tribunal Statute;**
- Count 9: CRIMES AGAINST HUMANITY a violation of Article 3(a)(murder) of the Tribunal Statute;**
- Count 10: CRIMES AGAINST HUMANITY, a violation of Article 3(b)(extermination) of the Tribunal Statute;**
- Count 11: CRIMES AGAINST HUMANITY, a violation of Article 3(i)(other inhumane acts) of the Tribunal Statute;**
- Count 12: A VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS, a violation of Article 4(a) of the Tribunal Statute; and**
- Count 13: A VIOLATION OF ADDITIONAL PROTOCOL II, a violation of Article 4(a) of the Tribunal Statute.**

THE MASSACRE AT THE CHURCH IN MUBUGA

COUNTS 14 - 19

PARAGRAPH 50

By about 14 April 1994, thousands of men, women and children congregated in the Church in Mubuga, Gishyita Commune.

S - 1: The next morning we sought refuge in the church in Mubuga. At the church I was asked to count the arriving refugees. There were 5, 565 refugees when the killing started on April 15.

S (complement) - 2 to 3: I was asked to count the refugees by the Priest Marcel. Sikubwabo asked Marcel to appoint someone to count people. Both Sikubwabo and Marcel approached me together to ask me to do this.

These men, women and children were predominantly Tutsis.

S - 1: There were 5, 565 refugees when the killing started on April 15. The refugees were unarmed.

S (complement) - 1, 2: The refugees in the church were Tutsis. I know because I fled with them. Almost all of them were from this area, Mubuga, so I knew them well enough to know they were tutsis like myself. The majority of refugees were women and children....Refugees were unarmed to show that they were not dangerous.

H (complement) - 3: On the 12th, after the message to separate [the Hutus from Tutsis] the weaker Tutsis were caught and killed. I evade capture and went to Mubuga church that evening - I looked at my watch - it was 02h00 in the morning. We went to the church because during previous times of trouble, we tutsis were safe in churches. We thought we would be safe again. I believe all persons in the church were Tutsis. Interahamwe and civilians sang songs of the extermination of Tutsis. I know all inside were Tutsis.

PP (complement) - 2: The refugees in the church were from Mubuga, Murongara, Mara and Musenyi sectors. All were Tutsis. I could tell by looking at them. The church was very full.

They were in the church seeking refuge from attacks on Tutsis which had occurred throughout the Prefecture of Kibuye.

H - complement - 3: We went to the church because during previous times of trouble, we tutsis were safe in churches. We thought we would be safe again.

PP - 2: The reason we all sought refuge in the church was because in 1990 and 1992 during attacks on Tutsis those who went to churches survived.

PARAGRAPH 51

After the men, women and children began to congregate in the Church, Clement Kayishema visited the Church on several occasions. On or about 10 April Clement Kayishema brought gendarmes, under his control, to the Church. These gendarmes prevented the men, women and children within the church from leaving.

H - 4: Gendarmes were guarding the Church.

S - 2: Every 2 days Kayishema came to the church....The Prefect brought gendarmes to the church. The gendarmes would not permit anyone to leave....The Gendarmes were brought by Kayishema on April 10.

S (complement) - 1, 4, 6: At the beginning, on the 9th of April there were 12 gendarmes 4 at each door. They wore uniforms and red berets. The uniforms were green. They were armed with rifles.

After the first day of shooting the gendarmes remained at the doors. More than half of the people were alive. We expected to be killed and could not flee because of the Gendarmes at the door.

The first time Kayishema came he brought a car to try to pull the church doors open. This attempt failed. Kayishema was in his car which was followed by another vehicle. The second time he came civilians were not in the church killing yet but they came in shortly afterwards. I saw him getting out of the car.

Y - 2: While in the Church, gendarmes made sure no one could leave the church.

PARAGRAPH 52

On or about 14 April 1994, Charles Sikubwabo, Vincent Rutaganira and Ryandikayo directed members of the gendarme nationale, communal police of Gishyita commune, Interahamwe and armed civilians to attack the Church. In addition, each of them personally participated in the attacks. The attackers used guns, grenades, machetes, spears, pangas, cudgels and other weapons to kill the people in the Church. Not all the people could be killed at once, so the attacks continued for several days. Both before and during these attacks persons under Clement Kayishema and Charles Sikubwabo's control, including members of the gendarmerie nationale and communal police, prevented the men women and children within the Church from leaving.

Y - 2: The next day, the 18th...came with one bus of Interahamwe and military.... The Bourgemestre then instructed the Interehamwe / Military group to attack.

PP - 2: On the morning of the 13th the church was attacked by military, Interahamwe and traders.

H (complement) - 4: The Attackers fired tear gas into the Church. After that there was shooting. The shooting was from the front and the two sides. The shooting was sporadic. They - the gendarmes - would shoot - stop and chat - and shoot again. The shooting went from mid - day to evening.

S - 2, 3: At 5:00 am on Friday the Gendarmes started shooting the refugees. They shot the refugees through the windows of the church. After people were laying down, they threw tear gas into the church and when people stood up shooting continued. Shooting continued until 2:00 pm on Friday. On Saturday soldiers joined the gendarmes. A military lorry pulled up in front of the church to join the gendarmes. They shot from 5:00 am to 5:00 pm. The refugees would not open the door. On Sunday they returned and broke down the door....Once the doors were broken down, civilians came in with pangas and cudgels to finish the killing. I was the only one to survive. I was hidden under dead bodies and was covered with blood....

On Sunday I heard Sikubwabo tell Rutaganira to go to Kibuye Monday and tell the Prefect to send a bulldozer to enable them to bury the dead because of the smell.

S (complement) - 1, 3, 4, 5, 6: On the day the shooting started, SIKUBWABO and RUTAGANIRA, Vincent were present. It was Friday...and I could see them at the front door of the church asking for the number of refugees so they could bring relief.... The shooting started very shortly after that - maybe 5 minutes later. SIKUBWABO was among those shooting. He had an R4 rifle.

Rutaganira came to the church twice a day because he lived very close to it. MUHIRWA came sometimes after 10:00 am. SIKUBWABO came every day also.

On the Friday the shooting started at 5:00 am as I said before...The Gendarmes and the bourgemestre shot consistently from 5:00 am to 14h00....After the first day of shooting the gendarmes remained at the door....On Saturday I saw Kayishema once at the front door facing the altar. I did not say anything. He was with Vincent, gendarmes and soldiers....

The soldiers arrived around 08h00....The soldiers stayed until Sunday when the killing was finished. On Saturday and Sunday shooting stopped at 2:00 pm when the soldiers/gendarmes got some food. Outside the church they played drums and had a feast...Maybe 25% of the people were left after the shooting on Saturday. Grenades were thrown on Saturday and Sunday by soldiers. They were thrown through windows and the door of the sacristy.

The second time he came the civilians were not in the church killing yet but they came in shortly afterwards....The civilians came in through the main door and one of the side doors. I was not very near the doors (the doors were broken down by Gendarmes).

H - 5: The Civilians leading the attack on the church were the courier - Ryandikayo....and Rutaganira, Vincent (former counsieller Mubuga).

H (complement) - 5: Most of the time I was pinned against the wall. I saw Sikubwabo through the windows near a tree. He had a rifle on his shoulder. This was before the shooting started.

Y - 2: The next day, the 18th, Sikubwabo, the Counselor Vincent, and Ryandikayo came with one bus of Interahamwe and Military....The Bourgemestre then instructed the Interahamwe/Military group to attack and kill the person outside the church - then the people inside. Sikubwabo and Vincent remained outside with guns while Ryandikayo went inside to kill with machete.

PP - 2: On the morning of the 13th, the church was attacked by military and Interahamwe and traders. There was no protection for the church. There I recognizedRyandikayo....

PP (complement) - 1, 2: I spent the nights of April 12th and 13th at the church in Mubuga. On the morning of the 14th, Thursday, the church was attacked. Tear gas was thrown into the church then they shot through the windows and doors. The attackers were gendarmes and military. Civilians were outside armed with pangas. The soldiers and gendarmes wore uniforms. It was possible to distinguish them because some wore red berets and others wore black ones....

I recognized Andre Munyantwari, Ryandikayo and Ndabaqiriye, Charles among the attackers because they were all well known businessmen....I saw Sikubwabo with the counsellor Vincent on the day of the shooting after the attack.

PARAGRAPH 53

The attacks resulted in thousands of deaths and numerous injuries to the men, women and children within the church (Attachment C contains a list of some of the victims killed in the attacks).

S - 1: There were 5, 565 refugees when the killing started on April 15. I was hidden under dead bodies and was covered with blood....I was the only one to survive.

PARAGRAPH 54

Before the attacks on the Church in Mubuga neither Clement Kayishema nor Charles Sikubwabo took measures to prevent the attacks, and after the attacks Clement Kayishema and Charles Sikubwabo did not punish the perpetrators.

Y - 2: The next day, the 18th...came with one bus of Interahamwe and military...The Bourgemestre then instructed the Interehamwe / Military group to attack.

S - 3: On Saturday soldiers joined the gendarmes. A military lorry pulled up in front of the church to join the gendarmes. They shot from 5:00 am to 5:00 pm. The refugees would not open the door. On Sunday I heard Sikubwabo tell Rutaganira to go to Kibuye Monday and tell the Prefect to send a bulldozer to enable them to bury the dead because of the smell....I was the only one to survive. I was hidden under dead bodies and was covered with blood. While I was hiding I saw Sikubwabo showing Kayishema around the church and heard Kayishema say I hope the work has been done and there will be no survivor.

S (complement) - 5, 6: The conversation between SIKUBWABO and RUTAGANIRA about getting bulldozers from KAYISHEMA took place inside the church. I could not see where they were because my eyes were closed and I was pretending to be dead. On Sunday KAYISHEMA also came to the church about 3 times. I heard him discussing the bulldozer with Vincent later the same day. I recognized that Vincent and SIKUBWABO were talking to the Prefect [KAYISHEMA] because they addressed him as "your excellency" and the voice was familiar....

The conversation on Monday between SIKUBWABO and KAYISHEMA took place inside the church. In addition to KAYISHEMA saying he hope there were no survivors and that the work has been done, as I said in my first statement, I heard him say "if you do as well in Bisesero as you did here you will have done well." He was thanking him. I heard SIKUBWABO say he hoped he had carried out the job and finished it.

II - 3, 4: I stayed at my uncle's house until July when the killers left for Zaire and the French came. The French instructed everyone to gather in town. Sikubwabo issued instructions at a meeting in Mubuga. I attended the meeting on my way back from mass. Sikubwabo said to kill everyone at their houses who did not leave with the French, so as not to leave any witnesses....

On the radio RTLM at the end of May I heard Sikubwabo say to the president that he had almost finished cleaning the area but were running out of ammunition and needed more equipment. During this whole period there was never any discussions of

punishing the perpetrators or protecting survivors. Rather discussion was about the enemy.

II (complement) - 6: On my way back from church in Mubuga I attended a meeting Sikubwabo had called.... This meeting was very crowded with people from 3 sectors. This is the meeting in which SIKUBWABO told people to kill those who did not go with.... Sikubwabo was the only person who spoke at the meeting.

J - 9: No. Never [at any of these meetings was apprehension and punishment of the perpetrators of the massacres discussed].

K-2: Kayishema then also said that one had not to speak about the massacres and the pits, that what happened had to be hidden.... That was the essential part of what Kayishema said, meaning to hide what had happened.

P - 5: In June....he [Kayishema] ordered me to gather the population in the stadium where he held a speech lacking in consistency. Outside the country, they started to talk about genocide. He stated that, no doubt, people would be asking them where went the Tutsi and that they should answer that they did not know, that it could be in Zaire.

V - 1: Some people asked questions regarding the present situation. Kayishema answered that if anybody asked where were the Tutsi, one had to say that they were gone, and added that if anyone admitted that they were dead, "he would be responsible for what he said", which meant that he would be killed.

BB - 2, 3: During this time the Prefect never made any statements to discourage the violence. The prefect tried to justify the massacres at a meeting held at a playground in late May by saying the Hutus were angry about the President's death. His speech suggested it was a good idea to hide the bodies before the foreign journalists began to investigate. He seemed to indicate killing was okay but just to hide the bodies. The prefect organized mass burials shortly thereafter. I saw the prefect doing this organization and paying those doing the burying work.

PP -2: I never heard the bourgemestre say anything to discourage the killing. I heard from others on Ijwi that on the contrary he had a meeting at which he told people to kill everyone, even the children, since the people attacking Rwanda were children when they left.

RR - 5: It is important to recognize that the people followed authority. The Bourgemestre followed the Prefect's orders and the people followed the Bourgemestre. If the administration had taken appropriate action, nothing would have happened. Our leaders did nothing - not even the first steps of telling people not to kill.

Note: The massacre at the Church in Mubuga is also discussed in Rwanda Death, Despair, and Defiance, at pages 440 - 445 (African Rights, Rwanda Death, Despair and Defiance, August, 1995).

PARAGRAPH 55

By these acts and omissions Clement Kayishema, Charles Sikubwabo, Vincent Rutaganira and Ryandikayo are criminally responsible for:

- Count 14 GENOCIDE, a violation of Article 2(3)(a) of the Tribunal Statute;
- Count 15: CRIMES AGAINST HUMANITY, a violation of Articles 3(a) (murder) of the Tribunal Statute;
- Count 16: CRIMES AGAINST HUMANITY, a violation of Article 3(b)(extermination) of the Tribunal Statute;
- Count 17: CRIMES AGAINST HUMANITY, a violation of Article 3(i) (other inhumane acts) of the Tribunal Statute;
- Count 18: A VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS, a violation of Article 4(a) of the Tribunal Statute; and
- Count 19: A VIOLATION OF ADDITIONAL PROTOCOL II , a violation of Article 4(a) of the Tribunal Statute.

THE MASSACRES IN THE AREA OF BISESERO

COUNTS 20 - 25

PARAGRAPH 56

The area of Bisesero spans two communes in Kibuye Prefecture. From about 9 April 1994 through 30 June 1994, thousands of men, women and children sought refuge in the area of Bisesero. These men, women and children were predominantly Tutsis and were seeking refuge from attacks on Tutsis which had occurred throughout the Prefecture of Kibuye.

N - 4: [T]he Tutsis [in Bisesero] made a wall to try and protect the women and children.

Y - 3: I escaped and went to Bisesero where many Tutsis had gathered.

JJ - 1: It was not possible to defend ourselves and we escaped towards Bisesero. We chose this direction because it was known that in this region, made out of two sectors, there were many Tutsi. On the 14th [April] we arrived there. All the escapees met there.

HH - 1, 2: The number of refugees in the hills began to increase. I was in Bisesero until June 12, during the time of fighting.... There was no RPA in Bisesero.

LL - 2: We resisted the attack [in Ngoma] for a while with stones. We were not armed.... The killing (fighting) in Ngoma lasted from 9h00 to 22h00 . We were tired and the survivors went to Bisesero.

PARAGRAPH 57

The area of Bisesero was regularly attacked, on almost a daily basis, throughout the period of about 9 April 1994 through about 30 June 1994. The attackers used guns, grenades, machetes, spears, pangas, cudgels and other weapons to kill the Tutsis in Bisesero. At various times the men, women and children seeking refuge in Bisesero attempted to defend themselves from these attacks with stones, sticks and other crude weapons.

N - 3, 4: From April 17th to July when the French came to rescue us killing continued [in Bisesero].

[T]he Tutsis [in Bisesero] made a wall to try and protect the women and children.

P - 3, 4: As for the Bisesero region, with 90% Tutsi, where the refugees took shelter, it was attacked from the beginning until the French arrived.

Y - 3: I escaped and went to Bisesero where many Tutsis had gathered. While at Bisesero I helped defend the group. We had only sticks and rocks with which to defend ourselves.

GG - 4: The attacks in Bisesero stopped the 30 June, when the French soldiers arrived.

HH - 1, 2: The number of refugees in the hills began to increase. I was in Bisesero until June 12, during the time of fighting.... There was no RPA in Bisesero.... I think [the fighting started] around April 10.

JJ - 1 to 2: The attackers came in daily waves: everyday people came from one or two communes (Gishyita, Rwamatamu, Gitesi, Gisovu). There were soldiers, policemen, Interahamwe and civilians. Each day the composition of these attackers was the same, but with different people....

PARAGRAPH 58

At various locations and times throughout April, May and June 1994, and often in concert, Clement Kayishema, Aloys Ndimbati, Obed Ruzindana, Charles Sikubwabo and Mika Muhimana brought to the area of Bisesero members of the gendarme nationale, communal police of Gishyita and Gisovu communes, Interahamwe and armed civilians, and directed them to attack the people seeking refuge there. In addition, at various locations and times, and often in concert, Clement Kayishema, Aloys Ndimbati, Obed Ruzindana, Charles Sikubwabo and Mika Muhimana personally attacked and killed persons seeking refuge in Bisesero.

H - 3: At Bisesero during the fighting, I saw the leaders Sikubwabo; Mika; Ruzindana, Obeti (Business leader); and Nitegeka, Iagizi (Deputy from Kigali); and Kananira (Former Bourgemestre Assistant). I myself saw these people shooting at Tutsis and killing and wounding them. This was a moving battle. I saw these persons fighting and killing on several occasions.

L - 3: One other time while I was preaching at Church in early July a group of people came to take me to Bisesero to participate in the attack.

N - 3, 4: From April 17th to July when the French came to rescue us killing continued [in Bisesero].

I saw the Bourgemestres of Gishyita (Sindikubwayo) [Sikubwabo] and Gisovu [Ndimbati] coming into the hills of Bisesero to kill people. They were shooting. The bourgemestres and the military attacked and the Tutsis made a wall to try and protect the women and children....I could see the bourgemestre from Gishyita from the hill where I was, leading the people and shooting. I saw the bourgemestre from Gisovu with a gun, not shooting but leading the attack.

P - 3, 4: As for the Bisesero region, with 90% Tutsi, where the refugees took shelter, it was attacked from the beginning until the French arrived.

In June....[s]omebody asked if it was necessary to go on going to Bisesero; he [Kayishema] answered that he would tell them when to stop going there.

S - 3: While I was there [Bisesero] I saw Kayishema twice a week and Sikubwabo about every day. They were with Interahamwe. I saw Kayishema with a rifle. He did not chase people but he supervised. I could not hear him but I could see him gesturing and pointing directions to people. I saw Sikubwabo fighting in the open and shooting at people with other soldiers very often....Kayishema and Sikubwabo brought 3 buses of people dressed in white or banana leaves to do the killing....I saw Ruzindana driving people to kill in Bisesero. He drove a white Daihatsu van. Ruzindana was well known in the area.

U - 1 to 2: I saw the Bourgemestre burning the first home and leading the attack in Bisesero....I saw a business man, named Mr. Ruzindana, Obedi, leading the attacks and shooting at the same time at people....

Y - 3: While fighting everyday [at Bisesero] I saw Sikubwabo at the battle site with a gun. Sikubwabo was a real combat leader - he would fight and kill. I myself saw him kill people. Sikubwabo would even shoot at his own Interahamwe who were afraid and were turning to run. Sikubwabo was always with and leading the Interahamwe.

W - 2: I saw him [Kayishema] at Cyumbati [?] (part of Kibuye) talking to a group of Hutus. I heard Kayishema urging this group to go to Bisesero. Kayishema said they should go and kill and be sure no one survived. Kayishema said that it was the Tutsis who should be killed because they were accomplices....

BB - 4: I was aware of the activities in Bisesero because the Ministry of Public Works provided a truck which would carry the killers to Bisesero for the attacks....In addition to the truck of armed civilians, carloads of military also went to Bisesero. This happened frequently in the month of June....After the killings, Kayishema would thank the people for their work and slaughter a cow to celebrate.

GG - 1 to 2, 3, 4: After 7 April 1994 I saw him [Kayishema] for the first time on the 13 May, when he came in a car, together with 3 other cars to the Bisesero area. Kayishema was in the third car and the cars were filled up with soldiers and Interahamwe. It seemed that Kayishema was the leader. They met the Bourgemestre of Gisovu [Ndimbati] at the same place....They started shooting the people (Tutsis) nearest them, and the people who did not die immediately, were killed by the Interahamwe using their machetes.

Sometimes it was two busloads of Interahamwe and soldiers.

The attacks in Bisesero stopped the 30 June, when the French soldiers arrived.

HH - 2: The people on the bus had guns, cudgels, sharpened bamboo. At first they wore white clothes and it was hard to tell whether it was military or civilian.... I saw RUZINDANA, Mika, SIKUBWABO, the counsellor RUTAGINARA Vincent...leading the attacks. Mika, SIKUBWABO, KARIBANA and RUZINDANA were all shooting at people. RUZINDANA provided transport. I could see them from the hill....I think [the fighting started] around April 10.

JJ - 1 to 2: The attackers came in daily waves: everyday people came from one or two communes (Gishyita, Rwamatamu, Gitesi, Gisovu). There were soldiers, policemen, Interehamwe and civilians. Each day the composition of these attackers was the same, but with different people....I have not seen the prefect, but I have seen the bourgemestres of Gishyita and Gisovu. The former I saw shooting people with a gun, as did the others who had guns, policemen or military....Otherwise those in possession of machetes were the ones to do the killing. As for the bourgemestre of Gisovu, I saw him driving a light truck loaded with Interehamwe and policemen, also in Bisesero....There have been more than 10 000 dead in Bisesero.

LL - 2,3: Nearly every day I saw the bourgemestre Sikubwabo, Ruzindana and Mika, all armed and fighting....Ruzindana drove my van every day carrying peasants armed with pangas and cudgels.

QQ: I have personally seen the Gisovu bourgemestre, Ndambati, in the car of the commune. He was wearing a hand gun. I have also seen with my own eyes five persons who were organizing the massacres, and who, coming from different locations, met in Bisesero. These people I saw several times during the whole period. They were: Kayishema, prefect of Kibuye; Ruzindana, Obedi, who often was with the prefect; Sikubwabo, Gishyita bourgemestre; Mika, councillor for the Gishyita; Nyakana, councillor for the Twumba sector, Gisovu commune....I think of other people: Rutaganira Vincent, councillor of Mobuga sector / Gishyita commune; Muhirwa, councillor of Musenyi sector / Gishyita commune.

PARAGRAPH 59

The attacks described above resulted in thousands of deaths and numerous injuries to the men, women and children within the area of Bisesero (Attachment D contains a list of some of the individuals killed in the attacks).

JJ - 2: There have been more than 10,000 dead in Bisesero.

PARAGRAPH 60

Throughout this time, Clement Kayishema, Aloys Ndimbati and Charles Sikubwabo did not take measures to prevent the attacks, and after the attacks Clement Kayishema, Aloys Ndimbati and Charles Sikubwabo did not punish the perpetrators.

J - 9: No. Never [at any of these meetings was apprehension and punishment of the perpetrators of the massacres discussed].

K - 2: Kayishema then also said that one had not to speak about the massacres and the pits, that what happened had to be hidden.... That was the essential part of what Kayishema said, meaning to hide what had happened.

P - 5: In June....he [Kayishema] ordered me to gather the population in the stadium where he held a speech lacking in consistency. Outside the country, they started to talk about genocide. He stated that, no doubt, people would be asking them where went the Tutsi and that they should answer that they did not know, that it could be in Zaire.

V - 1: Some people asked questions regarding the present situation. Kayishema answered that if anybody asked where were the Tutsi, one had to say that they were gone, and added that if anyone admitted that they were dead, "he would be responsible for what he said", which meant that he would be killed.

W - 2: I saw him [Kayishema] at Cyumbati [?] (part of Kibuye) talking to a group of Hutus. I heard Kayishema urging this group to go to Bisesero. Kayishema said they should go and kill and be sure no one survived. Kayishema said that it was the Tutsis who should be killed because they were accomplices....

BB - 2, 3, 4, 5: During this time the Prefect never made any statements to discourage the violence. The prefect tried to justify the massacres at a meeting held at a playground in late May by saying the Hutus were angry about the President's death. His speech suggested it was a good idea to hide the bodies before the foreign journalists began to investigate. He seemed to indicate killing was okay but just to hide the bodies. The prefect organized mass burials shortly thereafter. I saw the prefect doing this organization and paying those doing the burying work....

I was aware of the activities in Bisesero because the Ministry of Public Works provided a truck which would carry the killers to Bisesero for the attacks.

I know the prefect was happy with the work in the hills because Rusezera, Barayata and Theoneste would go to his house and return bearing messages to the killers from the prefect allowing them to drink this or take that.

LL - 2,3: Nearly every day I saw the bourgemestre Sikubwabo, Ruzindana and Mika, all armed and fighting....Ruzindana drove my van every day carrying peasants armed with pangas and cudgels.

NN - 4: Dr. Clement Kayishema explained that the killing of the Tutsi was a spontaneous reaction of the population to stop an attempted coup de etat by the RPF....[He] explained that I must understand that every Tutsi had a gun or a grenade, and he estimated that for Kibuye alone there were 40,000 armed Tutsis to attack Hutus in Kibuye and that these Tutsis were part of the RPF plan to take over the country....At some point I mentioned that there were many women and children killed. Dr. Clement Kayishema responded that women and children were also RPF fighters.

RR - 5: It is important to recognize that the people followed authority. The Bourgemestre followed the Prefect's orders and the people followed the Bourgemestre. If the administration had taken appropriate action, nothing would have happened. Our leaders did nothing - not even the first steps of telling people not to kill.

QQ: I have personally seen the Gisovu bourgemestre, Ndambati, in the car of the commune. He was wearing a hand gun. I have also seen with my own eyes five persons who were organizing the massacres, and who, coming from different locations,

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met in Bisesero. These people I saw several times during the whole period. They were: Kayishema, prefect of Kibuye; Ruzindana, Obedi, who often was with the prefect; Sikubwabo, Gishyita bourgemestre; Mika, councillor for the Gishyita; Nyakana, councillor for the Twumba sector, Gisovu commune....I think of other people: Rutaganira Vincent, councillor of Mobuga sector / Gishyita commune; Muhirwa, councillor of Musenyi sector / Gishyita commune....

Note: The massacres in the area of Bisesero is also discussed in Rwanda Death, Despair and Defiance, at pages 662 - 670 (African Rights, Rwanda Death, Despair and Defiance, August, 1995).

PARAGRAPH 61

By these acts and omissions Clement Kayishema, Aloys Ndimbati, Obed Ruzindana, Charles Sikubwabo and Mika Muhimana are criminally responsible for:

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| Count 20: | GENOCIDE, a violation of Article 2(3)(a) of the Tribunal Statute; |
| Count 21: | CRIMES AGAINST HUMANITY, a violation of Articles 3(a) (murder) of the Tribunal Statute; |
| Count 22: | CRIMES AGAINST HUMANITY, a violation of Article 3(b) (extermination) of the Tribunal Statute; |
| Count 23: | CRIMES AGAINST HUMANITY, a violation of Article 3(i) (other inhumane acts) of the Tribunal Statute; |
| Count 24: | A VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS, a violation of Article 4(a) of the Tribunal Statute; and |
| Count 25: | A VIOLATION OF ADDITIONAL PROTOCOL II , a violation of Article 4(a) of the Tribunal Statute. |