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IVAN



International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

IN TRIAL CHAMBER I

Before: Judge Erik MØSE
Judge Jai Ram REDDY
Judge Sergei Aleckseievich EGOROV

Registrar: Mr Adama DIENG

Date of Filing: 26 October 2004

THE PROSECUTOR

v.

**Theoneste BAGOSORA
Gratien KABILIGI
Aloys NTABAKUZE
Anatole NSENGIYUMVA**

Case No.: ICTR-98-41-T

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PROSECUTOR'S RESPONSE

to Defence motions for acquittal pursuant to
Rule 98bis of the Rules of Procedure and Evidence

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PROSECUTION RESPONSE

A. Procedural background

1. On 15 October 2004, the Prosecutor completed the case against the four Accused.
2. On 19 October 2004, the Prosecution filed the "Prosecutor's Request for a variation of the time limit to respond to Motions for Judgement of Acquittal pursuant to Rules 73 and 98bis" (the "Prosecution Request").
3. On 18 October 2004, the Bagosora Defence filed "*Requete de la defense de Bagosora en acquittment (Article 98bis Reglement de procedure et de preuve)*" (the "Bagosora Motion"). On 21 October 2004, the Kabiligi Defence filed "*Kabiligi Defence Motion for Judgement of Acquittal pursuant to Rule 98bis of the Rules of Procedure and Evidence*" (the "Kabiligi Motion"). On 21 October 2004, the Ntabakuze Defence filed "*Ntabakuze Defence Motion for Judgment of Acquittal pursuant to Rule 98bis of the Rules of Procedure and Evidence*" (the "Ntabakuze Motion"). On 21 October 2004, the Nsengiyumva Defence filed "*Motion for Acquittal of Anatole Nsengiyumva pursuant to Rule 98bis of the Rules of Procedure and Evidence*" (the "Nsengiyumva Motion"). Collectively the Defence Motions approximated 240 pages containing over 300 footnotes and nearly 700 numbered paragraphs of argument.
4. The three Defence Motions filed on Thursday, 21 October 2004 were received by the Prosecution in the late morning of Friday, 22 October 2004.
5. On 21 October the Trial Chamber granted the Prosecution Request to vary the Response filing time, resulting in a filing response date of Tuesday, October 26, 2004.
6. On 26 October the Prosecution filed the Response to the Defence Motions, herewith.

B. Introduction

7. This Response is unified against each of the four Defence Motions for acquittal.
8. This Response is divided into three substantive parts. The first Part addresses the issue of whether any evidence has been adduced in respect to the various counts against each of the Accused. The second Part addresses the issue of whether any evidence has been adduced in respect to particular paragraphs of the three indictments. The third part addresses the issue of legal tests and thresholds.
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9. The examples of the evidence provided regarding the counts and paragraphs are non-exhaustive. That is, the Prosecution has not listed all the evidence references for each count or indictment paragraph because the process of exhaustive cross-referencing at this stage, for the purposes of these acquittal motions, is both unnecessary and impossible, given the extent of the Defence submissions and the time within which to respond.
10. The Defence submissions contained within the nearly 700 paragraphs of argument in the four Defence Motions extend considerably beyond the issues required for the determination of a 98bis motion. Most of those submissions go to the weight of the evidence and not the issue of a *prima facie* case. Consequently, the Prosecution will not seek to address that wide range of issues within this Response, although reserving the right to respectfully disagree with the Defence submissions, and argue the issues at the appropriate juncture.

C. Evidence on Various Counts

- 11. Divided among the three Indictments, there are 33 counts charged. Separately, these 33 counts represent 11 different types of crimes.
- 12. The analysis which follows is structured around the 11 types of crime, so as to provide a consistent analysis of the crime, *vis a vis* each of the four accused. It will be noted that not all four Accused are charged with all 11 types of crimes.
- 13. The following table is a graphic representation of the 11 types of crime and the particular accused who is charged with that crime:

#	Crime Charged	Bagosora	Kabiligi	Ntabakuze	Nsengiyumva
1	Conspiracy to Commit Genocide	Count 1	Count 1	Count 1	Count 1
2	Genocide	Count 2	Count 2	Count 2	Count 2
3	Complicity in Genocide	Count 3	Count 3	Count 3	Count 3
4	Incitement to commit genocide				Count 4
5	Murder (Crimes Against Humanity) article 3(a)	Counts 4/5	Count 4	Count 4	Count 5
6	Extermination (Crimes Against Humanity) article 3(b)	Count 6	Count 5	Count 5	Count 6
7	Rape (Crimes Against Humanity) article 3(g)	Count 7	Count 6	Count 6	Count 7
8	Persecution (Crimes Against Humanity) article 3(h)	Count 8	Count 7	Count 7	Count 8
9	Inhumane Acts (Crimes Against Humanity) article 3(i)	Count 9	Count 8	Count 8	Count 9
10	Violence to Life, etc (Geneva Conventions)	Counts 10/11	Count 9	Count 9	Count 10
11	Outrages upon personal dignity, (Geneva Conventions)	Count 12	Count 10	Count 10	Count 11

- 14. Each of the 11 types of crime detailed in the Table above has its own separate sub-heading below, dealing with the issue of whether there is any evidence which has been adduced respecting that crime:

1. CONSPIRACY to COMMIT GENOCIDE

15. All four accused are charged with Conspiracy.

16. All four accused face identically-worded indictments, charging that each :

“...conspired with [co-accused] and other[s] [persons] to kill and cause serious bodily or mental harm to members of the Tutsi population with the intent to destroy, in whole or in part, a racial or ethnic group, and thereby committed Conspiracy to Commit Genocide...”

17. The crime of conspiracy to commit genocide is enumerated in Article 2(3)(b) of the Statute, which itself relies on the definition of genocide contained in Article 2(2).

18. In brief, in the jurisprudence of the ICTR the *actus reus* of conspiracy to commit genocide is defined as an agreement between two or more persons to commit the crime of genocide.¹ Agreement can be inferred through conduct.²

19. In brief, in the jurisprudence of the ICTR the *mens rea* of conspiracy to commit genocide is the requisite intent required for the crime of genocide, that is the *dolus specialis* of genocide.³

¹ *Prosecutor v. Musema*, case N0 ICTR -96-13-1 Jan 2000 paras. 191-198; *Ntakirutimana and Ntakirutimana*, February 21, 2003, para. 798; *Niyitegeka*, May 16, 2003, para. 423; *Nahimana, Barayagwiza and Ngeze*, December 3, 2003, para. 1041. Conspiracy is an inchoate offense, and as such may be punished even if the object of the conspiracy is not accomplished. *Musema*, January 27, 2000, para. 194; *see also Nahimana, Barayagwiza and Ngeze*, December 3, 2003, para. 1044; *Niyitegeka*, May 16, 2003, para. 423.

² The Prosecutor need not prove the existence of a formal or express agreement. *Nahimana, Barayagwiza and Ngeze*, December 3, 2003, para. 1045. “[C]onspiracy to commit genocide can be inferred from coordinated actions by individuals who have a common purpose and are acting within a unified framework. A coalition, even an informal coalition, can constitute such a framework so long as those acting within the coalition are aware of its existence, their participation in it, and its role in furtherance of their common purpose.” *Nahimana, Barayagwiza and Ngeze*, December 3, 2003, para. 1047. Furthermore, the coalition need not be based on personal ties. Individuals who act in an institutional capacity may also become co-conspirators. “Institutional coordination can form the basis of a conspiracy among those individuals who control the institutions that are engaged in coordinated action.” *Nahimana, Barayagwiza and Ngeze*, December 3, 2003, para. 1048.

³ *Ibid* at para. ___ *Prosecutor v. Ferdinand Nahimana, and 2 others*, Judgement TC, Case N0 ICTR-99-52-T, para 1042.; *Musema*, January 27, 2000, para. 192.

20. There is evidence on each of the elements of this crime, including evidence that the planning aspect of conspiracy extended a significant time prior to the events in 1994. The extended planning and the preparations for genocide prior to 1994 are strong evidence of conspiracy implicating each of the four accused, because each of the four accused was involved in the planning and preparations at various stages prior to 1994. During 1994, each of the accused was involved in military activities that materially contributed to genocide. The inference to be drawn from the evidence is not that each of the accused sat in the same room at the same time and agreed to a plan. The proper inference to be drawn is that at various times each of the accused agreed to participate in a larger, lengthier effort to kill Tutsi civilians. It is their participation which is the hallmark of their agreement.

21. In particular, there is evidence that the Tutsi ethnic group were targeted as enemies of the military. In exhibit P-13.1, the "Definition of the Enemy", that targeting is clearly delineated. The document begins "*The primary enemy are the extremist Tutsi*"... There is also evidence that the "Definition of the Enemy" document was circulated amongst the military. There is evidence that participants in the creation of the "Definition of the Enemy" document included Colonel Bagosora, Colonel Nsengiyumva, Major Ntabakuze and approximately 7 other officers.⁴

22. Further, there is evidence from witness XAM that at least by October 1992, Colonel Bagosora was intent on preparing an "apocalypse".⁵

23. Further, there is evidence from witness DBN that in 1992, Major Ntabakuze used to preside over meetings for soldiers at Kanombe, and promoted the ideology of genocide against Tutsi:

- A. He told us that the country had been attacked by the enemy, and the enemy was the Tutsi, and that they had attacked the country from Uganda, and they wanted to conquer our country,

⁴ Exhibit DB 61, Statement of witness GHI, English translation, page 6, paragraph 6: K012 7618; and, Testimony of Dr Alison DesForges, September 10, 2002, English t/s, page 60, lines 9-27; and Exhibit P-3, Leave None to Tell the Story, pages 62-64; and Exhibit P-2, Expert Report of Dr Alison DesForges, English, pages 16-17.

⁵ Testimony of witness XAM, September 30 2004, English t/s, page 3, lines 25-28.

and they wanted to drive away people who were inside the country; therefore, they were enemies and we had to fight them. ⁶

24. Further, there is evidence from witness XXQ that in February 1994, then-Colonel Kabiligi was circulating via helicopter amongst certain regions in Rwanda, including Ruhengeri military camp, and promoting preparations for an imminent genocide, on the instructions of the military headquarters in Kigali. ⁷

A. ... In fact, the meeting was aimed at preparing the genocide. ... When it is said that Tutsi interests would be sabotaged as well as the interests of Tutsis involved with the regime, what does that -- or rather Hutus opposed to the regime, what does that mean, unless you do not know the meaning of the word "genocide"? When it is said that weapons should be given to civilians so that they should kill -- so that they should kill members of a different ethnic group or those who are opposed to the regime, you understand that this is the preparation of a genocide;... ⁸

25. Further, there is evidence from witness XBM that also in February 1994, Colonel Nsengiyumva was speaking at a large, mostly civilian meeting of MRND in Gisenyi. Also present were Colonel Bagosora, J.B. Barayagwiza and Hassan Ngeze. Colonel Nsengiyumva expressed satisfaction that most "accomplices" had already been chased out of Gisenyi prefecture and then he commented, with great foresight:

A. He added that if the problem of accomplices was still there, members of the population should call on soldiers to intervene. He added that strategies had been prepared, and that to every problem that the accomplices raised, solutions would be found.

Q. Did he elaborate and tell you what some of these strategies were?

A. No. He said that strategies had been developed to solve that problem once and for all if this problem of accomplices or plots against the country came up again. [emphasis added] ⁹

26. Although it is unnecessary to prove conspiracy through a single-event, express agreement, there is evidence of at least three accused meeting together at the end of 1990, in the company of others, and addressing the extermination of the Tutsi. ¹⁰

⁶ Testimony of witness DBN, Mar 31 2004, English t/s, page 67, lines 15-18.

⁷ Testimony of witness XXQ, Oct 12, 2004, English t/s, page 62, lines 32-37, and page 63 lines 1-2, and others.

A. ... I said there were two items on the agenda. That was the introduction given by General Kabiligi during the meeting. He told us that we were going to consider two items on the agenda. The first point was the progress achieved in the implementation of the Arusha Accords and the reaction of the population to those accords, and the second point was strategies to be adopted in the event the Arusha Accords were not implemented. This is what is written. Now you are telling me that I also said that the said meeting was aimed at preparing the genocide. Why do you say that I am wrong, since I have already told you about the decisions arrived at during the meeting? In fact, the meeting was aimed at preparing the genocide. ...

⁸ Testimony of witness XXQ, Oct 12, 2004, English t/s, page 63, lines 2-8.

27. In addition to the direct activities of each of the accused, there is evidence of conspiracy as supported by planning and preparation that involved certain documents. Among those documents is the Bagosora agenda, or 'diary', a copy of which appears in full within exhibit P-278¹¹ and in part within exhibit P-3¹². The 'diary' is actually a series of handwritten notations, or 'notes-to-self', indicating the thoughts and ideas to which the accused Bagosora was addressing his mind during a period of months in 1993. Included among those ideas is an outline of a plan to train and arm civilians. The significance of the diary is that it serves in establishing who the operating mind was behind the 'armed civilian' notion that eventually became the primary tool of the genocide to follow. Curiously, the diary plan includes both an idea for a rousing battle slogan: "War for the Bakiga, Politics for the Banyanduga"¹³ and a contingency notion: "General amnesty for all those who commit war crimes in Rwanda".¹⁴ Both thoughts are indicative of careful, detailed planning.

28. Another example of Colonel Bagosora's handwriting reveals an extensive, detailed list of who will train, who will be trained, and from what regions.¹⁵ In addition to the fact that the structure of the list is strikingly in accordance with the notes in the Bagosora 'diary', what is remarkable is that a *Chef de Cabinet* of the Ministry of Defence would take such a personal interest in the identity of the individuals to be trained and who should train them, and then make the effort to personally write the list. Such a handwritten list is not expected to be within the usual duties of a *Chef de Cabinet*, nor falling within the chain of command under the Ministry of Defence. The existence of the list is persuasive evidence of Colonel Bagosora's deep personal involvement with the organization and training of the individuals who would later perform the functions of actually killing vast numbers of Tutsi.

⁹ Testimony of witness XBM, Jul 14 2003, English t/s, page 23, lines 9-14

¹⁰ Testimony of witness ZF, English t/s, Nov 27 2002, English t/s, pages 71-75

¹¹ Exhibit P-278, Expert Report of Superintendent Nyanjwa, Part 3: Test Collection A; K023 9520 – 45.

¹² Exhibit P-3, Leave None To tell the Story, page 106(a & b).

¹³ Exhibit P-278, *supra*, 'Feb 15'; K023 9532 (French) and K024 0250 (English)

¹⁴ Exhibit P-278, *supra*, 'Feb 13'; K023 9531 (French) and K024 0248 (English)

¹⁵ Exhibit P-278, Expert Report of Superintendent Nyanjwa, Part 4: Test Collection B; K009 1619-37 and K009 1643-76, particularly, for example at K009 1646 & 1626-27

29. There is evidence of other lists as well. In particular, numerous witnesses testified that when killing of Tutsi was conducted by soldiers or Interahamwe, the names of the people to be killed were either "read out" from a list or that a list was used to process the killing.
30. As one example of the conspiracy that is reflected in the creation and use of lists of victims, and the level of detail to which the accused involved themselves, there is the evidence surrounding the killing of Gisenyi businesswoman Mukabutare. Witness XBH testified to the creation of a list of persons to be killed, as drawn up between himself, Colonel Bagosora, Colonel Nsengiyumva and another officer. One of the names specifically put on the list was a Tutsi businesswoman named Mukabutare.¹⁶ Witness ABQ testified that Colonel Nsengiyumva was later leading a meeting at Barnabe Samvura's house on the morning of the 7th April 1994, during which Colonel Nsengiyumva read out from a sheet of paper the names of 'Inyenzi who had to be eliminated at all cost'. One of the names Colonel Nsengiyumva read out was that of the businesswoman called Mukabutare.¹⁷ We also heard testimony from witness DO concerning killings in Gisenyi that he witnessed while he was driving killers who were looking for Tutsi on the 7th of April. Two of the victims of the killings DO testified about were a businesswoman called Mukabutare and her daughter, killed by soldiers from the Gisenyi military camp.¹⁸
31. The Mukabutare killing was a singular example of a much larger process and there is evidence that Colonel Nsengiyumva anticipated that larger process far in advance of 1994. In exhibit P-21, Colonel Nsengiyumva wrote to the Army Chief of Staff and sent a copy of the letter to President Habyarimana, setting out a criticism of the political processes leading to peace with the RPF, and describing what could happen if the process with the RPF continued. Ostensibly describing what others were saying,

¹⁶ Testimony of XBH, Jul 3, 2003, English t/s pages 15-20 and at page 17, line 34+ and page 18, lines 1-7., and page 19, lines 23-24

¹⁷ Testimony of ABQ, Sept 6, 2004, English t/s pages 4-8 and at page 7, line 21+

¹⁸ Testimony of DO, Jun 30, 2003, English t/s, pages 41-44 and at page 43, line 18+

Colonel Nsengiyumva wrote that civilians "...are even saying that they are immediately going to get ready to flee before the Inkotanyi arrive, adding that prior to their flight they will massacre the Tutsi."¹⁹, and further about the military that "Some of our officers are even saying that before they flee this country they will first settle old scores with those of our leaders who caused the disaster by naively yielding to all the demands of the enemy fighting us."²⁰, and adding that in the views of "some officers", "If the President does not defend his people...he is going to find himself alone..."²¹

32. Expert witness Dr Alison DesForges commented upon what Colonel Nsengiyumva had written in his letter dated 27 July 1992, by stating it would be difficult to read as anything other than the description of an anticipated coup d'état.²² Dr DesForges opined that the parts of the letter she described "form a coherent whole" and "spell out a plan of action which is being forecast as the probable course of action should President Habyarimana and the rest of the government continue down the path of negotiation as spelt out in the Arusha Accords."²³ After comparing the structure of this particular letter with others written by Colonel Nsengiyumva, and analyzing the content of the various passages, Dr DesForges observes:

I would draw your attention to the pattern of violence beginning on April 6th, which was exactly as described here, where the military assassinated, murdered the prime minister, the negotiator involved in the Arusha Accords and other political leaders who, in their eyes were responsible for the Arusha Accords which they had disavowed, and at the same time, under their direction, the population massacres the Tutsi. [emphasis added]²⁴

Expert witness Dr Alison DesForges describes exhibit P-21 as being of "enormous importance"²⁵ and insisted on the importance of the content and historical context of the document in "helping to understand the events of 1994."²⁶

¹⁹ Exhibit p-21; English, pages 1-2, paragraph A(1), last sentence;

²⁰ *supra*; English, page 2, paragraph A(2), last sentence;

²¹ *supra*; English, page 4, paragraph B(1), last sub-paragraph;

²² Testimony of Dr Alison DesForges, September 16, 2002, English t/s, page 105, lines 5-12

²³ *supra*, September 11, 2002, English t/s, page 108, lines 19-24

²⁴ *supra*, September 11, 2002, English t/s, page 100, lines 23-30

²⁵ *supra*, September 16, 2002, English t/s, page 96, line 18

²⁶ *supra*, September 11, 2002, English t/s, page 95, lines 29-30

33. Witness XXQ equated the 27 July 1992 letter with the creation of AMASASU, which he described as the group that was responsible for plotting the genocide.²⁷ XXQ said that included among the members of that group were each of the four accused.

34. General Romeo Dallaire was the best-placed objective observer of the plans that unfolded in late 1993 and early 1994, and he was present at the crucial moments when the genocide campaign moved into action. His testimony as to the plan was insightful and illustrative:

JUDGE REDDY:

And which of those two conclusions did you yourself arrive at in light of all the knowledge you had gained as being a person on the spot, so to speak?

THE WITNESS:

They were implementing a plan that we had heard so much of from a variety of sources. I had

²⁷ Testimony of XXQ, Oct 13, 2004, English, page 3, lines 35-36

A. ... Secondly, I heard of the existence of this group through a service memo which Lieutenant Colonel Anatole Nsengiyumva had written for the chief of staff of the Rwandan army –
Testimony of XXQ, Oct 13, 2004, English t/s, page 6, lines 17-28

Q. Mr. Witness, you talked about this letter of Colonel Anatole Nsengiyumva which you said was dated the 27th of July 1992; correct?

You have to answer -- you have to answer viva voce because --

A. That's correct.

Q. Thank you. I put it to you, Mr. Witness, that the letter of Colonel Anatole Nsengiyumva, nowhere in its contents ever mentioned the word "*Amasasu*". Do you agree with that?

A. The word "*Amasasu*" did not appear in the memo, but the ideas that were contained in that letter dated 27 July 1992 were exactly the same as those reflected in the document which had been initialled by members of the *Amasasu* group. If you have the two documents, you realise that the similarity is obvious. And that was a document he had referred to to allege that it was the opinion of the entire Rwandan population.

Testimony of XXQ, Oct 13, 2004, English t/s, page 7, lines 16-26

A. I think you did not understand me well. I told you that the first time that I became aware of the existence of this group was through Lieutenant Bizimuremyi, who had been given an assignment to recruit the junior officers so that those junior officers should become members of *Amasasu*. I told you that the second means by which I became aware of the existence of this group was when I was given a service memo written by Anatole Nsengiyumva as well as a letter addressed by the minister of defence to the president of the republic because of the worries that he had as a result of the threats made against him by the *Amasasu* group. Among those mentioned, the name of that person was also mentioned. And it was a matter of doing a cross-check. During that cross-checking, I proved that the contents of the service memo by Nsengiyumva was not correct, but that rather it was because of officers who wanted to maintain their posts and who were afraid of losing them in the event of a merger of the two armies. I do not know whether you're satisfied, Counsel.

[Later, when it became clear that counsel was objecting to identification of the exhibit...

MR. PRESIDENT:

Are you saying, Mr. Skolnik, that the witness, in fact, volunteered information and referred to this document P. 21? There is agreement on that?

MR. SKOLNIK:

Yes, I would have to say that's so, but it wasn't -- it wasn't pursuant to any question which I asked the witness. I never asked him any question. It was -- came out extempore from him.]

never seen the plan. I could never corroborate the details of the plan, but that there would be a singular scenario that would throw the country in crisis again and all fingers pointed to the hard-line elements of the government, particularly the MRND party and the CDR party, and what was going on was going on, even to the extent that when we finally got the firm information that the Belgian soldiers were killed, that fell in line with information we had received earlier on that the *Interahamwe* was mandated to establish a scenario that would bait the Belgians into having to use force. If you remember in February there were a lot of riots and things going on, and they had, as an example, at the presidential roundabout, had hidden weapons and communications equipment and so on. And so it dawned on me then that the plan is moving, they are killing Belgians, and they were trying to get rid of us, and there was no way I was leaving. And so I could not -- as a professional, I had the senior military officers, Ndingilyimana sitting there, although the gendarmerie was still the senior officer, because there was no chief of staff by then. I got this senior political military authority that was sitting there and there was absolutely no proof that somebody else had taken over the role that I had seen the night before. So my deduction from my experience was that there was a plan being implemented and it was being implemented smoothly, because there was very little coordination, there was no excitement, no screaming in the telephone, nothing.²⁸

35. Lastly, it cannot pass without notice that expert witnesses called by the Prosecution, Dr Alison DesForges and Professor Filip Reyntjens, both testified that genocide was conceived of and planned prior to 1994 and executed during the events that concentrated on the period of April through July, 1994. Both testified that there were a series of smaller 'dress rehearsal' events before the massive scale of killing that began in April 1994. Dr DesForges provided in her expert report that it was a relatively small group of Rwandans who organized the genocide of their fellow citizens, and that they had planned the slaughter over a period of at least some months -- perhaps for more than a year.²⁹

²⁸ Testimony of General Romeo Dallaire, Jan 19 2004, English t/s, page 47, lines 6-26.

²⁹ Exhibit P-2, Expert Report of Dr Alison DesForges, page 1, paragraph 1, lines 1-2

2. GENOCIDE

36. All four accused are charged with Genocide.

37. The crime of genocide is set out in Article 2(3)(a) of the Statute, as defined in Article 2(2).

38. In brief, the *actus reus* of genocide is the killing or serious harm of a particular group, and although there is no numeric threshold of victims necessary to establish genocide, it is necessary to show the destruction of at least a substantial part of the group.

39. In brief, the *mens rea* of genocide is the intention to destroy, at least, a substantial part of the group.³⁰ A perpetrator's *mens rea* may be inferred from his actions.³¹

40. There is evidence on each of the elements of this crime, including evidence that during 1994 in Rwanda, vast numbers of people identified as Tutsi were killed. There is evidence that killing was systematic, organized and facilitated by authority figures in Rwandan society, including authority figures from the military. The involvement of each of the four accused in certain of these activities has been a repetitive theme in the evidence heard thus far.

41. In particular, there is evidence that Major Ntabakuze was the commander of an elite unit of the Forces Armee Rwandaise, known as the "Paracommandos", stationed at

³⁰ Prosecutor v. Bagilishema, Judgement TC, para 64. ;

Prosecutor v. Jelusic, Judgement TC, para 82.;

Prosecutor v. Kristic, Judgement AC, paras. 8-9. Genocide is a special intent crime. Thus, to prove that an accused committed this crime, the prosecution must show that he clearly sought to produce the act charged; namely, "the intent to destroy, in whole or in part, a national, ethnical, racial or religious group." He may be convicted if he knew or should have known that his actions would have this effect. *Prosecutor v. Akayesu*, Case No. ICTR-96-4-T September 2, 1998, para. 498; *see also Musema*, January 27, 2000, para. 164; *Rutaganda*, December 6, 1999, para. 59.

³¹ *Rutaganda*, December 6, 1999, para. 61-63; *Prosecutor v. Semanza*, Case No. ICTR-97-20 May 15, 2003, para. 313; *Musema*, January 27, 2000, para. 167; *Akayesu*, September 2, 1998, *Bagilishema*, June 7, 2001, para. 63.

Kanombe Military Camp, and that certain of those Paracommandos were ordered by Major Ntabakuze to avenge the death ("*Tugomba Kumuhorera*") of the President in the areas surrounding Kanombe Camp, shortly after the crash of the President's plane on April 6, 1994.³²

- A. ... The *Inyenzis* have just killed him; we have to avenge his death. ...³³ ...
- A. He expressed himself in Kinyarwanda and told the paracommando soldiers what they had to do. He said that it was necessary -- that it was necessary to explain their suffering to the RPF -- that is, the Tutsis -- and that he had to ensure that what they had done should end in serious consequences for them; that is, that they had to be killed. That is what he said when he was talking about avenging his death.³⁴ ...
- A. After the major said those words to the soldiers who were there, the arms depot was opened and the soldiers took weapons and ammunition and started killing people, beginning with the Katagari (*phonetic*) neighbourhood, which was close to the camp.³⁵

42. Further, there is evidence that General Kabiligi was the head of FAR military operations and that as such he directed and coordinated the field activities of the entire Rwandan military forces during the period of April through July, 1994³⁶. In particular, there is evidence from witness DCH that General Kabiligi was present and in command when civilians identified as Tutsi were massacred at what was then the faculty of law at Murabuturo hill in Kigali.³⁷ There is further evidence that General Kabiligi was present and in command when military forces began a 'sweep' to exterminate Tutsi from Gisenyi southwards to Cyangugu and Bukavu, for the purpose that General Kabiligi said was "to ensure that no Tutsi survived".³⁸

43. Further, there is evidence that Colonel Nsengiyumva was the head of Gisenyi military region and that as such he directed and coordinated the activities of Rwandan military forces in Gisenyi during the period of April through July, 1994. In particular, there is evidence from witness DCH that Colonel Nsengiyumva was present and in command when civilians identified as Tutsi were prevented by Colonel Nsengiyumva from crossing the border out of Rwanda, ordered personally by Colonel Nsengiyumva off

³² Testimony of XAQ, Feb 23 2004, English t/s, pages 23-26

³³ *supra*, page 24, line 5

³⁴ *supra*, page 23, lines 27-31

³⁵ *supra*, page 26, lines 28-30

³⁶ Testimonies of XXJ, Apr 14 2004, English t/s, pages 45-58; and HN, Feb 24 2004, pages 28, 32-34;

³⁷ Testimony of DCH, Jun 23 2004, English t/s, pages 83-88

³⁸ Testimony of XAI, September 9 2003, English t/s, page 15, lines 9-10

the bus they were traveling on, separated from non-Tutsi citizens by Interahamwe acting directly under the orders of Colonel Nsengiyumva while observers sang “*Tubatsembetsembe*”, and later massacred at or near the notorious, so-called ‘Commune Rouge’ in Gisenyi, all under the direct command of Colonel Nsengiyumva to “Take these people to the *commune rouge*.”³⁹

44. Further, there is evidence that Colonel Bagosora was the active *chef de cabinet* of the Ministry of Defence and that he exercised his authority over a variety of military officers, units and civilian forces. In the course of exercising that authority, Colonel Bagosora occupied a central role as representative and spokesman for the Rwandan military. In particular, there is evidence from witnesses CW and XAQ that Colonel Bagosora issued orders to armed civilians to “be courageous in your work”⁴⁰ and to search for and exterminate Tutsi “house to house”⁴¹. There is evidence that Colonel Bagosora issued orders to soldiers and Interahamwe to “Select Tutsis from amongst the people who are here, take them to the *préfecture* and take the other people next to the *préfecture* and kill them”.⁴² The same witness describes Colonel Bagosora and other officers visiting a roadblock with dead bodies in view, while people were being killed in front of the officers, and hearing Colonel Bagosora “congratulated people because they were working in an active manner”.⁴³ There is evidence that Colonel Bagosora gave orders to Interahamwe leaders, even to the point of instructing where Tutsis should be killed.⁴⁴ There is evidence that Colonel Bagosora not only issued orders to military officers to eliminate Tutsi, but that he also threatened officers he believed were not working hard enough at genocide: “I have been receiving reports for a long time regarding the way you perform your duties; I have received reports from civilian and military bodies; you continue to protect Tutsis, but you are wrong

³⁹ Testimony of DCH, Jun 22 2004, English t/s, page 51, lines 16-36 and page 52 lines 1-15.

⁴⁰ Testimony of XAQ, Feb 23 2004, English t/s, page 27, lines 4-8

⁴¹ Testimony of CW, Oct 8 2004, English t/s, page 11, lines 2-3 & 30-31 and page 15, line 18, page 47, lines 4-7 and lines 15-18, page 48, lines 32-35, page 49, lines 7-8, and lines 35-1, page 54, lines 35-36, and page 60 lines 27-37 and page 61, line 1

⁴² Testimony DAS, Nov 5 2003, English t/s, page 51, lines 13-14

⁴³ *supra*, page 20, lines 14-29

⁴⁴ Testimony of DCH, Jun 22 2004, English t/s, page 80, lines 28-30: “Ngirabatware asked why they had not been killed. Bagosora said they should be followed and be killed elsewhere, and when he said that, Bizimungu was present, and he, too, agreed. Renzaho also supported the idea.”

because you can get eliminated before the Tutsis.”⁴⁵ There is even evidence that Colonel Bagosora gave instructions to kill to young, ordinary citizens:

- A. We were a number of young people near the road. We were fleeing from the *Inkotanyi*, and we were there. His vehicle went past, and he stopped where we were and he said, "You can see that Tutsis are causing you to flee. Wherever you go, kill the Tutsis, right up to the babies." ⁴⁶

45. It must again be noticed that expert witnesses called by the Prosecution, Dr Alison DesForges and Professor Filip Reyntjens, both testified that genocide was executed in 1994 during events that concentrated on the period of April through July, 1994. Dr DesForges commented that regarding the FAR officers who played a crucial role, “without their active commitment, the extermination campaign against Tutsi would not have been possible on the scale it assumed; with their firm and consistent opposition it would not have taken place at all.”⁴⁷

⁴⁵ Testimony of KJ, Apr 19 2004, page 13, lines 26-32

⁴⁶ Testimony of XXY, Jun 11 2004, English t/s, page 17, lines 33-35

⁴⁷ Exhibit P-2, Expert Report of Dr DesForges, page 1, paragraph 2.

3. COMPLICITY in GENOCIDE

46. All four accused are charged with Complicity in Genocide.

47. All four accused face identically-worded indictments, charging that each

“...is [are] responsible for killing and causing serious bodily or mental harm to members of the Tutsi population with the intent to destroy, in whole or in part, a racial or ethnic group, and thereby committed Complicity in Genocide...”

48. This crime is set out in Article 2(3)(e) of the Statute.

49. The *actus reus* of complicity is presently comparable to aiding and abetting, instigating or procuring for genocide.⁴⁸ However, the precise legal features of the *actus reus* of complicity are in flux and considerable debate surrounds their formulation. It does seem clear at present that the same person may not be convicted of both genocide and complicity in genocide for the same act.⁴⁹

50. In brief, the essence of the *mens rea* of complicity in genocide is that the accomplice knew of the assistance he was providing in the commission of the principal offence. It is not necessary for the accomplice to affirmatively desire that the principal offense be completed.⁵⁰

51. There is evidence on each of the elements of this crime, including evidence that each of the four accused were aware of the killing of Tutsi civilians in large numbers, and that each of the four accused took active steps to facilitate the killing by others.

52. The particular factual basis of the elements for complicity are set out under a collection of other Counts within this Response, so the paragraphs are not repeated.

⁴⁸ *Semanza*, May 15, 2003, para. 393, 395.

⁴⁹ *Akayesu*, September 2, 1998, para. 532; *Musema*, January 27, 2000, para. 175; *Nahimana, Barayagwiza and Ngeze*, December 3, 2003, para. 1056; *Bagilishema* June 7, 2001, para. 67.

⁵⁰ *Akayesu*, September 2, 1998, para. 538-539, 544. See also *Semanza*, May 15, 2003, para. 394-95 (noting that the *mens rae* of complicity parallels that of aiding and abetting and the other forms of accomplice liability in Article 6(1)).

4. INCITEMENT to COMMIT GENOCIDE

53. Only Colonel Anatole NSENGIYUMVA is charged with Incitement to Commit Genocide, worded as follows:

“...is responsible for direct and public incitement to kill and cause serious bodily or mental harm to members of the Tutsi population with the intent to destroy, in whole or in part, a racial or ethnic group, and thereby committed Direct and Public Incitement to Commit Genocide...”

54. This crime is set out in Article 2(3)(c) of the Statute.

55. In brief, the *actus reus* of incitement to commit genocide is directly provoking the perpetrator(s) to commit genocide.⁵¹ The incitement need not be successful.⁵²

56. In brief, the *mens rea* of incitement to commit genocide is the intent to directly prompt or provoke another to commit genocide. The accused must have the special intent to commit genocide.⁵³

57. There is evidence on each of the elements of this crime, including evidence that Colonel Nsengiyumva supported the policy of genocide, that he actively promoted and facilitated genocide, and that he sought to implement genocide in Gisenyi prefecture through the mobilization of military, militia and civilian persons in Gisenyi.

58. In particular, there is evidence that Colonel Nsengiyumva made pronouncements to the public in Gisenyi prefecture, on or about the morning of 7 April 1994, to the effect that there were certain people who should be eliminated at all cost, and he read names from a list, saying the names were “important Inyenzi who should not be

⁵¹ *Akayesu*, September 2, 1998, para. 559.

⁵² *Akayesu*, September 2, 1998, para. 562; *Ruggiu*, June 1, 2000, para. 16; *Niyitegeka*, May 16, 2003, para. 431; *Nahimana, Barayagwiza and Ngeze*, December 3, 2003, para. 1013.

⁵³ See *Akayesu*, September 2, 1998, para. 560; *Ruggiu*, June 1, 2000, para. 14; *Niyitegeka*, May 16, 2003, para. 431; *Nahimana, Barayagwiza and Ngeze*, December 3, 2003, para. 1012.

spared”⁵⁴ and the killing should start against those people.⁵⁵ Colonel Nsengiyumva gave as the reason for the killing:

- A. ... "You know who has killed our president. It is the *Inyenzi*, and they have many accomplices amongst us. In other words, each Hutu must stand up and defend himself or herself quickly, because if you lose time, they are going to exterminate us in the same way as they killed the president of the republic."⁵⁶

The assembly ended with Colonel Nsengiyumva promising to make weapons available.⁵⁷

59. There is also evidence that Colonel Nsengiyumva made further inciting pronouncements to a large⁵⁸ public gathering in Gisenyi prefecture, later that same day on 7 April 1994⁵⁹, between 4 and 6 pm⁶⁰, at the bus station near the market⁶¹, repeating his message that "You know the enemy, the enemy is the Tutsi"⁶². Colonel Nsengiyumva made these incitements while he was accompanied by the president of the local Interahamwe, Bernard Munyagishari⁶³, to whom he publicly promised assistance⁶⁴, and the Colonel was specific in what he wanted the public of Gisenyi to do:

- A. What he said was the same as what was said or what he said at the meeting in the evening. He urged us to maintain security, because he had noticed that people were not worried or bothered about security, and that was why that second meeting had to be convened, so as to sensitise them, to urge them to go and kill their neighbours.⁶⁵

⁵⁴ Testimony of ABQ, September 7 2004, English t/s, page 15, lines 15-17

⁵⁵ *supra*, page 7, line 36

⁵⁶ *supra*, September 6 2004, English t/s, Page 6, lines 35-37 & page 7 lines 1-4

⁵⁷ *supra*, page 19, lines 20-24

⁵⁸ Testimony of OAB, Jun 24 2003, English t/s, page 51, line 6

⁵⁹ *supra*, page 45, lines 16-27

⁶⁰ *supra*, page 48, lines 12-14 and page 47 lines 23-24

⁶¹ *supra*, page 47 line 20

⁶² *supra*, page 45, lines 19-20

⁶³ *supra*, page 47, line 1

⁶⁴ *supra*, page 48, lines 30-32

⁶⁵ *supra*, page 50, lines 13-16

5. MURDER, as a CRIME AGAINST HUMANITY

60. All four accused are charged with Murder.

61. The crime of murder is included in Article 3(a) of the Statute.

62. In brief, the *actus reus* of murder is that the accused or his subordinate participated in an act or omission causing the unlawful death of a human victim.⁶⁶ The murder must be committed as part of a widespread or systematic attack against a civilian population and reflect discrimination on national, ethnic, racial, political or religious grounds.⁶⁷

63. In brief, the *mens rea* of murder is a premeditated⁶⁸ intent to kill or inflict grievous bodily harm, with knowledge of and recklessness toward the likelihood that this harm will cause the victim's death.⁶⁹

64. Within the three indictments, there are two different counts of Murder, regarding different victims/circumstances. In all three indictments, there is a count in which all four accused face identically-worded allegations, charging that each are:

“...responsible for the murder of persons as part of a widespread and systematic attack against a civilian population on political, ethnic or racial grounds, and thereby committed a Crime Against Humanity...”

⁶⁶ *Akayesu*, September 2, 1998, para. 589.

⁶⁷ *Akayesu*, September 2, 1998, para. 590.

⁶⁸ *Semanza*, May 15, 2003, para. 334-339 (“Premeditation requires that, at a minimum, the accused held a deliberate plan to kill prior to the act causing death, rather than forming the intention simultaneously with the act. The prior intention need not be held for very long; a cool moment of reflection is sufficient. [T]he accused need not have premeditated the murder of a particular individual; for crimes against humanity it is sufficient that the accused had a premeditated intention to murder civilians as part of the widespread or systematic attack on discriminatory grounds.”).

⁶⁹ *Akayesu*, September 2, 1998, para. 589. *See also Rutaganda*, December 6, 1999, para. 80-81, 140; *Musema*, January 27, 2000, para. 215; *Kayishema and Ruzindana*, May 21, 1999, para. 136-140; *Bagilishema*, June 7, 2001, para. 84.

65. There is evidence of each of the elements of this crime, including evidence of numerous specific murders. In particular, there is evidence of the murder of the husband of witness AS in Gisenyi on the morning of April 7, 1994. The husband of witness AS was specifically targeted well before the actual killing by a media and rumour campaign. He was identified for killing by Colonel Bagosora himself, and the order was passed through Colonel Nsengiyumva, before the victim was finally killed by Interahamwe led by a single soldier.⁷⁰ Witness ZF testified as to the targeting of the victim by Colonels Bagosora and Nsengiyumva.
66. As an additional example, witness CJ was a young man in 1994 who also lost his father to an April 7 assassination perpetrated by soldiers.⁷¹ The witness' father was a prominent political figure in Kigali, who many witnesses spoke of in terms of his position and the reasons why he would have been targeted for death at the earliest phase of the genocide. The victim would have been an essential person in forming part of the anticipated government under the Arusha Accords.
67. In addition, only Colonel Theoneste BAGOSORA is charged with a second count of Murder, alleging that he:
- “...is responsible for the murder of the ten Belgian soldiers from UNAMIR as part of a widespread and systematic attack against a civilian population on political, ethnic or racial grounds, and thereby committed a Crime Against Humanity...”
68. There is evidence on each of the elements of these crimes, including evidence that Colonel Bagosora intended to target Belgian soldiers to cripple UNAMIR and facilitate the genocide.
69. In particular, there is evidence that Belgian peacekeepers were targeted as early as January 1994.⁷² It was accurately predicted that killing them would provoke the

⁷⁰ Testimony of AS, Transcript 2 September 2003, pgs 15-16, lns 18-15; pgs 43-47, lns 22-16.

⁷¹ Testimony of CJ, Transcript 25 November 2003, pgs 49-52, lns 21-27.

⁷² Testimony of General Romeo Dallaire, Transcript 19 January 2004, pg 47, lns 10-26; 20 January 2004, pg 18, lns 16-18; pgs 21-23, lns 6-18; 22 January 2004, pgs 14-16, lns 17-1; pgs 23-24, lns 10-26; 26 January 2004, pg 4, lns 9-16; Col Frank Claey's, Transcript 7 April 2004, pg 58, lns 11-20; Major Brent Beardsly, Transcript 4 February 2004, pgs 75-76, lns 30-4; Prof Filip Reyntjens, Transcript 15 September

Belgians to withdraw from Rwanda.⁷³ Their withdrawal would greatly impair the UNAMIR peacekeeping effort, and remove one of the major impediments to the genocide.⁷⁴

70. There is evidence that on 7 April 2004 Colonel Bagosora sent a telegram from the Ministry of Defense, claiming that Belgians were responsible for the shooting of Habyarimana's plane, accusing Belgian peacekeepers of transporting RPF soldiers, and asking those who saw a Belgian to take him to the closest military camp.⁷⁵

71. When the Belgians arrived to escort the Prime Minister to the radio station, they found the house surrounded by soldiers. Government soldiers asked Innocent Sagahutu and Major Francois-Xavier Nzuwonemeye for instructions, and were told that the peacekeepers could enter but not leave.⁷⁶ Once the Belgians entered the house, they came under fire.⁷⁷ Eventually, they emerged, were disarmed, and taken to Kigali Military camp.⁷⁸ At the Camp the Belgian peacekeepers were specifically targeted for separation from the African peacekeepers before the lengthy attack against them commenced.⁷⁹ A few Belgian peacekeepers managed to barricade

2004, pg 18, lns 9-15; Major Brent Beardsley, Transcript 4 February 2004, pg 78, lns 7-13. A media campaign against them was also launched by RTLM, which culminated in a broadcast message that the Belgians were partially responsible for the killing of President Habyarimana and should be killed. General Romeo Dallaire, Transcript 19 January 2004, pg 48, lns 1-7; 20 January 2004, pg 4, lns 27-31, pg 23, lns 19-26, pg 38, lns 8-16; 27 January 2004, pgs 59-60, lns 32-3; Major Brent Beardsley, Transcript 30 January 2004, pg 30, lns 1-6; Major Brent Beardsley, Transcript 4 February 2004, pg 78, lns 7-13; Alison Des Forges, Transcript 16 September 2002, pg 20, lns 10-24.

⁷³ Prof Filip Reyntjens, Transcript 15 September 2004, pgs 17-20, lns 32-2.

⁷⁴ Both because the Belgians provided the backbone of the UNAMIR contingent (Reyntjens, Transcript 15 September 2004, pgs 17-20, lns 32-2; Major Brent Beardsley, Transcript 4 February 2004, pg 78, lns 15-18; General Romeo Dallaire, Transcript 27 January 2004, pg 33, lns 28-30) and because those Belgians killed included UNAMIR troops based at Camp Kigali who supervised FAR disarmament under the Arusha Accords (XXQ XXX, Transcript 12 October 2004, pgs 74-75, lns 36-24).

⁷⁵ XXQ, Transcript 13 October 2004, pg 29, lns 9-26; KJ, Transcript 19 April 2004, pgs 55-56, lns 10-13.

⁷⁶ DA, Transcript 17 November 2003, pgs 23-24, lns 29-34.

⁷⁷ XXO, Transcript 20 November 2003, pgs 21-22, lns 10-11; pgs 28-29, lns 14-15; DA, Transcript 17 November 2003, pg 26, lns 6-25.

⁷⁸ DA, Transcript 18 Nov 2003, pg 52-56, lns 17-26, AE, Transcript 16 December 2003, pg 38, lns 1-20.

⁷⁹ DA, Transcript 18 November 2003, pg 55, lns 8-13; Transcript 19 November 2003, pg 4, lns 12-17; XAF, Transcript 9 February 2004, pgs 4, lns 1-13.

themselves in their weapons-monitoring office, but were eventually killed after several hours with heavy fire and MGL-launched grenades.⁸⁰

72. Colonel Bagosora was very close by throughout the entire attack, not only within earshot but also only a few moments walk to the scene from where he was attending a meeting at the Ecole Supérieure Militaire. At one point the meeting was interrupted when an individual ran to inform the participants that the Belgians were under attack outside.⁸¹ General Romeo Dallaire was present in the meeting presided over by Colonel Bagosora and he testified that Colonel Bagosora was well-briefed of the proximity and critical nature of the siege on the peacekeeping troops but did nothing to intervene. Instead, he oversaw a gathering of the Crisis Committee and was “behaving as though this were a normal meeting on a normal day.”⁸² When Dallaire spoke to General Ndindiliyimana about the Belgian troops after the meeting ended, the General stated “that the situation was being kept under control in a camp where there were excesses already.”⁸³ No units were sent to halt the attack and Colonel Bagosora specifically ordered Dallaire not to go to the Camp.⁸⁴

73. There is evidence of a clear intention to destabilize the UNAMIR forces through gross casualties of foreign peacekeepers. Colonel Bagosora personally suggested to General Dallaire that “it might be best to get the Belgians out of UNAMIR and out of Rwanda because of the rumours that they had shot down the presidential airplane.”⁸⁵ adding that, “what happened in Camp Kigali might happen to the rest of the Belgians...”⁸⁶

⁸⁰ DN, Transcript 19 February 2004, pgs 29-30, lns 26-12; XAF, Transcript 9 February 2004, pgs 12-13, lns 16-36; AH, Transcript 19 February 2004, pg 29, lns 10-27; AE, Transcript 16 December 2003, pgs 38-41, lns 7-4; DA, Transcript 19 November 2003, pg 2, lns 13-24.

⁸¹ AE, Transcript 16 December 2003, pg 39, lns 20-35.

⁸² Exhibit DNT-33, *Shake Hands with the Devil*, p. 254.

⁸³ General Romeo Dallaire, Transcript 22 January 2004, pgs 76-80, lns 26-18.

⁸⁴ General Romeo Dallaire, Transcript 26 January 2004, pgs 74-75, lns 31-8.

⁸⁵ Ibid p. 251.

⁸⁶ Ibid.

6. EXTERMINATION, as a CRIME AGAINST HUMANITY

74. All four accused are charged with Extermination.

75. All four accused face identically-worded indictments, charging that each:

“...is [are] responsible for the extermination of persons as part of a widespread and systematic attack against a civilian population on political, ethnic or racial grounds, and thereby committed a Crime Against Humanity...”

76. The crime of extermination is included in Article 3(b) of the Statute.

77. In brief, the *actus reus* of extermination is that the accused or his subordinate participated in an act or omission causing death that constitutes or is part of a mass killing of members of a civilian population. There is no numeric threshold of victims necessary to establish extermination, so long as there is a substantial event.⁸⁷ Killing of a single person can meet the standard, if it was part of a mass killing event.⁸⁸

78. In brief, the *mens rea* of extermination is the intent to perpetrate or participate in a mass killing⁸⁹ or reckless or gross negligence as to whether the killing would result, so long as the accused was “aware that his act(s) or omission(s) form[ed] part of a mass killing event.”⁹⁰ The intention may be inferred from conduct or surrounding circumstances.⁹¹

79. There is evidence on each of the elements of this crime, including evidence that numerous events of extermination took place throughout Rwanda at the relevant time, and that the persons who performed the killing were either soldiers under the control

⁸⁷ *Semanza*, Judgement, TC, par. 340; *Vasiljevic*, TC, paras. 227, 232; September 2, 1998, para. 591-592; *Rutaganda*, December 6, 1999, para. 83-84; *Musema*, January 27, 2000, para. 218; *Ntakirutimana and Ntakirutimana*, February 21, 2003, para. 812-814.

⁸⁸ *Kayishema and Ruzindana*, May 21, 1999, n. 8. to para. 645

⁸⁹ *Semanza*, May 15, 2003, para. 341.

⁹⁰ *Kayishema and Ruzindana*, May 21, 1999, para. 144.

⁹¹ *Semanza*, Judgement, TC, see footnote 569.

of one or more of the accused, or civilians recruited into organizations and who were under the effective authority or control of one or more of the accused.

80. An example of one way in which the four accused intended the implementation of extermination was through the deliberate training and arming of civilians. Witness Colonel Frank Claeys shared the details of a military-coordinated plan that included the training of hundreds of militiamen, registering of Tutsis within Kigali and the distribution of a large cache of weapons, all amounting to the capacity to kill a thousand people every 20 minutes.⁹²
81. Witness DCH testified that it was military officials who taught people through the *Interahamwe* movement that Tutsis would exterminate Hutus if given the chance; the ideology intended was therefore, "if we kill Tutsis and only a few remain, we were going to remain in power."⁹³
82. Witness BY, a leader of the *Interahamwe*, testified that this radical militia was inspired by the highest-ranking military officials.
I will mention the minister of the army at that time, Mr. Augustin Bizimana. I will mention Col. Theoneste Bagosora who was the chef de cabinet of that ministry. I will mention Lt. Anatole Nsengiyumva, who was very much in favour of those trainings.⁹⁴
83. Witness GS stated that Ntabakuze "was working or cooperating with the commanding officer of the Presidential Guard in order to train those instructors who would be responsible for guiding the *Interahamwe* in that area"⁹⁵ as well as the being "in charge of the distribution of weapons and ammunition to the *Interahamwe*."⁹⁶
84. Many witnesses including OAF, DO and Omar Serushago testified to the establishment of roadblocks by the *Interahamwe* as a way the four accused

⁹² Testimony of Colonel Frank Claeys, Transcript 7 April 2004.

⁹³ Testimony of DCH, Transcript 23 June 2004 (English), pages 12-16, 27.

⁹⁴ Testimony of BY, 2 July 2004 (English), pages 27-32.

⁹⁵ Testimony of GS, Transcript 17 February 2004 (English), page 69.

⁹⁶ Ibid, pages 68-72.

operationalized their extermination plan leading to the identification and mass killings of Tutsis and their accomplices.

85. Several witnesses including BY,⁹⁷ XXY,⁹⁸ XAI,⁹⁹ UT¹⁰⁰ and DY¹⁰¹ provided the evidentiary context to understand that – alongside military and gendarmes – the *Interahamwe* perpetrated extensive massacres in Rwanda from 7 April 1994, onwards.
86. In particular, there is evidence that extermination of civilian Tutsi took place at Nyundo on or about April 27/28 1994 involving some 430 victims. The killers were identified as military personnel and *Interahamwe* from Gisenyi with reinforcements sent by the Ministry of Defence.¹⁰²
87. Further extermination took place at the IAMSEA site in Kigali in late April 1994, involving some 60-100 Tutsi victims. The killers were identified as soldiers from the Para-commando battalion.¹⁰³
88. Another event of extermination took place on or about 8 April 1994 at Mudende University in Gisenyi prefecture. Tutsi were attacked by the gendarmes who had been protecting them, *Interahamwe*, and soldiers from Isar Tamira (a research centre in Gisenyi) Approximately six hundred civilians died.¹⁰⁴
89. Witness XBG testified that toward the end of May 1994 there was massacre of approximately two hundred Tutsi civilians who were killed within a church in the Rwerere *commune* in Busasamana parish. There, local *Interahamwe* converged with

⁹⁷ Witness BY, 1 June 2004 (English) pages 68-69.

⁹⁸ Witness XXY, 11 June 2004 (English) pages 2-6, 14-15, 17, 19, 22-25, 30-32.

⁹⁹ Witness XAI, 8 September 2003 (English) pages 54-59

¹⁰⁰ Exhibit P-259, Witness UT, 92bis statement, page 7.

¹⁰¹ Testimony of DY, 16 Feb 2004 (English), pages 53-57.

¹⁰² Testimony of XBM, Jul 14 2003 (English), pages 25-27.

¹⁰³ Testimonies of DBQ, Feb 25 2004, (English) page 14-16, and WB, Nov 12 2003, page 37-52

¹⁰⁴ Testimonies of XBG, Jul 8 2003 (English), pages 67-76, and HV, September 23 2004, page 25-34

other Interahamwe brought on an Onatracom bus. Colonel Nsengiyumva and other senior officials from Gisenyi were observed at the scene.¹⁰⁵

90. Witnesses AR and DR gave eyewitness testimony to the notorious ETO / Nyanza extermination of uncounted hundreds of Tutsi civilians on April 11, 1994, conducted effectively by soldiers of various units under the command of Major Ntabakuze and Colonel Bagosora, as supported by numerous Interahamwe.¹⁰⁶

91. In the course of the Prosecution case-in-chief, there was extensive evidence led on extermination.

¹⁰⁵ Ibid.

¹⁰⁶ Testimonies of witness AR, September 30 & Oct 1 2003 and witness DR, Apr 29 2004.

7. RAPE, as a CRIME AGAINST HUMANITY

92. All four accused are charged with Rape.

93. All four accused face identically-worded indictments, charging that each:

“...is [are] responsible for rape as part of a widespread and systematic attack against a civilian population on political, ethnic or racial grounds, and thereby committed a Crime Against Humanity...”

94. The crime of rape is included in Article 3(g) of the Statute.

95. In brief, the *actus reus* of rape is that the accused or his subordinate participated in an act or omission causing the physical invasion of a sexual nature committed upon a person under circumstances which are coercive. Sexual violence, which includes rape, is considered to be any act of a sexual nature which is committed on a person under circumstances which are coercive.¹⁰⁷

96. In brief, the *mens rea* of rape is the intention to effect the prohibited sexual contact with the knowledge that it occurs without the consent of the victim.¹⁰⁸ Lack of consent can be inferred from the circumstances.

97. There is evidence on each of the elements of this crime, including evidence that Rwandan civilians identified as Tutsi were assaulted sexually and subjected to forcible sexual intercourse, in various regions of the country and throughout the period of April to July, 1994.

98. In particular, there is eyewitness evidence from witness DAZ that while at Kabgayi in April and May 1994, numerous Tutsi women and girls were taken daily and raped by

¹⁰⁷ *Akayesu*, September 2, 1998, para. 596-598, 686-688; *Musema*, January 27, 2000, para. 220-221, 226-229; *compare Semanza*, May 15, 2003, para. 344-345 (adopting a narrower definition of rape “as the non-consensual penetration, however slight, of the vagina or anus of the victim by the penis of the perpetrator or by any other object used by the perpetrator, or of the mouth of the victim by the penis of the perpetrator.”).

¹⁰⁸ *Kunarac*, Judgement, AC, paras. 127-128; *Semanza*, May 15, 2003, para. 346.

soldiers. The witness herself was raped on more than one occasion, by different soldiers. During one of the witness' rape ordeals "he kept insulting me telling me that I was an Inyenzi." and during another occasion with a different soldier rapist "He harshly told me that I was an Inyenzi and I had to suffer because of my kinsmen."¹⁰⁹

99. Further, there is eyewitness evidence from witness General Romeo Dallaire that:

- A. Oh, They were all civilian. I don't remember a uniformed person. And there were babies or pregnant women, babies, children, elderly. Some of the sites -- well, a number of the sites mutilation was done on men, and you could see by the layout of the women and so on that rape and then mutilation had happened.
- Q. ... The corpses that you observed, either at roadblocks or at the scenes of killings, in particular, I want to draw your attention to the female corpses. Was there anything in particular with respect to those corpses that you made any observations about?
- A. Well, I'm not -- I can't say it was a standard operating procedure by the extremists as such, but we could notice on many sites, sometimes very fresh -- that is, I am speaking of my observers and myself -- that young girls, young women, would be laid out with their dresses over their heads, the legs spread and bent. You could see what seemed to be semen drying or dried. And it all indicated to me that these women were raped. And then a variety of material were crushed or implanted into their vaginas; their breasts were cut off, and the faces were, in many cases, still the eyes were open and there was like a face that seemed horrified or something. They all laid on their backs. So there were some men that were mutilated also, their genitals and the like. A number of them were -- women had their breasts cut off or their stomach open. But there was, I would say generally at the sites you could find younger girls and young women who had been raped or, you know, deducting that they were raped.¹¹⁰

100. Further, there is eyewitness evidence from witness Major Brent Beardsley that:

- Q: With respect to the female corpses, in particular, did you make any observations about any particular characteristics that those corpses may have had?
- A. Yes, two things, really. One, when they killed women it appeared that the blows that had killed them were aimed at sexual organs, either breasts or vagina; they had been deliberately swiped or slashed in those areas. And, secondly, there was a great deal of what we came to believe was rape, where the women's bodies or clothes would be ripped off their bodies, they would be lying back in a back position, their legs spread, especially in the case of very young girls. I'm talking girls as young as six, seven years of age, their vaginas would be split and swollen from obviously multiple gang rape, and then they would have been killed in that position. So they were laying in a position they had been raped; that's the position they were in.

Rape was one of the hardest things to deal with in Rwanda on our part. It deeply affected every one of us. We had a habit at night of coming back to the headquarters and, after the activities had slowed down for the night, before we went to bed, sitting around talking about what happened that day, drink coffee, have a chat, and amongst all of us the hardest thing that we had to deal with was not so much the bodies of people, the murder of people -- I know that can sound bad, but that wasn't as bad to us as the rape and especially the systematic rape and gang rape of children. Massacres kill the body and rape kills the soul. And there was a lot of rape. It seemed that everywhere we went, from the period of 19th of April until the time we left, there was rape everywhere near these killing sites.¹¹¹

¹⁰⁹ Exhibit P-274, 92bis witness statement, Witness DAZ, pages 4-5; ERN K010 7557-58.

¹¹⁰ Testimony of R. Dallaire, Jan 20, 2004, English transcript pages 31-32, lines 34+

¹¹¹ Testimony of B. Beardsley, Feb 3, 2004, English transcript pages 51-52, lines 25+

101. There was also evidence led drawing the connection between rape and the larger, extremist Hutu ideology of the acting authorities. Witness ZF gave an account of an interaction with his superior officer:

"They would bring young girls there and have their way with them. I remember that I went with Lieutenant Bizumuremyi. Damas told Bizumuremyi openly that that house was used to rape women and young girls before killing them. So the lieutenant told him that that wasn't so bad, but that he had to make sure that afterwards, after their activities, after finishing what they had to do, they had to execute them because if they didn't, they would be a new danger, because these young girls could then go abroad and join the ranks of the RPF to thereafter come back as soldiers."¹¹²

102. Further, there is expert witness evidence from Binaifer Nowrojee that "When the violence began in 1994, rape of Tutsi women was widespread."¹¹³ and that "Sexual violence during the Rwandan genocide occurred in massive numbers in every prefecture in the country throughout the genocide" in systematic patterns and methods.¹¹⁴ Additionally, expert Nowrojee concludes that "Much of the sexual violence was deliberately directed at Tutsi women as part of the attack against the Tutsi community. Sexually subjugating and mutilating Tutsi women was a way to attack the ethnic group and to punish women."¹¹⁵ The reason for this is because "...sexual violence was deliberately used during the Rwandan genocide to target women on the basis of their gender and ethnicity."¹¹⁶ Expert Nowrojee provides evidence on the public nature of the rape, often occurring at places of sanctuary such as churches or stadiums where Tutsis sought refuge.¹¹⁷

103. Consequently, there is evidence that throughout the Rwandan genocide, widespread sexual violence occurred in public view in every prefecture. Every part of Rwanda was a location for rape, often multiple gang-rapes. Women were not just raped behind closed doors, they were raped on streets, at checkpoints, in cultivated plots, in or near government offices, hospitals, churches and other public buildings. Their dead bodies were left in public view, naked and spread-eagled, with nearby

¹¹² Testimony of ZF, Nov 28 2002 (English), pages 60-61.

¹¹³ Exhibit P-291, Expert Report, page 5, paragraph 12.

¹¹⁴ Exhibit P-291, Expert Report, page 16, paragraph 48.

¹¹⁵ Exhibit P-291, Expert Report, page 15, paragraph 47

¹¹⁶ Exhibit P-291, Expert Report, page 15, paragraph 46

¹¹⁷ Exhibit P-291, Expert Report, page 7-8, paragraph 19

pools of blood and semen, so routinely, that the occurrences cannot have been only coincidental. There was in this repetitive conduct the message of subjugation, humiliation and degradation of the Tutsi.¹¹⁸

8. PERSECUTION, as a CRIME AGAINST HUMANITY

104. All four accused are charged with Persecution.

105. All four accused face identically-worded indictments, charging that each:

“...is [are] responsible for persecution on political, racial or religious grounds, as part of a widespread and systematic attack against a civilian population on political, ethnic or racial grounds, and thereby committed a Crime Against Humanity...”

106. The crime of persecution is included in Article 3(h) of the Statute.

107. In brief, the *actus reus* of persecution is that the accused or his subordinate participated in an act or omission causing the gross or blatant denial, on discriminatory grounds, of a fundamental right, laid down in international customary or treaty law, reaching the same level of gravity as the other acts prohibited in Article 5.¹¹⁹ The *actus reus* of Persecution may include acts enumerated under other sub-headings of crimes against humanity, such as murder or deportation, and may also involve a variety of other discriminatory acts, not enumerated elsewhere in the Statute, involving serious deprivations of human rights.¹²⁰

¹¹⁸ Exhibit P-291, Expert Report, page 16-17, paragraph 53

¹¹⁹ *Kupreskic*, Judgement, TC, para. 621. See also *Kordic and Cerkez*, Judgement, TC, para. 195; *Semanza*, Judgement, TC, par. 347.

¹²⁰ *Kordic and Cerkez*, Judgement, TC, para. 194; *Kupreskic*, Judgement, TC, para. 615. see also *Prosecutor v. Ruggiu*, June 1, 2000, at para. 21, and *Prosecutor v. Semanza*, May 15, 2003, at para. 347-350.

108. In brief, the *mens rea* of persecution is unlike the other enumerated crimes against humanity, in that persecution is premised on a specific discriminatory intent on racial, religious or political grounds.¹²¹
109. There is evidence on each of the elements of this crime, including evidence of the leadership's attempt to plunge the country into chaos – a clear non-participation in the peace process in Arusha in order to launch an apocalypse aimed at a firm establishment of 'Hutu power'.¹²² The central feature of the discriminatory 'Hutu power' plan was to control the movement of the Tutsi minority by labelling them *en masse* as a threat to the security of the nation, thus creating a discriminatory rationale to suspend fundamental liberties and minority rights.
110. In particular, there is evidence from witness DY describing the way the military leadership operationalized their systematic plan of persecution leading to the ethnic identification and mass killings of Tutsis and their accomplices. The witness explained that during the month of June 1994, he was with General Kabiligi when "we came across the roadblock which was being manned by the Interahamwes. Those Interahamwes had stopped people, and they massacred those people in the presence of Kabiligi, and Kabiligi did not do anything in respect of those people – he did not do anything to stop the massacre of those people."¹²³ Witness DY explained that there were more than ten men, women and children who had been asked to sit down at the roadblock, in the charge of an armed man named 'Abdala'. When General Kabiligi decided to stop and get out of his armoured vehicle, Kabiligi greeted 'Abdala' by name.¹²⁴ 'Abdala' greeted him back "good day General" and stated "Here are the Inyenzis whom we have arrested.", after which he fired a shot at the group of people who were sitting, and then the Interahamwe also shot at the people.¹²⁵ All ten people

¹²¹ *Akayesu*, Judgement, AC, paras. 464, 468 and *Prosecutor v. Nahimana, Barayagwiza and Ngeze*, December 3, 2003, at para. 1071.

¹²² Witness XAM, September 29 2004, pages 2-4

¹²³ Witness DY, 16 February 2004 (English), page 53, lines 32-35.

¹²⁴ *supra*, page 54, lines 22-28.

¹²⁵ *supra*, page 55, lines 14-28.

died, after which General Kabiligi said "Be vigilant. Make sure that no one infiltrates your ranks."¹²⁶

111. Witness KJ gave testimony that described the discriminatory screening process of passing through a roadblock in April 1994:

"...when we were on our way to Kigali on the tarmac road we got to a road back in Musambira. The people manning the road told us -- asked us to stop. They were civilians and soldiers. They asked us to show them our identity cards and they also asked us to give them the lady who was with us -- that is, Pascasie -- because they said that she was a Tutsi, and that was a barrage about which it was said that the enemy could not cross."¹²⁷

112. Witness KJ also gave testimony that, within this system of persecution, the interim government issued safe passages through the roadblocks to select travellers:

"...there was a roadblock which was being manned by the Interahamwe where people passing there were asked to show their identity documents, but that was a roadblock which was there for civilians, but when they saw that the vehicle, which we had, belonged to the gendarmerie, they allowed us to get through; so we did not encounter any problem at that roadblock."¹²⁸

113. There is a substantial body of evidence that exists in support of the crime of Persecution, some of which has been referred to elsewhere within this Response, concerning events and circumstances falling under the headings of other crimes, such as murder, extermination, rape and other inhumane acts.

¹²⁶ *supra*, page 56, lines 16-18.

¹²⁷ Witness KJ, 19 April 2004 (English), pages 8-11.

¹²⁸ Witness KJ, 20 April 2004 (English), page 60.

9. INHUMANE ACTS, as a CRIME AGAINST HUMANITY

114. All four accused are charged with Inhumane Acts.

115. All four accused face identically-worded indictments, charging that each:

“...is [are] responsible for inhumane acts against persons as part of a widespread or systematic attack against a civilian population on political, ethnic or racial grounds, and thereby committed a Crime Against Humanity...”

116. The crime of inhumane acts is included in Article 3(i) of the Statute.

117. In brief, the *actus reus* of inhumane acts is that the accused or his subordinate participated in an act or omission of similar gravity and seriousness to the enumerated acts of murder, extermination, enslavement, deportation, imprisonment, torture, rape, or persecution on political, racial, and religious grounds.¹²⁹

118. In brief, the *mens rea* of inhumane acts is to intend the acts or omissions that cause serious mental or physical suffering or injury or constitute a serious attack on human dignity, and the knowledge that the conduct is within the overall context of an attack, or where the accused knew that his attack was likely to cause serious mental suffering and was reckless as to whether such suffering would result.¹³⁰

119. There is evidence on each of the elements of this crime, including evidence that there was a pattern of treatment which deprived citizens of the rights to act without unlawful interference or influence, to choose their own conduct and to act freely according to their moral conscience.

¹²⁹ *Bagilishema*, Judgement, TC, Par 92; *Prosecutor v. Kayishema and Ruzindana*, May 21, 1999, at para. 148-151; *Prosecutor v. Musema*, January 27, 2000, at para. 232

¹³⁰ *Prosecutor v. Kayishema and Ruzindana*, May 21, 1999, at para 153-154.

120. In particular, there is evidence that witness AR and his family suffered from inhumane treatment when, along with numerous other Tutsi refugees fleeing from ETO to the safety of Amahoro Stadium, the Paracommandos led by Major Ntabakuze refused to permit the refugees to seek safety at Amahoro. Such a deprivation of liberty, while arguably falling short of actual imprisonment, is inhumane in that it can be said it is a fundamental human right to seek safety and protection from dangerous circumstances. There was widespread deprivation of the right to seek safety.

121. Further, there is evidence during the so-called 'pacification' campaign, persons were lured from their places of refuge and safety on the premise that the killing had stopped and safety was available under the protection of the authorities in large public places. In this manner, numerous Tutsi civilians were drawn out of their places of security and herded into churches, stadiums and public buildings to be under the protection of the authorities. Witness EU referred to this process in his evidence when he heard a megaphone being used by both the bourgmestre and the préfet to tell Tutsi refugees to go to a nearby school where the préfet "would bring them food and send gendarmes to protect them." On arrival at the school, the refugees were then grouped by secteur and counted before being slaughtered later that evening.¹³¹ Witness Major Brent Beardsley spoke of a similar pattern being employed at Gikondo where gendarmes sent Tutsi to the Gikondo Parish church before the men, women and children were slaughtered there inside and around the church buildings.¹³² Such deceit is inhumane in several respects, not the least of which is that it can be said it is a fundamental human right to seek sanctuary, and it is inhumane to deprive citizens of the ability to rely on their public institutions and authorities who offer that sanctuary. To draw citizens into reliance upon their faith of sanctuary afforded by a church, only to subsequently reveal the house of god as a killing site is nothing less than inhumane.

122. Further, there is evidence that inhumane acts were perpetrated through humiliating and degrading treatment, including coercive public nudity and behaviour

¹³¹ Exhibit P-257, 92bis statement of witness EU, English trans., page 1, ERN K 002 7775

¹³² Testimony of Major Brent Beardsley, Feb 3 2004, English t/s, page 44, lines 18-21

extorted through threats. Witness DBJ spoke of victims being systematically stripped of clothing and humiliated:¹³³

- A. Some of them were dressed, others had their underwear; the women mostly had been undressed. They had their breast wear and their underwear, but some of them were stark naked, it all depended on the attackers who had killed the victims. It all depended on how angry the attacker who had killed the victim was. ...
- A. ... The attackers did not ask the victims to undress at the same time and if a woman, for example, was wearing a loin cloth and she had to run, it might drop and she would not have the time to pick it up. When a victim was about to be killed, the victim was asked to undress. So they proceeded in different fashions, so I would not tell you that all of the victims were undressed in the same manner or at the same time. Some lost their articles of clothing as they ran and others were asked by the attackers to undress. ...
- A. That was done by all of the killers. I would say it was a system that they were using by killing people and making them feel even worse because just to shoot at them without humiliating them or torturing them, was not good enough. So they had to torture them first and then kill them later. [emphasis added]

123. Further, there is evidence that inhumane acts were perpetrated by extorting citizens to perform criminal acts upon threats of imminent death or assault, or subjecting others to imminent death or assault. Thus it was that primary perpetrators engaged the coerced services of citizens to perform criminal acts against others. Expert witness Dr Alison DesForges reported that assailants sometimes demanded Tutsi to kill their own children, or demanded Hutu to kill their Tutsi spouses.¹³⁴

124. Lastly, there is evidence that inhumane acts were perpetrated by compelling citizens to observe criminal acts being committed on others, often family members, upon threats of imminent death or assault, or subjecting others to imminent death or assault. In compelling innocent civilians to watch heinous acts, it was clearly the intention to cause serious mental suffering. Witness AS spoke of the horror of her family being compelled to watch a soldier and Interahamwe torture her husband before he was killed. The witness and her young children, 12 and 4, were forced to watch the hacking off of their father's arm with a machete, as well as a gruesome blinding of a family friend done by forcing a brochette skewer into one eye socket and chili pepper into both. During this process, when the family tried to turn their eyes and look away, they were struck in order to force their heads to turn back

¹³³ Testimony of DBJ, Nov 24 2003, English t/s, page 8, lines 19-33

¹³⁴ Exhibit P-3, Leave None to tell the Story, page 216 'Crimes of Extraordinary Brutality';

towards the sight of the torture. Eventually the torture ended and the father was taken outside and shot to death.¹³⁵ Witness AS recounted the horror and described the effect to her family, and particularly to her son, who later committed suicide because of the trauma inflicted on his family, leaving behind writings¹³⁶ that spoke of how “what he recalled was unbearable”.¹³⁷

125. There is in the body of evidence heard thus far, numerous other instances of inhumane acts, committed in a variety of circumstances and methods.

10. VIOLENCE TO LIFE, etc

126. All four accused are charged with Violence to Life.

127. Within the three indictments, there are two different counts of Violence to Life, regarding different victims/circumstances. In all three indictments, there is a count in which all four accused face identically-worded allegations, charging that each:

“...is [are] responsible for killing and causing violence to health and to the physical or mental well-being of civilians as part of an armed internal conflict, and thereby committed a Serious Violation of Article 3 Common to the Geneva Conventions and Additional Protocol II...”

128. In addition, only Colonel Theoneste BAGOSORA is charged with a second count of Violence to Life, charging that he:

“...is responsible for violence to life, health and physical well-being of persons as part of an armed internal conflict and particularly the killing of the ten Belgian soldiers from UNAMIR, and thereby committed a Serious Violation of Article 3 Common to the Geneva Conventions and Additional Protocol II...”

129. The crime of violence to life is included in Article 4(a) of the Statute, and defined as “Violence to life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment;”

¹³⁵ Testimony of AS, September 2, 2003, English t/s, pages 44 -52 and page 52, lines 1-5

¹³⁶ *supra*, September 3, 2003, documents marked for identification, under seal, page 26, lines 5-9

¹³⁷ *supra*, September 2, 2003, English t/s, page 52, lines 3-4

130. In brief, the *actus reus* of violence to life is that the accused or his subordinate participated in an act or omission causing deprivation of life, or serious physical or mental injury, harm or suffering or attacking the dignity of one or more persons;
131. In brief, the *mens rea* of violence to life is an act or omission intended to kill or inflict serious injury in reckless disregard of human life.
132. There is evidence on each of the elements of this crime, including evidence that Colonel Bagosora could have prevented the deaths of Belgian peacekeepers in Camp Kigali, but either chose not to prevent death or was reckless in his disregard.
133. In particular, there is evidence that Colonel Bagosora was either in command or possessed effective control or influence at the time of the deaths of the Belgian peacekeepers. There is evidence that Colonel Bagosora had actual knowledge of the plight of the Belgian peacekeepers in Camp Kigali.¹³⁸ There is evidence that Colonel Bagosora failed to take steps to prevent the deaths.¹³⁹ There is even evidence that Colonel Bagosora was so proximate to the killings that his failure to act in the circumstances constituted acquiescence in them.¹⁴⁰ There is evidence that Colonel Bagosora anticipated the political consequence of killing Belgian peacekeepers.¹⁴¹

¹³⁸ Colonel Bagosora was attending a meeting at the Ecole Supérieure Militaire, which is adjacent to the area where the Belgian soldiers were killed. An individual ran to the ESM to inform the meeting's participants of the attack upon the Belgians, but they did not intervene. AE, Transcript 16 December 2003, pg 39, lns 8-35. General Dallaire's conversation with General Nindiliyimana at the end of the meeting confirmed that he was already aware of the attacks., Transcript 22 January 2004, pgs 76-80, lns 26-18.

¹³⁹ General Romeo Dallaire, Transcript 26 January 2004, pgs 74-75, lns 31-8.

¹⁴⁰ The Ecole Supérieure Militaire was quite close to the scene of the Belgians' murders. AE, Transcript 16 December 2003, pg 40, lns 31-37. The process of the killing was not quiet. The Belgians cried out for mercy and screamed with pain. XAF, Transcript 9 February 2004, pg 4, lns 10-24; DA, Transcript 19 November 2003, pg 2, lns 13-24. The soldiers heckled the peacekeepers. DA, Transcript 19 November 2003, pg 2, lns 6-31; XAF, Transcript 9 February 2004, pg 5, lns 12-17. Additionally, there were loud shots that could be heard all over the compound. AE, Transcript 16 December 2003, pg 40, lns 31-37 ("The distance [between ESM and Camp Kigali] is not long... I would say 200 to 300 metres. So even if you use a pistol, you could hear. But in that case, machine-guns and grenades were being used, so the explosions could be heard. And the multiple grenade launcher makes a lot of noise. It's a heavy weapon. You could clearly hear the noise it makes. All the gunshots could be heard. At a distance of 300 metres, if anybody shoots, you can hear the sound of the gunshot....")

¹⁴¹ Killing Belgian peacekeepers was part of MRND strategy as early as January 1994. General Romeo Dallaire, Transcript 19 January 2004, pg 47, lns 10-26; 20 January 2004, pg 18, lns 16-18; pgs 21-23, lns 6-

There is evidence that Colonel Bagosora sought that political consequence as part of an overall plan to conduct the genocide.¹⁴²

134. There is evidence that all four accused participated directly in events that resulted in violence to life and health to numerous other victims throughout Rwanda in 1994.
135. As an example, witness CW describes how Colonel Bagosora gave orders to armed civilian militia on the morning of the 7 April 1994 to search for Tutsis "house to house", and that within that neighbourhood CW was later found to be the only Tutsi who survived the killings following Colonel Bagosora's order.
136. Another example is of evidence from witness DCH that General Kabiligi was present and in command when civilians identified as Tutsi were massacred at what was then the faculty of law at Murabuturo hill in Kigali.¹⁴³
137. A further example is evidence from witness DCH that Colonel Nsengiyumva was present and in command when civilians identified as Tutsi were prevented by Colonel Nsengiyumva from crossing the border out of Rwanda, ordered personally by Colonel Nsengiyumva off the bus they were traveling on, separated from non-Tutsi citizens by Interahamwe acting directly under the orders of Colonel Nsengiyumva while

18; 22 January 2004, pgs 14-16, lns 17-1; pgs 23-24, lns 10-26; 26 January 2004, pg 4, lns 9-16; Col Frank Claeys, Transcript 7 April 2004, pg 58, lns 11-20; Major Brent Beardsley, Transcript 4 February 2004, pgs 75-76, lns 30-4; Prof Filip Reyntjens, Transcript 15 September 2004, pg 18, lns 9-15; Major Brent Beardsley, Transcript 4 February 2004, pg 78, lns 7-13. Colonel Bagosora was clearly aware that such killings would provoke withdrawal of the entire contingent. Indeed, he told General Dallaire that "it might be best to get the Belgians out of UNAMIR and out of Rwanda because of the rumours that they had shot down the presidential airplane," adding that, "what happened in Camp Kigali might happen to the rest of the Belgians...." Exhibit DNT-33, Shake Hands with the Devil, p. 251.

¹⁴² The Belgians formed the backbone of UNAMIR. Prof Filip Reyntjens, Transcript 15 September 2004, pgs 17-20, lns 32-2; Major Brent Beardsley, Transcript 4 February 2004, pg 78, lns 15-18; General Rome Dallaire, Transcript 27 January 2004, pg 33, lns 28-30. Causing them to withdraw (as the MRND accurately predicted they would) removed a major obstacle to the genocide. Prof Filip Reyntjens, Transcript 15 September 2004, pgs 17-20, lns 32-2. Colonel Bagosora was part of this plan. He sent a telegram accusing Belgians of supporting the RPF and of killing Habyarimana, and ordered soldiers to bring all Belgians to the nearest military camp. XXB, Transcript 13 October 2004, pg 29, lns 9-26; KJ, Transcript 19 April 2004, pgs 55-56, lns 10-13. The detention of the peacekeepers was pursuant to orders from within the military hierarchy, and their murders were encouraged by military officials. DA, Transcript 17 November 2003, pgs 23-24, lns 29-34; XAF, Transcript 9 February 2004, pg 8, lns 13-30.

¹⁴³ Testimony of DCH, Jun 23 2004, English t/s, pages 83-88

observers sang “*Tubatsembetsembe*”, and later massacred at or near the notorious, so-called ‘Commune Rouge’ in Gisenyi, all under the direct command of Colonel Nsenyumva to “Take these people to the *commune rouge*.”¹⁴⁴

138. Again, there is evidence from witness DBN that in 1992, Major Ntabakuze used to preside over meetings for soldiers at Kanombe, and promoted the ideology of genocide against Tutsi:

A. He told us that the country had been attacked by the enemy, and the enemy was the Tutsi, and that they had attacked the country from Uganda, and they wanted to conquer our country, and they wanted to drive away people who were inside the country; therefore, they were enemies and we had to fight them.¹⁴⁵

11. OUTRAGES UPON PERSONAL DIGNITY

139. All four accused are charged with Outrages upon personal dignity.

140. All four accused face identically-worded indictments, charging that each:

“...is [are] responsible for outrages upon personal dignity, in particular humiliating and degrading treatment, rape and indecent assault, as part of an armed internal conflict, and thereby committed a Serious Violation of Article 3 Common to the Geneva Conventions and Additional Protocol II...”

141. The crime of outrages is included in Article 4(e) of the Statute, and defined as “Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault.”

142. In brief, the *actus reus* of outrages is that the accused or his subordinate participated in an act or omission that humiliated, degraded or otherwise violated the dignity of person(s) to such a degree as to be generally recognized as an outrage.

¹⁴⁴ Testimony of DCH, Jun 22 2004, English t/s, page 51, lines 16-36 and page 52 lines 1-15.

¹⁴⁵ Testimony of witness DBN, Mar 31 2004, English t/s, page 67, lines 15-18.

143. In brief, the *mens rea* of outrages is that the Accused or his subordinate intended the conduct which forms the basis of the crime of outrages. The *mens rea* does not include an intention to cause an "outrage", merely that the conduct itself is intended.

144. There is evidence on each of the elements of this crime, including evidence that rape and indecent assault were widespread. Beyond the outrages upon personal dignity involving direct sexual attacks, there is also evidence that outrages upon personal dignity occurred in various other forms.

145. In particular, one of the other forms of outrage upon personal dignity was the act of coercing certain victims to have incestuous intercourse. There is evidence to this effect in the judicially noticed report of the United Nations Special Rapporteur, that "...direct relatives or blood relatives, were forced to have incestuous intercourse. According to reliable testimony, militiamen forced fathers or sons to have sexual relations with their own daughters or mothers and vice-versa."¹⁴⁶

146. In particular, one of the other forms of outrage upon personal dignity was the act of coercing victims to dig their own graves and there is evidence from witness XAI of coerced grave-digging:

The company commander said that they should be given hoes so that they can dig their own grave, because they were *Inkotanyi*, so they dug holes or pits, and after that all the three people went inside the same pit and -- that is, all the three of them went into the same pit or grave, and they were beaten up with clubs on the head, and then they started burying them. One of them was not dead. He raised his head and said: "Look, you had started killing me, finish me off."¹⁴⁷

There is also evidence from witness DW that on 8 April 1994 at Karama school in Kigali, soldiers forced civilians to dig their own graves.

147. Another one of the other forms of outrage upon personal dignity also occurred at Karama school the same day, and that was the act of forcing victims to be buried alive in latrine pits. There is evidence from witness DW that on 8 April 1994 at Karama school in Kigali, soldiers forced numerous Tutsi civilians into latrine pits:

¹⁴⁶ Exhibit P-9, page 8, paragraph 18; judicially noticed as UNINATI-04.

- A. They selected people because they were Tutsis and they took the Tutsis to the pits.
 Q. While these soldiers were doing this, did you hear them say anything?
 A. They said to us, "The God of the Tutsis is dead". That is what they said. When they were going to throw people into the pits.
 Q. Once the soldiers have thrown people into the pits, what did they do?
 A. They started telling those who had not yet been thrown into the pits to start digging their own graves.¹⁴⁸
 ...
 Q. What about the age of the people that were thrown into the latrine pits?
 A. They were people of all ages, children, elderly; everyone was thrown in.
 Q. How old was the youngest child you saw being thrown into the latrine pits?
 A. Those that were being carried by their mothers on their backs.
 Q. And what about the gender of the people who were thrown into the latrine pits?
 A. Men, women, the elderly, children were piled in. Everyone was piled in.¹⁴⁹

148. One of the other forms of outrage upon personal dignity was the act of abandoning live infant victims incapable of caring for themselves, but left for possible death amongst collections of corpses. There is evidence from witness AR that in the course of the massacre at Nyanza hill on April 11/12 1994, infants were left to die among corpses. Prosecution exhibits P-110B and P-110E are photographs which reveal three infant corpses among a larger collection of corpses. Prosecution exhibit P-109 is a video excerpt which also shows the infant corpses among the collection of adult corpses at Nyanza. The same video excerpt includes the description of an adult male victim explaining how his wife "who had a child on her back" was struck and cut with machetes. Witness AR describes how while he was grievously injured and lying amongst the adult corpses, he heard his own 11 day old infant son crying throughout the night, and when the cries eventually ceased he understood the as-yet unnamed, unbaptised child had died.¹⁵⁰ In addition, AR refers to other children left to suffer the same indignities, some of whom survived.

¹⁴⁷ Testimony of XAI, September 9 2003, English t/s, page 11, lines 6-10

¹⁴⁸ Testimony of DW, September 4 2003, English t/s, page 68, lines 25-30

¹⁴⁹ *supra*, page 70, lines 8-13

¹⁵⁰ Testimony of witness AR, Oct 1 2003, English t/s, page 31, lines 17-32.

I confirm, a hundred percent that the army killed those people because I was there. This is what I wanted to tell you, Mr. President, Your Honour.

And I also want to tell you that when they shot us, when they killed us there, when they were killing us there, there's something that I cannot forget in that regarding, and that thing is, that was my baby. I cannot forget that. When they killed my baby, my baby was 11 days old. When they shot us the baby did not die immediately. The baby cried. The baby continued to cry the whole night. I could hear the cry. I heard the baby cry. It was my baby but I could not do anything. The baby cried and at one point the baby stopped

149. Another of the forms of outrage upon personal dignity was the act of removing fetuses from the womb by cutting open the mother's torso, and there is evidence from expert witness Binaifer Nowrojee that some women had "their fetuses speared or cut out."¹⁵¹ Witness Brent Beardsley also testified to this outrage taking place at a church in the Gikondo area of Kigali on or about 8/9 April 1994:

"The whole time the priests and the military observers were held, if they tried to close their eyes, they got a butt in the throat to open their eyes and watch it. Pregnant women had their stomachs slashed open, fetuses on the floor. Even a fetus was smashed. I remember -- just from the time I was there, I remember looking down, a woman obviously had tried to protect her baby. Somebody had rolled her off the baby. The baby was still alive and trying to feed on her breasts. She'd been -- her clothes had been ripped off. The killing that was done was not done, in their opinion, to kill the people immediately; it had been done to kill them slowly."¹⁵²

150. In addition to particular sexual outrages, and enforced incest, coerced grave-digging, live burial in latrine pits, infant abandonment at massacre scenes, and fetus removal, there is in the body of evidence heard thus far, numerous other instances of outrages upon personal dignity, committed in a variety of circumstances and methods.

Conclusion of Evidence on Various Counts

151. Respectfully, the foregoing Prosecution analysis of the various counts charged demonstrates that there is evidence on every count, in every indictment.

crying, and I understood that the baby had died. I can never forget the cry of my child because parents love their children. But what really hurt me most is that my wife and I had only girls and that baby was a son, was a boy. We can't forget that. In my family everyone was killed except one child who survived. And at around dawn I heard a child calling out, and call out an aunt, and I said, "Are you still alive", and the child told me, "Yes, Dad, I am wounded, I am lying in some liquid. I am lying in blood, in water but it was not water, it was blood. Blood of people who had been killed there and wounded there.

¹⁵¹ Exhibit P-291, page 14, paragraph 39.

¹⁵² Testimony of B. Beardsley, Feb 3, 2004, English transcript pages 44-45, lines 32 +.

D. Evidence on Various Paragraphs

152. The Prosecutor's Response with respect to evidence adduced regarding certain indictment paragraphs is contained in the form of a Table. There is one Table for each Indictment, thus, there are three Tables. The Tables are appended hereto as follows:

Appendix 1: Bagosora Motion for acquittal

Appendix 2: Kabiligi & Ntabakuze Motion for acquittal

Appendix 3: Nsengiyumva Motion for acquittal

153. Each of the three Tables contains sequential reference to the particular indictment paragraphs to which the Defence claims there is no evidence, plus a comment which directs the Trial Chamber to an example of the evidence that has been adduced. The examples are non-exhaustive.

154. Respectfully, the Prosecution tables demonstrate that there is evidence on every paragraph, in every indictment, save and except for Bagosora paragraph 5.21, which is unintelligible.

E. Legal Thresholds & Tests

155. The four Accused bring their Motions for Acquittal pursuant to Rule 98bis.
156. The test for determining a motion for acquittal pursuant to Rule 98bis is well established within the jurisprudence of the Tribunals. The relevant standard under this provision is whether there is no evidence (taken at its highest) upon which a tribunal of fact could be satisfied beyond reasonable doubt.¹⁵³
157. The threshold of the test is whether on the balance of probabilities there is such an evidentiary absence. The persuasive burden on the Defence is to show that there is no evidence which might lead to a conviction. Thus, persuasively, if there might be such evidence which has been heard, the motion for acquittal fails.
158. In the circumstances of the present Defence application before the Chamber, it is apparent that there is an abundance of evidence, and that the evidence produced forms a *prima facie* case against each of the Accused.
159. In consequence, the Defence have not met the burden of establishing that there is no evidence supporting a *prima facie* case for the Chamber to consider with respect to the various counts charged and matters in issue.
160. Curiously, the Defence Motions also request relief that is not contained within Rule 98bis, although that Rule is the sole basis upon which the four motions are expressly brought. The unauthorized relief requested is a ruling by the Trial Chamber to render inadmissible all of the evidence heard in the Prosecution case which the Defence categorizes as not being “included” in the indictment.

161. In addition to the fact that Rule 98bis does not authorize that relief, there is good reason not to entertain such a request at this stage of the proceedings. The first reason is that the Trial Chamber has already made rulings regarding admissibility during the presentation of prosecution witnesses. Those rulings stand on their own and there is no good reason to re-assess them *en masse* at this juncture. The second reason is that the proper stage to assess the inter-relationship of all the evidence to the indictment is during an assessment as to weight, because it is only an overall assessment as to weight which can provide the proper context to determine the import and effect of a particular piece of evidence in relation to other pieces of evidence. The third reason is that the relief claimed is logistically impractical, because what the Defence is requesting the Trial Chamber to do is to revisit vast quantities of testimony and exhibits and attempt to rationally assess the interrelationship of all that information, but to do so in the absence of closing arguments, in the absence of proper time to prepare the detailed submissions and analysis of some 200 days of testimony and 500 exhibits, in the absence of a clear procedural process or authority.

162. In practical terms, the Defence is requesting the Trial Chamber to engage in the process of weighing all of the evidence at this stage. Notably, that is not the law on Rule 98bis. One of the reasons it is not the law is because it would require the Trial Chamber to weigh the evidence both at the close of the prosecution case and at the close of the case generally. In many jurisdictions there is such a provision to request the court to weigh the evidence at the close of the prosecution case, but that request comes at the expense of the Defence foregoing the choice to call its own evidence. Here the Defence has chosen not to give up the opportunity to call evidence in defence, while at the same time seeking to engage in a process that would require the Prosecution to prove the entirety of the case twice, and the Chamber to weigh and rule on all of the evidence twice. Respectfully, all of the evidence must be weighed at the same time, once.

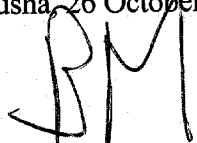
¹⁵³ See *P v. Milosevic*, IT-02-54, TC, Decision on Motion for Judgement of Acquittal, 16 June 2004, referring to the *Jelusic* Appeal Judgement, IT-95-A, 5 July 2001, para. 37 and the *Delalic et al* (Celebici) Appeal Judgement, 20 February 2001.

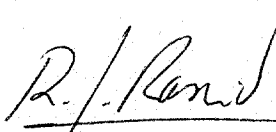
ALL OF WHICH IS RESPECTFULLY SUBMITTED

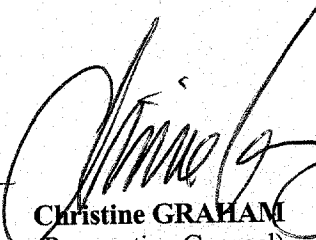
F. Relief Sought

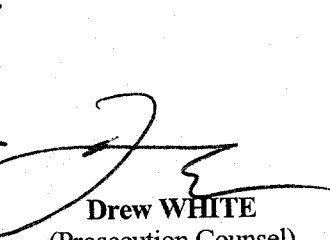
163. In light of the evidence that has been placed before the Trial Chamber, the Prosecution respectfully submits that the four Defence motions are without merit or proper foundation and the Motions ought to be denied in their entirety.

Arusha, 26 October 2004.

for 
Barbara MULVANEY
(Prosecution Counsel)


Rashid RASHID
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Christine GRAHAM
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United Nations
Nations Unies



International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

Appendix 1: Table
Prosecutor's Response to Bagosora Motion for Acquittal

Counsel for the Prosecution:

Barbara MULVANEY
Drew WHITE
Rashid RASHID
Christine GRAHAM

Summary of Evidence for Bagosora Indictment for Prosecutor's Response to Motion for Acquittal

Indictment Paragraph	Evidence
<p>4.4 His rank, his office and the personal relations he had with the commanders of the units that were the most implicated in the events referred to in this indictment, and the fact that they were from the same region and shared the same political beliefs, gave him authority over those persons and over members of the militias, given the regionalist context in which power was exercised in Rwanda.</p>	<p>An example of evidence led on this point appear in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of Dallaire page 11 of the English transcript of 22 January 2004 where it is stated that "[...] the hard-line movement which was based principally with the officers who came from the north of the country, in particular from Ruhengeri and other parts of the region. And what he told me, after verifications here and there, the majority of officers who had authority in the government forces were officers who came from the north, which was identified as the main area of the Hutu tribe and also the are where the president came from." b. In the testimony of witness Beardsley pages 72-78 lines 18-09 of the English transcript of 3 February 2004 where it is said: "On both occasions again [Bagosora] did all the talking. If anybody wanted to say something, they just whispered it kind of into his ear or they just deferred to him. They didn't say anything and he did all the talking." c. In the testimony of witness BY at pages 50-5, 53-56 of the English transcript of 5 July 2004. d. In the documentary material exhibited by the by the Defence as DB61B at pages 4-5 [K0127616-7] and page 13 para.3 [K0127625]. e. See also evidence listed in respect of indictment paragraphs 6.1-6.16; 6.24-25; 6.27-36; 6.40-41; 6.49; 6.70-71 to the extent such paragraphs are referred to in this chart.
<p>5.1 From late 1990 until July 1994, Theoneste Bagosora, Augustin Ndindiliyimana, Augustin Bizimungu, Aloys Ntiwiragabo, Gratién Kabiligi, Protais Mpiranya, Aloys Ntabakuze, Francois-Xavier Nzuwonemeye, Anatole Nsengiyumva, Augustin Bizimana and Tharcisse Renzaho conspired among themselves and with others to work out a plan with the intent to exterminate the civilian Tutsi population and eliminate members of the opposition, so that they could remain in power.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness XAM at page 3 in the English transcript of 30 September 2004. b. In the testimony of witness XXQ at pages 2-13, 28-89 in the English transcript of 11 November 2004. c. In the testimony of witness ZF at pages 61-65 in the English transcript of 27 November 2002, at page 4 of the English transcript of 28 November 2002. d. In the testimony of witness DCH at pages 45-52 in the English transcript of 23 June 2004. e. In the testimony of witness DesForges at pages 23-24, 23-33, 41-43, 79-81 in the English transcript of 17 September 2002. f. In the testimony of witness Dallaire, at pages 47, 91-94 in the English transcript of 19 January 2004, pages 48-49, 56-57 in the English transcript of 20 January 2004 g. In the testimony of witness Beardsley at pages

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	<p>43-46 in the English transcript of 30 January 2004.</p> <ul style="list-style-type: none"> h. In the testimony of witness XBH at pages 15-20 in the English transcript of 3 July 2003. i. In the testimony of witness ABQ at pages 4-8 in the English transcript of 6 September 2004. j. In the testimony of witness DO at pages 45 in the English transcript of 30 June 2003. k. See further evidence listed in respect of indictment paragraphs 5.2 onwards to the extent they are referred to in this chart.
<p>5.1 The <u>components of this plan</u> consisted of, among other things, recourse to hatred and ethnic violence, the training of and distribution of weapons to militiamen as well as the preparation of lists of people to be eliminated.</p>	<p>An example of evidence led on this point appear in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness Des Forges, pages 53-54, lines 22-27 of the English transcript of 17 September 2002 where it is said: " Indeed, there were a series of continuing preparations for war, in fact, by both parties throughout the period, by the Rwandan government that involved the purchase of arms, and continued attention to programmes of civic and psychological training that we have described earlier. It involved also the identification and localisation of Tutsi inside the country who were counted as accomplices of the enemy." b. In the testimony of witness XBH, pages 26-27, lines 24-32 of the English transcript of 3 July 2003 where it is said: " Col. Theoneste Bagosora said that they had started eliminating important Hutus and that they, in turn, had to prepare a list of people who had to be eliminated and these people had to be Tutsis. He said that they had to start with Tutsis who were intellectuals and traders." c. In the testimony of witness DBQ at pages 47-51 of the English transcript of 23 September 2003. d. In the testimony of witness DBN at pages 54-58 of the English transcript. e. See also evidence listed in respect of indictment paragraphs 5.2 onwards to the extent they are referred to in this chart.
<p>5.1 In executing the plan, they organized, ordered and participated in the massacres perpetrated against the Tutsi population and of moderate Hutu.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness OQ, pgs 15-16, lines 18-21 English transcript of 16 July 2003 where it is said: " A vehicle brought victims who had to be killed or bodies, it was red in colour. And I saw Lt. Col Anatole Nsengiyumva who was there, and who was accompanied by the conseiller of the Secteur in Gisenyi town." b. In the testimony of witness DBQ, pages 31-35, English transcript of 23 September 2003. c. See also evidence listed in respect of indictment paragraphs 5.2 onwards to the extent they are

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	referred to in this chart.]
5.2 In a letter dated 3 December 1993, certain FAR officers revealed to the UNAMIR Commander the existence of what they called a "Machiavellian plan" conceived by military who were mainly from the North and who shared the extremist Hutu ideology.	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Dallaire pages 79-91 of the English transcript of 19 January 2004 and 70-73 of the English transcript of 26 January 2004. b. In the testimony of witness Beardsley pages 39-44 of the English transcript of 30 January 2004 and page 14-15 of the English transcript of 4 February 2004. c. In the documentary material exhibited by the Prosecution as P169A-C and by the Defence as DK12.
5.2 The means to achieve this consisted in exterminating the Tutsi and their "accomplices".	<p>An example of evidence led on this point appear in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the documentary material exhibited by the Prosecution as P169A-C and by the Defence as DK12.
5.2 The letter indicated moreover the names of political opponents to be eliminated. Some of them were in fact killed on the morning of 7 April 1994.	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the documentary material exhibited by the Prosecution as P169A-C and by the Defence as DK12. b. In the testimony of witness Dallaire at pages 86-88, 92 of the English transcript of 19 January 2004. c. In the testimony of witness Beardsley at page 23 of the English transcript of 3 February 2004. d. In the testimony of witness EQ at pages 5-16 and 19-22 of the English transcript of 13 February 2004. e. In the testimony of witness CJ at pages 41-42 of the English transcript of 25 November 2003. f. In the testimony of witness Ruggiu at pages 37-38 of the English transcript of 16 June 2003. g. In the testimony of witness DCH at pages 45-52 of the English transcript of 23 June 2004 and oat pages 57-59 of the English transcript of 24 June 2004. h. In the testimony of witness DesForges at pages 97-100 of the English transcript of 11 September 2002; 93-96, 102-103 of the English transcript of 16 September 2002; pages 47-48, 53-54 of the English transcript of 17 September 2002; page 16 of the English transcript of 18 September 2002, pages 11-13, 50-56 of the English transcript of 24 September 2002. i. In the testimony of witness XAQ at pages 17-20 of the English transcript of 23 February 2004. j. In the testimony of witness DP at pages 38-39 of the English transcript of 3 October 2003. k. In the testimony of witness A at pages 19-20 of

Summary of Evidence for Bagosora Indictment for Prosecutor's Response to Motion for Acquittal

	<p>the English transcript of 1 June 2004.</p> <p>1. In the testimony of witness DCH at pages 45-52 of the English transcript of 23 June 2004.</p>
<p>5.3 On 10 January 1994, UNAMIR was informed by an <u>Interahamwe</u> leader of the details of a plan to exterminate the Tutsi population and its "accomplices".</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness Claeys at pages 33-36, 65-68 of the English transcript of 7 April 2004, and pages 80-84 of the English transcript of 7 April 2004, where it is stated that: "Q. Now, could one then conclude that you were with a senior member of the MRND security? A. Some days earlier he had said that the Demonstration would take place. That was not a secret. And he said that he was going to be in charge of organising security at that event. The fact that we saw him so many times, and not only in isolated cases, in the cassette -- on the cassette, <i>equipped with a radio, we saw him commanding people who also had radios, and he would give them orders, send them somewhere, actually enabled one to conclude that he was commanding the security system during that event.</i>" [Emphasis added.]</p> <p>b. In the testimony of witness Dallaire at pages 6-7 and 50-55 of the English transcript of 26 January 2004.</p> <p>c. In the testimony of witness Beardsley at pages 18-23 of the English transcript of 4 February 2004, where it is stated that: "Q. Well, 11th April, that's an error, an oversight on my part. But you did have some information, and what I want to understand in that regard -- now, based on what you told my colleague Drew White in the course of your evidence-in-chief is that Jean-Pierre was not a Interahamwe leader, that he was -- at the very least he was an instructor. A. No, sir, he was a top level trainer in the Interahamwe Militia. That's in the first paragraph of the message. He was a top-level trainer within the Interahamwe which, in our opinion, made him a top leader in the Interahamwe on our assessment. Q. Well, in your own perception of a structure, so someone who issues instructions is a leader; is that it? A. Yes, sir, on the scale of what he was reporting to us here, coordinating the movement of hundreds -- the training of hundreds of militiamen, coordinating the registration of Tutsis within areas of Kigali, the fact that he could give an order and a thousand people could be killed in 20 minutes, that -- the conclusion or our assessment of that information was that if this guy was valid, he was a top leader in the Interahamwe."</p> <p>d. In the documentary materials exhibited by the</p>

Summary of Evidence for Bagosora Indictment for Prosecutor's Response to Motion for Acquittal

	<p>Defence, DB80, page 5.</p> <p>e. See also evidence listed in respect of indictment paragraphs 5.24 and 5.39 to the extent such paragraphs are referred to in this chart.</p>
<p>5.4 The incitement to ethnic hatred and violence was a fundamental part of the plan put in place. It was articulated, before and during the genocide, by elements of the FAR on the one hand, and by members of the Government and local authorities on the other.</p>	<p>For examples of evidence led on this point, see evidence listed in respect of indictment paragraphs 5.5-5.15 to the extent such paragraphs are referred to in this chart.</p>
<p>5.5 Lt. Col. Anatole Nsengiyumva and Major Aloys Ntabakuze were members of this commission, presided by Colonel Theoneste Bagosora</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness DesForges at pages 60-61 of the English transcript of 10 Sep 20 02, page 53-54 of the English transcript 17 Sep 2002, pages 23-25, 94-106 of the English transcript of 23 Sep 2002, pages 2-4, 13-20, 39-47, 50-56 of the English transcript of 24 Sep 2002. [None of the three accused challenged the witness as to the truth of the matter that Bagosora headed the Commission and that the two others were members of that Commission. On the contrary, it was admitted during cross-examination, see pages 100-106 of the English transcript of 23 September 2002 [Bagosora], pages 6-7 of the English transcript of 21 November 2002 [Nsengiyumva], and page 44 of the English transcript of 25 November 2002 [Ntabakuze]. b. In the documentary materials exhibited by the Defence, DB61B, page 6 [K0127618].
<p>5.9 As part of the negotiations for the Protocol on integration of the Armed Forces under the Arusha Accords, the officers from the North saw their powers eroded. This reality they could not accept made it opportune for to them to exacerbate the discourse of ethnic hatred and violence.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness ZF at pages 20-21 in the English transcript of 28 November 2002. b. In the testimony of witness XBM at pages 21-24 in the English transcript of 14 July 2003. c. In the testimony of witness DesForges at pages 34-35 in the English transcript of 11 September 2002. d. In the testimony of witness ATY at pages 4-8 in the English transcript of 27 September 2004. e. In the testimony of witness DP at pages 36-39 in the English transcript of 2 October 2003. f. See also evidence listed in respect of indictment paragraphs 5.10-5.12 to the extent they are referred to in this chart.
<p>5.10 Colonel Theoneste Bagosora participated in the Arusha talks, and <u>openly manifested his opposition to the concessions made by the Government representative, Boniface Ngulinzira, Minister of Foreign Affairs, to the point of leaving the negotiation table.</u></p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the documentary materials exhibited by the Prosecution, P31B, pages 5 [K0241066] where Bagosora describes himself in third person in the following way: "He participated in the talks leading up to the Arusha Peace Accords, where

Summary of Evidence for Bagosora Indictment for Prosecutor's Response to Motion for Acquittal

	<p>he distinguished himself by his pertinent interventions denouncing the underhand tactics of his head of delegation, Boniface Ngulinzira, then Minister of Foreign Affairs and Cooperation, who conceded a great deal to the RPF, including benefits they had not requested.”</p> <ul style="list-style-type: none"> b. In the testimony of witness DesForges at page 43-47 of the English transcript of 17 September 2002. c. In the testimony of witness ON at pages 31-34 of the English transcript of 28 April 2004 and pages 33-35 of the English transcript of 29 April 2004.
<p>5.10 On 11 April 1994, Boniface Ngulinzira was assassinated by the military.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness DCH at pages 57-59 of the English transcript of 24 June 2004. b. In the testimony of witness DesForges at pages 97-100 of the English transcript of 11 September 2002; 95-96 of the English transcript of 16 September 2002; pages 47-48 of the English transcript of 17 September 2002; page 16 of the English transcript of 18 September 2002. c. In the testimony of witness XBM at page 16-17 of the English transcript of 14 July 2003
<p>5.10 His death was announced on RTLM in these terms: <i>“We have exterminated all the accomplices of the RPF, Bonifnce Ngulinzira will no longer go and sell the country to the RPF's advantage in Arusha. The Peace Accords are only scraps of paper, as our father Habyarimana had predicted”.</i></p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness DesForges at page 14-15 of the English transcript of 18 September 2002.
<p>5.11 At the time of the negotiation of the Arusha Accords, several meetings of Army officers including Colonel Theoneste Bagosora, Lt. Col. Anatole Nsengiyumva and Major Aloys Ntabakuze were held notably at Kanombe military camp.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness DBQ at pages 47-51 of the English transcript of 23 September 2003. b. In the testimony of witness DBN at pages 54-58 of the English transcript of 1 April 2004. See also pages 9-13 in the English transcript of 6 April 2004.
<p>5.11 During the same period, Aloys Ntabakuze and Theoneste Bagosora urged the military to reject and show their disapproval of the Arusha Accords.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness DBQ at pages 47-49 of the English transcript of 23 September 2003. b. In the testimony of witness BC at pages 29-31 of the English transcript of 1 December 2003. c. In the testimony of witness DP at pages 36-39 of the English transcript of 2 October 2003. d. In the testimony of witness XBM at pages 17-20 of the English transcript of 14 July 2003. e. In the testimony of witness XXC at pages 15-17 in the English transcript of 18 September 2003.

Summary of Evidence for Bagosora Indictment for Prosecutor's Response to Motion for Acquittal

<p>5.11 In August 1993, Aloys Ntabakuze even ordered his men to abduct the Prime Minister and bring her to Kanombe Camp.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness DCH pages 45-52 lines 30-19 in the English transcript of 23 June 2004 where it is said: " ..there were disturbances because Prime Minister Dismas Nsengiyaremye had said that the soldiers had to be demobilized. So some soldiers demonstrated, some left the front, and the Kanombe Military Camp soldiers tried to kill the prime minister.." b. In the documentary material exhibited by the Prosecution P3 at pages K022-9216-9217 (pages 115-116)
<p>5.11 The operation was cancelled while it was under way on the orders of the Chief of Staff, General Deogratias Nsabimana.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Des Forges pages 75-79 lines 14-05 in the English transcript of 16 September 2002 where it is said: " General Deogratias Nsabimana called the minister of defense to alert him to the fact that soldiers were moving. .. he indicates that those who were planning to execute this coup had over estimated the extent of support that they might have among other soldiers, so that in the end, soldiers loyal to the government and to the minister of defense were able to prevent the full implementation of this effort." b. In the documentary material exhibited by the prosecution P23 and P24B.
<p>5.12 Furthermore, <u>on various occasions</u>, Colonel Theoneste Bagosora declared that the solution to the war was to plunge the country into an apocalypse in order to eliminate all the Tutsi and thus ensure lasting peace.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness ZF at pages 66-67, 71-75 of the English transcript of 28 November 2002. b. In the testimony of witness XAM at pages 2-4 of the English transcript of 29 September 2004. c. In the testimony of witness XXY at pages 9-10 and 17-18 of the English transcript of 11 June 2004. d. In the testimony of witness DAS at pages 40-43 of the English transcript of 5 November 2003. e. In the testimony of witness ABQ at pages 22-28 of the English transcript of 6 September 2004.
<p>5.13 On 4 April 1994, three days before the beginning of the genocide, Colonel Theoneste Bagosora reasserted that the only solution to the political impasse was to eliminate all the Tutsi.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Dallaire at pages 19-22 of the English transcript of 19 January 2004 and pages 45-49 of the English transcript of 22 January 2004. b. In the documentary materials exhibited by the Defence, DB80, page 6/11, paras 1-5.
<p>5.14 Towards the end of March 1994, in the presence of a group of Belgian Army officers, the Chief of Staff of Rwandan Army, General Deogratias Nsabimana, and</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the documentary material exhibited by the

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<p>Colonel Gratien Kabiligi spoke of the possibility of eliminating the RPF (Rwandan Patriotic Front) and the Tutsi within a short time. Moreover, during the genocide, Gratien Kabiligi expressed his satisfaction with the crimes perpetrated by the <i>Interahamwe</i> militia against the civilian Tutsi population.</p>	<p>Prosecution P3 pages K022-9244-9246 (pages 168-173)</p> <ul style="list-style-type: none"> b. In the testimony of witness DY at pages 19-23, 28-32, 35-39-47, 53-57 of the English transcript of 16 February 2004 and pages 45-49 of the English transcript of 22 January 2004. c. In the testimony of witness XXY at pages 4-6 in the English transcript of 11 June 2004.
<p>5.15 The characterization of the Tutsis as the enemy and of members of the opposition as their accomplices was echoed by politicians, notably by Leon Mugesera, MRND Vice-chairman for Gisenyi <i>prefecture</i>, in a speech he made on 22 November 1992.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness XBM pages 11-24, lines 36-27 of the English transcript of 14 July 2003 where it is said: " Q. And what did Barayagwiza say? A. He talked about the Arusha Accords, Ngulizinzira had sold or betrayed the Country." " Barayagwiza called on all Hutus to assist him in condemning the Arusha Accords. He didn't want the Arusha Accords to be signed. He added that Tutsis benefited a lot from the Arusha Accords, whereas all other benefits of the Country belonged to the Hutus, not the Tutsis. " b. In the testimony of witness DO page 7, lines 34-35 of the English transcript of 30 June 2003 where it is said: " They were asking the Hutus not to support the Inkotanyis and that they should learn how to fight the enemy, who was described as the Tutsi."
<p>5.15 Broadcast on the state radio and therefore reaching a much larger audience, Leon Mugesera's speech already at that time was an incitement to exterminate the Tutsi population and their "accomplices".</p>	<p>An example of evidence led on this point appear in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the documentary materials exhibited by the Prosecution as P27 [K1005461-62].
<p>5.17 In order to ensure that, when the time came, the extermination of the enemy and its "accomplices" would be carried out swiftly and effectively, it was necessary to create a militia that was structured, armed and complementary to the Armed Forces.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness OAF page 3, lines 9-20 of the English transcript of 23 June 2003 where it is said: "First there was the multiparty political system, and then there was the establishment of militias of those political parties which had just been founded. The militias were made up of youths. Q. Can you tell the Court the names of some of the militia groups that were created at that time? A. There was the <i>Interahamwe</i>, the <i>Impuzamugambi</i>. Q. Do you know which political party the <i>Interahamwe</i> was affiliated to? A. Yes, I know that. Q. Which party? A. MRND. Q. And do you know which political party the <i>Impuzamugambi</i> was affiliated to? A. The <i>Impuzamugambi</i> was affiliated to CDR. b. In the testimony of witness BY, pages 27-32, lines 15-08 of the English transcript of 2 July

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	<p>2004 where it is said: " Now, the second six months of 1993 that is from June, July 1993, as part of that evolution which—I am sorry, I will have to qualify as unhealthy evolution in the political and economic situation in Rwanda, and the leaders of that youth wing went on armed training, military training. And in the final analysis, they were armed."</p> <p>c. In the testimony of witness ZF, page 8-10, lines 16-23 of the English transcript of 28 November 2002.</p> <p>d. In the documentary material exhibited by the Prosecution P33B.</p> <p>e. See also evidence listed in respect of indictment paragraphs 5.20-5.23 to the extent they are referred to in this chart.</p>
<p>5.19 Training was conducted <u>simultaneously</u> in several <i>prefectures</i> around the country: Kigali, Cyangugu, Gisenyi and Butare, as well as in the Mutara sector.</p>	<p>An example of evidence led on this point appear in the evidence as follows:</p> <p>a. In the testimony of witness Dallaire, pages 94-97, lines 32-30 of the English transcript of where it is said: " The direct observation I have is one where we had received information from my observers in the Butare area, close to some of the Burundi refugees camps, that recruitment was being conducted, supposedly for the Rwandan Government Forces or for the government army. And on one occasion I had been informed in the morning – it was Sunday. I was informed in the morning that the three buses had left, in fact, one of these refugee camps full of young men and heading north. And so I got a helicopter and linked up with the buses, and they were in a Camp Gabiro, I think is the name, in the Akagera park... well there were three green buses as my observers had mentioned to me, parked amongst the buildings. There were, I'd estimate, around a hundred or ---- yeah about a hundred young men in civilian garb.."</p> <p>b. In the testimony of witness A pages 39-44 in the English transcript of 1 June 2004.</p> <p>c. In the testimony of DCH at pages 12-16, 27, in the English transcript of 23 June 2004 where it is stated that "First there were morale-boosting talks which were organized. Those were discussions which taught us that Tutsis were really bad, and we were explained how Tutsis were going to exterminate us if we did not precede them in doing so, and we were told that if Tutsis took power, they were going to restore the monarchy and feudalism. And we were told that the Tutsi had nothing good in him and that we had been liberated, so we should not allow the Tutsis to take power. What we should do, rather, was to kill the Tutsis, and if we did not – if we kill Tutsis and only a few Tutsis remain,</p>

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	<p>we were going to remain power.”</p> <p>d. In the testimony of witness XAB at pages 29-31 in the English transcript of 6 April 2004.</p> <p>e. In the testimony of witness GS page 69, lines 14-23 of the English transcript of 17 February 2004 where it is said: “In the meantime, the commander of the paracommando battalion, Major Ntabakuze, was working or cooperating with the commanding officer of the Presidential Guard in order to train those instructors who would be responsible for guiding the <i>Interahamwes</i> in that area. In addition to that, I was asked how the <i>Interahamwes</i> and the government were cooperating. I would say that they were using government buses, in other words, buses belonging to <i>Onatracom</i>. At the time the <i>Interahamwes</i> moved or travelled during the day, and so that is what I can say in regard to cooperation between the army and the <i>Interahamwes</i>.”</p> <p>f. In the testimony of witness DN pages 6,7, lines 19-37 of the English transcript of 19 February 2004 where it is said: “ He told me that there was a programme which targeted some 50,000 civilians, targeting them for training purposes... Q. Mr. PRESIDENT. Yes, and you observed the first training session when, end of '93? A. Yes, it was towards the end of 1993.”</p> <p>g. In the testimony of witness DA, pages 6-10, lines 7-37 of the English transcript of 19 November 2003 where it is said: “I do recall, that was just the end of 1992 -- end of 1992 and early 1993, but it actually took place in March 1993 and early April. Now, those were the occasions on which I saw this. And, for instance, I saw this taking place at Kimihurura and at Gabiro. Those were the two locations where I saw those training sessions taking place. Q. At Kimihurura, was it on a military base? A. Yes, it was in a military camp, just below where there was a forest, where military exercises were carried out. It was, therefore, in the presidential guard camp, but just below that camp where military exercises were conducted. Q. Did you personally observe the training that took place at the presidential guard camp? A. Yes, because that is where we engaged in our shooting exercises, using armoured vehicles. That was the only place where those exercises would take place, because it was a bit isolated, in a forest. And that is where the <i>Interahamwes</i> underwent training. Q. Do you know who it was that was training the <i>Interahamwe</i> at the presidential guard camp? A. Soldiers were training them.”</p> <p>h. In the testimony of witness LAI pages 21-24,</p>
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	<p>lines 08-20 of the English transcript of 31 May 2004 where it is said: " Q. When did you first start delivering Interahamwe for training in the woods, what year and month? A. August 1993."</p> <ul style="list-style-type: none"> i. In the documentary material exhibited by the Prosecution as P2A at pages 1, 27 and 28, P33B at pages 2 and 3, P36B at pages L006447-48. j. In the testimony of witness XBG at pages 21-24 in the English transcript of 8 July 2003. k. In the documentary material exhibited by the Defence as DK28B page K0159806 (pg 3), and DK32B page K0043456. l. See also evidence listed in respect of indictment paragraphs 5.20-5.23, to the extent they are referred to in this chart.
<p>5.20 In the Mutara sector, Colonel Leonard Nkundiye supervised the training of the MRND militia, the <i>Interahamwe</i>.</p>	<p>An example of evidence led on this point appear in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness GS pages 68-72, lines 10-12 of the English transcript of 17 February 2004. where it is said: "In a nutshell, I would say that there was Major Ntabakuze who was in charge of -" "... So, I was saying that Major Ntabakuze was in charge of the distribution of weapons and ammunition to the <i>Interahamwes</i> and also following up the training sessions in Gabiro"... "In the meantime, the commander of the paracommando battalion, Major Ntabakuze, was working or cooperating with the commanding officer of the Presidential Guard in order to train those instructors who would be responsible for guiding the <i>Interahamwes</i> in that area. In addition to that, I was asked how the <i>Interahamwes</i> and the government were cooperating. I would say that they were using government buses, in other words, buses belonging to <i>onatracom</i>. At the time the <i>Interahamwes</i> moved or travelled during the day, and so that is what I can say in regard to cooperation between the army and the <i>Interahamwes</i>." ... " Sorry, Mr. President, I would like to go back a bit. Earlier on the Prosecutor had asked me who was the commanding officer of the Gabiro Camp, it has just come up in my mind. The commanding officer was Lieutenant Colonel Nkundiye." b. In the testimony of witness BY at pages 27-32 in the English transcript of 2 July 2004 where it is stated "Q: MR PRESIDENT: Mr Witness, do you know whether any particular individuals engaged themselves in this process within the army [<i>i.e.</i> supporting the training of the <i>Interahamwe</i>]? A: [...] I will mention Colonel Bagosora, Lt Col Anatole Nsengiyumva who was very much in favour of those trainings. And I will mention to you somebody who at the time

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	was one of the senior officials of the [PG] Mr Col Leonard Nkundiye."
<p>5.21 Moreover, in 1993, the implication of Colonel Leonard Nkundiye's men in the training given was confirmed by internal inquiries which were ordered following a telegram sent to various units, as well as to the General Staff, by the Commander of the Rwamagana military camp. The telegram revealed the implication of soldiers from the Mutara sector in the training in question.</p>	
<p>5.24 On 10 January 1994, a leader of the <i>Interahamwe</i> militia informed UNAMIR that 1,700 militiamen had undergone training and that they could eliminate 1,000 Tutsis every twenty minutes.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Claeys at pages 33-36, 65-68 of the English transcript of 7 April 2004, and pages 80-84 of the English transcript of 7 April 2004, where it is stated that: "Q. Now, could one then conclude that you were with a senior member of the MRND security? A. Some days earlier he had said that the Demonstration would take place. That was not a secret. And he said that he was going to be in charge of organising security at that event. The fact that we saw him so many times, and not only in isolated cases, in the cassette -- on the cassette, <i>equipped with a radio, we saw him commanding people who also had radios, and he would give them orders, send them somewhere, actually enabled one to conclude that he was commanding the security system during that event.</i>" [Emphasis added.] b. In the testimony of witness Dallaire at pages 6-7 and 50-55 of the English transcript of 26 January 2004. c. In the testimony of witness Beardsley at pages 18-23 of the English transcript of 4 February 2004, where it is stated that: "Q. Well, 11th April, that's an error, an oversight on my part. But you did have some information, and what I want to understand in that regard -- now, based on what you told my colleague Drew White in the course of your evidence-in-chief is that Jean-Pierre was not a <i>Interahamwe</i> leader, that he was -- at the very least he was an instructor. A. No, sir, he was a top level trainer in the <i>Interahamwe</i> Militia. That's in the first paragraph of the message. He was a top-level trainer within the <i>Interahamwe</i> which, in our opinion, made him a top leader in the <i>Interahamwe</i> on our assessment. Q. Well, in your own perception of a structure, so someone who issues instructions is a leader; is that it? A. Yes, sir, on the scale of what he was reporting to us here, coordinating the movement of hundreds -- the training of hundreds of militiamen, coordinating the registration of Tutsis within areas of Kigali, the

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	<p>fact that he could give an order and a thousand people could be killed in 20 minutes, that -- the conclusion or our assessment of that information was that if this guy was valid, he was a top leader in the Interahamwe.”</p> <p>d. In the documentary materials exhibited by the Defence, DB80, page 5.</p>
<p>5.26 In order to implement the plan for the extermination...</p>	<p>An example of evidence led on this point appear in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Claeys pages 72-75, lines 13-4 of the English transcript of 7 April 2004 where it is said: “ .. there was a defence plan that existed in which it was defined that weapons would be distributed to part of the population in order to defend Kigali...Yes, they were being put on a list because they were not going to ask the Tutsi population to defend the city of Kigali, and it's on this basis that subsequently it was realized that this plan was going to become an extermination plan.” b. In the testimony of witness BY, pages 27-32, lines 15-08 of the English transcript of 2 July 2004 where it is said: “ Now, the second six months of 1993 that is from June, July 1993, as part of that evolution which—I am sorry, I will have to qualify as unhealthy evolution in the political and economic situation in Rwanda, and the leaders of that youth wing went on armed training, military training. And in the final analysis, they were armed. “ c. In the documentary material exhibited by the Defence DK12. d. See also evidence listed in respect of indictment paragraphs 5.27-5.35 to the extent they are referred to in this chart.
<p>5.27 In 1993, President Habyarimana declared in Ruhengeri that the <i>Interahamwe</i> had to be <i>equipped</i> so that, come the right time, “<i>ils descendent</i>”.</p>	<p>An example of evidence led on this point appear in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness ON pages 78-80, lines 8-23 of the English transcript of 28 April 2004 where it is said: “[T]he proof of this is that he put the idea into practice. President Habyarimana held a meeting in Ruhengeri one day—I think it was in 1992, 1993—and during the meeting he said the Interahamwe—‘ I’m going to buy uniforms or suits for you and we’re going to go down the streets.’ Going down the streets meaning that they were going to kill. In other words, he declared himself the leader of the Interahamwe.” b. In the documentary material exhibited by the Defence as DNS 43A, page 6 [K0052783]. c. In the documentary materials exhibited by the Defence, DB61B, page 4, para 4 [K0127616].
<p>5.28 <u>Before</u> and during the events referred to in this indictment...</p>	<p>An example of evidence led on this point appear in the evidence as follows:</p>

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	<ul style="list-style-type: none"> a. In the testimony of witness ZF page 7-9, lines 28-5 of the English transcript of 28 November 2002 where it is said: "[W] hat I did see was the first distribution of weapons to a small group of militiamen. They were given weapons and cartridges --- magazines rather. And also they were given pistols." b. In the testimony of witness AAA page 40-42, lines 31-7 of the English transcript where it is said: "The weapons distributed on 5th of March '93 were distributed by Captain Simbikangwa. He gave them to Colonel Hakizimana, who took them to his place, and that's where we went to collect them, that is at his house, to take them to where they were supposed to be kept. The <i>Interahamwe</i> leaders were supposed to distribute them on the basis of the list of people who had knowledge of weapons handling." c. In the testimony of BY, pgs 27-32, lines 15-08 English transcript of 2 July 2004. d. In the testimony of witness GS pages 68-72, lines 27-28, of the English transcript of 17 February 2004. e. See also evidence listed in respect of indictment paragraphs 5.29-5.35; 6.58 and 6.63 to the extent they are referred to in this chart.
<p>5.29 In February 1993, without the knowledge of the Minister of Defence, James Gasana, Colonel Theoneste Bagosora arranged for weapons to be distributed to the <i>bourgmestres</i> of Gisenyi. The weapons were taken from the Army's logistics base in Kigali and were then distributed by the <i>bourgmestres</i> to certain carefully selected civilians in Gisenyi.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness DBY, pgs 6-8, lns 17-11 of the English transcript of 22 September 2003 where it is said: " Q. Do you remember which part of 1992 you saw the first one; in which part, the beginning or the end of it? A. it was at the end of 1992 Q. and who was the author of this telegram? A. Col. Theoneste Bagosora. Q. who was the recipient of the telegram? A. The first one was addressed to Base-AR. That is the unit that was in charge of things like weapons, ammunition, supplies. You know, these are the things that were stored there, and that was the unit responsible for guarding them. Q. and what did the message state? A. The telegram was a request for guns, 1,000 guns. Q. what type of guns were being requested? A. Kalashnikovs and R-4. " b. In the documentary material exhibited by the Prosecution as P3, pages K022-9212-13 (page 107-108). c. In the documentary materials exhibited by the Defence, DB61B, pages 5-6 [K0127617-8].
<p>5.30 From July 1993 to July 1994, the Minister of Defence, Augustin Bizimana, who replaced James Gasana, encouraged and facilitated the acquiring of weapons for MRND militants by openly asserting that the Ministry of</p>	<p>An example of evidence led on this point appear in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness A, pgs 39-44, lns 21-03, of the English transcript of 1 June 2004

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<p>Defence was a Ministry of the MRND. He personally received several influential members of the MRND, the CDR and <i>Interahamwe</i> in his office.</p>	<p>where it is said: " Ministry of Defense handed over 800 weapons to the Mouvement Revolutionnaire National pour la Democratie et le Developpement president." " As you know, the ministry of defense belonged to the Mouvement Revolutionnaire National pour la Democratie et le Developpement and at the time the minister was Bizimana – Augustin Bizimana, and he was a member of the Mouvement Revolutionnaire National pour la Democratie et le Developpement."</p>
<p>5.34 On 7 January 1994, Mathieu Ngirumpatse, Augustin Bizimana, Augustin Ndindiliyimana, Deogratias Nsabimana, Robert Kajuga and other influential MRND members participated in a meeting at the MRND headquarters in opposition to the disarmament program. It was decided at this meeting to use all possible means to resist the implementation of the disarmament, and also to hide weapons at various locations.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Dallaire, page 11, lines of the English transcript of 20 January 2004 where it is said: " He indicated to us that the leadership of the Mouvement Revolutionnaire National pour la Democratie et le Developpement party and <i>Interahamwe</i> were very, very nervous; that he received orders to accelerate the distribution of weapons to individuals, most of them of rank in the government forces; some civilian politicians, in order to disperse the weapons, so not to be caught with them. They were always fearful that we would intercept one of their vehicles or something like that because we had the weapons secure area and it had become more and more difficult for them to move the weapons around. He related information that had been passed by us at the meeting with the Mouvement Revolutionnaire National pour la Democratie et le Developpement. They had taped it." b. See also evidence listed in respect of indictment paragraph 6.19.
<p>5.35 On 10 January 1994, UNAMIR was informed by an <i>Interahamwe</i> leader of the existence of weapons caches in Kigali and a plan to eliminate the Tutsi population.</p>	<p>Examples of evidence led on these points appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Claeys at page 34 of the English transcript of 7 April 2004, where it is stated that: "...<i>He spoke also about this plan for killing a thousand people every 20 minutes. He gave us some information about the paramilitary training; that they gathered at the parachute dropping zone at Kanombe before being brought outside Kigali with the official buses that were donated by Japan to Rwanda; that they were using these buses to bring in and out the people for the paramilitary training. He spoke about the weapon caches that were organised within Kigali so that they could recover or receive weapons through the military system; that these weapons then were first stockpiled in one place before being distributed on order to assigned personnel...</i>" [Emphasis

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added.] See also at pages 30-31 of the English transcript of 7 April 2004, where it is stated that: "Within Kigali, he explained that they had divided Kigali in 20 different sectors or cells -- *he spoke about cellules, chef de cellule -- which each town was responsible for a part of Kigali where they would be able to execute this plan of extermination.* So, the available personnel in this cellule should, on a large scale, be able to exterminate a thousand people in 20 minutes." [Emphasis added.] See further, pages 33-36, 65-68 of the English transcript of 7 April 2004, and pages 80-84 of the English transcript of 7 April 2004, where it is stated that: "Q. Now, could one then conclude that you were with a senior member of the MRND security? A. Some days earlier he had said that the Demonstration would take place. That was not a secret. And he said that he was going to be in charge of organising security at that event. The fact that we saw him so many times, and not only in isolated cases, in the cassette -- on the cassette, *equipped with a radio, we saw him commanding people who also had radios, and he would give them orders, send them somewhere,* actually enabled one to conclude that he was commanding the security system during that event." [Emphasis added.]

- b. In the testimony of witness Dallaire at pages 31-33 of the English transcript of 22 January 2004, see also pages 6-7 and 50-55 of the English transcript of 26 January 2004.
- c. In the testimony of witness Beardsley at pages 18-23 of the English transcript of 4 February 2004, where it is stated that: "Q. Well, 11th April, that's an error, an oversight on my part. But you did have some information, and what I want to understand in that regard -- now, based on what you told my colleague Drew White in the course of your evidence-in-chief is that Jean-Pierre was not a Interahamwe leader, that he was -- at the very least he was an instructor. A. No, sir, he was a top level trainer in the Interahamwe Militia. That's in the first paragraph of the message. He was a top-level trainer within the Interahamwe which, in our opinion, made him a top leader in the Interahamwe on our assessment. Q. Well, in your own perception of a structure, so someone who issues instructions is a leader; is that it? A. Yes, sir, on the scale of what he was reporting to us here, coordinating the movement of hundreds -- the training of hundreds of militiamen, coordinating the registration of Tutsis within areas of Kigali, the fact that he could give an order and a thousand people could be killed in 20 minutes, that -- the conclusion or our assessment of that information

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	<p>was that if this guy was valid, he was a top leader in the Interahamwe.”</p> <p>d. In the documentary materials exhibited by the Defence, DB80, page 5.</p>
<p>5.35 That officer identified <u>several caches</u> throughout Kigali, in places controlled by members of the MRND, notably at the party headquarters in Kimihurura, in a house belonging to General Augustin Ndindiliyimana.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <p>a. In the testimony of witness Claeys at pages 34-35 of the English transcript of 7 April 2004 and 68-70 of the English transcript of 7 April 2004, where the following is quoted to the witness for clarification: “...Its document CLAEFRA-4, which is the statement which you gave to the investigators...it is written, ‘One evening at the beginning of March, FC,’ that would be you, ‘and GPT -- JPT,’ who would be the informer, ‘went with Amadou, and JPT showed the various weapons Arms caches near Remera, Kimihurura. Amadou verified that inside the house that was being used as the headquarters of the MRND in Kimihurura there were, indeed, bags containing Kalashnikovs, EG3. He showed a -- he pointed out five caches to us, and there was an Arms cache in each Cellule.” [Emphasis added.]</p> <p>b. In the documentary material exhibited by the Prosecution as P172, specifically at L002-2614, where it is stated as follows: “After the meeting he showed us THREE places in the KWSA where weapons are stored; there was a place with 15, one with 20 and the one near his house with more than 100 weapons. At this time we have thus FOUR exact locations with weapons (party seat included)”</p>
<p>5.35 During the search of that house, the UNAMIR officer discovered several firearms and cases of ammunition.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness Claeys at page 34 of the English transcript of 7 April 2004.</p> <p>b. In the testimony of witness Dallaire at page 40 of the English transcript of 20 January 2004 where great specificity is provided for the state of the arms found.</p> <p>c. In the documentary material exhibited by the Prosecution as P172, specifically at L002-2614.</p>
<p>5.36 Having identified the Tutsi as the enemy and the members of the opposition as their accomplices, members of the Army General Staff, civilian authorities and militiamen established lists of people to be executed.</p>	<p>An example of evidence led on this point appear in the evidence as follows:</p> <p>a. In the testimony of witness AS, page 36, lines 07-28 of the English transcript of 2 September 2003 where it is said: “ My husband only talked about the list to me; that is, the list that was being prepared in Gisenyi, with people not desired by the government.”</p> <p>b. In the testimony of witness DBY, pages 3-5,</p>

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	<p>lines 24-20 of the English transcript of 22 September 2003 where it is said: "However, Major Aloys Ntabakuze had a list."</p> <p>c. In the testimony of witness XBH, pages 26-27, lines 24-32 of the English transcript of 3 July 2003 where it is said: "Col. Theoneste Bagosora said that they had started eliminating important Hutus and that they, in turn, had to prepare a list of people who had to be eliminated and these people had to be Tutsis. He said that they had to start with Tutsis who were intellectuals and traders."</p> <p>d. In the testimony of witness A, pages 45-48, lines 17-12 in the English transcript of 1 June 2004 where it is said: "We spoke in the first quarter of 1997 and he told me that - in the first half of that year, and he told me that Col. Theoneste Bagosora had shown him a list of people to be killed, and it appears that on that list there were Tutsis and Tutsi businessmen. Kambanda told me that prior to that, he did not know whether there was any preparation, but after, that is when he was able to see that there was already preparation for the killings." See also at pages 45-48 in the English transcript of 1 June 2004</p> <p>e. In the testimony of witness BY, pages 39-41, lines 04-10 of the English transcript of 2 July 2004 where it is stated "And in fact, the entire Tutsi population of Kigali was included in those lists, neighbourhood after neighbourhood."</p> <p>f. In the testimony of witness OQ, pages 6-8, lines 14-21 of the English transcript of 18 July 2003.</p> <p>g. In the testimony of witness AAA, pages 30-33, lines 27-23 of the English transcript of 14 June 2004.</p> <p>h. In the testimony of witness ABQ, pages 4-8, lines 25-20 of the English transcript of 6 September 2004.</p> <p>i. See also evidence listed in respect of indictment paragraphs 5.37-5.40; 6.34 to the extent they are referred to in this chart.</p>
<p>5.37 In 1992, at a meeting, Colonel Theoneste Bagosora instructed the two General Staffs to establish lists of people identified as the enemy and its accomplices. The Intelligence Bureau (G-2) of the Rwandan Army established the lists under the supervision of Anatole Nsengiyumva. The lists were regularly updated under the authority of Anatole Nsengiyumva and afterward of Aloys Ntiwiragabo.</p>	<p>An example of evidence led on this point appear in the evidence as follows:</p> <p>a. In the documentary material exhibited by the by the Prosecution as P22.</p> <p>b. In the testimony of witness DesForges at pages 39-43 in the English transcript of 16 September 2002. at pages 53-54 in the English transcript of 17 September 2002.</p> <p>c. In the testimony of witness DBY at pages 17-21 in the English transcript of 22 September 2003.</p> <p>d. In the testimony of witness XAP at pages 27-29 in the English transcript of 11 December 2003.</p>

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<p>5.38 In 1993, following a traffic accident, a list of the type described above was found in the vehicle of the Chief of Staff, Deogratias Nsabimana. During the events, some of the people on that list were killed.</p>	<p>An example of evidence led on this point appear in the evidence as follows:</p> <ul style="list-style-type: none"> e. In the documentary material exhibited by the by the Defence as DB61B at pages 4-5 [K0127616-7]. f. In the testimony of witness DesForges at pages 55-56, 60-61 in the English transcript of 17 September 2002. g. In the testimony of witness Reyntjens at pages 11-12 in the English transcript of 21 September 2004. h. In the documentary materials exhibited by the Defence as DNS1 and DB99 [K0229918].
<p>5.39 On 10 January 1994, an <i>Interahamwe</i> leader informed UNAMIR that he had received orders to establish lists of Tutsi to be eliminated.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness Claeys at pages 33-36, 65-68 of the English transcript of 7 April 2004, and pages 80-84 of the English transcript of 7 April 2004, where it is stated that: "Q. Now, could one then conclude that you were with a senior member of the MRND security? A. Some days earlier he had said that the Demonstration would take place. That was not a secret. And he said that he was going to be in charge of organising security at that event. The fact that we saw him so many times, and not only in isolated cases, in the cassette -- on the cassette, <i>equipped with a radio, we saw him commanding people who also had radios, and he would give them orders, send them somewhere, actually enabled one to conclude that he was commanding the security system during that event.</i>" [Emphasis added.] b. In the testimony of witness Dallaire at pages 6-7 and 50-55 of the English transcript of 26 January 2004. c. In the testimony of witness Beardsley at pages 18-23 of the English transcript of 4 February 2004, where it is stated that: "Q. Well, 11th April, that's an error, an oversight on my part. But you did have some information, and what I want to understand in that regard -- now, based on what you told my colleague Drew White in the course of your evidence-in-chief is that Jean-Pierre was not a <i>Interahamwe</i> leader, that he was -- at the very least he was an instructor. A. No, sir, he was a top level trainer in the <i>Interahamwe</i> Militia. That's in the first paragraph of the message. He was a top-level trainer within the <i>Interahamwe</i> which, in our opinion, made him a top leader in the <i>Interahamwe</i> on our assessment. Q. Well, in your own perception of a structure, so someone who issues instructions is a leader; is that it? A. Yes, sir, on the scale of what he was reporting to

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	<p>us here, coordinating the movement of hundreds -- the training of hundreds of militiamen, coordinating the registration of Tutsis within areas of Kigali, the fact that he could give an order and a thousand people could be killed in 20 minutes, that -- the conclusion or our assessment of that information was that if this guy was valid, he was a top leader in the Interahamwe.”</p> <p>d. In the documentary materials exhibited by the Defence, DB80, page 5.</p>
<p>5.40 ...by means of <u>pre-established lists</u>, among other things.</p>	<p>An example of evidence led on this point appear in the evidence as follows:</p> <p>a. In the testimony of witness BY, pages 39-41, lines 04-10 of the English transcript of 2 July 2004 where it is said: “ MR. PRESIDENT. Hold on please. Please hold on for the moment. Now, the question was very specific. It can be formulated this way: Do you know whether the lists drawn up before 6 April were used afterwards? Do you have any knowledge about this? That's the gist of the question. THE WITNESS: This is exactly what happened, Mr. President. It is on the basis of those lists. It is on the basis of the fact that those people were known, that is, the people in the neighbourhoods, those who hosted them and those who were considered as infiltrators on the said lists. It is on that basis that eliminations were carried out. And in fact, the entire Tutsi population of Kigali was included in those lists, neighbourhood after neighbourhood.”</p> <p>b. In the testimony of witness KJ, pages 56-60, lines 14-33 of the English transcript of 19 April 2004 where it is said: “ If I refer to the activities of the intelligence service, in particular, to the list of people that that service drew up, all the persons on the list were killed.”</p> <p>c. In the testimony of witness XBH, pages 33-37, lines 29-15 of the English transcript of 3 July 2003 where it is said: “After the names were compiled on the list, six photocopies were made. Bagosora took one, Anatole took one, and they did so because these people who had to be killed lived in Gisenyi. My employer took another copy, and there were three copies remaining. And they told me that I had to give Lieutenant Bizimuremye, who was the commander of the Butotori camp, a copy, another to <i>Conseiller</i> Fazili, who was the <i>conseiller</i> of Gisenyi <i>secteur</i>, and the last copy to the <i>bourgmestre</i> of Nyamnyumba <i>commune</i>, whose name was Faustin Bagango.”</p> <p>d. See also evidence listed in respect of indictment paragraph 6.34.</p>

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<p>5.41 The political and ethnic violence of the early 1990s was characterized by the use of the elements of the strategy which achieved its finality in the genocide of April 1994. The massacres of the Tutsi minority at that time, including those in Kibilira (1990), in Bugesera (1992), and those of Bagogwe (1991), were instigated, facilitated and organized by civilian and military authorities. On each occasion, a campaign of incitement to ethnic violence, conducted by local authorities, was followed by massacres of the Tutsi minority, perpetrated by groups of militiamen and civilians, armed and assisted by the same authorities and by certain military personnel. On each occasion, these crimes remained unpunished and the authorities implicated were generally not taken to task.</p>	<p>An example of evidence led on this point appear in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness DesForges, pages 47-48, lines 19-09 of the English transcript of 11 September 2002 where it is said: "The attack at Kibilira, like many events to follow, involved incitation to violence against Tutsi, led by local authorities and persons of political responsibility during three days of violence, and some 33 Tutsis were killed." See also pages 120-122 in the English transcript of 16 September 2002 and pages 13-14, 20-21 in the English transcript of 18 September 2002. b. In the documentary material exhibited by the Prosecution as P27, P28, P303 and by the Defence as DB9 and DNS5. c. In the testimony of witness Reytjens at pages 34-35 in the English transcript of 15 September 2004, and at pages 2-4 in the English transcript of 16 September 2004. d. In the testimony of witness A at pages 81-82 in the English transcript of 1 June 2004. e. In the testimony of witness XXQ pages 18-19 lines 3-17 in the English transcript of 13 October 2004 where it is said: "I think it is necessary for me to supplement my answer because he asked me to explain the significance of that date. I told him that I had come to Gisenyi because of the killings that were going on there. Tutsis were being killed at Kibilira, at Mutara, at Rutsiro. The Bagogwes were also being killed. It is for that reason that the RPF attacked on the 8th February 1993." f. In the documentary material exhibited by the Prosecutor P3 English at pages K022-9201-9203 (pages 86-91 of the English version of the Book).
<p>5.42 Cooperation between the <i>Interahamwe</i> and certain military personnel, particularly those in the Residential Guard and the Para-Commando Battalion, was manifested in early 1994 in opposition to the implementation of the institutions provided for under the Arusha Accords. On 5 January 1994, at the time of the swearing-in ceremony of the Broad-Based Transitional Government, the <i>Interahamwe</i> organized a demonstration in cooperation with members of the Presidential Guard. They prevented political opponents from entering the <i>Conseil national de developpement (CND)</i>. The swearing-in of the members of the Government did not take place. In the end, only the President, Juvenal Habyarimana, was sworn in.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Beardsley at pages 70-71 of the English transcript of 3 February 2004 and 17-18 of the English transcript of 3 February 2004, where it is stated that: "<i>The crowd became unruly, and they started stopping vehicles beyond our control at the gate and preventing people from coming to the installation ceremony. We attempted to negotiate with them to get them to back off, and I remember a major from the Presidential Guard, I believe his name was Mpiranya, gave us a lot of mouth. The situation got quite tense. Dallaire told us to stay calm and then negotiate them out of the way. As a result, many of the</i>

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	<p><i>delegates and individuals who were to be installed that day in the BBTG did not make it to the stadium. They escaped from the mobs and went back to their homes or to other locations.</i> [Emphasis added.] See also pages 75-76 of the English transcript of 4 February 2004; at page 72 of the English transcript of 5 February 2004;</p> <p>b. In the testimony of witness Dallaire at pages 21-23 of the English transcript of 20 January 2004, and at pages 72-74 of the English transcript of 26 January 2004.</p> <p>c. In the documentary materials exhibited by the Prosecution as P33B at pages 10-11 [K0240160-1].</p> <p>d. In the documentary materials exhibited by the Defence as DB80 at pages 3/11-4/11.</p>
<p>5.43 On 8 January 1994, <i>Interahamwe</i>, in complicity with elements of the Presidential Guard and the Para-Commando Battalion dressed in civilian clothes, again organized a demonstration near the CND.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness Dallaire at page 23 of the English transcript of 20 January 2004 where it is stated as follows: "There were demonstrations by a few units in the KWSA, around the CND, by RGF units, Presidential Guard and others, <i>mostly paracommando</i>, who deliberately were running around the CND and taunting the RPF with battle songs and things of that nature. So I had to impose a wider radius around the CND that no troops were allowed to do that. I think that's generally the -- a lot were political in nature as we tried to advance the BBTG." [Emphasis added.]</p> <p>b. In the documentary materials exhibited by the Prosecution as P170, specifically L001-6678, where, while referring to the demonstration of 8 January 2004, it is stated that: "Informant confirmed 48 RGF Para CDO and a few members of the gendarmerie participated in demonstrations in plain clothes"</p> <p>c. In the testimony of witness Beardsley at pages 75-76 of the English transcript of 4 February 2004; at page 72 of the English transcript of 5 February 2004,</p> <p>d. In the testimony of witness Claeys at page 58 of the English transcript of 7 April 2004.</p> <p>e. In the documentary materials exhibited by the Prosecution as P33B at pages 10-11 [K0240160-1].</p> <p>f. In the documentary materials exhibited by the Defence as DB80 at pages 3/11-4/11.</p>
<p>5.43 On 8 January 1994, <i>Interahamwe</i>, in complicity with elements of the Presidential Guard and the Para-Commando Battalion dressed in civilian clothes, again organized a demonstration near the CND. On that occasion, the <i>Interahamwe</i> had hidden weapons very</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness Dallaire at pages 21-23 in the English transcript of 20 January 2004, where it is stated that: "There was an attempt on</p>

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<p>nearby and were equipped with radios provided by the Presidential Guard. That demonstration was intended to provoke and cause injury to the Belgian UNAMIR soldiers.</p>	<p>the 8th to do it again, but that attempt did not succeed because of impossibilities on one side of people to get to the site, and I speak specifically -- I mean, we had some of the PL members even in a bus, and that bus couldn't make it through. We had people in all types of checkpoints escorting, and the crowds were just so massive and so anti. And at that time we recognised Presidential Guard -- that is, my staff recognised Presidential Guard, people in Civilian at the main gate also creating havoc because there was a large gathering there...The Interahamwe were, again, recognised, but were not in uniform. So all kinds of comments could be said in that light, but there were strong instigators who were leading these Demonstrations."</p> <p>b. In the documentary materials exhibited by the Prosecution as P3, the plan to target the UNAMIR is discussed, specifically at K022-9234.</p>
<p>5.44 On several occasions, gathering places were indicated to them by the local authorities, who had promised to protect them.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <p>a. In the testimony of witness Beardsley pages 42-46 lines 20-24 where it said: "...they had observed the Gendarmerie Nationale moving very methodically through this Gikondo area around the church. They had lists, and they would gather people and send them into the church or escort them into the church."</p> <p>b. In the testimony of witness EU P275 92bis statement where it is said: "I heard the voice of the Bourgmestre of Nyamagabe commune, SEMAKWAVU Felicien, on the megaphone. He said that everyone was to leave the hill and seek refuge in the ecole technique of Murambi. In addition, prefet BUCYIBARUTA Laurent spoke over the megaphone. He stated that if the people left the hill, he would bring them food and send gendarmes to protect them. All the refugees were Tutsi."</p> <p>c. In the testimony of witness WB pages 15-19 lines 35-15 in the English transcript of 13 November 2003 where it is said: "And we, the refugees, we said, "Major, if we go back to our houses, whereas we had left our houses to come and look for security and safety here, we might be killed." And the Major said, "Go back first of all to IAMSEA." So we went back to IAMSEA saying to ourselves that the major had spoken well. So on the 14th, the major said, "Allow the refugees to go back to the IAMSEA. We thought that this major was, indeed, a good man. The major said, "We will look at their own problems," and we felt this was something</p>

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	positive.”
<p>5.44 For the initial days, the refugees were protected by a few gendarmes and communal police in these various locations, but subsequently, the refugees were systematically attacked and massacred by militiamen, often assisted by the <u>same authorities who had promised to protect them</u>.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness EU P275 92bis statement where it is said: “I heard the voice of the Bourgmestre of Nyamagabe commune, SEMAKWAVU Felicien, on the megaphone. He said that everyone was to leave the hill and seek refuge in the ecole technique of Murambi. In addition, prefet BUCYIBARUTA Laurent spoke over the megaphone. He stated that if the people left the hill, he would bring them food and send gendarmes to protect them. All the refugees were Tutsi.” “The bourgmestre SEMAKWAVU and the conseillers requested that the Tutsi group themselves by secteur. They were counted. They said that they wanted a count so they could bring the something to eat. However, in reality, it was to determine how many people were to be killed. In the evening around 19.00 hours, when I returned to the house, I heard a lot of gunfire and warning cries from the farmers.” b. In the testimony of witness WB pages 47 lines 02-11 in the English transcript of 13 November 2003 where it is said: “There were no soldiers guarding us, but from the moment the major asked the Interahamwe to leave us alone, we understood a lot – we understood further that we were secure, we were safe.” See also pages 47-52 lines 15-02.
<p>6.2 In the absence of the Minister of Defence, Colonel Theoneste Bagosora, <i>directeur de cabinet</i>, asserted himself as the man of the moment capable of managing the crisis.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Dallaire at pages 508, 14016 in the English transcript of 23 January 2004 where its is stated “Okay, we’ll settle all the military questions and then I’ll go and see who is the political military boss, who is, according to me – who was, according to me Colonel Bagosora. So I went to seek him out.” and “Up to that point and throughout the afternoon, without anyone telling me the contrary, I saw Colonel Bagosora in the role of a chief. He was signing communiqués which went out to the population, and his action reflected a leader’s attitude, a leader’s act, who knew what was happening, what was being done as every – as a leader in a crisis situation. There were killings everywhere. b. In the testimony of witness Beardsley at pages 60-64 of the English transcript of 4 February 2004, where it is said “Bagosora <i>dominated</i> the entire meeting.” [Emphasis added.] c. In the documentary material exhibited by the Prosecution as P27.

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<p>6.3 During this meeting Colonel Theoneste Bagosora and other officers, including Major Kayumba, expressed their desire to take power.</p>	<p>d. In the documentary materials exhibited by the Defence, DB128B, pages 3-4 [K0249196-7].</p> <p>Examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Reynjtens at pages 7-8, lines 37-16; 29, lines 10-15 of the English transcript of 17 September 2004, where it is said "It was suggested by some, a minority of officers present, and one of them was Lieutenant Colonel Kayumba that the military should cease power and this was explicitly rejected." b. In the testimony of witness Beardsley at pages 23-25 of the English transcript of 3 February 2004 where it is stated that "Theoneste Baosora said that Prime Minister Agathe had no credibility with the nation, that she could not lead the nation, and <i>that these officers had to take control</i> until the situation could be stabilized and handed over to the politicians."; and at pages 78-81 of the English transcript of 5 February 2004. [Emphasis added.] c. In the testimony of witness Dallaire at pages 22-26 of the English transcript of 19 January 2004 where it is stated that "Well, when they responded, then [sic] repeatedly responded in such nature, my original concern about the fact that Col. Theoneste Bagosora was actually chairing this meeting only became more in evidence or stronger because it seemed to me that maybe in fact <i>they are conducting a coup.</i>" [Emphasis added.] d. In the documentary materials exhibited by the Defence, DB128B, pages 3-4 [K0249196-7] where it is indicated that "There was a group of officers who said that the military should take over power and another group which disagreed with the first, and rather supported a continuation of the peace process provided for in the Arusha Accords. <i>Bagosora was part of the first group, moreover, he was the one who put the idea forth.</i>" [Emphasis added.] e. In the documentary materials exhibited by the Defence, DB61B, page 7, para. 3 [K0127619].
<p>6.3 Despite <u>the advice of certain people</u> to involve Prime Minister Agathe Uwilingiyimana in managing the crisis, Colonel Theoneste Bagosora refused to consult her in any way, ceasing to acknowledge her authority.</p>	<p>Example of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Beardsley at pages 23-25 of the English transcript of 3 February 2004, and at pages 47-52 of the English transcript of 4 February 2004 where it is said "General Romeo Dallaire was fixated on Prime Minister Agathe speaking to the nation. The soldiers did not agree, sir. They repeatedly said no, absolutely not, in the sense of Col. Theoneste Bagosora [...] and Col. Theoneste

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	<p>Bagosora was adamant that the Prime Minister had no credibility in the nation and that she should speak to the nation [...]. He never went into anything, sir. He just said 'She has no legitimacy, she has no credibility with the nation, she is not fit to rule.'"</p> <ul style="list-style-type: none"> b. In the testimony of witness Dallaire at pages 22-26 of the English transcript of 19 January 2004. c. In the testimony of witness Des at pages 48-50, lines 9-15, of the English transcript of 18 September 2002. d. In the testimony of witness DesForges at pages 48-50 in the English transcript of 18 September 2002. e. In the documentary materials exhibited by the Defence, DB10, pages 6-8 [K0233967-9]. f. In the documentary materials exhibited by the Defence, DB128B, pages 3-4 [K0249196-7].
<p>6.4 Colonel Theoneste Bagosora introduced himself to Dr. Booh Booh as the interlocutor of reference.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness Dallaire at pages 32-34 of the English transcript of 19 January 2004 where it is stated that "Bagosora was to attend. He was the interlocutor. He was the person of authority and demonstrating that authority and exercising it. So the SRSG clearly said that, yes, Col. Theoneste Bagosora had to represent the government, the military situation on the Rwandan Government Forces and government side." b. In the documentary materials exhibited by the Defence, DB10, pages 6-8 [K0233967-8]. c. In the documentary materials exhibited by the Prosecution, P31B, pages 5 [K0241066].
<p>6.4 For the second time, Colonel Theoneste Bagosora once again strenuously refused that she be consulted.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness Dallaire at pages 32-34 of the English transcript of 19 January 2004 where it is stated that "It was raised again and he [Bagosora] again argued that he did not feel that she [Prime Minister Agathe] had any authority, nor could she be considered the political leader in the country at that point." b. In the documentary materials exhibited by the Defence, DB10, pages 6-7 [K0233967-8] where it is stated that "However, [Bagosora] stated categorically that the soldiers would never meet with the Prime Minister who had been rejected by the members of her own government and the People of Rwanda." c. In the documentary materials exhibited by the Defence, DB128B, pages 3-4 [K0249196-7].

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<p>6.5 In the early hours of the morning of 7 April 1994, the duty officer at the Rwandan Army headquarters, Major Kayumba, was informed that gunfire had been heard near the Prime Minister's residence. He told his interlocutor that he was aware of the situation, and said that: <i>"It's us trying to prevent the Prime Minister from going to the radio station."</i></p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness XXJ at pages 18-22, lines 12-15 of the English transcript of 14 April 2004, where it is said "And from their conversations, I could hear Sagahutu say 'you must do everything you can to prevent that woman from going to speak—at the radio.'" b. In the testimony of witness DA at pages 17-25, 29-33 of the English transcript of 17 November 2003, at pages 77-81 of the English transcript of 8 December 2003. c. In the testimony of witness XXO in the English transcript of 21 November 2003. d. In the testimony of witness ATY at pages 22-25, lines 02-31 of the English transcript of 27 September 2004. e. In the testimony of witness DAK at pages 35-37, lines 04-06 of the English transcript of 7 November 2003. f. In the testimony of witness AE at pages 42-43, lines 28-20 of the English transcript of 16 December 2003.
<p>6.7 Colonel Theoneste Bagosora, presenting himself as the representative of the civil and political authorities, met the Ambassador of the United States of America at his residence on 7 April, at around 9:00 a.m. Present at the meeting were General Augustin Ndindiliyimana and Lieutenant-Colonel Rwabalinda. When the Ambassador asked him the reason why the Prime Minister was being prevented from making a radio address, Colonel Theoneste Bagosora was silent. However, to explain the shooting heard in the city, Colonel Theoneste Bagosora told the Ambassador that the Presidential Guard soldiers were upset about the President's death and were shooting in the air.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Dallaire at pages 32-34 lines 17-11 of the English Transcript of the 19 January 2004. b. It is also noted that the Bagosora Defense proposed the truth of this issue to witness XAB during cross-examination, at pages 18-20 lines 18-3 English transcript of 7 April 2004, where it is stated that "So I put it to you. That Colonel Theoneste Bagosora was never at Camp Kanombe at seven o'clock in the morning [...] and then he left to go to US Ambassador David Rawson's house in Kigali for a meeting." c. In the documentary material exhibited by the Defence in DB9 at page 30 (5/14) and DB8, pages 30 [or5/11] paras 4-7.
<p>6.8 In the morning of 7 April, another meeting of the FAR officers was held at the <i>Ecole Supérieure Militaire</i> (ESM); those participating included Major Aloys Ntabakuze, Major Francois-Xavier Nzuwonemeye and Lt. Col. Leonard Nkundiye. Also present were the commanding officers of the sectors of operation in Rwanda, the commanders of the military camps and officers of the General Staffs (AR and GN).</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Dallaire at pages 36-41, lines 09-34 in the English Transcript of 19 January 2004 where it was said "It was in the morning of the 7th, around 10.30ish in the morning when I burst into the meeting chaired by Col. Theoneste Bagosora with General Augustin Ndindiliyimana to his side of all senior officers, commanders. I say "all" because the room was full of the government, and government forces and Gendarmerie Nationale." b. It is also noted that the defense proposed the truth of this issue to Prosecution witness DCB

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	<p>during the cross-examination at pages 43-46 lines 16-17 on 6 February 2004 English transcript where it was said "Now to conclude on this matter, sir between 10.00 and 12 noon, according to a number of witnesses Colonel Theoneste Bagosora was in a meeting at the military academy, Ecole Superieure Militaire, with all the heads of the Gendarmerie Nationale and the army, including a Canadian General. What would be your view or what would you say to that?"</p> <p>c. It is further noted that the Defence proposed the truth of this matter to witness DBQ during cross-examination at pages 16-17 in the English transcript of 30 September 2003.</p> <p>d. In the documentary evidence exhibited by the Defence as DB61B, pages 7-8 [K0127619-20].</p>
6.8 The Commander of the Presidential Guard, Major Mpiranya, did not attend that meeting.	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness DCB at page 16, lines 20-26 of the English transcript of 6 February 2004 where it is said " Q. Was- did you see you commander at the camp at any time on the 7th? A. Yes, I saw him at the camp. Q. And what was he doing? A. He was merely moving around. I don't know whether he was trying to check on the positions, but he was moving around within the camp."</p> <p>b. In the documentary materials exhibited by the Defence, DB61B, page 15 [K0127627] where it is stated: "Following the meeting of the Unit Commander at the ESM on 7 April 1994 <i>which he did not attend</i>, I telephoned Major MPIRANYA and asked him to come and see me regarding the massacres of civilians in town, which were being attributed to his Unit. He told me that he would not come and that he was busy with his Unit." [Emphasis added.]</p>
6.8 He reiterated his position, maintaining that the military should take power.	<p>An example of evidence led on this point appears in the evidence as follows:</p> <p>a. In the documentary materials exhibited by the Defence, DB61B, page 8 [K0127620].</p>
6.8 For the third time, Colonel Theoneste Bagosora refused that the Prime Minister be consulted, adding that he did not know if she was still alive.	<p>An example of evidence led on this point appears in the evidence as follows:</p> <p>a. In the documentary materials exhibited by the Defence, DB61B, page 8 [K0127620].</p>
6.8 The meeting ratified the decision taken in the night to establish a "crisis committee" composed of senior military officers, including Theoneste Bagosora, General Augustin Ndingiyimana and Tharcisse Renzaho.	<p>An example of evidence led on this point appears in the evidence as follows:</p> <p>a. In the documentary materials exhibited by the Defence as DB128B at pages 6-7 [K0249199-20].</p>
6.9 While this meeting was going on, Prime Minister Agathe Uwilingiyimana was tracked down, arrested,	<p>Examples of evidence led on this point appears in the evidence in the as follows:</p>

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<p>sexually assaulted and killed by Rwandan Army personnel, more specifically, members of the Presidential Guard, the Para-Commando Battalion and the Reconnaissance Battalion.</p>	<p>a. In the testimony of witness Beardsley at pages 53-58, lines 02-04 of the English transcript of 4 February 2004 where it is said: "... and on the other side extremist officers, specifically in the Presidential Guard, the Paracommando Battalion, Reconnaissance Battalion and those officers around Col. Theoneste Bagosora who seemed to be intent upon wrecking the Arusha Peace Agreement and resuming hostilities with the Rwandan Patriotic Front in addition to killing moderate politicians and others."</p> <p>b. In the testimony of witness Dallaire at pages 28-31, lines 12-31 of the English transcript of 23 January 2004 where it is said: " Q. General, from what witness AE testified in this case, it seems that witness said that among the people who killed Agathe, there were members apparently of the Presidential Guard, but there were people from other units , and even the person who shot her was a lieutenant of the Gendarmerie Nationale who had been trained at the Ecole Superiure Militaire.... A. I agree with you, because according to my report, there were almost 40 soldiers who went straight to the point..."</p>
<p>6.9 Concurrently, members of the same units arrested, confined and killed important opposition leaders. Hence, the following were killed: the President of the Constitutional Court, the Chairman of the PSD party and Minister of Agriculture, the Vice-Chairman of the PL party and Minister of Labor and Community Affairs, as well as a member of the Political Bureau of the MDR, the Minister of Information.</p>	<p>Examples of evidence led on this point appears in the evidence in the as follows:</p> <p>a. In the testimony of witness Kavaruganda at pages 20-22 and at page 37, lines 02-19 of the English transcript of 27 November 2003 where it is stated: " At our residence I saw many soldiers, they were not all soldiers of the Presidential Guard. Some of them were commandos and two of them asked our daughter, 'Do we not know you in our camp in Kanombe?' and she answered, 'No, I have never been to that camp.' And that Kanombe camp was a camp that was reserved for Paracommando Battalion."</p>
<p>6.10 The elimination of political opponents made it possible to set aside the establishment of the Broad-Based Transition Government (BBTG), stipulated in the Arusha Accords, in favour of an Interim Government. The murder of the Belgian soldiers prompted the withdrawal of most of UNAMIR's contingents. Those two events removed the two major obstacles to the pursuit of the massacres.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness Reyntjens at pages 24-25 of the English transcript of 15 September 2004.</p> <p>b. In the testimony of witness Des Forges at pages 44-45 and 51-53 of the English transcript of 18 September 2002.</p> <p>c. In the testimony of witness Beardsley at page 78 in the English transcript of 4 February 2004.</p> <p>d. In the testimony of witness Reyntjens at pgs 16-20 in the English transcript of 15 September 2004.</p> <p>e. In the testimony of witness Dallaire at pgs 64-67, lns 29-05 English transcript of 19 January</p>

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	<p>2004.</p> <p>f. In the documentary materials exhibited by the Prosecution as P32, P 149 page 103, p. 1-2 [News from Belgium] and P170.</p> <p>g. In the documentary materials exhibited by the Defence as DB47 page 103, p. 1-2 [News from Belgium], and as DNT33, page 251, where it is stated that "Out of the blue, Bagosora suddenly volunteered that there was something I should think about: it might be best to get the Belgians out of UNAMIR and out of Rwanda because of the rumours that they had shot down the presidential plane."</p>
<p>6.11 <u>Making up for the failure of the attempt at a military takeover by certain military personnel</u>, Colonel Theoneste Bagosora and the leaders of the MRND put in place an Interim Government which would aid and abet the continuation of the massacres.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness Beardsley at pages 23-25 of the English transcript of 3 February 2004 where it is stated that "Theoneste Baosora said that Prime Minister Agathe had no credibility with the nation, that she could not lead the nation, and <i>that these officers had to take control until the situation could be stabilized and handed over to the politicians.</i>"; and at pages 78-81 of the English transcript of 5 February 2004. [Emphasis added.]</p> <p>b. In the testimony of witness Dallaire at pages 22-26 of the English transcript of 19 January 2004 where it is stated that "Well, when they responded, then [sic] repeatedly responded in such nature, my original concern about the fact that Col. Theoneste Bagosora was actually chairing this meeting only became more in evidence or stronger because it seemed to me that maybe in fact <i>they are conducting a coup.</i>" [Emphasis added.]</p> <p>c. In the documentary materials exhibited by the Defence, DB128B, pages 3-4 [K0249196-7] where it is indicated that "There was a group of officers who said that the military should take over power and another group which disagreed with the first, and rather supported a continuation of the peace process provided for in the Arusha Accords. <i>Bagosora was part of the first group, moreover, he was the one who put the idea forth.</i>" [Emphasis added.]</p> <p>d. In the documentary materials exhibited by the Defence, DB61B, page 7, para. 3 [K0127619].</p> <p>e. In the testimony of witness ON pgs 60-62, Ins 18-03 of the English transcript of 27 April 2004 where it is stated: "And the Atabazi government was established by Col. Theoneste Bagosora, the prime minister was Kambanda, and its mission was to exterminate Tutsis and to fight against the Rwandan Patriotic Front. That was its main mission."</p>

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	<p>f. In the testimony of witness DesForges pgs 46-47, lines 06-03 of the English transcript of 18 September 2002 where it is stated: "[...] so this is a reflection of the struggle which was taking place within the army as Col. Theoneste Bagosora and his supporters attempted to wrest control of the situation and where elements of the opposing military officers attempted to refuse him the opportunity to take control of the situation. Thwarted by the refusal of his fellow officers to yield to him ultimate control, he then reluctantly agreed to the installation of a new Civilian government which helped to shape and determine the nature of. This new government was exclusively a Hutu power government. "</p>
<p>6.12 Already, in the night of 6 to 7 April, in Kigali, the Presidential Guard (PG) moved the MRND ministers and prominent members of the deceased President Habyarimana's circle. Some were taken to military camps. They were subsequently moved to the Hotel Diplome, where they were guarded by members of the Reconnaissance Battalion.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness Kavaruganda pg 19, lines 18-31 English transcript of 27 November 2003 where it is stated: "He was living near Nzamburambaho and his name was André Ntagerura. That minister had just loaded his property in a truck and had left. So had Casimir Bizimungu, our neighbour, also put his things in a truck and left. Nzamburambaho told my husband that they were evacuating MRND ministers, and they did not know where they were being taken to. " See also pages 33-35 of the same transcript. b. In the testimony of witness DCB at pages 2-6 and 39-41 of the English transcript of 6 February 2004. c. In the testimony of witness XAO at pages 5-6 of the English transcript of 12 November 2003. d. In the testimony of witness DY at pages 15-19 of the English transcript of 16 February 2004.
<p>6.13 On 7 April, at about 7:00 a.m., <u>Colonel Theoneste Bagosora</u> called a meeting at the Ministry of Defence of the members of the MRND executive committee, including Mathieu Ndirumpatse.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness Reyntjens at pages 98-99, of the English transcript of 16 September 2004 where it is stated: "... that is why initially Colonel Bagosora on the morning of 7th April, <i>summoned</i> the MRND leadership in order to ask them to name a replacement." See also page 33, lines 16-21, of the English transcript of 17 September 2004. [Emphasis added.] b. It is noted that the Defence proposed the truth of this matter to witness XAB during cross-examination on 7 April 2004 where it was said: "So I put it to you that [Bagosora] was never at Kanombe Camp because at seven o'clock in the morning, [Bagosora] was meeting at Ministry of Defense with politicians from the [MRND] to try to form an Interim Government and that he

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	<p>was there until 8:45 in the morning".</p> <ul style="list-style-type: none"> c. In the documentary materials exhibited by the Prosecution, P31B at page 5 [K0241066]. d. In the documentary materials exhibited by the Defence, DB128B, pages 4 [K0249197] where it is indicated that "The mission to consult the representatives of the MRND was entrusted to Colonel Bagosora."
<p>6.14 On 8 April, <u>Colonel Theoneste Bagosora</u> summoned political party representatives to a meeting to form a new Government.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness Reyntjens at pages 21-23, of the English transcript of 15 September 2004 where it is stated "The operation to put up the Interim Government started the morning of 8th April, at Ministry of Defense. And just to be precise in terms of time, during the morning, I don't know the exact hour, but it must have started around 9 a.m. I guess. The leaders of the political parties that were already part of the government, but I should be more precise here, because these were the wings of parties that were close to the former single party that opposed, actually, the Arusha Accords, those parties were called, were summoned, by [Bagosora] at the Defence ministry." See also page 16, lines 21-31, of the English transcript of 16 September 2004. [Emphasis added.] b. In the documentary materials exhibited by the Prosecution, P31B at pages 5 [K0241066]. c. In the documentary materials exhibited by the Defence, DB128B, pages 4 [K0249197] where it is indicated that "The mission to consult the representatives of the MRND was entrusted to Colonel Bagosora."
<p>6.14 To that effect, he arranged their transport to the Ministry of Defence.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness A at pages 28-29, of the English transcript of 4 June 2004 where it is stated: "[Francois Ndungutse of the PSD] told us that it was [Bagosora] who sent an armoured car to get him out of his area in Gikondo, Kicukiro; so you would understand. He told me that it was [Bagosora] who made it possible for all opposition parties to have representatives at the Hotel Diplomat. He is the one who facilitated the movement of those people." b. In the testimony of witness Reyntjens at pages 21-23, of the English transcript of 15 September 2004 where it is stated "So many of the participants were picked up at their homes by APS's armoured personnel carriers, for instance, or armoured vehicles."

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6.16 As soon as the Interim Government was formed, numerous Cabinet members supported the plan of extermination in place and took the necessary steps to execute it. They incited the people to eliminate "the enemy and its accomplices", distributed weapons to them. They dismissed local government authorities who were opposed to the massacres, replacing them with others who were devoted to the cause, and adopted directives intended to facilitate the massacre of the civilian Tutsi population.

An examples of evidence led on this point appears in the evidence as follows:

- a. In the testimony of witness BY at pages 43-48 of the English transcript of 2 July 2004, and at pages 6-10, 16-18, and 48-50 of the English transcript of 5 July 2004.
- b. In the testimony of witness A at pages 45-48, 62-67, 69-70, 80-81 of the English transcript of 1 June 2004, and pages 22-23 of the English transcript of 4 June 2004 where it is indicated "When the government moved to Gitarama, the massacres spread to Gitarama and then there were the visits of the members of the government to the various prefectures which were designed to incite the people to begin the massacres. I can give you the example of [Butare] where I was around 19 April 1994. In Butare, right up until the [19] of April 1994, there was no massacres perpetrated at all, and these massacres began when the president of the republic came to Butare with the prime minister. They replaced the *prefet* who was there and who was a Tutsi and, that very same night, following the replacement of the *prefet*, the massacres began immediately in Butare, so I realised that, when the population had to be incited, the members of the government went to the various prefectures to incite the population to carry out massacres.
- c. In the testimony of witness AAA at pages 12-14, 17-21, 54-56, 66-70 of 14 June 2004, pages 33-45 of 15 June 2004.
- d. In the testimony of witness Beardsley at pages 87-89 of the English transcript of 5 February 2004.
- e. In the testimony of witness Serushago at pages 13-14, 47 of the English transcript of 18 June 2003.
- f. In the testimony of witness DesForges at pages 89-91, 114-117 of the English transcript of 18 September 2002.
- g. In the documentary materials exhibited by the Prosecution as P45, P49 and P6A [K0157912] where the following is stated in the last mentioned exhibit: "On the other hand, Butare and Cyangugu remained calm for more than a week and were not caught up into the cycle of violence until their prefects had been dismissed and replaced by Hutu extremists. Concordant and reliable witnesses have stated that the new President of the Republic went to Butare to urge the Hutu population to engage in massacres. In Cyangugu, despite the delay, the number of persons massacred on 20 April reached, according to certain witnesses, some 15.0000. It is alleged that Armed Forces blocked all the

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	roads leading to Zaire to prevent the survivors from escaping and the Prefect is alleged to have said that he received "orders from above" to that effect.
6.17 This United Nations military force was perceived as an obstacle by certain members of the extremist political circles.	See the evidence listed in respect of indictment paragraphs 6.18-6.26 to the extent they are referred to in this chart.
6.17 Certain eminent figures in this circle thus adopted a strategy intended to provoke the Belgian military contingent, UNAMIR's most effective and best-equipped contingent. Their ultimate goal was to force them to withdraw.	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Dallaire at pages 23-24 of the English transcript of 20 January 2004; pages 25-26 of the English transcript of 21 January, pages 4-8 of the English transcript of 22 January 2004. b. In the testimony of witness Beardsley, pages 29-30 and 43-44 of the English transcript of 30 January 2004, pages 77-78 of the English transcript of 4 February 2004. c. In the documentary materials exhibited by the Defence as DNT33, page 251, where it is stated that "Out of the blue, Bagosora suddenly volunteered that there was something I should think about: it might be best to get the Belgians out of UNAMIR and out of Rwanda because of the rumours that they had shot down the presidential plane." d. In the documentary materials exhibited by the Prosecution as P33B at pages 10-11 [K0240160-1]. e. See the evidence listed in respect of indictment paragraphs 6.18-6.26 to the extent they are referred to in this chart.
6.18 Hence, a propaganda campaign against the Belgians was run, notably with the aid of the media, such as <i>Radio Television Libre des Mille Collines (RTL)</i> and the newspaper <i>Kangura</i> .	<p>An example of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Dallaire at pages 66-67 of the English transcript of 19 January 2004; pages 4, 23-24, and 38 of the English transcript of 20 January 2004; pages 59-60 of the English transcript of 27 January 2004. b. In the testimony of witness Beardsley at page 29-30 of the English transcript of 30 January 2004; page 85 of the English transcript of 3 February 2004, and page 78 of the English transcript of 4 February 2004. c. In the testimony of witness LN at pages 57-60 of the English transcript of 30 March 2004. d. In the testimony of witness Hutsebaut at page 21 of the English transcript of 2 December 2003. e. In the testimony of witness DesForges at page 20 of the English transcript of 16 September 2002. f. In the documentary materials exhibited by the

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	<p>Prosecution as P33B at pages 10-11 [K0240160-1] and as P252C at pages 10 and 32 [K0273279/3301].</p> <p>g. In the testimony of witness Nowrojee at page 73-83 of the English transcript of 12 July 2004.</p>
<p>6.19 On 7 January 1994, Mathieu Ngirumpatse, Augustin Bizimana, Augustin Ndindiliyimana, Deogratias Nsabimana, Robert Kajuga and other influential MRND members participated in a meeting at the MRND headquarters. On that occasion, they decided to provoke the Belgians by various means, notably during the demonstration which was to take place on 8 January 1994.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Dallaire at page 47 of the English transcript of 19 January 2004; pages 8-9 in the English transcript of 20 January 2004, pages 14-16, 23-24 of the English transcript of 22 January 2004; page 4 of the English transcript of 26 January 2004. b. In the testimony of witness Beardsley at pages 75-76 of the English transcript of 4 February 2004. c. In the testimony of witness Claeys at pages 49-52 of the English transcript of 7 April 2004. d. In the documentary materials exhibited by the Prosecution as P3, specifically at K022-9234, and P33Bat pages 10-11 [K0240160-1].
<p>6.20 Indeed, on 8 January 1994, elements of the Para-Commando Battalion and of the Presidential Guard in civilian clothes participated in the said demonstration with a number of <i>Interahamwe</i>. They had hidden weapons in the vicinity of the demonstration with the intent to kill some Belgian UNAMIR soldiers. Finally, no Belgian UNAMIR patrol was sent to the scene.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Dallaire at pages 21-23 in the English transcript of 20 January 2004, where it is stated that: "There was an attempt on the 8th to do it again, but that attempt did not succeed because of impossibilities on one side of people to get to the site, and I speak specifically -- I mean, we had some of the PL members even in a bus, and that bus couldn't make it through. We had people in all types of checkpoints escorting, and the crowds were just so massive and so anti. And at that time we recognised Presidential Guard -- that is, my staff recognised Presidential Guard, people in Civilian at the main gate also creating havoc because there was a large gathering there...The Interahamwe were, again, recognised, but were not in uniform. So all kinds of comments could be said in that light, but there were strong instigators who were leading these Demonstrations." See also pages 72-74 of the English transcript of 26 January 2004. b. In the testimony of witness Beardsley at pages 75-76 of the English transcript of 4 February 2004; at page 72 of the English transcript of 5 February 2004; c. In the testimony of witness Claeys at pages 58 of the English transcript of 7 April 2004. d. In the documentary materials exhibited by the Prosecution as P3, the plan to target the UNAMIR is discussed, specifically at K022-

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	<p>9234, and P33B at pages 10-11 [K0240160-1].</p> <p>a. In the documentary materials exhibited by the Defence as DB80 at pages 3/11-4/11.</p>
<p>6.21 On 26 January 1994, Joseph Nzirorera, Edouard Karemera, Jean Habyarimana and the Chairman of the <i>Interahamwe</i>, Robert Kajuga, participated in a meeting at the MRND headquarters. They worked out a strategy to set the <i>Interahamwe</i> against the Belgian troops.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness Dallaire at pages 21-23 of the English transcript of 20 January 2004; pages 73-74 of the English transcript of 26 January 2004; and pages 44-45 of the English transcript of 27 January 2004.</p> <p>b. In the testimony of witness Beardsley at page 78 of the English transcript of 4 February 2004.</p> <p>c. In the testimony of witness Reyntjens at pages 17-20 of the English transcript of 15 September 2004.</p> <p>d. In the documentary materials exhibited by the Prosecution as P3, specifically at K022-9239.</p>
<p>6.22 When they arrived at the Prime Minister's residence at around 5:00 a.m., they were attacked by FAR personnel, including elements from the Presidential Guard, the Paracommando Battalion and the Reconnaissance Battalion.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness Beardsley pages 53-58 lines 02-04 in the English transcript of 4 February 2004 where it is stated: " It was also apparent that there was another faction within the army, largely based around Col. Theoneste Bagosora, Presidential Guard, Paracommando Battalion, Reconnaissance Battalion, those units , which seemed to be at the heart of all the grief that was taking place on the 7th, for example, the abduction and murder of all the—or most of the moderate members of the government."</p> <p>b. In the testimony of witness Dallaire at pages 28-31, lines 12-31 of the English transcript of 23 January 2004 where it is said: " Q. General, from what witness AE testified in this case, it seems that witness said that among the people who killed Agathe, there were members apparently of the Presidential Guard, but there were people from other units, and even the person who shot her was a lieutenant of the Gendarmerie Nationale who had been trained at the Ecole Superieure Militaire.... A. I agree with you, because according to my report, there were almost 40 soldiers who went straight to the point..."</p>
<p>6.24 Colonel Theoneste Bagosora and Augustin Ndingilijimana were about 100 metres away, participating in a meeting at the staff college (<i>Ecole Superieure Militaire</i>).</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness XAF at pages 14-20 of the English transcript of 9 February 2004 where a collection of seven photographs is discussed.</p> <p>b. In the documentary materials exhibited by the Prosecution, P179 [K0283859-65].</p> <p>c. In the documentary materials exhibited by the</p>

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	Prosecution, P130 and In the testimony of witness DA at pages 6-7 of the English transcript of 17 November 2003 where Prosecution Exhibit P130 is discussed.
6.24 They were informed by the Camp Commander, Lt. Nubaha, that the Belgian UNAMIR soldiers were under risk of death at Kigali military camp.	An example of evidence led on this point appears in the evidence as follows: <ul style="list-style-type: none"> a. In the documentary materials exhibited by the Defence, DB8, pages 30-31 [or 5/14-6/14]. b. In the documentary materials exhibited by the Defence, DB128B, pages 4-7 [K0249197-20]. c. In the documentary materials exhibited by the Defence, DB61B, page 8 [K0127620]
6.24 Other officers, including Francois-Xavier Nzuwonemeye, joined the meeting after leaving Kigali military camp while the assaults against the Belgian soldiers were still being perpetrated and four of them were already dead.	An example of evidence led on this point appears in the evidence as follows: <ul style="list-style-type: none"> a. In the testimony of witness DA at pages 29-31 of the English transcript of 17 November 2003
6.25 Informed of the danger faced by the Belgian soldiers at Kigali military camp, Theoneste Bagosora and Augustin Ndindiliyimana did not take any decision and carried on with the meeting until around 12:00 noon.	An examples of evidence led on this point appears in the evidence as follows: <ul style="list-style-type: none"> a. In the testimony of witness Dallaire at pages 74-75 of the English transcript of 26 January 2004; page 65 of the English transcript of 27 January 2004; and pages 44-45 of the English transcript of 27 January 2004. b. In the documentary materials exhibited by the Defence as DB8, pages 30-31 [or 5/14-6/14], [K0249197], DB61B, page 8 [K0127620], and DB128B, pages 4-7 [K0249197-20]
6.26 Due to the anti-Belgian propaganda and the murder of the ten Belgian paracommandos, Belgium informed the Security Council on 13 April 1994 that it was withdrawing its contingent from Rwanda. A week later, the Security Council ordered a drastic reduction of UNAMIR's civilian and military personnel.	An examples of evidence led on this point appears in the evidence as follows: <ul style="list-style-type: none"> a. In the testimony of witness Reyntjens at pages 17-20 of the English transcript of 15 September 2004. b. In the documentary materials exhibited by the Prosecution as P149 and the Defence as DB47, page 103, p. 1-2 [under "News from Belgium"] [K0269717]. c. In the documentary materials exhibited by the Defence as DNT33, page 251, where it is stated that "Out of the blue, Bagosora suddenly volunteered that there was something I should think about: it might be best to get the Belgians out of UNAMIR and out of Rwanda because of the rumours that they had shot down the presidential plane." d. In the testimony of witness Dallaire at pages 47-48 of the English transcript of 19 January 2004.
6.27 These crimes, which had been planned and prepared for a long time by prominent civilian and military figures who shared the extremist Hutu ideology, were carried out by militiamen, military personnel and gendarmes on the orders and directives of some of these authorities,	Examples of evidence led on this point appears in the evidence as follows: <ul style="list-style-type: none"> a. In the testimony of witness Dallaire at pages 7-8 of the English transcript of 20 January 2004. b. In the testimony of witness DesForges at page 5

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<p>including Colonel Theoneste Bagosora.</p>	<p>of the English transcript of 5 September 2002, page 11, 108 of the English transcript of 11 September 2002, pages 122-123 of the English transcript of 16 September 2002, pages 55-56, 102-104, 131-134 of the English transcript of 17 September 2002, pages 7-10, 20-21, 45 of the English transcript of 18 September 2002.</p> <ul style="list-style-type: none"> c. In the documentary materials exhibited by the Prosecution as P4-8, P21 and P43. d. In the testimony of witness XXQ at pages 2-26, 27-28, 31-39 of the English transcript of 11 October 2004. e. In the testimony of witness DCH at pages 65-76 of the English transcript of 22 June 2004 and at pages 35-43 of the English transcript of 23 June 2004. f. In the testimony of witness AAA at pages 1-2 of the English transcript of 15 June 2004. g. In the testimony of witness XBM at pages 21-24 and 27-28 of the English transcript of 14 July 2003. h. In the testimony of witness KJ at pages 5-9, 13-16 of the English transcript of 27 April 2004. i. In the testimony of witness DA at pages 21-22 of the English transcript of 17 November 2003. j. In the testimony of witness ATY at pages 22-25 of the English transcript of 27 September 2004. k. In the testimony of witness CW at pages 7-16 of the English transcript of 8 October 2004. l. In the testimony of witness BY at pages 6-10, 27-37, 50-51 of the English transcript of 5 July 2004. m. In the testimony of witness DAS at pages 21, 40-43, 50-55 of the English transcript of 5 November 2003. n. In the testimony of witness FW at pages 29-31 of the English transcript of 3 November 2003. o. In the testimony of witness ABQ at pages 26-28 of the English transcript of 6 September 2004. p. In the testimony of witness AR at pages 14-20 of the English transcript of 1 October 2003. q. In the testimony of witness DesForges at pages 48-53 of the English transcript of 18 September 2002. r. In the testimony of witness Reyntjens at pages 25-32 of the English transcript of 15 September 2004. s. See also evidence listed in respect of indictment paragraphs 5.1-5.45; 6.28 to the extent they are referred to in this chart.
<p>6.28 As of the night of 6 to 7 April, in the capital, elements of the Para-Commando Battalion and Presidential Guard set up roadblocks, reinforced with armored vehicles on the major roads, controlling people's movements.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness Beardsley at pages 30-33 of the English transcript of 3 February

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	<p>2004</p> <ul style="list-style-type: none"> b. In the testimony of witness Dallaire at pages , 29-31 of the English transcript of 19 January 2004, 28-31, 45-48 of the English transcript of 20 January 2004, at pages 62-63 of the English transcript of 22 January 2004, at pages 28-31 of the English transcript of 23 January 2004. c. In the testimony of witness AE at pages 37-43 of the English transcript of 16 December 2003. d. In the testimony of witness Reyntjens at pages , 25-32 of the English transcript of 15 September 2004. e. In the documentary materials exhibited by the Prosecution as P170 [L00002824]. f. In the documentary materials exhibited by the Prosecution as P5, pages 10-11 [K0014186-7]. g. In the testimony of witness Dallaire at pages 55-56 of the English transcript of 20 January 2004. h. In the testimony of witness XAB at pages 38-41 of the English transcript of 06 April 2004. i. In the documentary material exhibited by the Ntabakuze defense DNT33 (Page 257 of Dallaire's Book)
<p>6.29 He did not subsequently give any orders to that effect.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness Dallaire at pages, 26-28, 34-35 of the English transcript of 19 January 2004, page 64 of the English transcript of 22 January 2004. b. In the testimony of witness Beardsley at pages 23-25 of the English transcript of 3 February 2004. c. In the testimony of witness XXQ at pages 32-34 of the English transcript of 12 October 2004. d. In the testimony of witness KJ at pages 56-60 of the English transcript of 19 April 2004.
<p>6.30 During the said meeting, Colonel Theoneste Bagosora withdrew several times to an adjacent room to receive calls.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness ZF at pages 38-46 and 64-67 of the English transcript of 28 November 2002.
<p>6.31 Despite Colonel Theoneste Bagosora's reassurances, militiamen set up roadblocks of their own or joined those manned by personnel of the Presidential Guard, the Para-Commando Battalion and the Reconnaissance Battalion.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness DA at pages 21-22 of the English transcript of 17 November 2003 and at pages 4-6 of the English transcript of 19 November 2003. b. In the testimony of witness Dallaire at pages 45-48 of the English transcript of 20 January 2004. c. In the testimony of witness XXC at page 17 of the English transcript of 17 September 2003 d. In the testimony of witness DAS at pages 12-16 of the English transcript of 5 November 2003.

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	<ul style="list-style-type: none"> e. In the testimony of witness DBN at pages 49-52 of the English transcript of 1 April 2004. f. In the testimony of witness XAB at pages 38-41 of the English transcript of 6 April 2004. g. In the testimony of witness BL at pages 11-12 of the English transcript of 4 May 2004. h. In the testimony of witness DBQ at pages 9-14 of the English transcript of 25 February 2004. i. In the documentary materials exhibited by the Prosecution as P5 [K0014187].
6.33 On the 7 April, an official representative of the RPF and certain FAR officers asked Col. Theoneste Bagosora and Augustin Ndindiliyimana, as well as the General Staff of the Rwandan Army, to control the military personnel, notably the Presidential Guard, who were murdering civilians.	<p>An example of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness Dallire at pages 43-47, 86 of the English transcript of 19 January 2004, pages 5-8 of the English transcript of 23 January 2004, and at pages 46-49 of the English transcript of 27 January 2004.
6.34 Following the meeting of the morning of 7 April 1994, Colonel Theoneste Bagosora flouted these requests and ordered Major Aloys Ntabakuze, Commander of the Para-Commando Battalion, Major Francois-Xavier Nzuwonemeye, Commander of the Reconnaissance Battalion, and Lieutenant-Colonel Leonard Nkundiye, former Commander of the Presidential Guard, to proceed with the massacres.	<p>An examples of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness Reyntjens at pages 25-32 of the English transcript of 15 September 2004.
6.34 On the same day, on the orders of Colonel Theoneste Bagosora, groups of soldiers, including elements of the Presidential Guard and of the Para-Commando Battalion, proceeded to carry out selective assassinations of people whose names were on a list.	<p>An examples of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness Kavaruganda pages 20-22 lines 1-37 in the English transcripts of 27 November 2003. See also page 22 lines 22-36 b. In the testimony of witness EQ pages 6-11 lines 18-03 in the English transcript of 13 February 2004. c. In the testimony of witness DCB at pages 47-48 of the English transcript of 6 February 2004. d. In the testimony of witness ATY at pages 13-16 and 22-25 of the English transcript of 27 Sept 2004. e. In the testimony of witness Beardsley at page 40 of the English transcript of 03 February 04. f. In the testimony of witness Dallaire at pages 43-47 of the English transcript of 19 January 2004. g. In the testimony of witness KJ at page 50 of the English transcript of 19 April 2004. h. In the testimony of witness XAO at pages 1-5 of the English transcript of 12 November 2003.
6.35 On 7 of April 1994, the General Staff of the Rwandan Army sent a telegram ordering the troops to seek the assistance of the <i>Interahamwe</i> and of the people in identifying the Tutsi and to proceed to exterminate them.	<p>An examples of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness DA at pages 21-22 of the English transcript of 17 November 2003 and at pages 4-6 of the English transcript of 19 November 2003. b. In the testimony of witness KJ at pages 55-60 of

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	the English transcript of 19 April 2004.
6.36 With Colonel Theoneste Bagosora's communique, broadcast by radio the same day, asking people to remain at home and await further instructions, the process of elimination of the civilian Tutsi and the moderate Hutu population by military personnel and militiamen was facilitated.	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness A at pages 45-48 of the English transcript of 1 June 2004. b. In the testimony of witness AS at page 11 of the English transcript of 3 September 2003. c. In the testimony of witness DBJ at page 4 of the English transcript of 24 November 2003. d. In the testimony of witness XBH at pages 30-31 of the English transcript of 3 July 2003. e. In the testimony of witness DBN at page 54 of the English transcript of 1 April 2004. f. In the testimony of witness ABQ at page 4 of the English transcript of 6 September 2004. g. In the testimony of witness CW at pages 7-11 of the English transcript of 8 October 2004. h. In the testimony of witness HU at pages 5-6 of the English transcript of 4 September 2003. i. In the testimony of witness DA at page 22-23 of the English transcript of 17 November 2003. j. In the testimony of witness BL at pages 2-6 of the English transcript of 4 May 2004. k. In the testimony of witness WB at page 31-33 of the English transcript of 3 November 2003. l. In the testimony of witness XBG at pages 36-37 of the English transcript of 8 July 2003. m. In the testimony of witness OQ at page 9-10 of the English transcript of 16 July 2003. n. In the testimony of witness BJ at pages 5-6 of the English transcript of 15 April 2004. o. In the testimony of witness BY at page 47-48 of the English transcript of 5 July 2004. p. In the testimony of witness UT at page 3 of her 92bis stmt. q. See also evidence listed in respect of indictment paragraphs 6.9; 6.27; 6.24; and 6.58 to the extent they are referred to in this chart.
6.38 In the morning of 7 April, Major Protais Mpiranya ordered his soldiers to get rid of the Minister of Information, Mr. Faustin Rucogoza, who was detained at the Presidential Guard camp. The Minister of Information was immediately assassinated.	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness XAO at pages 1-5 of the English transcript of 12 November 2003. b. In the testimony of witness XXJ at pages 18-22, 76-84 of the English transcript of 14 April 2004. c. In the testimony of witness Kavaruganda at page 27 of the English transcript of 27 November 2003. d. In the testimony of witness DCB at pages 9-12 of the English transcript of 6 February 2004. e. In the testimony of witness ATY at pages 20-22 of the English transcript of 27 September 2004.
6.40 Thereafter, Colonel Theoneste Bagosora was in communication with the commanders of these units sometimes using a separate radio network.	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness ZF at pages 17-18 of the English transcript of 27 November 2002, and

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	<p>page 80 of the English transcript of 28 November 2002.</p> <ul style="list-style-type: none"> b. In the testimony of witness Dallaire at pages 54-59 of the English transcript of 19 January 2004. c. In the testimony of witness DA at pages 21-22 of the English transcript of 17 November 2003, at pages 75-81, 87-89 of the English transcript of 8 December 2003. d. In the testimony of witness BJ, English transcript of 15 April 2004. e. In the testimony of witness DesForges at pages 51-53 of the English transcript of 18 September 2002. f. In the testimony of witness Reyntjens at pages 25-32 of the English transcript of 15 September 2004, and at page 58 in the English transcript of 17 September 2004. g. In the documentary material exhibited by the Prosecution as P166 [Image No. 2 and 3]
<p>6.41 From April to July 1994, Brigadier-General Gratien Kabiligi, Chief of military operations in the Rwandan Army, regularly met with the Commander of the Presidential Guard, Protais Mpiranya, and the Commander of the Para-Commando Battalion, Aloys Ntabakuze and also with Colonel Theoneste Bagosora.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness DY at pages 19-23 of the English transcript of 16 February 2004. b. In the testimony of witness DBQ at pages 9-14 of the English transcript of 25 February 2004.
<p>6.43 From April to July 1994, by virtue of his position, his statements, the orders he gave and his acts, Colonel Theoneste Bagosora exercised authority over members of the <i>Forces Armées Rwandaises</i>, their officers and militiamen.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of Dallaire page 11 of the English transcript of 22 January 2004 where it is stated that "[...] the hard-line movement which was based principally with the officers who came from the north of the country, in particular from Ruhengeri and other parts of the region. And what he told me, after verifications here and there, the majority of officers who had authority in the government forces were officers who came from the north, which was identified as the main area of the Hutu tribe and also the are where the president came from." b. In the testimony of witness Beardsley pages 72-78 lines 18-09 of the English transcript of 3 February 2004 where it is said: "On both occasions again [Bagosora] did all the talking. If anybody wanted to say something, they just whispered it kind of into his ear or they just deferred to him. They didn't say anything and he did all the talking." c. In the testimony of witness BY at pages 50-51, lines 21-25 of the English transcript of 5 July 2004. d. In the documentary material exhibited by the Defence as DB61B at pages 4-5 [K0127616-7] and as DB80, page 10/11.

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	<p>e. In the testimony of witness A pages 71-74 lines 01-05 in the English transcript of 1 June 2004 where it is said: " So there was a meeting scheduled for the Hotel des Diplomates with Col Theoneste Bagosora... And once we arrived at the Hotel des Diplomates, Col. Theoneste Bagosora invited us to a meeting before the arrival of Mr. General Romeo Dallaire...there were three other chef de secteur, Interahamwe secteur leaders at the kevel of Kigali...He began by thanking the Interahamwe chef de secteurs who were present regarding the way they had conducted themselves during that period. He congratulated them, and he asked them to be vigilant because at that time the killings had almost come to an end, and it was necessary to see in what way they were going to collaborate or to cooperate with the soldiers." "Well, you know, at the time Col. Theoneste Bagosora was a very powerful man; he was the most powerful man in Rwanda, and to refuse to attend a meeting that you - very serious things could happen to you, and, so we went there. Not only was he powerful, but he was also—He was an authority."</p> <p>f. See also evidence listed in respect of indictment paragraphs 4.1-4.4; 6.1-6.16; 6.24; 6.25 to the extent they are referred to in this chart.</p>
<p>6.43 The military and militiamen, as from 6 April 1994, committed massacres of the Tutsi population and of moderate Hutu which extended throughout Rwandan territory <u>with the knowledge of Colonel Theoneste Bagosora.</u></p>	<p>See the evidence listed in respect of indictment paragraphs 4.1-4.4; 6.1-6.16; 6.24; 6.25 to the extent they are referred to in this chart.</p>
<p>6.44 <u>In every prefecture</u>, local civil and military authorities and militiamen espoused <u>the plan</u> of extermination and followed the directives and orders in order to execute it.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness DesForges at pages 29, 36-37 in the English transcript of 10 September 2002, at pages 20-21, 86-87, 102-105, 114-117 in the English transcript of 18 September 2002.</p> <p>b. In the documentary materials exhibited by the Prosecution as P50.</p> <p>c. In the testimony of witness A at pages at page 68-69, 76 in the English transcript of 1 June 2004, at pages 22-25 in the English transcript of 4 June 2004.</p> <p>d. In the testimony of witness Reytjens at pages 2-4 in the English transcript of 16 September 2004.</p> <p>e. In the testimony of witness XXY at pages 2-6, 14-15, 17, 19, 22-25, 30-32 in the English transcript of 11 June 2004.</p> <p>f. In the testimony of witness XAI at pages 54-59 in the English transcript of 8 September 2003, and pages 13-16 in the English transcript of 9</p>

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	<p>September 2003.</p> <p>g. In the testimony of witness UT, 92bis stmt, page 7.</p> <p>h. In the testimony of witness DAZ at pages 3, 5, of 92bis stmt.</p> <p>i. In the testimony of witness DCH at pages 65-76 in the English transcript of 22 June 2004.</p> <p>j. In the testimony of witness XBM at pages 24-28 in the English transcript of 14 July 2003.</p> <p>k. In the testimony of witness DY at pages 53-57 in the English transcript of 16 February 2004.</p> <p>l. In the testimony of witness KJ at pages 30-31, 37-48, 56-60, 63-69 in the English transcript of 19 April 2004, at pages 64-66 in the English transcript of 20 April 2004.</p> <p>m. In the testimony of witness LAI at pages 18-19, 34-36 in the English transcript of 31 May 2004.</p> <p>n. In the testimony of witness Serushago at pages 41-44 in the English transcript of 18 June 2003.</p> <p>o. In the testimony of witness ABQ at pages 28-35 in the English transcript of 6 September 2004.</p> <p>p. In the testimony of witness A at pages 62-67, 74-77 in the English transcript of 1 June 2004, at pages 22-23 in the English transcript of 4 June 2004.</p> <p>q. In the testimony of witness ZF at pages 82-84 in the English transcript of 28 November 2002.</p> <p>r. In the testimony of witness Dallaire at pages 84-85 in the English transcript of 19 January 2004, at pages 31-33, 58-60 in the English transcript of 20 January 2004.</p> <p>s. In the testimony of witness Beardsley at pages 38-40 in the English transcript of 30 January 2004., and at pages 82-89 in the English transcript of 5 February 2004</p> <p>t. In the testimony of witness XXH at pages 29-34, 36-28, 38-47 in the English transcript of 4 May 2004.</p> <p>u. In the documentary materials exhibited by the Defence as DK42 [K0059170-223].</p> <p>v. In the testimony of witness EU, 92bis stmt, pages 1-3.</p> <p>w. In the testimony of witness XXJ at pages 84-85 in the English transcript of 14 April 2004.</p> <p>x. In the testimony of witness DBN at pages 60-64 in the English transcript of 1 April 2004.</p> <p>y. In the testimony of witness LN at pages 80-88 in the English transcript of 30 March 2004.</p> <p>z. In the testimony of witness DBQ at pages 23-29 in the English transcript of 23 September 2003, at page 15 in the English transcript of 25 February 2004.</p> <p>aa. In the testimony of witness XXC at pages 15-16, 23-24 in the English transcript of 17 September 2003.</p> <p>bb. In the testimony of witness DW at pages 63-65</p>
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	<p>in the English transcript of 4 September 2003.</p> <p>cc. In the testimony of witness HU at pages 12-17 in the English transcript of 4 September 2003.</p> <p>dd. In the testimony of witness DP at pages 19-23 in the English transcript of 3 October 2003.</p> <p>ee. In the testimony of witness Beardsley at pages 42-48 in the English transcript of 3 February 2004 and pages 53-58 in the English transcript of 4 February 2004.</p> <p>ff. In respect of massacres of the Tutsi population in Gisenyi prefecture, please see references in respect of the Nsengiyumva Indictment Chart</p> <p>gg. See also evidence listed in respect of indictment paragraphs 6.9; 6.27-6.60 to the extent they are referred to in this chart.</p> <p>hh. See also the evidence listed in respect of indictment paragraphs 6.46-6.60 to the extent they are referred to in this chart.</p>
<p>6.45 From April to July 1994, <u>in all the regions of the country</u>, members of the Tutsi population who were fleeing from the massacres on their hills sought refuge in locations they thought would be safe, <u>often on the recommendation of the local civil and military authorities</u>. In many of these places, <u>despite the promise that they would be protected</u> by the local civil and military authorities, <u>the refugees were attacked, abducted and massacred, often on the orders or with the complicity of those same authorities</u>.</p>	<p>An examples of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness DesForges at pages 29, 36-37 in the English transcript of 10 September 2002, at pages 20-21, 86-87, 102-105, 114-117 in the English transcript of 18 September 2002.</p> <p>b. In the documentary materials exhibited by the Prosecution as P50.</p> <p>c. In the testimony of witness A at pages at page 68-69, 76 in the English transcript of 1 June 2004, at pages 22-25 in the English transcript of 4 June 2004.</p> <p>d. In the testimony of witness Reyntjens at pages 2-4 in the English transcript of 16 September 2004.</p> <p>e. In the testimony of witness XXY at pages 2-6, 14-15, 17, 19, 22-25, 30-32 in the English transcript of 11 June 2004.</p> <p>f. In the testimony of witness XAI at pages 54-59 in the English transcript of 8 September 2003, and pages 13-16 in the English transcript of 9 September 2003.</p> <p>g. In the testimony of witness UT, 92bis stmt, page 7.</p> <p>h. In the testimony of witness DAZ at pages 3, 5, of 92bis stmt.</p> <p>i. In the testimony of witness DCH at pages 65-76 in the English transcript of 22 June 2004.</p> <p>j. In the testimony of witness XBM at pages 24-28 in the English transcript of 14 July 2003.</p> <p>k. In the testimony of witness DY at pages 53-57 in the English transcript of 16 February 2004.</p> <p>l. In the testimony of witness KJ at pages 30-31, 37-48, 56-60, 63-69 in the English transcript of 19 April 2004, at pages 64-66 in the English transcript of 20 April 2004.</p>

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| | <p>m. In the testimony of witness LAI at pages 18-19, 34-36 in the English transcript of 31 May 2004.</p> <p>n. In the testimony of witness Serushago at pages 41-44 in the English transcript of 18 June 2003.</p> <p>o. In the testimony of witness ABQ at pages 28-35 in the English transcript of 6 September 2004.</p> <p>p. In the testimony of witness A at pages 62-67, 74-77 in the English transcript of 1 June 2004, at pages 22-23 in the English transcript of 4 June 2004.</p> <p>q. In the testimony of witness ZF at pages 82-84 in the English transcript of 28 November 2002.</p> <p>r. In the testimony of witness Dallaire at pages 84-85 in the English transcript of 19 January 2004, at pages 31-33, 58-60 in the English transcript of 20 January 2004.</p> <p>s. In the testimony of witness Beardsley at pages 38-40 in the English transcript of 30 January 2004., pages 42-48 in the English transcript of 3 February 2004, pages 53-58 in the English transcript of 4 February 2004, and at pages 82-89 in the English transcript of 5 February 2004.</p> <p>t. In the testimony of witness XXH at pages 29-34, 36-28, 38-47 in the English transcript of 4 May 2004.</p> <p>u. In the documentary materials exhibited by the Defence as DK42 [K0059170-223].</p> <p>v. In the testimony of witness EU, 92bis stmt, pages 1-3.</p> <p>w. In the testimony of witness XXJ at pages 84-85 in the English transcript of 14 April 2004.</p> <p>x. In the testimony of witness DBN at pages 60-64 in the English transcript of 1 April 2004.</p> <p>y. In the testimony of witness LN at pages 80-88 in the English transcript of 30 March 2004.</p> <p>z. In the testimony of witness DBQ at pages 23-29 in the English transcript of 23 September 2003, at page 15 in the English transcript of 25 February 2004.</p> <p>aa. In the testimony of witness XXC at pages 15-16, 23-24 in the English transcript of 17 September 2003.</p> <p>bb. In the testimony of witness DW at pages 63-65 in the English transcript of 4 September 2003.</p> <p>cc. In the testimony of witness HU at pages 12-17 in the English transcript of 4 September 2003.</p> <p>dd. In the testimony of witness DP at pages 19-23 in the English transcript of 3 October 2003.</p> <p>ee. In respect of massacres of the Tutsi population in Gisenyi prefecture, please see references in respect of the Nsengiyumva Indictment Chart</p> <p>ff. See also evidence listed in respect of indictment paragraphs 6.9; 6.27-6.60 to the extent they are referred to in this chart.</p> <p>gg. See also the evidence listed in respect of indictment paragraphs 6.46-6.60 to the extent</p> |
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	<p>they are referred to in this chart.</p> <p>hh. In the testimony of witness Dallaire at pages 31-33 of the English transcript of 20 January 2004.</p> <p>ii. In the testimony of WB in the English transcripts of 13 November 2003.</p> <p>jj. LN, XXH, EU, DAZ, XAI, XXY HV, KJ, DCH, UT, A, Defence doc on massacres in Cyangugu, Alison's book, UN docs. Judicial notice of widespread or systematic attack</p> <p>kk. See also evidence listed in respect of indictment paragraphs 6.46-6.60 to the extent they are referred to in this chart.</p>
6.46 By virtue of the fact that Kigali was the capital of Rwanda, <u>seat of the Government</u> , the place where the elite units of the Rwandan Army were based and where the headquarters for both the Army and the Gendarmerie were situated, <u>several of the military and civilian figures who had planned and organized the massacres played a leading role in carrying out the massacres in Kigali.</u>	For examples of evidence, see references provided in respect of indictment paragraphs 6.9, 6.27-6.60, to the extent they are referred to in this chart
6.47 He was a member of the crisis committee set up on 7 April 1994, which included Colonel Theoneste Bagosora.	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <p>a. In the documentary material exhibited by the Defence as DB128, page 6 [K0249199].</p> <p>b. In the testimony of witness BJ pages 39-43 lines 24-21 in the English transcript of 15 April 2004 where the proposition was put to the witness: "So if we were to take the hypothesis that the conversation took place on the 8th April, I'm a bit surprised that Mr. Renzaho and Mr. Col. Theoneste Bagosora would be conversing on a Motorola when they were both at the Ecole Superieure Militaire at the end of the day?"</p>
6.47 By virtue of his rank, his office and his links with prominent figures who shared the extremist Hutu ideology, he acted as a de facto Minister of the Interior in Kigali prefecture.	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness A page 83 lines 3-27 in the English transcript of 1 June 2004 where it is said: "I was able to have a laissez-passer from Mr. Lieutenant Colonel Tharcisse Renzaho, who was the prefet of Kigali. And the Laissez-passer allowed me to go to Kigali easily. With it, you did not have any problem at roadblocks."</p>
6.47 Also, his authorization carried weight in other prefectures.	<p>An example of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness A at page 83 of 1 June 2004.</p>
6.48 On at least two occasions Tharcisse Renzaho...	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness AAA at pages 12-14, 17-21, 54-56 of 14 June 2004, pages 33-45 of 15 June 2004.</p> <p>b. In the documentary material exhibited by the Prosecution as P39B [L0016752].</p> <p>c. In the testimony of witness BY at pages 48-50</p>

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	<p>of 5 July 2004.</p> <p>d. In the testimony of witness XXY at pages 14-15 of the English transcript of 11 June 2004.</p>
<p>6.51 As of 7 April 1994, many Tutsis sought refuge at the <i>Ecole Technique Officielle (ETO)</i>, under the protection of UNAMIR, to escape the attacks against them. On 11 April 1994, immediately following the retreat of the UNAMIR Belgian contingent based at ETO, soldiers, including elements of the Presidential Guard, and <i>Interahamwe</i> rounded up a group of refugees and moved them to Nyanza. Theoneste Bagosora was present at the time. After forcing them to walk for two kilometres, the soldiers massacred the refugees. The survivors were dispatched by militiamen on the soldiers' orders.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness AR in the English transcripts of 30 Sept 2003 & 01 Oct 2003. b. In the testimony of witness AFJ in the English transcript of 08 June 2004. c. In the testimony of witness DR at pages 15-24 of the English transcript of 30 April 2004. d. In the testimony of witness XAB at pages 38-41, in the English transcript of 6 April 2004. e. In the testimony of witness DesForges at pages 53-58 in the English Transcript of 18 September 2002.
<p>6.53 From May to June 1994, soldiers under the orders of Brigadier-General Gratien Kabiligi checked the identities and took down the names of people recognized as being Tutsi who had taken refuge in a house across from Saint-Andre school, in Kigali. On 8 June 1994, these soldiers surrounded the house, forced the occupants out and shot them to death.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness XXJ at pages 45-58 of the English transcript of 14 April 2004, pages 7-13, 21-24 of the English transcript of 16 April 2004. b. In the testimony of witness DBQ at pages 2-7, 9-14 of the English transcript of 25 February 2004, pages 7-13, 21-24 of the English transcript of 16 April 2004. c. In the documentary materials exhibited by the Prosecution and the Defence as P268 and DK37 pages k0091057-59 and K0091066.
<p>6.56 The country's civil and military leaders became aware of the exceptional situation in Butare. They took the necessary steps for the Tutsis to be eliminated. Moreover, elements of the Army and <i>Interahamwe</i> militiamen were sent in from Kigali as reinforcements to start the massacres.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness A at pages 45-48, 62-67, 69-70, 80-81 of the English transcript of 1 June 2004, and pages 22-23 of the English transcript of 4 June 2004 where it is indicated "I can give you the example of [Butare] where I was around 19 April 1994. In Butare, right up until the [19] of April 1994, there was no massacres perpetrated at all, and these massacres began when the president of the republic came to Butare with the prime minister. They replaced the <i>prefet</i> who was there and who was a Tutsi and, that very same night, following the replacement of the <i>prefet</i>, the massacres began immediately in Butare, so I realised that, when the population had to be incited, the members of the government went to the various prefectures to incite the population to carry out massacres. b. In the testimony of witness Reytjens at pages 2-4 in the English transcript of 16 September 2004. c. See also evidence listed in respect of indictment paragraphs 6.16-6.57 to the extent they are

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	referred to in this chart.
6.57 On 20 April 1994, two military planes landed in Butare with numerous Presidential Guard and Para-Commando Battalion soldiers on board. These soldiers, in tandem with the <i>Interahamwe</i> of Butare and elsewhere, took part in murdering and massacring civilians, notably the former Queen of Rwanda, Rosalie Gicanda, a historical symbol for all Tutsi.	An examples of evidence led on this point appears in the evidence as follows: <ul style="list-style-type: none"> a. In the testimony of witness A at pages 45-48, 62-67, 69-70, 80-81 of the English transcript of 1 June 2004, and pages 22-23 of the English transcript of 4 June 2004 b. In the testimony of witness Reyntjens at pages 2-4 in the English transcript of 16 September 2004.
6.58 In the night of 6 to 7 April 1994, in Gisenyi prefecture, Military Commander Anatole Nsengiyumva ordered certain political leaders, local authorities and militiamen to [assemble, see supporting material] at Gisenyi military camp.	An examples of evidence led on this point appears in the evidence as follows: <ul style="list-style-type: none"> a. In the testimony of witness ZF at pages 38-42 of the English transcript of 28 November 2002. b. In the testimony of witness DO at pages 67-68 in the English transcript of 30 June 2003.
6.59 Furthermore, on the 7 April 1994, Anatole Nsengiyumva received a telegram from Kigali ordering him to start the massacres.	An examples of evidence led on this point appears in the evidence as follows: <ul style="list-style-type: none"> a. In the testimony of ZF pages 38-42 lines 19-06 in the English transcript of 28 November 2002 where it is said: "There was a lieutenant who found us there who made it understood that Colonel Anatole Nsengiyumva was on the phone with Théoneste Bagosora." "Shortly thereafter, Colonel Anatole Nsengiyumva came to join us where we were. He told us the following: 'The presidential plane has just been shot down. We don't have any specific information about this.' He seemed very depressed. He didn't say much. Then he addressed Lieutenant Bizumuremyi and told him that the work had to begin to finish off the <i>Inyenzi</i>." [Emphasis added.]
6.60 Minister of Defense Augustin Bizimana and the General Staff of the Rwandan Army were informed of this situation but did not take any effective steps to end the crimes once and for all.	An examples of evidence led on this point appears in the evidence as follows: <ul style="list-style-type: none"> a. In the documentary materials exhibited by the Prosecution as P3, page 268, para 3.
6.61 The majority of the victims were killed solely because they were Tutsi or appeared to be Tutsi.	An example of evidence led on this point appears in the evidence as follows: <ul style="list-style-type: none"> a. In the documentary materials exhibited by the Prosecution as P4, P5, P6, P7, P8. b. In the testimony of witness DesForges at page 25 in the English transcript of 5 September 2002, at pages 61-62 of the English transcript of 17 September 2002, at pages 61-62 in the English transcript of 17 September 2002. c. In the testimony of witness Dallaire at pages 49-50, 58-60 in the English transcript of 20 January 2004. d. In the testimony of witness Beardsley at pages 42-48 in the English transcript of 3 February 2004.

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	<ul style="list-style-type: none"> e. In the testimony of witness DCH at pages 27-32 in the English transcript of 23 June 2004. f. In the testimony of witness A at pages 45-48 in the English transcript of 1 June 2004. g. In the testimony of witness BY at pages 39-41 in the English transcript of 2 July 2004. h. In the testimony of witness AAA at pages 30-33, 42-51 in the English transcript of 14 June 2004. i. In the testimony of witness CW at pages 7-11 in the English transcript of 8 October 2004. j. In the testimony of witness ZA at pages 21-25, 33-35, 40-43 in the English transcript of 12 February 2004. k. In the testimony of witness DBN at pages 60-64 in the English transcript of 1 April 2004. l. In the testimony of witness DBQ at pages 23-29 in the English transcript of 23 September 2003, at page 15 in the English transcript of 25 February 2004. m. In the testimony of witness XXC at pages 15-16, 23-24 in the English transcript of 17 September 2003. n. In the testimony of witness DW at pages 63-65 in the English transcript of 4 September 2003. o. In the testimony of witness HU at pages 12-17 in the English transcript of 4 September 2003. p. In the testimony of witness DP at pages 19-23 in the English transcript of 3 October 2003. q. In the testimony of witness UT, 92bis stmt, pages 5-6. r. In the testimony of witness AR at pages 25-27 in the English transcript of 1 October 2003. s. In the testimony of witness DAS at pages 12-21 in the English transcript of 5 November 2003. t. In the testimony of witness BL at pages 6-8 in the English transcript of 4 May 2004. u. In the testimony of witness WB at pages 47-52 in the English transcript of 12 November 2003. v. In the testimony of witness DBJ at pages 15-18, 22-24 in the English transcript of 24 November 2003. w. See also the evidence listed in respect of indictment paragraphs 6.9, 6.27-6.60 to the extent they are referred to in this chart.
<p>6.62 From 7 April 1994 around the country, most of the massacres were perpetrated with the participation, aid and instigation of military personnel, gendarmes and Hutu militiamen.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness DesForges at pages 29, 36-37 in the English transcript of 10 September 2002, at pages 20-21, 86-87, 102-105, 114-117 in the English transcript of 18 September 2002. b. In the documentary materials exhibited by the Prosecution as P50. c. In the testimony of witness A at pages at page

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	<p>68-69, 76 in the English transcript of 1 June 2004, at pages 22-25 in the English transcript of 4 June 2004.</p> <p><u>d.</u> In the testimony of witness Reyntjens at pages 2-4 in the English transcript of 16 September 2004.</p> <p><u>e.</u> In the testimony of witness XXY at pages 2-6, 14-15, 17, 19, 22-25, 30-32 in the English transcript of 11 June 2004.</p> <p><u>f.</u> In the testimony of witness XAI at pages 54-59 in the English transcript of 8 September 2003, and pages 13-16 in the English transcript of 9 September 2003.</p> <p><u>g.</u> In the testimony of witness UT, 92bis stmt, page 7.</p> <p><u>h.</u> In the testimony of witness DAZ at pages 3, 5, of 92bis stmt.</p> <p><u>i.</u> In the testimony of witness DCH at pages 65-76 in the English transcript of 22 June 2004.</p> <p><u>j.</u> In the testimony of witness XBM at pages 24-28 in the English transcript of 14 July 2003.</p> <p><u>k.</u> In the testimony of witness DY at pages 53-57 in the English transcript of 16 February 2004.</p> <p><u>l.</u> In the testimony of witness KJ at pages 30-31, 37-48, 56-60, 63-69 in the English transcript of 19 April 2004, at pages 64-66 in the English transcript of 20 April 2004.</p> <p><u>m.</u> In the testimony of witness LAI at pages 18-19, 34-36 in the English transcript of 31 May 2004.</p> <p><u>n.</u> In the testimony of witness Serushago at pages 41-44 in the English transcript of 18 June 2003.</p> <p><u>o.</u> In the testimony of witness ABQ at pages 28-35 in the English transcript of 6 September 2004.</p> <p><u>p.</u> In the testimony of witness A at pages 62-67, 74-77 in the English transcript of 1 June 2004, at pages 22-23 in the English transcript of 4 June 2004.</p> <p><u>q.</u> In the testimony of witness ZF at pages 82-84 in the English transcript of 28 November 2002.</p> <p><u>r.</u> In the testimony of witness Dallaire at pages 84-85 in the English transcript of 19 January 2004, at pages 31-33, 58-60 in the English transcript of 20 January 2004.</p> <p><u>s.</u> In the testimony of witness Beardsley at pages 38-40 in the English transcript of 30 January 2004., and at pages 82-89 in the English transcript of 5 February 2004</p> <p><u>t.</u> In the testimony of witness XXH at pages 29-34, 36-28, 38-47 in the English transcript of 4 May 2004.</p> <p><u>u.</u> In the documentary materials exhibited by the Defence as DK42 [K0059170-223].</p> <p><u>v.</u> In the testimony of witness EU, 92bis stmt, pages 1-3.</p> <p><u>w.</u> In the testimony of witness XXJ at pages 84-85 in the English transcript of 14 April 2004.</p>
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	<ul style="list-style-type: none"> <u>x.</u> In the testimony of witness DBN at pages 60-64 in the English transcript of 1 April 2004. <u>y.</u> In the testimony of witness LN at pages 80-88 in the English transcript of 30 March 2004. <u>z.</u> In the testimony of witness DBQ at pages 23-29 in the English transcript of 23 September 2003, at page 15 in the English transcript of 25 February 2004. <u>aa.</u> In the testimony of witness XXC at pages 15-16, 23-24 in the English transcript of 17 September 2003. <u>bb.</u> In the testimony of witness DW at pages 63-65 in the English transcript of 4 September 2003. <u>cc.</u> In the testimony of witness HU at pages 12-17 in the English transcript of 4 September 2003. <u>dd.</u> In the testimony of witness DP at pages 19-23 in the English transcript of 3 October 2003. <u>ee.</u> In the testimony of witness Beardsley at pages 42-48 in the English transcript of 3 February 2004 and pages 53-58 in the English transcript of 4 February 2004. <u>ff.</u> In respect of massacres of the Tutsi population in Gisenyi prefecture, please see references in respect of the Nsengiyumva Indictment Chart <u>gg.</u> See also evidence listed in respect of indictment paragraphs 6.9; 6.27-6.60 to the extent they are referred to in this chart.
<p>6.62 Certain units of the Para-Commando, Reconnaissance and Presidential Guard battalions were the most implicated in these crimes in the capital and in other prefectures, often acting in concert with the militiamen.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness AR in the English transcripts of 30 Sept 2003 & 01 Oct 2003. b. In the testimony of witness AFJ in the English transcript of 08 June 2004. c. In the testimony of witness DR at pages 15-24 of the English transcript of 30 April 2004. d. In the testimony of witness XAB at pages 38-41, in the English transcript of 6 April 2004. e. In the testimony of witness XAI at pages 54-59 in the English transcript of 8 September 2003, and pages 13-16 in the English transcript of 9 September 2003. f. In the testimony of witness DBN at pages 60-64 in the English transcript of 1 April 2004. g. In the testimony of witness DBQ at pages 23-29 in the English transcript of 23 September 2003, at page 15 in the English transcript of 25 February 2004. h. In the testimony of witness DP at pages 19-23 in the English transcript of 3 October 2003. i. In the testimony of witness DN, page 17, lines 28-31 of the English transcript of 19 February 2004 where it is said: " He told us the following: 'We have just learned that the President and the

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	<p>chief of staff are dead, and no one else brought down that plane but for those who are at CND, and as a result, we have to be ready to go and fight. And while fighting, we must, first of all, get rid of the accomplices who are close to us so that when we are going to move forward, there will be no enemy behind us.' ”</p> <p>j. See also evidence listed in respect of indictment paragraphs 6.9; 6.27-6.60 to the extent they are referred to in this chart.</p> <p>k. In the testimony of witness WB pages 34-35 of the English transcript of 12 November 2003.</p> <p>l. In the testimony of witness XXH pages 35-27 in the English transcripts of 6 May 2004.</p> <p>m. In the testimony of AAA pages 7-10 in the English transcript of 15 June 2004.</p>
<p>6.64 The massacres thus perpetrated were the result of a <u>strategy adopted and elaborated</u> by political, civil and military authorities in the country, such as Theoneste Bagosora, Augustin Ndindiliyimana, Augustin Bizimungu, Aloys Ntiwiragabo, Gratién Kabiligi, Protais Mpiranya, Aloys Ntabakuze, Francois-Xavier Nzuwonemeye, Anatole Nsengiyumva, Augustin Bizimana and Tharcisse Renzaho, who conspired to exterminate the Tutsi population.</p>	<p>For examples of evidence led on this point, see evidence indicated in respect of indictment paragraphs 4.4; 5.1-5.45; 6.27-6.60 to the extent they are referred to in this chart.</p>
<p>6.65 During the events referred to in this indictment, rapes, sexual assaults and other crimes of a sexual nature were <u>widely and notoriously committed throughout Rwanda</u>.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness ZF pages 60-69 lines 30-8 of the English transcript of 28 November 2002 where it is said: “I remember that I would meet him in town or on the street, and I remember that he had a house which wasn't his own, but it was a house he was using and, according to what he said, himself, he used it and so did Omar Serushago and Thomas. That house -- rather, in that house they brought young Tutsi girls into it, and they were to rape them before executing them.”</p> <p>b. In the testimony of witness OAB pages 60-63 lines 37- 6 in the English transcript of 24 June 2003 where it is said: “..She was in a mini bus which Omar Serushago used. Many people begged him to let her go, but Omar told him Anatole Nsengiyumva had ordered him to take her to the commune rouge...” “ Q. what did you personally witness? A. I saw him in the minibus. That woman was raped. Her dress was torn, the army commander was on the spot close to Omar's house.”</p> <p>c. In the testimony of witness DBQ page 34 lines 31-35 in the English transcript of 23 September 2003 where it is said: “The commander knew. He went by there and he knew and saw that the</p>

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soldiers were raping the women, and he did nothing about it." See also page 15 lines 23-25 of the English transcript of 25 February 2004 where it is said: "Among those Tutsis were women, and some of the soldiers liked them and took them to some of their houses, which were next to our position, and slept with those women."; and page 24 lines 17-20 in the English transcript of 25 February 2004 where it is said: "There was a building within Centre Christus which was used by soldiers in order to rape women. This was a building which was near the road leading to Kimironko. So soldiers would go and get women further down near Sobolirwa and they would bring them to that building and they would rape those women there."

- d. In the testimony of witness DBJ pages 8-9 lines 37-7 in the English transcript of 24 November 2003 where it is said: "The soldier came and asked her to stand up, took her to a room, a bedroom. The soldier asked the young lady to remove her clothes. She refused and the soldier forcefully undressed her, raped her; thereafter, he killed her and took out her body to the terrace. That is where he left the body after raping and killing her. That is what I was able to see in addition to the massacres."
- e. In the testimony of witness XXY page 20 lines 16-24 in the English transcript of 11 June 2004 where it is said: "I remember that we saw a nun who had been stopped at the roadblock in the morning, and the nun was a Tutsi. And we were asking ourselves, are they also going to kill nuns? Have they done something bad? And the *Interahamwe* told us that all the Tutsis were enemies. The nun was taken to a house near the roadblock, and I was there. It was around 5 p.m. She was screaming. We did not remain at the roadblock very long because we were sent away. And when I returned, I heard her scream inside the house, so she was calling out for help. And I was able to find out that she had been raped, because I saw her again the following day and she was sitting in front of the house."
- f. In the testimony of witness AAA page 60 lines 1-5 in the English transcript of 14 June 2004 where it is said: "I did speak to the lady who had survived the killings, and I took her along with me to the orphanage which is in *secteur Y*, and she was the one who told me that they had been separated and that some of the girl refugees had been raped. Q. And who had raped these women that had been separated? A. The *Interahamwe*." See also pages 25-27 lines 07-14 in the English transcript of 15 June 2004.
- g. In the testimony of witness DAS pages 44-47

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	<p>lines 34-23 in the English transcript of 5 November 2003 where it is said: "They took them some young women, four of them, took them to some property that belonged to the Chinese who were engaged in road construction. They took there to rape them. They were not raped at the roadblock. Those who stayed back, about four of them, were killed by the soldiers. The others were taken to that property and they stayed there. That is where they were raped -- that is where they were raped."</p> <p><u>h.</u> In the testimony of witness XXJ pages 44-45 lines 32-07 in the English transcript of 14 April 2004 where it is said: "Yes, I received information about rapes that were committed, because soldiers who lived with me told me that they had friends and they knew girls who had been raped by soldiers. And they told me that the girls had been their friends before the unfortunate events had occurred, and they told me that some of the girls had been raped before being killed, and they had been raped by soldiers."</p> <p><u>i.</u> In the testimony of witness XAB page 39 lines 23-24 in the English transcript of 6 April 2004 where it is said: "He told me that rapes were being committed by soldiers at the roadblock, as well as the Interahamwe who were there. They were raping girls, and those who refused were killed." See also pages 39-40 lines 37-1 in the English transcript of 6 April 2004 where it is said: "They mentioned rapes that were being committed at the airport and that were being perpetrated by the LAA Battalion, including Lieutenant Sebarera."</p> <p><u>i.</u> In the testimony of witness Serushago pages 58-59 lines 11-20 in the English transcript of 18 June 2003 where it is said: " Q. Now, was rape prevalent in gisenyi at the time? A. Oh yes, that is right, particularly at the cemetery, at the Commune Rouge. Q. Did any soldiers take part in the rapes? A. Of course soldiers participated. They raped women who were working both with civilians and soldiers in civilian attire and they too raped women."</p> <p><u>k.</u> In the testimony of witness Dallaire pages 31-33 lines 23-09 in the English transcript of 20 January 2004 where it is stated: " They were all civilian. I don't remember a uniformed person. And there were babies or pregnant women, babies, children, elderly. Some of the sites... and you could see by the layout of the women and so on that rape and then mutilation had happened." :--that is I am speaking about my observers and myself--that young girls, young women, would be laid out with their dresses over their heads,</p>
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the legs spread and bent. You could see what seemed to be semen drying or dried. And it all indicated to me that these women were raped. And then a variety of material were crushed or implanted into their vaginas; their breasts were cut off... a number of them women had their breasts cut off or their stomach open...I would say generally at the sites you could find younger girls and young women who had been raped or, you know, deducting that they were raped." " ..but I would say that not many sites that were reported did not have such scenes of rape."

- l. In the testimony of witness Beardsley pages 42-46 lines 20-24 in the English transcript of 3 February 2004 where it is said: " women's breasts, women vaginas had been cut with machetes...there was rape that had taken place in addition to the killings, and the murder." See also pages 50-52 lines 33-06 in the English transcript of 3 February 2004 where it is said: " Yes, two things really. One, when they killed women it appeared that the blows that had killed them were aimed at sexual organs, either breasts or vagina; they had been deliberately swiped or slashed in those areas. And, secondly, there was a great deal of what we came to believe was rape, where the women's bodies or clothes would be ripped off their bodies, they would be lying back in a back position, their legs spread, especially in the case of very young girls. I'm talking girls as young as six, seven years of age, their vaginas would be split and swollen from obviously multiple gang rape, and then they would have been killed in that position. .. It seemed that everywhere we went, from the period of 19th April until the time we left, there was rape everywhere near these killing sites."
- m. In the testimony of witness UT page 7 of the 92bis statement where it is said: " Moreover, I used to see soldiers come in at night and abduct girls and young women. When they returned, they were exhausted. They said that soldiers raped them. They even said that there were cases where several soldiers raped the same woman. One of the girls returned so exhausted that she did not survive. Before she died, she said that so many soldiers had raped her that she could not recall the exact number. The soldiers wore camouflage uniforms and various types of headgear."
- n. In the testimony of witness EU page 2 of the 92bis statement where it is said: " Children 10 or 12 years of age were raped and later killed."
- o. In the testimony of witness LN pages 82-88 lines 26-06 in the English transcript of 30 March 2004 where it is stated: " She could not have

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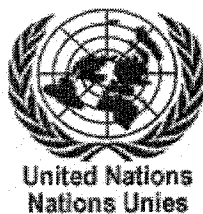
	<p>been older than 13." "She was raped. I can't say more than that. It was in the open. It was not in the dark. It was not in a hidden place. She was simply raped, and when she was raped, he insulted her. She did not say anything, and this young girls' mother actually covered her face with a cloth."</p> <p>p. In the testimony of witness DAZ in the English transcript of 16 June 2004 and the documentary material exhibited by the Prosecutor P274 [92bis stnt].</p> <p>q. In the testimony of witness BY at pages 8-9 in the English transcript of 6 July 2004 where it is said: "Mr. President, I am not going to hide from you the fact that within this context of protection within the context of war, there was frequently, between these women who were protected and the Interahamwe who were protecting them, there were quite frequent relations of a sexual nature." See also prosecution exhibit P287A.</p> <p>r. In the testimony of witness Nowrojee English transcript of 12 and 13 July 2004.</p>
<p>6.66 Military officers, <u>members of the Interim Government</u> and local authorities aided and abetted their subordinates and others in carrying out the massacres of the Tutsi population and its accomplices.</p>	<p>For examples of evidence led on this point, see evidence listed in respect of indictment paragraphs 6.16; 6.27-6.42; 6.46-48; 6.56; 6.58-6.60 to the extent they are referred to in this chart.</p>
<p>6.66 Without the complicity of the local and national civil and military authorities, the principal massacres would not have occurred.</p>	<p>For examples of evidence led on this point, see evidence listed in respect of indictment paragraphs 6.16; 6.27-6.42; 6.46-48; 6.56; 6.58-6.60 to the extent they are referred to in this chart.</p>
<p>6.67 From April to July 1994, although certain Gendarmerie units assigned to combat duty came under the General Staff of the Rwandan Army, the other units were responsible for maintaining public law and order throughout Rwanda and were directly under General Augustin Ndindiliyimana, the Chief of Staff of the Gendarmerie.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <p>a. In the Judicially noticed documentary material entitled 'Legislative Act of 23 January 1974 on the Creation of the Gendarmerie', p 123 (RWPREGT-8).</p>
<p>6.68 From April to July 1994, General Augustin Ndindiliyimana received daily reports from his troops, notably during meetings held at the Gendarmerie Headquarters. These troops reported on the scale and scope of the massacres being perpetrated against the civilian population. He personally went to various prefectures to assess the situation.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness XXY pages 22-25 and 30-31 lines 17-1 and 32-17 in the English transcript of 11 June 2004.</p> <p>b. In the testimony of witness AAA pages 15-17 lines 21-19 in the English transcript of 14 June 2004.</p>
<p>6.69 From April to July 1994, the officers of the General Staff of the Army participated in daily meetings at which they were informed of the massacres of the civilian Tutsi population. These meetings assembled the members of the General Staff and unit commanders, including, among others, Major-General Augustin Bizimungu, Brigadier-General Gratien Kabiligi, Major Aloys Ntabakuze, Major</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <p>a. See statement of witness AJ, deceased witness.</p> <p>b. In the testimony of witness CE page 82 lines 23-33 in the English transcript of 13 April 2004.</p> <p>c. In the documentary exhibit DB61 [K012-7626-7628]</p>

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<p>Protais Mpiranya, Major Francois-Xavier Nzuwonemeye, Colonel Aloys Ntiwiragabo, as well as Colonel Theoneste Bagosora and the Chief of Staff of the Gendarmerie, General Augustin Ndindiliyimana.</p>	<p>d. In the testimony of witness XXQ pages 33-36 in the English transcript of 12 October 2004. e. In the testimony of witness Des Forges at page 117, lines 10-24 in the English transcript of 18 September 2002.</p>
<p>6.70 Between April and July 1994, Colonel Theoneste Bagosora issued safe passages to certain people to pass roadblocks manned either by soldiers or by militiamen.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness Dallaire pages 69-71 lines 27-26 in the English transcript of 19 January 2004.</p> <p>b. In the testimony of witness BY pages 6-10 lines 29-35 in the English transcript of 5 July 2004 where it is said: " The escort comprising three soldiers, we were told were part of the personal escort of Col. Theoneste Bagosora, were placed at our disposal. And bearing in mind the role we had to play, there was really no command per se, but whenever we got to a roadblock and we had to intervene to make our message known, it was really natural, and our escorts were very cooperative because they were part of the mission. So they stopped with us, protected us, and we made known our message."</p>
<p>6.70 He had previously discussed terms with the <i>Interahamwe</i> at a meeting that he had chaired.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness BY pages 92-93 lines 29-7 where it is stated: "I believe that I said that Bagosora convened a meeting at the <i>Hôtel des Diplomates</i>. On the day of the meeting, it happened that I was in Kigali, so I was invited to attend the meeting because I was a member of the <i>Interahamwe</i> committee. I went to the <i>Hôtel des Diplomates</i> where the meeting started with a meeting of Bagosora and a committee of <i>Interahamwes</i> and three members of <i>secteurs</i>. Before the meeting rose, there was an officer who told Dallaire that Bagosora had come there, so Bagosora went down in order to receive -- to welcome Dallaire. And in the meantime we held a small meeting in order to discuss what we would tell Dallaire. So when they came in, Bagosora introduced Dallaire, and Bagosora excused himself. So we remained there with Dallaire, and we started individually introducing ourselves, and the meeting started. The objective of the meeting, or the subject of the meeting, was the refugees were at the <i>Hôtel des Mille Collines</i>, and UNAMIR took him from the hotel, to take them to the Kanombe airport. But when they got to Gikondo, they were stopped at a roadblock manned by <i>Interahamwes</i>, so they were compelled to return to the <i>Hôtel des Mille Collines</i>. So that was our purpose of our meeting with Dallaire. "</p>

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<p>6.71 In April 1994, <u>Colonel Theoneste Bagosora ordered the transfer of the central bank's funds to Gitarama by the Reconnaissance Battalion.</u></p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness BY at pages 50-5, 53-56 of the English transcript of 5 July 2004. b. It is also noted that the Defence proposed the truth of this matter [Bagosora being involved in this matter] to witness XAQ during cross-examination, page 14 of the English transcript of 24 February 2004.
<p>6.72 <u>Knowing that massacres of the civilian population were being committed, the political and military authorities, including Colonel Theoneste Bagosora, took no measures to stop them.</u></p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness BY pages 27-34 lines 17-25 in the English transcript of 5 July 2004 where it is said: "Regarding the dismantling of roadblocks, I think with Col. Bagosora's military authority, if he wanted to dismantle these roadblocks, he would have just said, "Please dismantle the roadblocks." " MR. PRESIDENT. Mr. Witness, If you had received an order from Colonel Bagosora, you yourself in that situation you yourself would you have obeyed it? THE WITNESS: The answer is very clear. After this meeting there was an order to convene a meeting, and the people reacted to that call. So if Mr. Bagosora had issued an order to dismantle the roadblocks, that order would have been followed because, as far as I know and as far as everybody knew, such an order would have been justified from the point of view of those who were defending the people."
<p>6.72 On the contrary, <u>they refused to intervene to control and appeal to the population as long as a cease-fire had not been declared.</u></p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the documentary materials Judicially noticed and exhibited by the Prosecution P4A pages K102-0348.
<p>6.72 <u>This categorical refusal was communicated to the Special Rapporteur via the Chief of Staff of Rwandan Army, Major-General Augustin Bizimungu.</u></p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the documentary material Judicially noticed and exhibited by the Prosecutor P6 page K015-7923.
<p>6.73 <u>Colonel Theoneste Bagosora, in his position of authority, acting in concert with, notably Augustin Ndirilyimana, Augustin Bizimungu, Aloys Ntwiragabo, Gratien Kabiligi, Protais Mpiranya, Aloys Ntabakuze, Francois-Xavier Nzuwonemeye, Anatole Nsengiyumva, Augustin Bizimana and Tharcisse Renzaho, participated in the planning, preparation or execution of a common scheme, strategy or plan, to commit the atrocities set forth above.</u></p>	<p>For examples of evidence led on this point, see evidence listed in respect of indictment paragraphs 6.16; 6.27-6.42; 6.46-48; 6.56; 6.58-6.60 to the extent they are referred to in this chart.</p>
<p>6.73 The crimes were committed by him personally, by persons he assisted or by his subordinates, and with his knowledge or consent.</p>	<p>For examples of evidence led on this point, see evidence listed in respect of indictment paragraphs 6.16; 6.27-6.42; 6.46-48; 6.56; 6.58-6.60 to the extent they are referred to in this chart.</p>



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Appendix 2: Table
Prosecutor's Response to
Kabiligi & Ntabakuze Motion for Acquittal

Counsel for the Prosecution:

Barbara MULVANEY
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Christine GRAHAM

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Indictment Paragraph	Evidence
<p>4.2 During the events referred to in this indictment, Gratién Kabiligi exercised the functions of Chief of Military Operations (G-3) within the High Command of the Rwandan Army. Gratién Kabiligi had the responsibility of planning, coordinating and ensuring the execution of military operations throughout the territory of Rwanda.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness XXJ at pages 45-58 in the English transcript of 14 April 2004, pages 97-103 in the English transcript of 15 April 2004, pages 7-13 of the English transcript of 16 April 2004. b. In the testimony of witness HN at pages 28, 32-34 in the English transcript of 24 February 2004. c. In the testimony of witness XXQ in the English transcript of 11 October 2004. d. In the documentary evidence exhibited by the Defence as DB61B, page 15 [K0127627- where it is stated: "[Kabiligi] was a G3 Officer and a General. Theoretically, and from the operational point of view, he was capable of giving orders to the Presidential Guard."
<p>4.3 In 1993, Lieutenant-Colonel Gratién Kabiligi held the position of Commander of Military Operations for Byumba sector. He was promoted to the rank of colonel before being appointed Brigadier-General on 16 April 1994.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the documentary materials exhibited by the Defence as DNS15, page K0078497.
<p>4.4 In his capacity as Commander of Military Operations (G-3) in the High Command of the Rwandan Army, Gratién Kabiligi had under his command the units of the sectors of Byumba, Ruhengeri, Mutara and Kigali, as well as the elite units such as the Presidential Guard and the Para-Commando Battalion and the Reconnaissance Battalion, and exercised authority over them.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness XXJ at pages 45-58 in the English transcript of 14 April 2004, pages 97-103 in the English transcript of 15 April 2004, pages 7-13 of the English transcript of 16 April 2004. b. In the testimony of witness HN at pages 28, 32-34 in the English transcript of 24 February 2004. c. In the testimony of witness XXQ in the English transcript of 11 October 2004. d. In the documentary evidence exhibited by the Defence as DB61B, page 15 [K0127627- where it is stated: "[Kabiligi] was a G3 Officer and a General. Theoretically, and from the operational point of view, he was capable of giving orders to the Presidential Guard."
<p>5.1 From late 1990 until July 1994, Gratién Kabiligi, Aloys Ntabakuze, Theoneste Bagosora,</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p>

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<p>Augustin Ndingiyimana, Augustin Bizimungu, Aloys Ntiwiragabo, Protais Mpiranya, Francois-Xavier Nzuwonemeye, Anatole Nsengiyumva, Augustin Bizimana and Tharcisse Renzaho conspired among themselves and with others to work out a plan with the intent to exterminate the civilian Tutsi population and eliminate members of the opposition, so that they could remain in power. The components of this plan consisted of, among other things, recourse to hatred and ethnic violence, the training of and distribution of weapons to militiamen as well as the preparation of lists of people to be eliminated. In executing the plan, they organized, ordered and participated in the massacres perpetrated against the Tutsi population and of moderate Hutu.</p>	<ul style="list-style-type: none"> a. In the testimony of witness XAM at page 3 in the English transcript of 30 September 2004. b. In the testimony of witness XXQ at pages 2-13, 28-89 in the English transcript of 11 November 2004. c. In the testimony of witness ZF at pages 61-65 in the English transcript of 27 November 2002, at page 4 of the English transcript of 28 November 2002. d. In the testimony of witness DCH at pages 45-52 in the English transcript of 23 June 2004. e. In the testimony of witness DesForges at pages 23-24, 23-33, 41-43, 79-81 in the English transcript of 17 September 2002. f. In the testimony of witness Dallaire, at pages 47, 91-94 in the English transcript of 19 January 2004, pages 48-49, 56-57 in the English transcript of 20 January 2004 g. In the testimony of witness Beardsley at pages 43-46 in the English transcript of 30 January 2004. h. In the testimony of witness XBH at pages 15-20 in the English transcript of 3 July 2003. i. In the testimony of witness ABQ at pages 4-8 in the English transcript of 6 September 2004. j. In the testimony of witness DO at pages 45 in the English transcript of 30 June 2003. k. See further evidence listed in respect of indictment paragraphs 5.2 onwards to the extent they are referred to in this chart.
<p>5.2 In a letter dated 3 December 1993, certain FAR officers revealed to the UNAMIR Commander the existence of what they called a "Machiavellian plan" conceived by military who were mainly from the North and who shared the extremist Hutu ideology. The objective of the Northern military was to oppose the Arusha Accords and keep themselves in power. The means to achieve this consisted in exterminating the Tutsi and their "accomplices". The letter indicated moreover the names of political opponents to be eliminated. Some of them were in fact killed on the morning of 7 April 1994.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness Dallaire pages 79-92 of the English transcript of 19 January 2004 and 70-73 of the English transcript of 26 January 2004. b. In the testimony of witness Beardsley pages 39-44 of the English transcript of 30 January 2004, page 23 of the English transcript of 3 February 2004, and page 14-15 of the English transcript of 4 February 2004. c. In the documentary material exhibited by the Prosecution as P169A-C and by the Defence as DK12. d. In the testimony of witness EQ at pages 5-16 and 19-22 of the English transcript of 13 February 2004. e. In the testimony of witness CJ at pages 41-42 of the English transcript of 25

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	<p>November 2003.</p> <p>f. In the testimony of witness Ruggiu at pages 37-38 of the English transcript of 16 June 2003.</p> <p>g. In the testimony of witness DCH at pages 45-52 of the English transcript of 23 June 2004 and oat pages 57-59 of the English transcript of 24 June 2004.</p> <p>h. In the testimony of witness DesForges at pages 97-100 of the English transcript of 11 September 2002; 93-96, 102-103 of the English transcript of 16 September 2002; pages 47-48, 53-54 of the English transcript of 17 September 2002; page 16 of the English transcript of 18 September 2002, pages 11-13, 50-56 of the English transcript of 24 September 2002.</p> <p>i. In the testimony of witness XAQ at pages 17-20 of the English transcript of 23 February 2004.</p> <p>j. In the testimony of witness DP at pages 38-39 of the English transcript of 3 October 2003.</p> <p>k. In the testimony of witness A at pages 19-20 of the English transcript of 1 June 2004.</p> <p>l. In the testimony of witness DCH at pages 45-52 of the English transcript of 23 June 2004.</p>
<p>5.3 On 10 January 1994, UNAMIR was informed by an <i>Interahamwe</i> leader of the details of a plan to exterminate the Tutsi population and its "accomplices".</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <p>a. In the testimony of witness Claeys at pages 33-36, 65-68 of the English transcript of 7 April 2004, and pages 80-84 of the English transcript of 7 April 2004, where it is stated that: "Q. Now, could one then conclude that you were with a senior member of the MRND security? A. Some days earlier he had said that the Demonstration would take place. That was not a secret. And he said that he was going to be in charge of organising security at that event. The fact that we saw him so many times, and not only in isolated cases, in the cassette -- on the cassette, <i>equipped with a radio, we saw him commanding people who also had radios, and he would give them orders, send them somewhere, actually enabled one to conclude that he was commanding the security system during that event.</i>" [Emphasis added.]</p> <p>b. In the testimony of witness Dallaire at pages 6-7 and 50-55 of the English transcript of 26 January 2004.</p> <p>c. In the testimony of witness Beardsley at pages 18-23 of the English transcript of 4</p>

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	<p>February 2004, where it is stated that: "Q. Well, 11th April, that's an error, an oversight on my part. But you did have some information, and what I want to understand in that regard -- now, based on what you told my colleague Drew White in the course of your evidence-in-chief is that Jean-Pierre was not a Interahamwe leader, that he was -- at the very least he was an instructor. A. No, sir, he was a top level trainer in the Interahamwe Militia. That's in the first paragraph of the message. He was a top-level trainer within the Interahamwe which, in our opinion, made him a top leader in the Interahamwe on our assessment. Q. Well, in your own perception of a structure, so someone who issues instructions is a leader; is that it? A. Yes, sir, on the scale of what he was reporting to us here, coordinating the movement of hundreds -- the training of hundreds of militiamen, coordinating the registration of Tutsis within areas of Kigali, the fact that he could give an order and a thousand people could be killed in 20 minutes, that -- the conclusion or our assessment of that information was that if this guy was valid, he was a top leader in the Interahamwe."</p> <p>d. In the documentary materials exhibited by the Defence, DB80, page 5.</p> <p>e. See also the evidence listed in respect of indictment paragraphs 5.18 and 5.30 to the extent they are referred to in this chart.</p>
<p>5.4 The incitement to ethnic hatred and violence was a fundamental part of the plan put in place. It was articulated, before and during the genocide, by elements of the FAR on the one hand, and by members of the Government and local authorities on the other.</p>	<p>For examples of evidence led on this point, see the evidence listed in respect of indictment paragraphs 5.5 to and 5.12 to the extent they are referred to in this chart.</p>
<p>5.5 On 4 December 1991, President Juvenal Habyarimana set up a military commission. The commission was given the task of finding an answer to the following question: "<i>What do we need to do in order to defeat the enemy militarily, in the media and politically?</i>" Major Aloys Ntabakuze, Lt. Col. Anatole Nsengiyumva and Colonel Theoneste Bagosora were members of this commission.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <p>a. In the testimony of witness DesForges at pages 60-61 of the English transcript of 10 Sep 20 02, page 53-54 of the English transcript 17 Sep 2002, pages 23-25, 94-106 of the English transcript of 23 Sep 2002, pages 2-4, 13-20, 39-47, 50-56 of the English transcript of 24 Sep 2002. [None of the three accused challenged the witness as to the truth of the matter that Bagosora headed the Commission and that the two others were members of that Commission. On the contrary, it was admitted during</p>

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	<p>cross-examination, see pages 100-106 of the English transcript of 23 September 2002 [Bagosora], pages 6-7 of the English transcript of 21 November 2002 [Nsengiyumva], and page 44 of the English transcript of 25 November 2002 [Ntabakuze].</p> <p>b. In the documentary materials exhibited by the Defence, DB61B, page 6 [K0127618].</p>
<p>5.6 In a letter dated 21 September 1992, the General Staff of the Rwandan Army ordered that an extract from the commission report be circulated among the troops. The letter came from the office of the Chief of Intelligence (G-2), namely Lieutenant Colonel Anatole Nsengiyumva. The extract defined the main enemy as follows: <i>"The Tutsis from inside or outside the country, who are extremists and nostalgic for power, who do not recognize and have never recognized the realities of the Social Revolution of 1959, and are seeking to regain power in Rwanda by any means, including taking up arms."</i> The secondary enemy was defined as: <i>"Anyone providing any kind of assistance to the main enemy"</i>. The document specified that the enemy was being recruited from within certain social groups, notably: <i>"the Tutsis inside the country, Hutus who are dissatisfied with the present regime, foreigners married to Tutsi women..."</i>. Among the activities the enemy was accused of, the document mentioned <i>"the diversion of national opinion from the ethnic problem to the socio-economic problem between the rich and the poor"</i>.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <p>a. In the testimony of witness CE at pages 8-13 in the English transcript of 13 April 2004.</p> <p>b. In the testimony of witness DesForges at pages 53-53 in the English transcript of 10 September 2002.</p> <p>c. In the documentary materials by the Prosecution as exhibit P13.1B.</p> <p>d. See also evidence listed in respect of indictment paragraphs 5.9-5.11 to the extent they are referred to in this chart.</p>
<p>5.7 The document and the use made of it by the senior officers aided, encouraged and promoted ethnic hatred and violence.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <p>a. In the testimony of witness XXQ at pages 38-39, 46-49 in the English transcript of 11 October 2004.</p> <p>b. In the testimony of witness DBN at pages 64-65 in the English transcript of 31 March 2004.</p> <p>c. In the testimony of witness LN at pages 53-56 in the English transcript of 30 March 2004.</p> <p>d. In the testimony of witness LAI at pages 12-15 in the English transcript of 31 May 2004.</p> <p>e. In the testimony of witness XAI at pages 1013 in the English transcript of 9 September 2003.</p> <p>f. See also the evidence listed in respect of indictment paragraphs 5.8 to and 5.12 to the extent they are referred to in this chart.</p>
<p>5.8 As from 1993, Aloys Ntabakuze and Colonel</p>	<p>For examples of evidence led on this point, see</p>

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<p>Theoneste Bagosora made statements wherein they identified the enemy as the Tutsi, and their sympathizers as the Hutu in the opposition.</p>	<p>evidence listed in respect of indictment paragraphs 5.10-5.12 to the extent they are referred to in this chart.</p>
<p>5.9 As part of the negotiations for the Protocol on integration of the Armed Forces under the Arusha Accords, the officers from the North saw their powers eroded. This reality they could not accept made it opportune for to them to exacerbate the discourse of ethnic hatred and violence.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness ZF at pages 20-21 in the English transcript of 28 November 2002. b. In the testimony of witness XBM at pages 21-24 in the English transcript of 14 July 2003. c. In the testimony of witness DesForges at pages 34-35 in the English transcript of 11 September 2002. d. In the testimony of witness ATY at pages 4-8 in the English transcript of 27 September 2004. e. In the testimony of witness DP at pages 36-39 in the English transcript of 2 October 2003. f. See also the evidence listed in respect of indictment paragraphs 5.10 to and 5.12 to the extent they are referred to in this chart.
<p>5.10 At the time of the negotiation of the Arusha Accords, several meetings of Army officers including Major Aloys Ntabakuze Colonel Theoneste Bagosora and Lt. Col. Anatole Nsengiyumva were held notably at Kanombe military camp. During the same period, Aloys Ntabakuze and Theoneste Bagosora urged the military to reject and show their disapproval of the Arusha Accords. In August 1993, Aloys Ntabakuze even ordered his men to abduct the Prime Minister and bring her to Kanombe Camp. The operation was cancelled while it was under way on the orders of the Chief of Staff, General Deogratias Nsabimana.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness DBQ at pages 47-51 of the English transcript of 23 September 2003. b. In the testimony of witness DBN at pages 64-65 in the English transcript of 31 March 2004, at pages 54-58 of the English transcript of 1 April 2004. See also pages 9-13 in the English transcript of 6 April 2004. c. In the testimony of witness DBN at pages 54-58 of the English transcript of 1 April 2004. See also pages 9-13 in the English transcript of 6 April 2004. d. In the testimony of witness LN at pages 53-56 in the English transcript of 30 March 2004. e. In the testimony of witness BC at pages 29-31 of the English transcript of 1 December 2003. f. In the testimony of witness DP at pages 36-39 of the English transcript of 2 October 2003. g. In the testimony of witness XBM at pages 17-20 of the English transcript of 14 July 2003. h. In the testimony of witness XXC at pages 15-17 in the English transcript of 18 September 2003.

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	<ul style="list-style-type: none"> i. In the testimony of witness DCH pages 45-52 lines 30-19 in the English transcript of 23 June 2004 where it is said: "...there were disturbances because Prime Minister Dismas Nsengiyaremye had said that the soldiers had to be demobilized. So some soldiers demonstrated, some left the front, and the Kanombe Military Camp soldiers tried to kill the prime minister.." j. In the documentary material exhibited by the Prosecution P3 at pages K022-9216-9217 (pages 115-116), P23 and P24B. k. In the testimony of witness DesForges pages 75-79 lines 14-05 in the English transcript of 16 September 2002 where it is said: "General Deogratias Nsabimana called the minister of defense to alert him to the fact that soldiers were moving. ... he indicates that those who were planning to execute this coup had over estimated the extent of support that they might have among other soldiers, so that in the end, soldiers loyal to the government and to the minister of defense were able to prevent the full implementation of this effort." l. See also the evidence listed in respect of indictment paragraphs 5.11 and 5.12 to the extent they are referred to in this chart.
<p>5.11 Several senior officers in the Rwandan Army, including Gratien Kabiligi, Aloys Ntabakuze and Theoneste Bagosora, publicly stated that the extermination of the Tutsi would be the inevitable consequence of any resumption of hostilities by the RPF if the Arusha Accords were implemented.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness XXQ at pages 2-26 in the English transcript of 11 October 2004. b. In the testimony of witness ZF at pages 66-67, 71-75 of the English transcript of 28 November 2002. c. In the testimony of witness XAM at pages 2-4 of the English transcript of 29 September 2004. d. In the testimony of witness XXY at pages 9-10 and 17-18 of the English transcript of 11 June 2004. e. In the testimony of witness Dallaire at pages 19-22 of the English transcript of 19 January 2004 and pages 45-49 of the English transcript of 22 January 2004. f. In the documentary materials exhibited by the Defence, DB80, page 6/11, paras 1-5. g. In the testimony of witness DBQ at pages 47-49 of the English transcript of 23 September 2003. h. In the testimony of witness BC at pages 29-31 of the English transcript of 1

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	<p>December 2003.</p> <ul style="list-style-type: none"> i. In the testimony of witness DP at pages 36-39 of the English transcript of 2 October 2003. j. In the testimony of witness XXJ at pages 17018 in the English transcript of 2004. k. In the testimony of witness XBM at pages 17-20 of the English transcript of 14 July 2003. l. In the testimony of witness XXC at pages 15-17 in the English transcript of 18 September 2003 m. See also the evidence listed in respect of indictment paragraphs 5.10 and 5.12 to the extent they are referred to in this chart.
<p>5.12 Towards the end of March 1994, in the presence of a group of Belgian Army officers, Colonel Gratien Kabiligi and the Chief of Staff of Rwandan Army, General Deogratias Nsabimana, spoke of the possibility of eliminating the RPF (Rwandan Patriotic Front) and the Tutsi within a short time. Moreover, during the genocide, Gratien Kabiligi expressed his satisfaction with the crimes perpetrated by the <i>Interahamwe</i> militia against the civilian Tutsi population.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the documentary material exhibited by the Prosecution as P3, pages K022-9244-9246 (pages 168-173) b. In the testimony of witness DY at pages 19-23, 28-32, 35-39-47, 53-57 of the English transcript of 16 February 2004 and pages 45-49 of the English transcript of 22 January 2004. c. In the testimony of witness XXY at pages 4-6 in the English transcript of 11 June 2004. d. See also the evidence listed in respect of indictment paragraphs 6.30 to the extent they are referred to in this chart.
<p>5.13 The creation of the youth wings satisfied two of the political parties' concerns: to mobilize young people and to sensitize them to politics. The MRND and CDR followed the example of the MDR and RPF, which had already institutionalized their youth movements. Political rivalries during the multi-party period exacerbated tensions. The "<i>Interahamwe</i>" and "<i>Impuzamugambi</i>" began to be drawn astray from the time they were used to oppose with violence the political demonstrations organized by parties of the opposition.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness GS page 73 lines 19-37 in the English transcript of 17 February 2004 where it is said: " With the advent of multi party politics in Rwanda, and I'm referring to the month of July 1991, parties set up a youth wing. I could make reference to a party such as the mouvement Revolutionnaire National pour la Democratie et le Developpement which set up a youth wing popularly known as the Interahamwe, which behaved in military fashion, or whose members behaved like soldiers. It was that youth wing which was supported by a part of the army, and in fact the commander of the army provided them with military training easily." b. In the testimony of witness BY pages 25-27 lines 34-14 in the English transcript of 2 July 2004 where it is said: " ..the objective of that organization, just as the objectives

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	<p>of any other party youth wing, was to support the ideals of the party and , in this particular case, the Mouvement Revolutionnaire pour la Democratie et le Developpement party which for a long time had reigned in Rwanda as a single party, needed some reformation, needed some young blood." " Accordingly, the Interahamwe's..from a given point in time, was in a situation of violent conflict and confrontation with the other youth wing of the other opposition parties.." " ..the opposition parties, which had before the Mouvement Revolutionnaire pour la Democratie et le Developpement set up their own youth wings, did everything to decry and hamper and through one policy known as Ukubohoza which literally means to free themselves from the Mouvement Revolutionnaire pour la Democratie et le Developpement yoke."" And that is how, whenever there was any incidents under the Ukubohoza, the youth wings decided to indulge themselves in violent acts, not only in Kigali, but violent acts which spread out to the entire country.."</p> <p>c. In the testimony of witness A pages33-37 lines 28-05 in the English transcript of 1 June 2004 where it is said: " Well, while trying to prevent the Kubofoza movement, there were some standoffs between the youth wings of the other parties, especially the Inkuba of the Mouvement Democratique Republican. And within Kigali, there were quite a few skirmishes between the Mouvement Democratique Republican and the Mouvement Revolutionnaire National pour la Democratie et le Developpement youth wings. Whenever there was a meeting or rally in Kigali, there were always problems, altercations, between the two youth wings."</p> <p>d. In the testimony of witness DesForges pages 33-37 lines 18-23 in the English transcript of 16 September 2002.</p>
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<p>5.14 In order to ensure that, when the time came, the extermination of the enemy and its "accomplices" would be carried out swiftly and effectively, it was necessary to create a militia that was structured, armed and complementary to the Armed Forces. For the militia to be represented nationally, <i>Interahamwe</i> committees were created at <i>prefecture</i> level.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness OAF page 3, lines 9-20 of the English transcript of 23 June 2003 where it is said: "First there was the multiparty political system, and then there was the establishment of militias of those political parties which had just been founded. The militias were made up of youths. Q. Can you tell the Court the names of some of the militia groups that were created at that time? A. There was the <i>Interahamwe</i>, the <i>Impuzamugambi</i>. Q. Do you know which political party the <i>Interahamwe</i> was affiliated to? A. Yes, I know that. Q. Which party? A. MRND. Q. And do you know which political party the <i>Impuzamugambi</i> was affiliated to? A. The <i>Impuzamugambi</i> was affiliated to CDR. b. In the testimony of witness BY, pages 27-32, lines 15-08 of the English transcript of 2 July 2004 where it is said: " Now, the second six months of 1993 that is from June, July 1993, as part of that evolution which—I am sorry, I will have to qualify as unhealthy evolution in the political and economic situation in Rwanda, and the leaders of that youth wing went on armed training, military training. And in the final analysis, they were armed." c. In the testimony of witness ZF, page 8-10, lines 16-23 of the English transcript of 28 November 2002. d. In the documentary material exhibited by the Prosecution P33B. e. See also evidence listed in respect of indictment paragraphs 5.20-5.23 to the extent they are referred to in this chart.
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<p>5.15 As from 1993, and even before that date, anxious to radicalize the <i>Interahamwe</i> movement, the leaders of the MRND, in collaboration with officers of the FAR, decided to provide military training to those members most devoted to their extremist cause and to other idle youths. Furthermore, weapons were distributed to them.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Dallaire, pages 94-97, lines 32-30 of the English transcript of 19 January 2004 where it is said: "The direct observation I have is one where we had received information from my observers in the Butare area, close to some of the Burundi refugees camps, that recruitment was being conducted, supposedly for the Rwandan Government Forces or for the government army. And on one occasion I had been informed in the morning – it was Sunday. I was informed in the morning that the three buses had left,
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	<p>in fact, one of these refugee camps full of young men and heading north. And so I got a helicopter and linked up with the buses, and they were in a Camp Gabiro, I think is the name, in the Akagera park... well there were three green buses as my observers had mentioned to me, parked amongst the buildings. There were, I'd estimate, around a hundred or ---- yeah about a hundred young men in civilian garb."</p> <p>b. In the testimony of witness A pages 39-44 in the English transcript of 1 June 2004.</p> <p>c. In the testimony of DCH at pages 12-16, 27, in the English transcript of 23 June 2004 where it is stated that "First there were morale-boosting talks which were organized. Those were discussions which taught us that Tutsis were really bad, and we were explained how Tutsis were going to exterminate us if we did not precede them in doing so, and we were told that if Tutsis took power, they were going to restore the monarchy and feudalism. And we were told that the Tutsi had nothing good in him and that we had been liberated, so we should not allow the Tutsis to take power. What we should do, rather, was to kill the Tutsis, and if we did not - if we kill Tutsis and only a few Tutsis remain, we were going to remain power."</p> <p>d. In the testimony of witness XAB at pages 29-31 in the English transcript of 6 April 2004.</p> <p>e. In the testimony of witness GS page 69, lines 14-23 of the English transcript of 17 February 2004 where it is said: "In the meantime, the commander of the paracommando battalion, Major Ntabakuze, was working or cooperating with the commanding officer of the Presidential Guard in order to train those instructors who would be responsible for guiding the <i>Interahamwes</i> in that area. In addition to that, I was asked how the <i>Interahamwes</i> and the government were cooperating. I would say that they were using government buses, in other words, buses belonging to <i>Onatracom</i>. At the time the <i>Interahamwes</i> moved or travelled during the day, and so that is what I can say in regard to cooperation between the army and the <i>Interahamwes</i>."</p> <p>f. In the testimony of witness DN pages 6,7, lines 19-37 of the English transcript of 19 February 2004 where it is said: "He told</p>
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	<p>me that there was a programme which targeted some 50,000 civilians, targeting them for training purposes... Q. Mr. PRESIDENT. Yes, and you observed the first training session when, end of '93? A. Yes, it was towards the end of 1993.”</p> <p>g. In the testimony of witness DA, pages 6-10, lines 7-37 of the English transcript of 19 November 2003 where it is said: “I do recall, that was just the end of 1992 -- end of 1992 and early 1993, but it actually took place in March 1993 and early April. Now, those were the occasions on which I saw this. And, for instance, I saw this taking place at Kimihurura and at Gabiro. Those were the two locations where I saw those training sessions taking place. Q. At Kimihurura, was it on a military base? A. Yes, it was in a military camp, just below where there was a forest, where military exercises were carried out. It was, therefore, in the presidential guard camp, but just below that camp where military exercises were conducted. Q. Did you personally observe the training that took place at the presidential guard camp? A. Yes, because that is where we engaged in our shooting exercises, using armoured vehicles. That was the only place where those exercises would take place, because it was a bit isolated, in a forest. And that is where the <i>Interahamwes</i> underwent training. Q. Do you know who it was that was training the <i>Interahamwe</i> at the presidential guard camp? A. Soldiers were training them.”</p> <p>h. In the testimony of witness LAI pages 21-24, lines 08-20 of the English transcript of 31 May 2004 where it is said: “ Q. When did you first start delivering <i>Interahamwe</i> for training in the woods, what year and month? A. August 1993.”</p> <p>i. In the documentary material exhibited by the Prosecution as P2A at pages 1, 27 and 28, P33B at pages 2 and 3, P36B at pages L006447-48.</p> <p>j. In the testimony of witness XBG at pages 21-24 in the English transcript of 8 July 2003.</p> <p>k. In the documentary material exhibited by the Defence as DK28B page K0159806 (pg 3), and DK32B page K0043456.</p> <p>l. See also evidence listed in respect of indictment paragraphs 5.20-5.23, to the extent they are referred to in this chart.</p>
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	m. See also the evidence listed in respect of indictment paragraphs 5.16 to and 5.19 to the extent they are referred to in this chart.
<p>5.16 The training was supervised by military, including Aloys Ntabakuze, Protais Mpiranya, Anatole Nsengiyumva, Leonard Nkundiye, and civilian authorities. Training was conducted simultaneously in several <i>prefectures</i> around the country: Kigali, Cyangugu, Gisenyi and Butare, as well as in the Mutara sector. Training also took place in military camps, notably Gabiro, Gako, Mukamira and Bagogwe, as well as around these camps or in neighbouring forests.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness Dallaire, pages 94-97, lines 32-30 of the English transcript of 19 January 2004 where it is said: "The direct observation I have is one where we had received information from my observers in the Butare area, close to some of the Burundi refugees camps, that recruitment was being conducted, supposedly for the Rwandan Government Forces or for the government army. And on one occasion I had been informed in the morning - it was Sunday. I was informed in the morning that the three buses had left, in fact, one of these refugee camps full of young men and heading north. And so I got a helicopter and linked up with the buses, and they were in a Camp Gabiro, I think is the name, in the Akagera park... well there were three green buses as my observers had mentioned to me, parked amongst the buildings. There were, I'd estimate, around a hundred or ---- yeah about a hundred young men in civilian garb.." b. In the testimony of witness A pages 39-44 in the English transcript of 1 June 2004. c. In the testimony of DCH at pages 12-16, 27, in the English transcript of 23 June 2004 where it is stated that "First there were morale-boosting talks which were organized. Those were discussions which taught us that Tutsis were really bad, and we were explained how Tutsis were going to exterminate us if we did not precede them in doing so, and we were told that if Tutsis took power, they were going to restore the monarchy and feudalism. And we were told that the Tutsi had nothing good in him and that we had been liberated, so we should not allow the Tutsis to take power. What we should do, rather, was to kill the Tutsis, and if we did not - if we kill Tutsis and only a few Tutsis remain, we were going to remain power." d. In the testimony of witness XAB at pages 29-31 in the English transcript of 6 April 2004. e. In the testimony of witness GS page 69, lines 14-23 of the English transcript of 17 February 2004 where it is said: "In the

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	<p>meantime, the commander of the paracommando battalion, Major Ntabakuze, was working or cooperating with the commanding officer of the Presidential Guard in order to train those instructors who would be responsible for guiding the <i>Interahamwes</i> in that area. In addition to that, I was asked how the <i>Interahamwes</i> and the government were cooperating. I would say that they were using government buses, in other words, buses belonging to <i>Onatracom</i>. At the time the <i>Interahamwes</i> moved or travelled during the day, and so that is what I can say in regard to cooperation between the army and the <i>Interahamwes</i>.</p> <p>f. In the testimony of witness DN pages 6,7, lines 19-37 of the English transcript of 19 February 2004 where it is said: "He told me that there was a programme which targeted some 50,000 civilians, targeting them for training purposes... Q. Mr. PRESIDENT. Yes, and you observed the first training session when, end of '93? A. Yes, it was towards the end of 1993."</p> <p>g. In the testimony of witness DA, pages 6-10, lines 7-37 of the English transcript of 19 November 2003 where it is said: "I do recall, that was just the end of 1992 -- end of 1992 and early 1993, but it actually took place in March 1993 and early April. Now, those were the occasions on which I saw this. And, for instance, I saw this taking place at Kimihurura and at Gabiro. Those were the two locations where I saw those training sessions taking place. Q. At Kimihurura, was it on a military base? A. Yes, it was in a military camp, just below where there was a forest, where military exercises were carried out. It was, therefore, in the presidential guard camp, but just below that camp where military exercises were conducted. Q. Did you personally observe the training that took place at the presidential guard camp? A. Yes, because that is where we engaged in our shooting exercises, using armoured vehicles. That was the only place where those exercises would take place, because it was a bit isolated, in a forest. And that is where the <i>Interahamwes</i> underwent training. Q. Do you know who it was that was training the <i>Interahamwe</i> at the presidential guard camp? A. Soldiers were training them."</p>
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	<p>h. In the testimony of witness LAI pages 21-24, lines 08-20 of the English transcript of 31 May 2004 where it is said: " Q. When did you first start delivering Interahamwe for training in the woods, what year and month? A. August 1993."</p> <p>i. In the documentary material exhibited by the Prosecution as P2A at pages 1, 27 and 28, P33B at pages 2 and 3, P36B at pages L006447-48.</p> <p>j. In the testimony of witness XBG at pages 21-24 in the English transcript of 8 July 2003.</p> <p>k. In the documentary material exhibited by the Defence as DK28B page K0159806 (pg 3), and DK32B page K0043456.</p> <p>l. In the testimony of witness GS pages 68-72, lines 10-12 of the English transcript of 17 February 2004. where it is said: "In a nutshell, I would say that there was Major Ntabakuze who was in charge of -" "... So, I was saying that Major Ntabakuze was in charge of the distribution of weapons and ammunition to the <i>Interahamwes</i> and also following up the training sessions in Gabiro"... " "In the meantime, the commander of the paracommando battalion, Major Ntabakuze, was working or cooperating with the commanding officer of the Presidential Guard in order to train those instructors who would be responsible for guiding the <i>Interahamwes</i> in that area. In addition to that, I was asked how the <i>Interahamwes</i> and the government were cooperating. I would say that they were using government buses, in other words, buses belonging to <i>onatracom</i>. At the time the <i>Interahamwes</i> moved or travelled during the day, and so that is what I can say in regard to cooperation between the army and the <i>Interahamwes</i>." ... " Sorry, Mr. President, I would like to go back a bit. Earlier on the Prosecutor had asked me who was the commanding officer of the Gabiro Camp, it has just come up in my mind. The commanding officer was Lieutenant Colonel Nkundiye."</p> <p>m. See also the evidence listed in respect of indictment paragraphs 5.17-5.19 to the extent they are referred to in this chart.</p>
<p>5.17 In Kigali <i>prefecture</i>, Aloys Ntabakuze and Protais Mpiranya supervised the training of the MRND militia, the <i>Interahamwe</i>.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <p>a. In the testimony of witness GS pages 68-</p>

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	<p>72, lines 10-12 of the English transcript of 17 February 2004. where it is said: "In a nutshell, I would say that there was Major Ntabakuze who was in charge of -" "... So, I was saying that Major Ntabakuze was in charge of the distribution of weapons and ammunition to the <i>Interahamwes</i> and also following up the training sessions in Gabiro"... "In the meantime, the commander of the paracommando battalion, Major Ntabakuze, was working or cooperating with the commanding officer of the Presidential Guard in order to train those instructors who would be responsible for guiding the <i>Interahamwes</i> in that area. In addition to that, I was asked how the <i>Interahamwes</i> and the government were cooperating. I would say that they were using government buses, in other words, buses belonging to <i>onatracom</i>. At the time the <i>Interahamwes</i> moved or travelled during the day, and so that is what I can say in regard to cooperation between the army and the <i>Interahamwes</i>." ... "Sorry, Mr. President, I would like to go back a bit. Earlier on the Prosecutor had asked me who was the commanding officer of the Gabiro Camp, it has just come up in my mind. The commanding officer was Lieutenant Colonel Nkundiye."</p> <p>b. In the testimony of witness XAB at pages 29-31 in the English transcript of 6 April 2004.</p> <p>c. In the testimony of witness DCH at pages 81-90 in the English transcript of 22 June 2004, at pages 4-6, 12-16 in the English transcript of 23 June 2004.</p> <p>d. In the testimony of witness DA at pages 7-9 in the English transcript of 19 November 2003.</p>
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5.18 On 10 January 1994, a leader of the *Interahamwe* militia informed UNAMIR that 1,700 militiamen had undergone training and that they could eliminate 1,000 Tutsis every twenty minutes.

Examples of evidence led on this point appear in the evidence as follows:

- a. In the testimony of witness Claeys at pages 33-36, 65-68 of the English transcript of 7 April 2004, and pages 80-84 of the English transcript of 7 April 2004, where it is stated that: "Q. Now, could one then conclude that you were with a senior member of the MRND security? A. Some days earlier he had said that the Demonstration would take place. That was not a secret. And he said that he was going

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	<p>to be in charge of organising security at that event. The fact that we saw him so many times, and not only in isolated cases, in the cassette -- on the cassette, <i>equipped with a radio, we saw him commanding people who also had radios, and he would give them orders, send them somewhere, actually enabled one to conclude that he was commanding the security system during that event.</i>" [Emphasis added.]</p> <p>b. In the testimony of witness Dallaire at pages 6-7 and 50-55 of the English transcript of 26 January 2004.</p> <p>c. In the testimony of witness Beardsley at pages 18-23 of the English transcript of 4 February 2004, where it is stated that: "Q. Well, 11th April, that's an error, an oversight on my part. But you did have some information, and what I want to understand in that regard -- now, based on what you told my colleague Drew White in the course of your evidence-in-chief is that Jean-Pierre was not a Interahamwe leader, that he was -- at the very least he was an instructor. A. No, sir, he was a top level trainer in the Interahamwe Militia. That's in the first paragraph of the message. He was a top-level trainer within the Interahamwe which, in our opinion, made him a top leader in the Interahamwe on our assessment. Q. Well, in your own perception of a structure, so someone who issues instructions is a leader; is that it? A. Yes, sir, on the scale of what he was reporting to us here, coordinating the movement of hundreds -- the training of hundreds of militiamen, coordinating the registration of Tutsis within areas of Kigali, the fact that he could give an order and a thousand people could be killed in 20 minutes, that -- the conclusion or our assessment of that information was that if this guy was valid, he was a top leader in the Interahamwe."</p> <p>d. In the documentary materials exhibited by the Defence, DB80, page 5.</p>
<p>5.19 The secret training of the militiamen became more and more notorious. They could on some occasions be seen training in public places or on their way to the training sites, while chanting slogans inciting the extermination of the enemy.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <p>a. In the testimony of witness DCH at pages 4-6, 35-43 in the English transcript of 23 June 2004.</p> <p>b. In the testimony of witness ON at pages 7-10 in the English transcript of 29 April 2004.</p>

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	<p>c. In the testimony of witness LAI at pages 29-33 in the English transcript of 31 May 2004.</p>
<p>5.20 In order to implement the plan for the extermination of the enemy and its "accomplices", the militiamen were to receive weapons, in addition to military training. Hence, the military and civilian authorities distributed weapons to the militiamen and certain carefully selected members of the civilian population in various <i>prefectures</i> of the country.</p>	<p>For examples of evidence led on this point, see the evidence listed in respect of indictment paragraphs 5.21 to and 5.26 to the extent they are referred to in this chart.</p>
<p>5.21 In 1993, President Habyarimana declared in Ruhengeri that the <i>Interahamwe</i> had to be <i>equipped</i> so that, come the right time, "<i>ils descendent</i>".</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness ON pages 78-80, lines 8-23 of the English transcript of 28 April 2004 where it is said: "[T]he proof of this is that he put the idea into practice. President Habyarimana held a meeting in Ruhengeri one day—I think it was in 1992, 1993—and during the meeting he said the <i>Interahamwe</i>—' I'm going to buy uniforms or suits for you and we're going to go down the streets.' Going down the streets meaning that they were going to kill. In other words, he declared himself the leader of the <i>Interahamwe</i>." b. In the documentary material exhibited by the Defence as DNS 43A, page 6 [K0052783]. c. In the documentary materials exhibited by the Defence, DB61B, page 4, para 4 [K0127616].
<p>5.22 Before and during the events referred to in this indictment, Aloys Ntabakuze, Augustin Bizimana, Theoneste Bagosora, Protais Mpiranya, Anatole Nsengiyumva, and others distributed weapons to the militiamen and certain carefully selected members of the civilian population with the intent to exterminate the Tutsi population and eliminate its "accomplices".</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness ZF page 7-9, lines 28-5 of the English transcript of 28 November 2002 where it is said: "[W]hat I did see was the first distribution of weapons to a small group of militiamen. They were given weapons and cartridges -- - magazines rather. And also they were given pistols." b. In the testimony of witness AAA page 40-42, lines 31-7 of the English transcript where it is said: "The weapons distributed on 5th of March '93 were distributed by Captain Simbikangwa. He gave them to Colonel Hakizimana, who took them to his place, and that's where we went to collect them, that is at his house, to take them to where they were supposed to be kept. The <i>Interahamwe</i> leaders were supposed to

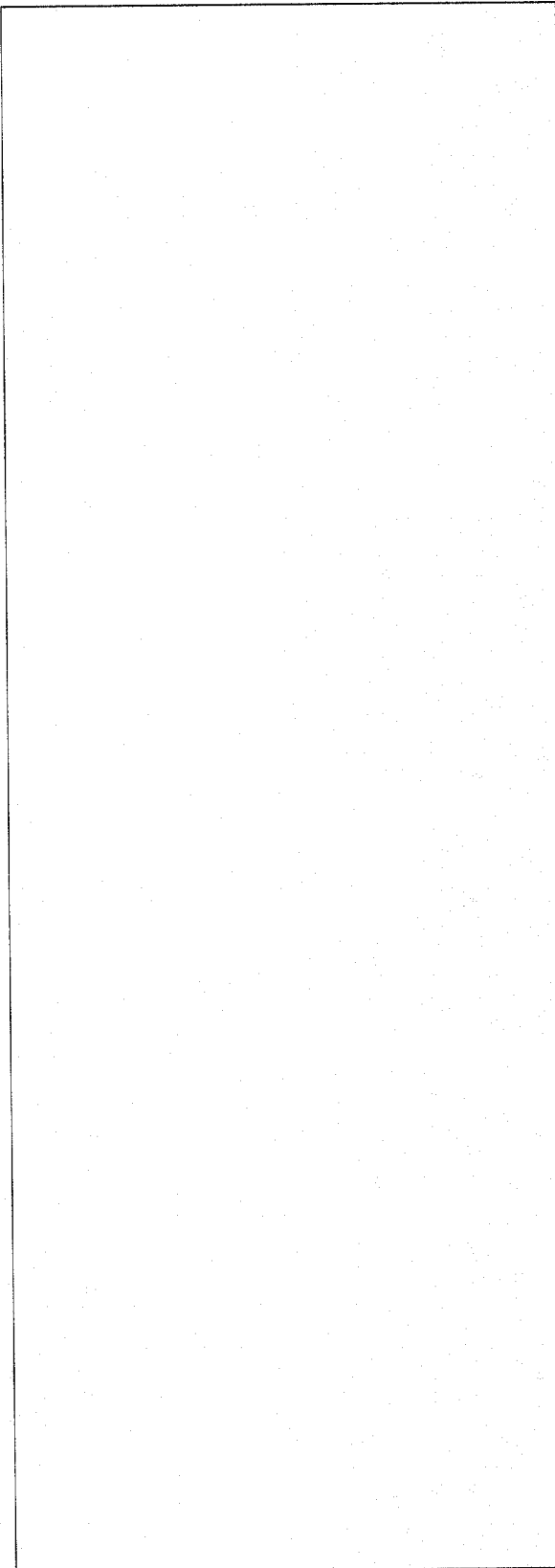
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	<p>distribute them on the basis of the list of people who had knowledge of weapons handling.”</p> <p>c. In the testimony of BY, pgs 27-32, lns 15-08 English transcript of 2 July 2004.</p> <p>d. In the testimony of witness GS pages 68-72, lines 27-28, of the English transcript of 17 February 2004.</p> <p>e. See also the evidence listed in respect of indictment paragraphs 5.23-5.26, 6.32 to the extent they are referred to in this chart.</p>
<p>5.23 From July 1993 to July 1994, the Minister of Defence, Augustin Bizimana, who replaced James Gasana, encouraged and facilitated the acquiring of weapons for MRND militants by openly asserting that the Ministry of Defence was a Ministry of the MRND. He personally received several influential members of the MRND, the CDR and <i>Interahamwe</i> in his office.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <p>a. In the testimony of witness DBY, pgs 6-8, lns 17-11 of the English transcript of 22 September 2003 where it is said: “ Q. Do you remember which part of 1992 you saw the first one; in which part, the beginning or the end of it? A. it was at the end of 1992 Q. and who was the author of this telegram? A. Col. Theoneste Bagosora. Q. who was the recipient of the telegram? A. The first one was addressed to Base-AR. That is the unit that was in charge of things like weapons, ammunition, supplies. You know, these are the things that were stored there, and that was the unit responsible for guarding them. Q. and what did the message state? A. The telegram was a request for guns, 1,000 guns. Q. what type of guns were being requested? A. Kalashnikovs and R-4. “</p> <p>b. In the documentary material exhibited by the Prosecution as P3, pages K022-9212-13 (page 107-108).</p> <p>c. In the documentary materials exhibited by the Defence, DB61B, pages 5-6 [K0127617-8].</p>
<p>5.24 Due to the proliferation of weapons in Kigali-ville <i>prefecture</i>, UNAMIR put in place a disarmament program, titled Kigali Weapon Security Area (KWSA). The program came into effect in early 1994. Concurrently, in cooperation with the Chief of Staff of the Gendarmerie, Augustin Ndingiliyimana, UNAMIR organized search operations in Kigali. The effectiveness of the operations was compromised by General Augustin Ndingiliyimana, who gave advance information on the locations targeted in the searches to Mathieu Ngirumpatse, MRND Chairman. The latter passed the information on to the <i>Interahamwe</i>, who immediately moved the weapons.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <p>a. In the testimony of witness A at pages 44-45 in the English transcript of 1 June 2004.</p> <p>b. In the testimony of witness Dallaire at pages 17-19 in the English transcript of 19 January 2004.</p> <p>c. In the testimony of witness Beardsley at pages 1-6 in the English transcript of 3 February 2004.</p>

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<p>5.25 On 7 January 1994, Mathieu Ngirumpatse, Augustin Bizimana, Augustin Ndindiliyimana, Deogratias Nsabimana, Robert Kajuga and other influential MRND members participated in a meeting at the MRND headquarters in opposition to the disarmament program. It was decided at this meeting to use all possible means to resist the implementation of the disarmament, and also to hide weapons at various locations.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Dallaire, page 11, lines of the English transcript of 20 January 2004 where it is said: " He indicated to us that the leadership of the Mouvement Revolutionnaire National pour la Democratie et le Developpement party and Interahamwe were very, very nervous; that he received orders to accelerate the distribution of weapons to individuals, most of them of rank in the government forces; some civilian politicians, in order to disperse the weapons, so not to be caught with them. They were always fearful that we would intercept one of their vehicles or something like that because we had the weapons secure area and it had become more and more difficult for them to move the weapons around. He related information that had been passed by us at the meeting with the Mouvement Revolutionnaire National pour la Democratie et le Developpement. They had taped it." b. See also the evidence listed in respect of indictment paragraph 6.13 to the extent they are referred to in this chart.
<p>5.26 On 10 January 1994, UNAMIR was informed by an <i>Interahamwe</i> leader of the existence of weapons caches in Kigali and a plan to eliminate the Tutsi population. It instructed one of its officers to uncover the exact locations of the weapons. That officer identified several caches throughout Kigali, in places controlled by members of the MRND, notably at the party headquarters in Kimihurura, in a house belonging to General Augustin Ndindiliyimana. During the search of that house, the UNAMIR officer discovered several firearms and cases of ammunition. The informer asserted that, as regards the military aspects of his duties, he was under the orders of MRND Chairman, Mathieu Ngirumpatse, and the Army Chief of Staff, Deogratias Nsabimana. Moreover, he informed UNAMIR that the weapons that had been distributed came from the Army.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Claeys at page 34 of the English transcript of 7 April 2004, where it is stated that: "...<i>He spoke also about this plan for killing a thousand people every 20 minutes.</i> He gave us some information about the paramilitary training; that they gathered at the parachute dropping zone at Kanombe before being brought outside Kigali with the official buses that were donated by Japan to Rwanda; that they were using these buses to bring in and out the people for the paramilitary training. He spoke about the weapon caches that were organised within Kigali so that they could recover or receive weapons through the military system; that these weapons then were first stockpiled in one place before being distributed on order to assigned personnel..." [Emphasis added.] See also at pages 30-31 of the English transcript of 7 April 2004, where it is stated that: "Within Kigali, he explained that they had divided Kigali in 20 different sectors or cells -- <i>he spoke about cellules,</i>

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chef de cellule -- which each town was responsible for a part of Kigali where they would be able to execute this plan of extermination. So, the available personnel in this cellule should, on a large scale, be able to exterminate a thousand people in 20 minutes." [Emphasis added.] See further, pages 33-36, 65-68 of the English transcript of 7 April 2004, and pages 80-84 of the English transcript of 7 April 2004, where it is stated that: "Q. Now, could one then conclude that you were with a senior member of the MRND security? A. Some days earlier he had said that the Demonstration would take place. That was not a secret. And he said that he was going to be in charge of organising security at that event. The fact that we saw him so many times, and not only in isolated cases, in the cassette -- on the cassette, *equipped with a radio, we saw him commanding people who also had radios, and he would give them orders, send them somewhere,* actually enabled one to conclude that he was commanding the security system during that event." [Emphasis added.] See also In the testimony of witness Claeys at pages 34-35 of the English transcript of 7 April 2004 and 68-70 of the English transcript of 7 April 2004, where the following is quoted to the witness for clarification: "...Its document CLAEFRA-4, which is the statement which you gave to the investigators...it is written, 'One evening at the beginning of March, FC,' that would be you, 'and GPT -- JPT,' who would be the informer, 'went with Amadou, and JPT showed the *various weapons Arms caches near Remera, Kimihurura.* Amadou verified that inside the house that was being used as the headquarters of the MRND in Kimihurura there were, indeed, bags containing Kalashnikovs, EG3. He showed a -- *he pointed out five caches to us,* and there was an Arms cache in each Cellule.'" [Emphasis added.]

- b. In the testimony of witness Dallaire at page 40 of the English transcript of 20 January 2004 [where great specificity is provided for the state of the arms found], at pages 31-33 of the English transcript of 22 January 2004, see also pages 6-7 and 50-55 of the English transcript of 26 January 2004.

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	<p>c. In the testimony of witness Beardsley at pages 18-23 of the English transcript of 4 February 2004, where it is stated that: "Q. Well, 11th April, that's an error, an oversight on my part. But you did have some information, and what I want to understand in that regard -- now, based on what you told my colleague Drew White in the course of your evidence-in-chief is that Jean-Pierre was not a Interahamwe leader, that he was -- at the very least he was an instructor. A. No, sir, he was a top level trainer in the Interahamwe Militia. That's in the first paragraph of the message. He was a top-level trainer within the Interahamwe which, in our opinion, made him a top leader in the Interahamwe on our assessment. Q. Well, in your own perception of a structure, so someone who issues instructions is a leader; is that it? A. Yes, sir, on the scale of what he was reporting to us here, coordinating the movement of hundreds -- the training of hundreds of militiamen, coordinating the registration of Tutsis within areas of Kigali, the fact that he could give an order and a thousand people could be killed in 20 minutes, that -- the conclusion or our assessment of that information was that if this guy was valid, he was a top leader in the Interahamwe."</p> <p>d. In the documentary materials exhibited by the Defence, DB80, page 5.</p> <p>e. In the documentary material exhibited by the Prosecution as P172, specifically at L002-2614, where it is stated as follows: "After the meeting he showed us THREE places in the KWSA where weapons are stored; there was a place with 15, one with 20 and the one near his house with more than 100 weapons. At this time we have thus FOUR exact locations with weapons (party seat included)"</p> <p>f. In the documentary material exhibited by the Prosecution as P172, specifically at L002-2614.</p>
<p>5.27 Having identified the Tutsi as the enemy and the members of the opposition as their accomplices, members of the Army General Staff, civilian authorities and militiamen established lists of people to be executed.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <p>a. In the testimony of witness AS, page 36, lines 07-28 of the English transcript of 2 September 2003 where it is said: " My husband only talked about the list to me; that is, the list that was being prepared in Gisenyi, with people not desired by the</p>

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	<p>government.”</p> <p>b. In the testimony of witness DBY, pages 3-5, lines 24-20 of the English transcript of 22 September 2003 where it is said: “However, Major Aloys Ntabakuze had a list.”</p> <p>c. In the testimony of witness XBH, pages 26-27, lines 24-32 of the English transcript of 3 July 2003 where it is said: “ Col. Theoneste Bagosora said that they had started eliminating important Hutus and that they, in turn, had to prepare a list of people who had to be eliminated and these people had to be Tutsis. He said that they had to start with Tutsis who were intellectuals and traders.”</p> <p>d. In the testimony of witness A, pages 45-48, lines 17-12 in the English transcript of 1 June 2004 where it is said: “ We spoke in the first quarter of 1997 and he told me that – in the first half of that year, and he told me that Col. Theoneste Bagosora had shown him a list of people to be killed, and it appears that on that list there were Tutsis and Tutsi businessmen. Kambanda told me that prior to that, he did not know whether there was any preparation, but after, that is when he was able to see that there was already preparation for the killings.” See also at pages 45-48 in the English transcript of 1 June 2004</p> <p>e. In the testimony of witness BY, pages 39-41, lines 04-10 of the English transcript of 2 July 2004 where it is stated “And in fact, the entire Tutsi population of Kigali was included in those lists, neighbourhood after neighbourhood.”</p> <p>f. In the testimony of witness OQ, pages 6-8, lines 14-21 of the English transcript of 18 July 2003.</p> <p>g. In the testimony of witness ABQ, pages 4-8, lines 25-20 of the English transcript of 6 September 2004</p> <p>h. In the testimony of witness AAA, pages 30-33, lines 27-23 of the English transcript of 14 June 2004.</p> <p>i. See also the evidence listed in respect of indictment paragraphs 5.28-5.31, 6.19, 6.24 to the extent they are referred to in this chart.</p>
<p>5.28 In 1992, at a meeting, Colonel Theoneste Bagosora instructed the two General Staffs to establish lists of people identified as the enemy and its accomplices. The Intelligence Bureau (G-2) of</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <p>a. In the documentary material exhibited by the by the Prosecution as P22.</p>

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<p>the Rwandan Army established the lists under the supervision of Anatole Nsengiyumva. The lists were regularly updated under the authority of Anatole Nsengiyumva, and afterwards of Aloys Ntiwiragabo.</p>	<ul style="list-style-type: none"> b. In the testimony of witness DesForges at pages 39-43 in the English transcript of 16 September 2002. at pages 53-54 in the English transcript of 17 September 2002. c. In the testimony of witness DBY at pages 17-21 in the English transcript of 22 September 2003. d. In the testimony of witness XAP at pages 27-29 in the English transcript of 11 December 2003.
<p>5.29 In 1993, following a traffic accident, a list of the type described above was found in the vehicle of the Chief of Staff, Deogratias Nsabimana. During the events, some of the people on that list were killed.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the documentary material exhibited by the Defence as DB61B at pages 4-5 [K0127616-7]. b. In the testimony of witness DesForges at pages 55-56, 60-61 in the English transcript of 17 September 2002. c. In the testimony of witness Reyntjens at pages 11-12 in the English transcript of 21 September 2004. d. In the documentary materials exhibited by the Defence as DNS1 and DB99 [K0229918].
<p>5.30 On 10 January 1994, an <i>Interahamwe</i> leader informed UNAMIR that he had received orders to establish lists of Tutsi to be eliminated.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness Claeys at pages 33-36, 65-68 of the English transcript of 7 April 2004, and pages 80-84 of the English transcript of 7 April 2004, where it is stated that: "Q. Now, could one then conclude that you were with a senior member of the MRND security? A. Some days earlier he had said that the Demonstration would take place. That was not a secret. And he said that he was going to be in charge of organising security at that event. The fact that we saw him so many times, and not only in isolated cases, in the cassette -- on the cassette, <i>equipped with a radio, we saw him commanding people who also had radios, and he would give them orders, send them somewhere, actually enabled one to conclude that he was commanding the security system during that event.</i>" [Emphasis added.] b. In the testimony of witness Dallaire at pages 6-7 and 50-55 of the English transcript of 26 January 2004. c. In the testimony of witness Beardsley at pages 18-23 of the English transcript of 4 February 2004, where it is stated that: "Q. Well, 11th April, that's an error, an

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	<p>oversight on my part. But you did have some information, and what I want to understand in that regard -- now, based on what you told my colleague Drew White in the course of your evidence-in-chief is that Jean-Pierre was not a Interahamwe leader, that he was -- at the very least he was an instructor.</p> <p>A. No, sir, he was a top level trainer in the Interahamwe Militia. That's in the first paragraph of the message. He was a top-level trainer within the Interahamwe which, in our opinion, made him a top leader in the Interahamwe on our assessment. Q. Well, in your own perception of a structure, so someone who issues instructions is a leader, is that it? A. Yes, sir, on the scale of what he was reporting to us here, coordinating the movement of hundreds -- the training of hundreds of militiamen, coordinating the registration of Tutsis within areas of Kigali, the fact that he could give an order and a thousand people could be killed in 20 minutes, that -- the conclusion or our assessment of that information was that if this guy was valid, he was a top leader in the Interahamwe."</p> <p>d. In the documentary materials exhibited by the Defence, DB80, page 5.</p>
<p>5.31 From 7 April to late July, military, including subordinates of Aloys Ntabakuze and Gratien Kabiligi, often with the complicity of <i>Interahamwe</i>, massacred members of the Tutsi population and moderate Hutu by means of pre-established lists, among other things.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <p>a. In the testimony of witness BY, pages 39-41, lines 04-10 of the English transcript of 2 July 2004 where it is said: " MR. PRESIDENT. Hold on please. Please hold on for the moment. Now, the question was very specific. It can be formulated this way: Do you know whether the lists drawn up before 6 April were used afterwards? Do you have any knowledge about this? That's the gist of the question. THE WITNESS: This is exactly what happened, Mr. President. It is on the basis of those lists. It is on the basis of the fact that those people were known, that is, the people in the neighbourhoods, those who hosted them and those who were considered as infiltrators on the said lists. It is on that basis that eliminations were carried out. And in fact, the entire Tutsi population of Kigali was included in those lists, neighbourhood after neighbourhood."</p>

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	<ul style="list-style-type: none"> b. In the testimony of witness KJ, pages 56-60, lines 14-33 of the English transcript of 19 April 2004 where it is said: "If I refer to the activities of the intelligence service, in particular, to the list of people that that service drew up, all the persons on the list were killed." c. In the testimony of witness XBH, pages 33-37, lines 29-15 of the English transcript of 3 July 2003 where it is said: "After the names were compiled on the list, six photocopies were made. Bagosora took one, Anatole took one, and they did so because these people who had to be killed lived in Gisenyi. My employer took another copy, and there were three copies remaining. And they told me that I had to give Lieutenant Bizimuremye, who was the commander of the Butotori camp, a copy; another to <i>Conseiller</i> Fazili, who was the <i>conseiller</i> of Gisenyi <i>secteur</i>; and the last copy to the <i>bourgmestre</i> of Nyamnyumba <i>commune</i>, whose name was Faustin Bagango." d. In the testimony of witness ATY at pages 13-16, 22-25 in the English transcript of 27 September 2004. e. In the testimony of witness HV pages 25-34 lines 24-08 in the English transcript of 23 september 2004 where it is stated: "It was one of the soldiers who was carrying a list and each time that a name was read out and information was given that the person was dead, this soldier was seen marking something on his list." f. See also the evidence listed in respect of indictment paragraphs 6.19, 6.24 to the extent they are referred to in this chart.
<p>5.32 The political and ethnic violence of the early 1990s was characterized by the use of the elements of the strategy which achieved its finality in the genocide of April 1994. The massacres of the Tutsi minority at that time, including those in Kibilira (1990), in Bugesera (1992), and those of Bagogwe (1991), were instigated, facilitated and organized by civilian and military authorities. On each occasion, a campaign of incitement to ethnic violence, conducted by local authorities, was followed by massacres of the Tutsi minority, perpetrated by groups of militiamen and civilians, armed and assisted by the same authorities and by certain military personnel. On each occasion, these crimes remained unpunished and the authorities implicated were generally not taken to task.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness DesForges, pages 47-48, lines 19-09 of the English transcript of 11 September 2002 where it is said: "The attack at Kibilira, like many events to follow, involved incitation to violence against Tutsi, led by local authorities and persons of political responsibility during three days of violence, and some 33 Tutsis were killed." See also pages 120-122 in the English transcript of 16 September 2002 and pages 13-14, 20-21 in the English transcript of 18 September 2002. b. In the documentary material exhibited by

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	<p>the Prosecution as P27, P28, P303 and by the Defence as DB9 and DNS5.</p> <ul style="list-style-type: none"> c. In the testimony of witness Reytjens at pages 34-35 in the English transcript of 15 September 2004, and at pages 2-4 in the English transcript of 16 September 2004. d. In the testimony of witness A at pages 81-82 in the English transcript of 1 June 2004. e. In the testimony of witness XXQ pages 18-19 lines 3-17 in the English transcript of 13 October 2004 where it is said: "I think it is necessary for me to supplement my answer because he asked me to explain the significance of that date. I told him that I had come to Gisenyi because of the killings that were going on there. Tutsis were being killed at Kibilira, at Mutara, at Rutsiro. The Bagogwes were also being killed. It is for that reason that the RPF attacked on the 8th February 1993." f. In the documentary material exhibited by the Prosecution P3 English at pages K022-9201-9203 (pages 86-91 of the English version of the Book).
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<p>5.33 Cooperation between the <i>Interahamwe</i> and certain military personnel, particularly those in the Para-Commando Battalion and the Presidential Guard, was manifested in early 1994 in opposition to the implementation of the institutions provided for under the Arusha Accords. On 5 January 1994, at the time of the swearing-in ceremony of the Broad-Based Transitional Government, the <i>Interahamwe</i> organized a demonstration in cooperation with members of the Presidential Guard. They prevented political opponents from entering the <i>Conseil national de developpement (CND)</i>. The swearing-in of the members of the Government did not take place. In the end, only the President, Juvenal Habyarimana, was sworn in.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness Beardsley at pages 70-71 of the English transcript of 3 February 2004 and 17-18 of the English transcript of 3 February 2004, where it is stated that: "<i>The crowd became unruly, and they started stopping vehicles beyond our control at the gate and preventing people from coming to the installation ceremony. We attempted to negotiate with them to get them to back off, and I remember a major from the Presidential Guard, I believe his name was Mpiranya, gave us a lot of mouth. The situation got quite tense. Dallaire told us to stay calm and then negotiate them out of the way. As a result, many of the delegates and individuals who were to be installed that day in the BBTG did not make it to the stadium. They escaped from the mobs and went back to their homes or to other locations.</i>" [Emphasis added.] See also pages 75-76 of the English transcript of 4 February 2004; at page 72 of the English transcript of 5 February 2004; b. In the testimony of witness Dallaire at pages 21-23 of the English transcript of 20 January 2004, and at pages 72-74 of the
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	<p>English transcript of 26 January 2004.</p> <ul style="list-style-type: none"> c. In the documentary materials exhibited by the Prosecution as P33B at pages 10-11 [K0240160-1]. d. In the documentary materials exhibited by the Defence as DB80 at pages 3/11-4/11.
<p>5.34 On 8 Jan 1994, <i>Interahamwe</i>, in complicity with elements of the Para-Commando Battalion and the Presidential Guard dressed in civilian clothes, again organized a demonstration near the CND. On that occasion, the <i>Interahamwe</i> had hidden weapons very nearby and were equipped with radios provided by the Presidential Guard. That demonstration was intended to provoke and cause injury to the Belgian UNAMIR soldiers.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness Dallaire at page 23 of the English transcript of 20 January 2004 where it is stated as follows: "There were demonstrations by a few units in the KWSA, around the CND, by RGF units, Presidential Guard and others, <i>mostly paracommando</i>, who deliberately were running around the CND and taunting the RPF with battle songs and things of that nature. So I had to impose a wider radius around the CND that no troops were allowed to do that. I think that's generally the -- a lot were political in nature as we tried to advance the BBTG." [Emphasis added.] b. In the documentary materials exhibited by the Prosecution as P170, specifically L001-6678, where, while referring to the demonstration of 8 January 2004, it is stated that: "Informant confirmed 48 RGF <i>Para CDO</i> and a few members of the gendarmerie participated in demonstrations in plain clothes" c. In the testimony of witness Beardsley at pages 75-76 of the English transcript of 4 February 2004; at page 72 of the English transcript of 5 February 2004, d. In the testimony of witness Claeys at page 58 of the English transcript of 7 April 2004. e. In the documentary materials exhibited by the Prosecution as P33B at pages 10-11 [K0240160-1]. f. In the documentary materials exhibited by the Defence as DB80 at pages 3/11-4/11.
<p>5.35 Finally, as of 7 April 1994, throughout Rwanda, Tutsis and certain moderate Hutus, began to flee their homes to escape the violence to which they were victims on their hills and to seek refuge in places where they had traditionally felt safe, notably churches, hospitals and other public buildings such as <i>commune</i> and <i>prefecture</i> offices. On several occasions, gathering places were indicated to them by the local authorities, who had promised to</p>	<p>For examples of evidence led on these points, see evidence listed in respect of indictment paragraphs 6.34-6.42 to the extent they are referred to in this chart. See also the following evidence.</p> <ul style="list-style-type: none"> a. In the testimony of witness Beardsley pages 42-46 lines 20-24 where it said: "...they had observed the Gendarmerie Nationale moving very methodically through this Gikondo area around the

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<p>protect them. For the initial days, the refugees were protected by a few gendarmes and communal police in these various locations, but subsequently, the refugees were systematically attacked and massacred by militiamen, often assisted by the same authorities who had promised to protect them. During the numerous attacks on the refugees throughout the country, personnel of the FAR, military or gendarmes, who were supposed to protect them, prevented the Tutsi from escaping and facilitated their massacre by the <i>Interahamwe</i>. On several occasions, these FAR personnel participated directly in the massacres.</p>	<p>church. They had lists, and they would gather people and send them into the church or escort them into the church.”</p> <p>b. In the testimony of witness EU P275 92bis statement where it is said: “ I heard the voice of the Bourgmestre of Nyamagabe commune, SEMAKWAVU Felicien, on the megaphone. He said that everyone was to leave the hill and seek refuge in the ecole technique of Murambi. In addition, prefet BUCYIBARUTA Laurent spoke over the megaphone. He stated that if the people left the hill, he would bring them food and send gendarmes to protect them. All the refugees were Tutsi.”</p> <p>c. In the testimony of witness WB pages 15-19 lines 35-15 in the English transcript of 13 November 2003 where it is said: “And we, the refugees, we said, “Major, if we go back to our houses, whereas we had left our houses to come and look for security and safety here, we might be killed.” And the Major said, “Go back first of all to IAMSEA.” So we went back to IAMSEA saying to ourselves that the major had spoken well. So on the 14th, the major said, “Allow the refugees to go back to the IAMSEA. We thought that this major was, indeed, a good man. The major said, “We will look at their own problems,” and we felt this was something positive.”</p>
<p>5.36 Furthermore, soldiers, militiamen and gendarmes raped, sexually assaulted and committed other crimes of a sexual nature against Tutsi women and girls, sometimes after having first kidnapped them.</p>	<p>Examples of evidence led on this point appear in the evidence as follows: An example of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness ZF pages 60-69 lines 30-8 of the English transcript of 28 November 2002 where it is said: “I remember that I would meet him in town or on the street, and I remember that he had a house which wasn't his own, but it was a house he was using and, according to what he said, himself, he used it and so did Omar Serushago and Thomas. That house -- rather, in that house they brought young Tutsi girls into it, and they were to rape them before executing them.”</p> <p>b. In the testimony of witness OAB pages 60-63 lines 37- 6 in the English transcript of 24 June 2003 where it is said: “ ..She was in a mini bus which Omar Serushago used. Many people begged him to let her go, but Omar told him Anatole Nsengiyumva had ordered him to take her to the commune rouge...” “ Q. what did you personally</p>

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	<p>witness? A. I saw him in the minibus. That woman was raped. Her dress was torn, the army commander was on the spot close to Omar's house.”</p> <p>c. In the testimony of witness DBQ page 34 lines 31-35 in the English transcript of 23 September 2003 where it is said: “The commander knew. He went by there and he knew and saw that the soldiers were raping the women, and he did nothing about it.” See also page 15 lines 23-25 of the English transcript of 25 February 2004 where it is said: “Among those Tutsis were women, and some of the soldiers liked them and took them to some of their houses, which were next to our position, and slept with those women.”; and page 24 lines 17-20 in the English transcript of 25 February 2004 where it is said: “There was a building within Centre Christus which was used by soldiers in order to rape women. This was a building which was near the road leading to Kimironko. So soldiers would go and get women further down near Sobolirwa and they would bring them to that building and they would rape those women there.”</p> <p>d. In the testimony of witness DBJ pages 8-9 lines 37-7 in the English transcript of 24 November 2003 where it is said: “The soldier came and asked her to stand up, took her to a room, a bedroom. The soldier asked the young lady to remove her clothes. She refused and the soldier forcefully undressed her, raped her; thereafter, he killed her and took out her body to the terrace. That is where he left the body after raping and killing her. That is what I was able to see in addition to the massacres.”</p> <p>e. In the testimony of witness XXY page 20 lines 16-24 in the English transcript of 11 June 2004 where it is said: “I remember that we saw a nun who had been stopped at the roadblock in the morning, and the nun was a Tutsi. And we were asking ourselves, are they also going to kill nuns? Have they done something bad? And the <i>Interahamwe</i> told us that all the Tutsis were enemies. The nun was taken to a house near the roadblock, and I was there. It was around 5 p.m. She was screaming. We did not remain at the roadblock very long because we were sent away. And</p>
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	<p>when I returned, I heard her scream inside the house, so she was calling out for help. And I was able to find out that she had been raped, because I saw her again the following day and she was sitting in front of the house.”</p> <p>f. In the testimony of witness AAA page 60 lines 1-5 in the English transcript of 14 June 2004 where it is said: “I did speak to the lady who had survived the killings, and I took her along with me to the orphanage which is in <i>secteur</i> Y, and she was the one who told me that they had been separated and that some of the girl refugees had been raped. Q. And who had raped these women that had been separated? A. The <i>Interahamwe</i>.” See also pages 25-27 lines 07-14 in the English transcript of 15 June 2004.</p> <p>g. In the testimony of witness DAS pages 44-47 lines 34-23 in the English transcript of 5 November 2003 where it is said: “They took them some young women, four of them, took them to some property that belonged to the Chinese who were engaged in road construction. They took there to rape them. They were not raped at the roadblock. Those who stayed back, about four of them, were killed by the soldiers. The others were taken to that property and they stayed there. That is where they were raped --that is where they were raped.”</p> <p>h. In the testimony of witness XXJ pages 44-45 lines 32-07 in the English transcript of 14 April 2004 where it is said: “Yes, I received information about rapes that were committed, because soldiers who lived with me told me that they had friends and they knew girls who had been raped by soldiers. And they told me that the girls had been their friends before the unfortunate events had occurred, and they told me that some of the girls had been raped before being killed, and they had been raped by soldiers.”</p> <p>i. In the testimony of witness XAB page 39 lines 23-24 in the English transcript of 6 April 2004 where it is said: “He told me that rapes were being committed by soldiers at the roadblock, as well as the <i>Interahamwe</i> who were there. They were raping girls, and those who refused were killed.” See also pages 39-40 lines 37-1 in the English transcript of 6 April 2004 where it is said: “They mentioned rapes</p>
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	<p>that were being committed at the airport and that were being perpetrated by the LAA Battalion, including Lieutenant Sebarera.”</p> <p>j. In the testimony of witness Serushago pages 58-59 lines 11-20 in the English transcript of 18 June 2003 where it is said: “ Q. Now, was rape prevalent in Gisenyi at the time? A. Oh yes, that is right, particularly at the cemetery, at the Commune Rouge. Q. Did any soldiers take part in the rapes? A. Of course soldiers participated. They raped women who were working both with civilians and soldiers in civilian attire and they too raped women.”</p> <p>k. In the testimony of witness Dallaire pages 31-33 lines 23-09 in the English transcript of 20 January 2004 where it is stated: “ They were all civilian. I don't remember a uniformed person. And there were babies or pregnant women, babies, children, elderly. Some of the sites...and you could see by the layout of the women and so on that rape and then mutilation had happened.” :--that is I am speaking about my observers and myself—that young girls, young women, would be laid out with their dresses over their heads, the legs spread and bent. You could see what seemed to be semen drying or dried. And it all indicated to me that these women were raped. And then a variety of material were crushed or implanted into their vaginas; their breasts were cut off... a number of them women had their breasts cut off or their stomach open. ..I would say generally at the sites you could find younger girls and young women who had been raped or, you know, deducting that they were raped.” “ ..but I would say that not many sites that were reported did not have such scenes of rape.”</p> <p>l. In the testimony of witness Beardsley pages 42-46 lines 20-24 in the English transcript of 3 February 2004 where it is said: “ women's breasts, women vaginas had been cut with machetes...there was rape that had taken place in addition to the killings, and the murder.” See also pages 50-52 lines 33-06 in the English transcript of 3 February 2004 where it is said: “ Yes, two things really. One, when they killed women it appeared that the blows that had killed them were aimed at sexual organs, either breasts or vagina; they had been</p>
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	<p>deliberately swiped or slashed in those areas. And, secondly, there was a great deal of what we came to believe was rape, where the women's bodies or clothes would be ripped off their bodies, they would be lying back in a back position, their legs spread, especially in the case of very young girls. I'm talking girls as young as six, seven years of age, their vaginas would be split and swollen from obviously multiple gang rape, and then they would have been killed in that position. .. It seemed that everywhere we went, from the period of 19th April until the time we left, there was rape everywhere near these killing sites."</p> <p>m. In the testimony of witness UT page 7 of the 92bis statement where it is said: "Moreover, I used to see soldiers come in at night and abduct girls and young women. When they returned, they were exhausted. They said that soldiers raped them. They even said that there were cases where several soldiers raped the same woman. One of the girls returned so exhausted that she did not survive. Before she died, she said that so many soldiers had raped her that she could not recall the exact number. The soldiers wore camouflage uniforms and various types of headgear."</p> <p>n. In the testimony of witness EU page 2 of the 92bis statement where it is said: "Children 10 or 12 years of age were raped and later killed."</p> <p>o. In the testimony of witness LN pages 82-88 lines 26-06 in the English transcript of 30 March 2004 where it is stated: "She could not have been older than 13." "She was raped. I can't say more than that. It was in the open. It was not in the dark. It was not in a hidden place. She was simply raped, and when she was raped, he insulted her. She did not say anything, and this young girls' mother actually covered her face with a cloth."</p> <p>p. In the testimony of witness DCH pages 50-55 lines 8-18 in the English transcript of 22 June 2004.</p> <p>q. In the testimony of witness DAZ in the English transcript of 16 June 2004 and the documentary material exhibited by the Prosecutor P274 [92bis stmt].</p> <p>r. In the testimony of witness BY at pages 8-9 in the English transcript of 6 July 2004 where it is said: "Mr. President, I am not</p>
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	<p>going to hide from you the fact that within this context of protection within the context of war, there was frequently, between these women who were protected and the Interahamwe who were protecting them, there were quite frequent relations of a sexual nature." See also prosecution exhibit P287A [KV00-0397A].</p> <p>s. In the testimony of witness Nowrojee English transcript of 12 and 13 July 2004.</p>
<p>6.2 Following the crash of the President's plane, the <i>Forces Armees Rwandaises</i> were left without leadership. The President was dead, along with the Chief of Staff of the Rwandan Army, Colonel Deogratias Nsabimana. The Minister of Defence, Augustin Bizimana, and the Chief of Intelligence Services (G2) in the Rwandan Army, Colonel Aloys Ntiwiragabo, were on mission in the Republic of Cameroon. They returned to the country in the days that followed. Gratién Kabiligi, the officer in charge of operations (G3) in the Rwandan Army General Staff was also on mission in Egypt. In the absence of the Minister of Defence, Colonel Theoneste Bagosora, <i>directeur de cabinet</i>, asserted himself as the man of the moment capable of managing the crisis.</p>	<p>Examples of evidence led on this point, see evidence listed under indictment paragraphs 6.2-7 in the Bagosora Indictment Chart, to the they are referred to there.</p>
<p>6.3 On 7 April 1994, the Minister of Defence informed Gratién Kabiligi of the massacres perpetrated in the city of Kigali and ordered him to report back to the Headquarters as soon as possible. On his return, Gratién Kabiligi was briefed on the civilian and military situation.</p>	<p>An example of evidence led on this point appear in the evidence as follows:</p> <p>a. In the testimony of witness CE at pages 27-29 in the English transcript of 13 April 2004.</p>
<p>6.4 During the night of 6 to 7 April, a first meeting mainly of officers of the two General Staffs was held at the Rwandan Army Headquarters in Kigali military camp. The meeting was chaired by Colonel Theoneste Bagosora. During this meeting Colonel Theoneste Bagosora and other officers, including Major Kayumba, expressed their desire to take power. Despite the advice of certain people to involve Prime Minister Agathe Uwilingiyimana in managing the crisis, Colonel Theoneste Bagosora refused to consult her in any way, ceasing to acknowledge her authority.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <p>a. In the testimony of witness Reyntjens at pages 7-8, lines 37-16; 29, lines 10-15 of the English transcript of 17 September 2004, where it is said "It was suggested by some, a minority of officers present, and one of them was Lieutenant Colonel Kayumba that the military should cease power and this was explicitly rejected."</p> <p>b. In the testimony of witness Beardsley at pages 23-25 of the English transcript of 3 February 2004 where it is stated that "Theoneste Baosora said that Prime Minister Agathe had no credibility with the nation, that she could not lead the nation, and that these officers had to take control until the situation could be stabilized and handed over to the politicians."; and at pages 78-81 of the English transcript of 5 February 2004. [Emphasis added.] See</p>

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	<p>also pages 23-25 of the English transcript of 3 February 2004, and at pages 47-52 of the English transcript of 4 February 2004 where it is said "General Romeo Dallaire was fixated on Prime Minister Agathe speaking to the nation. The soldiers did not agree, sir. They repeatedly said no, absolutely not, in the sense of Col. Theoneste Bagosora [...] and Col. Theoneste Bagosora was adamant that the Prime Minister had no credibility in the nation and that she should speak to the nation [...]. He never went into anything, sir. He just said 'She has no legitimacy, she has no credibility with the nation, she is not fit to rule.'"</p> <p>c. In the testimony of witness Dallaire at pages 22-26 of the English transcript of 19 January 2004 where it is stated that "Well, when they responded, then [sic] repeatedly responded in such nature, my original concern about the fact that Col. Theoneste Bagosora was actually chairing this meeting only became more in evidence or stronger because it seemed to me that maybe in fact <i>they are conducting a coup.</i>" [Emphasis added.] See also ages 22-26 of the English transcript of 19 January 2004.</p> <p>d. In the documentary materials exhibited by the Defence, DB128B, pages 3-4 [K0249196-7] where it is indicated that "There was a group of officers who said that the military should take over power and another group which disagreed with the first, and rather supported a continuation of the peace process provided for in the Arusha Accords. <i>Bagosora was part of the first group, moreover, he was the one who put the idea forth.</i>" [Emphasis added.]</p> <p>e. In the documentary materials exhibited by the Defence, DB61B, page 7, para. 3 [K0127619] and DB10, pages 6-8 [K0233967-9].</p>
<p>6.5 In the early hours of the morning of 7 April 1994, the duty officer at the Rwandan Army headquarters, Major Kayumba, was informed that gunfire had been heard near the Prime Minister's residence. He told his interlocutor that he was aware of the situation, and said that: "<i>It's us trying to prevent the Prime Minister from going to the radio station.</i>"</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <p>a. In the testimony of witness XXJ at pages 18-22, lines 12-15 of the English transcript of 14 April 2004, where it is said "And from their conversations, I could hear Sagahutu say 'you must do everything you can to prevent that woman from going to speak—at the radio.'"</p> <p>b. In the testimony of witness DA at pages</p>

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	<p>17-25, 29-33 of the English transcript of 17 November 2003, at pages 77-81 of the English transcript of 8 December 2003.</p> <p>c. In the testimony of witness XXO in the English transcript of 21 November 2003.</p> <p>d. In the testimony of witness ATY at pages 22-25, lines 02-31 of the English transcript of 27 September 2004.</p> <p>e. In the testimony of witness DAK at pages 35-37, lines 04-06 of the English transcript of 7 November 2003.</p> <p>f. In the testimony of witness AE at pages 42-43, lines 28-20 of the English transcript of 16 December 2003.</p>
<p>6.7 In the morning of 7 April, another meeting of the FAR officers was held at the <i>Ecole Supérieure Militaire</i> (ESM); those participating included Major Aloys Ntabakuze, Major Francois-Xavier Nzuwonemeye and Lt. Col. Leonard Nkundiye. Also present were the commanding officers of the sectors of operation in Rwanda, the commanders of the military camps and officers of the General Staffs (AR and GN). The Commander of the Presidential Guard, Major Mpiranya, did not attend that meeting. Meanwhile, his men were already perpetrating massacres. The meeting was chaired by Colonel Theoneste Bagosora. He reiterated his position, maintaining that the military should take power. For the third time, Colonel Theoneste Bagosora refused that the Prime Minister be consulted, adding that he did not know if she was still alive.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness Dallaire at pages 36-41, lines 09-34 in the English Transcript of 19 January 2004 where it was said " It was in the morning of the 7th, around 10.30ish in the morning when I burst into the meeting chaired by Col. Theoneste Bagosora with General Augustin Ndindiliyimana to his side of all senior officers, commanders. I say "all" because the room was full of the government, and government forces and Gendarmerie Nationale."</p> <p>b. It is noted that the Defence proposed the truth of this issue to Prosecution witness DCB during the cross-examination at pages 43-46 lines 16-17 on 6 February 2004 English transcript where it was said "Now to conclude on this matter, sir between 10.00 and 12 noon, according to a number of witnesses Colonel Theoneste Bagosora was in a meeting at the military academy, Ecole supérieure militaire, with all the heads of the Gendarmerie Nationale and the army, including a Canadian General. What would be your view or what would you say to that?"</p> <p>c. It is further noted that the Defence proposed the truth of this matter to witness DBQ during cross-examination at pages 16-17 in the English transcript of 30 September 2003.</p> <p>d. In the documentary evidence exhibited by the Defence as DB61B, pages 7-8 [K0127619-20].</p>
<p>6.8 While this meeting was going on, Prime Minister Agathe Uwilingiyimana was tracked down, arrested, sexually assaulted and killed by Rwandan</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness Beardsley at</p>

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Army personnel, more specifically members of the Para-Commando Battalion of Major Ntabakuze, Presidential Guard, and the Reconnaissance Battalion. Concurrently, members of the same units arrested, confined and killed important opposition leaders and prominent figures in the Tutsi community. Hence, the following were killed: the President of the Constitutional Court, the Chairman of the PSD party and Minister of Agriculture, the Vice-chairman of the PL party and Minister of Labor and Community Affairs, as well as a member of the Political Bureau of the MDR, the Minister of Information. That same morning, the ten Belgian para-commandos from UNAMIR who were dispatched to the Prime Minister residence to escort her to the radio were murdered at Kigali military camp.

pages 53-58, lines 02-04 of the English transcript of 4 February 2004 where it is said: "[...] and on the other side extremist officers, specifically in the Presidential Guard, the Paracommando Battalion, Reconnaissance Battalion and those officers around Col. Theoneste Bagosora who seemed to be intent upon wrecking the Arusha Peace Agreement and resuming hostilities with the Rwandan Patriotic Front in addition to killing moderate politicians and others."

- b. In the testimony of witness Dallaire at pages 28-31, lines 12-31 of the English transcript of 23 January 2004 where it is said: "Q. General, from what witness AE testified in this case, it seems that witness said that among the people who killed Agathe, there were members apparently of the Presidential Guard, but there were people from other units, and even the person who shot her was a lieutenant of the Gendarmerie Nationale who had been trained at the Ecole Superieure Militaire....
A. I agree with you, because according to my report, there were almost 40 soldiers who went straight to the point..."
- c. In the testimony of witness Kavaruganda at pages 20-22 and at page 37, lines 02-19 of the English transcript of 27 November 2003 where it is stated: "At our residence I saw many soldiers, they were not all soldiers of the Presidential Guard. Some of them were commandos and two of them asked our daughter, 'Do we not know you in our camp in Kanombe?' and she answered, 'No, I have never been to that camp.' And that Kanombe camp was a camp that was reserved for Paracommando Battalion."
- d. In the testimony of witness XAO at pages 1-5 in the English transcript of 12 November 2003.

6.9 The elimination of political opponents made it possible to set aside the establishment of the Broad-Base Transition Government (BBTG), stipulated in the Arusha Accords, in favour of an Interim Government. The murder of the Belgian soldiers prompted the withdrawal of most of UNAMIR's contingents. Those two events removed the two major obstacles to the pursuit of the massacres.

Examples of evidence led on this point appears in the evidence as follows:

- a. In the testimony of witness Reyntjens at pages 24-25 of the English transcript of 15 September 2004.
- b. In the testimony of witness De Forges at pages 44-45 and 51-53 of the English transcript of 18 September 2002.
- c. In the testimony of witness Beardsley at page 78 in the English transcript of 4

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	<p>February 2004.</p> <p>d. In the testimony of witness Reyntjens at pgs 16-20 in the English transcript of 15 September 2004.</p> <p>e. In the testimony of witness Dallaire at pgs 64-67, lns 29-05 English transcript of 19 January 2004.</p> <p>f. In the documentary materials exhibited by the Prosecution as P32, P 149 page 103, p. 1-2 [News from Belgium] and P170.</p> <p>g. In the documentary materials exhibited by the Defence as DB47 page 103, p. 1-2 [News from Belgium], and as DNT33, page 251, where it is stated that "Out of the blue, Bagosora suddenly volunteered that there was something I should think about: it might be best to get the Belgians out of UNAMIR and out of Rwanda because of the rumours that they had shot down the presidential plane."</p>
<p>6.10 Making up for the failure of the attempt at a military takeover by certain military personnel, Colonel Theoneste Bagosora and the leaders of the MRND put in place an Interim Government which would aid and abet the continuation of the massacres.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness ON pgs 60-62, lns 18-03 of the English transcript of 27 April 2004 where it is stated: " And the Atabazi government was established by Col. Theoneste Bagosora, the prime minister was Kambanda, and its mission was to exterminate Tutsis and to fight against the Rwandan Patriotic Front. That was its main mission.</p> <p>b. In the testimony of witness Forges pgs 46-47,89-91, of the English transcript of 18 September 2002 where it is stated:"[...] so this is a reflection of the struggle which was taking place within the army as Col. Theoneste Bagosora and his supporters attempted to wrest control of the situation and where elements of the opposing military officers attempted to refuse him the opportunity to take control of the situation. Thwarted by the refusal of his fellow officers to yield to him ultimate control, he then reluctantly agreed to the installation of a new Civilian government which helped to shape and determine the nature of. This new government was exclusively a Hutu power government."</p> <p>c. In the testimony of witness BY at pages 43-48 of the English transcript of 2 July 2004, and at pages 6-10, 16-18, and 48-50 of the English transcript of 5 July 2004.</p> <p>d. In the testimony of witness A at pages 45-</p>

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	<p>48, 62-67, 69-70, 80-81 of the English transcript of 1 June 2004, and pages 22-23 of the English transcript of 4 June 2004 where it is indicated "When the government moved to Gitarama, the massacres spread to Gitarama and then there were the visits of the members of the government to the various prefectures which were designed to incite the people to begin the massacres. I can give you the example of [Butare] where I was around 19 April 1994. In Butare, right up until the [19] of April 1994, there was no massacres perpetrated at all, and these massacres began when the president of the republic came to Butare with the prime minister. They replaced the <i>prefet</i> who was there and who was a Tutsi and, that very same night, following the replacement of the <i>prefet</i>, the massacres began immediately in Butare, so I realised that, when the population had to be incited, the members of the government went to the various prefectures to incite the population to carry out massacres.</p> <p>e. In the testimony of witness AAA at pages 12-14, 17-21, 54-56, 66-70 of 14 June 2004, pages 33-45 of 15 June 2004.</p> <p>f. In the testimony of witness Beardsley at pages 87-89 of the English transcript of 5 February 2004.</p> <p>g. In the testimony of witness Serushago at pages 13-14, 47 of the English transcript of 18 June 2003.</p> <p>h. In the documentary materials exhibited by the Prosecution as P45, P49 and P6A [K0157912] where the following is stated in the last mentioned exhibit: "On the other hand, Butare and Cyangugu remained calm for more than a week and were not caught up into the cycle of violence until their prefects had been dismissed and replaced by Hutu extremists. Concordant and reliable witnesses have stated that the new President of the Republic went to Butare to urge the Hutu population to engage in massacres. In Cyangugu, despite the delay, the number of persons massacred on 20 April reached, according to certain witnesses, some 15.0000. It is alleged that Armed Forces blocked all the roads leading to Zaire to prevent the survivors from escaping and the Prefect is alleged to have said that he received "orders from above" to that effect.</p>
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<p>6.11 UNAMIR was established in order to facilitate the peaceful establishment of the institutions foreseen under the Arusha Accords. This United Nations military force was perceived as an obstacle by certain members of the extremist political circles. Certain eminent figures in this circle thus adopted a strategy intended to provoke the Belgian military contingent, UNAMIR's most effective and best-equipped contingent. Their ultimate goal was to force them to withdraw.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Dallaire at pages 23-24 of the English transcript of 20 January 2004; pages 25-26 of the English transcript of 21 January, pages 4-8 of the English transcript of 22 January 2004. b. In the testimony of witness Beardsley, pages 29-30 and 43-44 of the English transcript of 30 January 2004, pages 77-78 of the English transcript of 4 February 2004. c. In the documentary materials exhibited by the Defence as DNT33, page 251, where it is stated that "Out of the blue, Bagosora suddenly volunteered that there was something I should think about: it might be best to get the Belgians out of UNAMIR and out of Rwanda because of the rumours that they had shot down the presidential plane." d. In the documentary materials exhibited by the Prosecution as P33B at pages 10-11 [K0240160-1]. e. See also evidence listed in respect of indictment paragraphs 6.12-6.17 onwards.
<p>6.12 Hence, a propaganda campaign against the Belgians was run, notably with the aid of the media, such as <i>Radio Television Libre des Mille Collines (RTL)</i> and the newspaper <i>Kangura</i>.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Dallaire at pages 66-67 of the English transcript of 19 January 2004; pages 4, 23-24, and 38 of the English transcript of 20 January 2004; pages 59-60 of the English transcript of 27 January 2004. b. In the testimony of witness Beardsley at page 29-30 of the English transcript of 30 January 2004; page 85 of the English transcript of 3 February 2004, and page 78 of the English transcript of 4 February 2004. c. In the testimony of witness LN at pages 57-60 of the English transcript of 30 March 2004. d. In the testimony of witness Hutsebaut at page 21 of the English transcript of 2 December 2003. e. In the testimony of witness DesForges at page 20 of the English transcript of 16 September 2002. f. In the documentary materials exhibited by the Prosecution as P33B at pages 10-11 [K0240160-1] and as P252C at pages 10 and 32 [K0273279/3301].

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	<p>g. In the testimony of witness Nowrojee at page 73-83 of the English transcript of 12 July 2004.</p>
<p>6.13 On 7 January 1994, Mathieu Ngirumpatse, Augustin Bizimana, Augustin Ndindiliyimana, Deogratias Nsabimana, Robert Kajuga and other influential MRND members participated in a meeting at the MRND headquarters. On that occasion, they decided to provoke the Belgians by various means, notably during the demonstration which was to take place on 8 January 1994.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness Dallaire at page 47 of the English transcript of 19 January 2004; pages 8-9 in the English transcript of 20 January 2004, pages 14-16, 23-24 of the English transcript of 22 January 2004; page 4 of the English transcript of 26 January 2004. b. In the testimony of witness Beardsley at pages 75-76 of the English transcript of 4 February 2004. c. In the testimony of witness Claeys at pages 49-52 of the English transcript of 7 April 2004. d. In the documentary materials exhibited by the Prosecution as P3, specifically at K022-9234, and P33Bat pages 10-11 [K0240160-1].
<p>6.14 Indeed, on 8 January 1994, a number of <i>Interahamwe</i> and elements of the Para-Commando Battalion and the Presidential Guard in civilian clothes participated in the said demonstration. They had hidden weapons in the vicinity of the demonstration with the intent to kill some Belgian UNAMIR soldiers. Finally, no Belgian UNAMIR patrol was sent to the scene.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness Dallaire at pages 21-23 in the English transcript of 20 January 2004, where it is stated that: "There was an attempt on the 8th to do it again, but that attempt did not succeed because of impossibilities on one side of people to get to the site, and I speak specifically -- I mean, we had some of the PL members even in a bus, and that bus couldn't make it through. We had people in all types of checkpoints escorting, and the crowds were just so massive and so anti. And at that time we recognised Presidential Guard -- that is, my staff recognised Presidential Guard, people in Civilian at the main gate also creating havoc because there was a large gathering there...The Interahamwe were, again, recognised, but were not in uniform. So all kinds of comments could be said in that light, but there were strong instigators who were leading these Demonstrations." See also pages 72-74 of the English transcript of 26 January 2004. b. In the testimony of witness Beardsley at pages 75-76 of the English transcript of 4 February 2004; at page 72 of the English transcript of 5 February 2004; c. In the testimony of witness Claeys at pages

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	<p>58 of the English transcript of 7 April 2004.</p> <p>d. In the documentary materials exhibited by the Prosecution as P3, the plan to target the UNAMIR is discussed, specifically at K022-9234, and P33B at pages 10-11 [K0240160-1].</p> <p>e. In the documentary materials exhibited by the Defence as DB80 at pages 3/11-4/11.</p>
<p>6.15 In the night of 6 to 7 April 1994, a number of Belgian military personnel were ordered to go to the Prime Minister's residence and to escort her to the national radio station, where she was to make an address. When they arrived at the Prime Minister's residence at around 5:00 a.m., they were attacked by FAR personnel, including elements from the Paracommando Battalion, the Presidential Guard and the Reconnaissance Battalion. Later, the ten Belgian paracommandos, along with the five Ghanaian soldiers who were guarding the Prime Minister, were disarmed and arrested. Despite the terms under which their surrender was negotiated and the promise to take them to a UNAMIR base, the Belgian and Ghanaian soldiers were taken to Kigali military camp by Major Bernard Ntuyahaga.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness Beardsley at pages 53-58, lines 02-04 of the English transcript of 4 February 2004 where it is said: "[...] and on the other side extremist officers, specifically in the Presidential Guard, the Paracommando Battalion, Reconnaissance Battalion and those officers around Col. Theoneste Bagosora who seemed to be intent upon wrecking the Arusha Peace Agreement and resuming hostilities with the Rwandan Patriotic Front in addition to killing moderate politicians and others."</p> <p>b. In the testimony of witness Dallaire at pages 28-31, lines 12-31 of the English transcript of 23 January 2004 where it is said: " Q. General, from what witness AE testified in this case, it seems that witness said that among the people who killed Agathe, there were members apparently of the Presidential Guard, but there were people from other units , and even the person who shot her was a lieutenant of the Gendarmerie Nationale who had been trained at the Ecole Superiure Militaire.... A. I agree with you, because according to my report, there were almost 40 soldiers who went straight to the point..."</p>
<p>6.16 As soon as they arrived at Camp Kigali at around 9:00 a.m., the UNAMIR soldiers were attacked and beaten by Rwandan soldiers in front of Rwandan Army officers. Four of the Belgian soldiers were killed instantly. Meanwhile, the Ghanaian soldiers were set free. The six remaining Belgian soldiers withstood several attacks over some hours before finally being killed</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <p>a. In the testimony of witness XAF in the English transcript of 9 February 2004.</p> <p>b. In the testimony of witness CE in the English transcript of 13 April 2004.</p> <p>c. In the testimony of witness AH in the English transcript of 19 and 20 February 2004.</p> <p>d. In the testimony of witness DA 17-19 November 2003.</p>
<p>6.17 Due to the anti-Belgian propaganda and the</p>	<p>An examples of evidence led on this point appears</p>

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<p>murder of the ten Belgian para-commandos, Belgium informed the Security Council on 13 April 1994 that it was withdrawing its contingent from Rwanda. A week later, the Security Council ordered a drastic reduction of UNAMIR's civilian and military personnel.</p>	<p>in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Reyntjens at pages 17-20 of the English transcript of 15 September 2004. b. In the documentary materials exhibited by the Prosecution as P149 and the Defence as DB47, page 103, p. 1-2 [under "News from Belgium"] [K0269717]. c. In the documentary materials exhibited by the Defence as DNT33, page 251, where it is stated that "Out of the blue, Bagosora suddenly volunteered that there was something I should think about: it might be best to get the Belgians out of UNAMIR and out of Rwanda because of the rumours that they had shot down the presidential plane."
<p>6.18 As from 7 April 1994, massacres of the Tutsi population and the murder of numerous political opponents were perpetrated throughout the territory of Rwanda. These crimes, which had been planned and prepared for a long time by prominent civilian and military figures who shared the extremist Hutu ideology, were carried out by militiamen, military personnel and gendarmes on the orders and directives of some of these authorities, including Major Aloys Ntabakuze and Brigadier General Gratien Kabiligi.</p>	<p>For examples of evidence led on this point, see evidence listed in respect of indictment paragraphs 5.1-5.36 and 6.19 onwards.</p>
<p>6.19 As of the night of 6 to 7 April, in the capital, elements of the Para-Commando Battalion and Presidential Guard set up roadblocks, reinforced with armored vehicles, on the major roads, controlling people's movements. Concurrently, groups of soldiers scoured the city and murdered civilians.</p>	<p>An examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Beardsley at pages 30-33 of the English transcript of 3 February 2004 b. In the testimony of witness Dallaire at pages , 29-31 of the English transcript of 19 January 2004, 28-31, 45-48 of the English transcript of 20 January 2004, at pages 62-63 of the English transcript of 22 January 2004, at pages 28-31 of the English transcript of 23 January 2004. c. In the testimony of witness AE at pages 37-43 of the English transcript of 16 December 2003. d. In the testimony of witness Reyntjens at pages , 25-32 of the English transcript of 15 September 2004. e. In the documentary materials exhibited by the Prosecution as P170 [L00002824], P5, pages 10-11 [K0014186-7]. f. In the testimony of witness XAB at pages 38-41 in The English transcript of 6 April 2004. g. In the documentary material exhibited by

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	the Ntabakuze defense DNT33 (Page 257 of Dallaire's Book)
<p>6.20 In the night of 6 to 7 April, at the meeting of the officers of the General Staff, UNAMIR's Commander in Chief recommended that the militias remain calm and that the Presidential Guard battalion return to camp. Colonel Theoneste Bagosora, who chaired the meeting, assured him of his cooperation. Moreover, General Augustin Ndindiliyimana agreed to strengthen the joint Gendarmerie-UNAMIR patrols in view of the situation. He did not subsequently give any orders to that effect.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Dallaire at pages, 26-28, 34-35 of the English transcript of 19 January 2004, page 64 of the English transcript of 22 January 2004. b. In the testimony of witness Beardsley at pages 23-25 of the English transcript of 3 February 2004. c. In the testimony of witness XXQ at pages 32-34 of the English transcript of 12 October 2004. d. In the testimony of witness KJ at pages 56-60 of the English transcript of 19 April 2004.
<p>6.21 During the said meeting, Colonel Theoneste Bagosora withdrew several times to an adjacent room to receive calls. During this period, Colonel Theoneste Bagosora talked on the phone with Lieutenant-Colonel Anatole Nsengiyumva. Immediately following the said conversation, Lieutenant-Colonel Anatole Nsengiyumva gave the order to begin the massacres in Gisenyi.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness ZF at pages 38-46 and 64-67 of the English transcript of 28 November 2002.
<p>6.22 Despite Colonel Theoneste Bagosora's reassurances, militiamen set up roadblocks of their own or joined those manned by personnel of the Presidential Guard, the Para-Commando Battalion and the Reconnaissance Battalion. At these places, people's identities were checked, notably by means of verification of identity cards, and the Tutsi or those identified as such were summarily executed.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness DA at pages 21-22 of the English transcript of 17 November 2003 and at pages 4-6 of the English transcript of 19 November 2003. b. In the testimony of witness Dallaire at pages 45-48 of the English transcript of 20 January 2004. c. In the testimony of witness XXC at page 17 of the English transcript of 17 September 2003 d. In the testimony of witness DAS at pages 12-16 of the English transcript of 5 November 2003. e. In the testimony of witness DBN at pages 49-52 of the English transcript of 1 April 2004. f. In the testimony of witness XAB at pages 38-41 of the English transcript of 6 April 2004. g. In the testimony of witness BL at pages 11-12 of the English transcript of 4 May 2004. h. In the testimony of witness DBQ at pages 9-14 of the English transcript of 25 February 2004.

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	<p>i. In the documentary materials exhibited by the Prosecution as P5 [K0014187].</p>
<p>6.23 On the 7 April, an official representative of the RPF and certain FAR officers asked Col. Theoneste Bagosora and Augustin Ndindiliyimana, as well as the General Staff of the Rwandan Army, to control the military personnel, notably the Presidential Guard, who were murdering civilians.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness Dallaire at pages 43-47, 86 of the English transcript of 19 January 2004, pages 5-8 of the English transcript of 23 January 2004, and at pages 46-49 of the English transcript of 27 January 2004.</p>
<p>6.24 Following the meeting of the morning of 7 April 1994, Colonel Theoneste Bagosora flouted these requests and ordered Major Aloys Ntabakuze, Commander of the Para-Commando Battalion, Major Francois-Xavier Nzuwonemeye, Commander of the Reconnaissance Battalion, and Lieutenant-Colonel Leonard Nkundiye, former Commander of the Presidential Guard, to proceed with the massacres. On the same day, on the orders of Colonel Theoneste Bagosora, groups of soldiers, including elements of the Presidential Guard and of the Para-Commando Battalion, proceeded to carry out selective assassinations of people whose names were on a list.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness Reyntjens at pages 25-32 of the English transcript of 15 September 2004.</p>
<p>6.26 With Colonel Theoneste Bagosora's communique, broadcast by radio the same day, asking people to remain at home and await further instructions, the process of elimination of the civilian Tutsi and the moderate Hutu population by military personnel and militiamen was facilitated.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness A at pages 45-48 of the English transcript of 1 June 2004.</p> <p>b. In the testimony of witness AS at page 11 of the English transcript of 3 September 2003.</p> <p>c. In the testimony of witness DBJ at page 4 of the English transcript of 24 November 2003.</p> <p>d. In the testimony of witness XBH at pages 30-31 of the English transcript of 3 July 2003.</p> <p>e. In the testimony of witness DBN at page 54 of the English transcript of 1 April 2004.</p> <p>f. In the testimony of witness ABQ at page 4 of the English transcript of 6 September 2004.</p> <p>g. In the testimony of witness CW at pages 7-11 of the English transcript of 8 October 2004.</p> <p>h. In the testimony of witness HU at pages 5-6 of the English transcript of 4 September 2003.</p> <p>i. In the testimony of witness DA at page 22-23 of the English transcript of 17 November 2003.</p> <p>j. In the testimony of witness BL at pages 2-6</p>

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	<p>of the English transcript of 4 May 2004.</p> <ul style="list-style-type: none"> k. In the testimony of witness WB at page 31-33 of the English transcript of 3 November 2003. l. In the testimony of witness XBG at pages 36-37 of the English transcript of 8 July 2003. m. In the testimony of witness OQ at page 9-10 of the English transcript of 16 July 2003. n. In the testimony of witness BJ at pages 5-6 of the English transcript of 15 April 2004. o. In the testimony of witness BY at page 47-48 of the English transcript of 5 July 2004. p. In the testimony of witness UT at page 3 of her 92bis stmt.
<p>6.27 On 8 April 1994, at a general assembly, the Commander of the Para-commando Battalion, Aloys Ntabakuze, ordered his soldiers to "<i>avenge the death of President Habyarimana by killing the Tutsi</i>". Further, he encouraged his troops by confirming that certain Tutsi and their "<i>politician accomplices</i>" had been killed. Indeed, several opposition leaders had been assassinated the previous day.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness XAP at pages 29-32 in the English transcript of 11 December 2003. b. In the testimony of witness XAQ at pages 23-26 in the English transcript of 23 February 2004. c. In the testimony of witness XAI at pages 41-44 in the English transcript of 8 September 2003. d. In the testimony of witness DBQ at pages 21-23 in the English transcript of 23 September 2003. e. In the testimony of witness DP at pages 12-14 in the English transcript of 2 October 2003. f. In the testimony of witness BC at pages 34-37 in the English transcript of 1 December 2003 g. In the testimony of witness DBN at pages 75-81 in the English transcript of 31 March 2004. h. In the testimony of witness LN at pages 63-70 in the English transcript of 30 march 2004.
<p>6.28 Thereafter, commanders of the Presidential Guard, of the Para-Commando Battalion, Major Aloys Ntabakuze, and of the Reconnaissance Battalion were in communication with Colonel Theoneste Bagosora sometimes using a separate radio network.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness ZF at pages 17-18 of the English transcript of 27 November 2002, and page 80 of the English transcript of 28 November 2002. b. In the testimony of witness Dallaire at pages 54-59 of the English transcript of 19 January 2004. c. In the documentary material exhibited by the Prosecution as P166 [still image 2 [at

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	<p>04:04] and 3 [at 06:59]]</p> <p>d. In the testimony of witness DA at pages 21-22 of the English transcript of 17 November 2003, at pages 75-81, 87-89 of the English transcript of 8 December 2003.</p> <p>e. In the testimony of witness BJ, English transcript of 15 April 2004.</p> <p>f. In the testimony of witness DesForges at pages 51-53 of the English transcript of 18 September 2002.</p> <p>g. In the testimony of witness Reyntjens at pages 25-32 of the English transcript of 15 September 2004, and at page 58 in the English transcript of 17 September 2004.</p>
<p>6.29 From April to July 1994, Brigadier-General Gratién Kabiligi, Chief of military operations in the Rwandan Army regularly met with the commander of the Presidential Guard, Protais Mpiranya, and the Commander of the Para-Commando Battalion, Aloys Ntabakuze and also with Colonel Theoneste Bagosora.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness DY at pages 19-23 of the English transcript of 16 February 2004.</p> <p>b. In the testimony of witness DBQ at pages 9-14 in the English transcript of 25 February 2004.</p> <p>c. In the documentary materials exhibited by the Defence as DB61B page 14-15 [K0127626-7].</p>
<p>6.30 During the massacres, Brigadier-General Gratién Kabiligi encouraged and supported the militiamen who were murdering Tutsi civilians and ordered his men to use the <i>Interahamwe</i> at the roadblocks. Moreover, in mid-April 1994, Gratién Kabiligi ordered the murder of a soldier in the <i>Forces Armies Rwandaises</i> of Tutsi descent, as well as certain members of his family.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness DY at pages 19-23, 28-32, 35-39-47, 53-57 of the English transcript of 16 February 2004 and pages 45-49 of the English transcript of 22 January 2004.</p> <p>b. In the testimony of witness DCH at pages 83-88 in the English transcript of 23 June 2003</p> <p>c. In the testimony of witness HN in the English transcript of 24 February 2004.</p>
<p>6.31 From April to July 1994, their statements, the orders they gave and their acts, Brigadier General Gratién Kabiligi and Major Aloys Ntabakuze, exercised authority over members of the <i>Forces Armies Rwandaises</i>, their officers and militiamen. The military and militiamen, as from 6 April 1994, committed massacres of the Tutsi population and of moderate Hutu which extended throughout Rwandan territory with the knowledge of Brigadier General Gratién Kabiligi and Major Aloys Ntabakuze.</p>	<p>For examples of evidence, see references provided in respect of indictment paragraphs 4.1-4.8, 6.1-6.42, to the extent they are referred to in this chart.</p>
<p>6.32 The massacres of members of the Tutsi population and the murder of the moderate Hutu extended throughout the territory of Rwanda. In every <i>prefecture</i>, local civil and military authorities</p>	<p>For examples of evidence, see references provided in respect of indictment paragraphs 6.34-6.42 to the extent they are referred to in this chart.</p>

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<p>and militiamen espoused the plan of extermination and followed the directives and orders in order to execute it. They called on the civilian population to eliminate the enemy and its "accomplices". They distributed weapons to civilians and militiamen. They gave orders to commit, aided, abetted and participated in the massacres.</p>	
<p>6.33 From April to July 1994, in all the regions of the country, members of the Tutsi population who were fleeing from the massacres on their hills sought refuge in locations they thought would be safe, often on the recommendation of the local civil and military authorities. In many of these places, despite the promise that they would be protected by the local civil and military authorities, the refugees were attacked, abducted and massacred, often on the orders or with the complicity of those same authorities.</p>	<p>For examples of evidence, see references provided in respect of indictment paragraphs 4.1-4.8, 6.1-6.42, to the extent they are referred to in this chart See also the following evidence</p> <ul style="list-style-type: none"> a. In the testimony of witness DesForges at pages 29, 36-37 in the English transcript of 10 September 2002, at pages 20-21, 86-87, 102-105, 114-117 in the English transcript of 18 September 2002. b. In the documentary materials exhibited by the Prosecution as P50. c. In the testimony of witness A at pages at page 62-69, 77-77 in the English transcript of 1 June 2004, at pages 22-25 in the English transcript of 4 June 2004. d. In the testimony of witness Reyntjens at pages 2-4 in the English transcript of 16 September 2004. e. In the testimony of witness XXY at pages 2-6, 14-15, 17, 19, 22-25, 30-32 in the English transcript of 11 June 2004. f. In the testimony of witness XAI at pages 54-59 in the English transcript of 8 September 2003, and pages 13-16 in the English transcript of 9 September 2003. g. In the testimony of witness UT, 92bis stmt, page 7. h. In the testimony of witness DAZ at pages 3, 5, of 92bis stmt. i. In the testimony of witness DCH at pages 65-76 in the English transcript of 22 June 2004. j. In the testimony of witness XBM at pages 24-28 in the English transcript of 14 July 2003. k. In the testimony of witness DY at pages 53-57 in the English transcript of 16 February 2004. l. In the testimony of witness KJ at pages 30-31, 37-48, 56-60, 63-69 in the English transcript of 19 April 2004, at pages 64-66 in the English transcript of 20 April 2004. m. In the testimony of witness LAI at pages 18-19, 34-36 in the English transcript of 31 May 2004. n. In the testimony of witness Serushago at pages 41-44 in the English transcript pf 18 June 2003.

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	<ul style="list-style-type: none"> o. In the testimony of witness ABQ at pages 28-35 in the English transcript of 6 September 2004. p. In the testimony of witness ZF at pages 82-84 in the English transcript of 28 November 2002. q. In the testimony of witness Dallaire at pages 84-85 in the English transcript of 19 January 2004, at page 31-33, 58-60 in the English transcript of 20 January 2004. r. In the testimony of witness Beardsley at pages 38-40 in the English transcript of 30 January 2004., 42-48 in the English transcript of 3 February 2004, pages 53-58 in the English transcript of 4 February 2004, and pages 82-89 in the English transcript of 5 February 2004 s. In the testimony of witness XXH at pages 29-34, 36-28, 38-47 in the English transcript of 4 May 2004. t. In the documentary materials exhibited by the Defence as DK42 [K0059170-223]. u. In the testimony of witness EU, 92bis stmt, pages 1-3. v. In the testimony of witness XXJ at pages 84-85 in the English transcript of 14 April 2004. w. In the testimony of witness DBN at pages 60-64 in the English transcript of 1 April 2004. x. In the testimony of witness LN at pages 80-88 in the English transcript of 30 March 2004. y. In the testimony of witness DBQ at pages 23-29 in the English transcript of 23 September 2003, at page 15 in the English transcript of 25 February 2004. z. In the testimony of witness XXC at pages 15-16, 23-24 in the English transcript of 17 September 2003. aa. In the testimony of witness DW at pages 63-65 in the English transcript of 4 September 2003. bb. In the testimony of witness HU at pages 12-17 in the English transcript of 4 September 2003. cc. In the testimony of witness DP at pages 19-23 in the English transcript of 3 October 2003. dd. In respect of massacres of the Tutsi population in Gisenyi prefecture, see references in respect of the Nsengiyumva Indictment Chart
6.34 By virtue of the fact that Kigali was the capital	For examples of evidence, see references provided

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<p>of Rwanda, seat of the Government, the place where the elite units of the Rwandan Army were based and where the headquarters for both the Army and the Gendarmerie were situated, several of the military and civilian figures who had planned and organized the massacres played a leading role in carrying out the massacres in Kigali.</p>	<p>in respect of indictment paragraphs 6.8, 6.18-6.42, to the extent they are referred to in this chart</p>
<p>6.35 On at least two occasions, Tharcisse Renzaho, <i>Prefect of Kigali</i>, who was also an officer on active service in the Rwanda Army, sent the <i>conseillers de secteur</i> and political leaders to collect weapons and ammunition from the Army headquarters in order to distribute them at the roadblocks. Those roadblocks were used to exterminate the Tutsi population and eliminate its "accomplices". Subsequently, Tharcisse Renzaho continued to distribute weapons to the <i>Interahamwe</i>.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness A at page 83 of 1 June 2004. b. In the testimony of witness AAA at pages 12-14, 17-21, 54-56 of 14 June 2004, pages 33-45 of 15 June 2004. c. In the documentary material exhibited by the Prosecution as P39B [L0016752]. d. In the testimony of witness BY at pages 48-50 of 5 July 2004. e. In the testimony of witness XXY at pages 14-15 of the English transcript of 11 June 2004. f. On the testimony of witness DBN at pages 58-61 in the English transcript of 1 April 2004
<p>6.36 Starting on 7 April, in Kigali, elements of the Rwandan Army, Gendarmerie and <i>Interahamwe</i> perpetrated massacres of the civilian Tutsi population. Concurrently, elements of the Presidential Guard, Para-Commando Battalion and Reconnaissance Battalion murdered political opponents. Numerous massacres of the civilian Tutsi population took place in places where they had [sought] refuge for their safety.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness DW in the English transcript of 4 September 2003. b. In the testimony of witness FW in the English transcript of 3 and 4 November 2003. c. In the testimony of witness BL in the English transcript of 4 May 2004. d. In the testimony of witness DBJ in the English transcript of 24 and 25 November 2003. e. In the testimony of witness WB in the English transcript of 12 and 13 November 2003. f. In the testimony of witness CE in the English transcript of 9 June 2004 and 92bis stmt. g. In the testimony of witness DBQ in the English transcript of 23, 26, 29, and 30 September 2003. h. In the testimony of witness DP in the English transcript of 2 and 3 October 2003. i. In the testimony of witness ZA in the English transcript of 12 February 2004. j. In the testimony of witness ET in the English transcript of 18 November 2003. k. In the testimony of witness DAN, 92bis stmt.

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	<ul style="list-style-type: none"> i. In the testimony of witness XAB in the English transcript of 6 and 7 April 2004 (to the extent it relates to members of the Paracommando battalion being involved in events at Centre Christus). m. In the testimony of witness DCH at pages 83-88 in the English transcript of 23 June 2003 n. In the testimony of witness DBN at pages 64-69 in the English transcript of 1 April 2004. o. In the testimony of witness AAA at pages 7-10, 29-30 in the English transcript of 15 June 2004
<p>6.37 As of 7 April 1994, many Tutsis sought refuge at the <i>Ecole Technique Officielle (ETO)</i>, under the protection of UNAMIR, to escape the attacks against them. On 11 April 1994, immediately following the retreat of the UNAMIR Belgian contingent based at ETO, soldiers, including elements of the Presidential Guard, and <i>Interhamwe</i> rounded up a group of refugees and moved them to Nyanza. Theoneste Bagosora was present at the time. After forcing them to walk for two kilometres, the soldiers massacred the refugees. The survivors were dispatched by militiamen on the soldiers' orders.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness AR in the English transcripts of 30 September 2003 and 1 October 2003. b. In the testimony of witness AFJ in the English transcript of 8 June 2004. c. In the testimony of witness DR at pages 15-24 of the English transcript of 30 April 2004. d. In the testimony of witness XAB at pages 38-41, in the English transcript of 6 April 2004. e. In the testimony of witness DesForges at pages 53-58 in the English transcript of 18 September 2002.
<p>6.38 From May to June 1994, soldiers under the orders of Brigadier-General Gratien Kabiligi checked the identities and took down the names of people recognized as being Tutsi who had taken refuge in a house across from Saint-Andre school, in Kigali. On 8 June 1994, these soldiers surrounded the house, forced the occupants out and shot them to death.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness XXJ at pages 45-58 of the English transcript of 14 April 2004, pages 7-13, 21-24 of the English transcript of 16 April 2004. b. In the testimony of witness DBQ at pages 2-7, 9-14 of the English transcript of 25 February 2004, pages 7-13, 21-24 of the English transcript of 16 April 2004. c. In the documentary materials exhibited by the Prosecution and the Defence as P268 and DK37 pages K0091057-59 and K0091066.
<p>6.39 On 7 April 1994, soldiers and militiamen came to the Mosque. The soldiers demanded that the refugees identify themselves with their identification cards. When the refugees refused, the soldiers attacked the mosque, shooting and killing many people. Afterwards, the refugees, the majority</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness HU in the English transcript of 4 September 2004.

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<p>of whom were Tutsi, were forced to surrender their traditional weapons and the militiamen then attacked them in the presence of the soldiers. Several people died in the attack.</p>	
<p>6.40 The country's civil and military leaders became aware of the exceptional situation in Butare. They took the necessary steps for the Tutsis to be eliminated. Moreover, elements of the Army and <i>Interahamwe</i> militiamen were sent in from Kigali as reinforcements to start the massacres.</p>	<p>Examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness A at pages 45-48, 62-67, 69-70, 80-81 of the English transcript of 1 June 2004, and pages 22-23 of the English transcript of 4 June 2004 where it is indicated "I can give you the example of [Butare] where I was around 19 April 1994. In Butare, right up until the [19] of April 1994, there was no massacres perpetrated at all, and these massacres began when the president of the republic came to Butare with the prime minister. They replaced the <i>prefet</i> who was there and who was a Tutsi and, that very same night, following the replacement of the <i>prefet</i>, the massacres began immediately in Butare, so I realised that, when the population had to be incited, the members of the government went to the various prefectures to incite the population to carry out massacres. b. In the testimony of witness Reyntjens at pages 2-4 in the English transcript of 16 September 2004.
<p>6.41 On 20 April 1994, two military planes landed in Butare with numerous Presidential Guard and Para-Commando Battalion soldiers on board. These soldiers, in tandem with the <i>Interahamwe</i> of Butare and elsewhere, took part in murdering and massacring civilians, notably the former Queen of Rwanda, Rosalie Gicanda, a historical symbol for all Tutsi.</p>	<p>An examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness A at pages 45-48, 62-67, 69-70, 80-81 of the English transcript of 1 June 2004, and pages 22-23 of the English transcript of 4 June 2004 b. In the testimony of witness Reyntjens at pages 2-4 in the English transcript of 16 September 2004.
<p>6.42 Between April and June 1994, several people found refuge at the secondary nursing school in Kabgayi, Gitarama <i>prefecture</i>, where students and staff were already located. On several occasions during this period, soldiers and <i>Interahamwe</i> militiamen abducted and raped female Tutsi students and refugees. Minister of Defense Augustin Bizimana and the General Staff of the Rwandan Army were informed of this situation but did not take any effective steps to end the crimes once and for all.</p>	<p>An examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness DAZ in the English transcript of 16 June 2004 and 92bis stmt. b. In the testimony of witness XAI in the English transcript of 8, 9, 10, 11, and 12 September 2003 (where events in Gitarama, Kabgayi are discussed). c. In the testimony of witness UT in the English transcript of 9 June 2004 and 92bis stmt (where events in Gitarama, Kabgayi are discussed). d. In the documentary materials exhibited by the Prosecution as P3, page 268, para 3.

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<p>6.43 From April to July 1994, several hundred thousand people were massacred throughout Rwanda. The majority of the victims were killed solely because they were Tutsi or appeared to be Tutsi. The other victims, nearly all Hutu, were killed because they were considered Tutsi accomplices, were linked to them through marriage or were opposed to the extremist Hutu ideology.</p>	<p>For examples of evidence, see references provided in respect of indictment paragraphs 6.8, 6.18-6.42, to the extent they are referred to in this chart</p>
<p>6.44 From 7 April 1994 around the country, most of the massacres were perpetrated with the participation, aid and instigation of military personnel, gendarmes and Hutu militiamen. Certain units of the Para-Commando, Reconnaissance and Presidential Guard battalions were the most implicated in these crimes in the capital and in other <i>prefectures</i>, often acting in concert with the militiamen.</p>	<p>For examples of evidence, see references provided in respect of indictment paragraphs 6.8, 6.18-6.42, to the extent they are referred to in this chart</p>
<p>6.45 Further, from April to July 1994, in the course of the massacres, some soldiers gave assistance to militiamen, notably by providing them logistical support, i.e. weapons, transport and fuel.</p>	<p>An examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness LAI at pages 29-36 in the English transcript of 31 May 2004. b. In the testimony of witness XXH at pages 49-50, 54-55 in the English transcript of 4 May 2004. c. In the testimony of witness Beardsley at page 52 in the English transcript of 03 February 2004 d. In the testimony of witness DesForges at page 76 in the English transcript of 17 September 2002. e. In the testimony of witness XAQ at pages 22-23 in the English transcript of 23 February 2004. f. In the testimony of witness XAB at pages 28-29 in the English transcript of 06 April 2004. g. In the testimony of witness AAA at pages 52-53 in the English transcript of 14 June 2004. h. In the testimony of witness A at pages 68-69 in the English transcript of 1 June 2004. i. In the testimony of witness Serushago at page 44 in the English transcript of 18 June 2003 j. In the testimony of witness DCH at pages 22-27, 32-34 in the English transcript of 18 June 2004; at pages 20-28, 55-63, 81-90 in the English transcript of 22 June 2004; at pages 27-32 in the English transcript of 23 June 2004. k. In the testimony of witness ZF at pages 61-62 & 82-84 in the English transcript of 28

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	<p>November 2002;</p> <p>l. In the testimony of witness XBG at pages 70-71 in the English transcript of 8 July 2003.</p> <p>m. In the testimony of witness BY at pages 16-18 in the English transcript of 05 July 2004; at pages 7-8 in the English transcript of 6 July 2004.</p> <p>n. In the testimony of witness KJ at pages 34-43 in the English transcript of 19 Apr 2004.</p> <p>o. In the testimony of witness ABQ at pages 28-35 in the English transcript of 6 September 2004.</p> <p>p. In the testimony of witness XXC at pages 22-23 in the English transcript of 17 September 2003</p> <p>q. In the testimony of witness DP at pages 46-48 in the English transcript of 02 October 2003</p> <p>r. In the testimony of witness OAB at pages 56-68 in the English transcript of 24 June 2003</p> <p>s. In the testimony of witness DO at pages 15-16 in the English transcript of 30 June 2003</p>
<p>6.46 The massacres thus perpetrated were the result of a strategy adopted and elaborated by political, civil and military authorities in the country, such as Gratién Kabiligi, Aloys Ntabakuze, Theoneste Bagosora, Augustin Nindiliyimana, Augustin Bizimungu, Aloys Ntwiragabo, Protais Mpiranya, Francois-Xavier Nzuwonemeye, Anatole Nsengiyumva, Augustin Bizimana and Tharcisse Renzaho, who conspired to exterminate the Tutsi population. As from on 7 April, other authorities at the national and local levels espoused this plan and joined the first group in encouraging, organizing and participating in the massacres of the Tutsi population and its "accomplices".</p>	<p>For examples of evidence, see references provided in respect of indictment paragraphs 5.1-5.36, 6.18-6.42, to the extent they are referred to in this chart</p>
<p>6.47 During the events referred to in this indictment, rapes, sexual assaults and other crimes of a sexual nature were widely and notoriously committed throughout Rwanda. These crimes were perpetrated by, among others, soldiers, militiamen and gendarmes against the Tutsi population, in particular Tutsi women and girls.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness ZF pages 60-69 lines 30-8 of the English transcript of 28 November 2002 where it is said: "I remember that I would meet him in town or on the street, and I remember that he had a house which wasn't his own, but it was a house he was using and, according to what he said, himself, he used it and so did Omar Serushago and Thomas. That house -- rather, in that house they brought young Tutsi girls into it, and they were to rape</p>

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	<p>them before executing them.”</p> <p>b. In the testimony of witness OAB pages 60-63 lines 37- 6 in the English transcript of 24 June 2003 where it is said: “ ..She was in a mini bus which Omar Serushago used. Many people begged him to let her go, but Omar told him Anatole Nsengiyumva had ordered him to take her to the commune rouge...” “ Q. what did you personally witness? A. I saw him in the minibus. That woman was raped. Her dress was torn, the army commander was on the spot close to Omar's house.”</p> <p>c. In the testimony of witness DBQ page 34 lines 31-35 in the English transcript of 23 September 2003 where it is said: “The commander knew. He went by there and he knew and saw that the soldiers were raping the women, and he did nothing about it.” See also page 15 lines 23-25 of the English transcript of 25 February 2004 where it is said: “Among those Tutsis were women, and some of the soldiers liked them and took them to some of their houses, which were next to our position, and slept with those women.”; and page 24 lines 17-20 in the English transcript of 25 February 2004 where it is said: “There was a building within Centre Christus which was used by soldiers in order to rape women. This was a building which was near the road leading to Kimironko. So soldiers would go and get women further down near Sobolirwa and they would bring them to that building and they would rape those women there.”</p> <p>d. In the testimony of witness DBJ pages 8-9 lines 37-7 in the English transcript of 24 November 2003 where it is said: “The soldier came and asked her to stand up, took her to a room, a bedroom. The soldier asked the young lady to remove her clothes. She refused and the soldier forcefully undressed her, raped her; thereafter, he killed her and took out her body to the terrace. That is where he left the body after raping and killing her. That is what I was able to see in addition to the massacres.”</p> <p>e. In the testimony of witness XXY page 20 lines 16-24 in the English transcript of 11 June 2004 where it is said: “I remember that we saw a nun who had been stopped at the roadblock in the morning, and the nun was a Tutsi. And we were asking</p>
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	<p>ourselves, are they also going to kill nuns? Have they done something bad? And the <i>Interahamwe</i> told us that all the Tutsis were enemies. The nun was taken to a house near the roadblock, and I was there. It was around 5 p.m. She was screaming. We did not remain at the roadblock very long because we were sent away. And when I returned, I heard her scream inside the house, so she was calling out for help. And I was able to find out that she had been raped, because I saw her again the following day and she was sitting in front of the house.”</p> <p>f. In the testimony of witness AAA page 60 lines 1-5 in the English transcript of 14 June 2004 where it is said: “I did speak to the lady who had survived the killings, and I took her along with me to the orphanage which is in <i>secteur</i> Y, and she was the one who told me that they had been separated and that some of the girl refugees had been raped. Q. And who had raped these women that had been separated? A. The <i>Interahamwe</i>.” See also pages 7-10, 25-27, 29-30 in the English transcript of 15 June 2004.</p> <p>g. In the testimony of witness DAS pages 44-47 lines 34-23 in the English transcript of 5 November 2003 where it is said: “They took them some young women, four of them, took them to some property that belonged to the Chinese who were engaged in road construction. They took there to rape them. They where not raped at the roadblock. Those who stayed back, about four of them, were killed by the soldiers. The others were taken to that property and they stayed there. That is where they were raped --that is where they were raped.”</p> <p>h. In the testimony of witness XXJ pages 44-45 lines 32-07 in the English transcript of 14 April 2004 where it is said: “Yes, I received information about rapes that were committed, because soldiers who lived with me told me that they had friends and they knew girls who had been raped by soldiers. And they told me that the girls had been their friends before the unfortunate events had occurred, and they told me that some of the girls had were raped before being killed, and they had been raped by soldiers.”</p> <p>i. In the testimony of witness XAB page 39 lines 23-24 in the English transcript of 6</p>
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	<p>April 2004 where it is said: "He told me that rapes were being committed by soldiers at the roadblock, as well as the Interahamwe who were there. They were raping girls, and those who refused were killed." See also pages 39-40 lines 37-1 in the English transcript of 6 April 2004 where it is said: "They mentioned rapes that were being committed at the airport and that were being perpetrated by the LAA Battalion, including Lieutenant Sebarera."</p> <p>j. In the testimony of witness Serushago pages 58-59 lines 11-20 in the English transcript of 18 June 2003 where it is said: " Q. Now, was rape prevalent in Gisenyi at the time? A. Oh yes, that is right, particularly at the cemetery, at the Commune Rouge. Q. Did any soldiers take part in the rapes? A. Of course soldiers participated. They raped women who were working both with civilians and soldiers in civilian attire and they too raped women."</p> <p>k. In the testimony of witness Dallaire pages 31-33 lines 23-09 in the English transcript of 20 January 2004 where it is stated: " They were all civilian. I don't remember a uniformed person. And there were babies or pregnant women, babies, children, elderly. Some of the sites...and you could see by the layout of the women and so on that rape and then mutilation had happened." :-that is I am speaking about my observers and myself—that young girls, young women, would be laid out with their dresses over their heads, the legs spread and bent. You could see what seemed to be semen drying or dried. And it all indicated to me that these women were raped. And then a variety of material were crushed or implanted into their vaginas; their breasts were cut off... a number of them women had their breasts cut off or their stomach open. ..I would say generally at the sites you could find younger girls and young women who had been raped or, you know, deducting that they were raped." " ..but I would say that not many sites that were reported did not have such scenes of rape."</p> <p>l. In the testimony of witness Beardsley pages 42-46 lines 20-24 in the English transcript of 3 February 2004 where it is said: " women's breasts, women vaginas had been cut with machetes...there was</p>
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	<p>rape that had taken place in addition to the killings, and the murder." See also pages 50-52 lines 33-06 in the English transcript of 3 February 2004 where it is said: "Yes, two things really. One, when they killed women it appeared that the blows that had killed them were aimed at sexual organs, either breasts or vagina; they had been deliberately swiped or slashed in those areas. And, secondly, there was a great deal of what we came to believe was rape, where the women's bodies or clothes would be ripped off their bodies, they would be lying back in a back position, their legs spread, especially in the case of very young girls. I'm talking girls as young as six, seven years of age, their vaginas would be split and swollen from obviously multiple gang rape, and then they would have been killed in that position. .. It seemed that everywhere we went, from the period of 19th April until the time we left, there was rape everywhere near these killing sites."</p> <p>m. In the testimony of witness UT page 7 of the 92bis statement where it is said: "Moreover, I used to see soldiers come in at night and abduct girls and young women. When they returned, they were exhausted. They said that soldiers raped them. They even said that there were cases where several soldiers raped the same woman. One of the girls returned so exhausted that she did not survive. Before she died, she said that so many soldiers had raped her that she could not recall the exact number. The soldiers wore camouflage uniforms and various types of headgear."</p> <p>n. In the testimony of witness EU page 2 of the 92bis statement where it is said: "Children 10 or 12 years of age were raped and later killed."</p> <p>o. In the testimony of witness LN pages 82-88 lines 26-06 in the English transcript of 30 March 2004 where it is stated: "She could not have been older than 13." "She was raped. I can't say more than that. <i>It was in the open. It was not in the dark. It was not in a hidden place.</i> She was simply raped, and when she was raped, he insulted her. She did not say anything, and this young girls' mother actually covered her face with a cloth." [Emphasis added.]</p> <p>p. In the testimony of witness DCH pages 50-55 lines 8-18 in the English transcript of 22</p>
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	<p>June 2004.</p> <p>q. In the testimony of witness DAZ in the English transcript of 16 June 2004 and the documentary material exhibited by the Prosecution as P274 [92bis stmt].</p> <p>r. In the testimony of witness BY at pages 8-9 in the English transcript of 6 July 2004 where it is said: "Mr. President, I am not going to hide from you the fact that within this context of protection within the context of war, there was frequently, between these women who were protected and the Interahamwe who were protecting them, there were quite frequent relations of a sexual nature." See also prosecution exhibit P287A [KV00-0397A].</p> <p>s. In the testimony of witness Nowrojee English transcript of 12 and 13 July 2004.</p>
<p>6.48 Military officers, members of the Interim Government and local authorities aided and abetted their subordinates and others in carrying out the massacres of the Tutsi population and its accomplices. Without the complicity of the local and national civil and military authorities, the principal massacres would not have occurred.</p>	<p>For examples of evidence, see references provided in respect of indictment paragraphs 6.36-6.42, to the extent they are referred to in this chart</p>
<p>6.49 From April to July 1994, the officers of the General Staff of the Army participated in daily meetings at which they were informed of the massacres of the civilian Tutsi population. These meetings assembled the members of the General Staff and unit commanders, including, among others, Major-General Augustin Bizimungu, Brigadier-General Gratien Kabiligi, Major Aloys Ntabakuze, Major Protais Mpiranya, Major Francois-Xavier Nzuwonemeye, Colonel Aloys Ntiwiragabo, as well as Colonel Theoneste Bagosora, and the Chief of Staff of the Gendarmerie, General Augustin Ndindiliyimana.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <p>a. In the documentary materials exhibited by the Defence as DB61B page 14-15 [K0127626-7].</p> <p>b. In the testimony of witness DesForges at page 117, lines 10-24 in the English transcript of 18 September 2002.</p>
<p>6.50 Knowing that massacres of the civilian population were being committed, the political and military authorities, including Brigadier-General Gratien Kabiligi and Major Aloys Ntabakuze, took no measures to stop them. On the contrary, they refused to intervene to control and appeal to the population as long as a cease-fire had not been declared. This categorical refusal was communicated to the Special Rapporteur via the Chief of Staff of Rwandan Army, Major-General Augustin Bizimungu.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <p>a. In the documentary materials exhibited by the Prosecution as P4A [K1020348] and P6 [K0152723].</p>
<p>6.51 Brigadier-General Gratien Kabiligi and Major Aloys Ntabakuze, in his position of authority, acting in concert with, notably Theoneste Bagosora, Augustin Ndindiliyimana, Augustin Bizimungu,</p>	<p>For examples of evidence, see references provided in respect of indictment paragraphs 5.1-5.36, 6.1-6.50.</p>

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<p>Aloys Ntiwiragabo, Protais Mpiranya, Francois-Xavier Nzuwonemeye, Anatole Nsengiyumva, Augustin Bizimana and Tharcisse Renzaho, participated in the planning, preparation or execution of a common scheme, strategy or plan, to commit the atrocities set forth above. The crimes were committed by them personally, by persons they assisted or by their subordinates, and with their knowledge or consent.</p>	
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Appendix 3: Table
Prosecutor's Response to Nsengiyumva Motion for Acquittal

Counsel for the Prosecution:

Barbara MULVANEY
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Rashid RASHID
Christine GRAHAM

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Indictment Paragraph	Evidence
<p>5.1 From late 1990 until July 1994, Anatole Nsengiyumva, Theoneste Bagosora, Aloys Ntabakuze and Joseph Nzirorera, conspired among themselves and with others to work out a plan with the intent to exterminate the civilian Tutsi population and eliminate members of the opposition, so that they could remain in power. The components of this plan consisted of, among other things, recourse to hatred and ethnic violence, the training of and distribution of weapons to militiamen as well as the preparation of lists of people to be eliminated. In executing the plan, Anatole Nsengiyumva, Theoneste Bagosora, Aloys Ntabakuze, Joseph Nzirorera, Omar Serushago, Bernard Munyagishari, Mabye, Bamabe Samvura and Thomas Mugirameza organized, ordered and participated in the massacres perpetrated against the Tutsi population and of moderate Hutu.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <p>Examples of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness XAM at page 3 in the English transcript of 30 September 2004. b. In the testimony of witness XXQ at pages 2-13, 28-39 in the English transcript of 11 November 2004. c. In the testimony of witness ZF at pages 61-65 in the English transcript of 27 November 2002, at page 4 of the English transcript of 28 November 2002. d. In the testimony of witness DCH at pages 45-52 in the English transcript of 23 June 2004. e. In the testimony of witness DesForges at pages 23-24, 23-33, 41-43, 79-81 in the English transcript of 17 September 2002. f. In the testimony of witness Dallaire, at pages 47, 91-94 in the English transcript of 19 January 2004, pages 48-49, 56-57 in the English transcript of 20 January 2004 g. In the testimony of witness Beardsley at pages 43-46 in the English transcript of 30 January 2004. h. In the testimony of witness XBH at pages 15-20 in the English transcript of 3 July 2003. i. In the testimony of witness ABQ at pages 4-8 in the English transcript of 6 September 2004. j. In the testimony of witness DO at pages 45 in the English transcript of 30 June 2003. k. See further evidence listed in respect of indictment paragraphs 5.2 onwards to the extent they are referred to in this chart. l. See also evidence listed in respect of indictment paragraphs 5.2 onwards to the extent such paragraphs are referred to in this chart.
<p>5.2 In a letter dated 3 December 1993, certain FAR officers revealed to the UNAMIR Commander the existence of what they called a "Machiavellian plan" conceived by military who were mainly from the North and who shared the extremist Hutu ideology. The objective of the Northern military was to oppose the Arusha Accords and keep themselves in power. The means to achieve this consisted in exterminating the Tutsi and their "accomplices". The letter indicated moreover the names of political opponents to be eliminated. Some of them were in fact killed on the morning of 7 April 1994.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Dallaire pages 79-92 of the English transcript of 19 January 2004 and 70-73 of the English transcript of 26 January 2004. b. In the testimony of witness Beardsley pages 39-44 of the English transcript of 30 January 2004, ge 23 of the English transcript of 3 February 2004, and page 14-15 of the English transcript of 4 February 2004. c. In the documentary material exhibited by the Prosecution as P169A-C and by the Defence as DK12. d. In the testimony of witness EQ at pages 5-16 and 19-22 of the English transcript of 13 February 2004. e. In the testimony of witness CJ at pages 41-42 of

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	<p>the English transcript of 25 November 2003.</p> <p>f. In the testimony of witness Ruggiu at pages 37-38 of the English transcript of 16 June 2003.</p> <p>g. In the testimony of witness DCH at pages 45-52 of the English transcript of 23 June 2004 and oat pages 57-59 of the English transcript of 24 June 2004.</p> <p>h. In the testimony of witness DesForges at pages 97-100 of the English transcript of 11 September 2002; 93-96, 102-103 of the English transcript of 16 September 2002; pages 47-48, 53-54 of the English transcript of 17 September 2002; page 16 of the English transcript of 18 September 2002, pages 11-13, 50-56 of the English transcript of 24 September 2002.</p> <p>i. In the testimony of witness XAQ at pages 17-20 of the English transcript of 23 February 2004.</p> <p>j. In the testimony of witness DP at pages 38-39 of the English transcript of 3 October 2003.</p> <p>k. In the testimony of witness A at pages 19-20 of the English transcript of 1 June 2004.</p> <p>l. In the testimony of witness DCH at pages 45-52 of the English transcript of 23 June 2004.</p>
<p>5.3 On 10 January 1994, UNAMIR was informed by an <i>Interahamwe</i> leader of the details of a plan to exterminate the Tutsi population and its "accomplices".</p>	<p>a. In the testimony of witness Claeys at pages 33-36, 65-68 of the English transcript of 7 April 2004, and pages 80-84 of the English transcript of 7 April 2004, where it is stated that: "Q. Now, could one then conclude that you were with a senior member of the MRND security? A. Some days earlier he had said that the Demonstration would take place. That was not a secret. And he said that he was going to be in charge of organising security at that event. The fact that we saw him so many times, and not only in isolated cases, in the cassette -- on the cassette, <i>equipped with a radio, we saw him commanding people who also had radios, and he would give them orders, send them somewhere, actually enabled one to conclude that he was commanding the security system during that event.</i>" [Emphasis added.]</p> <p>b. In the testimony of witness Dallaire at pages 6-7 and 50-55 of the English transcript of 26 January 2004.</p> <p>c. In the testimony of witness Beardsley at pages 18-23 of the English transcript of 4 February 2004, where it is stated that: "Q. Well, 11th April, that's an error, an oversight on my part. But you did have some information, and what I want to understand in that regard -- now, based on what you told my colleague Drew White in the course of your evidence-in-chief is that Jean-Pierre was not a <i>Interahamwe</i> leader, that he was -- at the very least he was an instructor. A. No, sir, he was a top level trainer in the <i>Interahamwe</i> Militia. That's in the first paragraph of the message. He was a top-level trainer within the <i>Interahamwe</i></p>

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	<p>which, in our opinion, made him a top leader in the Interahamwe on our assessment. Q. Well, in your own perception of a structure, so someone who issues instructions is a leader; is that it? A. Yes, sir, on the scale of what he was reporting to us here, coordinating the movement of hundreds - the training of hundreds of militiamen, coordinating the registration of Tutsis within areas of Kigali, the fact that he could give an order and a thousand people could be killed in 20 minutes, that -- the conclusion or our assessment of that information was that if this guy was valid, he was a top leader in the Interahamwe.”</p> <p>d. In the documentary materials exhibited by the Defence, DB80, page 5.</p> <p>e. See also evidence listed in respect of indictment paragraphs 5.17 and 5.28 to the extent they are referred to in this chart.</p>
<p>5.4 The incitement to ethnic hatred and violence was a fundamental part of the plan put in place. It was articulated, before and during the genocide, by elements of the FAR on the one hand, and by members of the Government and local authorities on the other.</p>	<p>For examples of evidence led on this point, see the evidence listed in respect of indictment paragraphs 5.5 to and 5.11 to the extent they are referred to in this chart.</p>
<p>5.5 On 4 December 1991, President Juvénal Habyarimana set up a military commission. The commission was given the task of finding an answer to the following question: “<i>What do we need to do in order to defeat the enemy military, in the media and politically?</i>” Lt. Col. Anatole Nsengiyumva, Colonel Théoneste Bagosora and Major Aloys Ntabakuze were members of this commission.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <p>a. In the testimony of witness DesForges at pages 60-61 of the English transcript of 10 Sep 20 02, page 53-54 of the English transcript 17 Sep 2002, pages 23-25, 94-106 of the English transcript of 23 Sep 2002, pages 2-4, 13-20, 39-47, 50-56 of the English transcript of 24 Sep 2002. [None of the three accused challenged the witness as to the truth of the matter that Bagosora headed the Commission and that the two others were members of that Commission. On the contrary, it was admitted during cross-examination, see pages 100-106 of the English transcript of 23 September 2002 [Bagosora], pages 6-7 of the English transcript of 21 November 2002 [Nsengiyumva], and page 44 of the English transcript of 25 November 2002 [Ntabakuze].</p> <p>b. In the documentary materials exhibited by the Defence, DB61B, page 6 [K0127618].</p>
<p>5.6 In a letter dated 21 September 1992, the General Staff of the Rwandan Army ordered that an extract from the commission report be circulated among the troops. The letter came from the office of the Chief of Intelligence (G-2), namely Lieutenant Colonel Anatole Nsengiyumva. The extract defined the main enemy as follows: “<i>The Tutsis from inside or outside the county, who are extremists and nostalgic for power, who do not recognize and have never recognized the realities of the Social Revolution of 1959, and are seeking to regain power in Rwanda by any means including taking up arms.</i>” The secondary enemy was defined as: “<i>Anyone providing any kind of assistance to the main enemy</i>” The document specified that the enemy was being recruited from within</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <p>a. In the testimony of witness CE at pages 8-13 in the English transcript of 13 April 2004.</p> <p>b. In the testimony of witness DesForges at pages 53-53 in the English transcript of 10 September 2002.</p> <p>c. In the documentary materials by the Prosecution as exhibit P13.1B.</p> <p>d. See also evidence listed in respect of indictment paragraphs 5.9-5.11 to the extent they are referred to in this chart.</p>

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<p>certain social groups, notably: <i>"the Tutsis inside the country, Hutus who are dissatisfied with the present regime, foreigners married to Tutsi women..."</i>. Among the activities the enemy was accused of, the document mentioned <i>"the diversion of national opinion from the ethnic problem to the socio-economic problem between the rich and the poor"</i>.</p>	
<p>5.7 The document and the use made of it by the senior officers aided encouraged and promoted ethnic hatred and violence.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness XXQ at pages 38-39, 46-49 in the English transcript of 11 October 2004. b. In the testimony of witness DBN at pages 64-65 in the English transcript of 31 March 2004. c. In the testimony of witness LN at pages 53-56 in the English transcript of 30 March 2004. d. In the testimony of witness LAI at pages 12-15 in the English transcript of 31 May 2004. e. In the testimony of witness XAI at pages 1013 in the English transcript of 9 September 2003. f. See also the evidence listed in respect of indictment paragraphs 5.8 to and 5.12 to the extent they are referred to in this chart.
<p>5.8 As part of the negotiations for the Protocol on integration of the Armed Forces under the Arusha Accords, the officers from the North saw their powers eroded. This was reality they could not accept made it opportune for to them to exacerbate the discourse of ethnic hatred and violence.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness ZF at pages 20-21 in the English transcript of 28 November 2002. b. In the testimony of witness XBM at pages 21-24 in the English transcript of 14 July 2003. c. In the testimony of witness DesForges at pages 34-35 in the English transcript of 11 September 2002. d. In the testimony of witness ATY at pages 4-8 in the English transcript of 27 September 2004. e. In the testimony of witness DP at pages 36-39 in the English transcript of 2 October 2003. a. See also the evidence listed in respect of indictment paragraphs 5.9 to and 5.11 to the extent they are referred to in this chart.
<p>5.9 At the time of the negotiation of the Arusha Accords, several meetings of Army officers including Colonel Theoneste Bagosora, Lt. Col. Anatole Nsengiyumva and Major Aloys Ntabakuze were held notably at Kanombe military camp.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness DBQ at pages 47-51 of the English transcript of 23 September 2003. b. In the testimony of witness DBN at pages 54-58 of the English transcript of 1 April 2004. See also pages 9-13 in the English transcript of 6 April 2004.
<p>5.10 Several senior officers in the Rwandan Army, including Theoneste Bagosora, Gratién Kabiligi and Aloys Ntabakuze, publicly stated that the extermination of the Tutsi would be the inevitable consequence of any resumption of hostilities by the RPF or if the Arusha Accords were implemented. Furthermore, on various occasions, Colonel Theoneste Bagosora declared that the</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness DCH pages 35-43 lines 26-05 in the English transcript of 23 June 2004 where it is said: "...Col. Theoneste Bagosora told us that we could no longer stand and look passively at what the Tutsis were doing because

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<p>solution to the war was to plunge the country into an apocalypse in order to eliminate all the Tutsi and thus ensure lasting peace. These statements were often made in the presence of senior officers, including Anatole Nsengiyumva. The latter stated moreover that the implementation of the Arusha Accords would unleash war.</p>	<p>we should remember what was done to us at Mutara. He said that Juvenal Habyarimana had been very tolerant but that we were not going to sit back and leave them doing what they were doing; so it was necessary for us to organize ourselves as they themselves had organized themselves; so it was necessary for us to exterminate them before they exterminated us...I have told you that there were many soldiers of the Rwandan Army.. There was also Major Kabera and also Lt. Col. Anatole Nsengiyumva.”</p> <ul style="list-style-type: none"> b. In the testimony of witness ON at pages 31-34 of the English transcript of 28 April 2004 and pages 33-35 of the English transcript of 29 April 2004. c. In the testimony of witness DBQ at pages 47-51 of the English transcript of 23 September 2003. d. In the testimony of witness DBN at pages 54-58 of the English transcript of 1 April 2004. e. In the testimony of witness BC at pages 29-31 of the English transcript of 1 December 2003. f. In the testimony of witness DP at pages 36-39 of the English transcript of 2 October 2003. g. In the testimony of witness XBM at pages 17-20 of the English transcript of 14 July 2003. h. In the testimony of witness XXC at pages 15-17 in the English transcript of 18 September 2003. i. In the testimony of witness ZF at pages 66-67, 71-75 of the English transcript of 28 November 2002. j. In the testimony of witness XAM at pages 2-4 of the English transcript of 29 September 2004. k. In the testimony of witness XXY at pages 9-10 and 17-18 of the English transcript of 11 June 2004. l. In the testimony of witness DesForges at pages 97-100 in the English transcript of 11 September 2002. See also Prosecution exhibit P21B. m. In the documentary material exhibited by the Prosecution as P3, pages K022-9244-9246 (pages 168-173)
<p>5.11 The characterization of the Tutsis as the enemy and of members of the opposition as their accomplices was echoed by politicians, notably by Leon Mugesera, MRND Vice-chairman for Gisenyi <i>prefecture</i>, in a speech he made on 22 November 1992. Broadcast on the state radio and therefore reaching a much larger audience, Leon Mugesera's speech already at that time was an incitement to exterminate the Tutsi population and their "accomplices".</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness XBM pages 11-24, lines 36-27 of the English transcript of 14 July 2003 where it is said: " Q. And what did Barayagwiza say? A. He talked about the Arusha Accords, Ngulizinzira had sold or betrayed the Country." "Barayagwiza called on all Hutus to assist him in condemning the Arusha Accords. He didn't want the Arusha Accords to be signed. He added that Tutsis benefited a lot from the Arusha Accords, whereas all other benefits of the Country belonged to the Hutus, not the Tutsis. " b. In the testimony of witness DO page 7, lines 34-35 of the English transcript of 30 June 2003 where it is said: " They were asking the Hutus not

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	<p>to support the Inkotanyis and that they should learn how to fight the enemy, who was described as the Tutsi.”</p> <p>c. In the testimony of witness A pages 28-31 lines 19-06 in the English transcript of 2 June 2004 where it is said: “ Yes. In 1992 I participated in a meeting in Gisenyi in which a person from the prefectural committee in Gisenyi said something against the Tutsi. He said that the Tutsis must be sent back on the Nyabarongo River, back to their origins.” “ No. The first mention I – meeting I mentioned was the gathering that took place in the Kabaya sous –prefecture and that was an Mouvement Revolutionnaire National pour la Democratie et le Developpement meeting.” “ The name would be Leon Mugesera.” “ Right after the rally, there were killings in Gisenyi, in Giciye Commune and Kibilira. There were Tutsis who were killed, as well as the Bagogwe.”</p>
<p>5.12 The creation of the youth wings satisfied two of the political parties' concerns: to mobilize young people and to sensitize them to politics. The MRND and CDR followed the example of the MDR and RPF, which had already institutionalized their youth movements. Political rivalries during the multi-party period exacerbated tensions. The “<i>Interahamwe</i>” and “<i>Impuzamugambi</i>” began to be drawn astray from the time they were used to oppose with violence the political demonstrations organized by parties of the opposition.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <p>a. In the testimony of witness GS page 73 lines 19-37 in the English transcript of 17 February 2004 where it is said: “ With the advent of multi party politics in Rwanda, and I'm referring to the month of July 1991, parties set up a youth wing. I could make reference to a party such as the mouvement Revolutionnaire National pour la Democratie et le Developpement which set up a youth wing popularly known as the Interahamwe, which behaved in military fashion, or whose members behaved like soldiers. It was that youth wing which was supported by a part of the army, and in fact the commander of the army provided them with military training easily.”</p> <p>b. In the testimony of witness BY pages 25-27 lines 34-14 in the English transcript of 2 July 2004 where it is said: “ ..the objective of that organization, just as the objectives of any other party youth wing, was to support the ideals of the party and , in this particular case, the Mouvement Revolutionnaire pour la Democratie et le Developpement party which for a long time had reigned in Rwanda as a single party, needed some reformation, needed some young blood.” “ Accordingly, the Interahamwe's..from a given point in time, was in a situation of violent conflict and confrontation with the other youth wing of the other opposition parties..” “ ..the opposition parties, which had before the Mouvement Revolutionnaire pour la Democratie et le Developpement set up their own youth wings, did everything to decry and hamper and through one policy known as Ukubohoza which literally means to free themselves from the Mouvement Revolutionnaire pour la Democratie et le Developpement yoke.”” And that is how,</p>

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	<p>whenever there was any incidents under the Ukubohoza, the youth wings decided to indulge themselves in violently acts, not only in Kigali, but violent acts which spread out to the entire country..”</p> <p>c. In the testimony of witness A pages 33-37 lines 28-05 in the English transcript of 1 June 2004 where it is said: “ Well, while trying to prevent the Kubofoza movement, there were some standoffs between the youth wings of the other parties, especially the Inkuba of the Mouvement Democratique Republican. And within Kigali, there were quite a few skirmishes between the Mouvement Democratique Republican and the Mouvement Revolutionnaire National pour la Democratie et le Developpement youth wings. Whenever there was a meeting or rally in Kigali, there were always problems, altercations, between the two youth wings.”</p> <p>d. In the testimony of witness Des Forges pages 33-37 lines 18-23 in the English transcript of 16 September 2002.</p>
<p>5.13 In order to ensure that, when the time came, the extermination of the enemy and its “accomplices” would be carried out swiftly and effectively, it was necessary to create a militia that was structured, armed and complementary to the Armed Forces. For the militia to be represented nationally, <i>Interahamwe</i> committees were created at <i>prefecture</i> level. This decision of the central committee of the MRND taken in June 1993 was carried out in their localities by political figures in their constituencies, including, among others, Bernard Munyagishari in Gisenyi.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <p>a. In the testimony of witness A pages 37-39 lines 06-20 in the English transcript of 1 June 2004 where it is said: “ The prefectural committee in Gisenyi, the only person I knew was the president, and his name was Bernard Munyagishari.” “ So once we held a meeting in Gisenyi with a group of the national committee,.. At the time they introduced the President of the Interahamwe committee in Gisenyi, whose name was Bernard Munyagishari.”</p> <p>b. In the testimony of witness OAF page 3, lines 9-20 of the English transcript of 23 June 2003 where it is said: “First there was the multiparty political system, and then there was the establishment of militias of those political parties which had just been founded. The militias were made up of youths. Q. Can you tell the Court the names of some of the militia groups that were created at that time? A. There was the <i>Interahamwe</i>, the <i>Impuzamugambi</i>. Q. Do you know which political party the <i>Interahamwe</i> was affiliated to? A. Yes, I know that. Q. Which party? A. MRND. Q. And do you know which political party the <i>Impuzamugambi</i> was affiliated to? A. The <i>Impuzamugambi</i> was affiliated to CDR.</p> <p>c. In the testimony of witness BY, pages 27-32, lines 15-08 of the English transcript of 2 July 2004 where it is said: “ Now, the second six months of 1993 that is from June, July 1993, as part of that evolution which—I am sorry, I will have to qualify as unhealthy evolution in the political and economic situation in Rwanda, and</p>

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	<p>the leaders of that youth wing went on armed training, military training. And in the final analysis, they were armed.”</p> <p>d. In the testimony of witness ZF, page 8-10, lines 16-23 of the English transcript of 28 November 2002.</p> <p>e. In the testimony of witness ON pages 37-40 lines 22-14 in the English transcript of 28 April 2004 where it is said: “ I know, in particular, Munyagishari. It was said that he was Lt. Col Anatole Nsengiyumva's deputy. He was a civilian.”</p> <p>f. In the documentary material exhibited by the Prosecution P33B.</p>
<p>5.14 As from 1993, and even before that date, anxious to radicalize the <i>Interahamwe</i> movement, the leaders of the MRND, in collaboration with officers of the FAR, decided to provide military training to those members most devoted to their extremist cause and to other idle youths. Furthermore, weapons were distributed to them.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <p>a. In the testimony of witness Dallaire, pages 94-97, lines 32-30 of the English transcript of 19 January 2004 where it is said: “ The direct observation I have is one where we had received information from my observers in the Butare area, close to some of the Burundi refugees camps, that recruitment was being conducted, supposedly for the Rwandan Government Forces or for the government army. And on one occasion I had been informed in the morning – it was Sunday. I was informed in the morning that the three buses had left, in fact, one of these refugee camps full of young men and heading north. And so I got a helicopter and linked up with the buses, and they were in a Camp Gabiro, I think is the name, in the Akagera park... well there were three green buses as my observers had mentioned to me, parked amongst the buildings. There were, I'd estimate, around a hundred or ---- yeah about a hundred young men in civilian garb..”</p> <p>b. In the testimony of witness A pages 39-44 in the English transcript of 1 June 2004.</p> <p>c. In the testimony of DCH at pages 12-16, 27, in the English transcript of 23 June 2004 where it is stated that “First there were morale-boosting talks which were organized. Those were discussions which taught us that Tutsis were really bad, and we were explained how Tutsis were going to exterminate us if we did not precede them in doing so, and we were told that if Tutsis took power, they were going to restore the monarchy and feudalism. And we were told that the Tutsi had nothing good in him and that we had been liberated, so we should not allow the Tutsis to take power. What we should do, rather, was to kill the Tutsis, and if we did not – if we kill Tutsis and only a few Tutsis remain, we were going to remain power.”</p> <p>d. In the testimony of witness XAB at pages 29-31 in the English transcript of 6 April 2004.</p> <p>e. In the testimony of witness GS page 69, lines 14-</p>

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23 of the English transcript of 17 February 2004 where it is said: "In the meantime, the commander of the paracommando battalion, Major Ntabakuze, was working or cooperating with the commanding officer of the Presidential Guard in order to train those instructors who would be responsible for guiding the *Interahamwes* in that area. In addition to that, I was asked how the *Interahamwes* and the government were cooperating. I would say that they were using government buses, in other words, buses belonging to *Onatracom*. At the time the *Interahamwes* moved or travelled during the day, and so that is what I can say in regard to cooperation between the army and the *Interahamwes*."

- f. In the testimony of witness DN pages 6,7, lines 19-37 of the English transcript of 19 February 2004 where it is said: " He told me that there was a programme which targeted some 50,000 civilians, targeting them for training purposes... Q. Mr. PRESIDENT. Yes, and you observed the first training session when, end of '93? A. Yes, it was towards the end of 1993."
- g. In the testimony of witness DA, pages 6-10, lines 7-37 of the English transcript of 19 November 2003 where it is said: "I do recall, that was just the end of 1992 -- end of 1992 and early 1993, but it actually took place in March 1993 and early April. Now, those were the occasions on which I saw this. And, for instance, I saw this taking place at Kimihurura and at Gabiro. Those were the two locations where I saw those training sessions taking place. Q. At Kimihurura, was it on a military base? A. Yes, it was in a military camp, just below where there was a forest, where military exercises were carried out. It was, therefore, in the presidential guard camp, but just below that camp where military exercises were conducted. Q. Did you personally observe the training that took place at the presidential guard camp? A. Yes, because that is where we engaged in our shooting exercises, using armoured vehicles. That was the only place where those exercises would take place, because it was a bit isolated, in a forest. And that is where the *Interahamwes* underwent training. Q. Do you know who it was that was training the *Interahamwe* at the presidential guard camp? A. Soldiers were training them."
- h. In the testimony of witness LAI pages 21-24, lines 08-20 of the English transcript of 31 May 2004 where it is said: " Q. When did you first start delivering *Interahamwe* for training in the woods, what year and month? A. August 1993."
- i. In the documentary material exhibited by the Prosecution as P2A at pages 1, 27 and 28, P33B at pages 2 and 3, P36B at pages L006447-48.

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	<ul style="list-style-type: none"> j. In the testimony of witness XBG at pages 21-24 in the English transcript of 8 July 2003. k. In the documentary material exhibited by the Defence as DK28B page K0159806 (pg 3), and DK32B page K0043456. l. See also the evidence listed in respect of indictment paragraphs 5.16 to and 5.19 to the extent they are referred to in this chart.
<p>5.15 The training was supervised by military, including Protais Mpiranya, Aloys Ntabakuze, Anatole Nsengiyumva, Leonard Nkundiye, and civilian authorities. Training was conducted simultaneously in several <i>prefectures</i> around the country: Kigali, Cyangugu, Gisenyi and Butare, as well as in the Mutara sector. Training also took place in military camps, notably Gabiro, <i>Gako</i> Mukamira and Bigogwe, as well as around these camps or in neighboring forests.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness Dallaire, pages 94-97, lines 32-30 of the English transcript of 19 January 2004 where it is said: "The direct observation I have is one where we had received information from my observers in the Butare area, close to some of the Burundi refugee camps, that recruitment was being conducted, supposedly for the Rwandan Government Forces or for the government army. And on one occasion I had been informed in the morning - it was Sunday. I was informed in the morning that the three buses had left, in fact, one of these refugee camps full of young men and heading north. And so I got a helicopter and linked up with the buses, and they were in a Camp Gabiro, I think is the name, in the Akagera park... well there were three green buses as my observers had mentioned to me, parked amongst the buildings. There were, I'd estimate, around a hundred or ---- yeah about a hundred young men in civilian garb.." b. In the testimony of witness A pages 39-44 in the English transcript of 1 June 2004. c. In the testimony of DCH at pages 12-16, 27, in the English transcript of 23 June 2004 where it is stated that "First there were morale-boosting talks which were organized. Those were discussions which taught us that Tutsis were really bad, and we were explained how Tutsis were going to exterminate us if we did not precede them in doing so, and we were told that if Tutsis took power, they were going to restore the monarchy and feudalism. And we were told that the Tutsi had nothing good in him and that we had been liberated, so we should not allow the Tutsis to take power. What we should do, rather, was to kill the Tutsis, and if we did not - if we kill Tutsis and only a few Tutsis remain, we were going to remain power." d. In the testimony of witness XAB at pages 29-31 in the English transcript of 6 April 2004. e. In the testimony of witness GS page 69, lines 14-23 of the English transcript of 17 February 2004 where it is said: "In the meantime, the commander of the paracommando battalion, Major Ntabakuze, was working or cooperating with the commanding officer of the Presidential Guard in order to train those instructors who would be responsible for

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	<p>guiding the <i>Interahamwes</i> in that area. In addition to that, I was asked how the <i>Interahamwes</i> and the government were cooperating. I would say that they were using government buses, in other words, buses belonging to <i>Onatracom</i>. At the time the <i>Interahamwes</i> moved or travelled during the day, and so that is what I can say in regard to cooperation between the army and the <i>Interahamwes</i>.</p> <p>f. In the testimony of witness DN pages 6,7, lines 19-37 of the English transcript of 19 February 2004 where it is said: "He told me that there was a programme which targeted some 50,000 civilians, targeting them for training purposes... Q. Mr. PRESIDENT. Yes, and you observed the first training session when, end of '93? A. Yes, it was towards the end of 1993."</p> <p>g. In the testimony of witness DA, pages 6-10, lines 7-37 of the English transcript of 19 November 2003 where it is said: "I do recall, that was just the end of 1992 -- end of 1992 and early 1993, but it actually took place in March 1993 and early April. Now, those were the occasions on which I saw this. And, for instance, I saw this taking place at Kimihurura and at Gabiro. Those were the two locations where I saw those training sessions taking place. Q. At Kimihurura, was it on a military base? A. Yes, it was in a military camp, just below where there was a forest, where military exercises were carried out. It was, therefore, in the presidential guard camp, but just below that camp where military exercises were conducted. Q. Did you personally observe the training that took place at the presidential guard camp? A. Yes, because that is where we engaged in our shooting exercises, using armoured vehicles. That was the only place where those exercises would take place, because it was a bit isolated, in a forest. And that is where the <i>Interahamwes</i> underwent training. Q. Do you know who it was that was training the <i>Interahamwe</i> at the presidential guard camp? A. Soldiers were training them."</p> <p>h. In the testimony of witness LAI pages 21-24, lines 08-20 of the English transcript of 31 May 2004 where it is said: "Q. When did you first start delivering <i>Interahamwe</i> for training in the woods, what year and month? A. August 1993."</p> <p>i. In the documentary material exhibited by the Prosecution as P2A at pages 1, 27 and 28, P33B at pages 2 and 3, P36B at pages L006447-48.</p> <p>j. In the testimony of witness XBG at pages 21-24 in the English transcript of 8 July 2003.</p> <p>k. In the documentary material exhibited by the Defence as DK28B page K0159806 (pg 3), and DK32B page K0043456.</p> <p>l. In the testimony of witness GS pages 68-72, lines</p>
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	<p>10-12 of the English transcript of 17 February 2004. where it is said: "In a nutshell, I would say that there was Major Ntabakuze who was in charge of -" "... So, I was saying that Major Ntabakuze was in charge of the distribution of weapons and ammunition to the <i>Interahamwes</i> and also following up the training sessions in Gabiro"... "In the meantime, the commander of the paracommando battalion, Major Ntabakuze, was working or cooperating with the commanding officer of the Presidential Guard in order to train those instructors who would be responsible for guiding the <i>Interahamwes</i> in that area. In addition to that, I was asked how the <i>Interahamwes</i> and the government were cooperating. I would say that they were using government buses, in other words, buses belonging to <i>onatracom</i>. At the time the <i>Interahamwes</i> moved or travelled during the day, and so that is what I can say in regard to cooperation between the army and the <i>Interahamwes</i>." ... "Sorry, Mr. President, I would like to go back a bit. Earlier on the Prosecutor had asked me who was the commanding officer of the Gabiro Camp, it has just come up in my mind. The commanding officer was Lieutenant Colonel Nkundiye."</p> <p>a. See also the evidence listed in respect of indictment paragraphs 5.16-5.18 to the extent they are referred to in this chart.</p>
<p>5.16 In Gisenyi prefecture, between June 1993 and July 1994, Anatole Nsengiyumva supervised the training of the MRND militia, the <i>Interahamwe</i>, and that of the CDR militia, the <i>Impuzamugambi</i>.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness ON page 38 lines 7-9 of the English transcript of 28 April 2004 where it is said: "I told you that Anatole Nsengiyumva was the supervisor and that he was the operations commander. That means that he commanded the army and the militias and what was known as the civil defence, which were there to kill Tutsis because Tutsis were equated to the RPF." See also pages 65-67 lines 02-37 in the English transcripts of 27 April 2004 where it is said: "...I was saying that officially he was the commander of military operations, but he was in charge of training <i>Interahamwes</i>. He was in charge of distribution of weapons to Civilians, to the <i>Interahamwe</i> militiamen, to civil servants, to businessmen and bourgemestres.."</p> <p>b. In the testimony of witness BY pages 27-32 lines 15-08 of the English transcript of 2 July 2004 where it is said: "I will mention the minister of the army at the time, Mr. Augustin Bizimana. I will mention Col. Theoneste Bagosora who was the chef de cabinet of that ministry. I will mention Lt. Col Anatole Nsengiyumva, who was very much in favour of those trainings."</p> <p>c. In the testimony of witness XBM pages 32-37</p>

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	<p>lines 32-04 of the English transcript of 14 July 2003, see also pages 35-37 lines 22-29 in the English transcript of 14 July 2003 where it is said: " Q. Thank you, witness. Do you know who was in charge of this training? A. It was Anatole because he was the one who was following up the training."</p> <p>d. In the testimony of witness OAF pages 5-6 lines 34-15 in the English transcripts of 23 June 2003 where it is said: " I believe that Bernard Munyagishari had a superior, and that boss-was Anatole."</p> <p>e. In the testimony of DCH pages 55-63 lines 19-22 of the English transcript of 22 June 2004.</p> <p>f. In the testimony of witness ZF pages 35-36 lines 11-30 in the English transcript of 28 November 2002 where it is said: " As I said, the detectors were involved in the militia activities after the arrival of Lt. col. Anatole Nsengiyumva to Gisenyi as commander, Ops Commander-Gisenyi- so reports were given Lt. Col Anatole Nsengiyumva after his arrival in Gisenyi." See also pages 14-16 lines 07-09 in the English transcript of 28 November 2002 where it is said: "Yes, Counsel; the lieutenant had the obligation to give a daily account of all the militia's activities to the Ops commander- Gisenyi, so initially this would be Colonel Juvenal Bahufite, and then for the second phase this would have been Lt. Col. Anatole Nsengiyumva."</p> <p>g. In the testimony of witness Serushago pages 12-13 lines 23-30 in the English transcript of 18 June 2003 where it is said: " He told us that he had come there to take up the post of the operations commander in Gisenyi and he told us that he was an Interahamwe, just like us, and that if we had a problem, then he will help us solve the problem, and that he was in Gisenyi in order to represent His Excellency, President of Rwanda, General Juvenal Habyarimana, within the context of the Interahamwe."</p>
<p>5.17 On 10 January 1994, a leader of the <i>Interahamwe</i> militia informed UNAMIR that 1,700 militiamen had undergone training and that they could eliminate 1,000 Tutsis every twenty minutes.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <p>a. In the testimony of witness Claeys at pages 33-36, 65-68 of the English transcript of 7 April 2004, and pages 80-84 of the English transcript of 7 April 2004, where it is stated that: "Q. Now, could one then conclude that you were with a senior member of the MRND security? A. Some days earlier he had said that the Demonstration would take place. That was not a secret. And he said that he was going to be in charge of organising security at that event. The fact that we saw him so many times, and not only in isolated cases, in the cassette -- on the cassette, <i>equipped with a radio, we saw him commanding people</i></p>

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	<p><i>who also had radios, and he would give them orders, send them somewhere, actually enabled one to conclude that he was commanding the security system during that event.</i> [Emphasis added.]</p> <p>b. In the testimony of witness Dallaire at pages 6-7 and 50-55 of the English transcript of 26 January 2004.</p> <p>c. In the testimony of witness Beardsley at pages 18-23 of the English transcript of 4 February 2004, where it is stated that: "Q. Well, 11th April, that's an error, an oversight on my part. But you did have some information, and what I want to understand in that regard -- now, based on what you told my colleague Drew White in the course of your evidence-in-chief is that Jean-Pierre was not a Interahamwe leader, that he was -- at the very least he was an instructor. A. No, sir, he was a top level trainer in the Interahamwe Militia. That's in the first paragraph of the message. He was a top-level trainer within the Interahamwe which, in our opinion, made him a top leader in the Interahamwe on our assessment. Q. Well, in your own perception of a structure, so someone who issues instructions is a leader; is that it? A. Yes, sir, on the scale of what he was reporting to us here, coordinating the movement of hundreds - the training of hundreds of militiamen, coordinating the registration of Tutsis within areas of Kigali, the fact that he could give an order and a thousand people could be killed in 20 minutes, that -- the conclusion or our assessment of that information was that if this guy was valid, he was a top leader in the Interahamwe."</p> <p>d. In the documentary materials exhibited by the Defence, DB80, page 5.</p>
<p>5.18 The secret training of the militiamen became more and more notorious. They could on some occasions be seen training in public places or on their way to the training sites, while chanting slogans inciting the extermination of the enemy.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <p>a. In the testimony of witness ON pages 73-75 lines 21-11 in the English transcripts of 27 April 2004 where it is said "...the demonstrations were also for the purpose of intimidation, because on the buses they had whistles and would shout aloud, singing, "Tubatsembetsembe Tubatsembetsembe Tubatsembetsembe" Tubatsembetsembe means exterminate them. That was the recurrent theme. That was the recurrent theme of the songs they sang." In the testimony of witness ON pages 7-10 lines 20-18 in the English transcript of 29 April 2004 where it is said: " But I clearly told you that we lived with the Interahamwe. We saw them operate. We suffered. We endured their activities. We lived with them. Was saw them pass by in lorries, in buses and singing "Exterminate them; exterminate them". I clearly said that." "I heard it several times in Gisenyi in my place, in Nyundo, and once—I do not remember the month or the</p>

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	<p>year—but in any case, I went to an area in Shira. Shira is located in Giciye Commune; it is a protestant parish.” “ ..and they were singing Tubatsembetsembe, Tubatsembetsembe.” “ MR. PRESIDENT: Now, this was before or—just to ask a neutral question: this was before or after April 1994” Let us start in that end. THE WITNESS: It was certainly before; yes, it was certainly before, in the logic of things, Mr. President.” MR. PRESIDENT: Of course. So now we have clarified that. Would you say it was a month before or several months before? THE WITNESS: Before April? Before April? I think it was several months before.”</p> <p>b. In the testimony of witness DCH at pages 4-6, 35-43 in the English transcript of 23 June 2004.</p> <p>c. In the testimony of witness LAI at pages 29-33 in the English transcript of 31 May 2004.</p>
<p>5.19 In order to implement the plan for the extermination of the enemy and its “accomplices”, the militiamen were to receive weapons, in addition to military training. Hence, the military and civilian authorities distributed weapons to the militiamen and certain carefully selected members of the civilian population in various <i>prefectures</i> of the country.</p>	<p>For examples of evidence led on this point, see the evidence listed in respect of indictment paragraphs 5.20-5.24 to the extent they are referred to in this chart.</p>
<p>5.20 In 1993, President Habyarimana declared in Ruhengeri that the <i>Interahamwe</i> had to be <i>equipped</i> so that, come the right time, “<i>ils descendent</i>”.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <p>a. In the testimony of witness ON pages 78-80, lines 8-23 of the English transcript of 28 April 2004 where it is said: “[T]he proof of this is that he put the idea into practice. President Habyarimana held a meeting in Ruhengeri one day—I think it was in 1992, 1993—and during the meeting he said the <i>Interahamwe</i>—‘ I’m going to buy uniforms or suits for you and we’re going to go down the streets.’ Going down the streets meaning that they were going to kill. In other words, he declared himself the leader of the <i>Interahamwe</i>.”</p> <p>b. In the documentary material exhibited by the Defence as DNS 43A, page 6 [K0052783].</p> <p>c. In the documentary materials exhibited by the Defence, DB61B, page 4, para 4 [K0127616].</p>
<p>5.21 Before and during the events referred to in this indictment, Anatole Nsengiyumva, Theoneste Bagosora, Joseph Nzirorera and others distributed weapons to the militiamen and certain carefully selected members of the civilian population with the intent to exterminate the Tutsi population and eliminate its “accomplices”.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness Serushago pages 13-14 lines 01-25 in the English transcript of 18 June 2003 where it is stated: “ Nzirorera, as the minister of public works, spoke at the meeting. He had come there in order to clearly show us and officially introduce Lt. Col. Anatole Nsengiyumva to us. ..He promised us weapons, about 20 weapons, and he told us that when the weapons arrived, they would be given to Bernard Munyagishari to distribute the weapons to us so that we could use the weapons in order to</p>

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	<p>eliminate Tutsi and Hutu who were President of Rwanda Juvenal "Nzirorera was a very important was a person who played a major Col. Anatole Nsengiyumva in the weapons. In fact, Nzirorera participated distribution of weapons at the national also page 9 lines 31-37 of the English 18 June 2003 where it is said: "After session weapons were given to the The weapons were distributed in that was under the command Nsengiyumva. It was a camp that belonged Rwandan army."</p> <p>b. In the testimony of witness DO pages 20-23 where it is said: "Weapons were distributed. They were given to the leaders who, in turn, distributed them to who were present." "Comments were made Colonel Anatole. He gave Fazile instructions the effect that he should create roadblocks, and he told the people present at the camp that they should orders which he had just given that Tutsis would be exterminated because just killed the president, that is, Habyarimana."</p> <p>c. In the testimony of DCH pages 55-63 of the English transcript of 22 June 2003 d. See the evidence listed in respect of paragraphs 5.22-5.24, 6.32 to the extent referred to in this chart.</p>
<p>5.22 In February 1993, without the knowledge of the Minister of Defence, James Gasana, Colonel Theoneste Bagosora arranged for weapons to be distributed to the <i>bourgmestres</i> of Gisenyi. The weapons were taken from the Army's logistics base in Kigali and were then distributed to certain carefully selected civilians in Gisenyi.</p>	<p>An example of evidence led on this point appears evidence as follows:</p> <p>a. In the testimony of witness DBY, pages 6 11 of the English transcript of 22 September where it is said: "Q. Do you remember part of 1992 you saw the first one; in what the beginning or the end of it? A. it was of 1992 Q. and who was the author of telegram? A. Col. Theoneste Bagosora. was the recipient of the telegram? A. The was addressed to Base-AR. That is the was in charge of things like weapons ammunition, supplies. You know, these things that were stored there, and that was responsible for guarding them. Q. and what the message state? A. The telegram was a for guns, 1,000 guns. Q. what type of guns being requested? A. Kalashnikovs and R-4 b. In the documentary material exhibited Prosecution as P3, pages K022-9212-1 107-108).</p> <p>c. In the documentary materials exhibited Defence, DB61B, pages 5-6 [K0127617-8]</p>

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<p>5.23 From June 1993 to July 1994, in Gisenyi, Military Commander, Anatole Nsengiyumva and some of his subordinates participated in the distribution of weapons to the militiamen.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Serushago page 9 lines 31-37 of the English transcript of 18 June 2003 where it is said: "After the training session weapons were given to the Interahamwe. The weapons were distributed in the camp that was under the command of Anatole Nsengiyumva. It was a camp that belonged to the Rwandan army." b. In the testimony of witness DO pages 21-23 lines 20-23 where it is said: "Weapons were distributed. They were given to the Interahamwe leaders who, in turn, distributed them to those who were present." "Comments were made by colonel Anatole. He gave Fazile instructions to the effect that he should strengthen the roadblocks, and he told the people who were present at the camp that they should carry out orders which he had just given them and that Tutsis would be exterminated because they had just killed the president, that is, President Habyarimana." c. In the testimony of witness OQ page 14 lines 13-14 in the English transcript of 16 July 2003 where it is said: "Since I had seen that weapons were being distributed I could imagine what would follow." See also, page 5 lines 11-12 in the English transcript of 18 July 2003 where it is said: "He brought the grenades in his vehicle and he gave the grenades to civilians. I was able to know that they were grenades because some grenades fell down. Yes, he distributed them." d. In the testimony of DCH pages 55-63 lines 19-22 of the English transcript of 22 June 2004. e. In the testimony of witness ZF pages 8-9 lines 37-19 in the English transcript of 28 November 2002 where it is said: "...I wasn't always at the camp, but what I did see was the first distribution of weapons so a small group of militiamen. They were given weapons and cartridges - magazines, rather. And also they were given pistols..."
<p>5.24 Towards the end of 1993, in an open letter broadcast on national radio, the Bishop of the diocese of Nyundo, in Gisenyi <i>prefecture</i>, denounced the distribution of weapons in that <i>prefecture</i>.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Sagahutu page 77- 80 lines 30-04 in the English transcript of 27 April 2004 where it is said: "Mr. President, I clearly told you the content - the rough content of the letter by Kalibushi—Kalibushi was asking why the distribution of weapons to civilians. He was asking the government to stop the distribution because weapons should normally belong to soldiers. That was, more or less, the message. That was the sense of the message—or the gist of the message. So it was kind of a protest against the distribution of weapons." b. In the testimony of witness Des Forges pages 123-126 lines 10-24. c. In the documentary material exhibited by the

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	Prosecution as P37.
<p>5.25 Having identified the Tutsi as the enemy and the members of the opposition as their accomplices, members of the Army General Staff, civilian authorities and militiamen established lists of people to be executed.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness AS, page 36, lines 07-28 of the English transcript of 2 September 2003 where it is said: " My husband only talked about the list to me; that is, the list that was being prepared in Gisenyi, with people not desired by the government." b. In the testimony of witness DBY, pages 3-5, lines 24-20 of the English transcript of 22 September 2003 where it is said: "However, Major Aloys Ntabakuze had a list." c. In the testimony of witness XBH, pages 26-27, lines 24-32 of the English transcript of 3 July 2003 where it is said: " Col. Theoneste Bagosora said that they had started eliminating important Hutus and that they, in turn, had to prepare a list of people who had to be eliminated and these people had to be Tutsis. He said that they had to start with Tutsis who were intellectuals and traders." d. In the testimony of witness A, pages 45-48, lines 17-12 in the English transcript of 1 June 2004 where it is said: " We spoke in the first quarter of 1997 and he told me that – in the first half of that year, and he told me that Col. Theoneste Bagosora had shown him a list of people to be killed, and it appears that on that list there were Tutsis and Tutsi businessmen. Kambanda told me that prior to that, he did not know whether there was any preparation, but after, that is when he was able to see that there was already preparation for the killings." See also at pages 45-48 in the English transcript of 1 June 2004 e. In the testimony of witness BY, pages 39-41, lines 04-10 of the English transcript of 2 July 2004 where it is stated "And in fact, the entire Tutsi population of Kigali was included in those lists, neighbourhood after neighbourhood." f. In the testimony of witness OQ, pages 6-8, lines 14-21 of the English transcript of 18 July 2003. g. In the testimony of witness ABQ, pages 4-8, lines 25-20 of the English transcript of 6 September 2004. h. In the testimony of witness AAA, pages 30-33, lines 27-23 of the English transcript of 14 June 2004. i. See also the evidence listed in respect of indictment paragraphs 5.26-5.29
<p>5.26 In 1992, at a meeting, Colonel Theoneste Bagosora instructed the two General Staffs to establish lists of people identified as the enemy and its accomplices. The Intelligence Bureau (G-2) of the Rwandan Army established the lists under the supervision of Anatole Nsengiyumva. The lists were regularly updated under the</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the documentary material exhibited by the by the Prosecution as P22. b. In the testimony of witness DesForges at pages 39-43 in the English transcript of 16 September

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<p>authority of Anatole Nsengiyumva and afterwards of Aloys Ntiwiragabo.</p>	<p>2002. at pages 53-54 in the English transcript of 17 September 2002.</p> <p>c. In the testimony of witness DBY at pages 17-21 in the English transcript of 22 September 2003.</p> <p>d. In the testimony of witness XAP at pages 27-29 in the English transcript of 11 December 2003.</p>
<p>5.27 In 1993, following a traffic accident, a list of the type described above was found in the vehicle of the Chief of Staff, Deogratias Nsabimana. During the events, some of the people on that list were killed.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <p>e. In the documentary material exhibited by the by the Defence as DB61B at pages 4-5 [K0127616-7].</p> <p>f. In the testimony of witness DesForges at pages 55-56, 60-61 in the English transcript of 17 September 2002.</p> <p>g. In the testimony of witness Reyntjens at pages 11-12 in the English transcript of 21 September 2004.</p> <p>h. In the documentary materials exhibited by the Defence as DNS1 and DB99 [K0229918].</p>
<p>5.28 On 10 January 1994, an <i>Interahamwe</i> leader informed UNAMIR that he had received orders to establish lists of Tutsi to be eliminated.</p>	<p>Examples of evidence led on this point appear in the evidence as follows:</p> <p>a. In the testimony of witness Claeys at pages 33-36, 65-68 of the English transcript of 7 April 2004, and pages 80-84 of the English transcript of 7 April 2004, where it is stated that: "Q. Now, could one then conclude that you were with a senior member of the MRND security? A. Some days earlier he had said that the Demonstration would take place. That was not a secret. And he said that he was going to be in charge of organising security at that event. The fact that we saw him so many times, and not only in isolated cases, in the cassette -- on the cassette, <i>equipped with a radio, we saw him commanding people who also had radios, and he would give them orders, send them somewhere, actually enabled one to conclude that he was commanding the security system during that event.</i>" [Emphasis added.]</p> <p>b. In the testimony of witness Dallaire at pages 6-7 and 50-55 of the English transcript of 26 January 2004.</p> <p>c. In the testimony of witness Beardsley at pages 18-23 of the English transcript of 4 February 2004, where it is stated that: "Q. Well, 11th April, that's an error, an oversight on my part. But you did have some information, and what I want to understand in that regard -- now, based on what you told my colleague Drew White in the course of your evidence-in-chief is that Jean-Pierre was not a <i>Interahamwe</i> leader, that he was -- at the very least he was an instructor. A. No, sir, he was a top level trainer in the <i>Interahamwe</i> Militia. That's in the first paragraph of the message. He was a top-level trainer within the <i>Interahamwe</i> which, in our opinion, made him</p>

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	<p>a top leader in the Interahamwe on our assessment. Q. Well, in your own perception of a structure, so someone who issues instructions is a leader; is that it? A. Yes, sir, on the scale of what he was reporting to us here, coordinating the movement of hundreds -- the training of hundreds of militiamen, coordinating the registration of Tutsis within areas of Kigali, the fact that he could give an order and a thousand people could be killed in 20 minutes, that -- the conclusion or our assessment of that information was that if this guy was valid, he was a top leader in the Interahamwe.”</p> <p>d. In the documentary materials exhibited by the Defence, DB80, page 5.</p>
<p>5.29 From 7 April to late July, military and <i>Interahamwe</i> massacred members of the Tutsi population and moderate Hutu by means of pre-established lists, among other things.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness ZF page 43-44 lines 27-3 in the English transcripts of 28 November 2002 where it is stated: “Colonel Nsengiyumva asked the lieutenant, asked Lieutenant Bizumuremyi, if he knew a person who worked for the Great Lakes community. His name was Kabiligi, and Bizumuremyi had said that he knew this person, and then had said that Colonel Bagosora had asked that he be arrested. So the lieutenant went out, and I don't know what happened after that.” b. In the testimony of witness AS page 47 lines 6-16 in the English transcript of 2 September 2003 where it is said: “He did not lose consciousness first, so he told them that if they wanted they should kill him outside, not in front of his wife and children. So what the <i>Interahamwes</i> did was, they dragged him outside the house and then I heard a gun shot.” “ c. In the testimony of witness Serushago page 43 lines 28-29 in the English transcript of 19 June 2003 where it is said: “ And I remember by the way, that a civil servant of CEPGL was killed there. His name was Kabiligi and his spouse was of Russian extraction.” d. In the testimony of witness DBY, pages 3-5, lines 24-20 of the English transcript of 22 September 2003 where it is said: “However, Major Aloys Ntabakuze had a list.” e. In the testimony of witness XBH, pages 26-27, lines 24-32 of the English transcript of 3 July 2003 where it is said: “ Col. Theoneste Bagosora said that they had started eliminating important Hutus and that they, in turn, had to prepare a list of people who had to be eliminated and these people had to be Tutsis. He said that they had to start with Tutsis who were intellectuals and traders.” f. In the testimony of witness A, pages 45-48, lines 17-12 in the English transcript of 1 June 2004

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	<p>where it is said: " We spoke in the first quarter of 1997 and he told me that – in the first half of that year, and he told me that Col. Theoneste Bagosora had shown him a list of people to be killed, and it appears that on that list there were Tutsis and Tutsi businessmen. Kambanda told me that prior to that, he did not know whether there was any preparation, but after, that is when he was able to see that there was already preparation for the killings." See also at pages 45-48 in the English transcript of 1 June 2004</p> <ul style="list-style-type: none"> g. In the testimony of witness BY, pages 39-41, lines 04-10 of the English transcript of 2 July 2004 where it is stated "And in fact, the entire Tutsi population of Kigali was included in those lists, neighbourhood after neighbourhood." h. In the testimony of witness OQ, pages 6-8, lines 14-21 of the English transcript of 18 July 2003. i. In the testimony of witness ABQ, pages 4-8, lines 25-20 of the English transcript of 6 September 2004. j. In the testimony of witness AAA, pages 30-33, lines 27-23 of the English transcript of 14 June 2004. k. In the testimony of witness HV pages 25-34 lines 24-08 in the English transcript of 23 September 2004 where it is stated: " It was one of the soldiers who was carrying a list and each time that a name was read out and information was given that the person was dead, this soldier was seen marking something on his list." l. See also evidence listed in respect of indictment paragraphs 5.37-5.40; 6.34 to the extent they are referred to in this chart.
<p>5.30 The political and ethnic violence of the early 1990s was characterized by the use of the elements of the strategy which achieved its finality in the genocide of April 1994. The massacres of the Tutsi minority at that time, including those in Kibilira (1990), in Bugesera (1992), and those of Bagogwe (1991), were instigated, facilitated and organized by civilian and military authorities. On each occasion, a campaign of incitement to ethnic violence, conducted by local authorities, was followed by massacres of the Tutsi minority, perpetrated by groups of militiamen and civilians, armed and assisted by the same authorities and by certain military personnel. On each occasion, these crimes remained unpunished and the authorities implicated were generally not taken to task.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness Des Forges, pages 47-48, lines 19-09 of the English transcript of 11 September 2002 where it is said: " The attack at Kibilira, like many events to follow, involved incitation to violence against Tutsi, led by local authorities and persons of political responsibility during three days of violence, and some 33 Tutsis were killed." See also pages 120-122 in the English transcript of 16 September 2002 and pages 13-14, 20-21 in the English transcript of 18 September 2002. b. In the documentary material exhibited by the Prosecution as P27, P28, P303 and by the Defence as DB9 and DNS5. c. In the testimony of witness Reytjens at pages 34-35 in the English transcript of 15 September 2004, and at pages 2-4 in the English transcript of 16 September 2004. d. In the testimony of witness A at pages 81-82 in the English transcript of 1 June 2004.

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	<p>e. In the testimony of witness XXQ pages 18-19 lines 3-17 in the English transcript of 13 October 2004 where it is said: "I think it is necessary for me to supplement my answer because he asked me to explain the significance of that date. I told him that I had come to Gisenyi because of the killings that were going on there. Tutsis were being killed at Kibilira, at Mutara, at Rutsiro. The Bagogwes were also being killed. It is for that reason that the RPF attacked on the 8th February 1993."</p> <p>f. In the documentary material exhibited by the Prosecutor P3 English at Pages K022-9201-9203 (pages 86-91 of the English version of the Book).</p>
<p>5.31 Finally, as of 7 April 1994, throughout Rwanda, Tutsis and certain moderate Hutus, began to flee their homes to escape the violence to which they were victims on their hills and to seek refuge in places where they had traditionally felt safe, notably churches, hospitals and other public buildings such as <i>commune</i> and <i>prefecture</i> offices. On several occasions, gathering places were indicated to them by the local authorities, who had promised to protect them. For the initial days, the refugees were protected by a few gendarmes and communal police in these various locations, but subsequently, the refugees were systematically attacked and massacred by militiamen, often assisted by the same authorities who had promised to protect the refugees. During the numerous attacks on the refugees throughout the country, personnel of the FAR, military or gendarmes, who were supposed to protect them, prevented the Tutsi from escaping and facilitated their massacre by the <i>Interahamwe</i>. On several occasions, these FAR personnel participated directly in the massacres.</p>	<p>For examples of evidence led on this point, see the evidence listed in respect of indictment paragraphs 6.13-6.29 to the extent they are referred to in this chart. See also the following evidence</p> <p>a. In the testimony of witness Beardsley pages 42-46 lines 20-24 where it said: "...they had observed the Gendarmerie Nationale moving very methodically through this Gikondo area around the church. They had lists, and they would gather people and send them into the church or escort them into the church."</p> <p>b. In the testimony of witness EU P275 92bis statement where it is said: "I heard the voice of the Bourgmestre of Nyamagabe commune, SEMAKWAVU Felicien, on the megaphone. He said that everyone was to leave the hill and seek refuge in the ecole technique of Murambi. In addition, prefet BUCYIBARUTA Laurent spoke over the megaphone. He stated that if the people left the hill, he would bring them food and send gendarmes to protect them. All the refugees were Tutsi."</p> <p>c. In the testimony of witness WB pages 15-19 lines 35-15 in the English transcript of 13 November 2003 where it is said: "And we, the refugees, we said, "Major, if we go back to our houses, whereas we had left our houses to come and look for security and safety here, we might be killed." And the Major said, "Go back first of all to IAMSEA." So we went back to IAMSEA saying to ourselves that the major had spoken well. So on the 14th, the major said, "Allow the refugees to go back to the IAMSEA. We thought that this major was, indeed, a good man. The major said, "We will look at their own problems," and we felt this was something positive."</p>
<p>5.32 Furthermore, soldiers, militiamen and gendarmes raped, sexually assaulted and committed other crimes of a sexual nature against Tutsi women and girls, sometimes after having first kidnapped them.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness ZF pages 60-69 lines 30-8 of the English transcript of 28 November 2002 where it is said: "I remember that I would meet him in town or on the street, and I remember</p>

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that he had a house which wasn't his own, but it was a house he was using and, according to what he said, himself, he used it and so did Omar Serushago and Thomas. That house -- rather, in that house they brought young Tutsi girls into it, and they were to rape them before executing them."

- b. In the testimony of witness OAB pages 60-63 lines 37- 6 in the English transcript of 24 June 2003 where it is said: "...She was in a mini bus which Omar Serushago used. Many people begged him to let her go, but Omar told him Anatole Nsengiyumva had ordered him to take her to the commune rouge..." " Q. what did you personally witness? A. I saw him in the minibus. That woman was raped. Her dress was torn, the army commander was on the spot close to Omar's house."
- c. In the testimony of witness DBQ page 34 lines 31-35 in the English transcript of 23 September 2003 where it is said: "The commander knew. He went by there and he knew and saw that the soldiers were raping the women, and he did nothing about it." See also page 15 lines 23-25 of the English transcript of 25 February 2004 where it is said: "Among those Tutsis were women, and some of the soldiers liked them and took them to some of their houses, which were next to our position, and slept with those women."; and page 24 lines 17-20 in the English transcript of 25 February 2004 where it is said: "There was a building within Centre Christus which was used by soldiers in order to rape women. This was a building which was near the road leading to Kimironko. So soldiers would go and get women further down near Sobolirwa and they would bring them to that building and they would rape those women there."
- d. In the testimony of witness DBJ pages 8-9 lines 37-7 in the English transcript of 24 November 2003 where it is said: "The soldier came and asked her to stand up, took her to a room, a bedroom. The soldier asked the young lady to remove her clothes. She refused and the soldier forcefully undressed her, raped her; thereafter, he killed her and took out her body to the terrace. That is where he left the body after raping and killing her. That is what I was able to see in addition to the massacres."
- e. In the testimony of witness XXY page 20 lines 16-24 in the English transcript of 11 June 2004 where it is said: "I remember that we saw a nun who had been stopped at the roadblock in the morning, and the nun was a Tutsi. And we were asking ourselves, are they also going to kill nuns? Have they done something bad? And the *Interahamwe* told us that all the Tutsis were

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enemies. The nun was taken to a house near the roadblock, and I was there. It was around 5 p.m. She was screaming. We did not remain at the roadblock very long because we were sent away. And when I returned, I heard her scream inside the house, so she was calling out for help. And I was able to find out that she had been raped, because I saw her again the following day and she was sitting in front of the house.”

- f. In the testimony of witness AAA page 60 lines 1-5 in the English transcript of 14 June 2004 where it is said: “I did speak to the lady who had survived the killings, and I took her along with me to the orphanage which is in *secteur* Y, and she was the one who told me that they had been separated and that some of the girl refugees had been raped. Q. And who had raped these women that had been separated? A. The *Interahamwe*.” See also pages 25-27 lines 07-14 in the English transcript of 15 June 2004.
- g. In the testimony of witness DAS pages 44-47 lines 34-23 in the English transcript of 5 November 2003 where it is said: “They took them some young women, four of them, took them to some property that belonged to the Chinese who were engaged in road construction. They took there to rape them. They were not raped at the roadblock. Those who stayed back, about four of them, were killed by the soldiers. The others were taken to that property and they stayed there. That is where they were raped --that is where they were raped.”
- h. In the testimony of witness XXJ pages 44-45 lines 32-07 in the English transcript of 14 April 2004 where it is said: “Yes, I received information about rapes that were committed, because soldiers who lived with me told me that they had friends and they knew girls who had been raped by soldiers. And they told me that the girls had been their friends before the unfortunate events had occurred, and they told me that some of the girls had been raped before being killed, and they had been raped by soldiers.”
- i. In the testimony of witness XAB page 39 lines 23-24 in the English transcript of 6 April 2004 where it is said: “He told me that rapes were being committed by soldiers at the roadblock, as well as the *Interahamwe* who were there. They were raping girls, and those who refused were killed.” See also pages 39-40 lines 37-1 in the English transcript of 6 April 2004 where it is said: “They mentioned rapes that were being committed at the airport and that were being perpetrated by the LAA Battalion, including Lieutenant Sebarera.”
- j. In the testimony of witness Serushago pages 58-59 lines 11-20 in the English transcript of 18 June 2003 where it is said: “ Q. Now, was rape

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prevalent in Gisenyi at the time? A. Oh yes, that is right, particularly at the cemetery, at the Commune Rouge. Q. Did any soldiers take part in the rapes? A. Of course soldiers participated. They raped women who were working both with civilians and soldiers in civilian attire and they too raped women."

- k. In the testimony of witness Dallaire pages 31-33 lines 23-09 in the English transcript of 20 January 2004 where it is stated: " They were all civilian. I don't remember a uniformed person. And there were babies or pregnant women, babies, children, elderly. Some of the sites...and you could see by the layout of the women and so on that rape and then mutilation had happened." :-that is I am speaking about my observers and myself—that young girls, young women, would be laid out with their dresses over their heads, the legs spread and bent. You could see what seemed to be semen drying or dried. And it all indicated to me that these women were raped. And then a variety of material were crushed or implanted into their vaginas; their breasts were cut off... a number of them women had their breasts cut off or their stomach open. ..I would say generally at the sites you could find younger girls and young women who had been raped or, you know, deducting that they were raped." " ..but I would say that not many sites that were reported did not have such scenes of rape."
- l. In the testimony of witness Beardsley pages 42-46 lines 20-24 in the English transcript of 3 February 2004 where it is said: " women's breasts, women vaginas had been cut with machetes...there was rape that had taken place in addition to the killings, and the murder." See also pages 50-52 lines 33-06 in the English transcript of 3 February 2004 where it is said: " Yes, two things really. One, when they killed women it appeared that the blows that had killed them were aimed at sexual organs, either breasts or vagina; they had been deliberately swiped or slashed in those areas. And, secondly, there was a great deal of what we came to believe was rape, where the women's bodies or clothes would be ripped off their bodies, they would be lying back in a back position, their legs spread, especially in the case of very young girls. I'm talking girls as young as six, seven years of age, their vaginas would be split and swollen from obviously multiple gang rape, and then they would have been killed in that position. .. It seemed that everywhere we went, from the period of 19th April until the time we left, there was rape everywhere near these killing sites."
- m. In the testimony of witness UT page 7 of the 92bis statement where it is said: " Moreover, I used to see soldiers come in at night and abduct girls and young women. When they returned, they

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	<p>were exhausted. They said that soldiers raped them. They even said that there were cases where several soldiers raped the same woman. One of the girls returned so exhausted that she did not survive. Before she died, she said that so many soldiers had raped her that she could not recall the exact number. The soldiers wore camouflage uniforms and various types of headgear.”</p> <p>n. In the testimony of witness EU page 2 of the 92bis statement where it is said: “ Children 10 or 12 years of age were raped and later killed.</p> <p>o. In the testimony of witness LN pages 82-88 lines 26-06 in the English transcript of 30 March 2004 where it is stated: “ She could not have been older than 13.” “She was raped. I can't say more than that. It was in the open. It was not in the dark. It was not in a hidden place. She was simply raped, and when she was raped, he insulted her. She did not say anything, and this young girls' mother actually covered her face with a cloth.”</p> <p>p. In the testimony of witness DCH pages 50-55 lines 8-18 in the English transcript of 22 June 2004.</p> <p>q. In the testimony of witness DAZ in the English transcript of 16 June 2004 and the documentary material exhibited by the Prosecutor P274 [92bis stnt].</p> <p>r. In the testimony of witness BY at pages 8-9 in the English transcript of 6 July 2004 where it is said: “Mr. President, I am not going to hide from you the fact that within this context of protection within the context of war, there was frequently, between these women who were protected and the Interahamwe who were protecting them, there were quite frequent relations of a sexual nature.” See also prosecution exhibit P287A [KV00-0397A].</p> <p>s. In the testimony of witness Nowrojee English transcript of 12 and 13 July 2004.</p>
<p>6.2 Following the crash of the President's plane, the <i>Forces Armies Rwandaises</i> was left without leadership. The President was dead, along with the Chief of Staff of the Rwandan Army, Colonel Deogratias Nsabimana. The Minister of Defence, Augustin Bizimana, and the Chief of Intelligence Services (G2) in the Rwandan Army, Colonel Aloys Ntwiragabo, were on mission in the Republic of Cameroon. They returned to the country in the days that followed. Gratien Kabiligi, the officer in charge of operations (G3) in the Rwandan Army General Staff, was also on mission in Egypt and immediately returned to the Headquarters when he was briefed about the situation. In the absence of the Minister of Defence, Colonel Theoneste Bagosora, <i>directeur de cabinet</i>, asserted himself as the man of the moment capable of managing the crisis.</p>	<p>Does not appear to be challenged. In any event, examples of evidence led on this point are listed in the Bagosora, Kabiligi and Ntabakuze Indictments Charts.</p>

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<p>6.3 During the night of 6 to 7 April, a first meeting mainly of officers of the two General Staffs was held at the Rwandan Army Headquarters in Kigali military camp. The meeting was chaired by Theoneste Bagosora. During this meeting, Theoneste Bagosora and other officers, including Major Kayumba, expressed their desire to take power. Despite the advice of certain people to involve Prime Minister Agathe Uwilingiyimana in managing the crisis, Theoneste Bagosora refused to consult her in any way, ceasing to acknowledge her authority.</p>	<p>Does not appear to be challenged. In any event, examples of evidence led on this point are listed in the Bagosora, Kabiligi and Ntabakuze Indictments Charts.</p>
<p>6.4 During this period [night of 6 to 7 April], Colonel Theoneste Bagosora talked on the phone with Lt Col Anatole Nsengiyumva. Immediately following the said conversation, Lieutenant-Colonel Anatole Nsengiyumva gave the order to begin the massacres in Gisenyi.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of ZF pages 38-42 lines 19-06 in the English transcript of 28 November 2002 where it is said: "There was a lieutenant who found us there who made it understood that Colonel Anatole Nsengiyumva was on the phone with Théoneste Bagosora." "Shortly thereafter, Colonel Anatole Nsengiyumva came to join us where we were. He told us the following: 'The presidential plane has just been shot down. We don't have any specific information about this.' He seemed very depressed. He didn't say much. Then he addressed Lieutenant Bizumuremyi and told him that the work had to begin to finish off the Inyenzi." [Emphasis added.]</p>
<p>6.5 Thereafter, Colonel Theoneste Bagosora remained in contact with Lt. Col Anatole Nsengiyumva.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness ZF page 42-43 lines 30-30 in the English transcript of 28 November 2002 where it is said: "Around 2, 2.30 in the morning, the telephone rang. I was not able to follow what people were saying, but as I was next to him, I could hear what he was saying. I could hear his answers and what he was saying to the person on the phone, so I was able to hear him say that the apocalypse had come and that we now had to wait." "[A]nd once again, it was Colonel Theoneste Bagosora on the telephone who—he had called Colonel Anatole Nsengiyumva. And I believe—I think that at that point he told him that the operations were completed, and the operations were now ongoing in the rural areas." "The telephone rang again. I am nor sure what they spoke of, but it was still Colonel Bagosora who had called Colonel Nsengiyumva."</p>
<p>6.6 In the morning of 7 April, another meeting of the FAR officers was held at the <i>Ecole Supérieure Militaire</i> (ESM); those participating included Major Aloys Ntabakuze, Major François-Xavier Nzuwonemeye and Lt. Col. Lkonard Nkundiye. Also present were the commanding officers of the sectors of operation in Rwanda, the commanders of the military camps and officers of the General Staffs (AR and GN). The</p>	<p>Does not appear to be challenged. In any event, examples of evidence led on this point are listed in the Bagosora, Kabiligi and Ntabakuze Indictments Charts.</p>

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<p>Commander of the Presidential Guard, Major Mpiranya, did not attend that meeting. Meanwhile, his men were already perpetrating massacres.</p>	
<p>6.7 While this meeting was going on, Prime Minister Agathe Uwilingiyimana was tracked down, arrested, sexually assaulted and killed by Rwandan Army personnel, more specifically, members of the Presidential Guard, the Para-Commando Battalion and the Reconnaissance Battalion. Concurrently, members of the same units arrested, confined and killed important opposition leaders. That same morning, the ten Belgian para-commandos from UNAMIR who were dispatched to the Prime Minister residence to escort her to the radio were murdered at Kigali military camp.</p>	<p>Does not appear to be challenged. In any event, examples of evidence led on this point are listed in the Bagosora, Kabiligi and Ntabakuze Indictments Charts.</p>
<p>6.8 The elimination of political opponents made it possible to set aside the establishment of the Broad-Based Transition Government (BBTG), stipulated in the Arusha Accords, in favour of an Interim Government which would aid and abet the continuation of the massacres. The murder of the Belgian soldiers prompted the withdrawal of most of UNAMIR's contingents. Those two events removed the two major obstacles to the pursuit of the massacres.</p>	<p>Does not appear to be challenged. In any event, examples of evidence led on this point are listed in the Bagosora, Kabiligi and Ntabakuze Indictments Charts.</p>
<p>6.9 On 7 of April 1994, the General Staff of the Rwandan Army sent a telegram ordering the troops to seek the assistance of the <i>Interahamwe</i> and of the people in identifying the Tutsi and to proceed to exterminate them.</p>	<p>Does not appear to be challenged. In any event, examples of evidence led on this point are listed in the Bagosora, Kabiligi and Ntabakuze Indictments Charts.</p>
<p>6.10 With Colonel Theoneste Bagosora's communique, broadcast by radio the same day, asking people to remain at home and await further instructions, the process of elimination of the civilian Tutsi and the moderate Hutu population by military personnel and militiamen was facilitated.</p>	<p>Does not appear to be challenged. In any event, examples of evidence led on this point are listed in the Bagosora, Kabiligi and Ntabakuze Indictments Charts.</p>
<p>6.11 As from 7 April 1994, massacres of the Tutsi population and the murder of numerous political opponents were perpetrated throughout the territory of Rwanda. These crimes, which had been planned and prepared for a long time by prominent civilian and military figures who shared the extremist Hutu ideology, were carried out by militiamen, military personnel and gendarmes on the orders and directives of some of these authorities, including Lt. Colonel Anatole Nsengiyumva.</p>	<p>For examples of evidence led on this point, see evidence listed in respect of indictment paragraphs 5.1-5.32, and 6.12 onward, to the extent such paragraphs are referred to in this chart.</p>
<p>6.12 Gisenyi, the prefecture of origin of the deceased President, Juvenal Habyarimana, is located in northwestern Rwanda. From the time of the coup d'etat in 1973, Gisenyi was the bastion of the Mouvement republicain national pour la democratie et le developpement (MRND) and the Coalition pour la difense de la republique (CDR). Several prominent civil and military figures who had espoused the extremist Hutu ideology were from this prefecture. After 1990, the prefecture was the theatre for much inter-ethnic tension</p>	<p>Does not appear to be challenged. In any event, examples of evidence led on this point are listed in the Bagosora, Kabiligi and Ntabakuze Indictments Charts.</p>

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<p>and violence, causing the death of many Tutsi. This was the case with the Bagogwe in 1991. In early June 1994, the Interim Government moved to Gisenyi.</p>	
<p>6.13 In the night of 6 to 7 April 1994, in Gisenyi prefecture, the Military Commander Anatole Nsengiyumva ordered certain political leaders, local authorities and militiamen to assemble at Gisenyi military camp. Were at this meeting, Bernard Munyagishari, Chairman of the Interahamwe for Gisenyi, Barnabé Samvura, Chairman of the CDR for Rubavu commune, and Thomas Mugiraneza, Vice-chairman of the Interahamwe for Gisenyi.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness ZF pages 39-41, lines 29-19 in the English transcript of 28 September 2002 where it is said: "In the meantime, there was the head of militia who had showed up. His name was Barnabé Samvura. They went to see the colonel, and they stayed for a bit with him. They came out and went outside of the camp. In the meantime, in front of the military camp, the ops command camp of the Rwandan army, there was a gathering of people. There were many of them, but I don't know exactly how many. I would say 200, perhaps more. These were people who were troubled, who were afraid. The first people -- you could see militiamen. Some were very well known. Lieutenant Bizumuremyi left the camp and he went in front of the camp, in front of the ops command camp in Gisenyi of the Rwandan army, and when he left he spoke to the gathering of people, and he told them the following: "The soldiers have gone to do their work, their normal work. As for you, you are going to also begin your work. Go everywhere, spare no one, even -- not even babies. Do it quickly so that in the morning, we will have finished". b. In the testimony of witness DO pages 67-69 lines 26-10 in the English transcript of 30 June 2003 where it is said: " He said that he received orders regarding what he should do during the night of the death of President Habyarimana." "[T]here were resolutions which were to be taken regarding the struggle against the enemy." " To kill Tutsis."
<p>6.14 During this assembly, Anatole Nsengiyumva ordered the participants to kill all the RPF "accomplices" and all the Tutsi. At the end of the meeting, Anatole Nsengiyumva he ordered his subordinates to distribute weapons and grenades to the militiamen <i>Interahamwe</i> who were present.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness ZF pages 39-41, lines 29-19 in the English transcript of 28 September 2002 where it is said: "In the meantime, there was the head of militia who had showed up. His name was Barnabé Samvura. They went to see the colonel, and they stayed for a bit with him. They came out and went outside of the camp. In the meantime, in front of the military camp, the ops command camp of the Rwandan army, there was a gathering of people. There were many of them, but I don't know exactly how many. I would say 200, perhaps more. These were people who were troubled, who were afraid. The first people -- you could see militiamen. Some were very well known. Lieutenant Bizumuremyi left the camp and he went in front of the camp, in front of the ops command camp in Gisenyi of the Rwandan army, and when he left he spoke to the gathering

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	<p>of people, and he told them the following: "The soldiers have gone to do their work, their normal work. As for you, you are going to also begin your work. Go everywhere, spare no one, even -- not even babies. Do it quickly so that in the morning, we will have finished".</p> <p>b. In the testimony of witness Serushago pages 89-90 lines 19-03 in the English transcript of 18 June 2003 where it is said: " I would like to tell you that they had held a meeting during that night with Colonel Anatole , who gave them the instructions to begin the massacres because Habyarimana had been murdered. So they too had to start the massacres."</p> <p>c. In the testimony of witness DO pages 67-69 lines 26-10 in the English transcript of 30 June 2003 where it is said: "He said that he received orders regarding what he should do during the night of the death of President Habyarimana." " ..there were resolutions which were to be taken regarding the struggle against the enemy." " To kill Tutsis."</p>
<p>6.15 On 7 April 1994, Anatole Nsengiyumva received a telegram from Kigali ordering him to start the massacres.</p>	<p>An examples of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of ZF pages 38-42 lines 19-06 in the English transcript of 28 November 2002 where it is said: "There was a lieutenant who found us there who made it understood that Colonel Anatole Nsengiyumva was on the phone with Théoneste Bagosora." "Shortly thereafter, Colonel Anatole Nsengiyumva came to join us where we were. He told us the following: 'The presidential plane has just been shot down. We don't have any specific information about this.' .He seemed very depressed. He didn't say much. <i>Then he addressed Lieutenant Bizumuremyi and told him that the work had to begin to finish off the Inyenzi.</i>" [Emphasis added.]</p>
<p>6.16 On 7 April 1994, Lt. Col. Anatole Nsengiyumva chaired meetings at which he ordered the militiamen to kill the Tutsi. He subsequently distributed weapons to the militiamen. At one of these meetings, Anatole Nsengiyumva gave the order to start the massacres, designating a specific location where a Tutsi family had sought refuge. In the minutes that followed that order, the militiamen executed the members of the family in Anatole Nsengiyumva's presence.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness DO pages 15-23 lines 37-37 in the English transcript of 30 June 2003 where it is said: "...and when we got to the camp other <i>Interahamwes</i> arrived, and at the camp we met the commanding officer of the camp, who was Colonel Anatole. So they went into the building, and there we stayed outside. Thirty minutes later, they came out. He distributed weapons; there were grenades, firearms. And this was done on the orders of Colonel Anatole, the officer commanding the camp." "I saw the officer commanding the camp; I saw the soldiers who were there. They went into the building and held a meeting chaired by Colonel Anatole, and after the meeting we came out and I saw weapons being distributed. There were grenades and</p>

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various other types of firearms. It was the soldiers who were distributing the weapons, but on the orders of the commanding officer of the camp." "Who did he order to distribute the weapons? A. He ordered soldiers who were there whose names are not known to me. It was the soldiers who were there with Captain Bizimuremiyi. Q. Who received the weapons that were being distributed? A. The arms or weapons were given to the *Interahamwe* leaders, who in turn distributed them to the *Interahamwes*. Q. What sort of weapons did they receive? A. I saw grenades as well as other types of firearms -- Kalashnikovs, R4s. Q. How many guns did you see? A. About 15 -- a bit more than that. Q. Did anyone speak at this point? A. It was Colonel Anatole who spoke. He was saying to them that they had to implement the instructions that he had issued, and he told Fazile that the roadblocks needed to be reinforced, that a lot of seriousness had to be brought to bear in carrying out those orders." "Comments were made by Colonel Anatole. He gave Fazile instructions to the effect that he should strengthen the roadblocks, and he told people who were present at the camp that they should carry out orders which he had just given them and that Tutsis would be exterminated because they had just killed the president, that is, President Habyarimana."

- b. In the testimony of witness OQ page 10 lines 15-28 in the English transcript of 16 July 2003 where it is said: "At that time, after the *Interahamwe* and the *Impuzamugambi* got into X's place, he was their head, a military vehicle came. I do not know the mark of that vehicle and inside the vehicle there was Anatole Nsengiyumva, who was the military commander of the Ruhengeri and Gisenyi region. He came up -- it came up and the vehicle got into Mr. X's compound and I moved from where I was with other young people, and most of those young people died. We could see through -- .." "... fence -- his house which was fenced with barb wire. He took a piece of paper, he was giving instructions. He was accompanied by Mr. X. He was also accompanied by the *conseiller* of Gisenyi, who is in prison at the moment, and they started giving names of families whose members are now dead. And they cited the name of our family. When I heard that, I ran back to the house and I told those who were there what had happened. And we tried to see what we could do, whether we could defend ourselves or flee. That is what happened."
- c. In the testimony of witness ABQ pages 4-8 lines 25-20 in the English transcript of 6 September 2004 where it is said: "There I met many people. There were many people outside the wall, others inside the premises. I entered the premises. There

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	<p>was a kind of meeting which was going on at that place, and the person who was leading the meeting was someone whom I knew. It was a soldier called Lt Col. Anatole Nsengiyumva. In fact, he was the person who was speaking last. He was giving instructions.”</p> <p>d. In the testimony of witness OAF pages 8-10 lines 20-14 in the English transcript of 23 June 2003.</p> <p>e. In the testimony of witness OAB page 45 line 29 in the English transcript of 24 June 2003.</p>
<p>6.17 In the afternoon of 7 April 1994, Anatole Nsengiyumva ordered a Tutsi man, his wife and their children to get into the back of the truck he was using. The man and his sons refused to obey the order. In the presence of Anatole Nsengiyumva, the militiamen accompanying him assaulted the man and one of his sons with machetes, killing the man and seriously wounding his son. Anatole Nsengiyumva did nothing to prevent or to stop this attack.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness OC pages 54-57 lines 4-27 in the English transcript of 9 June 2004 where it is said: “Anatole Nsengiyumva was sitting on the front seat with other soldiers, so he came out of the vehicle and said, “These little people, where are they coming from?”. “Anatole Nsengiyumva asked the soldiers to put us on board the vehicle.” “The youngest attempted to escape, but they threw stones on him and hit him on the back with a machete, with the flat side of the machete.” “Q. And what about your husband, what happened to him? A. He was hesitating, so they started hitting him. They started hitting him with machetes.” “Q. And what about your husband, did you ever see him again. A. No, I never saw him again.” See also page 33 lines 12-13 in the English transcript of 10 June 2004 where it is said: “He was present. He was in charge; nobody else. Had he wanted to save my husband, He would have done so.” See also pages 58-61 lines 25-20 in the English transcripts of 9 June 2004 where it is said: “Ah, now I have seen him. Oh yeah, I can see better. No, it’s this one. I have just seen him. It’s you. You don’t know me, but I know you. I was nothing for you, I was nothing for you. It’s you. You actually trampled me. Ms. GRAHAM. Your Honours, I believe that to be a positive identification of the Accused Anatole Nsengiyumva.” “MR. PRESIDENT. <i>The three Judges are unanimous that the witness identified the accused.</i>” [Emphasis added.]</p>
<p>6.18 Since the massacres of the Bagogwe in 1991, Nyundo parish had been a place of refuge for Tutsi victims of ethnic violence. As early as 7 April 1994, men, women and children, the majority of whom were Tutsi, sought refuge at that location.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness Sagahutu pages 59 lines 20-32 in the English transcript of 27 April 2004 where it is said: “ Especially from 1991, we were persecuted. Goods were being looted. We often fled and took refuge at the Nyundo minor seminary.” See also pages 83-92 lines 26-37 in the English transcripts of 27 April 2004 “ ..We started leaving the homes. All the Tutsis in the area went to the seminary.” “They were all Tutsi; they were all Tutsi.” “There were fathers,</p>

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	<p>mothers, children, young girls, unmarried women”.</p>
<p>6.19 On 8 April, soldiers and militiamen went to Bishop Wenceslas Kalibushi's residence in Nyundo to arrest him. They then took him to the <i>Commune Rouge</i> to be executed. Anatole Nsengiyumva, who was at the location, ordered the soldiers and militiamen to release the Bishop temporarily. Some days later, Anatole Nsengiyumva ordered the militiamen to go and execute the Bishop. Before the execution, the order was annulled by the military authorities of Kigali.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness Sagahutu pages 89-90 lines 37-14 in the English transcript of 27 April 2004 where it said: “..So he withdrew and took the Monseigneur Kalibushi with him... He took the Monseigneur to the Gisenyi cemetery which was known as the Commune rouge..” b. In the testimony of witness Serushago page 51 lines 23-25 in the English transcript of 18 June 2003 where it is said: “We went there, we noticed or notified -- assured ourselves that he was the one. Then there was an emergency meeting held involving ministers. And the decision was made not the kill Karibushi so that the international community would not be alerted to the fact that massacres were taking place. And that is the reason why he was not killed.” c. In the testimony of witness ZF page 54-58 lines 16-09 in the English transcript of 28 November 2002 where it is said: “ They brought him to Gisenyi to commune rouge, the public seminary in Gisenyi, and they wanted to kill him. But he was released by Colonel Nsengiyumva who allegedly said that Colonel Bagosora asked for his release because it would otherwise provoke diplomatic incidents and go against international opinion.”
<p>6.20 From 8 April to June 1994, the refugees at Nyundo parish were repeatedly attacked by soldiers and militiamen on the orders of Anatole Nsengiyumva. On at least one occasion, Anatole Nsengiyumva was present.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <ul style="list-style-type: none"> a. In the testimony of witness DO page 75 lines 07-21 in the English transcript of 30 June 2003 where it is said: “ I heard that Colonel Anatole had led an attack during which people in Nyundo were massacred, and on that occasion he was with Interahamwe.” “Kiguru told me about it because he was one of the attackers.” b. In the testimony of witness ZF pages 54-58 lines 16-09 in the English transcript of 28 November 2002 where it is said: “ ..I learnt that those who had taken refuge at the church of the diocese had been killed, probably by military elements. “ c. In the testimony of witness Sagahutu pages 83-84 lines 03-26 in the English transcript of 27 April 2004 where it is said “ ..the Interahamwe attacked us in the afternoon.” In the testimony of witness

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	<p>Sagahutu pages 84-86 lines 27-14 in the English transcript of 27 April 2004 where it is stated: "And Abbe Adrien Nzanana, was really frightened. He went out of the room where we were, and when he got into the corridor he came across an attack by the Interahamwe, and he was instantly killed. I heard them kill him and they were saying, 'kill this animal; kill this cockroach; kill them; finish them off and withdraw.'" See also Sagahutu pages 18-19 lines 22-19 in the English transcript of 28 April 2004 where it is said: "And so when the killings took place, she wasn't amongst those who were in the bishopric compound, and she was able to flee. She ran, and she told me she came across Lt. Col Anatole Nsengiyumva." In the testimony of witness Sagahutu pages 91-92 lines 27-37 in the English transcript of 27 April 2004 where it is said: "In the morning they got reinforcement, and this time around they had more weapons. They had many grenades; they had rifles. They started shooting. They were very strong. It was a terrible battlefield. There were much, much more. They had hoes and they were trying to open the cathedral. They had brought all sorts of means in order to try and destroy the cathedral."</p> <p>d. In the testimony of witness XBM pages 24-26 lines 35-2 in the English transcript of 14 July 2003 where it is stated: "Bagosora came in a plane, and he was at the meeting together with Anatole. Then there were the young people who had undergone military training and who were coming there and who were proud about the killings that had taken place at Nyundo, and Bagosora commended them for what they had done."</p>
<p>6.21 Between April and July 1994, roadblocks were set up by the militiamen in Gisenyi <i>prefecture</i>, in order to identify the Tutsi and their "accomplices" and kill them on the spot or take them to <i>Commune Rouge</i> to execute them there. Anatole Nsengiyumva supervised several of those roadblocks and distributed weapons to the militiamen who manned them.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness OAF pages 16-5 lines 37-27 in the English transcripts of 23 June 2003 where it is said: "Q. When did you first come across this roadblock? A. It was after Habyarimana's death. Actually, that roadblock was mounted -- was set up after Habyarimana's death." In the testimony of witness OAF page 21 lines 1-4 in the English transcript of 23 June 2003 where it is said: "When I saw him, there was someone who was at that roadblock and that person had received a permission to travel from the <i>Préfet</i> Zilimwabagabo, and he had received permission to cross the border. He had come from Byumba. But when he reached there, passage was refused, so Anatole asked Thomas to take that person. I was at the roadblock." In the testimony of witness OAF Page 17 lines 4-6 in the English transcript of 23 June 2003 where it is said: "When we reached the roadblock you needed to displace, to show your identity papers. These were</p>

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checked, that is, the identity of the person was checked. When they observed that you were Hutu, you were allowed to go by. If you were Tutsi you were kept there for you to explain." In the testimony of witness OAF page 20 lines 1-4 in the English transcript of 23 June 2003 where it is said: "Normally, the roadblocks were set up in order to stop Tutsis. People going through the roadblocks had to show their identity cards. If you were a Hutu, then you'd be allowed to go on, but if you were a Tutsi you'd be stopped. And in the case of those who were stopped there, they would either be killed there or they will be taken to the *commune rouge*."

- b. In the testimony of witness DO page 39 lines 12-13 in the English transcript of 30 June 2003 where it is said: "Q. Apart from what you just said he said, did Nsengiyumva say anything else? A. He talked about the roadblocks; namely, that they needed to be reinforced so as to be able to identify the enemy and to arrest him. Q. Who did you understand the enemy to be? A. At the time the enemy was Tutsi."
- c. In the testimony of witness OAB page 45 lines 18-20 in the English transcript of 24 June 2003 where it is said: "And Nsengiyumva said that the enemy had attacked and that we had to organise night patrols, and that we had to set up roadblocks in the *cellule*. He also said that; "You know the enemy, the enemy is the Tutsi".
- d. In the testimony of witness Serushago pages 29-30 lines 28-09 in the English transcript of 18 June 2003 where it is said: "The Commune Rouge was a code word used by the Interahamwe, and this password had been given to them by Lt. Col. Anatole Nsengiyumva... Nsengiyumva was actually the person who gave people the password. And when we told Tutsis that we were taking them to the Commune Rouge, they felt safe because they thought we were going to take them to the Commune, but actually we meant we were taking them to the Commune Rouge to kill them there."

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6.22 Between 8 April and mid July 1994, Anatole Nsengiyumva ordered militiamen and soldiers to exterminate the civilian Tutsi population and its "accomplices". Among the groups of militiamen which executed Anatole Nsengiyumva's orders, the most active were led by Bernard Munyagishari, Omar Serushago, Mabuye and Thomas Mugiraneza.

An example of evidence led on this point appears in the evidence as follows:

- a. In the testimony of witness ZF pages 26-27 lines 289-09 in the English transcript of 28 November 2002 where it is said: "Well, Counsel, orders were, of course, given because that was the purpose of distributing those radios. It was to ensure efficiency between the relations between the lieutenant who was in charge of the coordination of the militia and the militias themselves. So based on what I know, I can say the orders that were given to the militias, to the militiamen, came from the ops commander, Colonel Anatole Nsengiyumva, and they were transmitted through -- to the militiamen through the lieutenant who was in charge of the coordination of the militiamen."
- b. In the testimony of witness DBN pages 40-42 lines 20-14 in the English transcript of 1 April 2004 where it is said: " Lt Col Anatole Nsengiyumva asked Major Aloys Ntabakuze whether he could give him soldiers so that he can go with them to Masaka Hill." "He told me that they had been misled, that they were told that those people are Inkotanyi but, in reality, it was Tutsi who were hiding in coffee fields and houses, and that they threw grenades at those people, and that there was no fighting."
- c. In the testimony of witness DCH pages 50-55 lines 8-18 in the English transcript of 22 June 2004 where it is said: " shortly after the departure of the vehicle, we saw Lt Col Anatole Nsengiyumva, who arrived. ..It is he himself who was driving his vehicle, and the soldiers who were with him came out of the vehicle. Cyiza explained to him the situation. He showed him documents, but in the meantime, other people told him that we were transporting Tutsis, Inyenzi and Inkotanyi, that we were attempting to make them cross the border. ..He asked the people to present their documents. Some of the people showed their ID card, their Zairian ID cards. He allowed them to go. As for those who showed ID cards showing that they were Tutsis, they were brought down from the vehicle. Many people assembled to see who those people were. Lt Col Anatole Nsengiyumva took the said ID cards and gave them to Enock Kayondo and Simon Bikindi, ordering them to take the people to the red commune." " But the fact is these people were killed after Lt. Col Anatole nsengiyumva said, "Take these people to the commune rouge" and immediately they toned the song which said " Tubatsembetsembe". See also pages 50-55 lines 8-18 in the English transcript of 22 June 2004.
- d. In the testimony of witness XBH pages 41-46 lines 02-09 in the English transcript of 30 June 2003 where it is said: " ..I had referred to earlier,

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came down from the vehicle and they told Anatole that they had people whom they had brought from Nyundo and who were Tutsis. And so Anatole told them that there was another group of Tutsis that he had just sent to Commune rouge and that those other Tutsis had to be taken to the commune rouge same as the others." " In view of the fact that I knew that anyone taken to Commune Rouge was going to be killed and that those people who had just been taken away were Tutsis and who were being hunted down during that period, immediately Anatole said that they had to be taken to Commune Rouge, I immediately understood that they were going to be killed, same as was done for the others."

- e. In the testimony of witness OAB pages 58-61 lines 37-28 in the English transcript of 24 June 2003 where it is said: " Many people begged him to let her go, but Omar Serushago told him that Lt. Col Anatole Nsengiyumva had ordered him to take her to the Commune Rouge, and in fact she was even right."
- f. In the testimony of witness Serushago pages 29-30 lines 28-09, pages 34-35, lns 04-19 in the English transcript of 18 June 2003.
- g. In the testimony of witness OQ pages 23-24 lines 33-09 in the English transcript of 16 July 2003 where it is said: "He was reading out, I told you that he parked his vehicle. And after that he pointed out toward the direction of our house. He was giving a briefing, and then he pointed towards our house, that is after parking his car at No. 5. And when he did that, the others started blowing whistles or whistling and came there running."
- h. In the testimony of witness ABQ pages 8-12 lines 21-02 in the English transcript of 6 September 2004 where it is said: " after that, after the end of the meeting, Lt. Col Anatole Nsengiyumva went out. He went near his vehicle—or went in his vehicle and left. After his departure, the Interahamwe and Impuzamugambi organized themselves into groups. They went to launch attacks. Some of them went to Segahinda, others to Segahill, others to bugo—Mbungo, rather, in order to carry out the operations that they were asked to carry out."
- i. In the testimony of witness DO pages 15-16 lines 05-23 in the English transcript of 30 June 2003 where it is said: " He distributed weapons; there were grenades, firearms. And this was done on the orders of Colonel Anatole, the officer commanding the camp. Ultimately, we left the camp, and orders were issued according to which we had to carry out attacks in the Town."

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<p>6.23 Between April and July 1994, Omar Serushago, Bernard Munyagishari, Mabuye and Thomas Mugiraneza and their groups of militiamen hunted down, abducted and killed several members of the Tutsi population and of moderate Hutu in Gisenyi. Notably on 20 April 1994, Omar Serushago and Bernard Munyagishari, on the orders of Anatole Nsengiyumva, abducted about twenty Tutsi who had found refuge in a house in Gisenyi, took them to the <i>Commune Rouge</i> and executed them.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Serushago page 26-27 line 18-34 in the English transcript of 18 June 2003 where it is said: "I remember that it was between the 13th and the 20th, but I would like to point out that he entrusted me with an operation which I had to undertake on the 20th. He came to the customs roadblock, and he told me that at Bishop Bigirumwami's place there were Tutsis, and as an operations commander of Gisenyi, he wanted us to provide security to those people there. But he said that I had to go and look for the Tutsis and kill them immediately." "Those Tutsis were hiding there. They thought they would be safe there because that's what Anatole Nsengiyumva had them believe. But his aim was to kill them." "In fact, there were nineteen Tutsis, and there's one Hutu woman whose name was Felicite. We put them in a minibus. The twenty of them were taken by us to the <i>commune rouge</i>, and we shot them and all of them died." "Counsel, I killed four out of those twenty people, and that is why I am currently in prison." "I remember that I shot three women and one man." b. In the testimony of witness OAB pages 59- 60 lines 1-37 in the English transcript of 24 June 2003. c. In the testimony of witness DO pages 21-24 lines 20-19 in the English transcript 30 June 2003.
<p>6.24 Between April and July 1994, Bernard Munyagishari, his group of militiamen and Omar Serushago's group of militiamen abducted, confined, raped, sexually assaulted and committed other crimes of sexual nature against Tutsi woman and girls.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness OAB pages 60-63 lines 37- 6 in the English transcript of 24 June 2003 where it is said: "...She was in a mini bus which Omar Serushago used. Many people begged him to let her go, but Omar told him Anatole Nsengiyumva had ordered him to take her to the <i>commune rouge</i>..." "Q. what did you personally witness? A. I saw him in the minibus. That woman was raped. Her dress was torn, the army commander was on the spot close to Omar's house." b. In the testimony of witness Serushago page 51 lines 26-36 in the English transcript of 18 June 2003 where it is stated: "<i>Interahamwes</i> raped women at the cemetery, at the <i>commune Rouge</i> before killing them." "The wife of Longin whose name was Thérèse, who was working at Rwandex, she was raped. Actually, it was the mistress of Longin. But his legitimate wife, I've already talked about her, she worked at the bank in Kigali. Prosecutor, I would also like to add that the very first night, say those of the 6th and the 7th, let me say to you that Bernard Munyagishari told us that himself, that very night, he raped women." "Q. Was Anatole Nsengiyumva aware of these rapes? A. In his capacity as the operations commander, he was

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	<p>aware of all of the activities that we conducted. He knew that we were perpetrating evil, and he had the power to put an end to all of these things, but he never did so.”</p> <p>c. In the testimony of witness ZF pages 60-61 lines 21-08 in the English transcript of 28 November 2002 where it is said: “ But, normally, that house was used by Damas, Thomas and Omar, but also other militiamen, Interahamwe and Impuzamugambi. They would bring young girls there and have their way with them. I remember that I went with Lieutenant Bizumuremyi. Damas told Bizumuremyi openly that that house was used to rape women and young girls before killing them. So the lieutenant told him that that wasn't so bad, but that he had to make sure that afterwards, after their activities, after finishing what they had to do, they had to execute them because if they didn't, they would be a new danger, because these young girls could then go abroad and join the ranks of the RPF to thereafter come back as soldiers.”</p>
<p>6.25 On 25 April 1994, in Gisenyi <i>prefecture</i>, Felicien Kabuga, founder of RTLM, Mathieu Ndirumpatse, President of MRND, Edouard Karemera, Interior Minister and Anatole Nsengiyumva agreed together and with others to establish the <i>Fonds de Défense Nationale</i> (FDN), for the purpose of providing assistance to the Interim Government to fight the enemy and its accomplices”. This Fund would serve to buy weapons, vehicles and uniforms for the <i>Interahamwe</i> militia and the Army in all <i>prefectures</i> in the country. Félicien Kabuga was appointed chairman of the <i>comité provisoire</i> of the FDN and was a signatory to the fund's accounts with the <i>Banque de Kigali</i> and <i>Banque Commerciale du Rwanda</i>, the latter opened by Anatole Nsengiyumva in Gisenyi.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <p>a. In the documentary material exhibited by the Prosecution as P45A and as P231.</p> <p>b. In the testimony of witness Des Forges page 89-93 lines 23-21 in the English transcript of 18 September 2002.</p>

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<p>6.26 In April 1994, Anatole Nsengiyumva, Bernard Munyagishari and others held a meeting in Gisenyi concerning reinforcements for the militiamen in Nyange, Kibuye <i>prefecture</i>, where numerous Tutsis were still putting up resistance to the massacres. Anatole Nsengiyumva arranged to send two pick-up truckloads of militiamen, and provided them with weapons. In fact, the operation lasted two days and was conducted by Bernard Munyagishari.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Serushago at pages 41- 46 in the English transcript of 18 June 2003; at pages 14-18 in the English transcript of 19 June 2003.
<p>6.27 In June 1994, Interior Minister Edouard Karemera ordered the Commander in Gisenyi, Anatole Nsengiyumva, to send troops into the Bisesero area, in Kibuye <i>prefecture</i>, supposedly to combat the enemy, although the RPF was in fact never in Bisesero. There was only of a group of Tutsis refugees who had gathered in that region, fleeing the massacres.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Des Forges at page 103-105 line 11-14 in the English transcript of 18 September 2002 where it is said: "So, the letter we have here is a request that Colonel Nsengiyumva participate in the final elimination of that group of civilians clinging to life on a hilltop at Bisesero. He was to do that with the assistance of the local gendarmerie and the population, once again, a joint operation, involving the military and the militia in attacking Tutsi civilians." b. In the documentary material exhibited by the prosecution P50B. c. In the testimony of witness ZF pages 82-84 lines 19-5 in the English transcript of 28 November 2002 where it is said: " Counsel, the event which occurred in Bisesero and which I'm aware of occurred in 1994. At that time, it would appear there was what was called "the resistance" by the accomplices. There were confrontations between the Rwandan population of Hutu origin and Tutsi. Obviously at that time, the Tutsi were being pursued by the militiamen because this was at the peak of the genocide. There was a group of Tutsi which had taken refuge on a hill called Bisesero hill. The Hutu civilian population pursued those people who had taken refuge on that hill. They were not able to overcome them. Apparently, there was a military intervention at Bisesero, and at some point in time -- I do not know whether the resistance was strong enough. In any case, at some point in time reinforcement was sought from the high command in Gisenyi in order to provide assistance or provide reinforcement at Bisesero. At that time there was -- rather, Colonel Nsengiyumva organised the departure through --" " .. through Lieutenant Bizumuremyi. That means that, indeed, it was Lieutenant Bizumuremyi who organised the departure on the orders of Colonel Nsengiyumva, and the buses that were used were

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	<p>the buses of ONATRACOM. I spell ONATRACOM: O-N-A-T-R-A-C-O-M.”</p> <p>d. In the testimony of witness KJ pages 37-43 lines 12-02 in the English transcript of 19 April 2004 where it is said: “They explained to me that they had come from different regions to provide reinforcement to their colleagues to exterminate the other Tutsis who were still resisting at the Bisesero hills.” “I saw many ONATRACOM buses. And the Interahamwes who were on board these buses.” “ He also thanked those persons who were assembled there and said that it was the ministry of Defense and the Ministry of Interior that have invited them so that together, they could fight the enemy and that they could continue pursuing and exterminating those Tutsis who were resisting around Bisesero. And that is where they prepared the attack against Bisesero region.” “ ..but I heard that people in Bisesero who had been hiding there had been exterminated in the course of the attacks.”</p> <p>e. In the testimony of witness ABQ pages 28-35 lines 34-10 in the English transcript of 6 September 2004 where it is said: “ The buses started off, and we knew that we were going to Kigali. So we left, and when we arrived at the tea factory of Pfunda in Nyundo where there is a junction, junction of the road going to Kigali and the other road going to Kibuye Prefecture, the buses stopped at that place when we arrived at that junction.” “The buses took the road to Kibuye.” “Yes. According to what I heard from someone who was in that bus, when we were in the Congo, that person told me that indeed they went to Bisesero.” “He told me that they had gone up to Bisesero hill, and that the buses had parked at that place, and that they were told, “ These are the Inyenzi at the top of the hill. Bring them down.” And they attacked according to the tactics they had been taught. But during the attack, it turned out that the people at the top of the hill were civilians who only had stones to defend themselves. They went to attack. They went to kill them because the others only had stones to defend themselves.” “MR. PRESIDENT: When was this event at Umuganda stadium when Anatole and Col. Theoneste Bagosora addressed the crowd, Mr. Witness? THE WITNESS: Thank you, Mr. President. I would not venture to give you a date, but I would say that it was in mid-June.”</p>
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<p>6.28 Between May and June 1994, Anatole Nsengiyumva, Felicien Kabuga, Joseph Nzirorera, General Secretary of MRND and Juvenal Uwilingimana, Director of <i>l'Office rwandais du tourisme et des parc nationaux</i> held a meeting in Gisenyi. During the meeting, Joseph Nzirorera and Juvenal Uwilingimana took note of the names of the Tutsi and moderate Hutu who had come from other prefectures. They drew up a list of people to eliminate, which they handed over to the Interahamwe.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Serushago page 43 lines 18-26 in the English transcripts of 18 June 2003 where it is stated: "There was the interim government. I don't remember all the ministers, but I do remember there was Ngirabatware, Augustin, was minister in charge of planning. Anatole Nsengiyumva was also present as operations commander. There was another one who was the liason officer. There were other ministers, Nzirorera; Uwilingiyimana, who was the managing director of Rwandan tourism and national parks, there were a lot of people in actual fact." "The objective of the meeting was to collect money in order to buy arms and ammunition in order to exterminate Tutsis who were still resisting in Bisesero hills."
<p>6.29 Between May and June 1994, Omar Serushago and his group of militiamen abducted a Tutsi woman and brought her, on the order of Anatole Nsengiyumva to the Commune Rouge to execute her.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness Serushago pages 36-39 lines 37-34 in the English transcript of 18 June 2003 where it is stated: "After we picked her up, we moved around town and we showed her to the authorities who were in Hotel Meridian and Palm Beach, that is Nzirorera and Nsengiyumva, and we were commended because they said it was difficult to find her. So now it was a matter of going to settle her fate." "It was Anatole Nsengiyumva who issued the order." "We immediately took her to the <i>commune rouge</i>, and before we got to <i>commune rouge</i> we met a lieutenant who shot her in the head, and she died on the spot." b. In the testimony of witness ABQ pages 27-28 lines 23-10 in the English transcript of 6 September 2004 where it is said: " Q. You then said that Bagosora spoke about ways and means of fund-raising to get resources for the, for the army. What specifically did he say about this? A. ... It was said that this problem was not difficult, and Anatole Nsengiyumva was charged with the task of finding this person so that she could come and open the cash box for the money...The speaker actually announced that the manager of the bank had agreed to grant this loan, but there was a problem because the cashier of the bank, who was a Tutsi, was—had gone into hiding." " Q. And how do you know that Nsengiyumva was charged with the task of finding this Tutsi woman? A. The mission was assigned to him on the spot. He was told to go and find this cashier so that she could open the cash box and the money taken out." " Q. Do you know who this woman was? A. Yes, I knew her, and she was the common-law wife of Longe Sherif, who was a coach of a local team. Q. Do you know what happened to this woman? A. she was killed."

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	<p>c. In the testimony of witness DO pages 76 lines 02-09 in the English transcript of 30 June 2003 where it is said: " Q. The story of the killing of Longin's wife by Omar Faizi, who told you about that? A. I often used to talk to Omar Faizi. I heard about it from other Interahamwe. I asked Faizi, Omar Faizi, whether that was true, and he confirmed that what had been said was true."</p>
<p>6.30 From April to June 1994, Colonel Anatole Nsengiyumva chaired meetings at Umuganda stadium in Gisenyi, with several hundred militiamen in attendance. On those occasions, he incited and encouraged the participants to continue the massacres of the civilian Tutsi population.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <p>a. In the testimony of witness ZF pages 62 lines 4-15 in the English transcript of 28 November 2002 where it is said: "What I know is that after some time weapons were brought, and according to what the officers said, weapons were brought in from The Seychelles. The plane landed in Goma, military trucks went to the Goma airport. They brought cases, and in the cases there was ammunition and weapons. The weapons were distributed to the militiamen who had assembled at the Gisenyi stadium. They went to provide reinforcement in Kigali. ONATRACOM buses were used to transport them to Kigali."</p> <p>b. In the testimony of witness DO page 34 lines 15-19 in the English transcripts of 1 July 2003.</p>
<p>6.31 From April to July 1994, several hundred thousand people were massacred throughout Rwanda. The majority of the victims were killed solely because they were Tutsi or appeared to be Tutsi. The other victims, nearly all Hutu, were killed because they were considered Tutsi accomplices, were linked to them through marriage or were opposed to the extremist Hutu ideology.</p>	<p>For examples of evidence led on this point, see the evidence listed in respect of indictment paragraphs 6.13-6.30 to the extent they are referred to in this chart.</p>

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<p>6.32 From 7 April 1994 around the country, most of the massacres were perpetrated with the participation, aid and instigation of military personnel, gendarmes and Hutu militiamen.</p>	<p>For examples of evidence led on this point, see the evidence listed in respect of indictment paragraphs 6.7, 6.13-6.30, to the extent they are referred to in this chart.</p>
<p>6.33 The massacres perpetrated were the result of a strategy adopted and elaborated by political, civil and military authorities in the country, at the national as well as the local level, such as, Anatole Nsengiyumva, Theoneste Bagosora, Aloys Ntabakuze, Joseph Nzirorera, Felicien Kabuga, Omar Serushago, Bernard Munyagishari, Mabye, Bamabe Samvura and Thomas Mugirameza, who conspired to exterminate the Tutsi population.</p>	<p>For examples of evidence led on this point, see the evidence listed in respect of indictment paragraphs 5.1-5.32, 6.1-6.3, to the extent they are referred to in this chart.</p>
<p>6.34 During the events referred to in this indictment, rapes, sexual assaults and other crimes of a sexual nature were widely and notoriously committed throughout Rwanda. These crimes were perpetrated by, among others, soldiers, militiamen and gendarmes against the Tutsi population, in particular Tutsi women and girls.</p>	<p>An example of evidence led on this point appears in the evidence as follows:</p> <ol style="list-style-type: none"> a. In the testimony of witness ZF pages 60-69 lines 30-8 of the English transcript of 28 November 2002 where it is said: "I remember that I would meet him in town or on the street, and I remember that he had a house which wasn't his own, but it was a house he was using and, according to what he said, himself, he used it and so did Omar Serushago and Thomas. That house -- rather, in that house they brought young Tutsi girls into it, and they were to rape them before executing them." b. In the testimony of witness OAB pages 60-63 lines 37- 6 in the English transcript of 24 June 2003 where it is said: "...She was in a mini bus which Omar Serushago used. Many people begged him to let her go, but Omar told him Anatole Nsengiyumva had ordered him to take her to the commune rouge..." " Q. what did you personally witness? A. I saw him in the minibus. That woman was raped. Her dress was torn, the army commander was on the spot close to Omar's house." c. In the testimony of witness DBQ page 34 lines

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31-35 in the English transcript of 23 September 2003 where it is said: "The commander knew. He went by there and he knew and saw that the soldiers were raping the women, and he did nothing about it." See also page 15 lines 23-25 of the English transcript of 25 February 2004 where it is said: "Among those Tutsis were women, and some of the soldiers liked them and took them to some of their houses, which were next to our position, and slept with those women."; and page 24 lines 17-20 in the English transcript of 25 February 2004 where it is said: "There was a building within Centre Christus which was used by soldiers in order to rape women. This was a building which was near the road leading to Kimironko. So soldiers would go and get women further down near Sobolirwa and they would bring them to that building and they would rape those women there."

- d. In the testimony of witness DBJ pages 8-9 lines 37-7 in the English transcript of 24 November 2003 where it is said: "The soldier came and asked her to stand up, took her to a room, a bedroom. The soldier asked the young lady to remove her clothes. She refused and the soldier forcefully undressed her, raped her; thereafter, he killed her and took out her body to the terrace. That is where he left the body after raping and killing her. That is what I was able to see in addition to the massacres."
- e. In the testimony of witness XXY page 20 lines 16-24 in the English transcript of 11 June 2004 where it is said: "I remember that we saw a nun who had been stopped at the roadblock in the morning, and the nun was a Tutsi. And we were asking ourselves, are they also going to kill nuns? Have they done something bad? And the *Interahamwe* told us that all the Tutsis were enemies. The nun was taken to a house near the roadblock, and I was there. It was around 5 p.m. She was screaming. We did not remain at the roadblock very long because we were sent away. And when I returned, I heard her scream inside the house, so she was calling out for help. And I was able to find out that she had been raped, because I saw her again the following day and she was sitting in front of the house."
- f. In the testimony of witness AAA page 60 lines 1-5 in the English transcript of 14 June 2004 where it is said: "I did speak to the lady who had survived the killings, and I took her along with me to the orphanage which is in *secteur* Y, and she was the one who told me that they had been separated and that some of the girl refugees had been raped. Q. And who had raped these women that had been separated? A. The *Interahamwe*." See also pages 25-27 lines 07-14 in the English transcript of 15 June 2004.

Summary of Evidence for Nsengiyumva Indictment for Prosecutor's Response to Motion for Acquittal

- g. In the testimony of witness DAS pages 44-47 lines 34-23 in the English transcript of 5 November 2003 where it is said: "They took them some young women, four of them, took them to some property that belonged to the Chinese who were engaged in road construction. They took there to rape them. They were not raped at the roadblock. Those who stayed back, about four of them, were killed by the soldiers. The others were taken to that property and they stayed there. That is where they were raped --that is where they were raped."
- h. In the testimony of witness XXJ pages 44-45 lines 32-07 in the English transcript of 14 April 2004 where it is said: "Yes, I received information about rapes that were committed, because soldiers who lived with me told me that they had friends and they knew girls who had been raped by soldiers. And they told me that the girls had been their friends before the unfortunate events had occurred, and they told me that some of the girls had been raped before being killed, and they had been raped by soldiers."
- i. In the testimony of witness XAB page 39 lines 23-24 in the English transcript of 6 April 2004 where it is said: "He told me that rapes were being committed by soldiers at the roadblock, as well as the Interahamwe who were there. They were raping girls, and those who refused were killed." See also pages 39-40 lines 37-1 in the English transcript of 6 April 2004 where it is said: "They mentioned rapes that were being committed at the airport and that were being perpetrated by the LAA Battalion, including Lieutenant Sebarera."
- j. In the testimony of witness Serushago pages 58-59 lines 11-20 in the English transcript of 18 June 2003 where it is said: " Q. Now, was rape prevalent in Gisenyi at the time? A. Oh yes, that is right, particularly at the cemetery, at the Commune Rouge. Q. Did any soldiers take part in the rapes? A. Of course soldiers participated. They raped women who were working both with civilians and soldiers in civilian attire and they too raped women."
- k. In the testimony of witness Dallaire pages 31-33 lines 23-09 in the English transcript of 20 January 2004 where it is stated: " They were all civilian. I don't remember a uniformed person. And there were babies or pregnant women, babies, children, elderly. Some of the sites...and you could see by the layout of the women and so on that rape and then mutilation had happened." :-that is I am speaking about my observers and myself--that young girls, young women, would be laid out with their dresses over their heads, the legs spread and bent. You could see what seemed to be semen drying or dried. And it all indicated to me that

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these women were raped. And then a variety of material were crushed or implanted into their vaginas; their breasts were cut off... a number of them women had their breasts cut off or their stomach open. ..I would say generally at the sites you could find younger girls and young women who had been raped or, you know, deducting that they were raped." " ..but I would say that not many sites that were reported did not have such scenes of rape."

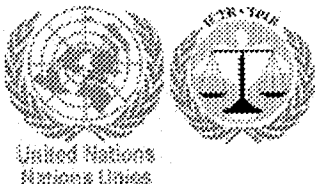
- l. In the testimony of witness Beardsley pages 42-46 lines 20-24 in the English transcript of 3 February 2004 where it is said: " women's breasts, women vaginas had been cut with machetes...there was rape that had taken place in addition to the killings, and the murder." See also pages 50-52 lines 33-06 in the English transcript of 3 February 2004 where it is said: " Yes, two things really. One, when they killed women it appeared that the blows that had killed them were aimed at sexual organs, either breasts or vagina; they had been deliberately swiped or slashed in those areas. And, secondly, there was a great deal of what we came to believe was rape, where the women's bodies or clothes would be ripped off their bodies, they would be lying back in a back position, their legs spread, especially in the case of very young girls. I'm talking girls as young as six, seven years of age, their vaginas would be split and swollen from obviously multiple gang rape, and then they would have been killed in that position. .. It seemed that everywhere we went, from the period of 19th April until the time we left, there was rape everywhere near these killing sites."
- m. In the testimony of witness UT page 7 of the 92bis statement where it is said: " Moreover, I used to see soldiers come in at night and abduct girls and young women. When they returned, they were exhausted. They said that soldiers raped them. They even said that there were cases where several soldiers raped the same woman. One of the girls returned so exhausted that she did not survive. Before she died, she said that so many soldiers had raped her that she could not recall the exact number. The soldiers wore camouflage uniforms and various types of headgear."
- n. In the testimony of witness EU page 2 of the 92bis statement where it is said: " Children 10 or 12 years of age were raped and later killed."
- o. In the testimony of witness LN pages 82-88 lines 26-06 in the English transcript of 30 March 2004 where it is stated: " She could not have been older than 13." "She was raped. I can't say more than that. It was in the open. It was not in the dark. It was not in a hidden place. She was simply raped, and when she was raped, he insulted her. She did not say anything, and this young girls' mother actually covered her face with a cloth." "

**Summary of Evidence for Nsengiyumva Indictment for Prosecutor's Response
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	<p>p. In the testimony of witness DAZ in the English transcript of 16 June 2004 and the documentary material exhibited by the Prosecutor P274 [92bis stmt].</p> <p>q. In the testimony of witness BY at pages 8-9 in the English transcript of 6 July 2004 where it is said: "Mr. President, I am not going to hide from you the fact that within this context of protection within the context of war, there was frequently, between these women who were protected and the Interahamwe who were protecting them, there were quite frequent relations of a sexual nature." See also prosecution exhibit P287A [KV00-0397A].</p> <p>r. In the testimony of witness Nowrojee English transcript of 12 and 13 July 2004.</p>
<p>6.35 Military officers, members of the Interim Government and local authorities aided and abetted their subordinates and others in carrying out the massacres of the Tutsi population and its accomplices. Without the complicity of the local and national civil and military authorities, the principal massacres would not have occurred.</p>	<p>For examples of evidence led on this point, see the evidence listed in respect of indictment paragraphs 56.7, 6.13-6.30 to the extent they are referred to in this chart.</p>
<p>6.36 From April to July 1994, by virtue of his position, his statements, the orders he gave and his acts, Anatole Nsengiyumva exercised authority over members of the <i>Forces Armies Rwandaises</i>, their officers and militiamen. The military and militiamen, as from 6 April 1994, committed massacres of the Tutsi population and of moderate Hutu which extended on large part of Rwandan territory with the knowledge of Anatole Nsengiyumva.</p>	<p>For examples of evidence led on this point, see the evidence listed in respect of indictment paragraphs 4.1-4.5, 6.13-6.30 to the extent they are referred to in this chart.</p>

**Summary of Evidence for Nsengiyumva Indictment for Prosecutor's Response
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<p>6.37 Lt Colonel Anatole Nsengiyumva, in his position of authority, acting in concert with, notably Theoneste Bagosora, Aloys Ntabakuze, Joseph Nzirorera, Felicien Kabuga, Omar Serushago, Bernard Munyagishari, Mabye, Bamabe Samvura and Thomas Mugirameza participated in the planning, preparation or execution of a common scheme, strategy or plan, to commit the atrocities set forth above. The crimes were committed by him personally, by persons he assisted or by his subordinates, including the militiamen who acted under his order and with his knowledge or consent.</p>	<p>For examples of evidence led on this point, see the evidence listed in respect of indictment paragraphs 5.1-5.32, 6.1-6.30 to the extent they are referred to in this chart.</p>
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TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH CMS

COURT MANAGEMENT SECTION
(Art. 27 of the Directive for the Registry)

I - GENERAL INFORMATION (To be completed by the Chambers / Filing Party)

To:	<input checked="" type="checkbox"/> Trial Chamber I N. M. Diallo	<input type="checkbox"/> Trial Chamber II R. N. Kouambo	<input type="checkbox"/> Trial Chamber III C. K. Hometowu	<input type="checkbox"/> Appeals Chamber / Arusha F. A. Talon
	<input type="checkbox"/> Chief, CMS J.-P. Fomété	<input type="checkbox"/> Deputy Chief, CMS M. Diop	<input type="checkbox"/> Chief, JPU, CMS K. K. A. Afande	<input type="checkbox"/> Appeals Chamber / The Hague R. Burriess
From:	<input type="checkbox"/> Chamber (name)	<input type="checkbox"/> Defence (name)	<input checked="" type="checkbox"/> Prosecutor's Office BARBARA MULVANEY (name)	<input checked="" type="checkbox"/> Other: F. Nyiti (name)
Case Name:	The Prosecutor vs. THEONESTE BAGOSORA ET AL.		Case Number: ICTR-98-41-T	
Dates:	Transmitted: 26 October 2004		Document's date: 26 October 2004	
No. of Pages:	218	Original Language: <input checked="" type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda		
Title of Document:	Prosecutor's Response to Defence Motions for acquittal pursuant to Rule 98bis of the Rules of Procedure and Evidence			
Classification Level:		TRIM Document Type:		
<input type="checkbox"/> Strictly Confidential / Under Seal		<input type="checkbox"/> Indictment	<input type="checkbox"/> Warrant	<input type="checkbox"/> Correspondence
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<input checked="" type="checkbox"/> Public		<input type="checkbox"/> Disclosure	<input type="checkbox"/> Order	<input type="checkbox"/> Appeal Book
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		<input type="checkbox"/> Accused particulars		

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**PROOF OF SERVICE - ARUSHA
PREUVE DE NOTIFICATION - ARUSHA**

Date: 26 October 2004	Case Name / Affaire: The Prosecutor vs.	<ul style="list-style-type: none"> - Théoneste BAGOSORA - Gratien KABILIGI - Anatole NSENGIYUMVA - Aloys NTABAKUZE
	Case No /Affaire No.: ICTR-98-41-T	

To:	<input checked="" type="checkbox"/> TC1	received by / reçu par:	ALO:	received by / reçu par		
A:	<input type="checkbox"/> Judge E. Mose, President <input type="checkbox"/> Judge J. R. Reddy <input type="checkbox"/> Judge S. A. Egorov <input type="checkbox"/> Judge D. C. M. Byron (Simba) <input type="checkbox"/> E. Nahamya, Co-ordinator	<i>Obonye</i> 27.10.04	<input checked="" type="checkbox"/>	<i>Obonye</i> 27.10.04		
	<input type="checkbox"/> TC2					
	<input type="checkbox"/> Judge W. H. Sekule <input type="checkbox"/> Judge A. Ramaroson <input type="checkbox"/> Judge K. R. Khan (Bizimungu et al.) <input type="checkbox"/> Judge A. J. N. de Silva <input type="checkbox"/> Judge S. B. Bossa (Nyiramasuhwo et al.) <input type="checkbox"/> Judge L. G. Muthoga (Bizimungu et al.) <input type="checkbox"/> Judge E. F. Short (Bizimungu et al.) <input type="checkbox"/> Judge T. Hikmet (Ndindiyimana et al.) <input type="checkbox"/> Judge S. K. Park (Ndindiyimana et al.) <input type="checkbox"/> C. Eboe-Osuji, SLO <input type="checkbox"/> A. Leroy, Co-ordinator					
	<input type="checkbox"/> TC3					
	<input type="checkbox"/> Judge A. Vaz <input type="checkbox"/> Judge K. R. Khan <input type="checkbox"/> Judge D. C. M. Byron <input type="checkbox"/> Judge F. Lattanzi (Karemera et al.) <input type="checkbox"/> Judge L. G. Muthoga (Muhimana) <input type="checkbox"/> Judge F. R. Arrey (Karemera et al.) <input type="checkbox"/> Judge E. F. Short (Muhimana) <input type="checkbox"/> Judge H. Kökberg (Seromba) <input type="checkbox"/> Judge G. G. Kam (Seromba) <input type="checkbox"/> E. O'Donnell, SLO <input type="checkbox"/> R. Adjovi, Co-ordinator <input type="checkbox"/> R. Diarra, Co-ordinator <input type="checkbox"/> C. Denis, Co-ordinator (Karemera et al.) <input type="checkbox"/> H. Gogo, Co-ordinator (Seromba) <input type="checkbox"/> E. Nahamya, Co-ordinator (Muhimana)					
	<input checked="" type="checkbox"/> OTP / BUREAU DU PROCUREUR					
	<input type="checkbox"/> Trial Attorney in charge of case:	B. Mulvaney		received by <i>L. Musau</i> 27/10/04		
	<input checked="" type="checkbox"/> DEFENSE					
	<input type="checkbox"/> Accused / Accusé:	T. Bagosora, G. Kabiligi, A. Nsengiyumva, A. Ntabakuze		complete / remplir " CMS4 FORM"		
	<input type="checkbox"/> Lead Counsel / Conseil Principal	R. Constant, J. Y. Degli, K. Ogello, P. Erlinder				
	<input type="checkbox"/> In / à Arusha Arusha		<input type="checkbox"/> by fax	complete / remplir " CMS3bis FORM"		
	<input type="checkbox"/> Co-Counsel / Conseil Adjoint:	P. Skolnik, R. Saint-Leger, G. O. Bw'Omanwa, A. Tremblay				
	<input type="checkbox"/> In / à Arusha Arusha		<input type="checkbox"/> by fax	complete / remplir " CMS3bis FORM"		
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Formulaire à être renvoyé à l'expéditeur dûment signé par le détenu.

Date: 26/10/2004		Case Name / Affaire: The Prosecutor vs. - Théoneste BAGOSORA - Gratien KABILIGI - Anatole NSENGIYUMVA - Aloys NTABAKUZE		
		Case No / Affaire No: ICTR-98-41-T		
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PROSECUTOR'S RESPONSE TO DEFENCE MOTIONS FOR ACQUITTAL PURSUANT TO RULE 98bis OF THE RULES OF PROCEDURE AND EVIDENCE

26/10/2004

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Date: 26/10/2004		Case Name / Affaire: The Prosecutor vs. - Théoneste BAGOSORA - Gratien KABILIGI - Anatole NSENGIYUMVA - Aloys NTABAKUZE		
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PROSECUTOR'S RESPONSE TO DEFENCE MOTIONS FOR ACQUITTAL PURSUANT TO RULE 98bis OF THE RULES OF PROCEDURE AND EVIDENCE	26/10/2006	218

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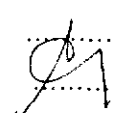
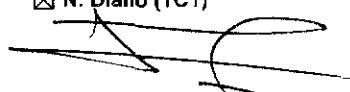


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PROSECUTOR'S RESPONSE TO DEFENCE MOTIONS FOR ACQUITTAL PURSUANT TO RULE 98bis OF THE RULES OF PROCEDURE AND EVIDENCE	26/10/2004	218





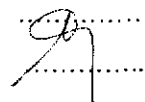
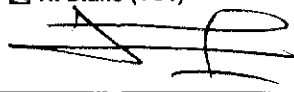


**International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda**

Arusha International Conference Centre
P.O.Box 6016, Arusha, Tanzania - B.P. 6016, Arusha, Tanzanie
Tel: 255 57 504207-11 504367-72 or 1 212 963 2850 Fax: 255 57 504000/504373 or 1 212 963 2848/49

**PROOF OF SERVICE TO DETAINEES
PREUVE DE NOTIFICATION D'ACTES AUX DETENUS**

Upon signature of the detainee, please return this sheet to the originator as proof of service.
Formulaire à être renvoyé à l'expéditeur dûment signé par le détenu.

Date: 26/10/2004		Case Name / Affaire: The Prosecutor vs. - Théoneste BAGOSORA - Gratien KABILIGI - Anatole NSENGIYUMVA - Aloys NTABAKUZE		
		Case No / Affaire No: ICTR-98-41-T		
To: A:	Name of detainee / nom du détenu BAGOSORA	TO BE FILLED IN BY THE DETAINEE A COMPLETER PAR LE DETENU		
		I confirm reception of the document(s) listed below. <i>Je confirme réception du/des documents mentionné(s) ci-dessous.</i>	Signature 	Date, Time / Heure 28/10/04
Via:	Security Officer Commanding Officer, UNDF	Print name / nom  S. Guindo	Signature 	Date, Time / Heure 26/10/04
From: De:	<input type="checkbox"/> J.-P. Fomété (Chief, CMS) <input checked="" type="checkbox"/> N. Diallo (TC1) <input type="checkbox"/> R. Kouambo (TC2) <input type="checkbox"/> C. Hometowu (TC3) <input type="checkbox"/> F. A. Talon (Appeals)  <input type="checkbox"/> Other / Autre			
Subject Objet:	Kindly find attached the following documents / Veuillez trouver en annexe les documents suivants.			

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