

ICTR
CRIMINAL REGISTRY
RECEIVED

UNITED NATIONS  NATIONS UNIES

1998 NOV -5 P 3 17 International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

CASE NO.: ICTR

ICTR
RECEIVED
13 OCT 1997
ACTION: REGISTRATION
COPY: 2

THE PROSECUTOR

AGAINST

Emmanuel BAGAMBIKI
Samuel IMANISHIMWE



INDICTMENT

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

Emmanuel BAGAMBIKI
Samuel IMANISHIMWE



with GENOCIDE, COMPLICITY IN GENOCIDE, CONSPIRACY TO COMMIT GENOCIDE, CRIMES AGAINST HUMANITY and SERIOUS VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS and of ADDITIONAL PROTOCOL II thereto, all offences stipulated in Articles 2, 3 and 4 of the Statute of the Tribunal.

2. THE ACCUSED

2.1 Emmanuel Bagambiki was born in Cyangugu *préfecture*. Throughout the events referred to in this indictment, until he left Rwanda, the accused held the office of *Préfet* of Cyangugu *préfecture*. Before that, he held the office of *Préfet* of Kigali-Rural *préfecture*. He was a member of the MRND.

2.2 Samuel IMANISHIMWE was born in Nyamitaba, Masisi region, in the Democratic Republic of Congo. His parents were from Nkuli *commune*, Ruhengeri *préfecture*. On 6 April 1994, he held the position of Commander of the Cyangugu

barracks and had the rank of Lieutenant. In 1993, he held the position of officer of the staff of the G-3, attached to the General Staff of the Rwandan Army in Kigali.

2.3 [REDACTED]

3. CONCISE STATEMENT OF FACTS.

3.1 Unless otherwise stated, the violations of international humanitarian law referred to in this indictment took place in Rwanda between 1 January and 31 July 1994.

3.2 During the events referred to in this indictment, the Tutsis, Hutus and Twas were identified as ethnic or racial groups.

3.3 During the events referred to in this indictment, there were in Rwanda widespread or systematic attacks against a civilian population based on political, ethnic or racial grounds.

3.4 During the time of the events referred to in this indictment, there was an armed international conflict in the territory of Rwanda. The victims mentioned in this indictment were protected persons, according to the meaning of Article 3 common to the Geneva Conventions and of Additional Protocol II thereto, and did not actively participate in the conflict.

3.5 During the events referred to in this indictment, the MRND (*Mouvement Républicain National pour le Développement et la Démocratie*) was one of the political parties. [REDACTED]

3.6 At prefectural level, the *Préfet* is the most senior government representative and possessor of the State's authority at the local level. The *Préfet* carries out his duties under the hierarchical authority of the Minister holding the portfolio of the Interior. The *Préfet's* authority covers the entire *préfecture*.

In his capacity as *Préfet* of Cyangugu, Emmanuel BAGAMBIKI had to carry out the duties attached to his office, notably:

-Run the préfecture in conformity with the laws and regulations in force and

ensure their implementation and observance.

-Ensure peace, public order and the safety of people and property

-Assist and supervise the communal authorities

-Inform the central body of the situation in the préfecture and of any event of interest.

3.7 In the *préfecture*, the *Préfet* is in charge of ensuring peace, public order and the safety of people and property. The *Préfet* may, in the discharge of his duties, request the intervention of the army and of the *Gendarmerie Nationale*.

The *Gendarmerie Nationale* is an armed body set up to maintain public order and the observance of laws. It falls under the Ministry of National Defense but can carry out its duties of ensuring public order at the request of the national authority having jurisdiction, namely the *Préfet*. In cases of emergency, this request can be made verbally, notably by telephone. The request must be carried out immediately.

In addition, the *Gendarmerie Nationale* is obliged to transmit to the *Préfet* all information relating to public order and has the duty to assist anyone in danger who requests its help.

3.8 As *Préfet*, **Emmanuel BAGAMBIKI** exercised *de jure* authority over his subordinates, notably:

- All the sous-préfets;
- All the bourgmestres of the communes and all public administration staff in the communes;
- All heads of public administration departments, who are *ex-officio* members of the prefectural committee chaired by the *Préfet*;
- All the administrative staff of the *préfecture*;
- All staff under contract with the prefectural administration;
- All government employees in the *préfecture*.

3.9 Furthermore, **Emmanuel BAGAMBIKI**, by virtue of his office, exercised *de facto* authority over his subordinates and over others, notably army units.

3.10 During the events referred to in this indictment, Lieutenant **Samuel IMANISHIMWE**, in his capacity as Commander of the Cyangugu Barracks, exercised *de facto* and *de jure* authority over army units in Cyangugu *préfecture*.

3.11

[REDACTED]

[REDACTED]

3.12 During the events referred to in this indictment, *Préfet Emmanuel BAGAMBIKI* chaired many of the meetings of the 'restricted security committee' of the *préfecture* of Cyangugu, the body responsible for the safety of the civilian population of the *préfecture*, meetings in which **Samuel IMANISHIMWE** participated, in his capacity as the Commander of the Cyangugu Barracks, as well as the Commander of the *Gendarmerie*, the *sous-préfets* and others. One of these meetings was held on or about 9 April 1994.

3.13 Furthermore, on at least two occasions, on or about 11 April 1994 and on or about 18 April 1994, *Préfet Emmanuel BAGAMBIKI* chaired meetings of the 'prefectural committee' of Cyangugu *préfecture*, where problems relating to the safety of the civilian population of the *préfecture* were discussed. Members of the 'restricted security committee', particularly *Préfet Emmanuel BAGAMBIKI* and Lieutenant **Samuel IMANISHIMWE**, as well as all the *bourgmestres*, representatives of political parties and different churches, attended these meetings.

3.14 Before and during the events referred to in this indictment,
 Emmanuel BAGAMBIKI, *Préfet* of Cyangugu
 André NTAGERURA, Minister of Transport and Communications

[REDACTED]
 Christophe NYANDWI, an official in the Ministry of Planning
 Michel BUSUNYU, MRND Chairman for Karengera *commune*, and
 Édouard BANDESTE, *Interahamwe* leader

all of whom were prominent figures within the MRND in Cyangugu, held a large number of meetings among themselves, or with others, to instigate, prepare, and organize the genocide.

3.15 Also, during this same period, André NTAGERURA, [REDACTED] and **Emmanuel BAGAMBIKI** publicly expressed anti-Tutsi sentiments.

3.16 Before and during the events referred to in this indictment, Minister André NTAGERURA, *Préfet Emmanuel BAGAMBIKI*, [REDACTED] Christophe NYANDWI, all of whom were influential figures in the MRND in Cyangugu, participated, directly or indirectly, in the training and instructing of, and distributing of weapons to, the MRND militiamen, the *Interahamwe*, who later committed massacres of the civilian Tutsi population.

3.17 During the events referred to in this indictment, **Lieutenant Samuel IMANISHIMWE**, in his capacity as Commander of the Cyangugu Barracks, participated, with *Préfet Emmanuel BAGAMBIKI* and other persons, in preparing lists of people to eliminate, mostly Tutsis and some Hutus in the opposition.

3.18 These lists were given to the soldiers and militiamen with orders to arrest and kill the persons whose names were listed. The soldiers and the *Interahamwe* then carried out the orders.

3.19 In early April 1994, many Tutsis sought refuge at Cyangugu Cathedral to protect themselves from the attacks against them. On or about 11 April 1994, the attacks on the refugees at the cathedral began. [REDACTED]

3.20 Following the first attack on or about 11 April 1994, some refugees were arrested and taken to the Cyangugu Barracks before **Lieutenant Samuel IMANISHIMWE**, who gave the order to execute them.

3.21 On or about 15 April 1994, *Préfet Emmanuel BAGAMBIKI* and **Lieutenant Samuel IMANISHIMWE** ordered that the refugees at the Cathedral be moved to Cyangugu Stadium. The refugees who refused to obey were threatened with death.

3.22 The refugees from the cathedral were escorted to Kamarampaka Stadium in Cyangugu by the civilian and military authorities, including *Préfet Emmanuel BAGAMBIKI* and **Lieutenant Samuel IMANISHIMWE**. At the stadium, many other refugees were already there, and later, others came in to join them. They remained there for several weeks.

During this period, the refugees could not leave the stadium, which was guarded by *gendarmes*. Those who attempted to leave the stadium were either forced back inside by the *gendarmes*, or executed by the *Interahamwe* and the *gendarmes* who were outside the stadium. Also, during this period, *Interahamwe* would enter the stadium to abduct refugees and execute them.

3.23 On several occasions between April and June 1994, the authorities in Cyangugu, notably *Préfet Emmanuel BAGAMBIKI*, **Lieutenant Samuel IMANISHIMWE** and Minister **André NTAGERURA**, selected names from pre-established lists of the refugees who were inside the stadium, mostly Tutsis and some Hutus in the opposition. These refugees were then arrested and later executed in a place called Gatandara.

3.24 Between April and July 1994, Lieutenant **Samuel IMANISHIMWE** participated with his soldiers in the selection and arrest of Tutsis, some of whom were later executed at the Cyangugu Barracks.

Also, Lieutenant **Samuel IMANISHIMWE** ordered soldiers to execute certain people suspected of being Tutsis.

3.25 Between April and July 1994, Tutsis and moderate Hutus were arrested and taken to the Cyangugu Barracks to be tortured and executed. Also, during this period, soldiers, participated on several occasions with MRND militiamen and the *Interahamwe* in massacres of the civilian Tutsi population.

3.26 On at least two occasions in April 1994, *Préfet Emmanuel BAGAMBIKI*, ordered soldiers and MRND militiamen, *i.e.* the *Interahamwe*, to kill members of the civilian Tutsi population and certain Hutus in the opposition.

3.27 Between April and July 1994, subordinates of *Préfet Emmanuel BAGAMBIKI*, notably *sous-préfets*, *bourgmestres*, government employees and *gendarmes*, participated in the massacres of the civilian Tutsi population and of certain Hutus in the opposition.

3.28 During the events referred to in this indictment, *Préfet Emmanuel BAGAMBIKI* had the duty of ensuring the protection and safety of the civilian population within his *préfecture*. On several occasions in April 1994, *Préfet BAGAMBIKI* failed or refused to assist those whose lives were in danger who asked for his help, particularly in *Gatare commune*, where those Tutsis were massacred.

3.29 [REDACTED]

3.30 During the events referred to in this indictment, the militiamen, *i.e.* the *Interahamwe*, with the help of the soldiers, participated in the massacres of the civilian Tutsi population and of Hutu political opponents in *Cyangugu préfecture*.

3.31 During the events referred to in this indictment, there were several tens of thousands of victims, mostly Tutsis, in *Cyangugu préfecture*.

4. CHARGES

The violations of international humanitarian law referred to in the following charges were committed between 1 January and 31 December 1994 in the territory of the Republic of Rwanda and refer to the events described in paragraphs 2.1 to 3.31 above.

For all of the acts describe in the paragraphs specified in each of the counts, the accused either planned, incited to commit, ordered, committed, or in some other way aided and abetted the planning , preparation or execution of the said acts,

and/or alternatively,

the accused knew, or had reason to know, that their subordinates were preparing to commit or had committed one or more of the acts referred to in Articles 2 to 4 of the Statute of the Tribunal and failed to take the necessary and reasonable measures to prevent the said acts from being committed or to punish those responsible.

Emmanuel BAGAMBIKI

COUNT 1: By his acts or omissions described in paragraphs 3.16 to 3.23 and 3.26 to 3.28, **Emmanuel BAGAMBIKI** is responsible for killing and causing serious bodily and mental harm to members of the Tutsi population, with the intent to destroy, in whole or in part, an ethnic or racial group as such, and thereby committed **GENOCIDE**, stipulated in Article 2(3)(a) as a crime, for which he is individually responsible pursuant to Article 6 (1) and/or Article 6(3), and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 2: By his acts or omissions described in paragraphs 3.16 to 3.18, 3.23 and 3.26, **Emmanuel BAGAMBIKI** is responsible for killing and/or causing serious bodily or mental harm to members of the Tutsi population, and thereby committed **COMPLICITY IN GENOCIDE**, stipulated in Article 2(3)(e) as a crime, for which he is individually responsible pursuant to Article 6(1) and/or Article 6(3), and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 3: By his acts or omissions described in paragraphs 3.16 to 3.23 and 3.26 to 3.28, **Emmanuel BAGAMBIKI** is responsible for murdering civilians 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**, stipulated in Article 3(a) as a crime, for which he is individually responsible pursuant to Article 6(1) and/or 6(3), and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 4: By his acts or omissions described in paragraphs 3.16 to 3.23 and 3.26 to 3.28, **Emmanuel BAGAMBIKI** is responsible for exterminating civilians 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**, stipulated in Article 3(b) as a crime, for which he is individually responsible pursuant to Article 6(1) and/or Article 6(3), and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 5: By his acts or omissions described in paragraphs 3.21 and 3.22, **Emmanuel BAGAMBIKI** is responsible for imprisoning civilians 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**, stipulated in Article 3(e) as a crime, for which he is individually responsible pursuant to Article 6(1) and/or Article 6(3), and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 6: By his acts or omissions described in paragraphs 3.16 to 3.23 and 3.26 to 3.28, during a non-international armed conflict, **Emmanuel BAGAMBIKI** is responsible for causing 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, and thereby committed **serious violations of Article 3 common to the GENEVA CONVENTIONS of 12 August 1949 for the protection of victims in times of war, and of Additional Protocol II thereto of 8 June 1977**, stipulated in Article 4 (a) as a crime, for which he is individually responsible pursuant to Article 6 (1) and/or 6(3), and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

Samuel IMANISHIMWE

COUNT 7: By his acts or omissions described in paragraphs 3.17, 3.18, 3.20 to 3.25, and 3.30, **Samuel IMANISHIMWE** is responsible for killing and causing serious bodily and mental harm to members of the Tutsi population, with the intent to destroy, in whole or in part, an ethnic or racial group as such, and thereby committed **GENOCIDE**, stipulated in Article 2(3)(a) as a crime, for which he is

individually responsible pursuant to Article 6 (1) and/or Article 6(3), and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 8: By his acts or omissions described in paragraphs 3.17, 3.18, 3.20 to 3.25, and 3.30, **Samuel IMANISHIMWE** is responsible for killing and/or causing serious bodily or mental harm to members of the Tutsi population, and thereby committed **COMPLICITY IN GENOCIDE**, stipulated in Article 2(3)(e) as a crime, for which he is individually responsible pursuant to Article 6(1) and/or Article 6(3), and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 9: By his acts or omissions described in paragraphs 3.17, 3.18, 3.20 to 3.25, and 3.30, **Samuel IMANISHIMWE** is responsible for murdering civilians 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**, stipulated in Article 3(a) as a crime, for which he is individually responsible pursuant to Article 6(1) and/or Article 6(3), and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 10: By his acts or omissions described in paragraphs 3.17, 3.18, 3.20 to 3.25, and 3.30, **Samuel IMANISHIMWE** is responsible for exterminating civilians 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**, stipulated in Article 3(b) as a crime, for which he is individually responsible pursuant to Article 6(1) and/or Article 6(3), and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 11: By his acts or omissions described in paragraphs 3.17, 3.18, 3.21, 3.22, 3.24 and 3.25, **Samuel IMANISHIMWE** is responsible for imprisoning civilians 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**, stipulated in Article 3(e) as a crime, for which he is individually responsible pursuant to Article 6(1) and/or Article 6(3), and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 12: By his acts or omissions described in paragraphs 3.24 and 3.25, **Samuel IMANISHIMWE** is responsible for torturing civilians 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**, stipulated in Article 3(f) as a crime, for which he is individually responsible pursuant

to Article 6(1) and/or Article 6(3), and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

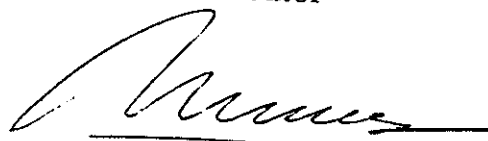
COUNT 13: By his acts or omissions described in paragraphs 3.17, 3.18, 3.20 to 3.25, and 3.30, during a non-international armed conflict, **Samuel IMANISHIMWE** is responsible for causing violence to life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment, and thereby committed **serious violations of Article 3 common to the GENEVA CONVENTIONS of 12 August 1949 for the protection of victims in times of war, and of Additional Protocol II thereto of 8 June 1977, stipulated in Article 4 (a) as a crime, for which he is individually responsible pursuant to Article 6 (1) and/or 6(3), and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.**

**Emmanuel BAGAMBIKI and
Samuel IMANISHIMWE and**
[REDACTED]

COUNT 19: As described in paragraphs 3.12 to 3.30, **Emmanuel BAGAMBIKI, Samuel IMANISHIMWE and [REDACTED]** did conspire among themselves and together with others, including notably André NTAGERURA, Christophe NYANDWI, Michel BUSUNYU and Edouard BANDESTE, to commit genocide and thereby committed **CONSPIRACY TO COMMIT GENOCIDE**, stipulated in Article 2 (3) (b), as a crime, for which they are individually responsible pursuant to Article 6 (1), and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

Kigali, 9 October 1997

The Prosecutor



Louise Arbour