

ICTR-00-55-PT
1-3-2010
Amended Indictment 1/3/10
(1175 - 1157)

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International Criminal Tribunal for Rwanda



Tribunal Pénal International pour le Rwanda

UNITED NATIONS
NATIONS UNIES

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TRIAL CHAMBER III

Before: Judge Dennis Byron, Presiding Judge
Judge Gustave Kam
Judge Vagn Joensen

Registrar: Adama Dieng

Filed on: 1 March 2010

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[Signature]

THE PROSECUTOR

v.

ILDEPHONSE NIZEYIMANA
(CASE No. ICTR-2000-55-PT)

AMENDED INDICTMENT

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

Ildephonse NIZEYIMANA

With:

Count I	- GENOCIDE, pursuant to Articles 2(3)(a), 6(1) and 6(3) of the Statute;
Count II	- EXTERMINATION as a CRIME AGAINST HUMANITY, pursuant to Articles 3(b), 6(1) and 6(3) of the Statute;
Count III	- MURDER as a CRIME AGAINST HUMANITY, pursuant to Articles 3(a), 6(1) and 6(3) of the Statute;
Count IV	- RAPE as a CRIME AGAINST HUMANITY, pursuant to Articles 3(g), 6(1) and 6(3) of the Statute;
Count V	- MURDER as a violation of Article 3 common to the Geneva Conventions of 12 August 1949 ("Article 3 Common") and Additional Protocol II of 8 June 1977 relating to the Protection of Victims of Non-International Armed Conflicts ("Protocol II"), a crime stipulated in Article 4(a) of the Statute; and
Count VI	- RAPE as a violation of Article 3 Common and Protocol II, a crime stipulated in Article 4(e) of the Statute.

II. THE ACCUSED

1. **Ildephonse NIZEYIMANA** was born on 5th October 1963 in Mutura Commune, Gisenyi *préfecture*, Republic of Rwanda.

2. **Ildephonse NIZEYIMANA:**

(A) was, at all times referred to in this indictment, a Captain in the *Forces Armées Rwandaises* ("FAR");

(B) held the position of S2/S3, in charge of intelligence and military operations at the *École des Sous Officiers* ("ESO") in Butare *préfecture* during April 1994 and part of May 1994;

(C) was, at all times referred to in this indictment, a member of a group of persons from Gisenyi *préfecture* who formed an influential corps aligned with the interests of northerners focussed around former President Habyarimana, and viewed by the soldiers at ESO, as well as the *Interahamwe* and other militia in Butare *préfecture* as being a leader of those who held extremist anti-Tutsi views. As such, he exercised power, authority and influence amongst all soldiers, *Interahamwe*, other militia and armed civilians in the region beyond his *de jure* military rank;

(D) consequently had, at all times referred to in this indictment, not only *de jure* and *de facto* control over all armed forces who were under his immediate command, namely the FAR officers, rank and file at ESO, but also *de facto* control, authority or influence over all armed forces in the region, including the *Interahamwe*, militia and armed civilians in the region, each of whom were under his command, control, authority or influence in that he could order such persons to commit or to refrain from committing unlawful acts and could discipline or punish them for unlawful acts or omissions.

III. CHARGES AND CONCISE STATEMENT OF FACTS

3. At all times referred to in this indictment there existed in Rwanda a minority ethnic group known as the Tutsi, officially identified as such by the government of Rwanda. The majority of the population of Rwanda was comprised of an ethnic group known as the Hutus, also officially identified as such by the government of Rwanda.
4. Between 6 April 1994 and 17 July 1994 inclusive, throughout Rwanda, and in Butare *préfecture* in particular, *Interahamwe*, soldiers of the FAR and armed civilians, targeted and attacked the civilian population based on ethnic identification as Tutsi, or perceived sympathies to the Tutsi. During the attacks some Rwandan citizens, killed or caused serious bodily or mental harm to persons perceived to be Tutsi. As a result of these attacks, large numbers of ethnically identified Tutsi were killed.

Count I: GENOCIDE

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Ildephonse NIZEYIMANA** with **GENOCIDE**, a crime stipulated in Article 2(3)(a) of the Statute, in that on or between the dates of 7 April 1994 and 17 July 1994 throughout Rwanda, particularly in Butare *préfecture*, **Ildephonse NIZEYIMANA** was responsible for killing or causing serious bodily or mental harm to members of the Tutsi ethnic group, including acts of sexual violence, with intent to destroy, in whole or in part, an ethnic group, as such, as outlined in paragraphs 5 through 29 herein.

CONCISE STATEMENT OF FACTS FOR COUNT I

Individual Criminal Responsibility

5. Pursuant to Article 6(1) of the Statute, the Accused, **Ildephonse NIZEYIMANA**, is individually responsible for genocide because he planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of these crimes. With respect to the commission of those crimes, **Ildephonse NIZEYIMANA** ordered those over whom he had authority as a result of his military rank, position and social influence described in paragraph 2 herein. In addition, the Accused committed genocide by wilfully and knowingly participating in a joint

criminal enterprise whose object, purpose, and foreseeable outcome was the commission of genocide against the Tutsi ethnic group and persons identified as Tutsi or presumed to support the Tutsi in Butare *préfecture*. To fulfil this criminal purpose, the Accused acted with leaders and members of the FAR, including Colonel Tharcisse Muvunyi, Lieutenant Ildephonse Hategekimana, Lieutenant Cyriaque Habyarabatura of the Butare *Gendarmerie*, Sous-Lieutenants Jean Pierre Bizimana, Modeste Gatsinzi, Ezechiel Gakwerere, Alphonse Ndayambaje, and Tharcisse Ngendahimana, Chief Warrant Officers Francois Ntibiramira, Damien Ntamuhanga, and Paul Kanyeshyamba, Sergeant Ezechier Rwaza, Sergeant Major Innocent Sibomana, Corporal Fulgence Niyibizi, and a number of other officers, soldiers and recruits from ESO; the *Interahamwe*, including Jean Marie Vianney Ngabonziza; the "Civil Defense Forces"; militias acting as a group in loose organisation and armed civilians acting as individuals in a common purpose; communal police; local administrative officials; other soldiers and militiamen, other known participants, such as Alphonse Higaniro, Vincent Ntezimana; and other unknown participants, all such actions being taken either directly or through subordinates, for at least the period of 6 April 1994 through 17 July 1994 inclusive. Each of the above-named members of the joint criminal enterprise acted in concert with various other members, often acting on **Ildephonse NIZEYIMANA's** orders, authorization or instigation. The particulars that give rise to the Accused's individual criminal responsibility pursuant to Article 6(1) of the Statute are set forth in paragraphs 6 through 29 herein.

Roadblocks

6. From and after 7 April 1994, **Ildephonse NIZEYIMANA** ordered and instigated soldiers, militia, local citizens and demobilized soldiers who were all members of the joint criminal enterprise referred to in paragraph 5 herein, and in particular Sous-Lieutenants Bizimana and Gatsinzi, who acted in concert with Sergeant Ezechier Rwaza, to construct and man roadblocks throughout Butare *préfecture* including those at:
 - (i) Tumba,
 - (ii) Rwabuye,
 - (iii) Rwasave,
 - (iv) in the Arab quarter,
 - (v) the junction leading to Groupe Scolaire,
 - (vi) outside Hotel Faucon in Butare town;
 - (vii) near the entrance to Butare University and
 - (viii) the main roads leading to Butare town from both Kigali and Gikongoro,used for the purpose of identifying and killing Tutsi civilians in furtherance of the joint criminal enterprise referred to in paragraph 5 herein.

Training and distribution of weapons

7. From and after 7 April 1994, **Ildephonse NIZEYIMANA** trained *Interahamwe* at ESO and also distributed weapons to *Interahamwe* who were members of the joint criminal enterprise referred to in paragraph 5 herein. In particular, in accordance with instructions of the Accused, Sous-Lieutenant Ezechiel Gakwerere, commander of the first company in *Nouvelle Formule* at ESO, utilized a number of subordinate FAR soldiers and students from ESO to facilitate the training and cooperation with *Interahamwe*. These acts of training and distributing weapons to the *Interahamwe* were done in furtherance of the purposes of such joint criminal enterprise.

The Killing Campaign in Butare

8. On or about 7 April 1994, following the death of President Habyarimana, **Ildephonse NIZEYIMANA** convened a meeting of FAR officers and soldiers at the ESO where he ordered soldiers to kill Tutsi civilians and to rape Tutsi women. Many of the FAR officers and soldiers in attendance were members of the joint criminal enterprise referred to in paragraph 5 herein.
9. From on or about 15 April 1994 until 20 April 1994, **Ildephonse NIZEYIMANA** authorized, ordered or instigated soldiers, militiamen and armed civilians who were members of the joint criminal enterprise referred to in paragraph 5 herein to kill Tutsi civilians who had taken refuge at Cyahinda Parish. In particular, following the instructions of the Accused, a number of subordinate FAR soldiers from ESO platoons and others, including Warrant Officer Paul Kanyeshyamba, exercised their command to target the civilian victims. As a result, soldiers, militiamen and armed civilians all acting on the orders or at the instigation of **Ildephonse NIZEYIMANA** killed thousands of Tutsi civilians who had sought refuge at Cyahinda Parish.
10. On or about 20 April 1994, subsequent to President Sindikubwabo's speech inciting the people in Butare to kill Tutsis, **Ildephonse NIZEYIMANA** and Tharcisse Muvunyi authorized or convened a meeting of soldiers at the ESO who were members of the joint criminal enterprise referred to in paragraph 5 herein and authorized or ordered them to kill Tutsis in Butare, in reference to the speech of President Sindikubwabo.
11. From 20 April 1994 onwards, **Ildephonse NIZEYIMANA** regularly met with participants in the joint criminal enterprise referred to in paragraph 5 herein, including ESO soldiers and militiamen and together identified and listed Tutsi civilians to be killed. He ordered and instigated selected soldiers and militiamen to carry out attacks on Tutsi civilians throughout Butare *préfecture*. As a result, soldiers and militiamen acting on the orders or at the instigation of **Ildephonse NIZEYIMANA** killed many Tutsi civilians throughout Butare *préfecture*.
12. On or about 20 April 1994, **Ildephonse NIZEYIMANA** ordered soldiers who were members of the joint criminal enterprise referred to in paragraph 5 herein to kill Tutsi civilians living in Buye Commune in Butare *préfecture*. In particular, following the instructions of the Accused, Sous-Lieutenant Bizimana engaged a number of

- subordinate FAR soldiers from his platoon and others, including Warrant Officer Francois Ntibiramira and exercised their command to target the civilian victims. As a result, soldiers acting on the orders of **Ildephonse NIZEYIMANA** killed many Tutsi civilians.
13. On or about 21 April 1994, **Ildephonse NIZEYIMANA** authorized, ordered or instigated soldiers and *Interahamwe* who were members of the joint criminal enterprise referred to in paragraph 5 herein to kill Tutsi civilians who had sought refuge at Groupe Scolaire. In particular, following the instructions of the Accused, Corporal Aloys Mazimpaka took with him to the Groupe Scolaire a number of subordinate FAR soldiers from his unit and others, and exercised command, separating and targeting civilians identified as Tutsi, in concert with armed civilians. As a result, soldiers and *Interahamwe* acting on the orders or at the instigation of **Ildephonse NIZEYIMANA** went to Groupe Scolaire, and forcibly removed approximately 14 (fourteen) Tutsi civilians to kill them.
 14. On or about 29 April 1994, **Ildephonse NIZEYIMANA** authorized, ordered or instigated soldiers and *Interahamwe* who were members of the joint criminal enterprise referred to in paragraph 5 herein to kill Tutsi civilians who had sought refuge at Groupe Scolaire. In particular, following the instructions of the Accused, Sous-Lieutenant Modeste Gatsinzi took with him to the Groupe Scolaire a number of subordinate FAR soldiers from his platoon and others, and exercised command, separating and targeting civilians identified as Tutsi, in concert with armed civilians including Jean Marie Vianney Ngabonziza. As a result, soldiers and *Interahamwe* acting on the orders or at the instigation of **Ildephonse NIZEYIMANA** who attended at Groupe Scolaire, forcibly extracted approximately 100 or more Tutsi civilians and killed them.
 15. From on or about 20 April 1994, **Ildephonse NIZEYIMANA** authorized, ordered or instigated soldiers and *Interahamwe* who were members of the joint criminal enterprise referred to in paragraph 5 herein to kill many Tutsi civilians at Butare Hospital. In particular, following the instructions of the Accused, Corporal Fulgence Niyibizi and a number of other ESO soldiers, including Theobard Hagenimana, Placide Mbarushimana, "Jean de dieu", "Mutimura", "Edison", "Said", and "Bola Mungu" targeted civilians in the hospital identified as Tutsi or without an identity card in order to remove them from the sanctity of the hospital and kill them. As a result, soldiers and *Interahamwe* acting on the orders or at the instigation of **Ildephonse NIZEYIMANA** killed Tutsi civilians at Butare Hospital.
 16. From on or about 16 April 1994, **Ildephonse NIZEYIMANA** ordered and instigated soldiers and *Interahamwe* who were members of the joint criminal enterprise referred to in paragraph 5 herein to kill many Tutsi civilians at Butare University. In particular, under the authorization of the Accused, Chief Warrant Officer Damien Ntamuhanga engaged a number of subordinate FAR soldiers from his platoon, including Sergeant Major Innocent Sibomana and others, and exercised his command to target the civilian victims. As a result, soldiers and *Interahamwe* acting on the

- orders or at the instigation of **Iddephonse NIZEYIMANA** forcibly removed and killed Tutsi civilians at Butare University. In further particular, on or about 22 April 1994, the Accused attended to the University premises in the accompaniment of his FAR subordinates and other civilians, and personally shot and killed civilian citizens of Rwanda identified as Tutsi, namely four women in the University dining hall.
17. On or about 21 April 1994, **Iddephonse NIZEYIMANA** ordered or authorized soldiers who were members of the joint criminal enterprise referred to in paragraph 5 herein to kill Rosalie Gicanda. In particular, following the instructions of the Accused, Sous-Lieutenant Jean Pierre Bizimana took a number of subordinate FAR soldiers with him to the home of the victim under the auspices of conducting a search. As a result, soldiers acting under the orders or authorization of **Iddephonse NIZEYIMANA** forcibly removed and killed Rosalie Gicanda.
 18. Between 16 April and 19 April 1994, members of the Ruhutinyanya family were forcibly apprehended by soldiers, who were members of the joint criminal enterprise referred to in paragraph 5 herein, and killed on the orders or at the instigation of **Iddephonse NIZEYIMANA**. In particular, following the instructions of the Accused, Sous-Lieutenant Bizimana engaged a number of subordinate FAR soldiers from his platoon and others, including Warrant Officer Paul Kanyeshyamba and exercised their command to target the civilian victims.
 19. In late April or early May 1994, **Iddephonse NIZEYIMANA** ordered Innocent Nkuyubwatsi to kill a Tutsi girl at the home of Vincent Ntezimana. As a result, Innocent Nkuyubwatsi acting on the orders of **Iddephonse NIZEYIMANA** killed the Tutsi girl.
 20. On or about 21 April 1994, **Iddephonse NIZEYIMANA**, who was physically present at the roadblock, personally ordered soldiers who were members of the joint criminal enterprise referred to in paragraph 5 herein to kill two civilian citizens of Rwanda identified as Tutsi, namely Remy Rwekaza and ZAV, near a roadblock leading into Butare town from Kigali, a short distance past the Gikongoro road junction. As a result, soldiers acting on the direct orders of **Iddephonse NIZEYIMANA**, and under his personal supervision, shot and killed Remy Rwekaza and shot and wounded ZAV leaving him for dead.
 21. On or about 5 May 1994, **Iddephonse NIZEYIMANA** who was physically present at the roadblock, personally ordered soldiers who were members of the joint criminal enterprise referred to in paragraph 5 herein to kill a civilian citizen of Rwanda identified as Tutsi, namely Beata Wambaye, near a roadblock leading into Butare town from Kigali at the Gikongoro road junction. As a result, soldiers acting on the direct orders of **Iddephonse NIZEYIMANA** killed Beata Wambaye.
 22. On or about 21 April 1994, **Iddephonse NIZEYIMANA** ordered soldiers who were members of the joint criminal enterprise referred to in paragraph 5 herein to kill a civilian citizen of Rwanda identified as Tutsi, namely Professor Pierre Claver

Karenzi, at the roadblock outside Hotel Faucon in Butare town. As a result, soldiers acting on the orders or under the authority of **Ildephonse NIZEYIMANA** killed Professor Pierre Claver Karenzi.

23. Between 21 April and 30 April 1994, soldiers who were members of the joint criminal enterprise referred to in paragraph 5 herein acting under the authority or on the orders of **Ildephonse NIZEYIMANA** killed several civilian citizens of Rwanda identified as Tutsi, namely members of the Karenzi family.
24. During April 1994, soldiers and militiamen who were members of the joint criminal enterprise referred to in paragraph 5 herein acting on the orders or at the instigation of **Ildephonse NIZEYIMANA** killed civilian citizens of Rwanda identified as Tutsi, namely Jerome Ngarambe and members of his family, near his home.
25. Between 6 April 1994 and 17 July 1994, soldiers and other participants of the joint criminal enterprise referred to in paragraph 5 herein acting on the orders or at the instigation of **Ildephonse NIZEYIMANA** raped Tutsi women at Butare Hospital, Butare University and at various other locations in Butare prefecture, including the residence of Rosalie Gicanda, the compound of the EER primary school, and at the residence of Lieutenant Ildephonse Hategikimana. Beginning the night of 6 April 1994, the Accused issued orders to FAR soldiers stationed in Butare prefecture at both Ngoma camp and ESO, to kill Tutsis generally but specifically to rape Tutsi women and then kill them. That same order was repeated the following date near mid-day, on the premises of ESO, directed to an audience of FAR gendarmes, soldiers and officers from Ngoma camp and ESO, including Lieutenant Hategikimana of Ngoma camp, Major Cyriaque Habyarabatura of the Butare *Gendarmerie*, Sous-Lieutenants Gatsinzi and Bizimana of ESO and many other officers from the region, including Gikongoro and Nyanza. Subsequently, in April 1994 at the residence of Rosalie Gicanda more than one dozen FAR soldiers were present during the rape of a Tutsi woman of approximately age 18-20. The soldiers were all from Ngoma camp or ESO and included Sergeant Ngirinshuti. During the month of May 1994, at the EER primary school, a single FAR soldier raped QY in the bushes at the compound of the school. Each of these crimes occurred within the de facto and de jure operational region, command and influence of the Accused.
26. Between 6 April 1994 and 9 April 1994, approximately 14 FAR soldiers from both the ESO and Ngoma Camps acting under the authority or on the orders of **Ildephonse NIZEYIMANA** raped BUQ and two other women multiple times over the course of three days in a house near the ESO camp. Late on the night of 6 April 1994, approximately 6 soldiers came from the homes of the Accused and Lieutenant Ildephonse Hategikimana, forcibly entered the home where BUQ, ALAB and CEL were present, and told the victims "We have received orders from our superiors to rape all Tutsi women and girls and kill them." One of the perpetrators was named Rubaga and known to be a driver who was stationed at the ESO. The following day, four more soldiers forcibly entered the home and committed multiple rapes, ordering the victims not to move from the premises. The next day, three more soldiers came to

- the house and spent many hours committing multiple rapes. On the morning of the fourth day, a soldier who identified himself as Innocent Ndererimana, stationed at Ngoma camp as an escort to Lieutenant Hategikimana, took BUQ into his custody and held her in a nearby but different home for approximately two weeks, during which time he repeatedly committed multiple rapes, within the de facto and de jure operational region, command and influence of the Accused.
27. During April 1994, soldiers who were members of the joint criminal enterprise referred to in paragraph 5 herein acting under the authority or on the orders of **Ildephonse NIZEYIMANA** raped BJW. On or about 18 April 1994, BJW was raped in her parent's home in Butare by a FAR soldier who said his name was Alexis Karemera, and who was in command of at least two other FAR soldiers in the operational zone of Rusatira commune, within the de facto and de jure operational region, command and influence of the Accused.
28. On or about 23 April 1994, at approximately 11 pm, soldiers who were members of the joint criminal enterprise referred to in paragraph 5 herein acting under the authority or on the orders or at the instigation of **Ildephonse NIZEYIMANA** raped two young girls in Butare prefecture, near Butare town, in Ngoma commune, near the Muslim quarter, in the house of a woman whose husband had just been killed. The precise identities of the rape victims and the precise identities of the rape perpetrators are unknown, except that the victims' Rwandan mother had just been killed and their European father lived abroad, and that the perpetrators were FAR soldiers of low rank, in the operational zone of Ngoma commune, and were known by and under the instructions of FAR soldier Ismael Rubayiza, and were thus within the de facto and de jure operational region, command and influence of the Accused.
29. Between May 1994 and July 1994, soldiers who were members of the joint criminal enterprise referred to in paragraph 5 herein acting under the authority or on the orders of **Ildephonse NIZEYIMANA** regularly raped DCO and other women on several occasions in various locations on the Butare Hospital premises. Commencing on or about 10 April 1994, FAR soldiers recognized as being stationed locally in barracks at ESO and Ngoma were observed to be occupying the Butare Hospital premises. From the beginning of May the FAR soldiers came more frequently to the Hospital, demanding to see identity cards, selecting only Tutsi and killing them just outside the ward, generally after raping the less educated women. Approximately mid-May, three FAR soldiers entered a Hospital ward where care was being given to a sick child, forcibly removed DCO and then one of the soldiers took DCO outside to a nearby mass grave, raping her on the ground. Sometime during the month of June, four FAR soldiers came into the Hospital ward and forcibly removed four women, including DCO, took the victims outside behind the maternity unit and raped them on the ground in the open. In early July, in the belief that RPF troops were nearby, DCO and others were asked to leave the Hospital, and when DCO went just outside the premises she was apprehended by four FAR soldiers, one of whom immediately began to rape her. These repetitive crimes occurred within the de facto and de jure operational region, command and influence of the Accused.

Command Criminal Responsibility

30. Pursuant to Article 6(3) of the Statute, the Accused, **Idephonse NIZEYIMANA**, is responsible for genocide because specific criminal acts were committed by subordinates of the Accused over whom he had *de jure* and *de facto* authority. The Accused knew or had reason to know that such subordinates were about to commit such acts before they were committed and failed to take the necessary and reasonable measures to prevent such acts or knew or had reason to know that such subordinates had committed such acts and failed to punish the perpetrators thereof. These subordinates were FAR soldiers over whom the Accused exercised effective control, including Sous-Lieutenants Jean Pierre Bizimana, Modeste Gatsinzi, Alphonse Ndayambaje, Tharcisse Ngendahimana and Ezechiel Gakwerere, Chief Warrant Officer Francois Ntibiramira, Chief Warrant Officer Damien Ntamuhanga, Chief Warrant Officer Paul Kanyeshyamba, Sergeant Ezechier Rwaza, Sergeant Major Innocent Sibomana, Corporal Fulgence Niyibizi, and a number of other officers, soldiers and recruits from ESO; the *Interahamwe*, including Jean Marie Vianney Ngabonziza; and other militias and armed civilians who were members of the joint criminal enterprise. Each of the above-named members of the joint criminal enterprise acted in concert with various other members, often acting on **Idephonse NIZEYIMANA**'s orders, authorization or instigation. The particulars that give rise to the Accused's individual criminal responsibility pursuant to Article 6(3) of the Statute are set forth in paragraphs 6 through 29 herein.

[heading deleted pursuant to Order of 25/2/2010]

31. On or about 7 April 1994, following the death of President Habyarimana, **Idephonse NIZEYIMANA** convened a meeting of soldiers at the ESO where he instigated soldiers to kill Tutsi civilians and to rape Tutsi women.
32. On or about 20 April 1994, subsequent to President Sindikubwabo's speech inciting the people in Butare to kill Tutsis, **Idephonse NIZEYIMANA** and Tharcisse Muvunyi convened a meeting of soldiers at the ESO and instigated them to kill Tutsis in Butare, in reference to the speech of President Sindikubwabo.

Count II**EXTERMINATION as a CRIME AGAINST HUMANITY**

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Ildephonse NIZEYIMANA** with **EXTERMINATION as a CRIME AGAINST HUMANITY**, a crime stipulated in Article 3(b) of the Statute, in that between 6 April and 17 July 1994 in Butare *préfecture*, **Ildephonse NIZEYIMANA**, with intent to exterminate members of the Tutsi ethnic group or persons identified as Tutsi or persons presumed to support the Tutsi such as moderate Hutu, was responsible for the killing of such persons as part of a widespread or systematic attack against that civilian population on ethnic and political grounds, as set forth in paragraphs 33 through 38 herein.

CONCISE STATEMENT OF FACTS FOR COUNT II***Individual Criminal Responsibility***

33. Pursuant to Article 6(1) of the Statute, the Accused, **Ildephonse NIZEYIMANA**, is individually responsible for extermination as a crime against humanity because he planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of these crimes. With respect to the commission of those crimes, **Ildephonse NIZEYIMANA** ordered those over whom he had authority as a result of his military rank, position and social influence described in paragraph 2 herein. In addition, the Accused wilfully and knowingly participated in a joint criminal enterprise whose object, purpose, and foreseeable outcome was the commission of crimes against humanity against the Tutsi ethnic group and persons identified as Tutsi or presumed to support the Tutsi in Butare *préfecture*. To fulfil this criminal purpose, the Accused acted with leaders and members of the FAR, including Colonel Tharcisse Muvunyi, Lieutenant Ildephonse Hategekimana, Lieutenant Cyriaque Habyarabatura of the Butare *Gendarmerie*, Sous-Lieutenant Jean Pierre Bizimana, Sous-Lieutenant Modeste Gatsinzi, Sous-Lieutenant Ezechiel Gakwerere, Sous-Lieutenant Alphonse Ndayambaje, Sous-Lieutenant Tharcisse Ngendahimana, Chief Warrant Officer Francois Ntibiramira, Chief Warrant Officer Damien Ntamuhanga, Chief Warrant Officer Paul Kanyeshyamba, Sergeant Ezechier Rwaza, Sergeant Major Innocent Sibomana, Corporal Fulgence Niyibizi, and a number of other officers, soldiers and recruits from ESO; the *Interahamwe*, including Jean Marie Vianney Ngabonziza; the "Civil Defense Forces"; militias acting as a group in loose organisation and armed civilians acting as individuals in a common purpose; communal police; local administrative officials; other soldiers and militiamen, other known participants, such as Alphonse Higaniro, Vincent Ntezimana; and other unknown participants, all such actions being taken either directly or through subordinates, for at least the period of mid-1993 through 17 July 1994. Each of the above-named members of the joint criminal enterprise acted in concert with various other members, often acting on **Ildephonse NIZEYIMANA**'s orders, authorization or instigation. The particulars that give rise to the Accused's individual criminal responsibility pursuant to Article 6(1) of the Statute are set forth in paragraphs 34 through 36 herein.

34. Paragraphs 6 through 29 above are incorporated by reference herein.
35. On or about 20 April 1994, **Ildephonse NIZEYIMANA** ordered soldiers who were members of the joint criminal enterprise referred to in paragraph 5 herein to kill Jean-Marie Vianey Maniraho and members of his family at their home. As a result soldiers acting on the orders of **Ildephonse NIZEYIMANA** killed Jean-Marie Vianey Maniraho and members of his family.
36. On or about 20 April 1994, **Ildephonse NIZEYIMANA** killed Jean-Baptiste Matabaro and Zephania Nyirinkwaya as well as members of their families at Jean-Baptiste Matabaro's home. As a result of **Ildephonse NIZEYIMANA's** actions, Jean-Baptiste Matabaro, Zephania Nyirinkwaya and their families were killed.

Command Criminal Responsibility

37. Pursuant to Article 6(3) of the Statute, the Accused, **Ildephonse NIZEYIMANA**, is responsible for extermination as a crime against humanity because specific criminal acts were committed by subordinates of the Accused over whom he had *de jure* and *de facto* authority. The Accused knew or had reason to know that such subordinates were about to commit such acts before they were committed and failed to take the necessary and reasonable measures to prevent such acts or knew or had reason to know that such subordinates had committed such acts and failed to punish the perpetrators thereof. These subordinates were FAR soldiers over whom the Accused exercised effective control, Sous-Lieutenants Jean Pierre Bizimana, Modeste Gatsinzi, Alphonse Ndayambaje, Ngendahimana and Ezechiel Gakwerere, Chief Warrant Officer Francois Ntibiramira, Chief Warrant Officer Damien Ntamuhanga, Chief Warrant Officer Paul Kanyeshyamba, Sergeant Ezechier Rwaza, Sergeant Major Innocent Sibomana, Corporal Fulgence Niyibizi, and a number of other officers, soldiers and recruits from ESO; the *Interahamwe*, including Jean Marie Vianney Ngabonziza; and other militias and armed civilians who were members of the joint criminal enterprise. Each of the above-named members of the joint criminal enterprise acted in concert with various other members, often acting on **Ildephonse NIZEYIMANA's** orders, authorization or instigation. The particulars that give rise to the Accused's individual criminal responsibility pursuant to Article 6(3) of the Statute are set forth in paragraph 38 herein.
38. Paragraphs 6 through 29 and 35 above are incorporated by reference herein.

Count III: MURDER as a CRIME AGAINST HUMANITY

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Ildephonse NIZEYIMANA** with **MURDER as a CRIME AGAINST HUMANITY**, a crime stipulated in Article 3(a) of the Statute, in that between 6 April and 17 July 1994 in Butare *préfecture*, **Ildephonse NIZEYIMANA**, with intent to kill members of the Tutsi ethnic group or persons identified as Tutsi or persons presumed to support the Tutsi such as moderate Hutut, was responsible for the killing of such persons as part of a widespread or systematic attack against that civilian population on ethnic and political grounds, as set forth in paragraphs 39 through 42 herein.

CONCISE STATEMENT OF FACTS FOR COUNT III*Individual Criminal Responsibility*

39. Pursuant to Article 6(1) of the Statute, the Accused, **Ildephonse NIZEYIMANA**, is individually responsible for murder as a crime against humanity because he planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of these crimes. With respect to the commission of those crimes, **Ildephonse NIZEYIMANA** ordered those over whom he had authority as a result of his military rank, position and social influence described in paragraph 2 herein. In addition, the Accused wilfully and knowingly participated in a joint criminal enterprise whose object, purpose, and foreseeable outcome was the commission of crimes against humanity against the Tutsi ethnic group and persons identified as Tutsi or presumed to support the Tutsi in Butare *préfecture*. To fulfil this criminal purpose, the Accused acted with leaders and members of the FAR, including Colonel Tharcisse Muvunyi, Lieutenant Ildephonse Hategekimana, Lieutenant Cyriaque Habyarabatura of the Butare *Gendarmerie*, Sous-Lieutenant Jean Pierre Bizimana, Sous-Lieutenant Modeste Gatsinzi, Sous-Lieutenant Ezechiel Gakwerere, Sous-Lieutenant Alphonse Ndayambaje, Sous-Lieutenant Ngendahimana, Chief Warrant Officer Francois Ntibiramira, Chief Warrant Officer Damien Ntamuhanga, Chief Warrant Officer Paul Kanyeshyamba, Sergeant Ezechier Rwaza, Sergeant Major Innocent Sibomana, Corporal Fulgence Niyibizi, and a number of other officers, soldiers and recruits from ESO; the *Interahamwe*, including Jean Marie Vianney Ngabonziza; the "Civil Defense Forces"; militias acting as a group in loose organisation and armed civilians acting as individuals in a common purpose; communal police; local administrative officials; other soldiers and militiamen other known participants, such as Alphonse Higaniro, Vincent Ntezimana; and other unknown participants, all such actions being taken either directly or through subordinates, for at least the period of mid-1993 through 17 July 1994. Each of the above-named members of the joint criminal enterprise acted in concert with various other members, often acting on **Ildephonse NIZEYIMANA**'s orders, authorization or instigation. The particulars that give rise to the Accused's individual criminal responsibility pursuant to Article 6(1) of the Statute are set forth in paragraph 40 herein.

40. Paragraphs 6 through 24 and 35 through 36 above are incorporated by reference herein.

Command Criminal Responsibility

41. Pursuant to Article 6(3) of the Statute, the Accused, **Ildephonse NIZEYIMANA**, is responsible for murder as a crime against humanity because specific criminal acts were committed by subordinates of the Accused over whom he had *de jure* and *de facto* authority. The Accused knew or had reason to know that such subordinates were about to commit such acts before they were committed and failed to take the necessary and reasonable measures to prevent such acts or knew or had reason to know that such subordinates had committed such acts and failed to punish the perpetrators thereof. These subordinates were FAR soldiers over whom the Accused exercised effective control, including Sous-Lieutenants Jean Pierre Bizimana, Modeste Gatsinzi, Alphonse Ndayambaje, Ngendahimana and Ezechiel Gakwerere, Chief Warrant Officer Francois Ntibiramira, Chief Warrant Officer Damien Ntamuhanga, Chief Warrant Officer Paul Kanyeshyamba, Sergeant Ezechier Rwaza, Sergeant Major Innocent Sibomana, Corporal Fulgence Niyibizi, and a number of other officers, soldiers and recruits from ESO; the *Interahamwe*, including Jean Marie Vianney Ngabonziza; and other militias and armed civilians who were members of the joint criminal enterprise. Each of the above-named members of the joint criminal enterprise acted in concert with various other members, often acting on **Ildephonse NIZEYIMANA**'s orders, authorization or instigation. The particulars that give rise to the Accused's individual criminal responsibility pursuant to Article 6(3) of the Statute are set forth in paragraph 42 herein.

42. Paragraphs 6 through 24 and 35 above are incorporated by reference herein.

Count IV: RAPE as a CRIME AGAINST HUMANITY

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Ildephonse NIZEYIMANA** with **RAPE as a CRIME AGAINST HUMANITY**, a crime stipulated in Article 3(g) of the Statute, in that between 6 April 1994 and 3 July 1994 in Butare *préfecture*, **Ildephonse NIZEYIMANA**, with the intention that rape of members of the Tutsi ethnic group or persons identified as Tutsi occur, was responsible for the rape of Tutsi as part of a widespread or systemic attack against that civilian population on ethnic grounds, as set forth in paragraphs 43 through 46 herein.

CONCISE STATEMENT OF FACTS FOR COUNT IV

43. Pursuant to Article 6(1) of the Statute, the Accused, **Ildephonse NIZEYIMANA**, is individually responsible for rape as a crime against humanity because he planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of these crimes. With respect to the commission of those crimes, **Ildephonse NIZEYIMANA** ordered those over whom he had authority as a

result of his military rank, position and social influence described in paragraph 2 herein. In addition, the Accused committed rape as a crime against humanity by wilfully and knowingly participating in a joint criminal enterprise whose object, purpose, and foreseeable outcome was the commission of crimes against humanity against the Tutsi ethnic group and persons identified as Tutsi or presumed to support the Tutsi in Butare *préfecture*. To fulfil this criminal purpose, the Accused acted with leaders and members of the FAR, including Colonel Tharcisse Muvunyi, Lieutenant Ildephonse Hategekimana, Lieutenant Cyriaque Habyarabatuma of the Butare *Gendarmerie*, Sous-Lieutenant Jean Pierre Bizimana, Sous-Lieutenant Modeste Gatsinzi, Sous-Lieutenant Ezechiel Gakwerere, Sous-Lieutenant Alphonse Ndayambaje, Sous-Lieutenant Ngendahimana, Chief Warrant Officer Francois Ntibiramira, Chief Warrant Officer Damien Ntamuhanga, Chief Warrant Officer Paul Kanyeshyamba, Sergeant Ezechier Rwaza, Sergeant Major Innocent Sibomana, Corporal Fulgence Niyibizi, and a number of other officers, soldiers and recruits from ESO; the *Interahamwe*, including Jean Marie Vianney Ngabonziza; the "Civil Defense Forces"; militias acting as a group in loose organisation and armed civilians acting as individuals in a common purpose; communal police; local administrative officials; other soldiers and militiamen, other known participants, such as Alphonse Higaniro, Vincent Ntezimana; and other unknown participants, all such actions being taken either directly or through subordinates, for at least the period of 6 April 1994 through 3 July 1994 inclusive. Each of the above-named members of the joint criminal enterprise acted in concert with various other members, often acting on **Ildephonse NIZEYIMANA's** orders, authorization or instigation. The particulars that give rise to the Accused's individual criminal responsibility pursuant to Article 6(1) of the Statute are set forth in paragraph 44 herein.

44. Paragraphs 25 through 29 above are incorporated by reference herein.

Command Criminal Responsibility

45. Pursuant to Article 6(3) of the Statute, the Accused, **Ildephonse NIZEYIMANA**, is responsible for rape as a crime against humanity because specific criminal acts were committed by subordinates of the Accused over whom he had *de jure* and *de facto* authority. The Accused knew or had reason to know that such subordinates were about to commit such acts before they were committed and failed to take the necessary and reasonable measures to prevent such acts or knew or had reason to know that such subordinates had committed such acts and failed to punish the perpetrators thereof. These subordinates were FAR soldiers over whom the Accused exercised effective control, including Sous-Lieutenants Jean Pierre Bizimana, Modeste Gatsinzi, Alphonse Ndayambaje, Ngendahimana and Ezechiel Gakwerere, Chief Warrant Officer Francois Ntibiramira, Chief Warrant Officer Damien Ntamuhanga, Chief Warrant Officer Paul Kanyeshyamba, Sergeant Ezechier Rwaza, Sergeant Major Innocent Sibomana, Corporal Fulgence Niyibizi, and a number of other officers, soldiers and recruits from ESO; the *Interahamwe*, including Jean Marie Vianney Ngabonziza; and other militias and armed civilians who were members of the joint criminal enterprise. Each of the above-named members of the

joint criminal enterprise acted in concert with various other members, often acting on **Ildephonse NIZEYIMANA's** orders, authorization or instigation. The particulars that give rise to the Accused's individual criminal responsibility pursuant to Article 6(3) of the Statute are set forth in paragraph 46 herein.

46. Paragraphs 25 through 29 above are incorporated by reference herein.

COUNT V: MURDER AS A VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS OF 1949 AND ADDITIONAL PROTOCOL II OF 1977

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Ildephonse NIZEYIMANA** with **MURDER as a violation of Article 3 Common and Protocol II**, a crime stipulated in Article 4(a) of the Statute, in that **Ildephonse NIZEYIMANA** was responsible for the killings of non-combatant Tutsi during the period 7 April 1994 through 3 July 1994 when in Butare *préfecture*, there was a non-international armed conflict within the meaning of Articles 1 and 2 of Protocol II Additional to the Geneva Convention of 1949, and the killing of the victims was closely related to the hostilities or committed in conjunction with the armed conflict and the victims were persons taking no part in that conflict, all as is set forth in paragraphs 47 to 50 herein.

CONCISE STATEMENT OF FACTS FOR COUNT V

47. Pursuant to Article 6(1) of the Statute, the Accused, **Ildephonse NIZEYIMANA**, is individually responsible for murder as a violation of Article 3 Common to the Geneva Conventions of 1949 and Additional Protocol II of 1977 because he planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of these crimes. With respect to the commission of those crimes, **Ildephonse NIZEYIMANA** ordered those over whom he had authority as a result of his military rank, position and social influence described in paragraph 2 herein. In addition, the Accused wilfully and knowingly participated in a joint criminal enterprise whose object, purpose, and foreseeable outcome was the commission of war crimes against the Tutsi ethnic group and persons identified as Tutsi or presumed to support the Tutsi in Butare *préfecture*. To fulfil this criminal purpose, the Accused acted with leaders and members of the FAR, including Colonel Tharcisse Muvunyi, Lieutenant Ildephonse Hategekimana, Lieutenant Cyriaque Habyarabatuma of the Butare *Gendarmerie*, Sous-Lieutenant Jean Pierre Bizimana, Sous-Lieutenant Modeste Gatsinzi, Sous-Lieutenant Ezechiel Gakwerere, Sous-Lieutenant Alphonse Ndayambaje, Sous-Lieutenant Ngendahimana, Chief Warrant Officer Francois Ntibiramira, Chief Warrant Officer Damien Ntamuhanga, Chief Warrant Officer Paul Kanyeshyamba, Sergeant Ezechier Rwaza, Sergeant Major Innocent Sibomana, Corporal Fulgence Niyibizi, and a number of other officers, soldiers and recruits from ESO; the *Interahamwe*, including Jean Marie Vianney Ngabonziza; the "Civil Defense Forces"; militias acting as a group in loose organisation and armed civilians acting as individuals in a common purpose; communal police; local administrative officials; other soldiers and militiamen, other known participants, such as Alphonse Higaniro, Vincent Ntezimana; and other

unknown participants, all such actions being taken either directly or through subordinates, for at least the period of mid-1993 through 17 July 1994. Each of the above-named members of the joint criminal enterprise acted in concert with various other members, often acting on **Iddephonse NIZEYIMANA**'s orders, authorization or instigation. The particulars that give rise to the Accused's individual criminal responsibility pursuant to Article 6(1) of the Statute are set forth in paragraph 48 herein.

48. Paragraphs 17 through 24 and 35 through 36 above are incorporated by reference herein.

49. Pursuant to Article 6(3) of the Statute, the Accused, **Iddephonse NIZEYIMANA**, is responsible for murder as a violation of Article 3 Common and Protocol II because specific criminal acts were committed by subordinates of the Accused over whom he had *de jure* and *de facto* authority. The Accused knew or had reason to know that such subordinates were about to commit such acts before they were committed and failed to take the necessary and reasonable measures to prevent such acts or knew or had reason to know that such subordinates had committed such acts and failed to punish the perpetrators thereof. These subordinates were FAR soldiers over whom the Accused exercised effective control, including Sous-Lieutenants Jean Pierre Bizimana, Modeste Gatsinzi, Alphonse Ndayambaje, Ngendahimana and Ezechiel Gakwerere, Chief Warrant Officer Francois Ntibiramira, Chief Warrant Officer Damien Ntamuhanga, Chief Warrant Officer Paul Kanyeshyamba, Sergeant Ezechier Rwaza, Sergeant Major Innocent Sibomana, Corporal Fulgence Niyibizi, and a number of other officers, soldiers and recruits from ESO; the *Interahamwe*, including Jean Marie Vianney Ngabonziza; and other militias and armed civilians who were members of the joint criminal enterprise. Each of the above-named members of the joint criminal enterprise acted in concert with various other members, often acting on **Iddephonse NIZEYIMANA**'s orders, authorization or instigation. The particulars that give rise to the Accused's individual criminal responsibility pursuant to Article 6(3) of the Statute are set forth in paragraph 50 herein.

50. Paragraphs 17 through 24 and 35 above are incorporated by reference herein.

COUNT VI: RAPE AS A VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS OF 1949 AND ADDITIONAL PROTOCOL II OF 1977

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Iddephonse NIZEYIMANA** with **RAPE as a violation of Article 3 Common and Protocol II**, a crime stipulated in Article 4(e) of the Statute, in that **Iddephonse NIZEYIMANA** was responsible for the rape of non-combatant Tutsi women during the period 6 April 1994 through 3 July 1994 when in Butare *préfecture*, there was a non-international armed conflict within the meaning of Articles 1 and 2 of Protocol II Additional to the Geneva Convention of 1949, and the rape of the victims was closely related to the hostilities or committed in conjunction with the armed conflict and the victims were persons taking no part in that conflict, all as is set forth in paragraphs 51 through 54 herein.

CONCISE STATEMENT OF FACTS FOR COUNT VI

51. Pursuant to Article 6(1) of the Statute, the Accused, **Ildephonse NIZEYIMANA**, is individually responsible for rape as a violation of Article 3 Common to the Geneva Conventions of 1949 and Additional Protocol II of 1977 because he planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of these crimes. With respect to the commission of those crimes, **Ildephonse NIZEYIMANA** ordered those over whom he had authority as a result of his military rank, position and social influence described in paragraph 2 herein. In addition, the Accused committed rape as a violation of Article 3 Common to the Geneva Conventions of 1949 and Additional Protocol II of 1977 by wilfully and knowingly participating in a joint criminal enterprise whose object, purpose, and foreseeable outcome was the commission of crimes against humanity against the Tutsi ethnic group and persons identified as Tutsi or presumed to support the Tutsi in Butare *préfecture*. To fulfil this criminal purpose, the Accused acted with leaders and members of the FAR, including Colonel Tharcisse Muvunyi, Lieutenant Ildephonse Hategekimana, Lieutenant Cyriaque Habyarabatura of the Butare *Gendarmerie*, Sous-Lieutenant Jean Pierre Bizimana, Sous-Lieutenant Modeste Gatsinzi, Sous-Lieutenant Ezechiel Gakwerere, Sous-Lieutenant Alphonse Ndayambaje, Sous-Lieutenant Ngendahimana, Chief Warrant Officer Francois Ntibiramira, Chief Warrant Officer Damien Ntamuhanga, Chief Warrant Officer Paul Kanyeshyamba, Sergeant Ezechiel Rwaza, Sergeant Major Innocent Sibomana, Corporal Fulgence Niyibizi, and a number of other officers, soldiers and recruits from ESO; the *Interahamwe*, including Jean Marie Vianney Ngabonziza; the "Civil Defense Forces"; militias acting as a group in loose organisation and armed civilians acting as individuals in a common purpose; communal police; local administrative officials; other soldiers and militiamen, other known participants, such as Alphonse Higaniro, Vincent Ntezimana; and other unknown participants, all such actions being taken either directly or through subordinates, for at least the period of 6 April 1994 through 3 July 1994. Each of the above-named members of the joint criminal enterprise acted in concert with various other members, often acting on **Ildephonse NIZEYIMANA**'s orders, authorization or instigation. The particulars that give rise to the Accused's individual criminal responsibility pursuant to Article 6(1) of the Statute are set forth in paragraph 52 herein.

52. Paragraphs 25 through 29 above are incorporated by reference herein.

Command Criminal Responsibility

53. Pursuant to Article 6(3) of the Statute, the Accused, **Ildephonse NIZEYIMANA**, is responsible for rape as a violation of Article 3 Common to the Geneva Conventions of 1949 and Additional Protocol II of 1977 because specific criminal acts were committed by subordinates of the Accused over whom he had *de jure* and *de facto* authority. The Accused knew or had reason to know that such subordinates were about to commit such acts before they were committed and failed to take the

necessary and reasonable measures to prevent such acts or knew or had reason to know that such subordinates had committed such acts and failed to punish the perpetrators thereof. These subordinates were FAR soldiers over whom the Accused exercised effective control, including Lieutenant Jean Pierre Bizimana, Sous-Lieutenant Ezechiel Gakwerere, Chief Warrant Officer Francois Ntibiramira, Chief Warrant Officer Damien Ntamuhanga, Chief Warrant Officer Paul Kanyeshyamba, Chief Warrant Officer Kayinamura, Sergeant Ezechier Rwaza, Sergeant Major Innocent Sibomana, Corporal Fulgence Niyibizi, and a number of other soldiers and recruits from ESO; the *Interahamwe*; and other militia and armed civilians who were members of the joint criminal enterprise. Each of the above-named members of the joint criminal enterprise acted in concert with various other members, often acting on **Ildephonse NIZEYIMANA's** orders, authorization or instigation. The particulars that give rise to the Accused's individual criminal responsibility pursuant to Article 6(3) of the Statute are set forth in paragraph 54 herein.

54. Paragraphs 25 through 29 above are incorporated by reference herein.

The acts and omissions of **Ildephonse NIZEYIMANA** detailed in this indictment are punishable pursuant to Articles 22 and 23 of the Statute.

Signed at ARUSHA, Tanzania, this 1st day of March, 2010


HASSAN B. JALLOW
PROSECUTOR



