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

UNITED NATIONS
NATIONS UNIES

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The Registry
International Criminal Tribunal for Rwanda

30 March 2012

EX - PARTE

Dear Sir,

**The Prosecutor v. Ladislav NTAGANZWA (Case No. ICTR 96-9-I)-Confirmed
Indictment**

Pursuant to the President's *Decision on the Prosecutor's Request for Leave to File an Amended Indictment* dated today, please find *attached* for filing the Second Amended Indictment in relation to the above matter.

The indictment is filed *ex parte* and strictly confidential/under seal; it is not for distribution.

Yours sincerely,

Richard Karegyesa
Chief of Prosecutions

JUDICIAL RECORDS ARCHIVES
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2012 MAR 30 P 12:53

Declassified in accordance with order of
Chambers dated 04 June 2013.

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THE PROSECUTOR

v.

EX - PARTE

LADISLAS NTAGANZWA

CASE No. ICTR 96-9-I

JUDICIAL RECORDS ARCHIVES
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UNICTR

2012 MAR 30 P 12: 53



SECOND AMENDED INDICTMENT

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

LADISLAS NTAGANZWA:

Pursuant to Article 2 of the Statute, with:

- COUNT 1 - GENOCIDE
- COUNT 2 - DIRECT AND PUBLIC INCITEMENT TO COMMIT GENOCIDE

Pursuant to Article 3 of the Statute, with:

- COUNT 3 - EXTERMINATION as a CRIME AGAINST HUMANITY
- COUNT 4 - MURDER as a CRIME AGAINST HUMANITY
- COUNT 5 - RAPE as a CRIME AGAINST HUMANITY

I. CHARGES

1. On the basis of the allegations set out in this indictment Ladislas NTAGANZWA is charged with:

- Count 1: Genocide pursuant to Articles 2(3)(a) and 2(3)(b), 6(1) and 6(3) of the Statute (for the crimes alleged in paragraphs 21-40 and 42-59);
- Count 2: Direct and Public Incitement to Commit Genocide pursuant to Articles 2(3)(c) and 6(1) of the Statute – hereinafter “incitement to commit genocide”(for the crimes alleged in paragraphs 22, 30, 31, 34, 37, 41, 48-50, 52 and 54);

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- Count 3: Extermination as a Crime Against Humanity pursuant to Articles 3(b), 6(1) and 6(3) of the Statute – hereinafter “extermination” (for the crimes alleged in paragraphs 21-40, 42-44 and 47-59);
- Count 4: Murder as a Crime Against Humanity pursuant to Articles 3(a), 6(1) and 6(3) of the Statute – hereinafter “murder” (for the crimes alleged in paragraphs 21-40, 42-44 and 47-59);
- Count 5: Rape as a Crime Against Humanity pursuant to Articles 3(g), 6(1) and 6(3) of the Statute – hereinafter “rape” (for the crimes alleged in paragraphs 45, 46, 48, 50, 52, 54 and 56-59);

2. Paragraphs 3-20 apply to all charges.

II. DEFINITIONS

3. In this indictment, the term “committed” refers to personal commission by a physical or principal perpetrator, the first category of joint criminal enterprise (“JCE I”) or commission based on the fact that a person played an integral part in the commission of the crime.
4. The term “contribution,” when used without qualification, refers to a mere, a significant or a substantial contribution.
5. The terms “aware” or “awareness,” when used without qualification, include awareness of a certainty, awareness of a substantial likelihood, likelihood or probability, and awareness of a possibility.
6. The terms “harming” or “harm,” when used without qualification, refer to the infliction of serious bodily or mental harm, as well as other harm.
7. Unless otherwise stated, the terms:
- i. “*gendarmes*” refers to *gendarmes* from Butare and Gikongoro *préfectures*;
 - ii. “communal police” refers to communal police from Nyakizu *commune*;
 - iii. “*interahamwe*” refers to members of the *interahamwe* from Nyakizu *commune*;
 - iv. “JDR” refers to members of the *Jeunesse Démocrate Républicaine* (“JDR”) from Nyakizu *commune*;
 - v. “Hutu militia” refers to Hutu militia from Nyakizu *commune*;
 - vi. “Hutu civilians” refers to Hutu civilians from Nyakizu *commune*;
 - vii. “Burundian refugees” refers to Burundian refugees present in Nyakizu *commune*;
 - viii. “ESO soldiers” refers to soldiers from the *École des Sous Officiers* (“ESO”) who were used by, and acted in concert with, NTAGANZWA to carry out or participate in the crimes in Nyakizu *commune*; and
 - ix. “subordinates” (or NTAGANZWA’s subordinates) refers to all of the groups listed above under i- viii.

III. GENERAL ALLEGATIONS

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8. When carrying out the criminal conduct alleged in this indictment, NTAGANZWA and the other participants had the intent to destroy in whole or in part the Tutsi group as such and acted in order to discriminate against Tutsis, on racial and political grounds. NTAGANZWA was aware of the state of mind of the other participants.
9. When carrying out the acts of direct and public incitement to commit genocide alleged in this indictment, NTAGANZWA had the intent to directly and publicly incite others to commit genocide.
10. At the time of the crimes pleaded in this indictment NTAGANZWA was the *bourgmestre* of Nyakizu *commune*, Butare *préfecture* and a senior member and former chairman of the *Mouvement Démocratique Républicain* ("MDR"). NTAGANZWA's subordinates as defined in paragraph 7 were used by him to carry out or participate in the crimes in Nyakizu *commune*.
11. NTAGANZWA intended and was aware that his subordinates and others identified in this indictment participated in the crimes charged because he personally participated in these crimes; and incited and ordered his subordinates to commit these crimes; and the crimes committed by his subordinates were public knowledge. As *bourgmestre* of Nyakizu, he controlled and instructed his subordinates (as defined in paragraph 7). He knew and had reason to know that his subordinates participated in the crimes.
12. As *bourgmestre* of Nyakizu, and a senior member and former chairman of the MDR, NTAGANZWA had absolute authority, control and effective control over his subordinates defined in paragraph 7 and referred to in paragraph 10. He could *inter alia*: (i) order them to act and prevent them from acting including participating in crimes; (ii) monitor the daily activities of his subordinates to make them comply with the law; (iii) protect the civilians in his *commune* and their property; (iv) investigate and report any of his subordinates to the criminal law authorities as well as take, authorize, trigger and recommend disciplinary action of members of the communal police and his civilian employees; (v) distribute or refrain from distributing arms, ammunition and other supplies; and (vi) control the movement of civilians throughout Nyakizu *commune*.
13. As a result of his power, position, and influence as pleaded in paragraphs 10-12 above, NTAGANZWA's presence at the crime sites and participation in the crimes, his approval of and acquiescence to the crimes encouraged and morally supported the perpetrators of the crimes charged in this indictment. They were also prompted, encouraged and morally supported by NTAGANZWA's instructions for the elimination of Tutsis, which contributed to the subsequent crimes in Nyakizu *commune*, including all crimes charged in this indictment. NTAGANZWA was aware that his conduct had this effect.

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IV. THE ACCUSED

14. NTAGANZWA was born in 1962 in Gasharu *cellule*, Muhambara *secteur*, Nyakizu *commune*, Butare *préfecture*, Rwanda. His parents were Joseph Ndutiye and Patricie Nyirarwasa.
15. NTAGANZWA was the *bourgmestre* of Nyakizu *commune* from 1993 until he fled Rwanda in July 1994.
16. NTAGANZWA was a senior member and former chairman of the MDR. In this capacity, he exercised authority over *interahamwe* and JDR.

V. CONTEXT OF THE CRIMES

17. Between 6 April and 17 July 1994, citizens of Rwanda were identified according to ethnic classifications as: Hutu, Tutsi and Twa. These were protected groups falling within the scope of the Genocide Convention of 1948.
18. The following state of affairs existed in Rwanda between 6 April 1994 and 17 July 1994: there were throughout Rwanda widespread and/or systematic attacks against a civilian population based on Tutsi ethnic identification and political grounds. During the attacks, some Rwandan citizens killed or caused harm to persons perceived to be Tutsi. As a result of the attacks, there were a large number of deaths.
19. Between 6 April and 17 July 1994, there was a genocide in Rwanda against the Tutsi ethnic group.
20. The crimes alleged in this indictment formed part of the widespread or systematic attacks directed against a civilian population. NTAGANZWA was aware of the attacks and the fact that the crimes in this indictment formed part of these attacks, because: (i) of his involvement in the planning, preparation and execution of crimes that formed part of these attacks; (ii) by his acts and omissions he participated in the crimes; (iii) the crimes were public knowledge; (iv) he was in Rwanda when these attacks were committed; and (v) many of the crimes were carried out by his subordinates.

VI. LADISLAS NTAGANZWA'S CRIMINAL RESPONSIBILITY**A. MAJOR MASSACRE SITES IN NYAKIZU COMMUNE****I. Cyahinda Parish Massacre****Narrative**

21. Between about 14 and 18 April 1994, NTAGANZWA substantially participated in the planning, preparation and execution of the massacre of over twenty thousand Tutsis at Cyahinda Parish, as pleaded in paragraphs 22-28 below.
22. On or about 14 April 1994, Hutu civilians from Nyakizu *commune* including Nyagisozi, Mwoya, Kibangu, Nkakwa and Rutobwe *secteurs* were called on behalf

of NTAGANZWA to meet at the *commune* office. There NTAGANZWA addressed the Hutu civilians together with Burundian refugees and armed military from the camp at the *commune* office. He instructed and prompted these persons to surround Cyahinda Parish so that no Tutsis could escape and told them to kill Tutsis. NTAGANZWA's address instructed, prompted, encouraged and provided moral support for the crimes at Cyahinda Parish. By his conduct NTAGANZWA also designed the attack at Cyahinda Parish as pleaded in paragraph 25.

23. On or about 14 and 15 April 1994, NTAGANZWA held two meetings at his house in Nyagisozi *cellule*, Nyagisozi *secteur*, Nyakizu *commune*; one on each day. These meetings were attended by *gendarmes*, communal police, JDR, *interahamwe*, Hutu civilians and Burundian refugees. In addition, the second meeting was attended by teachers and the director of the vocational school, Joel SETABARO. At both meetings NTAGANZWA distributed weapons with the intention that they be used to harm or kill Tutsis at Cyahinda Parish. Some of these weapons were later used to harm or kill Tutsis at the Cyahinda Parish massacre. By his conduct NTAGANZWA also designed the attack at Cyahinda Parish as pleaded in paragraph 25.
24. Between 14 and 15 April 1994, acting on NTAGANZWA's instructions and prompting, Hutu civilians and Burundian refugees patrolled the area surrounding Cyahinda Parish to prevent Tutsis from leaving Cyahinda Parish before the attack on 15 April 1994. By his conduct NTAGANZWA also designed the attack at Cyahinda Parish as pleaded in paragraph 25.
25. On or about 15 April 1994, NTAGANZWA armed with a gun, led his subordinates to Cyahinda Parish with the purpose of attacking and killing tens of thousands of Tutsis from Gikongoro and Butare *préfectures* who had sought refuge at the Parish since 7 April 1994. NTAGANZWA:
 - i. designed the attack at Cyahinda Parish;
 - ii. transported *gendarmes* in the communal vehicle, while Hutu civilians and Burundian refugees arrived on foot and surrounded Cyahinda Parish to prevent the Tutsis from escaping;
 - iii. addressed the Tutsi at Cyahinda Parish with a megaphone and told them to lay down their weapons;
 - iv. instructed and prompted the commencement of the massacre, whereupon the *gendarmes* and communal police shot at the crowd of Tutsis killing and harming many, while the Hutu civilians and Burundian refugees armed with traditional weapons also attacked, killed and harmed Tutsis including those who tried to escape from the Parish;
 - v. instructed and prompted his subordinates including RWAMANYWA (a school teacher and member of the MDR party), Célestin MANIRAHU (merchant), Geoffrey DUSABE (school inspector and member of the security council) and François BAZARAMBA (chief of the Burundian refugee camp at Nyakizu *commune*) to surround and kill Tutsis;
 - vi. directed the attack by giving instructions through the megaphone including directions as to who should be killed; and
 - vii. personally shot into the crowd of Tutsis and killed five Tutsis including Rwirirwa, Damascène Mukezangango and Justin Ruvugabigwi.

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During the attack thousands of Tutsis were killed by NTAGANZWA and his subordinates.

26. On 16 and 17 April 1994, NTAGANZWA returned to Cyahinda Parish where his subordinates continued to kill and harm Tutsis at the Parish. NTAGANZWA's presence at the Parish during the killings encouraged, and provided moral support for these crimes. NTAGANZWA instructed and prompted the killings at Cyahinda Parish.
27. On or about 18 April 1994, NTAGANZWA in the company of ESO soldiers joined the other attackers at Cyahinda Parish for the final assault on the Tutsis. Acting under NTAGANZWA's instructions and prompting, the ESO soldiers used heavy weaponry, to kill and harm Tutsis at Cyahinda Parish, while his other subordinates continued to kill and harm Tutsis with small arms and traditional weapons.
28. More than twenty thousand Tutsis were killed at Cyahinda Parish during the attacks including Onesphore Rutikanga, Justin Ruvugabigwi, Mukezangago, Rutikanga, Rwirirwa, Béatrice Kanyambo and Serapio Mukarugomwa. Other Tutsis were harmed.

II. Gasasa Hill Massacre

29. On 21 April 1994 and during the days immediately preceding that date NTAGANZWA substantially participated in the planning, preparation and execution of the massacre of thousands of Tutsis at Gasasa Hill, as pleaded in paragraphs 30-33 below.
30. On or about 20 April 1994, *Conseiller* Théoneste NGENDAMAGAO, acting on NTAGANZWA's instructions and prompting, told Hutu civilians from Nkakwa *secteur*, Nyakizu *commune* to go to the *commune* office the following morning to join the attack at Gasasa Hill pleaded in paragraph 32. By his conduct NTAGANZWA also designed the attack at Gasasa Hill.
31. On or about 21 April 1994, NTAGANZWA, accompanied by communal police and military, addressed a large group of Hutu civilians and military at a public meeting near the *commune* office instructing and prompting them to surround, attack and kill Tutsis on Gasasa and Nyakizu Hills. NTAGANZWA's address compelled, prompted, encouraged and provided moral support for the crimes on Gasasa Hill pleaded in paragraph 32. By his conduct NTAGANZWA also designed the attack at Gasasa Hill.
32. On or about 21 April 1994, NTAGANZWA led his armed subordinates to Mwumba Hill, close to Gasasa Hill with the purpose of attacking and killing thousands of Tutsis from Gikongoro and Butare *préfectures* who had sought refuge at Gasasa Hill. NTAGANZWA:
 - i. designed the attack at Gasasa Hill;
 - ii. NTAGANZWA dressed in a military uniform led the attack by personally shooting at Tutsis on Gasasa Hill;
 - iii. specifically instructed and prompted the armed *gendarmes* and communal police to shoot at the Tutsis while the Hutu civilians including;

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ABIMANA, RUKUNDO, MUGABO, BAZIGA, RUBAGA, SEBARINDA, Silas NZAJYIBWAMI, Louis NDATINYA and Geoffrey DUSABE, and Burundian refugees attacked and killed Tutsis with traditional weapons; his subordinates adhered to his instructions and killed thousands of Tutsis and harmed others on Gasasa Hill; and

- iv. directed the attack including by requiring that the bodies of certain victims be brought to him.

33. Thousands of Tutsis were killed during the attack on Gasasa Hill including Theresia Nirabazungu, a woman named Nyirabantu, Domitila Nyiramashuku, Stephano Sebumba, Felicite Kamanzi, Vianney Nkurunziza and Annociata Mukamana. Other Tutsis were harmed.

C. OTHER CRIME SCENES IN NYAKIZU COMMUNE

I. Crimes in Nkakwa *secteur*

34. On or about 14 April 1994, NTAGANZWA, accompanied by *gendarmes*, held a public meeting attended by Hutu civilians from Nkakwa *secteur* and Burundian refugees in Nkakwa *secteur*, Nyakizu *commune*. NTAGANZWA told this group to kill Tutsis including Tutsis captured and brought back from the Burundian border to Nkakwa *secteur*. NTAGANZWA threatened to kill those who did not take part in the killings. The Hutu civilians and Burundian refugees acting on NTAGANZWA's instructions and prompting, searched for and killed Tutsis with traditional weapons in Nkakwa *secteur*, including Kaduha *cellule*, and also burnt the homes of Tutsis. Those killed included approximately eighty Tutsis killed at Kaduha *cellule*, Nkakwa *secteur*, Nyakizu *commune*. Numerous other Tutsis were harmed. By his conduct NTAGANZWA also designed the killing campaign in Nkakwa *secteur*.
35. On or about 14 April 1994, NTAGANZWA told Hutu civilians on night patrol in other parts of Nyakizu *commune* to go to Nkakwa *secteur* where Tutsis were trying to flee the genocide and cross into Burundi. NTAGANZWA instructed and prompted the Hutu civilians to prevent these Tutsis from fleeing and to kill them, which the Hutu civilians did. By his conduct NTAGANZWA also designed the crime.
36. On or about 20 April 1994, *Conseiller* Théoneste NGENDAMAGAO, Hutu civilians from Nkakwa *secteur* and Burundian refugees, acting on NTAGANZWA's prompting and instructions, killed Tutsis hiding in other people's homes in Nkakwa *secteur*, Nyakizu *commune* including Martin Mvumbuko, Kasine's three grandchildren and one great-grand child and Mrs Mukankusi's children. Other Tutsis were harmed. By his conduct NTAGANZWA also designed the crime.

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II. Crimes in Maraba secteur

37. On or about 15 April 1994 in the morning, NTAGANZWA accompanied by *gendarmes* from Butare *préfecture* travelling in the communal vehicle stopped on the road from Butare to Nyakizu at a public location close to the Maraba dispensary in Maraba *secteur*, Nyakizu *commune*. There NTAGANZWA addressed a large crowd of Hutu civilians from Maraba *secteur* armed with traditional weapons and told them to kill all Tutsis within their *secteur*. NTAGANZWA's address instructed and prompted, the crimes at Maraba *secteur*, Nyakizu *commune*. Acting on NTAGANZWA's instructions, the crowd of Hutu civilians burnt Tutsis' houses and killed Tutsis at Maraba *secteur*, Nyakizu *commune* including a Tutsi employee from Maraba dispensary whose name is unknown. Others were harmed. By his conduct NTAGANZWA also designed the killing campaign in Maraba *secteur*.
38. On the same day, on or about 15 April 1994, after the meeting with Hutu civilians at Maraba *secteur*, Nyakizu *commune* before continuing to Nyakizu, NTAGANZWA told Faustin HAVUGWANAYO, a member of the JDR to pass on orders to François BAZARAMBA and Geoffrey DUSABE to start killing Tutsis. In accordance with NTAGANZWA's instructions and prompting:
- i. BAZARAMBA met with and told Hutu civilians in Maraba *secteur* to kill and harm Tutsis including a Tutsi named Emmanuel and his wife, who were killed, and threatened to kill those who refused to participate; and
 - ii. BAZARAMBA gathered Hutu civilians in Maraba *secteur* to attack the Tutsis who had sought refuge on Gasasa and Nyakizu Hills, the Hutu civilians did as instructed and killed several Tutsis at Gasasa Hill.

III. Crimes at Nkomero Trading Centre, Kigembe commune

39. On or about 16 April 1994, NTAGANZWA, accompanied by *gendarmes* and soldiers, instructed and prompted soldiers at the Akanyaru border to take approximately one thousand Tutsis to Nkomero trading centre in Kigembe *commune*. Following NTAGANZWA's instructions and prompting the armed soldiers led Tutsis by force to Nkomero. NTAGANZWA was physically present travelling behind the Tutsis in the communal vehicle. Overnight, on NTAGANZWA's instructions and prompting, these Tutsis were guarded by soldiers and Hutu civilians and were unable to leave the trading centre at Nkomero, Kigembe *commune*.
40. On or about 17 April 1994 in the morning, NTAGANZWA, accompanied by more than twenty soldiers and approximately ten *gendarmes*, went to Nkomero trading centre, Kigembe *commune* where using a megaphone he instructed and prompted the soldiers and *gendarmes* to shoot at the crowd of approximately one thousand Tutsis at Nkomero trading centre. The soldiers immediately followed NTAGANZWA's instructions and prompting killing and harming Tutsis. Among those killed during the massacre at Nkomero trading centre were Jean Burasanzwe, Madeline Kankindi, Annociata Uwanyirigura and Rwahama, Laurent Ruhigangoga's son and Mukarukagambwa.

IV. Killings at Roadblocks

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41. Between 7 and 30 April 1994, NSHIMIYE and NTAGANZWA regularly travelled around Nyagisozi *secteur* in the communal vehicle. In NTAGANZWA's presence, Nshimiye used a megaphone to urge the Hutu population to kill Tutsis and warned that those Hutus who did not follow the orders would be arrested.
42. On or about 17 April 1994, at a roadblock near Nkomero, Kigembe *commune*, NTAGANZWA, accompanied by Damien BINIGA, *Sub-préfet* of Gikongoro, instructed, prompted and supervised JDR, *interahamwe* and Hutu civilians manning the roadblock to kill approximately forty Tutsis who were attempting to flee to Burundi, which they did in NTAGANZWA and BINIGA's presence.
43. In late April or early May 1994, NTAGANZWA accompanied by four *gendarmes* and the Head of the Communal Police instructed and prompted people manning a roadblock at Coko *secteur*, Mubuga *commune*, Gikongoro *préfecture* to beat an unknown Tutsi youth to death. NTAGANZWA personally participated in this killing by beating the victim to death.
44. Between 1 and 16 May 1994, at the Bukarama roadblock in Maraba *secteur*, NTAGANZWA, in the presence of Geoffrey DUSABE and Innocent NDINDABAHIZI instructed and prompted *gendarmes* to kill three Tutsi men travelling in a Suzuki vehicle and seized their vehicle. Acting on NTAGANZWA's instructions and prompting the *gendarmes* shot and killed the three Tutsi men.

V. Rape and Ryabidandi Killing

45. At a date in early May 1994, at the Ryabidandi roadblock, Ryabidandi *cellule*, Nyagisozi *secteur*, Nyakizu *commune*, NTAGANZWA instructed and prompted a group of about eight JDR, *interahamwe*, and Hutu and Twa civilians including KAREMERA and KAZOVINO to rape a Tutsi woman named Astérie (last name unknown). Acting on the direct instructions and the prompting of NTAGANZWA, Astérie was repeatedly raped during the night at a residence close to the Judicial Police Inspector's residence within Ryabidandi *cellule*.
46. On or about the day after NTAGANZWA gave the orders referred to in paragraph 45, NTAGANZWA instructed and prompted HABIB last name unknown, a Hutu civilian, to rape ARH, a Tutsi woman. Following NTAGANZWA's instructions and prompting, HABIB took ARH hostage and repeatedly raped her for a period of approximately 2 months.
47. At a date in early May 1994, at the Ryabidandi roadblock, Ryabidandi *cellule*, Nyagisozi *secteur*, Nyakizu *commune*, NTAGANZWA instructed and prompted:
 - i. a group of about eight JDR, *interahamwe* and Hutu and Twa civilians including KAREMERA and KAZOVINO referred to in paragraph 45 to murder Astérie. The following day, acting on NTAGANZWA's instructions and prompting, they killed her by beating her to death and inserting a stick into her anus.
 - ii. JDR, *interahamwe* and Hutu and Twa civilians to murder Joseph Rwagasana, a young Tutsi boy. Acting on the direct instructions and prompting of NTAGANZWA, they killed him.

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Responsibility**Crimes**

48. On the basis of the facts alleged in the paragraphs above, NTAGANZWA is responsible for:
- i. Genocide pursuant to Articles 2(3)(a) and 2(3)(b), 6(1) and 6(3) of the Statute for the killing, harming and raping of Tutsis (for the crimes alleged in paragraphs 21-40 and 42-59);
 - ii. Direct and public incitement to commit genocide pursuant to Articles 2(3)(c) and 6(1) of the Statute (for the crimes alleged in paragraphs 22, 30, 31, 34, 37, 41, 48-50, 52 and 54);
 - iii. Extermination as a Crime Against Humanity pursuant to Articles 3(b), 6(1) and 6(3) of the Statute (for the crimes alleged in paragraphs 21-40, 42-44 and 47-59);
 - iv. Murder as a Crime Against Humanity pursuant to Articles 3(a), 6(1) and 6(3) of the Statute (for the crimes alleged in paragraphs 21-40, 42-44 and 47-59); and
 - v. Rape as a Crime Against Humanity pursuant to Articles 3(g), 6(1) and 6(3) of the Statute (for the crimes alleged in paragraphs 45, 46, 48, 50, 52, 54 and 56-59).

Responsibility under Article 6(1) of the Statute**Committing**

49. NTAGANZWA personally committed;
- i. genocide, extermination and murder by killing Tutsis (paragraph 25.vii) and by personally participating in beating to death an unknown Tutsi youth (paragraph 42), and
 - ii. incitement to commit genocide (paragraphs 22, 30, 35, 38 and 41).
50. NTAGANZWA is responsible for committing the crimes of:
- i. genocide, extermination and murder by his conduct charged in paragraphs 22–25, 26–27, 30-33 34–39 and 42–47,
 - ii. incitement to commit genocide by his conduct charged in paragraph 30, and
 - iii. genocide and rape by his conduct charged in paragraphs 45–46
- because his acts were as much an integral part of these crimes as the carrying out of their *actus reus*. NTAGANZWA intended that the crimes should occur and was aware of their occurrence.

JCE 1

51. NTAGANZWA is responsible under JCE I for genocide, extermination and murder for the crimes committed and charged in the following paragraphs.
- i. Paragraphs 25-27 (Cyahinda Parish), the JCE existed during the time period charged in paragraph 21. It consisted of NTAGANZWA and the perpetrators alleged in paragraphs 24-25 and 26-27; the ESO soldiers

joined the JCE on 18 April 1994, as charged in paragraph 27. The JCE members had the common purpose to commit the abovementioned crimes. NTAGANZWA at least significantly contributed to the JCE through his conduct as alleged in paragraphs 22–27. The other members of the JCE contributed at least significantly to the JCE through their conduct as alleged at paragraphs 24–25 and 26–27.

- ii. Paragraph 32 (Gasasa Hill), the JCE existed during the time period charged in paragraph 29. It consisted of NTAGANZWA and the perpetrators alleged in paragraph 32. The JCE members had the common purpose to commit the abovementioned crimes. NTAGANZWA at least significantly contributed to the JCE through his conduct as alleged in paragraphs 30–32. The other members of the JCE contributed at least significantly to the JCE through their conduct as alleged at paragraphs 32.
- iii. Paragraphs 39, 42 and 42 (other crime scenes in Nyakizu *commune*), each of these paragraphs charges a different incident. For each of these incidents a separate JCE is pleaded. The respective JCE for each incident existed during the time period alleged in the paragraph describing the incident. The members of each respective JCE were the perpetrators alleged in that paragraph. The common purpose of each of these JCEs was the carrying out of the criminal conduct alleged in the paragraph describing the incident. NTAGANZWA and the other JCE members at least significantly contributed to the JCEs through their conduct as alleged in the paragraph describing the incident.

For each of the JCEs pleaded above, the *mens rea* of NTAGANZWA and the other JCE members was the intent that the abovementioned crimes be carried out.

Ordering, Instigation, Planning and Aiding and Abetting

52. NTAGANZWA is responsible under the modes of liability of ordering and instigating for the following crimes.

- i. Genocide, extermination and murder by his conduct charged in paragraphs 22, 24–25, 26–27, 30–32, 34–39 and 42–47. He instructed and prompted the perpetrators to carry out conduct in the course of which they carried out and participated in the crimes,
- ii. Incitement to commit genocide by his conduct charged in paragraph 30. He instructed and prompted *Conseiller* Théoneste NGENDAMAGAO to carry out conduct in the course of which he committed the crime of incitement to commit genocide.
- iii. Genocide and rape by his conduct charged in paragraphs 45 and 46. In each of these cases, he instructed and prompted the perpetrators to carry out conduct in the course of which they carried out and participated in the crimes charged in paragraphs 45, 46, 34–39 and 42–47.

NTAGANZWA had a position of authority that would compel the perpetrators of the abovementioned crimes to follow his instructions. His orders and instigation had a direct and substantial effect on and constituted a substantial contribution to the commission of the crimes. NTAGANZWA intended or was aware of the substantial likelihood that in the course of the execution of his orders and instigations the crimes would be committed.

53. NTAGANZWA is responsible under the mode of liability of planning for the crimes of genocide, extermination and murder by his conduct charged in paragraphs 22-25, 30-32 and 34-39. He designed the conduct in the course of which the crimes were carried out. The planning substantially contributed to the crimes. NTAGANZWA intended or was aware of the substantial likelihood that in the course of the execution of his plan the crimes would be committed.
54. NTAGANZWA is responsible under the mode of liability of aiding and abetting for the crimes of:
- i. genocide, extermination and murder by his conduct charged in paragraphs 22-25, 26-27, 30-32, 34-38, 44 and 47;
 - ii. incitement to commit genocide by his conduct charged in paragraph 30; and
 - iii. genocide and rape by his conduct charged in paragraphs 45 and 46.
- By this conduct he assisted, furthered, encouraged and lent moral support to the crimes. His conduct at least substantially contributed to the commission of the crimes. He was at least aware of the likelihood that the crimes would occur and that his conduct would assist the crimes.
55. NTAGANZWA is also responsible under the mode of liability of aiding and abetting for the crimes of genocide, extermination and murder by his conduct charged in paragraphs 39, 42 and 42. By this conduct he assisted, furthered, encouraged and lent moral support to the crimes. His conduct at least substantially contributed to the commission of the crimes. He was at least aware of the likelihood that the crimes would occur and that his conduct would assist the crimes.

Responsibility under Article 6(3) of the Statute

56. NTAGANZWA incurred superior responsibility for his subordinates' commission of and participation in the crimes of:
- i. genocide, extermination and murder (charged in paragraphs 24-25, 26-27, 32, 34-38, 40 and 42-47)
 - ii. inciting with intent to commit genocide at paragraph 30, and
 - iii. genocide and rape for raping Tutsis (46-34).
57. Because of his positions and powers as pleaded in paragraphs 10 and 12, NTAGANZWA had effective control over his subordinates who were carrying out and participating in the crimes in the sense that he had a material ability to prevent or punish criminal conduct.
58. NTAGANZWA knew and had reason to know of his subordinates' criminal conduct because of the facts pleaded in paragraphs 11 as well as 22-27 above.
59. NTAGANZWA failed to use his positions and powers as pleaded in paragraphs 10 and 12 to prevent his subordinates' commission of or participation in the crimes or to investigate or punish the subordinates who had committed and participated in these crimes.

VI AGGRAVATING CIRCUMSTANCES

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60. All facts stated in this indictment are also alleged as aggravating circumstances.

61. Other aggravating circumstances against Ladislas NTAGANZWA include: i) his abuse of his position and the trust placed in him; ii) his pre-mediation; iii) the violent and humiliating treatment endured by his victims; iv) the persistence with which he kept committing crime after crime; v) the duration of the offences; vi) the vulnerability of the victims and the effect of the crimes on them, including their suffering; vii) the civilian status of his victims; and viii) his protracted evasion of arrest and prosecution for the crimes he is accused of.

The acts and omissions of **LADISLAS NTAGANZWA** alleged herein are punishable pursuant to Articles 22 and 23 of the Statute.

Dated at Arusha this 30th day of March 2012.



Hassan Bubacar JALLOW
Prosecutor

