

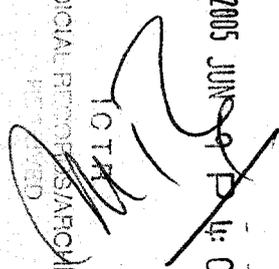
**INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA**

Case No. ICTR-[ ]

**THE PROSECUTOR**

**AGAINST**

**BERNARD MUNYAGISHARI**

JUDICIAL PROSECUTOR  
ICTR  
2005 JUN 29 P. 4: 04  


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**INDICTMENT**

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

**BERNARD MUNYAGISHARI**

With:

- Count 1: **CONSPIRACY TO COMMIT GENOCIDE**, pursuant to Article 2(3) (b) and 6(1) of the Statute;
- Count 2: **GENOCIDE**, pursuant to Articles 2(3) (a), 6(1) and 6(3) of the Statute; or alternatively,
- Count 3: **COMPLICITY IN GENOCIDE**, pursuant to Articles 2(3) (e), 6(1) and 6(3) of the Statute;
- Count 4: **MURDER AS A CRIME AGAINST HUMANITY**, pursuant to Articles 3(a), 6(1) and 6(3) of the Statute; and,
- Count 5: **RAPE AS A CRIME AGAINST HUMANITY**, pursuant to Articles 3(g), 6(1) and 6(3) of the Statute.

**II. THE ACCUSED**

1. **Bernard Munyagishari** was born in 1959 in Gsenyi *secteur*, Rubavu *commune*, Gisenyi *prefecture*, Rwanda.
2. **Bernard Munyagishari** was at various times a school teacher and a national football referee. After the multi party political system was adopted in Rwanda in 1991, **Bernard Munyagishari** was employed by the Insurance Company SONARWA in Gisenyi city as a reward for his active participation in the MRND (National Republican Movement for Democracy and Development) political party at the local level. He served as Secretary General of the MRND political party for Gisenyi city and as President of the *Interahamwe* for Gisenyi *prefecture* for the period from 1992 through 1994. The *Interahamwe* were officially the youth wing of the MRND.
3. As Secretary General of the MRND for Gisenyi city and President of the *Interahamwe* for Gisenyi *prefecture*, **Bernard Munyagishari** recruited many *Interahamwe* for his political party. He trained the *Interahamwe* in a military manner and distributed weapons to them. The *Interahamwe* of Gisenyi *prefecture* were **Bernard Munyagishari**'s subordinates and he exercised control and authority over all of them.
4. **Bernard Munyagishari** derived additional authority and influence by virtue of his close association with Government, military and political leaders, such as Joseph Nzirorera, Secretary General of the MRND party at the national level, Augustin

Ngirabatware, nicknamed Mbiyo Mbiyo, Minister of Planning, Colonel Anatole Nsengiyumva, Commander of Gisenyi military camp, Major Uwimana François-Xavier, Captain Bizimuremyi, commander of the mobile brigade of Gisenyi, and other high-ranking political figures including fellow leaders of the MRND and the CDR political parties and the *Interahamwe* and *Impuzamugambi* militias, which further reinforced his authority over his subordinates. The *Impuzamugambi* were officially the youth wing of the CDR political party. In Rwanda during April to July 1994, the *Interahamwe* and the *Impuzamugambi* became jointly known under the popular name of *Interahamwe*.

5. As Secretary General of the MRND for Gisenyi city and President of the *Interahamwe* for Gisenyi *prefecture*, **Bernard Munyagishari** exercised effective control and authority over the members of the *Interahamwe* and the *Impuzamugambi* militias in Gisenyi and its environs.

6. During the period from April 1994 through July 1994, **Bernard Munyagishari** was seen armed with a pistol, a Kalashnikov and a club.

### III. CHARGES AND CONCISE STATEMENT OF FACTS

7. At all times referred to in this indictment, there existed in Rwanda a minority ethnic or racial group known as Tutsis, officially identified as such by the government. The majority of the population was comprised of an ethnic or racial group known as Hutus, also officially identified as such by the Government.

8. Throughout Rwanda during the course of 1994, particularly between 6 April 1994 and 17 July 1994, soldiers, *Interahamwe* militia and armed civilians, targeted and attacked Tutsis on the basis that there were Tutsis, with the intent to kill or cause serious harm to them as such and to destroy the Tutsi population in Rwanda in whole or in part. Hundreds of thousands of civilian Tutsis were killed by the *Interahamwe* and other armed civil populations.

#### COUNT 1: CONSPIRACY TO COMMIT GENOCIDE

The Prosecutor charges **Bernard Munyagishari** with **CONSPIRACY TO COMMIT GENOCIDE**, a crime stipulated in Article 2 (3) (b) of the Statute, in that on or between the dates of 1 January 1994 and 17 July 1994, in Gisenyi *prefecture*, Rwanda, **Bernard Munyagishari** did agree with others, namely members of the Rwandan Government, the Rwandan Armed Forces and the *Interahamwe* militia, including but not limited to influential and powerful persons such as Colonel Anatole Nsengiyumva, Commander of the Gisenyi military camp, Joseph Nzirorera, Secretary General of the MRND at the national level, Augustin Ngirabatware, nicknamed Mbiyo Mbiyo, Minister of Planning, Major Uwimana François-Xavier, Captain Bizimuremyi, Commander of the mobile brigade of Gisenyi, Barnabe Samvura, Thomas Mugiraneza, BIO-1, Thomas Issa, Hassan Sibomana, Hassan Ngeze, Hassan Gitoki, Zainabou, and other persons not known to the Prosecutor, to kill or cause serious bodily or mental harm to the members of the

Tutsi population of Rwanda, with the intent to destroy, in whole or in part, a racial or ethnic group, as such, as outlined in paragraphs 9 through 27 of this indictment.

**CONCISE STATEMENT OF FACTS FOR COUNT 1**

*Individual Criminal Responsibility*

9. Pursuant to Article 6(1) of the Statute, the accused, **Bernard Munyagishari**, is individually responsible for the crime of **CONSPIRACY TO COMMIT GENOCIDE** because he committed the act of agreeing with Colonel Anatole Nsengiyumva, Joseph Nzirorera, Major Uwimana François-Xavier, Captain Bizimuremyi, Barnabe Samvura, Thomas Mugiraneza, BIO-1, Thomas Issa, Hassan Sibomana, Hassan Ngeze, Hassan Gitoki, Zainabou and others, on a plan to destroy in whole or in part, the Tutsi ethnic group, as described in paragraphs 11 through 30 of this indictment. In furtherance of this plan he personally committed specific acts that facilitated the destruction of the Tutsis, and instigated others to commit acts that facilitated the destruction of the Tutsis, such actions taking place between an unknown date in early 1992 and 17 July 1994. The particulars that give rise to his individual criminal responsibility are set forth in paragraphs 10 through 26 of this indictment.

10. Between an unknown date in early 1992 and 17 July 1994, **Bernard Munyagishari**, with other influential and powerful persons, including Colonel Anatole Nsengiyumva, Joseph Nzirorera, Augustin Ndirabatware nicknamed Mbiyo Mbiyo, Major Uwimana François-Xavier, Captain Bizimuremyi, Barnabe Samvura, Thomas Mugiraneza, BIO-1, Thomas Issa, Hassan Sibomana, Hassan Ngeze, Hassan Gitoki, Zainabou, and others, agreed to kill or cause serious bodily or mental harm to members of the Tutsi population with the intent to destroy, in whole or in part, the Tutsi ethnic group, as described in paragraphs 11 through 26 of this indictment.

11. After the multi party political system was adopted in Rwanda in 1991, **Bernard Munyagishari**, in his capacity of Secretary General of the MRND for Gisenyi city, recruited many young people to the youth wing of the MRND known as the *Interahamwe*. These persons were almost exclusively of Hutu ethnic origin. The role of the *Interahamwe* in Gisenyi was to create disorder in the opposition political rallies and to attack and kill the Tutsis and the Hutu opponents of ethnic division who were accused of being accomplices of the *Inkotanyi*, the Rwandan Patriotic Front combatants (“the RPF”).

12. On an unknown date in 1992, **Bernard Munyagishari** agreed with influential persons including Colonel Anatole Nsengiyumva to create five main *Interahamwe* militia groups in Gisenyi to attack and kill Tutsis and Hutu Opponents of ethnic division. **Bernard Munyagishari** was appointed President of the *Interahamwe* militia for Gisenyi *prefecture* and accepted the position knowing the criminal role of the *Interahamwe*. Thomas Mugiraneza was his vice-president. **Bernard Munyagishari** personally led one of the groups, while the remaining four were managed under his leadership, by BIO-1, Thomas Issa, Hassan Sibomana and Mabuye Mutigana.

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13. **Bernard Munyagishari** was trained as commando by Major Barienda Augustin at the Bigogwe commando training centre in furtherance of the agreement. At the end of the training, he was awarded a red belt of the army however he never became an official member of the Rwandan Armed Forces. However **Bernard Munyagishari** was often armed and sometimes wore a military uniform.

14. During the period from 1992 and up until the death of President Juvenal Habyarimana on 6 April 1994, in furtherance of the agreement described herein, **Bernard Munyagishari** trained the *Interahamwe* militia and/or supervised such training that took place in the military camps and in neighbouring forests, notably in the camps of Bigogwe, Gabiro and Gako. The training enabled the *Interahamwe* more efficiently to attack and kill the Tutsis and the Hutu opponents with the weapons they were given by the soldiers.

15. On an unknown date in 1992, **Bernard Munyagishari**, Mbanzi Wellars, President of the *Interahamwe* for Rubavu commune, Gisenyi *prefecture*, and others, agreed to organize demonstrations in Gisenyi to set up road blocks throughout the city, in order to stop cars and to check the national identity cards of those people stopped to identify Tutsis and Hutu Opponents and to prevent them from escaping and to kill them.

16. On an unknown date in October 1993, **Bernard Munyagishari** attended a meeting held at Palm Beach Hotel in Gisenyi to organize the killing campaign. The meeting was convened by Colonel Anatole Nsengiyumva. During the meeting, the participants, including **Bernard Munyagishari**, agreed that weapons must be distributed to the *Interahamwe* and the civilian population to kill the Tutsis. Colonel Anatole Nsengiyumva promised to provide weapons to **Bernard Munyagishari**. Two weeks later, **Bernard Munyagishari** received the said weapons and distributed them to the *Interahamwe* and some members of the CDR.

Page 2, towards the bottom: "During these meetings..." up to page 3 "...operations in Gisenyi."

17. On several occasions prior to 7 April 1994, the Minister of Planning, Augustin Ngirabatware, nicknamed Mbiyo Mbiyo, held several meetings with **Bernard Munyagishari** and the *Interahamwe* at the MRND Secretarial Office in Gisenyi. The participants, including **Bernard Munyagishari**, agreed that no one of Tutsi ethnic origin be allowed to attend the meetings. The participants including **Bernard Munyagishari** further agreed to kill the Tutsi. After most of those meetings, **Bernard Munyagishari** and Minister Augustin Ngirabatware hired buses from the transportation company ONATRACOM in Gisenyi, to convey the *Interahamwe* to the communes to look for Tutsis whom they killed.

18. On or about 5 January 1994, in furtherance of the agreement described herein, *Interahamwe* led by **Bernard Munyagishari** began spreading false rumours in Gisenyi that the Tutsi had put poison in the water so that those who would drink that water,

namely the Hutus, died. This was done with the intention of causing tensions among the population so that the population would see the Tutsis as the enemy. As a result, the Interahamwe threatened to kill the Tutsi.

19. On or about 10 January 1994, an *Interahamwe* leader informed UNAMIR (United Nations Assistance Mission for Rwanda) in Kigali that the MRND leaders and members of the *Interahamwe* cells had prepared lists of Tutsi to be eliminated. The lists contained the names and the residences of the Tutsi to be killed. The lists were also given to other authorities in the country, including Gisenyi. From April 1994 through July 1994, in Gisenyi, Bernard **Munyagishari** in furtherance of the agreements described herein pursued and killed Tutsi. For example in March 1994, **Bernard Munyagishari** gathered his *Interahamwe* to look for prominent Tutsi and moderate Hutus who were sympathetic to the RPF to be arrested and imprisoned at the gendarmerie prison. There were *Interahamwe* who were assigned to search Tutsi houses by day, and those who were assigned to search Tutsis' houses by night. **Bernard Munyagishari** himself ordered his *Interahamwe* to some precise houses where Tutsi families were living. Some of the Tutsi captured were killed by the *Interahamwe*.

20. Around March 1994, as the Rwanda Government was negotiating with the RPF the implementation of the Arusha Accords, **Bernard Munyagishari** organized at several occasions in Gisenyi, violent protests against the Arusha Accords and masterminded a virulent hate campaign against the Tutsis in furtherance of the agreements described herein. **Bernard Munyagishari** and his *Interahamwe* mounted roadblocks in Gisenyi to show their disapproval and anger in relation to the ongoing negotiations in Arusha. They arrested Tutsis at the roadblocks and assaulted them. During the demonstrations, **Bernard Munyagishari** and his *Interahamwe* also looted and destroyed some Tutsi homes and properties.

21. On or about 7 April 1994, in order to organize the commencement of the extermination plan against the Tutsis, Colonel Antole Nsengiyumva convened a meeting of political leaders, local authorities and *Interahamwe* at the military camp in Gisenyi. Among those present at the meeting were **Bernard Munyagishari**, Barnabe Samvura, chairman of the CDR for Rubavu commune, and Thomas Mugiraneza, Vice-President of the *Interahamwe* for Gisenyi *prefecture*. The participants, including **Bernard Munyagishari**, discussed details of the plan to exterminate the Tutsis and agreed during the course of the meeting to distribute weapons to be used to exterminate the Tutsis.

22. At the end of the meeting held on or about 7 April 1994, in furtherance of the agreement described herein, Colonel Anatole Nsengiyumva ordered Captain Bizuremuye, Commander of the mobile brigade of Gisenyi, to distribute weapons and ammunition to the *Interahamwe* leaders who were present. The weapons, including grenades and rifles, were in turn distributed to the *Interahamwe* who immediately commenced attacks on Tutsis. **Bernard Munyagishari** agreed with others to participate in the distribution of weapons to the *Interahamwe* knowing that such weapons would be used in carrying out attacks on Tutsis.

23. On an unknown date in April 1994, **Bernard Munyagishari** attended a meeting at the stadium in Gisenyi, convened by Colonel Anatole Nsengiyumva. During the meeting, the participants discussed whether or not the killings of Tutsis should be stopped. **Bernard Munyagishari** agreed with Colonel Anatole Nsengiyumva and others not to stop the killings in Gisenyi. **Bernard Munyagishari** and the *Interahamwe* attending the meeting endorsed their approval of Colonel Anatole Nsengiyumva who said to the killers that he did not agree with the first two speakers who had called for the end of the massacres. Colonel Anatole Nsengiyumva congratulated the *Interahamwe* for what he called "good work" and encouraged them to continue the "work". In that context, "work" meant killing the Tutsis. **Bernard Munyagishari** agreed with Colonel Anatole Nsengiyumva and others that the killing of Tutsis should continue and after the meeting the killing of the Tutsis became more and more intense in Gisenyi.

24. On or about 13 April 1994, after roadblocks had been set up by the *Interahamwe* in Gisenyi *prefecture*, **Bernard Munyagishari** convened a meeting of *Interahamwe* leaders. The meeting was convened to organize the massacres more efficiently and reduce the chances of any Tutsi escaping the ongoing slaughter. The *Interahamwe* leaders present at the meeting were under the leadership of **Bernard Munyagishari**. The participants at the meeting including **Bernard Munyagishari** agreed to organize the massacres of the Tutsis more efficiently and therefore not to allow single Tutsi to escape through the roadblocks.

25. From 7 April 1994 through 17 July 1994, in furtherance of the agreement described herein, **Bernard Munyagishari** supervised the roadblocks in the city of Gisenyi and its environs. He was present at many roadblocks including the one leading to Bralirwa Company in Gisenyi, instigating the *Interahamwe* and other civilians to kill the Tutsis. During the same period, the *Interahamwe* led by **Bernard Munyagishari** killed many Tutsis at roadblocks in Gisenyi.

26. On an unknown date in May 1994, **Bernard Munyagishari** convened a meeting in the stadium of Gisenyi. He agreed with the other participants that no Tutsi be allowed in the meeting. **Bernard Munyagishari** further agreed with the other participants to define the enemy of the Hutus. He said during his speech that the time had come to know who was their real enemy and called the participants to deal with this enemy quickly and without mercy. For **Bernard Munyagishari** and the participants at the meeting, it was clear that the enemy was the Tutsi. Immediately after the meeting, the *Interahamwe* started going from house to house searching for Tutsi and killed them. There were some *Interahamwe* who would search the Tutsis' houses by day and others who would search by night.

## COUNT 2: GENOCIDE

The Prosecutor charges **Bernard Munyagishari** 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 in Gisenyi *prefecture*, Rwanda, **Bernard Munyagishari** was responsible for killing or causing serious bodily or mental harm to members of the Tutsi population, including

acts of sexual violence, with intent to destroy, in whole or in part, a racial or ethnic group as such, as outlined in paragraphs 27 through 46 of this indictment.

**OR ALTERNATIVELY**

**COUNT 3: COMPLICITY IN GENOCIDE**

The Prosecutor charges **Bernard Munyagishari** with **COMPLICITY IN GENOCIDE**, a crime stipulated in Article 2(3)(e) of the Statute, in that on or between the dates of 7 April 1994 and 17 July 1994 in Gisenyi *prefecture*, Rwanda, **Bernard Munyagishari** was responsible for the killing or causing serious bodily or mental harm to members of the Tutsi population, including acts of sexual violence, with knowledge that others intended to destroy, in whole or in part, a racial or ethnic, group as such, and that his assistance would contribute to the crime of genocide, as outlined in paragraphs 27 through 46 of this indictment.

**CONCISE STATEMENTS OF FACTS FOR COUNTS 2 AND 3**

*Individual Criminal Responsibility*

27. Pursuant to Article 6(1) of the Statute, the accused, **Bernard Munyagishari** is responsible for the crime of genocide or complicity in genocide because he planned, ordered those over whom he had authority by reason of his position described in paragraphs 2 through 5 of the indictment, instigated those over whom he did not have authority, committed or otherwise aided and abetted in the planning, preparation or execution of these crimes. In addition, the accused willfully and knowingly participated in a joint criminal enterprise whose object, purpose and foreseeable outcome was the destruction of the Tutsi racial or ethnic group in Gisenyi *prefecture*. To fulfill this criminal purpose, the accused acted with *Interahamwe* such as BIO-1, and other unknown participants, all such actions being taken either directly or through co-perpetrators, for at least the period of 1 January 1994 through 17 July 1994. The particulars that give rise to his individual criminal responsibility are set forth paragraphs 28 through 37 of this indictment.

28. After the establishment of roadblocks in Gisenyi and its environs on an unknown date in April 1994, **Bernard Munyagishari** personally supervised the roadblocks located in the central area of Gisenyi and those leading from Nyundo into Gisenyi and the one leading to Bralirwa Company. **Bernard Munyagishari** further assigned to BIO-1 the supervision of the very strategic roadblock "*La Corniche*". "*La Corniche*" was located on the main road leading to the border with Zaire (now Democratic Republic of Congo) between Lake Kivu and Gisenyi city, and prevented the Tutsis from fleeing to Zaire to seek refuge. At the roadblocks that he supervised, **Bernard Munyagishari** selected Tutsis and ordered his *Interahamwe* to take them to be killed and buried at the "*Commune Rouge*". The "*Commune Rouge*" was an infamous cemetery in Gisenyi and the adjective "*rouge*" (red) recalled the colour of the blood of those who were killed and buried there. Members of the *Interahamwe* who were co-perpetrators in the joint criminal enterprise killed the Tutsis who were sent to the "*Commune Rouge*".

29. During the events referred to in this indictment, in the period from 7 April 1994 to 17 July 1994, **Bernard Munyagishari**, accompanied by large numbers of *Interahamwe*, drove around Gisenyi town and pointed out to his group of militia the homes of Tutsis marked for elimination and other places where Tutsis sought refuge, such as the catholic church, Saint Fidèle College, the Convent in Gisenyi the Nyundo Parish and other public buildings. **Bernard Munyagishari**, armed with guns and grenades and other traditional weapons, then committed an attack and ordered or instigated the members of the *Interahamwe* to attack the Tutsis' homes and places where they were hiding and kill many of them. In some cases, **Bernard Munyagishari** and his *Interahamwe* abducted the Tutsis from their hiding places and took them to the "*Commune Rouge*" where they killed them.

30. On several occasions, during the period from 7 April 1994 to 17 July 1994, **Bernard Munyagishari** was present with his *Interahamwe*, ordering or instigating, and himself killing the Tutsis as well.

31. On or about 7 April 1994 in Gisenyi, **Bernard Munyagishari** committed the killing of a Tutsi man named Augustin Karimunda who was an employee of the Brewery Company in Gisenyi.

32. From 7 April 1994 up to an unknown date near the end of May 1994, **Bernard Munyagishari** committed attacks and ordered or instigated the members of the *Interahamwe* to attack the Tutsis who had sought refuge in the Nyundo parish in Gisenyi prefecture. The attackers, including **Bernard Munyagishari**, abducted from the parish approximately three hundred (300) Tutsis, took them to the "*Commune Rouge*" and killed them;

33. On or about 10 April 1994, **Bernard Munyagishari** and Bagungo Augustin, the bourgmestre of Nyamyumba commune, were patrolling Gisenyi in a minibus. In the course of the patrol, a Tutsi man, Joel Safari, who had been gravely wounded in an earlier attack at his home, was abducted by the accused and put in the minibus which also held two Tutsi women. One of the women was the wife of one Rongin, coach of Rayon Sport, a local football club in Gisenyi. Shortly afterwards, **Bernard Munyagishari** and the bourgmestre Bagungo Augustin took Joel Safari and the two women to the "*Commune Rouge*". On or about 10 April 1994, **Bernard Munyagishari** and Bagungo Augustin committed the killing of these three persons at the "*Commune Rouge*".

34. On or about 10 April 1994, **Bernard Munyagishari** abducted Munyampeta, a leading Tutsi businessman in Gisenyi and then took him in a vehicle to the "*Commune Rouge*" where he committed the killing of Munyampeta.

35. During April 1994, **Bernard Munyagishari** committed an attack and ordered or instigated a large group of *Interahamwe* including BIO-1 and Hassan Ngeze, to attack the

Catholic Church in Gisenyi. The *Interahamwe*, including **Bernard Munyagishari** killed many Tutsis and wounded many others who were seeking refuge there.

36. On an unknown date near the end of April 1994, **Bernard Munyagishari** committed an attack and ordered or instigated a group of *Interahamwe* to attack Tutsis at the Company Rwandex in Gisenyi. Upon their arrival, some *Interahamwe* in the presence of **Bernard Munyagishari** beat to death a man of Tutsi origin who tried to stop them. Afterwards, they abducted four Tutsis who had been identified by the gendarmes present at the scene. **Bernard Munyagishari** and his *Interahamwe* then took the Tutsis to the "*Commune Rouge*" and killed them.

37. During the period from 7 April 1994 to 17 July 1994, **Bernard Munyagishari** created a special corps of young *Interahamwe* called the "*Ntarumikwa*", to rape and kill the Tutsi women. **Bernard Munyagishari** ordered or instigated these young *Interahamwe* openly to rape Tutsi women and girls before killing them. **Bernard Munyagishari** also instigated his wife and fellow *Interahamwe*, Zainabou, and a female group that she headed, to sexually torture female Tutsis before killing them.

*Criminal Responsibility as a Superior*

38. Pursuant to Article 6(3) of the Statute, the accused **Bernard Munyagishari**, is responsible of the crime of genocide or complicity in genocide because specific criminal acts such as killing the Tutsis or causing serious bodily or mental harm to the Tutsis, were committed by the subordinates of the accused, and the accused knew or had reason to know that such subordinates were about to commit such acts before they were committed, or that such subordinates had committed such acts and the accused failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof. These subordinates included *Interahamwe* such as BIO-1 and other unknown participants. The particulars of the participation of the subordinates of the accused in the commission of these crimes are set out in paragraphs 39 through 46 of this indictment.

39. On or about 7 April 1994, after **Bernard Munyagishari** murdered Augustin Karimunda, Gaca, one of **Bernard Munyagishari**'s subordinates in the *Interahamwe* and his group of killers abducted Maria, the Tutsi wife of Karimunda and took her to the "*Commune Rouge*" and killed her and buried here there. **Bernard Munyagishari** knew or had reason to know that the *Interahamwe* had committed this murder and failed to prevent the act or punish the perpetrators.

40. During the period between 7 April 1994 and 17 July 1994, BIO-1, a subordinate of **Bernard Munyagishari**, supervised a very strategic roadblock "*La Corniche*". Many Tutsis who attempted to flee to the nearest neighboring country, Zaire, were arrested by BIO-1 and his *Interahamwe* who took them to the "*Commune Rouge*" where they were killed. **Bernard Munyagishari** knew or had reason to know that BIO-1 and his *Interahamwe* had committed such crimes, and failed to prevent the acts or punish the perpetrators.

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41. Between 7 and 10 April 1994, BIO-1, a subordinate of **Bernard Munyagishari** and a leader of the *Interahamwe* in Gisenyi, led a large group of *Interahamwe* to the Company Rwandex where the Tutsi employees of the company had sought refuge. BIO-1 and his group of *Interahamwe* launched an attack against the refugees and killed about twenty Tutsis on the first day of the attacks. **Bernard Munyagishari** knew or had reason to know that BIO-1 and his *Interahamwe* had committed such crimes and failed to prevent the acts or punish the perpetrators.

42. From 8 April 1994 up to an unknown date in June 1994, the *Interahamwe* who were subordinates of **Bernard Munyagishari**, regularly attacked the Tutsi who had sought refuge in Nyundo parish. *The Interahamwe* killed many refugees during those attacks. In the course of one of those attacks, approximately three hundred (300) Tutsis were abducted from the parish and paraded before the people of Gisenyi by *Interahamwe* who were subordinates of **Bernard Munyagishari** before they were taken to the "Commune rouge" and killed. **Bernard Munyagishari** knew or had reason to know that his *Interahamwe* had committed such crimes and failed to prevent the acts or punish the perpetrators.

43. During the period from April 1994 to July 1994, rape, sexual assaults and other crimes of a sexual nature were widely and notoriously committed throughout Gisenyi. These crimes were perpetrated by *Interahamwe* who were subordinates of **Bernard Munyagishari**, against the Tutsi, in particular against Tutsi women and girls. **Bernard Munyagishari** knew or had reason to know that his *Interahamwe* had committed such crimes and failed to prevent the acts or punish the perpetrators.

44. On an unknown date in April 1994 in Gisenyi, *Interahamwe* who were the subordinates of **Bernard Munyagishari** killed a Tutsi woman called Kanzayire Solange, wife of Kamanzi Straton. After killing the woman, the *Interahamwe* looted the house of the couple. **Bernard Munyagishari** knew or had reason to know that his *Interahamwe* had committed such murder and failed to prevent the act or punish the perpetrators.

45. Between April and July 1994, **Bernard Munyagishari** abducted a young Tutsi student named Françoise, daughter of one Emmanuel, telling her that she was being protected from the massacres that were going on in Gisenyi at the time. In the three weeks she was held captive in the house of **Bernard Munyagishari**, two of **Bernard Munyagishari's** *Interahamwe*, Damas and Michel raped the young Françoise. The girl was later killed and her body disposed at a place called "Mu Makoro" in Gisenyi. **Bernard Munyagishari** knew or had reason to know that his *Interahamwe* had raped and killed Françoise and failed to prevent the acts or punish the perpetrators.

46. During the period from 7 April to 17 July 1994, the wife of **Bernard Munyagishari** named Zainabou, headed a female group of *Interahamwe* who were subordinate to **Bernard Munyagishari**. This group was notorious for sexually torturing Tutsi women before killing them. This group forced iron rods into the genitals of the Tutsi women. They also asked Tutsi women to produce milk from their bodies if they

were true Tutsis. Those Tutsi women were then tortured to death. These acts constituted rape and **Bernard Munyagishari** knew or had reason to know that his subordinates had committed such crimes and failed to prevent the acts or punish the perpetrators.

#### **COUNT 4: MURDER AS A CRIME AGAINST HUMANITY**

The Prosecutor charges **Bernard Munyagishari** with **MURDER** as a **CRIME AGAINST HUMANITY**, a crime stipulated in Article 3(a) of the Statute, in that on or between the dates of 1 January 1994 and 17 July 1994 throughout Rwanda, particularly in Gisenyi *prefecture*, with intent to kill members of the Tutsi racial or ethnic group or persons identified as Tutsis or presumed to support the Tutsis, **Bernard Munyagishari** was responsible individually and through the acts of his subordinates for the killing of such persons as part of a widespread or systematic attacks on the civilian population on racial and political grounds, as outlined in paragraphs 47 through 50 of this indictment.

#### **CONCISE STATEMENT OF FACTS FOR COUNT 4**

##### *Individual Criminal Responsibility*

47. Pursuant to Article 6(1) of the Statute, the accused, **Bernard Munyagishari**, is individually responsible for the crime of **MURDER AS A CRIME AGAINST HUMANITY** because he planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of this crime. With respect to the commission of this crime, **Bernard Munyagishari** ordered those over whom he had authority and instigated, aided and abetted those over whom he did not have authority. In addition, the accused willfully and knowingly participated in a joint criminal enterprise whose object, purpose and foreseeable outcome was the murder of the Tutsi racial or ethnic group throughout Rwanda, and of the Hutu opponents of ethnic division. To fulfill this criminal purpose, the accused acted with the bourgmestre of Nyamyumba Commune, Bagungo Augustin, and with the leaders and members of *Interahamwe*, and other unknown participants, all such actions being taken either directly or through co-perpetrators, for at least the period of 1 January 1994 through 17 July 1994. The particulars that give rise to his individual criminal responsibility are set forth in paragraphs 42 through 44 of this indictment.

48. On 7 April 1994 in Gisenyi, **Bernard Munyagishari** committed the killing of a Tutsi man named Augustin Karimunda who was an employee of the Brewery Company in Gisenyi.

49. On or about 10 April 1994, **Bernard Munyagishari** and Bagungo Augustin, the bourgmestre of Nyamyumba commune, were patrolling Gisenyi in a minibus. In the course of the patrol, a Tutsi man, Joel Safari, who had been gravely wounded in an earlier attack at his home, was abducted by the accused and put in the minibus which also held two Tutsi women. One of the women was the wife of one Rongin, coach of Rayon Sport, a local football club in Gisenyi. Shortly afterwards, **Bernard Munyagishari** and the bourgmestre took Joel Safari and the two women to the "*Commune Rouge*". On or

about 10 April 1994, **Bernard Munyagishari** and Bagungo Augustin committed the killing of these three persons at the "*Commune Rouge*".

50. On or about 10 April 1994, **Bernard Munyagishari** abducted Munyampeta, a leading Tutsi businessman in Gisenyi and then took him in a vehicle to the "*Commune Rouge*" where he committed the killing of Munyampeta.

*Criminal Responsibility as a Superior*

51. Pursuant to Article 6(3) of the Statute, the accused **Bernard Munyagishari**, is responsible of the crime of **MURDER AS A CRIME AGAINST HUMANITY** because specific criminal acts were committed by subordinates of the accused and the accused knew or had reason to know that such subordinates were about to commit such acts before they were committed or that such subordinates had committed such acts and the accused failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof. These subordinates included leaders and members of the *Interahamwe* such as BIO-1, and other unknown participants. The particulars of the participation of the accused's subordinates in the commission of the crime are set out in paragraphs 52 through 53 of this indictment.

52. On or about 7 April 1994, after **Bernard Munyagishari** had murdered Augustin Karimunda, Gaca, one of **Bernard Munyagishari**'s subordinates in the *Interahamwe* and his group of killers abducted Maria, the Tutsi wife of Karimunda and took her to the "*Commune Rouge*" and killed her and buried her there. **Bernard Munyagishari** knew or had reason to know that his *Interahamwe* had committed such murder and failed to prevent the act or punish the perpetrators.

53. On an unknown date in April 1994 in Gisenyi, *Interahamwe* who were the subordinates of **Bernard Munyagishari** killed one Tutsi woman called Kanzayire Solange, wife of Kamanzi Straton. After killing the woman, the *Interahamwe* looted the house of the couple. **Bernard Munyagishari** knew or had reason to know that his *Interahamwe* had committed such murder and failed to prevent the acts or punish the perpetrators.

**COUNT 5: RAPE AS A CRIME AGAINST HUMANITY**

The Prosecutor charges **Bernard Munyagishari** with **RAPE AS A CRIME AGAINST HUMANITY**, a crime stipulated in Article 3(g) of the Statute, in that on or between the dates of 1 January 1994 and 17 July 1994 throughout Rwanda, **Bernard Munyagishari** with the intention of raping members of the Tutsi racial or ethnic group or persons identified as Tutsis, was responsible for the rape of Tutsis as part of a widespread or systematic attack against that civilian population on ethnic or racial grounds.

**CONCISE STATEMENT OF FACTS FOR COUNT 5**

*Individual Criminal Responsibility*

54. Pursuant to Article 6(1) of the Statute, the accused, **Bernard Munyagishari**, is individually responsible for the crime of **RAPE AS A CRIME AGAINST HUMANITY** because he planned, ordered, instigated, committed or otherwise aided and abetted in the planning, preparation or execution of this crime. In addition, the accused willfully and knowingly participated in a joint criminal enterprise whose object, purpose and foreseeable outcome was the rape of women of the Tutsi racial or ethnic group throughout Rwanda, and of Hutu opponents of ethnic division. To fulfill this criminal purpose, the accused acted with leaders and members of the *Interahamwe* such as Damas and Michel, and other unknown participants, all such actions being taken either directly or through co-perpetrators, for at least the period of 1 January 1994 through 17 July 1994. The particulars that give rise to his individual criminal responsibility are set forth in paragraphs 55 through 56 of this indictment.

55. During the period from 7 April 1994 to 17 July 1994, **Bernard Munyagishari** created a special corps of young *Interahamwe* called the "*Ntarumikwa*", to rape and kill the Tutsi women. **Bernard Munyagishari** ordered or instigated these young *Interahamwe* to rape Tutsi women and girls before killing them. **Bernard Munyagishari** also instigated his wife and fellow *Interahamwe*, Zainabou, and a female group that she headed, to sexually torture female Tutsis before killing them.

56. Between 7 April and 17 July 1994, **Bernard Munyagishari** abducted a young Tutsi student named Françoise, daughter of one Emmanuel, telling her that she was being protected from the massacres that were going on in Gisenyi at the time. For three weeks she was held captive in the house of **Bernard Munyagishari**. **Bernard Munyagishari** raped Françoise. The girl was later killed and her body disposed of at a place called "*Mu Makoro*" in Gisenyi.

*Criminal Responsibility as a Superior*

57. Pursuant to Article 6(3) of the Statute, the accused **Bernard Munyagishari**, is responsible of the crime of **RAPE AS A CRIME AGAINST HUMANITY** because specific criminal acts were committed by subordinates of the accused and the accused knew or had reason to know that such subordinates were about to commit such acts before they were committed or that such subordinates had committed such acts and the accused failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof. These subordinates included leaders and members of the *Interahamwe* such as Damas and Michel, and other unknown participants. The particulars of the participation of the accused's subordinates in the commission of the crime are set out in paragraphs 58 through 60 of this indictment.

58. During the period from April 1994 to July 1994, rape, sexual assaults and other crimes of sexual nature were widely and notoriously committed throughout Gisenyi. These crimes were perpetrated by *Interahamwe* who were subordinates of **Bernard Munyagishari**, against the Tutsi, in particular against Tutsi women and girls.

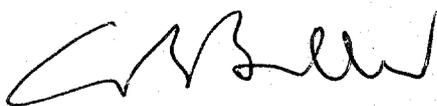
**Bernard Munyagishari** knew or had reason to know that his *Interahamwe* had committed such crimes and failed to prevent the acts or punish the perpetrators.

59. Between April and July 1994, **Bernard Munyagishari** abducted a young Tutsi student named Françoise, daughter of one Emmanuel, telling her that she was being protected from the massacres that were going on in Gisenyi at the time. In the three weeks she was held captive in the house of **Bernard Munyagishari**, two of **Bernard Munyagishari's** *Interahamwe*, Damas and Michel, raped Françoise. The girl was later killed and her body disposed of at a place called "Mu Makoro" in Gisenyi. **Bernard Munyagishari** knew or had reason to know that his *Interahamwe* had raped Françoise and failed to prevent the acts or punish the perpetrators.

60. During the period from April to 17 July 1994, **Bernard Munyagishari** named Zainabou, headed a female group of *Interahamwe* that was subordinate to **Bernard Munyagishari** and notorious for sexually torturing Tutsi women before killing them. This group forced iron rods into the genitals of the Tutsi women. They also asked Tutsi women to produce milk from their bodies if they were true Tutsis. Those Tutsi women were then tortured to death. These acts constituted rape and **Bernard Munyagishari** knew or had reason to know that his subordinates had committed such crimes and failed to prevent the acts or punish the perpetrators.

The acts and omissions of **Bernard Munyagishari** detailed herein are punishable pursuant to articles 22 and 23 of the Statute.

Done at Arusha, Tanzania, this...<sup>9<sup>th</sup></sup>.....day of June 2005.



Hassan Bubacar Jallow  
Prosecutor

