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08-05-2012
International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda

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320
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INTEROFFICE MEMORANDUM — MEMORANDUM INTERIEUR

To: Mr. Constant Hometowu
A: Court Management Section

Date: 8 May 2012
Ref.: OTP/COP/RK/21/bt

From: Richard Karegyesa
De: Chief of Prosecutions

CONFIDENTIAL

cc: **Anees Ahmed**
Senior Legal Officer
Chambers

Subject: Re: *Ex parte* Filing of Second Amended Indictment in the *Prosecutor v Ryandikayo*
Objet: *Case No. ICTR-95-1E-1*

In compliance with the Decision confirming the above indictment issued today 8 May 2012 we are filing under cover hereof the Second Amended Indictment in the above case.

Thanks and regards

EX - PARTE

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

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2012 MAY - 8 P 5: 59

319

UNITED NATIONS
INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

THE PROSECUTOR

v.

EX - PARTE

RYANDIKAYO

CASE No. ICTR-95-1E-I

UNICTR
JUDICIAL RECORDS/ARCHIVED
FEBRUARY 0

2012 MAY - 8 P 5: 59



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:

RYANDIKAYO:

Pursuant to Article 2 of the Statute, with:

COUNT 1 – GENOCIDE

COUNT 2 – COMPLICITY IN GENOCIDE

COUNT 3 - DIRECT AND PUBLIC INCITEMENT TO COMMIT GENOCIDE

Pursuant to Article 3 of the Statute, with:

COUNT 4 – MURDER as a CRIME AGAINST HUMANITY

COUNT 5 – EXTERMINATION as a CRIME AGAINST HUMANITY

COUNT 6 – RAPE as a CRIME AGAINST HUMANITY

COUNT 7 – PERSECUTION as a CRIME AGAINST HUMANITY

318

I. CHARGES

1. On the basis of the allegations set out in this amended indictment RYANDIKAYO is charged with:
 - Count 1: Genocide pursuant to Articles 2(3)(a) and 6(1) of the Statute (paragraphs 20-24, 26, 30-42, 44-54);
 - Count 2: Complicity in genocide pursuant to Articles 2(3)(e) and 6(1) of the Statute (paragraphs 20-24, 26, 30-36, 38-40, 42, 44, 55);
 - Count 3: Direct and public incitement to commit genocide pursuant to Articles 2(3)(c) and 6(1) of the Statute (paragraphs 25, 44, 45);
 - Count 4: Murder as a crime against humanity pursuant to Articles 3(a) and 6(1) of the Statute (paragraphs 21- 22, 24, 26, 30-42, 44-54);
 - Count 5: Extermination as a crime against humanity pursuant to Articles 3(b) and 6(1) of the Statute (paragraphs 21- 22, 24, 26, 30-42, 44-54);
 - Count 6: Rape as a crime against humanity pursuant to Articles 3(g) and 6(1) of the Statute (paragraphs 24, 33, 34, 44-54);
 - Count 7: Persecution as a crime against humanity pursuant to Articles 3(h) and 6(1) of the Statute (paragraphs 20-26, 28-42, 44-54).
2. Paragraphs 3-19 apply to all the charges in this amended indictment.

II. DEFINITIONS

3. In this indictment, unless otherwise specified, the term “committed” refers to personal commission by a physical or principal perpetrator, commission based on the fact that a person played an integral part in the commission of the crime, and the first category of Joint Criminal Enterprise (hereinafter: “JCE I”).
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 and/or mental harm and/or other bodily or mental harm.
7. “Limited JCE” means a JCE in which JCE members are alleged to have used persons who did not belong to the JCE, as pleaded in paragraph 51(i).

317

III. GENERAL ALLEGATIONS

8. When carrying out the criminal conduct alleged in this indictment RYANDIKAYO had the intent to destroy in whole or in part the Tutsi group as such and acted in order to discriminate against Tutsis and Hutus perceived to have assisted Tutsis on racial and political grounds.
9. When carrying out the acts of direct and public incitement to commit genocide alleged in this indictment, RYANDIKAYO had the intent to directly and publicly incite others to commit genocide.
10. The participants in the criminal conduct charged in this indictment possessed the intent to destroy in whole or in part the Tutsi group as such and acted in order to discriminate against Tutsis or Hutus perceived as having assisted Tutsis on racial and political grounds. RYANDIKAYO was aware of this.
11. Because of his powers, position and influence as pleaded in paragraphs 12-15 below, RYANDIKAYO's presence at the crime sites and his approval of and acquiescence to the crimes encouraged and morally supported the perpetrators of the crimes charged in this indictment.

IV. THE ACCUSED

12. The Accused RYANDIKAYO has no first name. He is believed to have been born around 1961 in Musenyi *secteur*, Gishyita *commune*, Kibuye *préfecture*, Rwanda. RYANDIKAYO's father was called RUVUNA, and his mother was called Rebeca NYIRABUKEYE. RYANDIKAYO was the manager and owner of a restaurant in Mubuga *secteur*, Gishyita *commune* during the period in which the crimes alleged in this indictment occurred.
13. In 1994, RYANDIKAYO was a businessman who owned and ran a restaurant which provided employment to a number of people. Many customers and employees of his restaurant referred to him as "Director", and continued to refer to him in this way during the genocide. He also ran a brick factory at Mubuga Centre.
14. RYANDIKAYO was rich, powerful and influential in Mubuga *secteur* and people listened to him and trusted him. He was a Hutu extremist. He was the right hand man to Vincent RUTAGANIRA, the *Conseiller* and the most senior authority in Mubuga *secteur*.
15. RYANDIKAYO was a member of the political party *Mouvement Démocratique Républicain* (MDR), and later the *Mouvement Démocratique Républicain – Power Faction* (MDR POWER), the extremist faction of the MDR.

316

V. CONTEXT OF THE CRIMES

16. 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.
17. The following state of affairs existed in Rwanda between 6 April 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 Tutsis. As a result of the attacks, there were a large number of deaths.
18. Between April 6 and 17 July 1994, there was a genocide in Rwanda against the Tutsi ethnic group.
19. The crimes alleged in this indictment formed part of the widespread or systematic attacks directed against a civilian population. RYANDIKAYO was aware of the attacks because he was in Rwanda during the period of these attacks, the crimes were public knowledge and because of his participation in the crimes that formed part of the attacks. Moreover, the crimes in which RYANDIKAYO was directly involved in and therefore knew about are, on their own, sufficient to constitute a widespread and systematic attack.

VI. NARRATIVE

GISHYITA COMMUNE

20. On or around 7 April 1994, after the death of President Habyarimana, RYANDIKAYO and Vincent RUTAGANIRA, together with *Interahamwe* and other armed Hutu militias including GAHIMA and MUNYANTWARI went to a house in Mubuga Centre where two Tutsis named Emmanuel Nsabeyesu and Aloys were staying. Both men were taken to Mubuga Centre, where they were harmed by RYANDIKAYO, *Interahamwe* and other armed Hutu civilians using machetes and clubs. The *Interahamwe* and civilians acted in accordance with RYANDIKAYO's instructions, prompting and plan. Emmanuel Nsabeyesu and Aloys were left for dead after being severely wounded. Shortly after the attack, their relatives took them to the Mubuga dispensary. For the purpose of paragraph 51(i) below, the persons alleged to have been the members of the JCE for this incident are RYANDIKAYO and Vincent RUTAGANIRA. Alternatively, all perpetrators identified for this incident were members of the JCE, as pleaded in paragraph 51(ii) below.
21. Between 8 and 10 April 1994, the Mubuga dispensary was attacked by RYANDIKAYO together with *Interahamwe* and other armed Hutu civilians, who acted in accordance with his instructions, prompting and plan. The attackers killed many Tutsis during this attack including Emmanuel Nsabeyesu and Aloys (both referred to above in paragraph 20) and harmed many others. All perpetrators identified for this incident were members of the JCE, as pleaded in paragraph 52 below.

22. Between 7 and 10 April 1994 in Karora *cellule*, Murangara *secteur*, Gishyita *commune*, RYANDIKAYO together with Vincent RUTAGANIRA and three other businessmen from Mubuga, namely Siméon MPAGAZEHE, KARANGWA, and MUNYANTWARI led an attack on Tutsi houses, during which they killed and harmed many Tutsi civilians and looted their property. The other attackers included THEOPHILE, who worked at RYANDIKAYO's restaurant, *Interahamwe* and other armed Hutu civilians, who acted in accordance with the instructions, the prompting and the plan of the persons identified in the following sentence of this paragraph. For the purpose of paragraph 51(i) below, the persons alleged to have been the members of the JCE for this incident are RYANDIKAYO, Vincent RUTAGANIRA, Simeon MPAGAZEHE, KARANGWA, and MUNYANTWARI. Alternatively, all perpetrators identified for this incident were members of the JCE, as pleaded in paragraph 51(ii) below.
23. On or about 11 April 1994, in Karora *cellule*, RYANDIKAYO was traveling in a red van accompanied by Charles SIKUBWABO and about seven *gendarmes*. They met a group of Tutsis and stopped them. Among the group, RYANDIKAYO identified some Tutsis who had fought them the previous day when they had attacked Tutsis in Karora *cellule*, including Innocent Bizimana and Cyprien Ntagozera. On RYANDIKAYO's instructions and prompting, Bizimana and Ntagozera were arrested by the *gendarmes* who then harmed them by beating them with bludgeons. They were left in the custody of a *gendarme*. For the purpose of paragraph 51(i) below, the persons alleged to have been the members of the JCE for this incident are RYANDIKAYO and Charles SIKUBWABO. Alternatively, all perpetrators identified for this incident were members of the JCE, as pleaded in paragraph 51(ii) below.
24. On or around 19 April 1994, RYANDIKAYO accompanied by Charles SIKUBWABO, and *Interahamwe* arrived at his compound in Mubuga accompanied by a Tutsi girl named Jacqueline UWINEZA and a Tutsi boy who had survived the killings at the Mubuga Catholic Church. On the instigation, prompting and plan of RYANDIKAYO, the *Interahamwe* took the boy to the banana plantation in Ryandikayo's compound where they beat him with clubs and machetes, till he died. RYANDIKAYO then took Jacqueline Uwineza into his house where he raped her and then took her to his banana plantation where she was killed by *Interahamwe* who beat her with clubs and machetes on his instigation and prompting. All perpetrators identified for this incident were members of the JCE, as pleaded in paragraph 52 below.
25. On or about 20 April 1994, RYANDIKAYO used a megaphone to call upon the people in Murangara *secteur* to attack Tutsis taking shelter in the Bisesero hills. He said that those who did not participate in the attacks would suffer the same fate as the Tutsis.

MURANGARA ADVENTIST CHURCH

26. On the morning of 12 April 1994, RYANDIKAYO together with MPAGAZEHE and Vincent RUTAGANIRA led THEOPHILE, MUKIGA and a group of *Interahamwe* and other armed Hutu civilians. They conducted an attack on Tutsi civilians who had taken refuge at the Murangara Adventist Church, acting in accordance with the instructions, the prompting and the plan of persons identified in the penultimate sentence of this

314

paragraph. Some of the attackers were armed with guns and grenades, others with machetes and other traditional weapons. RYANDIKAYO was armed with a gun. The attackers, including RYANDIKAYO, surrounded the church and fired their guns and threw grenades at the Tutsi refugees. The Tutsi refugees attempted to defend themselves by throwing stones at the attackers, but they were overpowered. Many Tutsi refugees were killed and harmed during this attack. For the purpose of paragraph 51(i) below, the persons alleged to have been the members of the "limited JCE" for this incident are RYANDIKAYO, MPAGAZEHE and Vincent RUTAGANIRA. Alternatively, all perpetrators identified for this incident were members of the JCE, as pleaded in paragraph 51(ii) below.

MUBUGA CATHOLIC CHURCH AND CEMETERY

27. After the death of President HABYARIMANA, there was much insecurity in Gishyita *commune* and many other *communes* in Kibuye *préfecture*. As a result, Tutsis fled to different areas in Bisesero and also took shelter in Mubuga Catholic Church and other places considered to be safe havens. Approximately 5000 to 6000 Tutsis took refuge in Mubuga Catholic Church. Between 13 and 20 April 1994, RYANDIKAYO together with *Interahamwe*, and other armed Hutu civilians repeatedly attacked the church and killed Tutsis taking shelter there, as detailed below in paragraphs 28-35.
28. Some of the Tutsis who took refuge at Mubuga Catholic Church came with their cows, vehicles, goats and other belongings. On or about 13 April 1994, during one of the attacks, Tutsis' properties were looted by RYANDIKAYO together with Vincent RUTAGANIRA, Charles SIKUBWABO, as well as THEOPHILE, a communal policeman called RUHINDIRA, *Interahamwe*, and other armed Hutu civilians, who acted in accordance with the instructions, the prompting, and plan of the persons identified in the penultimate sentence of this paragraph. They took vehicles belonging to Tutsis, including one red pick-up truck belonging to Rurinda, one vehicle belonging to Claude and a few motorcycles. RYANDIKAYO stole a motorcycle from a Tutsi refugee who was among those who had taken refuge at Mubuga Catholic Church. For the purpose of paragraph 51(i) below, the persons alleged to have been the members of the JCE for this incident are RYANDIKAYO, Vincent RUTAGANIRA and Charles SIKUBWABO. Alternatively, all perpetrators identified for this incident were members of the JCE, as pleaded in paragraph 51(ii) below.
29. On or about 13 April 1994, RYANDIKAYO, Vincent RUTAGANIRA and Charles SIKUBWABO together with other perpetrators including *Interahamwe* and other Hutu militias, looted many sacks of rice that had been given by CARITAS missionary group to feed the Tutsi refugees who had sought shelter at Mubuga Catholic Church. The *Interahamwe* and other Hutu militias acted in accordance with the instructions, the prompting, and plan of the persons identified in the following sentence of this paragraph. For the purpose of paragraph 51(i) below, the persons alleged to have been members of the JCE for this incident are RYANDIKAYO, Vincent RUTAGANIRA and Charles SIKUBWABO. Alternatively, all perpetrators identified for this incident were members of the JCE, as pleaded in paragraph 51(ii) below.

313

30. During the same attack of 13 April 1994, RYANDIKAYO together with Vincent RUTAGANIRA, Charles SIKUBWABO, as well as *Interahamwe*, and other armed Hutu militias, who acted in accordance with the instructions, prompting and plan of the members of the “limited JCE” identified at the end of this paragraph, shot at Tutsis through the doors and windows of the church, killing some of them and harming others. For the purpose of paragraph 51(i) below, the persons alleged to have been the members of the JCE for this incident are RYANDIKAYO, Vincent RUTAGANIRA and Charles SIKUBWABO. Alternatively, all perpetrators identified for this incident were members of the JCE, as pleaded in paragraph 51(ii) below.
31. On or around 13 to 15 April, RYANDIKAYO together with Vincent RUTAGANIRA, as well as *Interahamwe*, and armed Hutu civilians, who acted in accordance with RYANDIKAYO and RUTAGANIRA’s instructions, prompting, and plan, killed eight Tutsis on the premises of Mubuga Catholic Church using machetes and clubs. For the purpose of paragraph 51(i) below, the persons alleged to have been the members of the JCE for this incident are RYANDIKAYO and Vincent RUTAGANIRA. Alternatively, all perpetrators identified for this incident were members of the JCE, as pleaded in paragraph 51(ii) below.
32. On or around 15 April 1994, RYANDIKAYO, together with local leaders including Clément KAYISHEMA, Charles SIKUBWABO, Vincent RUTAGANIRA and Mika MUHIMANA as well as MUGWA, several youths from the Younahonga Centre, armed soldiers, *gendarmes*, *commune* policemen, *Interahamwe*, armed Hutu civilians and others launched an organized attack on Tutsis taking refuge at Mubuga Catholic Church. They also mobilized Hutu civilians from Mubuga Centre to join this attack by beating drums in the vicinity of Mubuga Centre. The attackers, acting in accordance with the instructions, prompting and plan of the persons identified in the following sentence of this paragraph, killed thousands of the Tutsi refugees at Mubuga Catholic Church and harmed many others. For the purpose of paragraph 51(i) below, the persons alleged to have been the members of the JCE for this incident are RYANDIKAYO, Clément KAYISHEMA, Charles SIKUBWABO, Vincent RUTAGANIRA and Mika MUHIMANA. Alternatively, all perpetrators identified for this incident were members of the JCE, as pleaded in paragraph 51(ii) below.
33. During the same attack of 15 April 1994 as pleaded in paragraph 32 above, RYANDIKAYO together with Mika MUHIMANA, as well as THEOPHILE, BYAMURENGA, TIGANA and several *Interahamwe* militiamen who acted in accordance with the instructions, prompting, and plan of the persons identified in the penultimate sentence of this paragraph, led six Tutsi girls on foot to the Mubuga cemetery and raped them. They then killed some of the girls previously raped including Colette, a girl from Mubuga, Agnès Mukagatare, an employee of the dispensary and Alphonsine. For the purpose of paragraph 51(i) below, the persons alleged to have been the members of the JCE for this incident are RYANDIKAYO and Mika MUHIMANA. Alternatively, all perpetrators identified for this incident were members of the JCE, as pleaded in paragraph 51(ii) below.

- 312
34. On the same date and in the course of the same attack at Mubuga Catholic Church pleaded in paragraphs 32 and 33 above, RYANDIKAYO together with *Interahamwe* and armed Hutu civilians, who acted in accordance with RYANDIKAYO's instructions, prompting, and plan, raped and killed other Tutsi girls who were in the parish. Among them was a girl by the name of Claudine who resided near the parish. All perpetrators identified for this incident were members of the JCE, as pleaded in paragraph 52 below.
 35. On an unknown date, between 13 and 20 April 1994, during one of the attacks at Mubuga Catholic Church, RYANDIKAYO together with *Interahamwe* and armed Hutu civilians, singled out a few rich Tutsis taking refuge in the Mubuga Catholic Church and told them that they would be transported to Kibuye for better safety. Muzungu and his family members were among them. They were taken to the Mubuga cemetery where they were killed by *Interahamwe* and other armed Hutu militias using machetes and clubs on the instructions and prompting of RYANDIKAYO and Vincent RUTAGANIRA. A few of the Tutsis managed to escape and survive the killings. For the purpose of paragraph 51(i) below, the persons alleged to have been the members of the JCE for this incident are RYANDIKAYO and Vincent RUTAGANIRA. Alternatively, all perpetrators identified for this incident were members of the JCE, as pleaded in paragraph 51(ii) below.
 36. On an unknown date, between 13 and 20 April 1994, on the instructions, prompting, and plan of RYANDIKAYO and Vincent RUTAGANIRA, *Interahamwe*, and armed Hutu civilians took Tutsis including men, women and girls from Mubuga *secteur* to the Mubuga cemetery and killed them. Among those killed were Thérèse, who was the wife of Emmanuel Nsabeyesu, and Maria. For the purpose of paragraph 51(i) below, the persons alleged to have been the members of the JCE for this incident are RYANDIKAYO and Vincent RUTAGANIRA. Alternatively, all perpetrators identified for this incident were members of the JCE, as pleaded in paragraph 51(ii) below.
 37. On an unknown date on or before 20 April 1994, at Mubuga Catholic Church, RYANDIKAYO hacked a Tutsi by the name of Rutabana into pieces using a machete and killed him, after ordering him to remove his clothes.

BISESERO HILLS, GISHYITA COMMUNE

38. On or around 8 April 1994, a few days after the death of President HABYARIMANA, RYANDIKAYO acting together with Vincent RUTAGANIRA and MUNYANTWARI, as well as RUSHIBURAMAZI, *Interahamwe* and other Hutu militias, who acted in accordance with the instructions, prompting, and plan of the persons identified in the penultimate sentence of this paragraph attacked Tutsis who had taken refuge on Karurizo Hill in Rwamiko *cellule* in Bisesero and killed many Tutsis including Rutiyomba and Rudakubana. Many others were harmed. For the purpose of paragraph 51(i) below, the persons alleged to have been the members of the JCE for this incident are RYANDIKAYO, Vincent RUTAGANIRA and MUNYANTWARI. Alternatively, all perpetrators identified for this incident were members of the JCE, as pleaded in paragraph 51(ii) below.

311

39. On or about 13 May 1994, RYANDIKAYO, along with Mika MUHIMANA, Vincent RUTAGANIRA and a policeman called RUHINDIRA as well as others including Jean CHRYSOSTOME, *Interahamwe* and other Hutu militias, who acted in accordance with the instructions, prompting, and plan of the persons identified in the following sentence of this paragraph, conducted an attack against Tutsis hiding on and near Gititi Hill in Bisesero during which the attackers killed and harmed many Tutsis. For the purpose of paragraph 51(i) below, the persons alleged to have been the members of the JCE for this incident are RYANDIKAYO, Mika MUHIMANA, Vincent RUTAGANIRA and a policeman called RUHINDIRA. Alternatively, all perpetrators identified for this incident were members of the JCE, as pleaded in paragraph 51(ii) below.

MUYIRA HILL

40. On or about 13 May 1994, RYANDIKAYO together with Charles SIKUBWABO, Mika MUHIMANA, Vincent RUTAGANIRA, Obed RUZINDANA and Clément KAYISHEMA, as well as *Interahamwe*, soldiers, policemen, *gendarmes*, militia and armed Hutu civilians, who acted in accordance with the instructions, prompting, and plan of the persons identified in the penultimate sentence of this paragraph, assembled near Muyira Hill. There, they launched a massive attack, killing and harming many Tutsis who had sought refuge there and in other surrounding hills. For the purpose of paragraph 51(i) below, the persons alleged to have been the members of the JCE for this incident are RYANDIKAYO, Charles SIKUBWABO, Mika MUHIMANA, Vincent RUTAGANIRA, Obed RUZINDANA and Clément KAYISHEMA. Alternatively, all perpetrators identified for this incident were members of the JCE, as pleaded in paragraph 51(ii) below.
41. On the day following the attack at Muyira Hill, RYANDIKAYO, in the presence of *Interahamwe* and armed Hutu civilians, killed a 12 year old Tutsi girl by the name of Mukanyemera on Nyiramurego Hill in Gitwa *cellule* of Bisesero *secteur* by hitting her with a club then cutting her up with his machete.
42. On or about 14 May 1994, RYANDIKAYO together with Charles SIKUBWABO, Mika MUHIMANA, Vincent RUTAGANIRA, Obed RUZINDANA and Clément KAYISHEMA launched attacks on Tutsis in the vicinity of Muyira Hill. The other attackers included *Interahamwe* and others, who acted in accordance with the instructions, prompting, and plan of the persons identified in the penultimate sentence of this paragraph. During these attacks, which lasted two days, the attackers killed and harmed thousands of Tutsis including women and children. For the purpose of paragraph 51(i) below, the persons alleged to have been the members of the JCE for this incident are RYANDIKAYO, Charles SIKUBWABO, Mika MUHIMANA, Vincent RUTAGANIRA, Obed RUZINDANA and Clément KAYISHEMA. Alternatively, all perpetrators identified for this incident were members of the JCE, as pleaded in paragraph 51(ii) below.

VII. RESPONSIBILITY

43. Paragraphs 3-19 apply to all the charges in this amended indictment.

Crimes

44. RYANDIKAYO is charged - as further specified in paragraphs 45-55 below - with:
- a. Genocide for killing and harming – including by raping – persons identified as Tutsis (paragraphs 20-24, 26, 30-42);
 - b. Complicity in genocide (paragraphs 20-24, 26, 30-36, 38-40, 42).
 - c. Direct and public incitement to commit genocide against Tutsis (paragraph 25);
 - d. Murder as a crime against humanity (paragraphs 21-22, 24, 26, 30-42);
 - e. Extermination as a crime against humanity on the basis of mass killings (paragraphs 21-22, 26, 32, 38-40, 42) and the total number of victims of all the killings (paragraphs 21-22, 24, 26, 30-42)
 - f. Rape as a crime against humanity (paragraphs 24, 33, 34);
 - g. Persecution as a crime against humanity for killing, harming and raping Tutsis (paragraphs 20-24, 26, 30-42); for looting the property of Tutsis (paragraphs 22, 28, 29); for arrests of Tutsis amounting to unlawful imprisonment and a violation of the fundamental rights of Tutsis including the right to liberty and security of the person (paragraph 23); and for violating the fundamental rights of Tutsis including the rights to security, dignity and the right not to be subjected to serious psychological abuse (paragraph 25).

Responsibility under Article 6(1) of the Statute

Personal and integral part commission

45. RYANDIKAYO is responsible for personally committing the following crimes:
- a. Genocide, rape and persecution for the rape of a Tutsi girl named Jacqueline Uwineza (paragraph 24);
 - b. Direct and public incitement to commit genocide and persecution for calling upon the people in Murangara *secteur* to attack Tutsis taking shelter in the Bisesero Hills (paragraph 25);
 - c. Genocide, murder, extermination and persecution for the killing of Rutabana at Mubuga Catholic Church (paragraph 37); and the killing of a 12-year-old Tutsi girl called Mukanyemera on Nyiramurego Hill (paragraph 41);
 - d. Persecution by looting a motorcycle from a Tutsi taking refuge at Mubuga Catholic Church (paragraph 28).
46. RYANDIKAYO is responsible for committing the crimes charged in paragraphs 20-24, 26, 28-36, 38-40 and 42 above because his acts were as much an integral part of these

309

crimes as the carrying out of their *actus reus*. RYANDIKAYO intended that the crimes should occur and was aware of their occurrence.

JCE I

47. RYANDIKAYO is responsible under JCE I for the nineteen criminal incidents pleaded in paragraphs 20-24, 26, 28-36, 38-40 and 42. Each of these paragraphs charges a separate criminal incident.
48. For each of these incidents a separate JCE is pleaded.

Members of the JCEs

49. The JCE membership for sixteen of these nineteen incidents is alleged in paragraph 51. For each of these sixteen incidents, a limited JCE and, alternatively, a JCE that includes all perpetrators involved, is pleaded.
50. The JCE membership for the remaining three incidents is alleged in paragraph 52. For these three incidents no limited JCE is pleaded; all perpetrators are alleged to have been JCE members.

Members of the JCEs for sixteen of the nineteen incidents

51. For each of the sixteen incidents described in paragraphs 20, 22-23, 26, 28-33, 35-36, 38-40 and 42 respectively, RYANDIKAYO is charged with two alternative varieties of JCE I: (i) the principal allegation, that RYANDIKAYO was a member of a limited JCE in which the JCE members used non-members to carry out criminal conduct; (ii) alternatively, that RYANDIKAYO was a member of a JCE in which all perpetrators in the criminal conduct were JCE members.
 - i. Under the principal allegation, for each of the sixteen incidents referred to above, a separate "limited JCE" is alleged. The members of these limited JCEs are identified in the penultimate sentence of the paragraph describing the incident. The remaining perpetrators alleged for the incident were non-members who were used as principal/physical perpetrators by the JCE members.
 - ii. Under the alternative allegation, for each of the sixteen incidents, all perpetrators identified in the paragraph describing the incident were JCE members, as pleaded in the respective paragraph's last sentence.

Members of the JCEs for the three remaining incidents

52. For the three incidents which are described in paragraphs 21, 24 and 34, the respective JCE consisted of RYANDIKAYO and all other perpetrators identified in the paragraph describing the incident, as pleaded in the respective paragraph's last sentence.

Common purpose, contribution, mens rea, and time period for each JCE

53. For each incident for which a JCE is pleaded in paragraph 47:
- (i) the JCE members' common purpose was the commission of the crimes committed during that incident;
 - (ii) the contributions for each JCE were RYANDIKAYO's and the other JCE members' conduct during that incident as pleaded in the paragraph describing the incident (these contributions were at least significant and amounted to: (a) personal commission of crimes; (b) conduct that was an integral part of the crime; (c) use of JCE non-members to carry out criminal conduct; and/or (d) other significant contributions);
 - (iii) the *mens rea* of RYANDIKAYO and all other members of each JCE was the intent that the crimes committed during the incident be carried out; and
 - (iv) the JCE existed during the time period over which the incident is alleged to have taken place, as pleaded in the paragraph describing the incident.

Ordering, Instigating, Planning and Aiding and Abetting

54. RYANDIKAYO is responsible under the modes of liability of ordering, instigating and planning for the crimes charged in paragraphs 20-22, 26, 28-34, 36, 38-40 and 42, and for ordering and instigating the crimes charged in paragraphs 23-24 and 35. RYANDIKAYO instructed and prompted the perpetrators to carry out conduct in the course of which they carried out and participated in the crimes. As an influential businessman in Mubuga *secteur*, RYANDIKAYO had a position of authority that would compel his employees at the restaurant, *Interahamwe*, other Hutu militia and civilians and *gendarmes* and other perpetrators to follow his instructions. He also designed the conduct in the course of which the crimes were carried out. His orders, instigation and planning had a direct and substantial effect on and constituted a substantial contribution to the commission of the crimes. RYANDIKAYO intended or was aware of the substantial likelihood that in the course of the execution of his orders, instigations and plans the crimes would be committed.
55. RYANDIKAYO is responsible under the mode of liability of aiding and abetting, because, by his conduct, he assisted, furthered, encouraged and lent moral support to the crimes as charged in paragraphs 20-24, 26, 28-36, 38-40 and 42 (see also paragraph 11). His conduct 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.

Complicity in genocide

56. RYANDIKAYO is responsible for complicity in genocide as charged in paragraphs 20-24, 26, 30-36, 38-40 and 42 above. He assisted, furthered, encouraged and lent moral

307

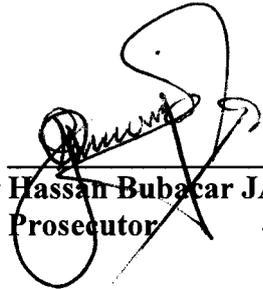
support to the killing and harming of Tutsis. His conduct represents a contribution to the carrying out of genocide. He was aware that genocide would occur and that his conduct would assist in its commission.

VIII. AGGRAVATING CIRCUMSTANCES

57. All facts stated in this indictment are also alleged as aggravating circumstances.
58. Other aggravating circumstances against RYANDIKAYO include: i) his abuse of his position and the trust placed in him; ii) his pre-meditation; iii) the cruel and humiliating treatment of 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; viii) his protracted evasion of arrest and prosecution for the crimes he is accused of; and ix) his attempt, together with Vincent RUTAGANIRA, Charles SIKUBWABO, Mika MUHIMANA, THEOPHILE, *Interahamwe* and other Hutu civilians, to cover up and destroy any evidence of the massacres at Mubuga Catholic Church between 13 and 20 April 1994 by burying the bodies in a mass grave.

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

Dated at Arusha this 8th day of May 2012


B. C. MASOLA, DEPUTY PROSECUTOR
For Hassan Bubacar JALLOW
Prosecutor

