

ICTR-00-61-1
10-05-2005
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UNITED NATIONS
NATIONS UNIES

International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda

Arusha International Conference Centre
P.O. Box 6016, Arusha, Tanzania

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INTEROFFICE MEMORANDUM — MEMORANDUM INTERIEUR

To: Mr. Nouhou Diallo
A: Legal Officer, TC1
Date: 10/05/05
Ref:
Through: Mr. Richard Karegyesa
Senior Trial Attorney
From: Ms. Kentaro Kanyomozi *K.K.*
De: Case Manager
Subject: **Filing of Amended Indictment – Prosecutor Vs. Jean Baptiste Gatete -**
Objet: **ICTR-01-61-I**

1. Subject to the Trial Chambers Decision on *the Prosecution's Request for Leave to File an Amended Indictment* dated the 21/04/05 the Prosecution hereby files the Amended Indictment. A copy of the decision and the previous proposed indictment is attached for your reference.
2. This material is to be filed with the registry with immediate service to the judges and the defence team.
3. Thank you for your attention on this matter.
4. Sincerely

JUDICIAL RECORDS/ARCHIVES
RECEIVED
ICTR

2005 MAY 10 P 4: 56

INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

Case No. ICTR-2000-61-I

THE PROSECUTOR

AGAINST

JEAN-BAPTISTE GATETE

JUDICIAL RECORDS/ARCHIVES
ICTR

2005 MAY 10 P 4: 56

AMENDED INDICTMENT

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

JEAN-BAPTISTE GATETE

With:-

- Count 1 - **GENOCIDE**; or in the alternative
 Count 2 - **COMPLICITY IN GENOCIDE**;
 Count 3 - **CONSPIRACY TO COMMIT GENOCIDE**;
 Count 4 - **CRIMES AGAINST HUMANITY** (Extermination);
 Count 5 - **CRIMES AGAINST HUMANITY** (Murder), and
 Count 6 - **CRIMES AGAINST HUMANITY** (Rape), all offences stipulated in Articles 2, 3 and 4 of the Statute of the Tribunal.

II. THE ACCUSED:

1. **Jean-Baptiste GATETE** was born in 1953 in Rwankuba *secteur*, Murambi *commune*, Byumba *préfecture*, Rwanda and was *bourgmestre* of Murambi *commune*, in Byumba *préfecture*, from 1987 until June 1993. He was a member of the national congress of the MRND and was active in party politics at both the national and prefectural levels. He was dismissed as *bourgmestre* in 1993 during the administration of Dismas NSENGIYAREMYE's Second Multiparty Government of 1992 amidst allegations that he persecuted the Tutsi of Murambi. Thereafter he was appointed *Directeur* in the Ministry of Women and Family Affairs, then headed by Pauline NYIRAMASUHUKO.

3. **Jean-Baptiste GATETE** was also appointed President of the MRND in Murambi *commune* in June 1993.

4. During the period covered by this indictment, **Jean-Baptiste GATETE** was an *Interahamwe* leader. Though no longer formally affiliated with the local public administration, he continued to exercise influence over communal police, gendarmes and civilian militias in Byumba and Kibungo *préfectures* due to his former status as *bourgmestre* of Murambi *commune*, his national leadership role in the MRND political party and his leadership status among the *Interahamwe*.

III. CONCISE STATEMENT OF FACTS, including CHARGES:

5. Between 1 January and 31 December, 1994, citizens native to Rwanda were classified according to the following ethnic or racial classifications: Tutsi, Hutu, and Twa.

6. Between 6 April and 17 July 1994, throughout Rwanda, there were widespread or systematic attacks against a civilian population based on Tutsi ethnic or racial identification, political opposition, real or perceived, to the MRND, or perceived sympathies to the Tutsi. As a result of these attacks, large numbers of ethnically or racially identified Tutsis and of persons perceived to be politically opposed to the MRND, including moderate Hutus, were killed.

7. During the period covered by this indictment, **Jean-Baptiste GATETE**, acted individually or as part of a joint criminal enterprise with the following individuals and groups: Ret. Col. RWAGAFIRITA, Lt. Col. NYURIYEKUBONA, Lt. MIHIGO, Emmanuel HABIMANA (Cyasa), Jean de Dieu MWANGE, Celestin SENKWARE, Jean BIZIMUNGU, Gerard KAYONZA, Jean MPAMBARA, Kigarama Bourgmestre MUGIRANEZA, Conseiller, Gaspar KAMALI, Gasigwa KARANGWA, Augustin NKUNDABAZUNGU, the *Interahamwe*, the Forces Armees Rwandaises (FAR), the Presidential Guard, communal police, civilian militia and others, known and unknown. The object and purpose of the joint criminal enterprise was to commit genocide and crimes against humanity targeting the Tutsi racial or ethnical group. In execution of the joint criminal enterprise **Jean Baptiste GATETE** acted with members of the enterprise with the intent to destroy the Tutsi population in whole or in part as well as those believed to be sympathetic to the Tutsi.

8. **Jean-Baptiste GATETE**, acted individually or in concert with other members of the joint criminal enterprise in the following ways:

- a. Killed members of the Tutsi ethnic group;
- b. Trained, indoctrinated, encouraged, provided intelligence to, transported and distributed arms to members of the *Interahamwe*, the *Arnahindure*, "Civil

Defence Forces," and other militiamen who murdered, caused serious bodily and mental harm, raped and pillaged Tutsi group members;

c. Met with local administrative officials to plan and organize the distribution of weapons and instigation of civilians to kill and rape Tutsi group members.

CHARGES:

**INDIVIDUAL CRIMINAL LIABILITY:
Article 6 (1) of the Statute**

9. The accused, **Jean-Baptiste GATETE**, is individually responsible for the crimes alleged against him in this indictment under *Articles 2, 3, and 6(1) of the Statute*. The accused planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of these crimes. In addition, the accused participated in a joint criminal enterprise. The purpose of this joint criminal enterprise was the destruction, in whole or in part, of the Tutsi racial or ethnical group in Byumba and Kibungo *prefectures* as well as throughout all of Rwanda. To fulfill this criminal purpose, the accused, acting individually or with others known and unknown, significantly contributed to the joint criminal enterprise. The crimes enumerated within this Indictment were within the object of the joint criminal enterprise. Alternatively, the crimes enumerated were natural and foreseeable consequences of the joint criminal enterprise and the accused and others known and unknown were aware that such crimes were the likely outcome of the joint criminal enterprise. Despite his awareness of the foreseeable consequences, **Jean-Baptiste GATETE**, and others known and unknown, knowingly and willfully participated in the joint criminal enterprise.

Counts 1 and 2: GENOCIDE, or alternatively COMPLICITY IN GENOCIDE:

10. The Prosecutor charges **Jean-Baptiste GATETE** with **GENOCIDE**, a crime stipulated in *Article 2 (3)(a) and Article 6(1) of the Statute*, in that on or between the dates of 6 – 30 April 1994, in Byumba and Kibungo *prefectures*, Rwanda, **Jean-Baptiste GATETE**, with intent to destroy, in whole or in part, the Tutsi racial or ethnical group, or knowing that other people intended to destroy, in whole or in part, the Tutsi racial or ethnical group, planned, instigated, ordered, committed or otherwise aided and abetted those other people in the planning, preparation, or execution of killing or causing serious bodily or mental harm to members of the Tutsi group, as outlined in the factual paragraphs below:

Alternatively,

11. The Prosecutor charges **Jean-Bapiste GATETE** with **COMPLICITY IN GENOCIDE**, a crime stipulated in Article 2 (3)(e) and Article 6(1) of the Statute, in that on or between the dates of 6 - 30 April 1994, in Byumba and Kibungo *prefectures*, Rwanda, **Jean-Bapiste GATETE**, with intent to destroy, in whole or in part, the Tutsi racial or ethnical group, or knowing that other people intended to destroy, in whole or in part, the Tutsi racial or ethnical group, and knowing that his assistance would contribute to the crime of genocide, planned, instigated, ordered, committed, or otherwise aided and abetted those other people in the planning, preparation or execution of the killing or causing serious bodily or mental harm to members of the Tutsi group, as outlined in the factual paragraphs below;

Count 3: CONSPIRACY TO COMMIT GENOCIDE:

12. The Prosecutor charges **Jean-Baptiste GATETE** with **CONSPIRACY TO COMMIT GENOCIDE**, a crime stipulated in Article 2(3)(b) and Article 6(1) of the Statute, in that on or between the dates of 6 - 30 April 1994 in Byumba and Kibungo *prefectures*, Rwanda, **Jean-Baptiste GATETE**, with intent to destroy, in whole or in part, the Tutsi racial or ethnical group, or knowing that other people intended to destroy, in whole or in part, the Tutsi racial or ethnical group, conspired by making an agreement with others, including, but not limited to, local administrative officials, such as Murambi *bourgmestre*, Jean de Dieu MWANGE and Kayonza *bourgmestre*, Celestin SENKWARE and various *conseillers de secteur*, *Interahamwe* leaders, communal police, and the political leadership of the MRND at the regional and national levels, including, though not limited to, members of the Interim Government of 8 April 1994, to kill or cause serious bodily or mental harm to members of the Tutsi group, as outlined in the factual paragraphs below:

FACTUAL BASIS FOR COUNTS 1 - 3

Prior to 7 April 1994:

13. Prior to and during April 1994, **Jean-Baptiste GATETE** met with the *Interahamwe*, other influential MRND members, such as Interior Minister MUNYAZESA Faustin, MWANGE, NKUNDUBAZUNGU, and BIZIMUNGU among others, and military officers, met on diverse dates, such as sometime in October 1991 and April 1992, at several locations in Byumba and Kibungo *prefectures*. Every Friday there were meetings at Communal Offices attended by **Jean Baptiste GATETE** during which weapons were distributed and plans made for containment of Tutsis.

14. Prior to April 1994, as Murambi *bourgmestre*, **Jean-Baptiste GATETE** participated in recruiting, commanding and organizing Murambi *commune's* *Interahamwe* militia and their military training. **Jean Baptiste GATETE** regularly trained and rewarded *Interahamwe* marksmen for their efforts.

15. Beginning in October 1990, **Jean-Baptiste GATETE** organized an operation known as "*coup de poing*," to search homes for weapons and RPF accomplices. **Jean Baptiste GATETE** arrested many Tutsi throughout Byumba and the surrounding areas and imprisoned them or had them killed, some of whom were MASANDI from Nyabisundu and Paul KABERA from Gabiro, Rwankuba *secteur*. For example, on or about 3 October 1990, **Jean-Baptiste GATETE** with the *Interahamwe* arrested several Tutsi, including Jonathan SEBUSANDI and Thomas KAGABO, executed them, and threw them in a ditch. And on or about 4 October 1990, **Jean-Baptiste GATETE** arrested approximately sixteen people he considered *Inkotanyi* accomplices, stripped them of identity cards, and then brought those people to a location where they were all killed.

April 1994 – Byumba:

16. On or about 6 April until 30 April 1994, **Jean-Baptiste GATETE** assembled the *Interahamwe* and planned and participated in the sealing off of all roads and exits throughout Byumba in *communes* such as Murambi. As **Jean-Baptiste GATETE** circulated around the various roadblocks, he participated in the identification and the killing of Tutsi civilians by providing lists of names of Tutsi that should not be allowed through. He ordered others present at the roadblocks to kill those Tutsi, and he also manned the roadblocks himself. Tutsi were killed by the *Interahamwe* at roadblocks with weapons distributed by **Jean-Baptiste GATETE**.

17. On or about 7 April 1994, **Jean-Baptiste GATETE** held meetings with local administrative officials in various *secteurs* and *cellules* of Murambi *commune* including Rwankuba, Gakenke, Kiramuzi, Gakoni and Nyabisindu for the purpose of distributing weapons and instigating civilian militias to exterminate Tutsi civilians whom he blamed for President Habyarimana's death. For example, at approximately 2 am, **Jean-Baptiste GATETE** conducted meetings with local administrative officials in Nyabisindu to distribute weapons and to instigate civilian militias to kill Tutsi civilians whom he blamed for President Habyarimana's death. Then, at approximately 8 am, **Jean-Baptiste GATETE** conducted a meeting in Byumba *prefecture*, Rwankuba *secteur*, with local *Interahamwe* administrative officials including Jean de Dieu MWANGE, the new Murambi *bourgmestre*, and *Conseiller de secteur*, Jean BIZIMUNGU to again distribute weapons and to instigate civilian militias to exterminate Tutsi civilians whom he blamed for the president's death. Tutsi were killed with the weapons distributed by **Jean-Baptiste GATETE**.

18. During the morning of 7 April 1994, **Jean-Baptiste GATETE** facilitated the transport of the *Interahamwe* through various Murambi *commune secteurs* and *cellules*, including Akarambo, Gakoni, Nyabisindu, Kiramuruzi, and Rwankuba, and commanded the *Interahamwe*, some of whom were RUPIA, Serena GAUFRAMA and RWASIBO, to kill the civilian Tutsi. Some examples, **Jean-Baptiste GATETE**, with Murambi *bourgmestre*, Jean de Dieu MWANGE, transported a convoy of armed *Interahamwe* to Akarambo *cellule* where **GATETE** ordered the *Interahamwe* to burn, loot and pillage Tutsi homes and to rape and kill civilian Tutsi. BCS's family was killed in their

Akarambo home by the *Interahamwe* on the orders of **Jean-Baptiste GATETE**, who was also present during the killings. Also killed was Aisha MUREKEYISONI, a Tutsi from Kiramurzi. Then on or about 8 April, 1994, BAT was raped by two *Interahamwe*, the son of NYAMUHARA and KAREMERA. The *Interahamwe* raped and killed Tutsi as a result of the actions of **Jean-Baptiste GATETE**.

19. On or about 7 April 1994, in Rwankuba, **Jean-Baptiste GATETE** with Jean BIZIMUNGU and Gerard KAYONZA, the local President of the *Interahamwe*, incited the local population to pillage Tutsi homes and attack, rape and murder civilian Tutsi. For example, in Rwankuba, Jean BIZIMUNGU organized attacks against Tutsis with Gérard KAYONZA, which were then instigated by **Jean-Baptiste GATETE** who commanded them to, "Exterminate all the families [of Tutsi] ...". The family of AIM and AIM's brother and his family were killed among others as a result of **Jean-Baptiste GATETE**'s actions.

20. On or about 7 April to 12 April 1994, **Jean-Baptiste GATETE** circulated through various *secteurs* of Murambi *commune*, including Kiramuruzi, Gakenke, Rwankuba, Rubona, and Nyabysindu where he incited and instigated the *Interahamwe* with a megaphone, commanding and ordering them to kill Tutsi. For example, on 7 April 1994 in Rwankuba, **Jean-Baptiste GATETE** instigated the *Interahamwe* with a megaphone, telling them to gather other *Interahamwe* and to start the "work" of killing the Tutsi. **Jean-Baptiste GATETE** promised the *Interahamwe* a reward of cattle when the Tutsi extermination was completed. As soon as **Jean-Baptiste GATETE** departed, *conseiller de secteur* Jean BIZIMUNGU ordered the *Interahamwe* to start the killing. The *Interahamwe* killed Tutsi civilians as a result of the actions of **Jean-Baptiste GATETE**.

21. On or about 8 April 1994, at Nyagasambu at a roadblock on the road to Rwankuba, **Jean Baptiste GATETE** instigated, and ordered civilians to hunt down and exterminate Tutsi, including the "baby in the womb." **Jean-Baptiste GATETE** also gave the civilian militia dogs to facilitate the hunt. Tutsi civilians were killed as a result of **Jean Baptiste GATETE**'s efforts.

22. On or about 11 April 1994 **Jean-Baptiste GATETE** ordered, supervised and participated in the killings and rapes of civilian Tutsi at Kiziguro *paroisse* complex, a church and hospital where thousands of civilian Tutsis had taken refuge. Assisted by several FAR soldiers armed with rifles, Gasigwa KARANGWA and the Kiziguro *Interahamwe* leader, NKUNDABAZUNGU, **Jean-Baptiste GATETE** and his group of *Interahamwe* broke through the portals of the church compound, forced the Tutsi refugees to exit the church sanctuary, and killed the refugees. A number of refugees were forced to transport dead Tutsi to a nearby mass grave, then killed and tossed into the grave. Several thousand civilian Tutsi men, women, and children, including KALEMERA, the school inspector, MUNANA, a teacher, Claver KARURANGE, GAPFIZI and BCS's bother, were slaughtered during the 11 April 1994 Kiziguro *paroisse* complex massacre.

23. On or about and between 12 to 14 April 1994, **Jean Batiste GATETE** instigated, commanded and facilitated displaced Hutu peasants to target Tutsi moving southward through Murambi and Kibungo *prefectures*. He ordered displace Hutu's in those regions to kill the interspersed civilian Tutsi. Tutsi were killed as a result of **Jean Baptiste GATETE's** actions.

April 1994 – Kibungo:

24. On or about 10 April 1994, **Jean-Baptiste GATETE** arrived in Rukara *commune* in adjoining Kibungo *préfecture* and held a meeting with the *bourgmestre* Jean MPAMBARA. Thereafter, thousands of Tutsi refugees who took shelter at Rukara *paroisse* were ordered to leave the church. When they refused, the *Interahamwe* armed with firearms, grenades, machetes and traditional weapons attacked the church and killed numerous Tutsi civilians.

25. On or about 10 to 11 April 1994, **Jean-Baptiste GATETE**, with Kayonza *bourgmestre* Celestin SENKWARE, transported armed soldiers, and the *Interahamwe*, to Mukarange *paroisse* compound. Together they attacked the Mukarange *paroisse* compound where Tutsi refugees were located Tutsi were raped and killed as a result of **Jean Baptiste GATETE's** actions. For example: A woman named Odette who was taking refuge at the Mukarange church, took her child to the toilet outside the compound and were immediately killed. The parish priest, Father Bosco, asked **Jean Baptiste GATETE** to do something to stop the killing. **Jean Baptiste Gatete** refused.

26. On or about and between, 10 April to 15 April 1994, **Jean-Baptiste GATETE** arrived in Kayonza *commune* with a group of armed *Interahamwe*. **Jean-Baptiste GATETE**, with Kayonza *bourgmestre* Célestin SENKWARE, instigated a crowd assembled in the *bureau communal* courtyard. Present in the courtyard were local residents, including a number of Tutsi women, and the recently arrived *Interahamwe*. To instigate those *Interahamwe* present, **Jean-Baptiste GATETE** reported that Tutsi populations in other areas had been decimated, and he commanded the *Interahamwe* to rape and then kill Tutsi.

A. On or about and between, 10 April to 15 April 1994, **Jean-Baptiste GATETE** with a group of armed *Interahamwe* at the Kayonza *bureau communal* courtyard ordered the segregation of Tutsi and commanded that the Tutsi be taken to a mass grave. At the grave, **Jean-Baptiste GATETE** karate kicked GATARE's knee breaking it through. **Jean-Baptiste GATETE** then ordered the *Interahamwe* to kill GATARE, which they did. Tutsi were raped and killed at that location as a result of **Jean Baptiste GATETE's** actions.

27. After the rapes and the killings, the *Interahamwe* returned to the Kayonza *bureau communal* courtyard where **Jean-Baptiste GATETE** addressed them again, ordering, and instigating them to go to the adjoining *secteurs* of Nyarusage, Nkamba and Giparara to rape and exterminate the remaining Tutsi. Both **Jean-Baptiste GATETE** and Célestin SENKWARE provided their vehicles to the *Interahamwe* to facilitate the attacks. Tutsi were raped and killed as a result of **Jean Baptiste GATETE's** actions.

28. Mid to late April 1994, **Jean-Baptiste GATETE** arrived in Rulenge, Rukira *commune* with a caravan of armed Murambi communal police, civilian militias and the *bourgmestres* of Kabarondo and Kigarama *communes*. **Jean-Baptiste GATETE** publicly castigated the local residents for not massacring the Tutsi. **Jean-Baptiste GATETE** ordered the *Interahamwe* to rape and kill Tutsi in Rukira, including women and children. The following morning, those *Interahamwe*, some of whom were Emmanuel RUKIRAMAKUBA, EPHRAIM, FABIEN, and RWABIREKEZI, destroyed Tutsi homes and raped and killed Tutsi civilians in Rukira. For example, **Jean-Baptiste GATETE** ordered FABIEN to kill a Ugandan woman who was perceived to be Tutsi. Also killed were Vedaste KALISA, Ferdinand SANANE and SANANE's wife, and NZOYORI, a girl from Binego.

29. On or about 15 April 1994, at Cyasemakamba, in Kibungo, Jean Baptiste GATETE briefed his armed men comprising of policemen, and *Interahamwe* and then handed his men and the briefing over to Lt MIHIGO. Thereafter, Lt. MIHIGO and those militia briefed by **Jean Baptiste GATETE** attacked the Economat, where approximately 400 people were killed.

30. On or about 19 April 1994, at Cyasemakamba, in Kibungo, **Jean Baptiste GATETE**, Retired Col. RWAGAFIRITA, Lt. MIHIGO, GACUMBITISI, Jean MPAMBARA, MUGIRANEZA, Lt. Col. NYURIYEKUBONA, NTAHIMANA, and RUDAKUBANA and others convened a meeting the purpose of which was to remove Godfrey RUZINDANA, Kibungo *prefect* and member of the Social Democratic Party (PSD). By the end of the meeting RUZINDANA, who was later killed, was replaced with Huye RUDAKUBANA.

31. On or about the night of 19 April 1994, in Kibungo **Jean Baptiste GATETE** attended a security meeting with Ret. SGT. Major RWATORO, Birengo Bourgmester, NTAHIMANA, Ret. Col. RWAGAFIRITA, Lt. Col. NYURIYEKUBONA, Kayonza Bourgmestre SENKWARE, Kigarama Bourgmestre, MUGIRANEZA and others to share intelligence regarding the Rwandan Patriotic Front, RPF.

32. On or about 21 April 1994, in Kibungo, **Jean Baptiste GATETE** and other authorities organized, ordered and facilitated the *Interahamwe* militia and soldiers to fight the RPF at the front.

Count 4: EXTERMINATION as a CRIME AGAINST HUMANITY:

33. The Prosecutor charges **Jean-Baptiste GATETE** with EXTERMINATION as a CRIME AGAINST HUMANITY, as stipulated in Article 3(b) and Article 6(1) of the Statute, in that on or between 6 April and 30 April 1994, in Byumba and Kibungo *prefectures*, Rwanda, **Jean-Baptiste GATETE**, with intent to participate in the elimination of a number of individuals and knowing that his action was part of a vast murderous enterprise, planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of the extermination, or killing of any

civilian population as part of a widespread or systematic attack against that civilian population on national, political, racial, religious or ethnic grounds, as outlined in the factual paragraphs below:

FACTUAL BASIS FOR EXTERMINATION:

Byumba

34. Paragraphs 16 through 23 above are incorporated by reference herein.

Kibungo

35. Paragraphs 24 through 28 above are incorporated by reference herein.

Count 5: MURDER as a CRIME AGAINST HUMANITY:

36. The Prosecutor charges **Jean-Baptiste GATETE** with MURDER as a CRIME AGAINST HUMANITY, as stipulated in Article 3(a) and Article 6(1) of the Statute, in that on or between 6 April and 30 April 1994, in Byumba and Kibungo *préfectures*, Rwanda, **Jean-Baptiste GATETE**, with intent to kill, planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution or killing of any civilian population as part of a widespread or systematic attack against that civilian population on national, political, racial, religious or ethnic grounds, as outlined in the factual paragraphs below:

FACTUAL BASIS FOR MURDER:

Byumba

37. Paragraphs 16 through 23 above are incorporated by reference herein.

Kibungo

38. Paragraphs 24 through 28 above are incorporated by reference herein.

39. On or about 12 April 1994, **Jean Baptist GATETE**, *Bourgmestre* Jean de Dieu MWANGE, Celestin SENKWARE, communal police and *Interahamwe*, conducted an inspection of identity cards of travelers on the Kibungo road through Kayonza *commune*. At one roadblock **Jean-Baptiste GATETE**, several *Interahamwe* and communal police including a policeman named Deo, chased AIX's husband, a Tutsi, and KAMUZINZI, a Hutu moderate and political party opponent, from his car. **Jean-Baptiste GATETE** ordered the police to shoot AIX's husband and KAMUZINZI. The communal policeman shot and killed them upon orders from **Jean-Baptiste GATETE**. Thereafter, **Jean-Baptiste GATETE** ordered the *Interahamwe* to kill the occupants of KAMUZINZI's vehicle, which was driven by MAHMUD. The *Interahamwe* immediately killed the occupants including MAHMUD. **Jean-Baptiste GATETE** appropriated the vehicle.

40. On or about 12 April 1994 in Rutonde **Jean-Baptiste GATETE**, Celestin SENKWARE and several others, shot and killed MULINDA, a refugee hiding in a swamp. Before and after the time of the killing, **Jean-Baptiste GATETE** and others were patrolling the hills and valleys to search out and kill civilian Tutsis.

41. On or about 14 April 1994 in Kayonza *commune*, **Jean-Baptiste GATETE** ordered *Interahamwe* to kill BUTARE, a businessman. The *Interahamwe*, following **Jean-Baptiste GATETE**'s orders to kill BUTARE, hacked him to death with machetes and knives.

Count 6: RAPE as a CRIME AGAINST HUMANITY:

42. The Prosecutor charges **Jean-Baptiste GATETE** with RAPE as a CRIME AGAINST HUMANITY, as stipulated in Article 3(a) and Article 6(1) of the Statute, in that on or between 6 April and 30 April 1994, in Byumba and Kibungo *prefectures*, Rwanda, **Jean-Baptiste GATETE**, with the intention that rape occur, planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution or killing of any civilian population as part of a widespread or systematic attack against that civilian population on national, political, racial, religious or ethnic grounds, as outlined in the factual paragraphs below:

FACTUAL BASIS FOR RAPE:

Byumba

43. On or about 8 and 9 April 1994, **Jean-Baptiste GATETE** facilitated the transport of his civilian militias to the center of Akarambo *cellule*. **Jean-Baptiste GATETE** commanded and incited the *Interahamwe* to attack and rape Tutsi women. On or about 8 April, 1994, BAT was raped by two *Interahamwe*, the son of NYAMUHARA and KAREMERA. On or about 9 April 1994, AVO was raped by an *Interahamwe* named KARERANGABO. The *Interahamwe* raped Tutsi women in Akarambo *cellule*.

Kibungo

44. On or about 10 to 11 April 1994, **Jean-Baptiste GATETE**, with Kayonza *bourgmestre* Celestin SENKWARE, transported armed soldiers, and the *Interahamwe*, to the Mukarange *paroisse* compound. Together they attacked the Mukarange *paroisse* compound where Tutsi refugees were located. Tutsi were raped and killed as a result of **Jean Baptiste GATETE**'s actions.

45. On or about and between 10 and 15 April 1994, in Kayonza, **Jean-Baptiste GATETE**, with Célestin SENKWARE, Kayonza *bourgmestre*, commanded the *Interahamwe* to rape Tutsi women assembled in the bureau command courtyard. Tutsi women were dragged off by the *Interahamwe* and raped.

46. After the rapes and the killings, the *Interahamwe* returned to the Kayonza *bureau communal* courtyard where **Jean-Baptiste GATETE** addressed them again, ordering, instigating and instigating them to go to the adjoining *secteurs* of Nyarusage, Nkamba and Giparara to rape and exterminate the remaining Tutsi. Both **Jean-Baptiste GATETE** and Célestin SENKWARE provided their vehicles to the *Interahamwe* to facilitate the attacks. Tutsi were raped and killed as a result of **Jean Baptiste GATETE's** actions.

The acts and omissions of Jean-Baptiste GATETE detailed herein are punishable in reference to Articles 22 and 23 of the Statute.

Dated: Arusha, this 10th day of May 2005.



Hassan Bubacar Jallow
The Prosecutor.

ANNEX - A



International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

ICTR-00-61-1
21-04-2005
(1521-1518)

1543
1521
Ivan

TRIAL CHAMBER I

Before: Judge Erik Møse, presiding
Judge Jai Ram Reddy
Judge Sergei Alekseevich Egorov

Registrar: Adama Dieng

Date: 21 April 2005

THE PROSECUTOR

v.

Jean-Baptiste GATETE

Case No. : ICTR-00-61-1

JUDICIAL RECORDS ARCHIVES
ICTR
2005 APR 21 P. 3: 571
[Signature]

DECISION ON THE PROSECUTION'S REQUEST FOR LEAVE TO FILE AN
AMENDED INDICTMENT

The Prosecution:

Richard Karegyesa
Roberta Baldini
Khaled Ramadan
Kentaro Kanyamozi

The Defence:

Richard Dubé

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THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA ("the Tribunal"),

SITTING as Trial Chamber I, composed of Judge Erik Møse, presiding, Judge Jai Ram Reddy, and Judge Sergei Alekseevich Egorov;

BEING SEIZED OF "The Prosecutor's Submission and Request for Leave to File an Amended Indictment Complying with the Chamber's Order of 29 March 2004", filed on 27 November 2004;

NOTING that the Defence has not filed a response;

HEREBY DECIDES the motion.

INTRODUCTION

1. The Indictment was confirmed against the Accused on 19 December 2000. The Accused was arrested on 11 September 2002 and was transferred to the Tribunal on 13 September 2002. The Accused made his initial appearance on 20 September 2002 and pleaded not guilty to all charges in the Indictment. In its decision of 29 March 2004, the Chamber ordered the Prosecution to provide more specific information in relation to several paragraphs of the Indictment.¹ Pursuant to this order, the Prosecution now seeks leave to file an amended indictment ("the Amended Indictment"). No date has yet been set for trial.

SUBMISSIONS

2. According to the Prosecution, the Amended Indictment provides precise factual allegations, specific dates and times frames, names of victims and co-perpetrators and accurately reflects the Accused's level and modes of participation in the crimes alleged, including his participation in a joint criminal enterprise. A substantial volume of the evidence relied on in the Amended Indictment has already been disclosed to the Accused.

DELIBERATIONS

3. Rule 50 provides that after the initial appearance of the Accused, an Indictment may only be amended by leave of the Trial Chamber. The Chamber must weigh three factors in determining whether to grant leave: the ameliorating effect of the changes on the clarity and precision of the case to be met; the diligence of the Prosecution in making the amendment in a timely manner that avoids creating an unfair tactical advantage; and the likely delay or any other prejudice to the Defence caused by the amendment.² In addition, the Chamber must also determine whether a *prima facie* case exists with respect to any new charges in the proposed amendments.³

4. The Prosecution has eliminated much of the general background information contained in the original Indictment. It has also withdrawn certain factual allegations as well as the counts of direct and public incitement to commit genocide and violations of Article 3 common to the

¹ *Gatete*, Decision on Defence Preliminary Motion (TC), 29 March 2004.

² *Karamera et al.*, Decision on Prosecutor's Interlocutory Appeal Against Trial Chamber III Decision of 8 October 2003 Denying Leave to File an Amended Indictment (AC), 19 December 2003; *Simba*, Decision on Motion to Amend Indictment (TC), 26 January 2004, para. 9; *Muhimana*, Decision on Motion to Amend Indictment (TC), 21 January 2004, para. 6.

³ Rule 50 (A) (ii) states: "In deciding whether to grant leave to amend the indictment, the Trial Chamber or, where applicable, a Judge shall, *mutatis mutandis*, follow the procedures and apply the standards set out in Sub-Rules 47(E) and (F) in addition to considering any other relevant factors."

Geneva Conventions and Additional Protocol II. In addition, the proposed Amended Indictment particularizes the allegations in the current Indictment by, *inter alia*, specifying dates and times, locations, names of victims, and names of other individuals present or involved in the alleged attacks. The majority of these particulars correspond to information requested by the Defence and which the Prosecution was ordered to provide in the Chamber's decision of 29 March 2004. Other amendments describe additional incidents, proximate in time and in place to those alleged in the initial Indictment.

5. The Amended Indictment also advances with greater particularity the mode of criminal liability joint criminal enterprise. Though not using the words "joint criminal enterprise", paragraph 6.6 of the original Indictment alluded to this mode of liability when it alleged that "Jean Baptiste Gatete, in his position of authority and acting in concert with others, participated in the planning, preparation or execution of a common scheme, strategy or plan to exterminate the Tutsi, by his own affirmative acts or through persons he assisted or by his subordinates with his knowledge and consent". The Amended Indictment has not therefore added a new form of responsibility, but rather eliminated the ambiguity arising from the formulation used in the original Indictment concerning the Prosecution's intent to argue this form of participation. Recent jurisprudence of this Tribunal identifies three forms of joint criminal enterprise, basic, systemic, and extended, each characterized by a distinct mental element.⁴ Although the Prosecution has not specifically mentioned the three forms by name, the Chamber is of the opinion that the formulation of the allegation of joint criminal enterprise in the Amended Indictment indicates the Prosecution's intent to argue all three forms.⁵

6. In sum, the added particulars in the Amended Indictment better reflect the case the Prosecution will present at trial and provide further notice to the Accused of the nature of the charges against him. Granting leave to file the Amended Indictment would therefore enhance the fairness of the trial by clarifying the Prosecution's case and allowing the Defence to streamline its investigations and better prepare for trial. Most of the amendments are brought in response to the Chamber's decision of 29 March 2004, ordering the Prosecution to amend the Indictment to provide more specific information. Therefore, there is no issue of the Prosecution's lack of diligence in bringing the amendments.

7. While some of the amendments describe new incidents, such incidents are similar in character and proximate in time and place to incidents already enumerated in the existing Indictment. They are described with enough specificity to permit focused investigations by the Defence, if necessary. No date has yet been set for trial. Therefore, the Chamber cannot identify any prejudice to the Accused by allowing the amendments. The Prosecution has also disclosed additional witness statements, which along with earlier disclosure, contain allegations which are reflected in the amendments.

⁴ *Ntakirutimana*, Judgement (AC), 13 December 2004, paras. 463-467; *Simba*, Decision on the Defence's Preliminary Motion Challenging the Second Amended Indictment (TC), 14 July 2004, paras. 8-10.

⁵ See para. 9 of the Amended Indictment, which alleges, "In addition, the accused participated in a joint criminal enterprise. The purpose of this joint criminal enterprise was the destruction, in whole or in part, of the Tutsi racial or [ethnic] group in Byumba and Kibungo *prefectures* as well as throughout all of Rwanda. To fulfil this criminal purpose, the accused, acting individually or with others known and unknown, significantly contributed to the joint criminal enterprise. The crimes enumerated within this Indictment were within the object of the joint criminal enterprise. Alternatively, the crimes enumerated were the natural and foreseeable consequences of the joint criminal enterprise and the accused and others known and unknown, were aware that such crimes were the likely outcome of the joint criminal enterprise. Despite his awareness of the foreseeable consequences, Jean-Baptiste GATETE and others known and unknown, knowingly and wilfully participated in the joint criminal enterprise."

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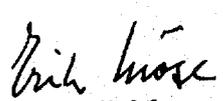
8. The Chamber notes that paragraphs 16 to 28 supporting Counts 1 to 3 are repeated verbatim twice in support of Counts 4 and 5.⁶ Instead, the Prosecution should incorporate paragraphs 16 to 28 by reference under Counts 4 and 5 and remove paragraphs 34 to 47 and 49 to 61.

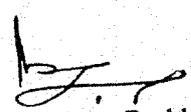
FOR THE ABOVE REASONS, THE CHAMBER

GRANTS the Prosecution leave to amend the Indictment in accordance with Annex C of its motion and paragraph 8 of the present decision;

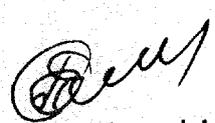
ORDERS that the Amended Indictment be filed with the Registry immediately.

Arusha, 21 April 2005


Erik Møse
Presiding Judge


Jai Ram Reddy
Judge

[Seal of the Tribunal]


Sergei Alekseevich Egorov
Judge

⁶ In addition, paragraphs 43 and 46 are identical.

ANNEX – B

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INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

Case No. ICTR-2000-61-I

THE PROSECUTOR AGAINST JEAN-BAPTISTE GATETE

AMENDED INDICTMENT

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

JEAN-BAPTISTE GATETE

With:-

- Count 1 - GENOCIDE; or in the alternative
- Count 2 - COMPLICITY IN GENOCIDE;
- Count 3 - CONSPIRACY TO COMMIT GENOCIDE;
- Count 4 - CRIMES AGAINST HUMANITY (Extermination);
- Count 5 - CRIMES AGAINST HUMANITY (Murder), and
- Count 6 - CRIMES AGAINST HUMANITY (Rape), all offences stipulated in Articles 2, 3 and 4 of the Statute of the Tribunal

II. THE ACCUSED

1. **Jean-Baptiste GATETE** was born in 1953 in Rwankuba *secteur*, Murambi *commune*, Byumba *préfecture*, Rwanda and was *bourgmestre* of Murambi *commune*, in Byumba *préfecture*, from 1987 until June 1993. He was a member of the national congress of the MRND and was active in party politics at both the national and prefectural levels. He was dismissed as *bourgmestre* in 1993 during the administration of Dismas NSENGIYAREMYE's Second Multiparty Government of 1992 amidst

allegations that he persecuted the Tutsi of Murambi. Thereafter he was appointed *Directeur* in the Ministry of Women and Family Affairs, then headed by Pauline NYIRAMASUHUKO.

3. **Jean-Baptiste GATETE** was also appointed President of the MRND in Murambi *commune* in June 1993.

4. During the period covered by this indictment, **Jean-Baptiste GATETE** was an *Interahamwe* leader. Though no longer formally affiliated with the local public administration, he continued to exercise influence over communal police, gendarmes and civilian militias in Byumba and Kibungo *préfectures* due to his former status as *bourgmestre* of Murambi *commune*, his national leadership role in the MRND political party and his leadership status among the *Interahamwe*.

III. CONCISE STATEMENT OF FACTS, including CHARGES

5. Between 1 January and 31 December 1994, citizens native to Rwanda were classified according to the following ethnic or racial classifications: Tutsi, Hutu, and Twa.

6. Between 6 April and 17 July 1994, throughout Rwanda, there were widespread or systematic attacks against a civilian population based on Tutsi ethnic or racial identification, political opposition, real or perceived, to the MRND, or perceived sympathies to the Tutsi. As a result of these attacks, large numbers of ethnically or racially identified Tutsis and of persons perceived to be politically opposed to the MRND, including moderate Hutus, were killed.

7. During the period covered by this indictment, **Jean-Baptiste GATETE**, acted individually or as part of a joint criminal enterprise with the following individuals and groups: Ret. Col. RWAGAFIRITA, Lt. Col. NYURIYEKUBONA, Lt. MIHIGO, Emmanuel HABIMANA (Cyasa), Jean de Dieu MWANGE, Celestin SENKWARE, Jean BIZIMUNGU, Gerard KAYONZA, Jean MPAMBARA, Kigarama Bourgmestre MUGIRANEZA, Conseiller, Gaspar KAMALI, Gasigwa KARANGWA, Augustin NKUNDABAZUNGU, the *Interahamwe*, the Forces Armées Rwandaises (FAR), the Presidential Guard, communal police, civilian militia and others, known and unknown. The object and purpose of the joint criminal enterprise was to commit genocide and crimes against humanity targeting the Tutsi racial or ethnical group. In execution of the joint criminal enterprise **Jean Baptiste GATETE** acted with members of the enterprise with the intent to destroy the Tutsi population in whole or in part as well as those believed to be sympathetic to the Tutsi.

8. **Jean-Batiste GATETE**, acted individually or in concert with other members of the joint criminal enterprise in the following ways:

- a. Killed members of the Tutsi ethnic group;

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b. Trained, indoctrinated, encouraged, provided intelligence to, transported and distributed arms to members of the *Interahamwe*, the *Arnahindure*, "Civil Defence Forces," and other militiamen who murdered, caused serious bodily and mental harm, raped and pillaged Tutsi group members;

c. Met with local administrative officials to plan and organize the distribution of weapons and instigation of civilians to kill and rape Tutsi group members.

CHARGES

INDIVIDUAL CRIMINAL LIABILITY Article 6 of the Statute

9. The accused, **Jean-Batiste GATETE**, is individually responsible for the crimes alleged against him in this indictment under *Articles 2, 3, and 6 of the Statute*. The accused planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of these crimes. In addition, the accused participated in a joint criminal enterprise. The purpose of this joint criminal enterprise was the destruction, in whole or in part, of the Tutsi racial or ethnic group in Byumba and Kibungo *prefectures* as well as throughout all of Rwanda. To fulfill this criminal purpose, the accused, acting individually or with others known and unknown, significantly contributed to the joint criminal enterprise. The crimes enumerated within this Indictment were within the object of the joint criminal enterprise. Alternatively, the crimes enumerated were natural and foreseeable consequences of the joint criminal enterprise and the accused and others known and unknown were aware that such crimes were the likely outcome of the joint criminal enterprise. Despite his awareness of the foreseeable consequences, **Jean-Batiste GATETE**, and others known and unknown, knowingly and willfully participated in the joint criminal enterprise.

Counts 1 and 2: GENOCIDE, or alternatively COMPLICITY IN GENOCIDE

10. The Prosecutor charges **Jean-Batiste GATETE** with GENOCIDE, a crime stipulated in *Article 2 (3)(a) and Article 6(1) of the Statute*, in that on or between the dates of 6 - 30 April 1994, in Byumba and Kibungo *prefectures*, Rwanda, **Jean-Batiste GATETE**, with intent to destroy, in whole or in part, the Tutsi racial or ethnic group, or knowing that other people intended to destroy, in whole or in part, the Tutsi racial or ethnic group, planned, instigated, ordered, committed or otherwise aided and abetted those other people in the planning, preparation, or execution of killing or causing serious bodily or mental harm to members of the Tutsi group, as outlined in the factual paragraphs below:

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Alternatively,

11. The Prosecutor charges **Jean-Bapiste GATETE** with **COMPLICITY IN GENOCIDE**, a crime stipulated in Article 2 (3)(e) and Article 6(1) of the Statute, in that on or between the dates of 6 - 30 April 1994, in Byumba and Kibungo *prefectures*, Rwanda, **Jean-Bapiste GATETE**, with intent to destroy, in whole or in part, the Tutsi racial or ethical group, or knowing that other people intended to destroy, in whole or in part, the Tutsi racial or ethnic group, and knowing that his assistance would contribute to the crime of genocide, planned, instigated, ordered, committed, or otherwise aided and abetted those other people in the planning, preparation or execution of the killing or causing serious bodily or mental harm to members of the Tutsi group, as outlined in the factual paragraphs below;

Count 3: CONSPIRACY TO COMMIT GENOCIDE

12. The Prosecutor charges **Jean-Baptiste GATETE** with **CONSPIRACY TO COMMIT GENOCIDE**, a crime stipulated in Article 2(3)(b) and Article 6(1) of the Statute, in that on or between the dates of 6 - 30 April 1994 in Byumba and Kibungo *préfectures*, Rwanda, **Jean-Baptiste GATETE**, with intent to destroy, in whole or in part, the Tutsi racial or ethnic group, or knowing that other people intended to destroy, in whole or in part, the Tutsi racial or ethical group, conspired by making an agreement with others, including, but not limited to, local administrative officials, such as Murambi *bourgmestre*, Jean de Dieu MWANGE and Kayonza *bourgmestre*, Celestin SENKWARE and various *conseillers de secteur*, *Interahamwe* leaders, communal police, and the political leadership of the MRND at the regional and national levels, including, though not limited to, members of the Interim Government of 8 April 1994, to kill or cause serious bodily or mental harm to members of the Tutsi group, as outlined in the factual paragraphs below:

FACTUAL BASIS FOR COUNTS 1 - 3

Prior to 7 April 1994:

13. Prior to and during April 1994, **Jean-Baptiste GATETE** met with the *Interahamwe*, other influential MRND members, such as Interior Minister Munyazesa Fustin, MWANGE, NKUNDUBAZUNGU, and BIZIMUNGU among others, and military officers, met on diverse dates, such as sometime in October 1991 and April 1992, at several locations in Byumba and Kibungo *prefectures*. Every Friday there were meetings at Communal Offices attended by **Jean Baptiste GATETE** during which weapons were disturbed and plans made for containment of Tutsis.

14. Prior to April 1994, as Murambi *bourgmestre*, **Jean-Baptiste GATETE** participated in recruiting, commanding and organizing Murambi *commune's Interahamwe* militia and their military training. **Jean Baptiste GATETE** regularly trained and rewarded *Interahamwe* marksmen for their efforts.

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15. Beginning in October 1990, **Jean-Baptiste GATETE** organized an operation known as "*coup de poing*," to searching homes for weapons and RPF accomplices. **Jean Baptiste GATETE** arrested many Tutsi throughout Byumba and the surrounding areas and imprisoned them or had them killed, some of whom were MASANDI from Nybisundu and Paul KABERA from Gabrio, Rwankuba *secteur*. For example, on or about 3 October 1990, **Jean-Baptiste GATETE** with the *Interahamwe* arrested several Tutsi, including Jonathan SEBUSANDI and Thomas KAGABO, executed them, and threw them in a ditch. And on or about 4 October 1990, **Jean-Baptiste GATETE** arrested approximately sixteen people he considered *Inkotanyi* accomplices, stripped them of identity cards, and then brought those people to a location where they were all killed.

April 1994 -Byumba

16. On or about 6 April until 30 April 1994, **Jean-Baptiste GATETE** assembled the *Interahamwe* and planned and participated in the sealing off of all roads and exits throughout Byumba in *communes* such as Murambi. As **Jean-Baptiste GATETE** circulated around the various roadblocks, he participated in the identification and the killing of Tutsi civilians by providing lists of names of Tutsi that should not be allowed through. He ordered others present at the roadblocks to kill those Tutsi, and he also manned the roadblocks himself. Tutsi were killed by the *Interahamwe* at roadblocks with weapons distributed by **Jean-Baptiste GATETE**.

17. On or about 7 April 1994, **Jean-Baptiste GATETE** held meetings with local administrative officials in various *secteurs* and *cellules* of Murambi *commune* including Rwankuba, Gakenke, Kiramuzi, Gakoni and Nyabisindu for the purpose of distributing weapons and instigating civilian militias to exterminate Tutsi civilians whom he blamed for President Habyarimana's death. For example, at approximately 2 am, **Jean-Baptiste GATETE** conducted meetings with local administrative officials in Nyabisindu to distribute weapons and to instigate civilian militias to kill Tutsi civilians whom he blamed for President Habyarimana's death. Then, at approximately 8 am, **Jean-Baptiste GATETE** conducted a meeting in Byumba *prefecture*, Rwankuba *secteur*, with local *Interahamwe* administrative officials including Jean de Dieu MWANGE, the new Murambi *bourgmestre*, and *Conseiller de secteur*, Jean BIZIMUNGU to again distribute weapons and to instigate civilian militias to exterminate Tutsi civilians whom he blamed for the president's death. Tutsi were killed with the weapons distributed by **Jean-Baptiste GATETE**.

18. During the morning of 7 April 1994, **Jean-Baptiste GATETE** facilitated the transport of the *Interahamwe* through various Murambi *commune secteurs* and *cellules*, including Akarambo, Gakoni, Nyabisindu, Kiramuruzi, and Rwankuba, and commanded the *Interahamwe*, some of whom were RUPIA, Serena GAUFRAMA and RWASIBO, to kill the civilian Tutsi. Some examples, **Jean-Baptiste GATETE**, with Murambi *bourgmestre*, Jean de Dieu MWANGE, transported a convoy of armed *Interahamwe* to Akarambo *cellule* where **GATETE** ordered the *Interahamwe* to burn, loot and pillage Tutsi homes and to rape and kill civilian Tutsi. BCS's family was killed in their

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Akarambo home by the *Interahamwe* on the orders of **Jean-Baptiste GATETE**, who was also present during the killings. Also killed was Aisha MUREKEYISONI, a Tutsi from Kiramurzi. Then on or about 8 April, 1994, BAT was raped by two *Interahamwe*, the son of NYAMUHARA and KAREMERA. The *Interahamwe* raped and killed Tutsi as a result of the actions of **Jean-Baptiste GATETE**.

19. On or about 7 April 1994, in Rwankuba, **Jean-Baptiste GATETE** with Jean BIZIMUNGU and Gerard KAYONZA, the local President of the *Interahamwe*, incited the local population to pillage Tutsi homes and attack, rape and murder civilian Tutsi. For example, in Rwankuba, Jean BIZIMUNGU organized attacks against Tutsis with Gérard KAYONZA, which were then instigated by **Jean-Baptiste GATETE** who commanded them to, "Exterminate all the families [of Tutsi] ...". The family of AIM and AIM's brother and his family were killed among others as a result of **Jean-Baptiste GATETE**'s actions.

20. On or about 7 April to 12 April 1994, **Jean-Baptiste GATETE** circulated through various *secteurs* of Murambi *commune*, including Kiramuruzi, Gakenke, Rwankuba, Rubona, and Nyabysindu where he incited and instigated the *Interahamwe* with a megaphone, commanding and ordering them to kill Tutsi. For example, on 7 April 1994 in Rwankuba, **Jean-Baptiste GATETE** instigated the *Interahamwe* with a megaphone, telling them to gather other *Interahamwe* and to start the "work" of killing the Tutsi. **Jean-Baptiste GATETE** promised the *Interahamwe* a reward of cattle when the Tutsi extermination was completed. As soon as **Jean-Baptiste GATETE** departed, *conseiller de secteur* Jean BIZIMUNGU ordered the *Interahamwe* to start the killing. The *Interahamwe* killed Tutsi civilians as a result of the actions of **Jean-Baptiste GATETE**.

21. On or about 8 April 1994, at Nyagasambu at a roadblock on the road to Rwankuba, **Jean Baptiste GATETE** instigated, and ordered civilians to hunt down and exterminate Tutsi, including the "baby in the womb." **Jean-Baptiste GATETE** also gave the civilian militia dogs to facilitate the hunt. Tutsi civilians were killed as a result of **Jean Bapatiste GATETE**'s efforts.

22. On or about 11 April 1994 **Jean-Baptiste GATETE** ordered, supervised and participated in the killings and rapes of civilian Tutsi at Kiziguro *paroisse* complex, a church and hospital where thousands of civilian Tutsis had taken refuge. Assisted by several FAR soldiers armed with rifles, Gasigwa KARANGWA and the Kiziguro *Interahamwe* leader, NKUNDABAZUNGU, **Jean-Baptiste GATETE** and his group of *Interahamwe* broke through the portals of the church compound, forced the Tutsi refugees to exit the church sanctuary, and killed the refugees. A number of refugees were forced to transport dead Tutsi to a nearby mass grave, then killed and tossed into the grave. Several thousand civilian Tutsi men, women, and children, including KALEMERA, the school inspector, MUNANA, a teacher, Claver KARURANGE, GAPFIZI and BCS's bother, were slaughtered during the 11 April 1994 Kiziguro *paroisse* complex massacre.

23. On or about and between 12 to 14 April 1994, **Jean Batiste GATETE** instigated, commanded and facilitated displaced Hutu peasants to target Tutsi moving southward through Murambi and Kibungo *prefectures*. He ordered displace Hutu's in those regions to kill the interspersed civilian Tutsi. Tutsi were killed as a result of **Jean Baptiste GATETE's** actions.

April 1994 - Kibungo

24. On or about 10 April 1994, **Jean-Baptiste GATETE** arrived in Rukara *commune* in adjoining Kibungo *prefecture* and held a meeting with the *bourgmestre* Jean MPAMBARA. Thereafter, thousands of Tutsi refugees who took shelter at Rukara *paroisse* were ordered to leave the church. When they refused, the *Interahamwe* armed with firearms, grenades, machetes and traditional weapons attacked the church and killed numerous Tutsi civilians.

25. On or about 10 to 11 April 1994, **Jean-Baptiste GATETE**, with Kayonza *bourgmestre* Celestin SENKWARE, transported armed soldiers, and the *Interahamwe*, to Mukarange *paroisse* compound. Together they attacked the Mukarange *paroisse* compound where Tutsi refugees were located Tutsi were raped and killed as a result of **Jean Baptiste GATETE's** actions. For example: A woman named Odette who was taking refuge at the Mukarange church, took her child to the toilet outside the compound and were immediately killed. The parish priest, Father Basco, asked **Jean Baptiste GATETE** to do something to stop the killing. **Jean Baptiste Gatete** refused.

26. On or about and between, 10 April to 15 April 1994, **Jean-Baptiste GATETE** arrived in Kayonza *commune* with a group of armed *Interahamwe*. **Jean-Baptiste GATETE**, with Kayonza *bourgmestre* Célestin SENKWARE, instigated a crowd assembled in the *bureau communal* courtyard. Present in the courtyard were local residents, including a number of Tutsi women, and the recently arrived *Interahamwe*. To instigate those *Interahamwe* present, **Jean-Baptiste GATETE** reported that Tutsi populations in other areas had been decimated, and he commanded the *Interahamwe* to rape and then kill Tutsi.

A. On or about and between, 10 April to 15 April 1994, **Jean-Baptiste GATETE** with a group of armed *Interahamwe* at the Kayonza *bureau communal* courtyard ordered the segregation of Tutsi and commanded that the Tutsi be taken to a mass grave. At the grave, **Jean-Baptiste GATETE** karate kicked GATARE's knee breaking it through **Jean-Baptiste GATETE** then ordered the *Interahamwe* to kill GATARE, which they did.. Tutsi were raped and killed at that location as a result of **Jean Baptiste GATETE's** actions.

27. After the rapes and the killings, the *Interahamwe* returned to the Kayonza *bureau communal* courtyard where **Jean-Baptiste GATETE** addressed them again, ordering, instigating and instigating them to go to the adjoining *secteurs* of Nyarusage, Nkamba and Giparara to rape and exterminate the remaining Tutsi. Both **Jean-Baptiste GATETE** and Célestin SENKWARE provided their vehicles to the *Interahamwe* to facilitate the attacks. Tutsi were raped and killed as a result of **Jean Baptiste GATETE's** actions.

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28. Mid to late April 1994, **Jean-Baptiste GATETE** arrived in Rulenge, Rukira *commune* with a caravan of armed Murambi communal police, civilian militias and the *bourgmestres* of Kabarondo and Kigarama *communes*. **Jean-Baptiste GATETE** publicly castigated the local residents for not massacring the Tutsi. **Jean-Baptiste GATETE** ordered the *Interahamwe* to rape and kill Tutsi in Rukira, including women and children. The following morning, those *Interahamwe*, some of whom were Emmanuel RUKIRAMAKUBA, EPHRAIM, FABIEN, and RWABIREKEZI, destroyed Tutsi homes and raped and killed Tutsi civilians in Rukira. For example, **Jean-Baptiste GATETE** ordered FABIEN to kill a Ugandan woman who was perceived to be Tutsi. Also killed were Vedaste KALISA, Ferdinand SANANE and SANANE's wife, and NZOYORI, a girl from Binego.

29. On or about 15 April 1994, at Cyasemakamba, in Kibungo, Jean Baptiste GATETE briefed his armed men comprising of policemen, and *Interahamwe* and then handed his men and the briefing over to Lt MIHIGO. Thereafter, Lt. MIHIGO and those militia briefed by **Jean Baptiste GATETE** attacked the Economat, where approximately 400 people were killed.

30. On or about 19 April 1994, at Cyasemakamba, in Kibungo, **Jean Baptiste GATETE**, Retired Col. RWAGAFIRITA, Lt. MIHIGO, GACUMBITIS, Jean MPAMBARA, MUGIRANEZA, Lt. Col. NYURIYEKUBONA, NTAHIMANA, and RUDAKUBANA and others convened a meeting the purpose of which was to remove Godfrey RUZINDANA, Kibungo *prefect* and member of the Social Democratic Party (PSD). By the end of the meeting RUZINDANA, who was later killed, was replaced with Huye RUDAKUBANA.

31. On or about the night of 19 April 1994, in Kibungo **Jean Baptiste GATETE** attended a security meeting with Ret. SGT. Major RWATORO, Birengo Bourgmester, NTAHIMANA Ret. Col. RWAGAFIRITA, Lt. Col. NYURIYEKUBONA, Kayonza Bourgmester SANKWARE, Kigarama Bourgmestre, MUGIRANEZA and others to share intelligence regarding the Rwandan Patriotic Front, RPF.

32. On or about 21 April 1994, in Kibungo, **Jean Baptiste GATETE** and other authorities organized, ordered and facilitated the *Interahamwe* militia and soldiers to fight the RPF at the front.

Count 4: EXTERMINATION as a CRIME AGAINST HUMANITY

33. The Prosecutor charges **Jean-Baptiste GATETE** with EXTERMINATION as a CRIME AGAINST HUMANITY, as stipulated in Article 3(b) and Article 6(1) of the *Statute*, in that on or between 6 April and 30 April 1994, in Byumba and Kibungo *prefectures*, Rwanda, **Jean-Baptiste GATETE**, with intent to participate in the elimination of a number of individuals and knowing that his action was part of a vast murderous enterprise, planned, instigated, ordered, committed or otherwise aided and

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abetted in the planning, preparation or execution of the extermination, or killing of any civilian population as part of a widespread or systematic attack against that civilian population on national, political, racial, religious or ethnic grounds, as outlined in the factual paragraphs below:

FACTUAL BASIS FOR EXTERMINATION

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34. On or about 6 April until 30 April 1994, **Jean-Baptiste GATETE** assembled the *Interahamwe* and planned and participated in the sealing off of all roads and exits throughout Byumba in *communes* such as Murambi. As **Jean-Baptiste GATETE** circulated around the various roadblocks, he participated in the identification and the killing of Tutsi civilians by providing lists of names of Tutsi that should not be allowed through. He ordered others present at the roadblocks to kill those Tutsi, and he also manned the roadblocks himself. The *Interahamwe* at roadblocks killed Tutsi with weapons distributed by **Jean-Baptiste GATETE**.

35. On or about 7 April 1994, **Jean-Baptiste GATETE** held meetings with local administrative officials in various *secteurs* and *cellules* of Murambi *commune* including Rwankuba, Gakenke, Kiramuzi, Gakoni and Nyabisindu for the purpose of distributing weapons and instigating civilian militias to exterminate Tutsi civilians whom he blamed for President Habyarimana's death. For example, at approximately 2 am, **Jean-Baptiste GATETE** conducted meetings with local administrative officials in Nyabisindu to distribute weapons and to instigate civilian militias to kill Tutsi civilians whom he blamed for President Habyarimana's death. Then, at approximately 8 am, **Jean-Baptiste GATETE** conducted a meeting in Byumba *prefecture*, Rwankuba *secteur*, with local *Interahamwe* administrative officials including Jean de Dieu MWANGE, the new Murambi *bourgmestre*, and *Conseiller de secteur*, Jean BIZIMUNGU to again distribute weapons and to instigate civilian militias to exterminate Tutsi civilians whom he blamed for the president's death. Tutsi were killed with the weapons distributed by **Jean-Baptiste GATETE**.

36. During the morning of 7 April 1994, **Jean-Baptiste GATETE** facilitated the transport of the *Interahamwe* through various Murambi *commune secteurs* and *cellules*, including Akarambo, Gakoni, Nyabisindu, Kiramuruzi, and Rwankuba, and commanded the *Interahamwe*, some of whom were RUPIA, Serena GAUFRAMA and RWASIBO, to kill the civilian Tutsi. Some examples, **Jean-Baptiste GATETE**, with Murambi *bourgmestre*, Jean de Dieu MWANGE, transported a convoy of armed *Interahamwe* to Akarambo *cellule* where **GATETE** ordered the *Interahamwe* to burn, loot and pillage Tutsi homes and to rape and kill civilian Tutsi. BCS's family was killed in their Akarambo home by the *Interahamwe* on the orders of **Jean-Baptiste GATETE**, who was also present during the killings. Also killed was Aisha MUREKEYISONI, a Tutsi from Kiramurzi. Then on or about 8 April, 1994, BAT was raped by two *Interahamwe*, the son of NYAMUHARA and KAREMERA. The *Interahamwe* raped and killed Tutsi as a result of the actions of **Jean-Baptiste GATETE**.

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37. On or about 7 April 1994, in Rwankuba, **Jean-Baptiste GATETE** with Jean BIZIMUNGU and Gerard KAYONZA, the local President of the *Interahamwe*, incited the local population to pillage Tutsi homes and attack, rape and murder civilian Tutsi. For example, in Rwankuba, Jean BIZIMUNGU organized attacks against Tutsis with Gérard KAYONZA, which were then instigated by **Jean-Baptiste GATETE** who commanded them to, "Exterminate all the families [of Tutsi] ...". The family of AIM and AIM's brother and his family were killed among others as a result of **Jean-Baptiste GATETE's** actions.

38. On or about 7 April to 12 April 1994, **Jean-Baptiste GATETE** circulated through various *secteurs* of Murambi *commune*, including Kiramuruzi, Gakenke, Rwankuba, Rubona, and Nyabysindu where he incited and instigated the *Interahamwe* with a megaphone, commanding and ordering them to kill Tutsi. For example, on 7 April 1994 in Rwankuba, **Jean-Baptiste GATETE** instigated the *Interahamwe* with a megaphone, telling them to gather other *Interahamwe* and to start the "work" of killing the Tutsi. **Jean-Baptiste GATETE** promised the *Interahamwe* a reward of cattle when the Tutsi extermination was completed. As soon as **Jean-Baptiste GATETE** departed, *conseiller de secteur* Jean BIZIMUNGU ordered the *Interahamwe* to start the killing. The *Interahamwe* killed Tutsi civilians as a result of the actions of **Jean-Baptiste GATETE**.

39. On or about 8 April 1994, at Nyagasambu at a roadblock on the road to Rwankuba, **Jean Baptiste GATETE** instigated, and ordered civilians to hunt down and exterminate Tutsi, including the "baby in the womb." **Jean-Baptiste GATETE** also gave the civilian militia dogs to facilitate the hunt. Tutsi civilians were killed as a result of **Jean Baptiste GATETE's** efforts.

40. On or about 11 April 1994 **Jean-Baptiste GATETE** ordered, supervised and participated in the killings and rapes of civilian Tutsi at Kiziguro *paroisse* complex, a church and hospital where thousands of civilian Tutsis had taken refuge. Assisted by several FAR soldiers armed with rifles, Gasigwa KARANGWA and the Kiziguro *Interahamwe* leader, NKUNDABAZUNGU, **Jean-Baptiste GATETE** and his group of *Interahamwe* broke through the portals of the church compound, forced the Tutsi refugees to exit the church sanctuary, and killed the refugees. A number of refugees were forced to transport dead Tutsi to a nearby mass grave, then killed and tossed into the grave. Several thousand civilian Tutsi men, women, and children, including KALEMERA, the school inspector, MUNANA, a teacher, Claver KARURANGE, GAPFIZI and BCS's bother, were slaughtered during the 11 April 1994 Kiziguro *paroisse* complex massacre.

41. On or about and between 12 to 14 April 1994, **Jean Batiste GATETE** instigated, commanded and facilitated displaced Hutu peasants to target Tutsi moving southward through Murambi and Kibungo *prefectures*. He ordered displace Hutu's in those regions to kill the interspersed civilian Tutsi. Tutsi were killed as a result of **Jean Baptiste GATETE's** actions.

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4492

Kibungo

42. On or about 10 April 1994, **Jean-Baptiste GATETE** arrived in Rukara *commune* in adjoining Kibungo *préfecture* and held a meeting with the *bourgmestre* Jean MPAMBARA. Thereafter, thousands of Tutsi refugees who took shelter at Rukara *paroisse* were ordered to leave the church. When they refused, the *Interahamwe* armed with firearms, grenades, machetes and traditional weapons attacked the church and killed numerous Tutsi civilians.

43. On or about 10 to 11 April 1994, **Jean-Baptiste GATETE**, with Kayonza *bourgmestre* Celestin SENKWARE, transported armed soldiers, and the *Interahamwe*, to Mukarange *paroisse* compound. Together they attacked the Mukarange *paroisse* compound where Tutsi refugees were located Tutsi were raped and killed as a result of **Jean Baptiste GATETE's** actions. For example: A woman named Odette who was taking refuge at the Mukarange church, took her child to the toilet outside the compound and were immediately killed. The parish priest, Father Basco, asked **Jean Baptiste GATETE** to do something to stop the killing. **Jean Baptiste Gatete** refused.

44. On or about and between, 10 April to 15 April 1994, **Jean-Baptiste GATETE** arrived in Kayonza *commune* with a group of armed *Interahamwe*. **Jean-Baptiste GATETE**, with Kayonza *bourgmestre* Célestin SENKWARE, instigated a crowd assembled in the *bureau communal* courtyard. Present in the courtyard were local residents, including a number of Tutsi women, and the recently arrived *Interahamwe*. To instigate those *Interahamwe* present, **Jean-Baptiste GATETE** reported that Tutsi populations in other areas had been decimated, and he commanded the *Interahamwe* to rape and then kill Tutsi.

A. On or about and between, 10 April to 15 April 1994, **Jean-Baptiste GATETE** with a group of armed *Interahamwe* at the Kayonza *bureau communal* courtyard ordered the segregation of Tutsi and commanded that the Tutsi be taken to a mass grave. At the grave, **Jean-Baptiste GATETE** karate kicked GATARE's knee breaking it through **Jean-Baptiste GATETE** then ordered the *Interahamwe* to kill GATARE, which they did.. Tutsi were raped and killed at that location as a result of **Jean Baptiste GATETE's** actions.

45. After the rapes and the killings, the *Interahamwe* returned to the Kayonza *bureau communal* courtyard where **Jean-Baptiste GATETE** addressed them again, ordering, instigating and instigating them to go to the adjoining *secteurs* of Nyarusage, Nkamba and Giparara to rape and exterminate the remaining Tutsi. Both **Jean-Baptiste GATETE** and Célestin SENKWARE provided their vehicles to the *Interahamwe* to facilitate the attacks. Tutsi were raped and killed as a result of **Jean Baptiste GATETE's** actions.

46. On or about 10 to 11 April 1994, **Jean-Baptiste GATETE**, with Kayonza *bourgmestre* Celestin SENKWARE, transported armed soldiers, and the *Interahamwe*, to Mukarange *paroisse* compound. Together they attacked the Mukarange *paroisse* compound where Tutsi refugees were located Tutsi were raped and killed as a result of

1527
1491

Jean Baptiste GATETE's actions. For example: A woman named Odette who was taking refuge at the Mukarange church, took her child to the toilet outside the compound and were immediately killed. The parish priest asked **Jean Baptiste GATETE** to do something to stop the killing. **Jean Baptiste Gatete** refused.

47. Mid to late April 1994, **Jean-Baptiste GATETE** arrived in Rulenge, Rukira *commune* with a caravan of armed Murambi communal police, civilian militias and the *bourgmestres* of Kabarondo and Kigarama *communes*. **Jean-Baptiste GATETE** publicly castigated the local residents for not massacring the Tutsi. **Jean-Baptiste GATETE** ordered the *Interahamwe* to rape and kill Tutsi in Rukira, including women and children. The following morning, those *Interahamwe*, some of whom were Emmanuel RUKIRAMAKUBA, EPHRAIM, FABIEN, and RWABIREKEZI, destroyed Tutsi homes and raped and killed Tutsi civilians in Rukira. For example, **Jean-Baptiste GATETE** ordered FABIEN to kill a Ugandan woman who was perceived to be Tutsi. Also killed were Vedaste KALISA, Ferdinand SANANE and SANANE's wife, and NZOYORI, a girl from Binego.

Count 5: MURDER as a CRIME AGAINST HUMANITY

48. The Prosecutor charges **Jean-Baptiste GATETE** with MURDER as a CRIME AGAINST HUMANITY, as stipulated in Article 3(a) and Article 6(1) of the Statute, in that on or between 6 April and 30 April 1994, in Byumba and Kibungo *préfectures*, Rwanda, **Jean-Baptiste GATETE**, with intent to kill, planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution or killing of any civilian population as part of a widespread or systematic attack against that civilian population on national, political, racial, religious or ethnic grounds, as outlined in the factual paragraphs below:

FACTUAL BASIS FOR MURDER

Byumba

49-61

49. On or about 6 April until 30 April 1994, **Jean-Baptiste GATETE** assembled the *Interahamwe* and planned and participated in the sealing off of all roads and exits throughout Byumba in *communes* such as Murambi. As **Jean-Baptiste GATETE** circulated around the various roadblocks, he participated in the identification and the killing of Tutsi civilians by providing lists of names of Tutsi that should not be allowed through. He ordered others present at the roadblocks to kill those Tutsi, and he also manned the roadblocks himself. The *Interahamwe* at roadblocks killed Tutsi with weapons distributed by **Jean-Baptiste GATETE**.

50. On or about 7 April 1994, **Jean-Baptiste GATETE** held meetings with local administrative officials in various *secteurs* and *cellules* of Murambi *commune* including Rwankuba, Gakenke, Kiramuzi, Gakoni and Nyabisindu for the purpose of distributing weapons and instigating civilian militias to exterminate Tutsi civilians whom he blamed for President Habyarimana's death. For example, at approximately 2 am, **Jean-Baptiste**

GATETE conducted meetings with local administrative officials in Nyabisindu to distribute weapons and to instigate civilian militias to kill Tutsi civilians whom he blamed for President Habyarimana's death. Then, at approximately 8 am, **Jean-Baptiste GATETE** conducted a meeting in Byumba *prefecture*, Rwankuba *secteur*, with local *Interahamwe* administrative officials including Jean de Dieu MWANGE, the new Murambi *bourgmestre*, and *Conseiller de secteur*, Jean BIZIMUNGU to again distribute weapons and to instigate civilian militias to exterminate Tutsi civilians whom he blamed for the president's death. Tutsi were killed with the weapons distributed by **Jean-Baptiste GATETE**.

51. During the morning of 7 April 1994, **Jean-Baptiste GATETE** facilitated the transport of the *Interahamwe* through various Murambi *commune secteurs* and *cellules*, including Akarambo, Gakoni, Nyabisindu, Kiramuruzi, and Rwankuba, and commanded the *Interahamwe*, some of whom were RUPIA, Serena GAUFRAMA and RWASIBO, to kill the civilian Tutsi. Some examples, **Jean-Baptiste GATETE**, with Murambi *bourgmestre*, Jean de Dieu MWANGE, transported a convoy of armed *Interahamwe* to Akarambo *cellule* where **GATETE** ordered the *Interahamwe* to burn, loot and pillage Tutsi homes and to rape and kill civilian Tutsi. BCS's family was killed in their Akarambo home by the *Interahamwe* on the orders of **Jean-Baptiste GATETE**, who was also present during the killings. Also killed was Aisha MUREKEYISONI, a Tutsi from Kiramuruzi. Then on or about 8 April, 1994, BAT was raped by two *Interahamwe*, the son of NYAMUHARA and KAREMERA. The *Interahamwe* raped and killed Tutsi as a result of the actions of **Jean-Baptiste GATETE**.

52. On or about 7 April 1994, in Rwankuba, **Jean-Baptiste GATETE** with Jean BIZIMUNGU and Gerard KAYONZA, the local President of the *Interahamwe*, incited the local population to pillage Tutsi homes and attack, rape and murder civilian Tutsi. For example, in Rwankuba, Jean BIZIMUNGU organized attacks against Tutsis with Gérard KAYONZA, which were then instigated by **Jean-Baptiste GATETE** who commanded them to, "Exterminate all the families [of Tutsi] ...". The family of AIM and AIM's brother and his family were killed among others as a result of **Jean-Baptiste GATETE**'s actions.

53. On or about 7 April to 12 April 1994, **Jean-Baptiste GATETE** circulated through various *secteurs* of Murambi *commune*, including Kiramuruzi, Gakenke, Rwankuba, Rubona, and Nyabysindu where he incited and instigated the *Interahamwe* with a megaphone, commanding and ordering them to kill Tutsi. For example, on 7 April 1994 in Rwankuba, **Jean-Baptiste GATETE** instigated the *Interahamwe* with a megaphone, telling them to gather other *Interahamwe* and to start the "work" of killing the Tutsi. **Jean-Baptiste GATETE** promised the *Interahamwe* a reward of cattle when the Tutsi extermination was completed. As soon as **Jean-Baptiste GATETE** departed, *conseiller de secteur* Jean BIZIMUNGU ordered the *Interahamwe* to start the killing. The *Interahamwe* killed Tutsi civilians as a result of the actions of **Jean-Baptiste GATETE**.

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54. On or about 8 April 1994, at Nyagasambu at a roadblock on the road to Rwankuba, **Jean Baptiste GATETE** instigated, and ordered civilians to hunt down and exterminate Tutsi, including the "baby in the womb." **Jean-Baptiste GATETE** also gave the civilian militia dogs to facilitate the hunt. Tutsi civilians were killed as a result of **Jean Baptiste GATETE's** efforts.

55. On or about 11 April 1994 **Jean-Baptiste GATETE** ordered, supervised and participated in the killings and rapes of civilian Tutsi at Kiziguro *paroisse* complex, a church and hospital where thousands of civilian Tutsis had taken refuge. Assisted by several FAR soldiers armed with rifles, Gasigwa KARANGWA and the Kiziguro *Interahamwe* leader, NKUNDABAZUNGU, **Jean-Baptiste GATETE** and his group of *Interahamwe* broke through the portals of the church compound, forced the Tutsi refugees to exit the church sanctuary, and killed the refugees. A number of refugees were forced to transport dead Tutsi to a nearby mass grave, then killed and tossed into the grave. Several thousand civilian Tutsi men, women, and children, including KALEMERA, the school inspector, MUNANA, a teacher, Claver KARURANGE, GAPPFIZI and BCS's bother, were slaughtered during the 11 April 1994 Kiziguro *paroisse* complex massacre.

56. On or about and between 12 to 14 April 1994, **Jean Batiste GATETE** instigated, commanded and facilitated displaced Hutu peasants to target Tutsi moving southward through Murambi and Kibungo *prefectures*. He ordered displace Hutu's in those regions to kill the interspersed civilian Tutsi. Tutsi were killed as a result of **Jean Baptiste GATETE's** actions.

Kibungo

57. On or about 10 April 1994, **Jean-Baptiste GATETE** arrived in Rukara *commune* in adjoining Kibungo *prefecture* and held a meeting with the *bourgmestre* Jean MPAMBARA. Thereafter, thousands of Tutsi refugees who took shelter at Rukara *paroisse* were ordered to leave the church. When they refused, the *Interahamwe* armed with firearms, grenades, machetes and traditional weapons attacked the church and killed numerous Tutsi civilians.

58. On or about 10 to 11 April 1994, **Jean-Baptiste GATETE**, with Kayonza *bourgmestre* Celestin SENKWARE, transported armed soldiers, and the *Interahamwe*, to Mukarange *paroisse* compound. Together they attacked the Mukarange *paroisse* compound where Tutsi refugees were located Tutsi were raped and killed as a result of **Jean Baptiste GATETE's** actions. For example: A woman named Odette who was taking refuge at the Mukarange church, took her child to the toilet outside the compound and were immediately killed. The parish priest, Father Basco, asked **Jean Baptiste GATETE** to do something to stop the killing. **Jean Baptiste Gatete** refused.

59. On or about and between, 10 April to 15 April 1994, **Jean-Baptiste GATETE** arrived in Kayonza *commune* with a group of armed *Interahamwe*. **Jean-Baptiste GATETE**, with Kayonza *bourgmestre* Célestin SENKWARE, instigated a crowd assembled in the *bureau communal* courtyard. Present in the courtyard were local residents, including a number of Tutsi women, and the recently arrived *Interahamwe*. To instigate those *Interahamwe* present, **Jean-Baptiste GATETE** reported that Tutsi populations in other areas had been decimated, and he commanded the *Interahamwe* to rape and then kill Tutsi.

A. On or about and between, 10 April to 15 April 1994, **Jean-Baptiste GATETE** with a group of armed *Interahamwe* at the Kayonza *bureau communal* courtyard ordered the segregation of Tutsi and commanded that the Tutsi be taken to a mass grave. At the grave, **Jean-Baptiste GATETE** karate kicked GATARE's knee breaking it through **Jean-Baptiste GATETE** then ordered the *Interahamwe* to kill GATARE, which they did. Tutsi were raped and killed at that location as a result of **Jean Baptiste GATETE's** actions.

60. After the rapes and the killings, the *Interahamwe* returned to the Kayonza *bureau communal* courtyard where **Jean-Baptiste GATETE** addressed them again, ordering, instigating and inciting them to go to the adjoining *secteurs* of Nyarusage, Nkamba and Giparara to rape and exterminate the remaining Tutsi. Both **Jean-Baptiste GATETE** and Célestin SENKWARE provided their vehicles to the *Interahamwe* to facilitate the attacks. Tutsi were raped and killed as a result of **Jean Baptiste GATETE's** actions.

61. Mid to late April 1994, **Jean-Baptiste GATETE** arrived in Rulenge, Rukira *commune* with a caravan of armed Murambi communal police, civilian militias and the *bourgmestres* of Kabarondo and Kigarama *communes*. **Jean-Baptiste GATETE** publicly castigated the local residents for not massacring the Tutsi. **Jean-Baptiste GATETE** ordered the *Interahamwe* to rape and kill Tutsi in Rukira, including women and children. The following morning, those *Interahamwe*, some of whom were Emmanuel RUKIRAMAKUBA, EPHRAIM, FABIEN, and RWABIREKEZI, destroyed Tutsi homes and raped and killed Tutsi civilians in Rukira. For example, **Jean-Baptiste GATETE** ordered FABIEN to kill a Ugandan woman who was perceived to be Tutsi. Also killed were Vedaste KALISA, Ferdinand SANANE and SANANE's wife, and NZOYORI, a girl from Binego.

62. On or about 12 April 1994, **Jean Baptist GATETE**, *Bourgmestre* Jean de Dieu MWANGE, Celestin SENKWARE, communal police and *Interahamwe*, conducted an inspection of identity cards of travelers on the Kibungo road through Kayonza *commune*. At one roadblock **Jean-Baptiste GATETE**, several *Interahamwe* and communal police including a policeman named Deo, chased AIX's husband, a Tutsi, and KAMUZINZI, a Hutu moderate and political party opponent, from his car. **Jean-Baptiste GATETE** ordered the police to shoot AIX's husband and KAMUZINZI. The communal policeman shot and killed them upon orders from **Jean-Baptiste GATETE**. Thereafter, **Jean-Baptiste GATETE** ordered the *Interahamwe* to kill the occupants of KAMUZINZI's

vehicle, which was driven by MAHMUD. The *Interahamwe* immediately killed the occupants including MAHMUD. **Jean-Baptiste GATETE** appropriated the vehicle.

63. On or about 12 April 1994 in Rutonde **Jean-Baptiste GATETE**, Celestin SENKWARE and several others, shot and killed MULINDA, a refugee hiding in a swamp. Before and after the time of the killing, **Jean-Baptiste GATETE** and others were patrolling the hills and valleys to search out and kill civilian Tutsis.

64. On or about 14 April 1994 in Kayonza *commune*, **Jean-Baptiste GATETE** ordered *Interahamwe* to kill BUTARE, a businessman. The *Interahamwe*, following **Jean-Baptiste GATETE**'s orders to kill BUTARE, hacked him to death with machetes and knives.

Count 6: RAPE as a CRIME AGAINST HUMANITY

65. The Prosecutor charges **Jean-Baptiste GATETE** with RAPE as a CRIME AGAINST HUMANITY, as stipulated in Article 3(a) and Article 6(1) of the Statute, in that on or between 6 April and 30 April 1994, in Byumba and Kibungo *prefectures*, Rwanda, **Jean-Baptiste GATETE**, with the intention that rape occur, planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution or killing of any civilian population as part of a widespread or systematic attack against that civilian population on national, political, racial, religious or ethnic grounds, as outlined in the factual paragraphs below:

FACTUAL BASIS FOR RAPE

Byumba

66. On or about 8 and 9 April 1994, **Jean-Baptiste GATETE** facilitated the transport of his civilian militias to the center of Akarambo *cellule*. **Jean-Baptiste GATETE** commanded and incited the *Interahamwe* to attack and rape Tutsi women. On or about 8 April, 1994, BAT was raped by two *Interahamwe*, the son of NYAMUHARA and KAREMERA. On or about 9 April 1994, AVO was raped by an *Interahamwe* named KARERANGABO. The *Interahamwe* raped Tutsi women in Akarambo *cellule*.

Kibungo

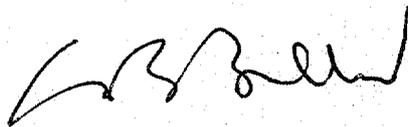
67. On or about 10 to 11 April 1994, **Jean-Baptiste GATETE**, with Kayonza *bourgmestre* Celestin SENKWARE, transported armed soldiers, and the *Interahamwe*, to the Mukarange *paroisse* compound. Together they attacked the Mukarange *paroisse* compound where Tutsi refugees were located. Tutsi were raped and killed as a result of **Jean Baptiste GATETE**'s actions.

68. On or about and between 10 and 15 April 1994, in Kayonza, **Jean-Baptiste GATETE**, with Célestin SENKWARE, Kayonza *bourgmestre*, commanded the *Interahamwe* to rape Tutsi women assembled in the bureau command courtyard. Tutsi women were dragged off by the *Interahamwe* and raped.

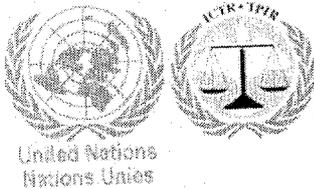
69. After the rapes and the killings, the *Interahamwe* returned to the Kayonza *bureau communal* courtyard where **Jean-Baptiste GATETE** addressed them again, ordering, instigating and instigating them to go to the adjoining *secteurs* of Nyarusage, Nkamba and Giparara to rape and exterminate the remaining Tutsi. Both **Jean-Baptiste GATETE** and Célestin SENKWARE provided their vehicles to the *Interahamwe* to facilitate the attacks. Tutsi were raped and killed as a result of **Jean Baptiste GATETE's** actions.

The acts and omissions of Jean-Baptiste GATETE detailed herein are punishable in reference to Articles 22 and 23 of the Statute.

Dated at Arusha, this 29th day of November 2004:



Hassan Bubacar Jallow
The Prosecutor



TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH CMS

COURT MANAGEMENT SECTION
(Art. 27 of the Directive for the Registry)

I - GENERAL INFORMATION (To be completed by the Chambers / Filing Party)

To:	<input checked="" type="checkbox"/> Trial Chamber I N. M. Diallo	<input type="checkbox"/> Trial Chamber II R. N. Kouambo	<input type="checkbox"/> Trial Chamber III C. K. Hometowu	<input type="checkbox"/> Appeals Chamber / Arusha F. A. Talon
	<input type="checkbox"/> Chief, CMS J.-P. Fomété	<input type="checkbox"/> Deputy Chief, CMS M. Diop	<input type="checkbox"/> Chief, JPU, CMS K. K. A. Afande	<input type="checkbox"/> Appeals Chamber / The Hague R. Burriss
From:	<input type="checkbox"/> Chamber (name)	<input type="checkbox"/> Defence (name)	<input checked="" type="checkbox"/> Prosecutor's Office Kanyomozi Kentaro	<input type="checkbox"/> Other: (name)
Case Name:	The Prosecutor vs. Jean Baptiste Gatete			Case Number: ICTR-01-61-I
Dates:	Transmitted: 10/05/05		Document's date: 10/05/05	
No. of Pages:	32	Original Language:	<input checked="" type="checkbox"/> English	<input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda
Title of Document:	Amended Indictment			
Classification Level:		TRIM Document Type:		
<input type="checkbox"/> Strictly Confidential / Under Seal <input checked="" type="checkbox"/> Confidential <input type="checkbox"/> Public		<input checked="" type="checkbox"/> Indictment <input type="checkbox"/> Decision <input type="checkbox"/> Disclosure <input type="checkbox"/> Judgement <input type="checkbox"/> Warrant <input type="checkbox"/> Affidavit <input type="checkbox"/> Order <input type="checkbox"/> Motion <input type="checkbox"/> Correspondence <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Appeal Book <input type="checkbox"/> Book of Authorities <input type="checkbox"/> Submission from non-parties <input checked="" type="checkbox"/> Submission from parties <input type="checkbox"/> Accused particulars		

II - TRANSLATION STATUS ON THE FILING DATE (To be completed by the Chambers / Filing Party)

CMS SHALL take necessary action regarding translation.

Filing Party hereby submits only the original, and **will not submit** any translated version.

Reference material is provided in annex to facilitate translation.

Target Language(s):

English French Kinyarwanda

CMS SHALL NOT take any action regarding translation.

Filing Party hereby submits **BOTH the original and the translated version** for filing as follows:

Original	in	<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda
Translation	in	<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda

CMS SHALL NOT take any action regarding translation.

Filing Party **will be submitting the translated version(s)** in due course in the following language(s):

English French Kinyarwanda

KINDLY FILL IN THE BOXES BELOW

<input type="checkbox"/> The OTP is over-seeing translation. The document is submitted for translation to: <input type="checkbox"/> The Language Services Section of the ICTR / Arusha. <input type="checkbox"/> The Language Services Section of the ICTR / The Hague. <input type="checkbox"/> An accredited service for translation; see details below: Name of contact person: Name of service: Address: E-mail / Tel. / Fax:	<input type="checkbox"/> DEFENCE is over-seeing translation. The document is submitted to an accredited service for translation (fees will be submitted to DCDMS): Name of contact person: Name of service: Address: E-mail / Tel. / Fax:
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III - TRANSLATION PRIORITISATION (For Official use ONLY)

<input type="checkbox"/> Top priority	COMMENTS	<input type="checkbox"/> Required date:
<input type="checkbox"/> Urgent		<input type="checkbox"/> Hearing date:
<input type="checkbox"/> Normal		<input type="checkbox"/> Other deadlines: