

INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

TRIAL CHAMBER II

Before: Judge Asoka de Silva, Presiding Judge
Judge Taghrid Hikmet
Judge Seon Ki Park

Registrar: Adama Dieng

Date: 17 May 2011

PROSECUTOR **Against** **Augustin NDINDILYIMANA**
Augustin BIZIMUNGU
François-Xavier NZUWONEMEYE
Innocent SAGAHUTU
Case No. ICTR-00-56-T

SUMMARY OF JUDGEMENT AND SENTENCE

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SUMMARY OF JUDGEMENT AND SENTENCE

I. INTRODUCTION

1. The Trial Chamber is convened today to deliver an oral summary of its Judgement in the *Ndindiliyimana et al.*, case. The Chamber is unanimous in its Judgement, except for the partially dissenting opinion of Judge Park in relation to one of the factual findings.
2. The Chamber hastens to add that this oral summary is not binding and that only the written Judgement, which will be made available in the coming days, is authoritative.
3. This case commenced on 20 September 2004 and closed on 26 June 2009. The Accused in this case are Augustin Ndindiliyimana, the former Chief Staff of the *Gendarmerie nationale*, Augustin Bizimungu, the former Chief of Staff of the Rwandan army, Francois-Xavier Nzuwonemeye, Commander of the Reconnaissance battalion (hereinafter referred to as RECCE) of the Rwandan army during the events of 1994, and Innocent Sagahutu, the Commander of Squadron A of RECCE battalion.
4. The Prosecution charged the four Accused with eight Counts. Count 1 charges all four Accused with conspiracy to commit genocide; Counts 2 and 3 charge Ndindiliyimana and Bizimungu with genocide or in the alternative, complicity in genocide; Count 4 charges all four Accused with murder as a crime against humanity; Count 5 charges Ndindiliyimana and Bizimungu with extermination as a crime against humanity; Count 6 charges Bizimungu, Nzuwonemeye and Sagahutu with rape as a crime against humanity; Count 7 charges all four Accused with murder as a violation of Article 3 common to the Geneva Conventions and Additional Protocol II; and Count 8 charges Bizimungu, Nzuwonemeye and Sagahutu with rape and humiliating and degrading treatment as a violation of Article 3 common to the Geneva Conventions and Additional Protocol II. The Prosecution further alleges that the Accused bear either direct or superior criminal responsibility for these crimes.
5. The Chamber shall now summarise the factual context underlying the allegations against the Accused in this Trial.

II. EVENTS IN RWANDA AFTER 6 APRIL 1994

6. The Chamber has heard credible evidence that following the death of President Habyarimana on 6 April 1994, genocide, crimes against humanity and war crimes were perpetrated in Rwanda. Several witnesses, some of them victims of these crimes, testified about heinous crimes and atrocities that were committed against civilians during the months of April, May, June and July 1994. Tutsi civilians were principally targeted based on their ethnicity and perceived links with the Tutsi-led Rwandan Patriotic Front (RPF), and also Hutu, who were opponents of the ruling regime and considered to be in favour of the implementation of the

Arusha Accords. The Chamber heard tragic accounts of how soldiers, *gendarmes*, *Interahamwe* and other militia, and ordinary civilians perpetrated crimes that shock the conscience of mankind.

7. In reaching its findings in this Judgement, the Chamber has limited its analysis to considering whether the Prosecution has proved beyond reasonable doubt whether any of the Accused are criminally responsible for the crimes that are alleged in the Indictment. The Chamber shall now discuss some preliminary issues before summarising its factual findings.

III. PRELIMINARY ISSUES

8. At the outset, the Chamber notes that in addition to the allegations that were dropped at the end of the Prosecution case for lack of evidence, the Chamber finds that the Prosecution failed to adduce any evidence in respect of several other allegations in the Indictment. These are detailed in Judgment and will not be addressed in this summary.
9. The Chamber also finds, for reasons set out in detail in the Judgement, that the Indictment failed to adequately plead the allegations of genocide or complicity in genocide against Bizimungu that are alleged to have occurred in Gisenyi, Kibuye and Ruhengeri during the months of April, May and June 1994, in Butare from 19 April to late June 1994 and in Cyangugu.

IV. FACTUAL FINDINGS

A. Count 1: Conspiracy to Commit Genocide

10. The Prosecution alleges that, all four Accused conspired amongst themselves and with other senior Hutu civilian and military leaders to destroy, in whole or in part, the Tutsi ethnic group, a significant component of the Rwandan population.
11. The Chamber notes that the Prosecution's allegation of conspiracy to commit genocide against Tutsi is predicated entirely on circumstantial evidence. The Prosecution contends that the fact that the Accused were implicated in such a conspiracy can be inferred from their conduct together with other senior leaders in defining the Tutsi ethnic group as the enemy; their incitement to hatred and vindication of ethnically motivated crimes against Tutsi or Hutu perceived as being sympathetic to Tutsi interests; the training and arming of militia groups; the establishment of lists of people to be eliminated; opposition to the Arusha Accords, the elimination of political opponents; and the refusal to restore order once massacres had begun. The Prosecution avers that the conspiracy to commit genocide against Tutsi was conceived in late 1990 following an attack on Rwanda by the Tutsi dominated Rwandan Patriotic Front (RPF).
12. The Defence disputed the allegation that the Accused conspired with others to commit genocide against Tutsi and also challenged the pleading of this allegation in the Indictment.

13. Having assessed the evidence in this case, the Chamber accepts that following the death of the President on 6 April 1994, members of the Tutsi ethnic group in Rwanda were killed on a massive scale. The widespread nature and scale of these killings required a certain level of coordination, planning and organisation.
14. The issue that the Chamber has sought to determine when making its findings with respect to this allegation is not whether there was a general conspiracy to commit genocide, but rather whether the Accused in this trial were implicated in a conspiracy to commit genocide against Tutsi.
15. The Chamber recalls that the Prosecution only presented circumstantial evidence in support of the allegation that the Accused took part in a conspiracy to commit genocide against Tutsi. The Chamber notes that when confronted with such evidence, it may only convict where conspiracy is the only reasonable inference that can be drawn from the evidence.
16. As discussed in the Judgement, the Chamber has assessed the evidence supporting the Prosecution's allegation that the Accused were involved in a conspiracy to commit genocide and found that the evidence, in most cases, was open to inferences that are not consistent with a finding that the Accused were involved in a conspiracy to commit genocide against Tutsi. For this reason, the Chamber is not satisfied that the Prosecution has proved beyond reasonable doubt that the four Accused in this case were implicated in such a conspiracy.

B. Counts 2 and 3: Genocide and Complicity in Genocide in the Alternative

17. The Prosecution alleges that in 1994, soldiers, *gendarmes*, *Interahamwe* and *Impuzamugambi* militiamen, under the authority of Nindiliyimana and Bizimungu, killed and caused serious bodily and mental harm to members of the Tutsi population. It is alleged that these crimes were perpetrated with the intent to destroy, in whole or in part, the Tutsi ethnic group.
18. The Chamber shall now turn to the evidence in support of these allegations, commencing with the evidence against the Accused Bizimungu.
 1. Killing of Tutsi by *Interahamwe* in Rwankeri *secteur*
19. The Prosecution alleges that on 7 April 1994, Bizimungu attended a meeting held at Joseph Nzirorera's house in Ruhengeri and gave a speech in which he called for the killing of Tutsi. It is alleged that following the speech, *Interahamwe* killed Tutsi in Rwankeri *secteur* and that on the same day soldiers from Kanombe and Bigogwe camps who were under the authority of Bizimungu killed Tutsi at Busogo Parish.
20. Having weighed the evidence, the Chamber is satisfied that Bizimungu attended the meeting and made a speech calling for the killing of Tutsi in Ruhengeri. Following his speech, militia who had gathered at Byangabo market were informed that a decision had been made for them to start killing Tutsi in the area.

Thereafter, many Tutsi civilians were killed in Rwankeri *secteur*. The Chamber therefore finds that Bizimungu is criminally responsible pursuant to Article 6(1) of the Statute for these crimes.

21. With respect to the killings of Tutsi civilians at Busogo Parish, the Chamber is satisfied that soldiers were implicated in the killings of Tutsi civilians at Busogo Parish. However, the Chamber is not satisfied that Bizimungu's remarks at the meeting held at Nzirorera's house had any bearing on the criminal conduct of those soldiers. Consequently, the Chamber finds that the Prosecution has failed to prove beyond reasonable doubt that Bizimungu bears criminal responsibility pursuant to Article 6(1) of the Statute for these crimes.

2. Killing of Tutsi by *Interahamwe* at the Ruhengeri Court of Appeal

22. The Prosecution alleges that on or about 8 April, Bizimungu attended a meeting in the company of *Sous-Préfet* Nzanana and asked *Interahamwe* militia to kill Tutsi refugees at the Ruhengeri Court of Appeal. It is further alleged that on or about 14 April 1994, Bizimungu was present in the vicinity of the Court of Appeal in Ruhengeri and ordered militiamen to start killing Tutsi at the Court. Over 100 people are alleged to have been killed during that attack.
23. The Chamber accepts that on 14 April 1994, several hundred Tutsi civilians who had sought refuge at the Ruhengeri Court of Appeal were killed by militia groups. The key question is whether Bizimungu encouraged the militiamen during a meeting together with *Sous-Préfet* Nzanana to kill those Tutsi refugees or ordered their killing while present at a building located in close proximity to the Court.
24. In support of these allegations, the Prosecution relies on the evidence of three witnesses all of whom were accomplices in these crimes. The Chamber has evaluated their evidence and finds that they provided uncorroborated evidence on several key issues in relation to the role of Bizimungu both at the meeting and during the perpetration of the attack. The Chamber further finds that the live testimony of two Prosecution witnesses departed significantly from the account they provided in their pre-trial statements. In addition to the frailties of the Prosecution evidence, the Chamber finds that the evidence elicited from Defence witnesses raise further doubt regarding Bizimungu's participation in these crimes.
25. For these reasons, the Chamber is not satisfied that the Prosecution adduced sufficient evidence to prove that Bizimungu attended the meeting alluded to earlier and urged members of the *Interahamwe* militia to kill Tutsi refugees at the Court of Appeal in Ruhengeri. The Chamber is also not satisfied that the Prosecution provided reliable evidence proving that Bizimungu, while present at a building located in close proximity to the court, indicated to members of the *Interahamwe* to start the attack against the refugees at the court. The Prosecution has therefore failed to prove beyond reasonable doubt the allegation regarding the killing of Tutsi refugees at the Court of Appeal in Ruhengeri.

3. Killing of Tutsi by Interahamwe at Roadblocks in EGENA

26. The Prosecution alleges that on 16 June 1994, Bizimungu met with militia at EGENA camp and instructed them to set up roadblocks in order to “unmask” Tutsi who were fleeing together with Hutu from areas affected by combat. As a result of his instructions to the militiamen, a large number of Tutsi civilians and Hutu mistaken as Tutsi were killed at the roadblock erected near EGENA camp.

27. In support of this allegation, the Prosecution relies on the uncorroborated evidence of one witness. Having assessed his evidence, the Chamber is not satisfied that the Prosecution has established that Bizimungu met with militiamen at EGENA camp as alleged in the Indictment. The evidence also fails to prove that a large number of Tutsi and Hutu misidentified as Tutsi were killed at a roadblock near EGENA camp as a result of Bizimungu’s instructions to militiamen at that camp. The Chamber therefore finds that this allegation has not been proved beyond reasonable doubt.

4. Killing of Tutsi in Byangabo on 7 April 1994

28. The Prosecution alleges that on 7 April 1994, Lieutenant Mburuburengero of Mukamira camp, a subordinate of Bizimungu, instructed militiamen to exterminate the Tutsi in Ruhengeri and that as a result of his order, and by dint of weapons and fuel provided by soldiers the perpetrators, 60 to 70 Tutsi were killed in the Byangabo neighbourhood. The Prosecution alleges that Bizimungu is criminally responsible as a superior pursuant to Article 6(3) of the Statute for these crimes.

29. Following an assessment of the evidence, the Chamber finds that only two Tutsi individuals were killed in the morning of 7 April 1994 at Byangabo market. There is no evidence suggesting that 60 to 70 Tutsi civilians were killed in the Byangabo neighbourhood on that date as alleged in the Indictment. However, the Chamber is not satisfied that the Prosecution has proved beyond reasonable doubt that neither Lieutenant Mburuburengero, a subordinate of Bizimungu, instigated those crimes as alleged in the Indictment. Furthermore, there is no evidence that soldiers provided weapons and fuel to the perpetrators of these crimes. Given the absence of evidence implicating Bizimungu’s subordinates in the crimes committed at Byangabo, the Chamber cannot hold Bizimungu criminally responsible as a superior with respect to these crimes.

5. Acts of Violence against Tutsi at Various Places in Kigali, Gitarama, Butare, Gisenyi, Cyangugu, Kibuye and Ruhengeri

30. The Prosecution alleges that from mid-April to late June 1994, while Bizimungu was Chief of Staff of the Rwandan army, soldiers under his command killed and caused serious mental and bodily harm to Tutsi civilians. Such crimes are alleged to have been committed at various places in Kigali such as Charles Lwanga Church on 8 April and 10 June; at the Josephite Brothers compound on 8 April and 7 June; at ETO-Nyanza on 11 April; at the CHK during the months of April,

- May and June; at the Kicukiro *conseiller's* office during April and May 1994. These crimes were also committed at the ESI; at the Musambira *commune* office and dispensary in April and May, and at TRAFIPRO in April and May in Gitarama Prefecture. The Prosecution also alleges that similar crimes were committed by soldiers against Tutsi civilians in Butare, Kibuye, Cyangugu, Gisenyi and Ruhengeri Prefectures.
31. The Prosecution called several witnesses in support of this wide-sweeping allegation. The Chamber has considered the evidence for each of these locations and has set out in great detail its assessment of that evidence in its Judgement.
 32. The Chamber finds that the Prosecution failed to adduce any evidence in support of the alleged killings at the Kicukiro *conseiller's* office, The Chamber therefore finds this allegation not proven beyond reasonable doubt.
 33. With respect to killings of Tutsi civilians at St Charles Lwanga Church in April and June 1994, the Chamber notes that the Prosecution failed to adduce reliable evidence demonstrating that soldiers of the Rwandan army were implicated in the crimes committed against Tutsi at that location.
 34. With respect to crimes committed at the Josephite Brothers compound on 8 April and 7 June 1994, the Chamber accepts the Prosecution evidence that soldiers of the Rwandan army were responsible for killing of Tutsi civilians at the Brotherhood on both occasions. However, the Chamber notes that the incident at the Brotherhood on 8 April 1994 occurred before Bizimungu assumed general command of the Rwandan army. In line with the appellate jurisprudence on retroactive command responsibility, the Chamber does not find Bizimungu responsible as a superior for the crimes committed at the Brotherhood on 8 April 1994.
 35. Regarding the crimes committed at the Josephite Brotherhood on 7 June 1994, Chamber is satisfied that Bizimungu had a reason to know of the involvement of his subordinates in these crimes. There is no evidence suggesting that he took any measures to address the unlawful conduct of his subordinates at the Brotherhood. The Chamber therefore finds Bizimungu criminally liable as a superior for the role of soldiers under his command in the killing of almost 100 Tutsi civilians at the Josephite Brotherhood, on 7 June 1994.
 36. With respect to killings of Tutsi civilians at Nyanza hill on 11 April 1994, the Chamber accepts that thousands of Tutsi civilians had sought refuge at ETO where a Belgian detachment of the UNAMIR was stationed. On 11 April 1994, the Belgian soldiers withdrew from ETO and left thousands of those refugees, the overwhelming majority of them being Tutsi, without protection. Shortly after the Belgian soldiers left ETO, soldiers and members of *Interahamwe* militia arrived at ETO and attacked the refugees prompting them to flee towards AMAHORO stadium where they thought they would be protected by UNAMIR soldiers based at the stadium. However, they were intercepted by soldiers and *Interahamwe* and marched to Nyanza hill, where approximately 2,400 of them were killed. The

- Chamber accepts that Bizimungu knew or had reason to know of these killings. Notwithstanding this finding, these crimes were committed prior to Bizimungu becoming the Chief of Staff of the Rwandan army. The Chamber notes that the jurisprudence proscribes finding an accused culpable as a superior for crimes that were committed prior to his or her assumption of command. For this reason, the Chamber refrains from holding Bizimungu responsible for crimes committed at Nyanza hill on 11 April 1994.
37. With respect to the crimes allegedly committed at the CHK between April and June 1994, the Chamber finds that the Prosecution has failed to prove beyond reasonable doubt that soldiers of the Rwandan army perpetrated killings and rapes against Tutsi civilians at this location. The Chamber therefore finds that Bizimungu is not criminally responsible for these crimes pursuant to Article 6(3) of the Statute.
38. With respect to crimes committed at the Musambira *commune* office and dispensary, the ESI and TRAFIPRO in Gitarama, the Chamber notes that the Prosecution called a number of witnesses in support of its allegation regarding the crimes that were committed by soldiers in these areas. These witnesses were Tutsi civilians who had sought refuge in these areas. They observed systematic killings and were also victims of rape perpetrated by soldiers of the Rwandan army. The Chamber accepts their evidence as credible and finds their evidence to converge in important respects. The Chamber is satisfied that these crimes were perpetrated by soldiers under the command of Bizimungu and that he had reason to know of their involvement in these crimes. Despite this, Bizimungu failed to take any action to either prevent the commission of these crimes or punish its perpetrators. The Chamber therefore finds him guilty for these crimes.
39. With respect to the allegation of killings by soldiers in Butare, Kibuye, Cyangugu, Gisenyi and Ruhengeri Prefectures. The Chamber recalls its observation at the beginning of this summary that the Prosecution failed to plead these allegations with sufficient specificity and Bizimungu was therefore deprived of proper notice of the facts that underpin these allegations. For this reason, the Chamber is of the considered view that it will be unfair to rely upon these allegations to find Bizimungu guilty of the charges pleaded under Counts 2 and 3.
40. The Chamber shall now turn to the evidence against the Accused Ndindiliyimana.

6. Killing of Tutsi by *Gendarmes* at Kansi Parish

41. In the days leading up to 21 April 1994, a significant number of Tutsi from neighbouring *communes* sought refuge from the killings at Kansi Parish in Nyaruhengeri. The Prosecution alleges that on 20, 21 and 22 April 1994, the Tutsi refugees who had gathered at Kansi Parish were massacred. It is further alleged that these massacres were supervised by *gendarmes* assigned to guard Augustin Ndindiliyimana's family residence in Nyaruhengeri.

42. The Chamber finds that there is no dispute that several thousand Tutsi refugees were killed at Kansi Parish. The question that the Chamber has to resolve is whether the *gendarmes* assigned to guard Ndindiliyimana's residence participated in the attack at Kansi Parish.
43. The Chamber finds that three Prosecution witnesses provided compelling and largely corroborated evidence indicating that *gendarmes* who guarded Ndindiliyimana's residence in Nyaruhengeri were involved in the attack at Kansi Parish. The Chamber also considered the Defence evidence but finds it to be of limited probative value and fails to impugn the evidence elicited from the Prosecution witnesses. Accordingly, the Chamber is satisfied that on 21 April, *gendarmes* guarding Ndindiliyimana's residence were involved in the attack at Kansi Parish, both directly and also indirectly through the provision of weapons and assistance to *Interahamwe* who participated in the attack at the Parish.
44. The Chamber also finds that these *gendarmes* intentionally killed members of the Tutsi ethnic group and possessed the intent to destroy, in whole or in substantial part, the Tutsi group. The Chamber further finds that the Ndindiliyimana knew of the *gendarmes*' involvement in the killing of Tutsi civilians at Kansi Parish. There is no evidence that he took any measures to punish them for these crimes. The Chamber accordingly finds that Ndindiliyimana bears superior responsibility for the role of *gendarmes* in these crimes.

7. Killing of Tutsi at the Nyaruhengeri Secteur Office

45. The Prosecution also alleges that *gendarmes* guarding Ndindiliyimana's residence provided two grenades to "an *Interahamwe* militiaman" called Kajuga with the order to use them against Tutsi. It is alleged that Kajuga subsequently used these grenades in an attack against Tutsi who had gathered at the Nyaruhengeri *secteur* office.
46. In support of this allegation, the Prosecution relies on the uncorroborated evidence of one witness. Much of the witness's evidence was based on hearsay from an unidentified source. The Chamber is therefore unwilling to rely solely on this evidence. The Chamber therefore finds that the Prosecution failed to prove beyond reasonable doubt that *gendarmes* guarding Ndindiliyimana's residence gave grenades to an *Interahamwe* militiaman called Kajuga and that those grenades were then used to harm Tutsi at the Nyaruhengeri *secteur* office.

8. Killing of Tutsi by Gendarmes at Saint André College

47. The evidence indicates that following the death of President Habyarimana on 6 April 1994, a number of Tutsi civilians sought refuge at *St André* College in Kigali. The Prosecution alleges that on or about 13 April 1994, *gendarmes* from the Nyamirambo brigade, acting in collaboration with *Interahamwe*, selected a number of Tutsi men who had sought refuge at the College and then killed them.

48. The Chamber recalls that the Prosecution called two witnesses in support of this allegation. They provided credible, first-hand and corroborated evidence that *gendarmes* in collaboration with *Interahamwe* killed Tutsi civilians at the College. Their credibility is not impugned by the evidence of Defence witnesses.
49. Based on the evidence of Prosecution witnesses, the Chamber is satisfied beyond reasonable doubt that *gendarmes* from the Nyamirambo brigade acting in collaboration with *Interahamwe* killed Tutsi civilians at *St André* College on 13 April 1994. The Chamber is also satisfied that those *gendarmes* were under the command of Ndindiliyimana and that he had reason to know of their implication in the crimes committed at the college. However, there is no evidence that he took any measures to punish them. The Chamber therefore finds Ndindiliyimana culpable as a superior for the crimes committed by *gendarmes* at *St André* college on 13 April 1994.

9. Killing of Tutsi by *Gendarmes* and *Interahamwe* at CELA

50. The Prosecution alleges that on or about 22 April, a group of Tutsi civilians were removed from CELA, a language teaching centre in Kigali, and taken to Muhima brigade of the Gendarmerie, ostensibly for further questioning. At the brigade, those civilians were briefly detained by *gendarmes* and were then handed over to members of the *Interahamwe* militia who had removed those civilians from CELA. The militia then drove those civilians in the direction of Rugege *secteur* office. While on their way to Rugege, these civilians were stopped at a roadblock manned by a different set of *Interahamwe*. The witness testified that the militia who manned that roadblock killed about ten of those civilians.
51. To support this allegation, the Prosecution relies on the evidence of a single witness. While the Chamber accepts the entirety of his evidence, the Chamber, Judge Park dissenting, is not satisfied that the Prosecution has adduced dispositive evidence indicating that Ndindiliyimana knew or had reason to know of the role of *gendarmes* at Muhima brigade in the killing of some of the Tutsi civilians who were abducted from CELA. For this reason, the Chamber does not find, Judge Park dissenting, Ndindiliyimana culpable as a superior for crimes committed against those Tutsi civilians.

C. Count 4: Murder as a Crime Against Humanity

52. The Chamber shall now turn to the evidence in support of the allegations of murder as a crime against humanity, commencing with the evidence against the Accused Bizimungu.
1. Killing of four Tutsi by Militiamen at Ruhengeri Agronomic Centre
53. The Prosecution alleges that between 11 and 14 April 1994, Bizimungu brought four Tutsi to a roadblock located near the Ruhengeri Agronomic Centre manned by members of the *Interahamwe* militia and ordered them to kill those Tutsi.

54. In support of this allegation, the Prosecution relies exclusively on the evidence of two accomplice witnesses. One of those witnesses recanted his testimony in another trial before this Tribunal. His recantation renders his evidence unreliable in relation to this incident. The Chamber is not satisfied that the evidence of the remaining accomplice witness is sufficiently reliable to prove Bizimungu's role in the killing of those Tutsi civilians at the roadblock near Ruhengeri Agronomic Centre. Consequently, the Chamber finds that this allegation has not been proved beyond reasonable doubt.

2. Killing of Tutsi by soldiers of the Rwandan army at Various Locations in Kigali and Gitarama

55. The Prosecution alleges that Bizimungu is criminally responsible as a superior for killings of Tutsi civilians perpetrated by soldiers under his command at various locations in Kigali and Gitarama.

56. The Prosecution alleges that soldiers under the command of Bizimungu were responsible for the killing of:

- i. thousands of civilians at Nyanza hill on 11 April 1994;
- ii. Tutsi patients and refugees at the CHK during the months of April to June;
- iii. Tutsi refugees at Charles Lwanga Church on 8 April and 10 June 1994;
- iv. Tutsi civilians at the Josephite Brothers compound on 7 June 1994;
- v. Tutsi civilians at the ESI, Musambira commune office and dispensary and at TRAFIPRO in Gitarama Prefecture in April and May 1994.

57. The Chamber notes that the Prosecution relies on these factual allegations in support of genocide or complicity in genocide charges against Bizimungu. The Chamber has already found Bizimungu not guilty for the crimes committed at Charles Lwanga church both in April and June 1994 and at Nyanza hill on 11 April 1994.

58. The Chamber recalls its finding that the Prosecution has failed to prove beyond reasonable doubt that Bizimungu is criminally responsible for murder as a crime against humanity for crimes committed at the CHK during the months of April and June 1994. With respect to the killings at Josephite Brothers compound on 7 June 1994, the Chamber finds that while it may enter a conviction for murder under Count 4 against Bizimungu for crimes committed at this location, it is more appropriate, for reasons that shall be explained later in this summary, to enter a conviction for this crime under Count 5 as extermination as a crime against humanity.

59. The Chamber also finds Bizimungu criminally responsible for murder as a crime against Humanity for crimes that were committed at Musambira *commune* office and dispensary, the ESI and TRAFIPRO in Gitarama.

3. Abduction and Killing of Tutsi by Soldiers and *Interahamwe* in Various Locations in Butare

60. The Prosecution alleges that starting on 19 April 1994, soldiers from the Rwandan Army and *Interahamwe* abducted and killed many civilians from the *préfecture* office and the Episcopal Church of Rwanda in Butare. It is alleged that Bizimungu is criminally responsible as a superior for these crimes.

61. The Chamber finds that the two Prosecution witnesses provided largely consistent and credible accounts regarding the abduction and killing of refugees in Butare *préfecture*. The Chamber further recalls that Bizimungu acknowledged that between April and July 1994, he received situation reports (SITREPS) on a daily basis from Rwandan army units across the country.

62. The Chamber is convinced that these crimes were committed by soldiers under Bizimungu's command and that he had reason to know of their implication in these crimes. There is no evidence that Bizimungu took any measures to either prevent these crimes from being committed or punished the perpetrators. Consequently, the Chamber finds Bizimungu criminally responsible as a superior for these crimes.

4. Abduction and Killing of Tutsi by Soldiers and *Interahamwe* in Gisenyi

63. The Prosecution alleges that Anatole Nsengiyumva, a subordinate of Bizimungu, ordered the killing of Tutsi and those suspected of being accomplices of the RPF. It is further alleged that Nsengiyumva instructed others to distribute rifles and grenades to militiamen and that following his orders several members of the Tutsi and moderate Hutu population of Gisenyi were killed.

64. In support of this allegation, the Prosecution relies on three witnesses. Of these, only one witness implicated Anatole Nsengiyumva in the crimes alleged in the Indictment. However, as detailed fully in the Judgement, the Chamber has reservations in relation to this witness's credibility. The evidence of the remaining Prosecution witnesses is hearsay and is insufficient to substantiate this allegation. As a result, the Chamber is not satisfied that the Prosecution has proved this allegation beyond reasonable doubt.

5. Abduction and Killing of Tutsi by soldiers and *Interahamwe* in Cyangugu

65. The Prosecution alleges that during the months of April and May 1994, soldiers from the Rwandan army and *Interahamwe* abducted and killed members of the Tutsi population in Cyangugu *préfecture*. The Prosecution further alleges that Bizimungu is criminally responsible as a superior for these crimes.

66. The Chamber finds that several Prosecution witnesses provided credible and corroborating evidence that, on numerous occasions, male Tutsi refugees were abducted and killed by soldiers under the command of Bizimungu and *Interahamwe*. As set out in detail in the Judgement, the Chamber finds Bizimungu criminally responsible as a superior for these crimes.

67. The Chamber shall now turn to the evidence against the Accused Ndindiliyimana.

6. Killing of Ignace Habimana and Celestine Munyashongore in Nyaruhengeri

68. The Prosecution alleges that Ndindiliyimana ordered *Interahamwe* militiamen to kill two Tutsi men called Ignace Habimana and Celestin Munyashongore.

69. Three Prosecution witnesses testified that they heard or were informed by others that in early May 1994, Ndindiliyimana visited the house of Charles Kabeza, the *bourgmestre* of Nyaruhengeri *commune*, and ordered the killing of Ignace Habimana and Celestin Munyashongore. However, the Chamber finds the evidence of these witnesses problematic. First, evidence given by these three witnesses is hearsay and in some cases is double hearsay. Furthermore, one of the witnesses claimed that she initially did not believe what she had been told regarding Ndindiliyimana's role in the killing of these men. Second, the evidence of the Prosecution witness, who claimed to have been present during a meeting between Ndindiliyimana and Charles Kabeza, is bereft of any suggestion that Ndindiliyimana ordered the killing of these two men.

70. Consequently, the Chamber is unwilling to find Ndindiliyimana responsible for the killing of Ignace Habimana and Celestin Munyashongore on the basis of inconsistent and doubtful evidence elicited from Prosecution witnesses.

7. Killing of Civilians by *Interahamwe* at a *Gendarmerie* Roadblock near Kacyiru Camp

71. The Prosecution alleges that in the month of April 1994, militiamen under the supervision of two NCO *gendarmes* "erected a roadblock near Kacyiru Camp, the headquarters of the *Gendarmerie*." It is further alleged that several Tutsi, as well as some Hutu who had all "come to seek refuge at the camp", were handed over to the militiamen by the *gendarmes* and killed at the roadblock.

72. Only one witness testified in relation to this allegation. The Chamber finds that her evidence failed to establish that militia operated the roadblock under the supervision of two NCO *gendarmes* from the camp. The evidence also failed to establish that several Tutsi, as well as some Hutu, were handed over by *gendarmes* and then killed by militia at that roadblock. Consequently, the Chamber is not satisfied that *gendarmes* were involved in operating the roadblock in question or that they were implicated in the crimes that may have been committed by the militia at that roadblock. The Chamber therefore finds that the Prosecution failed to prove this allegation beyond reasonable doubt.

8. Killing of Gahoki

73. The Prosecution alleges that *gendarmes* based at Ndindiliyimana's Nyaruhengeri residence, together with Ndindiliyimana's uncle, killed a local Tutsi tradesman known as Gahoki.
74. The Prosecution presented two witnesses in support of this allegation. One of those witnesses recanted his evidence. For reasons set out in the Judgement, the Chamber considers his evidence to be unreliable. The Chamber further finds that the evidence provided by the remaining Prosecution witness to be insufficient to prove this allegation. The witness conceded that she did not know "who exactly" killed Gahoki. As a result, the Chamber finds that the Prosecution has failed to prove beyond reasonable doubt that Ndindiliyimana is criminally responsible for the death of Gahoki.

9. The Killing of Aloys Niyoyita and Phocus Kananeri by Gendarmes in Kigali

75. The Prosecution alleges that *gendarmes* under the command of Ndindiliyimana killed Aloys Niyoyita, a Tutsi civilian and a member of the Liberal Party, and also killed a Tutsi civilian named Phocus Kananeri. In support of this allegation, the Prosecution relies on the evidence of one witness. At the time he gave his evidence, this witness was in detention in Rwanda where he was accused of complicity in genocide related crimes. The Chamber therefore evaluated his testimony with caution.
76. The Chamber does not doubt that Aloys Niyoyita and Phocus Kananeri were killed; however, much of the evidence implicating *gendarmes* in the killings is based on hearsay. In addition to the lack of direct evidence implicating *gendarmes*, the Chambers finds that circumstantial evidence provided by the witness is riddled with problems. The Chamber's concerns are set out in detail in the Judgement. Consequently, the Chamber finds that the Prosecution failed to prove this allegation beyond reasonable doubt.

10. Killing of Tutsi by Gendarmes at a Roadblock in Nyamirambo

77. The Prosecution alleges that in April 1994, at a roadblock established in Nyamirambo *secteur*, *gendarmes* under the command of Ndindiliyimana killed individuals they suspected were Tutsi. The Prosecution relies on three witnesses in support of its allegation.
78. The Chamber has carefully evaluated both the Prosecution and Defence evidence and finds insufficient evidence implicating *gendarmes* in the killing of Tutsi at roadblocks in Nyamirambo *secteur*. As such, this allegation is not proved beyond reasonable doubt.
79. The Chamber shall now turn to the evidence against the Accused Nzuwonemeye and Sagahutu.

11. Killing of Prime Minister Agathe Uwilingiyimana

80. Following the shooting down of the President's plane, it was proposed that Prime Minister Agathe Uwilingiyimana would address the nation on Radio Rwanda in the early morning on 7 April, so as to calm fears and reassure the population that a political leadership structure remained in place. The Prosecution alleges that before the Prime Minister had the opportunity to make this radio address, elements of RECCE battalion were ordered and then deployed to her residence by Nzuwonemeye and Sagahutu. It is alleged that elements of RECCE battalion acting in concert with the Presidential Guard then killed her and others.
81. The Chamber finds that the Prosecution adduced credible and consistent evidence establishing that RECCE soldiers participated in the attack and killing of Prime Minister Agathe Uwilingiyimana. The Chamber considers the killing of the Prime Minister to be of great significance. A radio address calling for calm from such a prominent figure would have had a significant effect in ameliorating the fraught situation that had developed in the country following the death of President Habyarimana.
82. Based on the evidence, the Chamber finds it proved beyond reasonable doubt that her death was the result of an organised military operation carried out with the authorisation of senior military officers. The Chamber is satisfied that an armoured unit from RECCE battalion under instructions from Nzuwonemeye and Sagahutu was involved in her death. Throughout the attack, Nzuwonemeye and Sagahutu remained in contact with the troops on the ground, sending them supplies and issuing operational instructions.
83. Consequently, the Chamber finds that Nzuwonemeye and Sagahutu ordered the killing of Prime Minister Uwilingiyimana. Nzuwonemeye and Sagahutu also aided and abetted the direct perpetrators. The Chamber also finds that as an aggravating factor, both Nzuwonemeye and Sagahutu bear superior responsibility for the crimes committed against these individuals.

12. Killing of Belgian UNAMIR Soldiers

84. It is alleged that in the morning of 7 April, approximately 15 UNAMIR soldiers present at the Prime Minister's residence, of both Belgian and Ghanaian nationality, were disarmed, arrested and conveyed to Camp Kigali. The Belgian peacekeepers had previously been dispatched to escort Prime Minister Agathe Uwilingiyimana to Radio Rwanda where she was expected to make a speech which would be broadcast to the nation. Upon arrival at Camp Kigali, the UNAMIR soldiers were forced to sit on the floor and were then attacked by Rwandan soldiers. This attack led to the death of between six and eight Belgian soldiers. However, between two and four Belgian soldiers together with Ghanaian soldiers were able to retreat into the UNAMIR building at the entrance of the camp. As the attack unfolded, the Rwandan soldiers allowed the Ghanaian

- soldiers to leave the UNAMIR building and subsequently to leave the Camp. The remaining Belgian soldiers were then brutally killed.
85. The Prosecution alleges that the soldiers involved in the murder of the ten Belgian UNAMIR soldiers were from RECCE battalion, the Presidential Guard and the Music Company. The Prosecution submits that Nzuwonemeye and Sagahutu bear superior responsibility for failing to prevent these crimes or to punish the perpetrators.
86. Several Prosecution witnesses provided largely corroborating and credible evidence implicating RECCE soldiers in the killing of Belgian UNAMIR soldiers who were able to retreat into the UNAMIR building. In the case of Nzuwonemeye, while the Chamber has no evidence before it of his direct participation in the attack, the Chamber finds that he must have known about the killings. Nzuwonemeye himself admitted to learning about the killings on his return from the meeting at ESM. Despite his knowledge, the Chamber is not satisfied that Nzuwonemeye took sufficient steps to punish those RECCE members who were involved in the killings.
87. In the case of Sagahutu, the Chamber finds that Sagahutu was informed that there Belgian soldiers in the UNAMIR building were being attacked in camp Kigali but they were resisting. He thereafter instructed soldiers to put down the resistance by the Belgian soldiers. The Chamber is therefore satisfied that Sagahutu was aware of the killing of the Belgian soldiers at Camp Kigali but failed to take any action to either prevent their killing or punish the perpetrators.
88. Consequently, the Chamber finds that both Nzuwonemeye and Sagahutu are criminally responsible as superiors for the killing of Belgian UNAMIR soldiers.

13. Killing of Tutsi at the CHK

89. The Prosecution alleges that as soon as the massacres began in April 1994, soldiers from Squadron A of RECCE battalion killed Tutsi patients and refugees at the CHK.
90. The Chamber recalls its finding that the Prosecution failed to prove beyond reasonable doubt that soldiers of the Rwandan army committed crimes against Tutsi civilians at the CHK between April and June 1994. In light of this finding, the Chamber does not find Nzuwonemeye and Sagahutu criminally responsible pursuant to Article 6(3) of the Statute in relation to this allegation.

D. Count 5: Extermination as a Crime Against Humanity

91. Count 5 of the Indictment charges the Accused Bizimungu and Ndindiliyimana with extermination as a crime against humanity. In support of this charge, the Prosecution relies upon the same underlying conduct and evidence that it led in relation to allegations of genocide and murder as a crime against humanity pleaded in paragraphs 73, 82, 84, 85, 89, 90 and 102 of the Indictment. The

- Indictment therefore charges Bizimungu and Ndindiliyimana cumulatively for genocide, murder as a crime against humanity and extermination as a crime against humanity.
92. The Chamber has set out the law applicable to cumulative convictions in the Legal Findings section of the Judgement. It suffices to say at this stage that it is permissible to hold an accused criminally responsible for multiple crimes based on the same underlying conduct, only where each crime may be distinguished by a materially distinct element. In this instance, cumulative convictions may be entered for the crimes of genocide and extermination. The same is not true for the crimes of murder as a crime against humanity and extermination.
93. The Chamber notes that of all the factual allegations that underpin the charge of extermination as a crime against humanity proffered against the Accused, only three allegations have been proved beyond reasonable doubt. These are the killings at Kansi Parish; Killings at the Josephite Brotherhood in Kigali; and Killings in Butare. The Chamber found the evidence tendered in support of these allegations to support convictions for genocide and murder as a crime against Humanity. The Chamber shall now consider whether these allegations may also give rise to convictions for extermination as a crime against humanity.
94. The Chamber is satisfied that the evidence adduced regarding the events at Kansi Parish fulfils the chapeau elements for crimes against humanity. In particular, these crimes were committed as part of a widespread or systematic attack against a civilian population. Given the number of civilians killed at Kansi parish, the Chamber is satisfied that the element of mass killing has also been fulfilled. The Chamber therefore finds Ndindiliyimana criminally responsible as a superior for this crime in addition to the crime of genocide.
95. For the killings of Tutsi civilians who had sought refuge at the Josephite Brotherhood, the Chamber has already found that the evidence led by the Prosecution is sufficient to sustain a conviction for the crime of genocide and the crime of murder as a crime against humanity. The Chamber recalls its finding that a large number of victims were killed at Josephite Brotherhood. For this reason the Chamber is satisfied that a conviction for extermination may also be entered against Bizimungu.
96. The Chamber recalls that where murder and extermination as crimes against humanity have been cumulatively charged, the Chamber will only enter a conviction under the more specific provision.
97. Upon consideration and given the large number of victims, the Chamber finds it more appropriate to hold Bizimungu guilty of the crime of extermination rather than murder as a crime against humanity given the large number of civilians killed at the Brotherhood. The Chamber therefore convicts Bizimungu for both genocide and extermination for crimes that were committed by soldiers at the Josephite Brotherhood.

98. For the killings in Butare, the Chamber has already found that the evidence led by the Prosecution is sufficient to sustain a conviction for the crime of murder as a crime against humanity. Having assessed the evidence, the Chamber is not satisfied that the killings in Butare led to the deaths of a large number of victims. For this reason, the Chamber will not, therefore, enter a conviction for extermination as a crime against humanity but will enter a conviction for these crimes under Count 4 (murder as a crime against humanity).

E. Count 6: Rape as a Crime Against Humanity

99. The Chamber shall now turn to the evidence in support of the allegations of rape as a crime against humanity, commencing with the evidence against the Accused Bizimungu.

100. The Prosecution alleges that Bizimungu is criminally responsible as a superior for rapes committed by soldiers under his command against Tutsi women. These rapes are alleged to have occurred at the CHK in Kigali; at the Kicukiro *conseiller's* office in April and May 1994; at the Musambira *commune* office and dispensary; the ESI and TRAFIPRO in Gitarama; at the *préfecture* office and the Episcopal Church of Rwanda in Butare; and at Kamarampaka stadium in Cyangugu.

101. In support of these allegations, the Prosecution relies on the same evidence that it adduced in support of the allegations of genocide and murder as a crime against humanity. Several witnesses recounted tragic stories of how they were raped by soldiers of the Rwandan army and in some instances *Interahamwe* militiamen. The Chamber accepts this evidence and finds that the witnesses provided credible, consistent and corroborated evidence in respect of these crimes.

102. The Chamber recalls that the Prosecution failed to adduce any evidence in support of rapes allegedly committed in the vicinity of the Kicukiro *conseiller's* office. The Chamber therefore finds this allegation not proven beyond reasonable doubt.

103. For reasons already explained, the Chamber does not find Bizimungu criminally liable as a superior for the rapes allegedly committed by Rwandan soldiers against Tutsi women at the CHK in Kigali.

104. The Chamber is also satisfied that soldiers of the Rwandan army raped Tutsi women at the Musambira *commune* office and dispensary, at the ESI and at TRAFIPRO in Gitarama; at the *préfecture* office and the Episcopal Church of Rwanda in Butare; and at Kamarampaka stadium in Cyangugu. Similarly, the Chamber finds Bizimungu criminally responsible as a superior for these crimes.

105. The Chamber shall now turn to the evidence against the Accused Nzuwonemeye and Sagahutu.

1. Rape of Tutsi women the CHK by soldiers from RECCE battalion

106. The Prosecution alleges that during the months of April, May and June 1994, soldiers from RECCE battalion raped several Tutsi women who were patients or refugees at the hospital. It is alleged that the rapes often took place inside the kiosks located at the hospital entrance.

107. The Chamber recalls its finding that the Prosecution failed to adduce reliable evidence proving beyond reasonable doubt this allegation. The Chamber does not therefore find Nzuwonemeye and Sagahutu criminally responsible as superiors for these crimes.

F. Count 7: Murder as a Violation of Article 3 Common to The Geneva Conventions and Additional Protocol II

108. Pursuant to Articles 6(1) and 6(3) of the Statute, Count 7 of the Indictment charges all four Accused with the crime of murder in violation of Article 3 common to the Geneva Conventions and of Additional Protocol II. In support of this charge, the Prosecution relies upon the same underlying conduct and evidence that it led in relation to the crime of genocide and the crime of murder as a crime against humanity. The Indictment therefore charges all four Accused cumulatively.

109. In accordance with the law applicable to cumulative convictions, the Chamber finds Ndindiliyimana criminally responsible pursuant to Article 6(3) of the Statute for murder in violation of Article 3 common to the Geneva Conventions and of Additional Protocol II for the crimes committed by gendarmes under his command at *St André* College.

110. However, for reasons already explained, the Chamber does not find, Judge Park dissenting, Ndindiliyimana culpable for crimes committed against Tutsi civilians who were removed from CELA, a language teaching centre in Kigali.

111. The Chamber finds Bizimungu criminally responsible pursuant to Article 6(3) of the Statute for murder in violation of Article 3 common to the Geneva Conventions and of Additional Protocol II for the crimes committed by soldiers at the ESI, the Musambira *commune* office and dispensary, and TRAFIPRO in Gitarama.

112. The Chamber recalls that the Prosecution charges Nzuwonemeye and Sagahutu with criminal responsibility pursuant to both Article 6(1) and 6(3) of the Statute for murder in violation of Article 3 common to the Geneva Conventions and of Additional Protocol II in relation to the killing of Prime Minister Uwilingiyimana. The Chamber finds both Accused criminally responsible pursuant to both Article 6(1) and 6(3) of the Statute of the Tribunal. Upon consideration, the Chamber finds that their role in this crime is aptly reflected as direct responsibility pursuant to Article 6(1) of the Statute. However, the

Chamber will consider their superior responsibility for this crime as an aggravating factor.

113. The Chamber finds Sagahutu criminally responsible pursuant to Articles 6(1) of the Statute for murder in violation of Article 3 common to the Geneva Conventions and of Additional Protocol II in relation to the killing of the Belgian soldiers. The Chamber also finds the Accused criminally responsible for this crime pursuant to Article 6(3) of the Statute and shall consider this as an aggravating factor.

114. The Chamber finds Nzuwonemeye criminally responsible as a superior pursuant to Article 6(3) of the Statute for murder in violation of Article 3 common to the Geneva Conventions and of Additional Protocol II in relation to the killing of the Belgian soldiers.

G. Count 8: Rape, Humiliating and Degrading Treatment as a Violation of Article 3 Common to The Geneva Conventions and Additional Protocol II

115. The Chamber notes that the Prosecution charges the Accused Bizimungu, Nzuwonemeye and Sagahutu with superior responsibility pursuant to Article 6(3) of the Statute of the Tribunal for Rape, and other humiliating and degrading treatment, an offence punishable under Article 3 common to the Geneva Conventions and Additional Protocol II, under Article 4 (e) of the Statute of the Tribunal. In support of this Count, the Prosecution relies upon the same underlying conduct and evidence that it led in relation to the crime of rape as a crime against humanity.

116. The Chamber recalls that the Prosecution failed to adduce any evidence in support of rapes allegedly committed in the vicinity of the Kicukiro *conseiller's* office, The Chamber therefore finds this allegation not proven beyond reasonable doubt.

117. The Chamber finds Bizimungu criminally responsible as a superior under this Count. His criminal responsibility is based upon rapes that were committed by soldiers under his command at the ESI, the Musambira commune office and dispensary, and TRAFIPRO in Gitarama, at the préfecture office and the Episcopal Church of Rwanda in Butare, and at Kamarampaka stadium in Cyangugu.

118. With respect to Nzuwonemeye and Sagahutu, the Chamber does not find them to be criminally responsible under this Count given the lack of evidence implicating their subordinates in the rapes that were committed against Tutsi civilians at the CHK.

V. DISPOSITION**A. Verdict**

119. In the case of Augustin Ndindiliyimana, the Trial Chamber finds as follows:

Count 1 - Conspiracy to Commit Genocide:	Not Guilty
Count 2 – Genocide:	Guilty
Count 3 – Complicity in Genocide:	Dismissed
Count 4 - Crimes Against Humanity (Murder):	Guilty
Count 5 - Crimes Against Humanity (Extermination):	Guilty
Count 7 - Violation of Article 3 common to The Geneva Conventions and Additional Protocol II (Murder)	Guilty

120. In the case of Augustin Bizimungu, the Trial Chamber finds as follows:

Count 1 - Conspiracy to Commit Genocide:	Not Guilty
Count 2 – Genocide:	Guilty
Count 3 – Complicity in Genocide:	Dismissed
Count 4 - Crimes Against Humanity (Murder):	Guilty
Count 5 - Crimes Against Humanity (Extermination):	Guilty
Count 6 - Crimes Against Humanity (Rape):	Guilty
Count 7 - Violation of Article 3 common to The Geneva Conventions and Additional Protocol II (Murder)	Guilty
Count 8 - Violation of Article 3 common to The Geneva Conventions and Additional Protocol II (Rape, humiliating and degrading treatment)	Guilty

121. In the case of François-Xavier Nzuwonemeye, the Trial Chamber finds as follows:

Count 1 - Conspiracy to Commit Genocide:	Not Guilty
Count 4 - Crimes Against Humanity (Murder):	Guilty
Count 6 - Crimes Against Humanity (Rape):	Not Guilty
Count 7 - Violation of Article 3 common to The Geneva Conventions and Additional Protocol II (Murder)	Guilty
Count 8 - Violation of Article 3 common to The Geneva Conventions and Additional Protocol II (Rape, humiliating and degrading treatment)	Not Guilty

122. In the case of Innocent Sagahutu, the Trial Chamber finds as follows:

Count 1 - Conspiracy to Commit Genocide:	Not Guilty
Count 4 - Crimes Against Humanity (Murder):	Guilty
Count 6 - Crimes Against Humanity (Rape):	Not Guilty
Count 7 - Violation of Article 3 common to The Geneva Conventions and Additional Protocol II (Murder)	Guilty
Count 8 - Violation of Article 3 common to The Geneva Conventions and Additional Protocol II (Rape, humiliating and degrading treatment)	Not Guilty

B. Sentencing

123. The Chamber now turns to the sentence it imposes for each Accused. Pursuant to Article 23 of the Statute and Rule 101(b) of the Rules of Procedure and Evidence, the Chamber has considered the general practice regarding prison sentences in Rwanda, the gravity of the offence and totality of the conduct, and the individual circumstances of the Accused including the time spent by the Accused in detention pending transfer to the Tribunal and during trial.

124. The Chamber has also carefully considered the aggravating and mitigating circumstances in relation to each Accused. Having done so, the Chamber finds that the mitigating factors in relation to the Accused Ndindiliyimana warrant mention. The Chamber has discussed this at length its Judgement. At this stage, it suffices to say that the Chamber has noted Ndindiliyimana's limited command over the *gendarmérie* after 6 April 1994, his consistent support for the Arusha Accords and a peaceful resolution of the conflict between the Rwandan government forces and the RPF and his opposition to the massacres in Rwanda.

125. Would the Accused please stand. The Chamber has exercised its discretion to impose a single sentence and sentences the Accused as follows:
- i. In the case of Augustin Ndindiliyimana, the Trial Chamber sentences the Accused to time served since he was arrested in Belgium on 29 January 2000;
 - ii. In the case of Augustin Bizimungu, the Trial Chamber sentences the Accused to 30 years of imprisonment. Augustin Bizimungu shall receive credit for the time served since he was arrested in Angola on 2 August 2002.
 - iii. In the case of François-Xavier Nzuwonemeye, the Trial Chamber sentences the Accused to 20 years of imprisonment. François-Xavier Nzuwonemeye shall receive credit for the time served since he was arrested in France on 15 February 2000.
 - iv. In the case of Innocent Sagahutu, the Trial Chamber sentences the Accused to 20 years of imprisonment. Innocent Sagahutu shall receive credit for the time served since he was arrested in Denmark on 15 February 2000.
126. Bizimungu, Nzuwonemeye and Sagahutu shall remain in the custody of the Tribunal pending transfer to a State where they will serve their sentence.
127. In relation to Augustin Ndindiliyimana, the Chamber orders his immediate release and requests the Registry to make the necessary arrangements.
128. This marks the end of the summary of the Judgement. The trial proceedings in this case have come to an end.