



ICTR-00-59
16-11-2007
(538-492)

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

538
PM

OR: ENG

TRIAL CHAMBER II

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

Registrar: Mr. Adama Dieng

Date: 16 November 2007

The PROSECUTOR
v.
Juvénal RUGAMBARARA

Case No. ICTR-00-59-T

JUDICIAL
INVESTIGATIVE
2007 NOV 16 AM 12:23

Sentencing Judgement

Office of the Prosecutor

Mr. Charles Adeogun-Phillips
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Counsel for the Defence

Mr. Maroufa Diabira
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I. Introduction

1. Juvénal Rugambarara was born in 1959 in Bumba *secteur*, Tare *commune*, Kigali-Rural *préfecture*.¹ He lived most of his adult life in Bicumbi *commune*, where he worked as a medical officer.² He was appointed *bourgmestre* of Bicumbi *commune*, Kigali-Rural *préfecture* on 4 August 1993, having succeeded Laurent Semanza.³ Juvénal Rugambarara served as the *bourgmestre* of Bicumbi *commune* from 16 September 1993 until 20 April 1994.⁴

2. The Indictment against Rugambarara, containing nine counts, was confirmed on 13 July 2000 by Judge Pavel Dolenc.⁵ He was charged with genocide, complicity in genocide, conspiracy to commit genocide, direct and public incitement to commit genocide, extermination, torture and rape as crimes against humanity and serious violations of common Article 3 of the Geneva Conventions of 12 August 1949, pursuant to Articles 2, 3, 4 and Articles 6(1) and 6(3) of the Statute of the Tribunal (the “Statute”).⁶ On 14 July 2000, Judge Pavel Dolenc issued the first warrant of arrest and order for the transfer and detention of Rugambarara.⁷ On 11 August 2003, Rugambarara was arrested in Uganda⁸ and on 13 August 2003 transferred to the Tribunal. On 15 August 2003, he made his initial appearance and pleaded not guilty to all counts of the Indictment.⁹

3. On 12 June 2007, the Prosecution filed a Motion, requesting the Chamber to amend the Indictment.¹⁰ The Defence supported the Prosecution Motion.¹¹ On 28 June 2007, the Chamber accepted the withdrawal of the previous indictment and the filing of an Amended Indictment with one count.¹² The Amended Indictment of 2 July 2007 (the “Indictment”) charged Juvénal Rugambarara with extermination as a crime against humanity pursuant to Article 3(b) of the Statute, for having failed in his duty to take the necessary and reasonable measures to commission an investigation into the crimes committed by his subordinates between 7 and 20 April 1994, with a view to apprehending and referring the perpetrators thereof to the competent authorities for

¹ Amended Indictment, 2 July 2007 (“Indictment”), para. 2.

² Indictment, para. 2.

³ Indictment, para. 3.

⁴ Indictment, para. 3.

⁵ Confirmation of the Indictment and Order for Non-Disclosure of the Indictment and Protection of Victims and Witnesses (TC).

⁶ *Ibid.*

⁷ Warrant of Arrest and Order for Transfer and Detention (TC), 14 July 2000; this was followed by the issuance of 2 further warrants for the arrest of Rugambarara: Warrant of Arrest and Orders for Transfer and Detention and for Search and Seizure (TC), 1 June 2001; and Warrant of Arrest and Orders for Transfer and Detention and for Search and Seizure (TC), 15 February 2002.

⁸ The Warrant of Arrest and Order for Transfer and Detention of the Accused Juvénal Rugambarara was communicated by the ICTR Registrar to the Ugandan Minister of Justice on 11 August 2003.

⁹ T. 15 July 2003, pp. 6, 8, 11, 13, 16, 17, 20, 24 and 26.

¹⁰ Prosecutor’s Request for leave to amend an Indictment pursuant to Rules 73, 50 and 51 of the Rules of Procedure and Evidence.

¹¹ *Réponse de la Défense à la requête du Procureur demandant l’autorisation de modifier un acte d’accusation conformément aux articles 73, 50 et 51 du Règlement de Procédure et de Preuve*, filed on 13 June 2007.

¹² Decision on the Prosecution Motion to Amend the Indictment (TC).

appropriate punishment pursuant to Article 6(3) of the Statute.¹³ More specifically, the Indictment alleges that, between 7 and 20 April 1994, subordinates under Juvénal Rugambarara's effective control (*conseillers*, communal policemen, local administrators and militiamen) had launched attacks on the Tutsi gathered at Mwulire, Mabare and Nawe *secteurs* in Bicumbi *commune* of Kigali-Rural *préfecture*, resulting in the deaths of thousands of Tutsi civilians.¹⁴ The attacks took place between 13 and 18 April 1994 at the Mwulire camp, on or about 13 April at the Mwulire *secteur* office, between 12 and 18 April 1994 in Mabare *secteur*, between 16 and 18 April 1994 at Mabare Mosque and on 8 April 1994 in Nawe *secteur*.¹⁵

II. Background

A. The Guilty Plea

4. On 13 June 2007, the Parties filed a Joint Motion for Consideration of a Guilty Plea Agreement between Rugambarara and the Office of the Prosecutor.¹⁶ The Motion sets forth the factual basis and legal requirements of the Accused's guilty plea, for the Chamber's consideration pursuant to Rules 62(B) and 62*bis* of the Rules of Procedure and Evidence (the "Rules").¹⁷

5. On 13 July 2007, at his further appearance, Juvénal Rugambarara pleaded guilty for having failed in his duty to take the necessary and reasonable steps to ensure the punishment of his subordinates for the crimes they committed between 7 and 20 April 1994.¹⁸

¹³ Indictment, paras. 14-15.

¹⁴ Indictment, para. 16.

¹⁵ Indictment, paras. 17-33.

¹⁶ Joint Motion for Consideration of a Guilty Plea Agreement between Juvénal Rugambarara and the Office of the Prosecutor ("Joint Motion").

¹⁷ Rule 62: Initial Appearance of Accused and Plea

(B) If an accused pleads guilty in accordance with Rule 62(A)(v), or requests to change his plea to guilty, the Trial Chamber shall satisfy itself that the guilty plea:

- (i) is made freely and voluntarily;
- (ii) is an informed plea;
- (iii) is unequivocal; and
- (iv) is based on sufficient facts for the crime and accused's participation in it, either on the basis of objective indicia or of lack of any material disagreement between the parties about the facts of the case. Thereafter the Trial Chamber may enter a finding of guilt and instruct the Registrar to set a date for the sentencing hearing.

Rule 62*bis*: Plea Agreement Procedure

(A) The Prosecutor and the Defence may agree that, upon the accused entering a plea of guilty to the indictment or to one or more counts of the indictment, the Prosecutor shall do one or more of the following before the Trial Chamber:

- (i) apply to amend the indictment accordingly;
- (ii) submit that a specific sentence or sentencing range is appropriate;
- (iii) not oppose a request by the accused for a particular sentence or sentencing range.

(B) The Trial Chamber shall not be bound by any agreement specified in paragraph (A).

(C) If a plea agreement has been reached by the parties, the Trial Chamber shall require the disclosure of the agreement in open session or, on a showing of good cause, in closed session, at the time the accused pleads guilty in accordance with Rule 62(A)(v), or requests to change his or her plea to guilty.

¹⁸ T. 13 July 2007, p. 8.

6. The Chamber proceeded to verify the validity of the plea. After questioning the Accused, the Chamber was satisfied that Rugambarara understood that when an accused pleads not guilty, he is presumed innocent until proven guilty beyond reasonable doubt and that in pleading guilty, he was waiving his right to a fair trial, including the right to cross-examine Prosecution witnesses.¹⁹ Rugambarara also understood that his plea, if accepted, would result in a conviction with imprisonment associated thereto. Furthermore, Rugambarara acknowledged the existence of the Plea Agreement. He confirmed that his Counsel had fully explained to him the terms of the Plea Agreement, and that he understood the nature of the charges against him.²⁰

7. The Accused indicated that his guilty plea was made out of his own free will and with no guarantees or promises, other than those set out in the Plea Agreement. The Accused confirmed that he was satisfied with the explanations provided in the Indictment and that he could not challenge any of the facts alleged in the Indictment after the plea.²¹ Rugambarara further confirmed that his plea was made without any pressure or coercion.²²

B. Findings on the Guilt of Rugambarara

8. The Chamber was satisfied that the guilty plea by the Accused was made freely, voluntarily, unequivocally and was informed. In its Oral Ruling of 13 July 2007, the Chamber found that there was no disagreement between the Accused and the Prosecution on the acknowledged facts forming the basis of the Plea Agreement and that such facts were sufficient to establish the crimes to which he confessed. The Chamber found the facts set out in the Indictment satisfy the different elements of a crime against humanity: the attacks were widespread and directed against the Tutsi civilian population on ethnic grounds.²³ Furthermore, the scale of the killings undoubtedly amounts to extermination.²⁴

¹⁹ T. 13 July 2007, pp. 8, 10.

²⁰ T. 13 July 2007, p. 9.

²¹ T. 13 July 2007, pp. 9-10.

²² T. 13 July 2007, pp. 8-10.

²³ Article 3 of the Statute: Crimes against Humanity

The International Tribunal for Rwanda shall have the power to prosecute persons responsible for the following crimes when committed as part of a widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds:

- (a) Murder;
- (b) Extermination;
- (c) Enslavement;
- (d) Deportation;
- (e) Imprisonment;
- (f) Torture;
- (g) Rape;
- (h) Persecutions on political, racial and religious grounds;
- (i) Other inhumane acts.

²⁴ *The Prosecutor v. Ndindabahizi*, Case No. ICTR-2001-71-A, Judgement (AC), 16 January 2007, para. 135, citing *The Prosecutor v. Ntakirutimana*, Case No. ICTR-96-10/ICTR-96-17, Judgement (AC), 13 December 2004, para. 516.

9. Based on the premises above, the Chamber declared the Accused guilty of the crime of extermination as a crime against humanity pursuant to Articles 3(b) and 6(3) of the Statute.²⁵

III. Sentencing

10. On 13 July 2007, the Chamber scheduled a sentencing hearing for 17 September 2007.²⁶ The Parties filed their sentencing briefs on 12 September 2007 and the hearing was held on 17 September 2007. The Defence called five character witnesses and was permitted to adduce one witness statement under Rule 92*bis*.²⁷

A. Applicable Law

11. The Tribunal was established to prosecute and punish the perpetrators of the atrocities in Rwanda in 1994 so as to end impunity. It was also created to contribute to the process of national reconciliation, the restoration and maintenance of peace and to ensure that the violations of international humanitarian law in Rwanda are halted and effectively redressed.²⁸ The Chamber considers that a fair trial and, in the event of a conviction, a just sentence, contribute towards these goals. Furthermore, deterrence, retribution and rehabilitation are relevant principles considered by the Chamber when imposing a sentence.²⁹

12. The penalty imposed by the Chamber is limited to imprisonment, as per Article 23 of the Statute and Rule 101 of the Rules. Such a term shall not exceed life imprisonment.³⁰ The Statute and the Rules do not provide for specific penalties for any of the crimes within the jurisdiction of the Tribunal.

13. Consequently, the determination of the sentence is left to the discretion of the Chamber. In exercising that discretion, the Chamber shall consider a number of factors, including the gravity of the offence, any aggravating or mitigating circumstances, the personal circumstances of the convicted person and the general practice regarding prison sentences in the courts of Rwanda.³¹

²⁵ T. 13 July 2007, p. 14.

²⁶ T. 13 July 2007, p. 16.

²⁷ On 14 September 2007, the Defence for Rugambarara filed a Motion requesting the admission of 4 witness statements under Rule 92*bis* and a Motion requesting the admission of documentary evidence under Rule 100(A). During the sentencing hearing, the Chamber noted that only one of the witness statements met the requirements of Rule 92*bis*. The Chamber also rejected the Defence Motion requesting admission of documentary evidence on the basis that the Defence should have filed the material by 12 September 2007 in accordance with Rule 100(A) and no good reasons had been given for its late filing (T. 17 September 2007, pp. 25-26).

²⁸ Security Council Resolution 955, 8 November 1994.

²⁹ *Prosecutor v. Joseph Serugendo*, Case No. ICTR-2005-84-I, Judgement and Sentence (TC), 12 June 2006, para. 33; *Prosecutor v. Zlatko Aleksovski*, Case No. IT-95-14/1-A, Judgement (AC), 24 March 2000, para. 185; *Prosecutor v. Mucić et al.*, Case No. IT-96-21-A, Judgement (AC), 20 February 2001, para. 806.

³⁰ Rule 101(A).

³¹ Article 23: Penalties

2. In imposing the sentences, the Trial Chambers should take into account such factors as the gravity of the offence and the individual circumstances of the convicted person.

Rule 101: Penalties

14. Aggravating circumstances must be proved beyond reasonable doubt, while mitigating circumstances must be proved on a balance of probabilities.³²

15. The Chamber understands its obligation to ensure that the sentence is commensurate with the individual facts of the case and the individual circumstances of the offender.³³

16. Recommendations on the range of the sentence as suggested in the Joint Motion for Consideration of the Plea Agreement are not binding on the Chamber.³⁴

B. Gravity of the Offence

1. Submissions

17. The Prosecution submits that the gravity of the offence is the first element to consider in determining an appropriate sentence. According to the Prosecution, the crimes for which Rugambarara has been charged with and to which he pleaded guilty are inherently crimes of extreme gravity, the scale of which shock the collective conscience. The Prosecution further submits that the mass killings, as alleged in the Indictment, occurred as part of a wider plan to exterminate the Tutsi civilians throughout Rwanda between April and June 1994. To that end, the factual allegations against Rugambarara should not be considered in isolation, but rather in the overall context of the events that occurred in Rwanda in 1994, and more specifically in Kigali-Rural *préfecture* within the same period.³⁵

18. The Defence submits that Rugambarara fully recognizes his responsibility. The Defence submits, however, that Rugambarara did not personally participate in any of the massacres committed in Bicumbi *commune* nor did he order or encourage them.³⁶

2. Findings

19. The seriousness of the crime, including the form and the degree of the Accused's participation in the crime,³⁷ are factors to be considered in sentencing. Crimes against

(B) In determining the sentence, the Trial Chamber shall take into account the factors mentioned in Article 23(2) of the Statute, as well as such factors as:

- (i) Any aggravating circumstances;
- (ii) Any mitigating circumstances including the substantial cooperation with the Prosecutor by the convicted person before or after conviction;
- (iii) The general practice regarding prison sentences in the courts of Rwanda;
- (iv) the extent to which any penalty imposed by a court of any State on the convicted person for the same act has already been served, as referred to in Article 9(3) of the Statute.

³² *The Prosecutor v. Juvénal Kajelijeli*, Case No. ICTR-98-44A-A, Judgement (AC), 23 May 2005, para. 294.

³³ *Mucić et al.*, Judgement (AC), para. 717; *Prosecutor v. Mikaeli Muhimana*, Case No. ICTR-95-1B-T, Judgement and Sentence (TC), 28 April 2005, para. 594; *Prosecutor v. Fatmir Limaj et al.*, Case No. IT-03-66A, Judgement (AC), 27 September 2007, paras. 127, 133, 135.

³⁴ T. 13 July 2007, p. 10.

³⁵ Prosecutor's Sentencing Brief, para. 33.

³⁶ Defence Sentencing Brief, para. 49.

³⁷ *Mucić et al.*, Judgement (AC), para. 731; *Prosecutor v. Zoran Kupreskić*, Case No. IT-95-16-A, Judgement (AC), 23 October 2001, para. 442; *Prosecutor v. Zlatko Aleksovski*, Case No. IT-95-14/1-T, Judgement (TC), 25 June 1999, para. 243.

humanity are very serious offences because they are heinous in nature and shock the collective conscience of mankind.³⁸

20. The Chamber finds that Rugambarara's failure to act constitutes a very serious offence and a gross violation of international humanitarian law. The Chamber also recalls that "Trial Chambers, when assessing the gravity of the offence, have no obligation to take into account what the accused did *not* do".³⁹ Furthermore the Chamber is not required to give the Accused credit for the fact that he did not order, plan or instigate the crimes.⁴⁰ The Chamber notes, however, that the Accused is only charged with *post facto* knowledge of the crimes. Saving lives was therefore not at stake, which makes the crime less serious than if it were otherwise.

C. Aggravating Circumstances

1. Nature of the Crime

a. Submissions

21. The Prosecution submits that the gravity and heinous nature of extermination as a crime against humanity and its absolute prohibition in international law make its commission inherently aggravating. The Prosecution further submits that the magnitude of such a crime involving the killings of several thousands of civilians in Rwanda over a period of 100 days constitutes an aggravating factor.⁴¹

b. Findings

22. The Chamber is mindful that "where an aggravating factor for the purposes of sentencing is at the same time an element of the offence, it cannot also constitute an aggravating factor for the purposes of sentencing."⁴²

23. Although the *actus reus* of the crime of extermination requires "killing on a large scale", this does not suggest a "numerical minimum." A particularly large number of victims, however, can be an aggravating circumstance in relation to the sentence for this crime if the extent of the killings exceeds that required for extermination.⁴³

24. The crimes to which Rugambarara confessed involve the deaths of thousands of Tutsi civilians in Mwulire, Mabare and Nawe *secteurs*, Bicumbi *commune*.⁴⁴ The Chamber finds this to be a particularly large number of victims and that it therefore constitutes an aggravating factor for the purpose of sentencing.

³⁸ *Prosecutor v. Georges Ruggiu*, Case No. ICTR-97-32-I, Judgement and Sentence (TC), 1 June 2000, para. 48.

³⁹ *Prosecutor v. Momir Nikolic*, Case No. IT-02-60/1-A, Judgement on Sentencing Appeal (AC), 8 March 2006, para. 56.

⁴⁰ *Ibid.*, para. 56.

⁴¹ Prosecutor's Sentencing Brief, p. 7, para. 36; T. 17 September, p. 27.

⁴² *Prosecutor v. Tihomir Blaškić*, Case No. IT-95-14A, Judgement (AC), 29 July 2004, para. 693 cited in *Ndindabahizi*, Judgement (AC), para. 137; *Limaj et al.*, Judgement (AC), para. 143.

⁴³ *Ndindabahizi*, Judgement, (AC), para. 135, citing *Ntakirutimana* Judgement (AC), para. 516.

⁴⁴ A Plea Agreement between Mr. Juvénal Rugambarara and the Office of the Prosecutor ("Plea Agreement"), 13 June 2007, paras. 38, 40, 41, 42, 44, 46-48, 49-50 and 52, annexed to Joint Motion.

2. Position of Juvénal Rugambarara

a. Submissions

25. The Prosecution submits that, as *bourgmestre* of Bicumbi *commune* in Kigali-Rural *préfecture* between 4 August 1993 and 20 April 1994, Juvénal Rugambarara was in the first rank of leadership at the communal level, had administrative authority over the entire *commune* and represented executive power at the communal level. He was a prominent member of the civilian community in the said *commune*. The Prosecution further submits that a particularly aggravating factor is that Rugambarara was charged with the specific enforcement of laws and regulations, and failed in his duty to take the necessary and reasonable measures within his powers to ensure the punishment of his subordinates. The Prosecution submits that by failing in this duty, Rugambarara failed to create or sustain an environment of discipline and respect for the law amongst the persons under his control and abused the trust placed in him when such authority was entrusted to him. The Prosecution further submits that Rugambarara's position of authority and proximity to the local population placed him under a duty to uphold the principles laid down in the constitution of Rwanda and exhibit a higher than average degree of morality, both of which he failed to do. The Prosecution also submits that Rugambarara is well educated and in a position to know and appreciate the dignity and value of human life. Finally, the Prosecution submits that the involvement of the peasant population in the massacres of Tutsi civilians in Bicumbi *commune* was facilitated by their misplaced belief and confidence in their leadership and an understanding that the encouragement of said authorities guaranteed them immunity to kill the Tutsi and loot their property.⁴⁵ The Prosecution requests the Chamber to treat all these factors relating to Rugambarara's position of authority as aggravating.

b. Findings

26. The Chamber recalls that an element of the offence itself cannot constitute an aggravating factor. As such, Rugambarara's position as a superior is not aggravating since it constitutes an element of the crime under Article 6(3) of the Statute. However, the Chamber notes that although certain modes of liability require a position of authority, a high level of authority is not an element of the mode of liability and may still be considered as an aggravating factor.⁴⁶

27. Furthermore, it is well established in the jurisprudence of the ICTR and ICTY that the manner in which the accused exercised his command or the abuse of an accused's personal position in the community may be considered as aggravating factors.⁴⁷

⁴⁵ Prosecutor's Sentencing Brief, para. 47; T. 17 September 2007, pp. 28-29.

⁴⁶ *The Prosecutor v. Galic*, Case No. IT-98-29-A, Judgement (AC), 30 November 2006, para. 412.

⁴⁷ *Aleksovski*, Judgement (AC), para. 183; *Prosecutor v. Clément Kayishema and Obed Ruzindana*, Case No. ICTR-95-1-A, Judgement (Reasons) (AC), 1 June 2001, paras. 357, 358; *Ntakirutimana*, Judgement (AC), para. 563; *The Prosecutor v. Jean de Dieu Kamuhanda*, Case No. ICTR-99-54A-A, Judgement (AC), 19 September 2005, paras. 347-348; *Prosecutor v. Paul Bisengimana*, Case No. ICTR-00-60-T, Judgement and Sentence (TC), 13 April 2006, para. 120; *Serugendo*, Judgement (TC), para. 48; *Ndindabahizi* Judgement (AC), para. 136.

28. The Chamber considers that Juvénal Rugambarara did not hold a high level of authority. His position as *bourgmestre* of Bicumbi *commune* made him an immediate superior and can therefore not constitute an aggravating factor.

29. The Chamber also notes that the Prosecution deliberately expands its allegations against Rugambarara beyond the scope of the Indictment by lending a role to him over the behaviour of the peasant population and by further vilifying the manner in which he exercised his authority. The Chamber dismisses these allegations.

D. Mitigating Circumstances

1. Applicable Law

30. Mitigating circumstances may not be directly related to the offence.⁴⁸ A guilty plea may have a mitigating effect on the sentence by: the showing of remorse,⁴⁹ repentance,⁵⁰ the contribution to reconciliation,⁵¹ the establishment of the truth,⁵² the encouragement of other perpetrators to come forward,⁵³ the sparing of a lengthy investigation and a trial and thus time, effort and resources,⁵⁴ and the fact that witnesses are relieved from giving evidence in court.⁵⁵ The timing of the guilty plea is also a factor to be considered in sentencing.⁵⁶

2. Personal Mitigating Circumstances

a. The Guilty Plea and Public Expression of Remorse

i) Submissions

31. The Parties contend that, in principle, a guilty plea is a mitigating factor. Specifically, they argue that, because Rugambarara pleaded guilty before the start of his trial, judicial time and resources have been saved; victims of the attacks in Bicumbi *commune* in 1994 have been spared the ordeal of giving testimony before the Chamber; and the plea will assist in the administration of justice as well as in the process of national reconciliation in Rwanda.⁵⁷ The Prosecution further submits that the guilty plea is important to establish the truth and that by pleading guilty, Rugambarara should be seen

⁴⁸ *Prosecutor v. Dragan Nikolić*, Case No. IT-94-2-S, Sentencing Judgement (TC), 18 December 2003, para. 145; *The Prosecutor v. Miroslav Deronjić*, Case No. IT-02-61-S, Sentencing Judgement (TC), 30 March 2004, para. 155.

⁴⁹ *Prosecutor v. Biljana Plavšić*, Case No. IT-00-39&40/S, Sentencing Judgement (TC), 27 February 2003, para. 73.

⁵⁰ *Ruggiu*, Judgement (TC), para. 55.

⁵¹ *Plavšić*, Judgement (TC), paras. 80-81.

⁵² *Prosecutor v. Drazan Erdemović*, Case No. IT-96-22, Sentencing Judgement (TC), 5 March 1998, para. 21; *Nikolić*, Judgement (TC), para. 248; *Serugendo*, Judgement (TC), para. 55.

⁵³ *Ruggiu*, Judgement (TC), para. 55.

⁵⁴ *Ibid.*, para. 53.

⁵⁵ *Serugendo*, Judgement (TC), paras. 52, 57.

⁵⁶ *Prosecutor v. Jean Kambanda*, Case No. ICTR-97-23-S, Judgement and Sentence (TC), 4 September 1998, para. 52; *Prosecutor v. Dusko Sikirica et al.*, Case No. IT-95-8, Sentencing Judgement (TC), 13 November 2001, para. 150; *Serugendo*, Judgement (TC), para. 54.

⁵⁷ Prosecutor's Sentencing Brief, paras. 50, 54; Defence Sentencing Brief, paras. 60-62; T.17 September 2007, p. 29.

as setting an example that may encourage others like him to acknowledge their personal involvement in the events in Rwanda in 1994.⁵⁸

32. On 13 July 2007, during his further appearance before the Chamber, Juvénal Rugambarara indicated his decision to change his initial plea of “not guilty” after a period of long reflection during which he became fully aware of both the consequences and scope of the offences he had committed in Rwanda in 1994.⁵⁹ He asked the families of the victims in Bicumbi *commune* in particular and the people of Rwanda in general for forgiveness for his failure to punish his subordinates and added that he felt deep remorse.⁶⁰

ii) Findings

33. The Chamber accepts the Prosecution’s position that a guilty plea not only saves time but may also encourage others to come forward, thus contributing to the process of national reconciliation in Rwanda.⁶¹ For remorse to be considered mitigating, the Chamber must be satisfied that the expression of remorse is sincere.⁶²

34. After considering Rugambarara’s public expression of regret and remorse, the Chamber is satisfied that Rugambarara’s expression of remorse is sincere.

35. Rugambarara’s change of plea has indeed saved judicial time and resources, and may contribute to the process of national reconciliation in Rwanda. The Chamber considers these factors as mitigating.

b. Assistance Provided to Certain Individuals

i) Submissions

36. The Defence submits that Rugambarara assisted Tutsi refugees in the Bicumbi communal office during the events in 1994.⁶³ The Defence called Witnesses JRR10, JRR11, JRR23 and JRR24 to support this contention.⁶⁴

ii) Findings

37. After considering the testimonies of the above witnesses, the Chamber accepts the evidence that Rugambarara personally assisted Tutsi refugees by way of moral and material support in Bicumbi *commune* during the 1994 events. Rugambarara’s acts contributed to saving some of their lives. In the Chamber’s view, this constitutes a mitigating factor.

⁵⁸ Prosecutor’s Sentencing Brief, para. 55; T.17 September 2007, p. 29.

⁵⁹ Plea Agreement, para. 8.

⁶⁰ T. 13 July 2007, pp. 11-13.

⁶¹ *Bisengimana*, Judgement (TC), para. 139; *Prosecutor v. Joseph Nzabirinda*, Case No. ICTR-2001-77-T, Sentencing Judgement (TC), 23 February 2007, para. 68.

⁶² *Prosecutor v. Predrag Banović*, Case No. IT-02-65/1-S, Sentencing Judgement (TC), 28 October 2003, para. 72.

⁶³ Defence Sentencing Brief, paras. 75, 76.

⁶⁴ T. 17 September 2007, pp. 6, 9, 12-13, 15-16.

c. Personal and Family Situation

i) Submissions

38. The Defence argues that the jurisprudence of the Tribunal and the ICTY has taken into consideration, as mitigating factors, personal circumstances such as the accused's family situation. It puts forth the fact that Rugambarara is married and has six children as proof of his capacity for reintegration into society.⁶⁵ The Defence called Witness JRK01, who is Rugambarara's wife, who testified favourably about the Accused's personal and family situation.⁶⁶

ii) Findings

39. The Chamber notes that the fact that an accused is married and has children may, under certain circumstances, be considered as mitigating.⁶⁷ In the instant case, the personal and family situation of the Accused, as a married man with children, leads the Chamber to believe in his chances of rehabilitation after his release. The Chamber therefore finds this personal situation to be a mitigating circumstance.

d. Character of the Accused, Lack of Prior Criminal Record and Good Conduct in Detention

i) Submissions

40. Both Parties submit that Rugambarara was a person of good character with no history of extremism before the events of 1994.⁶⁸

41. The Defence adduced evidence that as a medical assistant, Rugambarara took care of all his patients without discrimination and had excellent relationships with Tutsi, some of whom were close friends of his family.⁶⁹ The Defence further submits that as *bourgmestre*, Rugambarara abolished the practice of reinserting the Tutsi ethnicity of ID holders who had changed their ethnicity to Hutu in the 1960s, and that he spearheaded an initiative at the national level to abolish the reference to ethnicity on identification cards.⁷⁰

42. The Defence submits that the Accused has a clean record and has never been convicted of a crime, an assertion which was not challenged by the Prosecution.⁷¹ The Chamber also accepted, pursuant to Rule 92*bis*, a statement from the UNDF

⁶⁵ Defence Sentencing Brief, paras. 65-68; T. 17 September 2007, p. 39.

⁶⁶ T. 17 September 2007, pp. 18-23.

⁶⁷ *Prosecutor v. Dragoljub Kunarać et al.*, Case No. IT-96-23&23/1, Judgement (AC), 12 June 2002, para. 362; *Prosecutor v. Mitar Vasiljević*, Case No. IT-98-32-T, Judgement (TC), 29 November 2002, para. 300; *Prosecutor v. Vincent Rutaganira*, Case No. ICTR-95-1C-T, *Jugement et Sentence*, (TC), 14 March 2005, paras. 120-121.

⁶⁸ Prosecutor's Sentencing Brief, para. 53; Defence Sentencing Brief, paras. 71-74; T. 17 September 2007, p. 29.

⁶⁹ Defence Sentencing Brief, paras. 71-74; Testimony of JRK01, T. 17 September 2007, pp. 20-22.

⁷⁰ Defence Sentencing Brief, paras. 77-78.

⁷¹ Defence Sentencing Brief, para. 69.

Commanding Officer, stating that the Accused exhibited good behaviour during his four-year detention.⁷²

ii) Findings

43. The Chamber accepts that Rugambarara was a person of good character before the events of 1994, with no history of ethnic discrimination. The Chamber also accepts the unchallenged assertion that Rugambarara had no previous criminal record. Finally, the Chamber considers that the statement of the UNDF Commanding Officer demonstrates Rugambarara's good conduct while in detention. The Chamber accepts these as mitigating factors.

3. Prevailing Circumstances in Bicumbi Commune in April 1994

a. Absence of Hierarchical Superior in April 1994

i) Submissions

44. The Defence submits that Rugambarara had knowledge of the crimes committed by his subordinates only on or about 18 April 1994. The Defence further submits that Rugambarara fled when the RPF took control of Bicumbi *commune* on 20 April 1994. This left Rugambarara with only 48 hours to report to his hierarchical superiors and to inform them about the crimes committed by his subordinates. The Defence also submits that the Public Prosecutor of Kigali at the time, who was Rugambarara's judicial superior and to whom Rugambarara would have had to report, had already fled.⁷³

ii) Findings

45. The Chamber finds the Defence submission, concerning the circumstances of Rugambarara's failure to act as pleaded in the Indictment, misplaced. By pleading guilty, the Accused admitted that he had effective control over his subordinates and the material ability to punish the perpetrators or commission an investigation into the said crimes. The suggestion that it was almost materially impossible for him to report to his hierarchical superior is not supported by any evidence and casts a shadow on the unequivocal acknowledgement of responsibility. The Chamber does not consider this a mitigating factor.

b. War Situation in Bicumbi Commune in April 1994

i) Submissions

46. The Defence submits that the Chamber should take into consideration the circumstances prevailing in Bicumbi *commune* in April 1994: i) the existence of an armed conflict; ii) the renewed political intolerance and inter-ethnic tensions within the commune; iii) an influx of refugees into the *commune*, people displaced by the war, infiltrators and RPF recruitment in the region; and iv) the insufficient number of communal police.⁷⁴

⁷² T. 17 September 2007, p. 26.

⁷³ Defence Sentencing Brief, paras. 32, 55.

⁷⁴ Defence Sentencing Brief, paras. 18-22, 29-33, 51, 54, 56-57.

ii) Findings

47. Although the Defence did not adduce evidence to sustain these assertions, the Chamber accepts as facts of common knowledge that there was an armed conflict in Rwanda in 1994 and as a result there was renewed political intolerance, interethnic tensions and an influx of refugees into the Bicumbi *commune*. The Chamber accepts that this particular environment could have made it difficult for Rugambarara to exercise his full authority. The Chamber considers this as a mitigating factor. Other facts relied upon by the Defence do not bear the character of indisputability so as to warrant their acceptance without proof. The Chamber rejects, therefore, the Defence contention that there were infiltrators in Bicumbi *commune* in 1994 and that RPF recruitment took place in the region. Furthermore, the Chamber finds the Defence submission that the communal police was understaffed is not necessarily relevant to Rugambarara's failure, which forms the basis of his criminal responsibility.

E. Sentencing Recommendations by the Parties

48. In the Joint Motion for Consideration of a Guilty Plea Agreement between Rugambarara and the Office of the Prosecutor, the Prosecution recommended a term of imprisonment ranging from nine to twelve years imprisonment, with due credit given for time spent in detention.⁷⁵ However, in its Sentencing Brief, the Prosecution appears to depart from the sentencing range agreed upon and recommends a term of imprisonment of not less than twelve years.⁷⁶ The Prosecution further submits that the Chamber should consider the principal aims of sentencing, namely justice, retribution, deterrence and rehabilitation.⁷⁷ The Defence requests the Chamber to take into account in the determination of the sentence, all mitigating factors, including the personal situation of Rugambarara and his desire for reintegration.⁷⁸ The Defence submits that the sentence should be fair, should reflect the chances of rehabilitation and reinsertion into society and should foster national reconciliation.⁷⁹ Both Parties acknowledge, however, that the Chamber is not bound by their sentencing recommendations.⁸⁰

49. The Defence requests the Chamber to order that Rugambarara serve his sentence in Europe, preferably France, a neighbouring country to Belgium, where his family resides.⁸¹ The Prosecution supports that application.⁸²

F. Findings

1. The General Sentencing Practice in the Courts of Rwanda

50. Article 23 of the Statute and Rule 101 of the Rules mandate the Tribunal to take into account the general practice regarding prison sentences in the courts of Rwanda.

⁷⁵ Plea Agreement, para. 56.

⁷⁶ Prosecutor's Sentencing Brief, para. 57; T. 17 September 2007, p. 30.

⁷⁷ Prosecutor's Sentencing Brief, para. 17.

⁷⁸ Defence Sentencing Brief, para. 79; T. 17 September 2007, p. 40.

⁷⁹ Defence Sentencing Brief, paras. 35-37.

⁸⁰ Plea Agreement, para. 59.

⁸¹ Defence Sentencing Brief, para. 80.

⁸² Plea Agreement, para. 58.

51. Under Rwandan Law, serious offences, such as genocide or crimes against humanity, carry a maximum sentence of life imprisonment or life imprisonment with special provisions, depending on the nature of the accused's participation.⁸³ If the defendant confesses to the crime, pleads guilty, repents and apologizes, the sentence may range from 25 to 30 years of imprisonment.⁸⁴

52. The Chamber, though not bound by the Rwandan law, regards this as one factor supporting the imposition of a heavy penalty upon the convicted person.

2. Conclusion

53. The Chamber is mindful that sentences of individuals in similar cases should be consistent. However, a Chamber is "under no obligation to expressly compare the case of one accused to that of another,"⁸⁵ and "any given case contains a multitude of variables, ranging from the number and type of crimes committed to the personal circumstances of the individual."⁸⁶

54. The Chamber recalls that it has found that Rugambarara's superior responsibility for the crime of extermination as a crime against humanity constitutes a very serious offence and is a gross violation of international humanitarian law. The Chamber also recalls that the gravity of his crime is reduced by the fact, as set forth in the Plea Agreement, that the Accused only had *post facto* knowledge of the crimes committed by his subordinates.

55. The Chamber has found as an aggravating circumstance the high number of victims.

56. The Chamber found the following circumstances to be mitigating: the Accused's guilty plea accompanied by a public expression of remorse which the Chamber found to be sincere, his personal and family situation, his good character prior to the 1994 events, his lack of prior criminal convictions, his good conduct in detention, and the assistance he provided to certain individuals.

57. Nonetheless, while Rugambarara's personal circumstances are relevant in the mitigation of the sentence, the Chamber is of the view that such factors cannot play a significant role in mitigating international crimes and therefore the weight to be accorded to them is limited.⁸⁷

58. On examination of the sentencing practice of this Tribunal, the Chamber notes that there is only limited authority on sentencing for superior responsibility in relation to the

⁸³ Articles 51 and 72 of the Organic Law N. 16/2004 of 19/6/2004 Establishing the Organisation, Competence and Functioning of Gacaca Courts Charged with Prosecuting and Trying the Perpetrators of the Crime of Genocide and Other Crimes against Humanity, Committed between October 1, 1990 and December 31, 1994 and Articles 2, 3, 5, 6(1) and 18(3) of the Law N. 33 bis/2003 of 06/09/2003 Repressing the Crime of Genocide, Crimes against Humanity and War Crimes as amended by Articles 3 and 4 of Organic Law N. 31/2007 of 25 July 2007.

⁸⁴ Article 72(2) of Organic Law N. 16/2004.

⁸⁵ *Kupreskić*, Judgement (AC), para. 443.

⁸⁶ *Prosecutor v. Miroslav Kvočka et al.*, Case No. IT-98-30/1-A, Judgement (AC), 28 February 2005, para. 681.

⁸⁷ *Banović*, Sentencing Judgement (TC), para. 76; *Nzabirinda*, Sentencing Judgement (TC), para. 108.

crime of extermination.⁸⁸ Furthermore, the Chamber notes that the case law on guilty plea sentencing concerning extermination does not follow a consistent pattern.⁸⁹ Finally, the Chamber is mindful that the sentence should reflect the totality of the criminal conduct of the accused.⁹⁰

3. Credit for Time Served in Custody

59. Pursuant to Rule 101(D) of the Rules, “credit shall be given to the convicted person for the period, if any, during which the convicted person was detained in custody pending his surrender to the Tribunal or pending trial or appeal.”

60. The Chamber considers 11 August 2003⁹¹ as the beginning of Rugambarara’s detention, this being the date on which he was arrested and detained. The Chamber recognizes that Rugambarara is entitled to credit for the time spent in detention from this date, including any additional time that he may serve pending an appeal.

⁸⁸ In a judgement yet to be decided on appeal (which further limits its authority), Jean-Bosco Barayagwiza was convicted of, *inter alia*, genocide pursuant to Articles 2 and 6(3) of the Statute for his active engagement in the management of RTLM prior to 6 April 1994, and his failure to take necessary and reasonable measures to prevent the killing of Tutsi civilians instigated by RTLM (*The Prosecutor v. Jean-Bosco Barayagwiza*, Case No. ICTR 99-52, Judgement (TC), 3 December 2003, para. 973) and extermination as a crime against humanity under Article 3(b), pursuant to Article 6(3) of the Statute of the Tribunal for RTLM broadcasts in 1994 that caused the killing of Tutsi civilians (*Barayagwiza*, Judgement (TC), para. 1064). The Trial Chamber considered that the appropriate sentence for Barayagwiza, in light of all the counts on which he was convicted, was imprisonment for the remainder of his life (*Barayagwiza*, Judgement (TC), para. 1106). However due to the violation of Barayagwiza’s rights, the Trial Chamber reduced the sentence to 35 years imprisonment in respect of all the counts on which he was convicted (*Barayagwiza*, Judgement (TC), para. 1107). Alfred Musema was sentenced to a single sentence of life imprisonment for the counts of genocide, extermination as a crime against humanity pursuant to Articles 6(1) and 6(3) of the Statute (*Musema*, Judgement (TC), para. 951).

⁸⁹ Jean Kambanda entered a guilty plea and was sentenced to life imprisonment for, *inter alia*, extermination as a crime against humanity pursuant to both Articles 6(1) and 6(3) of the Statute (*Kambanda*, Judgement (TC), para. 40, Verdict). Paul Bisengimana was sentenced to 15 years imprisonment after having pleaded guilty to aiding and abetting extermination as a crime against humanity (*Bisengimana*, Judgement (TC), para. 203). Omar Serushago was also sentenced to 15 years imprisonment after having pleaded guilty to genocide, murder, extermination and torture as crimes against humanity (*Prosecutor v. Serushago*, ICTR-98-39-S, Sentence (TC), 5 February 1999, Disposition). The Trial Chamber considered many mitigating factors in determining the sentence of Serushago, including his family circumstances and the fact that he helped some Tutsi to avoid capture (*Serushago*, Sentence (TC), paras. 31-35). Vincent Rutaganira was sentenced to six years imprisonment after having pleaded guilty to complicity by omission in extermination as a crime against humanity (*Rutaganira*, Judgement (TC), Disposition).

⁹⁰ *Mucić et al.*, Judgement (AC), para. 772; *Gacumbitsi*, Judgement (TC), para. 354; *Semanza*, Judgement (TC), para. 563.

⁹¹ Transmission of Warrant of Arrest and Order for Transfer and Detention of the Accused Juvénal Rugambarara, dated 11 August 2003.

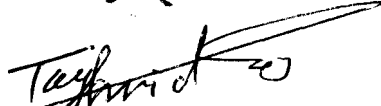
IV. Verdict

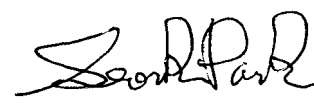
61. The Chamber sentences Juvénal Rugambarara to **11 years imprisonment**.
62. The sentence shall run as of the date of this judgement.
63. Juvénal Rugambarara is entitled to credit for the time spent in detention from 11 August 2003 to the date of this sentencing judgement.
64. Juvénal Rugambarara shall remain in the custody of the Tribunal, pending a decision on where his sentence will be served.
65. The request to designate France as the country where Rugambarara will serve his sentence is premature and is therefore denied. The President of the Tribunal, in consultation with the Chamber, will designate the State in due course. The Government of Rwanda and the designated State will be so notified by the Registrar.

Done in English
Arusha, 16 November 2007




Asoka de Silva
Presiding Judge


Taghrid Hikmet
Judge


Seon Ki Park
Judge

[Seal of the Tribunal]

Annexes

A. Jurisprudence and Defined Terms

1. ICTR

- Prosecutor v. Akayesu*, Case No. ICTR-96-4-T, Judgement (TC), 2 September 1998.
- Prosecutor v. Barayagwiza*, Case No. ICTR 99-52, Judgement (TC), 3 December 2003.
- Prosecutor v. Bisengimana*, Case No. ICTR-00-60-T, Judgement and Sentence (TC), 13 April 2006.
- Prosecutor v. Gacumbitsi*, Case. No. ICTR-01-64, Judgement (TC), 17 June 2004.
- Prosecutor v. Gacumbitsi*, Case. No. ICTR-01-64, Judgement (AC), 7 July 2006.
- Prosecutor v. Kajelijeli*, Case No. ICTR-98-44-T, Judgement (TC), 1 December 2003.
- Prosecutor v. Kajelijeli*, Case No. ICTR-98-44-A, Judgement (AC), 23 May 2005.
- Prosecutor v. Kambanda*, Case No. ICTR- 97-23-S, Judgement (TC), 4 September 1998.
- Prosecutor v. Kamuhanda*, Case No. ICTR-99-54-T, Judgement (TC), 22 January 2004.
- Prosecutor v. Kamuhanda*, Case No. ICTR-99-54-A, Judgement (AC), 19 September 2005.
- Prosecutor v. Kayishema and Ruzindana*, Case No. ICTR-95-1-A, Judgement (AC), 1 June 2001.
- Prosecutor v. Muhimana*, Case No. ICTR-95-1B-T, Judgement (TC), 28 April 2005.
- Prosecutor v. Musema*, Case No. ICTR-96-13-T, Judgement (TC), 27 January 2000.
- Prosecutor v. Musema*, Case No. ICTR-96-13-T, Judgement (AC), 16 November 2001.
- Prosecutor v. Nahimana*, Case No. ICTR-99-52, Judgement (TC), 3 December 2003.
- Prosecutor v. Ndingabahizi*, Case No. ICTR-2001-71-I, Judgement (TC), 15 July 2004.
- Prosecutor v. Ndingabahizi*, Case No. ICTR-2001-71-A, Judgement (AC), 16 January 2007.
- Prosecutor v. Niyitegeka*, Case No. ICTR-96-14, Judgement (TC), 16 May 2003.
- Prosecutor v. Ngeze*, Case No. ICTR-99-52, Judgement (TC), 3 December 2003.
- Prosecutor v. Ntakirutimana et al.*, Cases No. ICTR-96-10-T and ICTR-96-17-T, Judgement (TC), 21 February 2003.
- Prosecutor v. Ntakirutimana et al.*, Cases No. ICTR-96-10-A and ICTR-96-17-A, Judgement (AC), 13 December 2004.
- Prosecutor v. Nzabirinda*, Case No. ICTR 2001-77-T, Sentencing Judgement, 23 February 2007.
- Prosecutor v. Ruggiu*, Case No. ICTR-97-32-I, Judgement (TC), 1 June 2000.
- Prosecutor v. Rutaganda*, Case No. ICTR-96-3-T, Judgement (TC), 6 December 1999.
- Prosecutor v. Rutaganda*, Case No. ICTR-96-3-T, Judgement (AC), 26 May 2003.

Prosecutor v. Rutaganira, Case No. ICTR-95-1C-T, *Jugement* (TC), 14 mars 2005.
Prosecutor v. Semanza, Case No. ICTR-97-20-T, *Jugement* (TC), 15 May 2003.
Prosecutor v. Semanza, Case No. ICTR-97-20-A, *Jugement* (AC), 20 May 2005.
Prosecutor v. Seromba, Case No. ICTR-01-66, *Jugement* (TC), 13 December 2006.
Prosecutor v. Serugendo, Case No. ICTR-2005-84-I, *Jugement and Sentence* (TC), 12 June 2006.
Prosecutor v. Serushago, Case No. ICTR-98-39-S, *Sentence* (TC), 5 February 1999.

2. ICTY

Prosecutor v. Aleksovski, Case No. IT-95-14/1-T, *Jugement* (TC), 25 June 1999.
Prosecutor v. Aleksovski, Case No. IT-95-14/1-A, *Jugement* (AC), 24 March 2000.
Prosecutor v. Banović, Case No. IT-02-65/1-S, *Jugement* (TC), 28 October 2003.
Prosecutor v. Blaškić, Case No. IT-95-14-A, *Jugement* (AC), 29 July 2004.
Prosecutor v. Deronjić, Case No. IT-02-61-S, *Jugement* (TC), 30 March 2004.
Prosecutor v. Erdemović, Case No. IT-96-22, *Jugement* (TC), 5 March 1998.
Prosecutor v. Galić, Case No. IT-98-29-A, *Jugement* (AC), 30 November 2006.
Prosecutor v. Kunarać et al., Case No. IT-96-23 & 23/1, *Jugement* (AC), 12 June 2002.
Prosecutor v. Kupreškić et al., Case No. IT-95-16-A, *Jugement* (AC), 23 October 2001.
Prosecutor v. Kvočka, Case No. IT-98-30/1-A, *Jugement* (AC), 28 February 2005.
Prosecutor v. Limaj, et al., Case No. IT-03-66A, *Jugement* (AC), 27 September 2007.
Prosecutor v. Mucić et al. ("Čelebići"), Case No. IT-96-21-A, *Jugement* (AC), 20 February 2001.
Prosecutor v. Dragan Nikolić, Case No. IT-94-2, *Jugement* (TC), 18 December 2003.
Prosecutor v. Momir Nikolić, Case No. IT-02-60/1-A, *Jugement on Sentencing Appeal* (AC), 8 March 2006.
Prosecutor v. Plavšić, Case No. IT-00-39 & 40/1-S, *Jugement* (TC), 27 February 2003.
Prosecutor v. Sikirica et al., Case No. IT-95-8-T, *Jugement* (TC), 13 November 2001.
Prosecutor v. Vasiljević, Case No. IT-98-32, *Jugement* (TC), 29 November 2002.



3. Defined Terms**Chamber**

Trial Chamber II

ICTR

International Criminal Tribunal for the Former Yugoslavia

Indictment

Prosecutor v. Rugambarara, Case No. ICTR-2000-59-I, Amended Indictment, filed on 2 July 2007.

Judgement

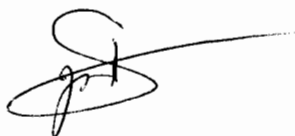
Prosecutor v. Rugambarara, Case No. ICTR-2000-59-I, Sentencing Judgement, 16 November 2007.

Plea Agreement

Prosecutor v. Rugambarara, Case No. ICTR-2000-59-I, Plea Agreement between Mr. Juvénal Rugambarara and the Office of the Prosecutor, filed on 13 June 2007.

T.

Official transcripts of the proceedings in English.

B. IndictmentA handwritten signature in black ink, consisting of a stylized 'S' followed by a horizontal line extending to the right.

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(02-07-2007)
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INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

(CASE No. ICTR-2000-59-I)

THE PROSECUTOR

vs.

JUVENAL RUGAMBARARA

JUDICIAL RECORDS ARCHIVE
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AMENDED INDICTEMENT

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

JUVENAL RUGAMBARARA

With **EXTERMINATION AS a CRIME AGAINST HUMANITY** pursuant to Article 3 (b) of the Statute of the Tribunal.

1. The events set out hereinafter occurred in Mwulire, Mabare and Nawe secteurs in Bicumbi commune, Kigali-Rural prefecture, Republic of Rwanda between 7 and 20 April 1994 unless otherwise stated.

THE ACCUSED

2. Juvenal Rugambarara was born in 1959, in Bumba secteur, Tare commune, Kigali-Rural prefecture, in the Republic of Rwanda. Juvenal Rugambarara lived most of his adult life in Bicumbi commune where he worked as a medical officer.
3. Juvenal Rugambarara was appointed *bourgmestre* of Bicumbi commune, Kigali-Rural on 4 August 1993, having succeeded Mr. Laurent Semanza. Juvenal Rugambarara served as the *bourgmestre* of Bicumbi commune from 16 September 1993 until 20 April 1994.

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

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NAME / NOM: *Kouamba Roger Noel*

SIGNATURE: *[Signature]* DATE: *02/07/2007*

4. Juvenal Rugambarara was appointed as *bourgmestre* of Bicumbi commune by the President of the Republic of Rwanda upon the recommendations of the Minister of the Interior, who was also his hierarchical superior.
5. As *bourgmestre* of Bicumbi commune Juvenal Rugambarara had administrative authority over Mwulire, Mabare, and Nawe secteurs which were all located in Bicumbi commune where the crimes he is charged of were committed by his subordinates over who he had effective control.
6. As *bourgmestre* of Bicumbi commune, Kigali-Rural préfecture between 7 and 20 April 1994, Juvenal Rugambarara was the highest ranking civilian authority in the said commune and in that regard, had both the authority to serve as the chief administrator as well as the chief law enforcement officer of Bicumbi commune.
7. As *bourgmestre* of Bicumbi commune, Juvenal Rugambarara had administrative authority over the entire commune and in that regard was responsible for the enforcement of laws and regulations.
8. Juvenal Rugambarara was also responsible for ensuring peace, public order, safety of people and property and implementing government programme. Juvenal Rugambarara was also responsible for informing the central government of any situation worthy of interest in Bicumbi commune.
9. As *bourgmestre* of Bicumbi commune, Juvenal Rugambarara was the representative of the central government at the communal level and thus the embodiment of communal authority therein. To that end, Juvenal Rugambarara had hierarchical authority over all conseillers, communal policemen, and local government officials.
10. In that regard, a superior-subordinate relationship existed between Juvenal Rugambarara and all the conseillers, communal policemen, local administrators, and armed militiamen located in Mwulire, Mabare and Nawe secteurs in Bicumbi commune between 7 and 20 April 1994.
11. In addition, as *bourgmestre* of Bicumbi commune Juvenal Rugambarara had effective control over these categories of persons who were responsible for perpetrating attacks on Tutsi civilians at various locations in Mwulire, Mabare and Nawe secteurs in Bicumbi commune between 7 and 20 April 1994 as outlined in the indictment.
12. Based on his position as the highest ranking civilian authority in Bicumbi commune, Juvenal Rugambarara subsequently came to know that the categories of persons who had participated in attacks resulting in the death of thousands of Tutsi civilians in various locations in Mwulire, Mabare and Nawe secteurs of Bicumbi commune between 7 and 20 April 1994, were his subordinates over whom he had effective control.

13. In that regard Juvenal Rugambarara in his position as the highest ranking civilian authority in Bicumbi commune, in addition to his duties to enforce amongst other things, the laws and regulations, had a duty to take necessary and reasonable measures to commission investigations into crimes committed by people who were his subordinates and over whom he had effective control, with a view to apprehending and referring the perpetrators of such crimes to the competent authorities for appropriate punishment, but failed to do so.

THE CHARGE

Count 1: EXTERMINATION, as a CRIME AGAINST HUMANITY pursuant to Article 3(b) of the Statute of the Tribunal

14. Between 7 and 20 of April 1994 Juvenal Rugambarara through the criminal acts of his subordinates, was responsible, pursuant to Article 6(3) of the Statute, for killing or causing persons to be killed, during mass killing events in Mwulire, Mabare and Nawe secteurs in Bicumbi commune of Kigali-Rural prefecture, Republic of Rwanda, as part of a widespread and systematic attack against a civilian population on political, ethnic or racial grounds.
15. The Accused, Juvenal Rugambarara is charged with: extermination as a crime against humanity by virtue of the fact that having subsequently known that subordinates under his effective control had committed one or more of the acts referred to in Article 3(b) of the Statute of the Tribunal, Juvenal Rugambarara failed in his duty to take the necessary and reasonable measures to commission an investigation into the said crimes, with a view to apprehending and referring the perpetrators thereof to the competent authorities for appropriate punishment pursuant to Article 6(3) of the Statute.
16. Furthermore, as consequence of Juvenal Rugambarara's acts and omissions thousands of Tutsi civilian men, women and children were killed in Mwulire, Mabare and Nawe secteurs of Bicumbi commune between 7 and 20 April 1994.

Particulars of the offence

Events in Mwulire Secteur, Bicumbi commune.

17. On or about 18 April 1994, Juvenal Rugambarara came to know that, several attacks had been launched on the Tutsi refugees gathered at the Mwulire Camp Mwulire secteur in Bicumbi commune between 13 and 18 April 1994 resulting in the death of hundreds of the Tutsi refugees.

18. On or about 18 April 1994, Juvenal Rugambarara came to know that, several civil public officers, including *conseillers* and communal policemen employed at Bicumbi communal office acting in concert with armed militiamen from the said commune, had participated in the attacks against Tutsi refugees gathered at Mwulire camp in Mwulire secteur in Bicumbi commune.
19. In particular, on or about 18 April 1994, Juvenal Rugambarara came to know that the attacks on the Tutsi civilians gathered at Mwulire Camp had been organized by Theodore Nsengiyumva, the Assistant Bourgmestre of Bicumbi commune, Francois Fungameza the conseiller of Muyumbu secteur, Deo Nkuriyingoma, the conseiller of Bicumbi secteur, Mathias Karuhije, the conseiller of Murama secteur, Ngabonziza, conseiller of Rubona secteur, Sekimonyo, conseiller of Mabare secteur, and several policemen from Bicumbi commune among who were: Mathias Gasana, Rwabugabo, Shabayiro and Munyakayanza.
20. In that regard, having subsequently known of the attacks on the Tutsi refugees gathered at Mwulire camp as described above, Juvenal Rugambarara, as bourgmestre of Bicumbi commune, failed to take the necessary and reasonable measures to commission an investigation into the said crimes, with a view to apprehending and referring his subordinates who perpetrated these criminal acts that resulted in the death of hundreds of Tutsi refugees, to the competent authorities for appropriate punishment.
21. On or about the 18 April 1994, Juvenal Rugambarara came to know that, on or about 13 April 1994, the conseiller of Bicumbi secteur, one Nkuriyingoma and a communal policeman from Bicumbi commune named Munyakayanza and militiamen armed with traditional weapons left for Mwulire secteur office following which they launched an attack on the Tutsi refugees gathered at the secteur office resulting in the death of hundreds of Tutsi refugees.
22. In that regard, as bourgmestre of Bicumbi commune, Juvenal Rugambarara, having subsequently known that these crimes had been committed, failed to take the necessary and reasonable measures to commission an investigation into the said crimes, with a view to apprehending and referring his subordinates who were responsible for these criminal acts at Mwulire secteur office which resulted in the death of several Tutsi civilians to the competent authorities for appropriate punishment.

Events in Mabare Secteur

23. On or about 18 April 1994, Juvenal Rugambarara came to know that, between 12 and 18 April 1994, several attacks were launched on Tutsi civilians in Mabare secteur, Bicumbi commune, which resulted in the death of hundreds of Tutsi civilians.

24. On or about the same date, Juvenal Rugambarara further knew that the said attacks on Tutsi civilians located at Mabare secteur in Bicumbi commune which took place between 12 and 18 April 1994 were led by armed communal policemen and militiamen over who he exercised effective control.
25. Having become aware that his subordinates had committed crimes in Mabare secteur, Juvenal Rugambarara as bourgmestre of Bicumbi commune, failed to take the necessary and reasonable measures to commission an investigation into the said crimes, with a view to apprehending and referring his subordinates responsible for these criminal acts which resulted in the death of hundreds of Tutsi civilians to the competent authorities for appropriate punishment.

Events at the Mabare mosque located in Mabare secteur

26. On or about 18 April 1994, Juvenal Rugambarara came to know that attacks had been launched on several Tutsi civilians gathered at the Mabare mosque located in Mabare secteur Bicumbi commune between 16 and 18 April 1994, resulting in the death of hundreds of Tutsi refugees.
27. On or about 18 April 1994, Juvenal Rugambarara also knew that the Tutsi refugees gathered at the Mabare mosque and who had initially resisted the attacks launched upon them by armed militiamen, were subsequently overpowered and killed with the assistance of armed communal policemen from Bicumbi commune who provided reinforcements to the armed militiamen.
28. On or about 18 April 1994, Juvenal Rugambarara came to know that, the Tutsi refugees gathered at the Mabare mosque were attacked by persons who, in his capacity as bourgmestre of Bicumbi commune, were his subordinates and over who he had effective control.
29. Having known that his subordinates had committed attacks at the Mabare mosque between 16 and 18 of April 1994, Juvenal Rugambarara as bourgmestre of Bicumbi commune, failed in his duty to take the necessary and reasonable measures to commission an investigation into the said crimes, with a view to apprehending and referring his subordinates responsible for these criminal acts which resulted in the death of hundreds of Tutsi refugees, to the competent authorities for appropriate punishment.

Events in Nawe secteur

30. On or about 18 April 1994, Juvenal Rugambarara came to know that Jean Baptiste Gatete, a census officer employed at the Bicumbi communal office, had, on or about 8 April 1994, publicly instigated and encouraged members of the civilian Hutu population in Nawe secteur, to exterminate their Tutsi counterparts in order to avenge

the death of the President of Rwanda, following which, Jean Baptiste Gatete himself led attacks against Tutsi in Nawe secteur often in concert with communal policemen and militiamen.

31. In that regard, on or about 18 April 1994, Juvenal Rugambarara also came to know that *Jean-Baptiste Gatete* had led three (3) policemen employed by Bicumbi commune namely: Shabayiro, Rwabugabo and Ntabara and several armed militiamen in attacks on Tutsi civilians located in Nawe Secteur on or about 8 April 1994. The said attacks resulted in the death of hundreds of Tutsi civilians in Nawe secteur, in Bicumbi commune.
32. As *bourgmestre* of Bicumbi commune, Juvenal Rugambarara had effective control over Jean-Baptiste Gatete, the communal policemen and the militiamen who were involved in the said attacks in Nawe secteur.
33. Having known of the criminal acts of his subordinates, Juvenal Rugambarara as *bourgmestre* of Bicumbi commune, failed in his duty to take the necessary and reasonable measures to commission an investigation into the said crimes, with a view to apprehending and referring his subordinates who were responsible for the massacres of Tutsi civilians in Nawe Secteur Bicumbi commune on or about 8 April 1994, to the competent authorities for appropriate punishment.
34. The acts and omissions of Juvenal Rugambarara herein are punishable under Articles 22 and 23 of the Statute of the Tribunal.

Signed at Arusha this ^{2nd}.....day of July 2007.



Hassan Bubacar Jallow
Prosecutor

TRIBUNAL PÉNAL INTERNATIONAL POUR LE RWANDA

(AFFAIRE N° ICTR-2000-59-I)

LE PROCUREUR

c.

JUVÉNAL RUGAMBARARA

ACTE D'ACCUSATION MODIFIÉ

Le Procureur du Tribunal pénal international pour le Rwanda, en vertu des pouvoirs que lui confère l'article 17 du Statut du Tribunal pénal international pour le Rwanda (le « Statut du Tribunal »), accuse :

JUVENAL RUGAMBARARA

D'EXTERMINATION CONSTITUTIVE DE CRIME CONTRE L'HUMANITÉ, en vertu de l'article 3 b) du Statut du Tribunal.

- 1. Les faits visés dans le présent acte d'accusation sont survenus, sauf indications contraires, dans les secteurs de Mwulire, de Mabare et de Nawe appartenant à la commune de Bicumbi sise dans la préfecture de Kigali-rural (République du Rwanda), entre le 7 et le 20 avril 1994.

L'ACCUSÉ

- 2. Juvénal Rugambarara est né en 1959 dans le secteur de Bumba qui appartenait à la commune de Tare sise dans la préfecture de Kigali-rural (République du Rwanda). Il a passé la majeure partie de sa vie adulte dans la commune de Bicumbi où il travaillait comme responsable médical.
- 3. Juvénal Rugambarara a été nommé bourgmestre de la commune de Bicumbi dans la préfecture de Kigali-rural le 4 août 1993, en remplacement de M. Laurent Semanza. Il a occupé les fonctions de bourgmestre de la commune de Bicumbi à partir du 16 septembre 1993 jusqu'au 20 avril 1994.
- 4. Juvénal Rugambarara a été nommé bourgmestre de Bicumbi par le Président de la République, sur proposition du Ministre de l'intérieur qui était également son supérieur hiérarchique

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 NAME / NOM: *Kouamba Roger Nday*
 SIGNATURE: *[Signature]* DATE: *02/07/2007*

5. En sa qualité de bourgmestre de la commune de Bicumbi, Juvénal Rugambarara jouissait d'un pouvoir administratif sur les secteurs de Mwulire, de Mabare et de Nawe qui étaient tous situés dans la commune de Bicumbi où les crimes dont il est accusé ont été commis par ses subordonnés sur lesquels il exerçait un contrôle effectif.
6. En tant que bourgmestre de la commune de Bicumbi dans la préfecture de Kigali-rural entre le 7 et le 20 avril 1994, Juvénal Rugambarara était la plus haute autorité civile de cette commune et jouissait de ce fait du pouvoir d'agir en qualité de premier responsable en matière d'administration et d'application de la loi au sein de la commune.
7. En sa qualité de bourgmestre de la commune de Bicumbi, Juvénal Rugambarara jouissait d'un pouvoir administratif sur l'ensemble de cette commune et était de ce fait responsable de l'application des lois et règlements.
8. Juvénal Rugambarara était également chargé d'assurer la tranquillité, l'ordre public, la sécurité des personnes et des biens et l'exécution des programmes gouvernementaux. Il avait ainsi pour mission d'informer le pouvoir central de tout événement digne d'intérêt qui pouvait survenir au sein de la commune de Bicumbi.
9. En sa qualité de bourgmestre, Juvénal Rugambarara était le représentant du pouvoir central au niveau de la commune et incarnait de ce fait l'autorité communale. À cette fin, il jouissait d'une autorité hiérarchique sur tous les conseillers, policiers communaux et agents administratifs locaux.
10. Il existait sur le plan local une relation de type supérieur-subordonné entre Juvénal Rugambarara et tous les conseillers, policiers communaux, agents administratifs locaux et miliciens armés dans diverses localités des secteurs de Mwulire, de Mabare et de Nawe sis dans la commune de Bicumbi, entre le 7 et le 20 avril 1994.
11. En outre, en tant que bourgmestre de la commune de Bicumbi, Juvénal Rugambarara exerçait un contrôle effectif sur les catégories de personnes précitées, qui avaient perpétré des attaques dirigées contre des civils tutsis dans diverses localités des secteurs de Mwulire, de Mabare et de Nawe dans la commune de Bicumbi entre le 7 et le 20 avril 1994, tel qu'il est indiqué dans le présent acte d'accusation.
12. De par ses fonctions qui faisaient de lui la plus haute autorité civile de la commune de Bicumbi, Juvénal Rugambarara a su par la suite que les catégories de personnes qui avaient participé à des attaques ayant entraîné la mort de milliers de civils tutsis dans diverses localités des secteurs de Mwulire, de Mabare et de Nawe dans la commune de Bicumbi entre le 7 et le 20 avril 1994 étaient des subordonnés sur lesquels il exerçait un contrôle effectif.
13. À cet égard, étant la plus haute autorité civile de la commune de Bicumbi, en plus d'être chargé notamment de l'application des lois et règlements, Juvénal Rugambarara avait l'obligation de prendre des mesures nécessaires et raisonnables

pour ouvrir des enquêtes sur les crimes perpétrés par des personnes qui étaient ses subordonnés et sur lesquelles il exerçait un contrôle effectif, en vue d'appréhender les auteurs de ces crimes et de les déférer devant les autorités compétentes aux fins d'adoption de sanctions appropriées, mais il n'a rien entrepris dans ce sens.

LES CHEFS D'ACCUSATION

Chef 1 : EXTERMINATION constitutive de CRIME CONTRE L'HUMANITÉ au sens de l'article 3 b) du Statut du Tribunal

14. Juvénal Rugambarara voit sa responsabilité en vertu de l'article 6.3 du Statut du Tribunal engagée pour avoir, entre le 7 et le 20 avril 1994, à travers les actes criminels de ses subordonnés, causé directement ou indirectement la mort de plusieurs personnes lors de massacres perpétrés dans les secteurs de Mwulire, de Mabare et de Nawe appartenant à la commune de Bicumbi sise dans la préfecture de Kigali-rural (République du Rwanda), dans le cadre d'une attaque généralisée et systématique dirigée contre une population civile tutsie en raison de son appartenance politique, ethnique ou raciale.
15. Juvénal Rugambarara est accusé d'extermination constitutive de crime contre l'humanité du fait qu'ayant su que ses subordonnés sur lesquels il exerçait un contrôle effectif avaient commis un ou plusieurs des actes visés à l'article 3 b) du Statut du Tribunal, il a manqué à l'obligation qui lui incombait de prendre des mesures nécessaires et raisonnables pour ouvrir des enquêtes en vue d'appréhender les auteurs de ces crimes et de les déférer devant les autorités compétentes aux fins d'adoption de sanctions appropriées en vertu de l'article 6.3 du Statut du Tribunal.
16. En outre, les actes et les omissions de Juvénal Rugambarara ont entraîné la mort de milliers d'hommes, de femmes et d'enfants tutsis dans les secteurs de Mwulire, de Mabare et de Nawe sis dans la commune de Bicumbi, entre le 7 et le 20 avril 1994.

Nature des infractions

Faits survenus dans le secteur de Mwulire sis dans la commune de Bicumbi

17. Le 18 avril 1994 ou vers cette date, Juvénal Rugambarara a su que des attaques visant des Tutsis rassemblés au camp de Mwulire dans le secteur de Mwulire sis dans la commune de Bicumbi avaient eu lieu entre le 13 et le 18 avril 1994, causant la mort de centaines de ces Tutsis.
18. Le 18 avril 1994 ou vers cette date, Juvénal Rugambarara a également su que plusieurs agents des services publics, notamment des conseillers de secteur et des policiers communaux en service au bureau communal de Bicumbi, agissant de concert avec des miliciens armés venant de cette commune, avaient participé aux attaques dirigées contre des Tutsis ayant cherché refuge au camp de Mwulire dans le secteur de Mwulire.

19. De manière spécifique, le 18 avril 1994 ou vers cette date, Juvénal Rugambarara a su que les attaques lancées contre des civils tutsis rassemblés au camp de Mwulire avaient été organisées par Théodore Nsengiyumva, assistant du bourgmestre de la commune de Bicumbi, François Fungameza, conseiller du secteur de Muyumba, Deo Nkuriyingoma, conseiller du secteur de Bicumbi, Mathias Karuhije, conseiller du secteur de Murama, Ngabonziza, conseiller du secteur de Rubona, Sekimonyo, conseiller du secteur de Mabare, et plusieurs policiers de la commune de Bicumbi, dont Mathias Gasana, Rwabugabo, Shabayiro et Munyakayanza.
20. À cet égard, ayant su que des attaques avaient eu lieu contre des Tutsis rassemblés au camp de Mwulire tel qu'il est indiqué ci-dessus, Juvénal Rugambarara n'a pris aucune mesure nécessaire et raisonnable en sa qualité de bourgmestre de la commune de Bicumbi pour ouvrir des enquêtes sur ces crimes en vue d'appréhender et de déférer devant les autorités compétentes, aux fins d'adoption de sanctions appropriées, ses subordonnés qui avaient commis ces actes criminels ayant entraîné la mort de plusieurs centaines de Tutsis.
21. Le 18 avril 1994 ou vers cette date, Juvénal Rugambarara a eu connaissance du fait que le 13 avril 1994 ou vers cette date, le conseiller du secteur de Bicumbi, du nom de Nkuriyingoma, ainsi qu'un policier communal de la commune de Bicumbi nommé Munyakayanza et des miliciens munis d'armes traditionnelles s'étaient rendus au bureau du secteur de Mwulire et avaient lancé une attaque contre des Tutsis qui y avaient cherché refuge, provoquant la mort de plusieurs centaines de ces Tutsis.
22. À cet égard, ayant su que ces crimes avaient été commis, Juvénal Rugambarara n'a pris aucune mesure nécessaire et raisonnable en sa qualité de bourgmestre de la commune de Bicumbi pour ouvrir des enquêtes en vue d'appréhender et de déférer devant les autorités compétentes, aux fins d'adoption de sanctions appropriées, ses subordonnés qui avaient commis ces actes criminels ayant entraîné la mort de plusieurs Tutsis au bureau du secteur de Mwulire.

Faits survenus dans le secteur de Mabare

23. Le 18 avril 1994 ou vers cette date, Juvénal Rugambarara a eu connaissance du fait que plusieurs attaques lancées entre le 12 et le 18 avril 1994 contre des civils tutsis du secteur de Mabare dans la commune de Bicumbi avaient entraîné la mort de plusieurs centaines de ces civils tutsis.
24. Le 18 avril 1994 ou vers cette date, Juvénal Rugambarara a également su que les attaques lancées entre le 12 et le 18 avril 1994 contre des civils tutsis du secteur de Mabare dans la commune de Bicumbi avaient été dirigées par des policiers communaux et des miliciens armés sur lesquels il exerçait un contrôle effectif.

25. Ayant su que ses subordonnés avaient commis des crimes dans le secteur de Mabare, Juvénal Rugambarara n'a pris aucune mesure nécessaire et raisonnable en sa qualité de bourgmestre de la commune de Bicumbi pour ouvrir des enquêtes en vue d'appréhender et de déférer devant les autorités compétentes, aux fins d'adoption de sanctions appropriées, ses subordonnés qui avaient commis ces actes criminels ayant entraîné la mort de plusieurs centaines de civils tutsis.

Faits survenus à la mosquée de Mabare dans le secteur de Mabare

26. Le 18 avril 1994 ou vers cette date, Juvénal Rugambarara a su que des attaques lancées entre le 16 et le 18 avril 1994 contre plusieurs civils tutsis rassemblés à la mosquée de Mabare dans le secteur de Mabare relevant de la commune de Bicumbi avaient entraîné la mort de plusieurs centaines de ces Tutsis.
27. Le 18 avril 1994 ou vers cette date, Juvénal Rugambarara a également su que les réfugiés rassemblés à la mosquée de Mabare, qui avaient au départ opposé une résistance auxdites attaques, avaient été par la suite vaincus et tués avec le concours de policiers armés de la commune de Bicumbi qui étaient venus prêter main-forte aux miliciens armés.
28. Le 18 avril 1994 ou vers cette date, Juvénal Rugambarara a su que les Tutsis rassemblés à la mosquée de Mabare avaient été attaqués par des personnes qui étaient ses subordonnés et sur lesquelles il exerçait un contrôle effectif en sa qualité de bourgmestre de la commune de Bicumbi.
29. Ayant su que ses subordonnés avaient perpétré des attaques à la mosquée de Mabare entre le 16 et le 18 avril 1994, Juvénal Rugambarara n'a pris aucune mesure nécessaire et raisonnable en sa qualité de bourgmestre de la commune de Bicumbi pour ouvrir des enquêtes en vue d'appréhender et de déférer devant les autorités compétentes, aux fins d'adoption de sanctions appropriées, ses subordonnés qui étaient responsables de ces actes criminels ayant entraîné la mort de plusieurs centaines de civils tutsis.

Faits survenus dans le secteur de Nawe

30. Le 18 avril 1994 ou vers cette date, Juvénal Rugambarara a su que vers le 8 avril 1994, Jean Baptiste Gatete, agent recenseur en service au bureau communal de Bicumbi, avait publiquement incité et encouragé des civils hutus du secteur de Nawe à exterminer leurs homologues tutsis pour venger la mort du Président rwandais, et que Gatete avait par la suite dirigé personnellement des attaques contre des Tutsis du secteur de Nawe, souvent de concert avec des policiers communaux et des miliciens.
31. Le 18 avril 1994 ou vers cette date, Juvénal Rugambarara a également su que Jean-Baptiste Gatete avait conduit trois (3) policiers employés par la commune de Bicumbi, à savoir Shabayiro, Rwabugabo et Ntabara, et de nombreux miliciens

armés, à des attaques contre des civils tutsis du secteur de Nawe le 8 avril 1994 ou vers cette date. Ces attaques avaient entraîné la mort de plusieurs centaines de civils tutsis dans le secteur de Nawe sis dans la commune de Bicumbi.

32. En tant que bourgmestre de la commune de Bicumbi, Juvénal Rugambarara exerçait un contrôle effectif sur Jean-Baptiste Gatete, ainsi que sur les policiers communaux et les miliciens qui avaient participé auxdites attaques dans le secteur de Nawe.
33. Ayant su que ses subordonnés avaient commis des actes criminels, Juvénal Rugambarara n'a pris aucune mesure nécessaire et raisonnable en sa qualité de bourgmestre de la commune de Bicumbi pour ouvrir des enquêtes en vue d'appréhender et de déférer devant les autorités compétentes, aux fins d'adoption de sanctions appropriées, ses subordonnés qui étaient responsables du massacre des civils tutsis perpétré dans le secteur de Nawe le 8 avril 1994 ou vers cette date.
34. Les actes et les omissions de Juvénal Rugambarara visés dans le présent acte d'accusation sont punissables en vertu des articles 23 et 24 du Statut du Tribunal.

Fait à Arusha, le 2nd July 2007



Le Procureur,

Hassan Bubacar Jallow