

ICTR-2002-78-T  
21-2-2002  
(254-248)

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INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

Case No. ICTR-2001- -I

THE PROSECUTOR

AGAINST

GASPARD KANYARUKIGA

JUDICIAL RECORDS ARCHIVES  
2002 FEB 21 P 12:46  
ICTR  
January 2002

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*INDICTMENT*

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JUDICIAL RECORDS ARCHIVES  
2002 FEB 21 P 12:18  
ICTR

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

**Gaspard KANYARUKIGA**

with **GENOCIDE**; or in the alternative **COMPLICITY IN GENOCIDE; CONSPIRACY TO COMMIT GENOCIDE**; and **CRIMES AGAINST HUMANITY** for **EXTERMINATION**; offenses stipulated in Articles 2 and 3 of the Statute of the Tribunal, as set forth below.

II. **THE ACCUSED:**

**Gaspard KANYARUKIGA** was born in 1945 in KIVUMU commune, KIBUYE prefecture, RWANDA. During the events referred to in this indictment, **Gaspard KANYARUKIGA** was a businessman in KIGALI and KIVUMU commune, KIBUYE prefecture, Rwanda.

III. **CHARGES, including a CONCISE STATEMENT OF FACTS:**

**Count 1: GENOCIDE:**

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Gaspard KANYARUKIGA** with **GENOCIDE**, a crime stipulated in Article 2(3)(a) of the Statute, in that on or between the dates of 6 April 1994 and 20 April 1994, in KIVUMU commune, KIBUYE *préfecture*, Rwanda, **Gaspard KANYARUKIGA** was responsible for killing or causing serious bodily or mental harm to members of the Tutsi population with intent to destroy, in whole or in part, a racial or ethnic group;

*Pursuant to Article 6(1) of the Statute:* by virtue of his affirmative acts in planning, instigating, ordering, committing, or otherwise aiding and abetting the planning, preparation or execution of the crime charged.

**Or alternatively**

**Count 2: COMPLICITY IN GENOCIDE:**

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Gaspard KANYARUGIKA** with **COMPLICITY IN GENOCIDE**, a crime stipulated in Article 2(3)(e) of the Statute, in that on or between the dates of 6 April 1994 and 20 April 1994 in KIVUMU commune, KIBUYE prefecture, Rwanda, **Gaspard KANYARUGIKA** was an accomplice to the killing or causing serious bodily or mental harm to members of the Tutsi population with intent to destroy, in whole or in part, a racial or ethnic group.

*Pursuant to Article 6(1) of the Statute:* by virtue of his affirmative acts in planning, instigating, ordering, committing, or otherwise aiding and abetting the planning, preparation or execution of the crime charged.

***Concise statements of facts for Count 1 and Count 2***

1. During the events referred to in this indictment, Tutsi, Hutu, and Twa were identified as ethnic or racial groups.
2. KIVUMU is one commune of KIBUYE prefecture, Republic of Rwanda. During the events described in this indictment, Kivumu commune was inhabited by a big concentration of Hutu population, nearly 50,000 Hutu and only 6000 Tutsi population.
3. The Nyange Parish was located in Nyange sector, KIVUMU commune, KIBUYE préfecture. Its Church (Nyange Church) did contain nearly 1500 sitting places. Father Athanase SEROMBA was in charge of the Parish.
4. Gaspard KANYARUGIKA was a powerful businessman, having a business in KIGALI prefecture and KIVUMU commune of KIBUYE prefecture. During the events referred to in this indictment, he was living in KIVUMU commune.
5. During the events referred to in this indictment, Gaspard KANYARUKIGA, Athanase SEROMBA, Grégoire NDAHIMANA, *Bourgmestre* of KIVUMU commune; Fulgence KAYISHEMA, police inspector of KIVUMU commune, and others not known to the Prosecution, prepared and executed a plan of extermination of the Tutsi of KIVUMU commune.
6. After the death of the Rwandan President, on 6 April 1994, attacks against the Tutsi began in KIVUMU commune, causing the death of some Tutsi

civilians, including, Grégoire NDAKUBANA, Martin KARAKEZI and Thomas MWENDEZI.

7. To escape the attacks directed against them, Tutsi from the different sectors of Kivumu commune, fled their homes to seek refuge into public buildings and Churches, among them, the Nyange Church. Gaspard KANYARUGIKA, Grégoire NDAHIMANA, and communal police gathered and transported the refugees from the different sectors of KIVUMU commune to Nyange Parish.
8. On or about 10 April 1994, several important meetings were held at the Parish of Nyange and the communal office of KIVUMU. Gaspard KANYARUKIGA, Athanase SEROMBA, Fulgence KAYISHEMA, and others not known to the Prosecutor attended these meetings.
9. During the said meetings, they decided to request Kibuye prefecture for gendarmes and to gather all Tutsi civilians of Kivumu commune at Nyange Church in order to exterminate them.
10. On or about 13 April 1994, almost all the Tutsi of KIVUMU commune were gathered at the Parish of Nyange and surrounded by Interahamwe and militia.
11. On or about 14 April 1994, in the afternoon, Father SEROMBA met Gaspard KANYARUKIGA and Fulgence KAYISHEMA in his Parish Office. Soon after, Fulgence KAYISHEMA went to bring some fuel, using a car of KIVUMU commune. That fuel was used by the Interahamwe and the militia to burn down the Church, while the gendarmes and members of the communal police launched grenades, while Tutsi refugees were trapped in the Church.
12. On that same day, Anasthase SEROMBA chaired a meeting in his Parish Office with Gaspard KANYARUKIRA, Fulgence KAYISHEMA, Grégoire NDAHIMANA, and others unknown to the Prosecution. Immediately after this meeting, at the request of the refugees for protection, the *Bourgmestre* Grégoire NDAHIMANA replied that this war was caused by the Inyenzi who killed the President.
13. On or about 15 April 1994, a bus arrived at Nyange Parish, from KIBUYE préfecture, transporting armed Interahamwe and a priest named KAYIRANGWA. Soon after, a meeting held among Gaspard KANYARUKIGA father SEROMBA, priest KAYIRANGWA, Fulgence KAYISHEMA, and others unknown to the Prosecution.
14. After this meeting, attacks were launched against the Tutsi refugees by the Interahamwe, the militia, the gendarmes and the communal police, armed with traditional weapons and firearms causing the death of numerous refugees.

15. On or about 15 April 1994, in the afternoon, the attacks intensified against the Tutsi refugees of the Nyange Church. The Interahamwe and the militia attacked with traditional arms, poured fuel through the roof of the Nyange Church, while the gendarmes and the communal police launched grenades and shot dead the refugees.
16. Many Tutsi refugees were killed during these said attacks. A Bulldozer had to be used by three employees of Astaldi company (Mitima, Maurice and Flanbeau,) to remove the numerous corpses of the victims from the Nyange Church. Two additional drivers were requested from Fulgence KAYISHEMA to complete the removal. One of them, Evarist RWAMASIRABO, having refused to participate in removal of corpses, was immediately killed by one of the gendarmes who were accompanying KAYISHEMA.
17. In the meantime the Interahamwe, the militia, the gendarmes and the communal police, went on with their attacks but were unable to kill all the refugees in the Church.
18. During the attacks described above, Gaspard KANYARUGIKA, Anasthase SEROMBA, Grégoire NDAHIMANA, Fulgence KAYISHEMA, Téléphore NDUNGUTSE, Judge Joseph HABİYAMBERE, assistant bourgmestre Védaste MUPENDE and other authorities not known to the Prosecution, were supervising the massacres.
19. When the corpses of victims were removed from Nyange Church, Védaste MUPENDE ordered the driver (Anasthase alias 2000) to demolish the Nyange Church. The latter refused as he had mental reservation about destroying a house of God.
20. Immediately after, Védaste MUPENDE, Fulgence KAYISHEMA and Grégoire NDAHIMANA requested the intervention of Athanase SEROMBA, who came and ordered the said driver to destroy the Church, telling him that Hutu people were numerous and could build another one.
21. During this attack, Gaspard KANYARUGIKA instigated the Interahamwe and militia to destroy the church telling them not to hesitate to destroy the Church since a plan to build a new Church was already prepared and that will provide jobs for young Hutu workers.
22. The demolition commenced and the roof of the Church crushed killing more than 2000 Tutsi refugees gathered inside. The rare survivors were attacked by the Interahamwe, anxious to finish them off.

### **Count 3: CONSPIRACY TO COMMIT GENOCIDE:**

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Gaspard KANYARUGIKA** with **CONSPIRACY TO COMMIT GENOCIDE**, a crime stipulated in Article 2(3)(b) of the Statute, in that on or between the dates of 6 April 1994 and 20 April

1994, in KIVUMU *prefecture*, Rwanda, **Gaspard KANYARUGIKA**, businessman, did agree with Grégoire NDAHIMANA, bourgmestre of Kivumu commune, Fulgence KAYISHEMA, a police inspector of Kivumu commune, Télesphore NDUNGUTSE, and other persons not known to the Prosecution, to kill or cause serious bodily or mental harm to members of the Tutsi population with the intent to destroy, in whole or in part, a racial or ethnic group;

*Pursuant to Article 6(1) of the Statute:* by virtue of his affirmative acts in planning, instigating, ordering, committing, or otherwise aiding and abetting the planning, preparation or execution of the crime charged.

23. Gaspard KANYIKURIGA, Father Athanase SEROMBA, Grégoire NDAHIMANA, Fulgence KAYISHEMA and Télesphore NDUNGUTSE, did agree to kill the Tutsi ethnic group, and established a plan or a common scheme to execute the extermination of Tutsi in KIVUMU commune.
24. They held regular meetings at Nyange Parish and the communal office, between the dates of 6 April 1994 and 20 April 1994. During these meetings, they did agree on a common strategy to kill and exterminate all the Tutsi of KIVUMU commune.
25. This plan was carried out following three main actions. First to oblige Tutsi civilians of KIVUMU commune to leave their homes and take refuge in Nyange Church. For this purpose, between 7 and 10 April 1994, local authorities and members of communal police launched attacks against Tutsi on their houses, resulting in the killing of some civilians, and forcing the survivors to take refuge in Nyange Church.
26. On or about 10 April 1994, several important meetings were held at the Parish of Nyange and the communal office. Gaspard KANYARUKIGA, Anasthase SEROMBA, Grégoire NDAHIMANA, Fulgence KAYISHEMA, and others not known to the Prosecution, attended these meetings.
27. During these said meetings, they decided to request Kibuye prefecture for gendarmes, to gather all Tutsi civilians of Kivumu commune at Nyange Church to exterminate them.
28. The second step of the plan consisted of keeping the refugees inside the Church, surrounding them with the Interahamwe and the militia and inflicting on them conditions of life calculated to bring about their weaknesses. Regular attacks also were launched against them to defeat their endurance.
29. To this end from about 12 April 1994, the gendarmes kept the refugees at the Nyange Church, which was surrounded by the Interahamwe and the militia.

30. On or about 12 April 1994, in the afternoon, Father SEROMBA chaired a meeting with Gaspard KANYARUGIKA, Grégoire NDAHIMANA and Fulgence KAYISHEMA. Soon after the bourgmestre NDAHIMANA said, "*We choose the richest to be killed, the others can go back to their houses*".
31. On or about 13 April 1994, Interahamwe and militias surrounding the Parish, launched an attack against the refugees in the Church, killing about 30 refugees.
32. The third and final step of the plan consisted in assembling a consistent number of killers, including Hutu civilians, to kill all the Tutsi refugees. That was done with the demolition of the Church, using a caterpillar Bulldozer with more than 2000 Tutsi civilians trapped inside the Church as described above.
33. The massive attack against the Tutsi refugees was done on or about 15 April 1994, under the supervision of Gaspard KANYARUGIKA, Father SEROMBA, Fulgence KAYISHEMA, Grégoire NDAHIMANA, Téléphore NDUNGUTSE, and others unknown to the Prosecution.
34. After the complete destruction of the Church, Gaspard KANYARUGIKA, Father Anasthase SEROMBA, met with Fulgence KAYISHEMA, Grégoire NDAHIMANA, and the drivers of the caterpillar bulldozer and sat drinking beer together.

**Count 4: EXTERMINATION as a CRIME AGAINST HUMANITY.**

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Gaspard KANYARUGIKA** with **EXTERMINATION as a CRIME AGAINST HUMANITY**, as stipulated in Article 3(b) of the Statute, in that on or between the dates of 7 April 1994 and 20 April 1994, in KIBUYE *préfecture*, Rwanda, **Gaspard KANYARUGIKA** was responsible for killing persons, or causing persons to be killed, during mass killing events as part of a widespread or systematic attack against a civilian population on political, ethnic or racial grounds, as follows:

*Pursuant to Article 6(1) of the Statute:* by virtue of his affirmative acts in planning, instigating, ordering, committing, or otherwise aiding and abetting the planning, preparation or execution of the crime charged.

35. On or about 15 April 1994, Gaspard KANYARUGIKA ordered, planned, incited or abetted and encouraged the destruction of the Church with more than 2000 Tutsi refugees trapped inside causing their deaths.
36. After the destruction of the Church, most of the Tutsi from KIVUMU commune were killed, and in July 1994, there was no Tutsi Known in KIVUMU commune.

*The acts and omissions of Gaspard KANYIRUKIGA detailed herein are punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.*

Dated in Arusha: this 5 day of December 2001

  
Carla Del Ponte  
Prosecutor

