

ICT-01-65-1
07-03-2005
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**International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda**

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

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INTEROFFICE MEMORANDUM — MEMORANDUM INTERIEUR

To: Mr. Nouhou Diallo
A: Legal Officer, TC1

Date: 07/03/05

Ref:

Through: Mr. Richard Karegyesa
Senior Trial Attorney

From: Ms. Kentaro Kanyomozi *K.K.*
De: Case Manager

Subject: **Filing of Amended Indictment – Prosecutor Vs Mpambara - ICTR-01-65-I**
Objet:

1. Further to the Trial Chambers Decision dated the 04/03/2005 the Prosecution hereby files the Amended Indictment
2. This material is to be filed with the registry with immediate service to the judges and the defence team
3. Thank you for your attention on this matter
4. Sincerely

JUDICIAL RECORDS/ARCHIVES
ICTR
2005 MAR -7 A II: 211

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Ivan

INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

Case No. ICTR-2001- 65 - I

THE PROSECUTOR

AGAINST

JEAN MPAMBARA

JUDICIAL RECORDS/ARCHIVES
ICTR
2005 MAR -7 A 11: 21


AMENDED INDICTMENT

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

JEAN MPAMBARA

With:

- Count 1 - GENOCIDE, or alternatively
- Count 2 - COMPLICITY IN GENOCIDE
- Count 3 - EXTERMINATION as a CRIME AGAINST HUMANITY

II. THE ACCUSED

1. **Jean MPAMBARA** was born in 1954 in Rukara Commune, Kibungo *préfecture*, Rwanda. Before and during the period covered by this indictment, **Jean MPAMBARA** was the *bourgmestre* of Rukara *commune* in Kibungo *préfecture*.
2. As *bourgmestre*, **Jean MPAMBARA** exercised *de jure* and *de facto* authority over administrative personnel at the level of the Commune and the communal police. **Jean MPAMBARA**, also, exercised *de facto* authority over *conseillers de secteur*, *responsables de cellule*, *nyumbakumi*, *gendarmes* and *Interahamwe* militias in Rukara *commune*.

III. CHARGES and CONCISE STATEMENT OF FACTS:

3. At all times referred to in this indictment there existed in Rwanda a minority ethnic or racial group known as Tutsis, officially identified as such by the government. The majority of the population was comprised of an ethnic or racial group known as Hutus, also officially identified as such by the government.
4. Between 6 April 1994 and 17 July 1994, throughout Rwanda, soldiers, *Interahamwe* militia and armed civilians targeted and attacked Tutsis on the basis that they were Tutsis, with the intent to kill or cause serious harm to them as such and to destroy the Tutsi population in Rwanda in whole or in part. Hundreds of thousands of civilian Tutsis were killed.
5. Between 6 April and 17 July 1994, there were throughout Rwanda widespread or systematic attack against a civilian population on racial, ethnic and political grounds.

Count 1: GENOCIDE

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Jean MPAMBARA** 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 16 April 1994, particularly in Rukara Commune and generally in Kibungo Prefecture, **Jean MPAMBARA** was responsible for killing or causing serious bodily or mental harm to members of the Tutsi racial or ethnic group, with intent to destroy, in whole or in part, a racial or ethnic group, as such, as outlined in paragraphs 1 through 20.

Alternatively,

Count 2: COMPLICITY IN GENOCIDE

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Jean MPAMBARA** 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 16 April 1994, particularly in Rukara Commune and generally in Kibungo Prefecture, **Jean MPAMBARA** was responsible for killing or causing serious bodily or mental harm to members of the Tutsi racial or ethnic group, with intent to destroy, in whole or in part, a racial or ethnic group, as such, or with knowledge that other people intended to destroy, in whole or in part, the Tutsi racial or ethnic group, as such, and that his assistance would contribute to the crime of genocide, as outlined in paragraphs 1 through 20.

CONCISE STATEMENT OF FACTS FOR COUNTS 1 AND 2

Individual Criminal Responsibility

6. Pursuant to Article 6(1) of the Statute, the accused, **Jean MPAMBARA**, is individually responsible for the crimes of Genocide or Complicity in Genocide because he planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of these crimes. With respect to the commission of those crimes, **Jean**

MPAMBARA ordered those over whom he had command responsibility and control as a result of his position and authority described in paragraph 2. He instigated and aided and abetted those over whom he did not have command responsibility and control to attack the Tutsi population. In addition, the accused willfully and knowingly participated in a joint criminal enterprise whose object, purpose, and foreseeable outcome was the destruction of the Tutsi racial or ethnic group throughout Rwanda. To fulfill this criminal purpose, the accused acted with military and community leaders and members of the *Interahamwe* in Rukara Commune such as *Colonel Pierre Celestin RWAGAFILITA, conseiller de secteur Jean Bosco BUTERA, Police Brigadier RUHIGURI, Businessman Samson GACUMBITSI, Samuel GASANA, Member of Parliament Innocent KALIBWENDE, Interahamwe chief CYASA, former bourgmestre of Murambi commune Jean Baptiste GATETE* and other unknown participants, all such actions being taken either directly or through subordinates, for at least the period of 6 April 1994 through 16 April 1994. The particulars that give rise to his individual criminal responsibility are set forth in paragraphs 6 through 20.

7. **Jean MPAMBARA** participated in the preparation and execution of the campaign against the Tutsi civilian population in Rukara *commune*, Kibungo *préfecture*. The campaign consisted of:
 - (i) disseminating anti-Tutsi propaganda among the local population;
 - (ii) mobilizing Hutu civilians to identify, isolate, marginalize and attack their Tutsi neighbors;
 - (iii) distributing arms to *Interahamwe* and Hutu civilians for purposes of attacks against the Tutsi population;
 - (iv) advising, facilitating and transporting Tutsis to take shelter in public buildings;
 - (v) disarming the Tutsis and disabling resistance to the attacks;
 - (vi) strategically directing, facilitating and aiding armed attacks against large groups of Tutsis.
8. The campaign to destroy the Tutsi population was coordinated through the political structures of the government territorial administration and through the organizational apparatus of the MRND and MRND-aligned political parties in meetings called or attended by *bourgmestres, conseillers de secteur, Interahamwe*, political party leaders and influential persons in the community.
9. **Jean MPAMBARA** organized or participated in such meetings, as follows:
 - (i) on or about 7 April 1994, at Samson GACUMBITSI's place in Akabeza Trading Center, with other *commune* authorities and influential persons including *conseiller de secteur Jean Bosco BUTERA, Police Brigadier RUHIGURI, Samson GACUMBITSI and Samuel GASANA*;

- (ii) on or about 8 April 1994, at Samson GACUMBITSI's place in Akabeza Trading Center, with other *commune* authorities and influential persons;
 - (iii) on or about 8 April 1994, at the prefectural office in Kibungo, with other *bourgmestres* of Kibungo *prefecture*, Colonel Pierre Célestin RWAGAFILITA and CYASA;
 - (iv) on or about 10 April 1994, at the FAR military camp in Kibungo with Col. Pierre Célestin RWAGAFIRITA and *bourgmestres* of Kibungo *prefecture*;
 - (v) on or about 12 April 1994, at Samson GACUMBITSI's place in Akabeza Trading Center, with other *commune* authorities and influential persons including *conseiller de secteur* Jean Bosco BUTERA, Samson GACUMBITSI and Samuel GASANA.
10. Between 7 and 16 April 1994, **Jean MPAMBARA** planned, ordered, instigated, facilitated or otherwise aided and abetted the attacks on the Tutsi civilian population and other Hutu civilians married to Tutsis or in the opposition with the intent to destroy in whole or in part the Tutsi population.
 11. On the evening of 7 April 1994, after the meetings in Akabeza Trading Center, **Jean MPAMBARA** ordered the gathered Hutu militia to attack the Tutsi population. Other members of the joint criminal enterprise including Jean Bosco BUTERA, Samson GACUMBITSI and Samuel GASANA led groups of armed Hutu civilians and Interahamwe to attack Tutsis in Umwiga Cellule. They attacked and killed a number of Tutsi civilians including KAYITESI and her two children, ANATALIE and GATSINZI.
 12. On the morning of 8 April 1994, members of the joint criminal enterprise including Jean Bosco BUTERA led groups of armed Hutu civilians and Interahamwe, who gathered in Akabeza Trading Center, to attack Tutsis in Ibiza Cellule. They attacked and killed a number of Tutsi civilians including a man named DAVID.
 13. On the morning of 9 April 1994, members of the joint criminal enterprise including *conseiller de secteur* Jean Bosco BUTERA and *Communal Police Brigadier* RUHIGURI led groups of armed Hutu civilians and Interahamwe to attack Tutsis who took refuge in Gahini Hospital. They attacked and killed a number of Tutsi civilians including KALENZI MUZUNGU from Umwiga Cellule, MWIZERWA a.k.a. BEBE and his father HIGIRO, RUHAGAZA from Kawangire, MUKARUGWIZA, KARASIRA Israel from Kawangire, HAJABAKIGA Simeon from Bicumbi in Kigali, MUHIKIRA a.k.a. TOTO, MURENZI from Kawangire, BUSHORISHORI from Kawangire and a child. During the attack, **Jean MPAMBARA** arrived at the Hospital and Jean Bosco BUTERA reported to him the names of the Tutsis they killed.
 14. On or about 9 April 1994, while **Jean MPAMBARA** was driving in Rukara Commune, a Tutsi man named Philippe SAHAHA ran out of his hiding place to seek **Jean MPAMBARA**'s help. Interahamwe followed the man and killed him next to **Jean**

MPAMBARA's vehicle and in his presence. Although accompanied by armed policemen, Jean MPAMBARA did nothing to stop the killing.

15. Between 7 and 16 April 1994, Jean MPAMBARA ordered, planned, instigated, facilitated or otherwise aided and abetted attacks against civilian Tutsi men, women and children, and other persons gathered in Rukara Parish. The attacks were progressively executed and incorporated a strategy to gather Tutsi civilians in large groups in order to harm or kill them with efficient use of human and material resources.
16. Between 7 and 9 April 1994, Jean MPAMBARA circulated in Rukara *commune* aboard his vehicle, advised the Tutsi population to take shelter at Rukara Parish, assured them that they would be safe, and transported persons seeking refuge to Rukara Parish in his vehicle. He also listed the names of certain Tutsi civil servants and gathered those persons, along with their families, at Rukara Parish.
17. Rukara Parish complex is comprised of a church building, a training room, a cinema hall, a primary school, a health center and a residence for nuns and priests. Between 7 and 16 April 1994, approximately 5,000 Tutsi civilians and Hutus married to Tutsis or politically opposed to the Interim Government sought refuge in the various buildings on the Rukara Parish compound. Between 8 and 15 April 1994, attackers comprised of soldiers, gendarmes, communal policemen, Interahamwe and Hutu armed civilians attacked those who took refuge in Rukara Parish complex. More than 2500 persons were killed as a result of these attacks.
18. Between 8 and 15 April 1994, Jean MPAMBARA ordered, planned, facilitated or aided and abetted these attacks at Rukara Parish by:
 - (vi) disarming civilians who had gathered, forcibly or by choice, at Rukara Parish, and luring them to exit the building enclosures and to gather in a central location on the Parish compound, allegedly for a security meeting or with promises of protection, as occurred on and between 8 and 13 April 1994;
 - (vii) transporting and directing attackers including Interahamwe to the Parish compound as occurred on 9, 10 and 12 April 1994;
 - (viii) providing firearms and traditional weapons for the attackers as occurred on and between 8 and 13 April 1994;
 - (ix) providing and transporting stones to Rukara Parish complex, which were used by the attackers to attack the civilians sheltered at the Parish compound as occurred repeatedly between 9 and 12 April 1994;
 - (x) providing petrol which was used by the attackers to attack the civilians sheltered at Rukara Parish compound as occurred on or about 11, 12 and 13 April 1994;

- (xi) ordering or inciting Interahamwe and soldiers to attack and kill the civilians sheltered at Rukara Parish compound as occurred on or about 13 April 1994.

19. At all times material to this indictment **Jean MPAMBARA** failed to maintain public order, or deliberately undermined the public order, in districts over which he exercised administrative authority, in agreement with or in furtherance of the policies and objectives of the MRND, the Interim Government or the joint criminal enterprise referred to in paragraph 6, knowing that those policies and objectives intended the destruction, in whole or in part, of the Tutsi population.
20. Between 6 and 16 April 1994, Tutsi women were often victims of sexual violence. The sexual assaults were a prelude to murder, and were often the cause of death. The sexual violence was widespread, conducted openly, and was integrally incorporated in generalized attacks against Tutsi civilians, that **Jean MPAMBARA** knew, or should have known, that it was occurring, and that the perpetrators were his subordinates, subject to his authority and control, or acting under his orders or those of the other participants in the joint criminal enterprise. Alternatively, **Jean MPAMBARA** knew, or should have known, that the perpetrators' actions were a foreseeable outcome of the objectives and implementation of the joint criminal enterprise. For example:
- (i) on or about 8 April 1994, a Tutsi woman in Gahini *secteur*, Rukara *commune*, was beaten and raped by two attackers. The two attackers each raped her, beat her with a hoe until her teeth fell out, and then attacked her with machetes;
 - (ii) on or about 11 April 1994, a Hutu pregnant woman married to a Tutsi man was raped, in Nyawera *secteur*, Rukara Commune, by multiple attackers and, as a result, lost her Tutsi baby. One of the rapists was the leader of the attackers who attacked and destroyed her house two days earlier;
 - (iii) between 7 and 16 April 1994, soldiers who reinforced the Interahamwe during attacks on Rukara Parish raped a number of Tutsi women at or near the Parish complex.

Count 3: EXTERMINATION as a CRIME AGAINST HUMANITY

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Jean MPAMBARA** with **EXTERMINATION as a CRIME AGAINST HUMANITY**, a crime stipulated in Article 3(b) of the Statute, in that on and between 6 April and 16 April 1994, particularly in Rukara Commune and generally in Kibungo Prefecture, **Jean MPAMBARA** 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 racial, ethnic and political grounds, as outlined in paragraphs 1 through 19 and paragraphs 21 and 22.

CONCISE STATEMENT OF FACTS FOR COUNT 3

Individual Criminal Responsibility

21. Pursuant to Article 6(1) of the Statute, the accused, **Jean MPAMBARA**, is individually responsible for the crime of Extermination as a Crime Against Humanity because he planned, instigated, ordered, facilitated, committed or otherwise aided and abetted in the planning, preparation or execution of this crime. With respect to the commission of this crime, **Jean MPAMBARA** ordered those over whom he had command responsibility and control as a result of his position and authority described in paragraph 2 and he instigated and aided and abetted those over whom he did not have command responsibility and control. In addition, the accused willfully and knowingly participated in a joint criminal enterprise whose object, purpose, and foreseeable outcome was the extermination, on racial or political grounds, of the Tutsis and Hutu opponents of ethnic division by subjecting them to a mass killing campaign, particularly in Rukara Commune and generally in Kibungo Prefecture, as part of a widespread or systematic attack against that civilian population on racial, ethnic and political grounds. To fulfill this criminal purpose, the accused acted with military and community leaders and members of the *Interahamwe* in Rukara Commune such as *Colonel Pierre Celestin RWAGAFILITA, conseiller de secteur Jean Bosco BUTERA, Police Brigadier RUHIGURI, Businessman Samson GACUMBITSI, Samuel GASANA, Member of Parliament Innocent KALIBWENDE, Interahamwe chief CYASA, former bourgmestre of Murambi commune Jean Baptiste GATETE* and other unknown participants, all such actions being taken either directly or through subordinates, for at least the period of 7 April 1994 through 16 April 1994
22. The allegations contained in paragraphs 1 through 19, above, are reiterated and incorporated by reference in the concise statement of facts supporting the charges under this specific count of the Indictment.

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

Dated at Arusha, this 27th day of November 2004:



**HASSAN BUBACAR JALLOW
THE PROSECUTOR**



TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH CMS

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

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

To:	<input checked="" type="checkbox"/> Trial Chamber I N. M. Diallo	<input type="checkbox"/> Trial Chamber II R. N. Kouambo	<input type="checkbox"/> Trial Chamber III C. K. Hometowu	<input type="checkbox"/> Appeals Chamber / Arusha F. A. Talon	
	<input type="checkbox"/> Chief, CMS J.-P. Fomété	<input type="checkbox"/> Deputy Chief, CMS M. Diop	<input type="checkbox"/> Chief, JPU, CMS K. K. A. Afande	<input type="checkbox"/> Appeals Chamber / The Hague R. Burriss	
From:	<input type="checkbox"/> Chamber (name)	<input type="checkbox"/> Defence (name)	<input checked="" type="checkbox"/> Prosecutor's Office Kanyomozi Kentaro	<input type="checkbox"/> Other: (name)	
Case Name:	The Prosecutor vs. Jean Mpambara			Case Number: ICTR-01-65-I	
Dates:	Transmitted: 07/03/2005		Document's date: 27/11/2004		
No. of Pages:	7	Original Language:	<input checked="" type="checkbox"/> English	<input checked="" type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda
Title of Document:	Disclosure of Amended Indictment				
Classification Level:		TRIM Document Type:			
<input type="checkbox"/> Strictly Confidential / Under Seal		<input checked="" type="checkbox"/> Indictment	<input type="checkbox"/> Warrant	<input type="checkbox"/> Correspondence	<input type="checkbox"/> Submission from non-parties
<input type="checkbox"/> Confidential		<input type="checkbox"/> Decision	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Notice of Appeal	<input checked="" type="checkbox"/> Submission from parties
<input checked="" type="checkbox"/> Public		<input type="checkbox"/> Disclosure	<input type="checkbox"/> Order	<input type="checkbox"/> Appeal Book	<input type="checkbox"/> Accused particulars
		<input type="checkbox"/> Judgement	<input type="checkbox"/> Motion	<input type="checkbox"/> Book of Authorities	

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

CMS SHALL take necessary action regarding translation.	
<input checked="" type="checkbox"/> Filing Party hereby submits only the original, and will not submit any translated version.	
<input type="checkbox"/> Reference material is provided in annex to facilitate translation.	
Target Language(s):	
<input type="checkbox"/> English	<input type="checkbox"/> French
<input type="checkbox"/> Kinyarwanda	
CMS SHALL NOT take any action regarding translation.	
<input type="checkbox"/> Filing Party hereby submits BOTH the original and the translated version for filing, as follows:	
Original	in <input type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda
Translation	in <input type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda
CMS SHALL NOT take any action regarding translation.	
<input type="checkbox"/> Filing Party will be submitting the translated version(s) in due course in the following language(s):	
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<input type="checkbox"/> Kinyarwanda	
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<input type="checkbox"/> The OTP is over-seeing translation. The document is submitted for translation to: <input type="checkbox"/> The Language Services Section of the ICTR / Arusha. <input type="checkbox"/> The Language Services Section of the ICTR / The Hague. <input type="checkbox"/> An accredited service for translation; see details below: Name of contact person: Name of service: Address: E-mail / Tel. / Fax:	<input type="checkbox"/> DEFENCE is over-seeing translation. The document is submitted to an accredited service for translation (fees will be submitted to DCDMS): Name of contact person: Name of service: Address: E-mail / Tel. / Fax:

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 2005 MAR 17

III - TRANSLATION PRIORITISATION (For Official use ONLY)

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