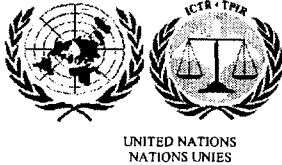


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International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

Case No. ICTR-98-44C-I

ENGLISH
Original: FRENCH

THE PROSECUTOR
against
ANDRÉ RWAMAKUBA

2005 JUN - 8 P 4: 26
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INDICTMENT

Separate Indictment of 23 February 2005, filed pursuant to the Order issued by Trial Chamber III on 26 May 2005

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

ANDRÉ RWAMAKUBA

Pursuant to Article 2 of the Statute of the Tribunal, with:

- (i) **GENOCIDE** *or, alternatively,*
- (ii) **COMPLICITY IN GENOCIDE**

Pursuant to Articles 3 of the Statute of the Tribunal, with:

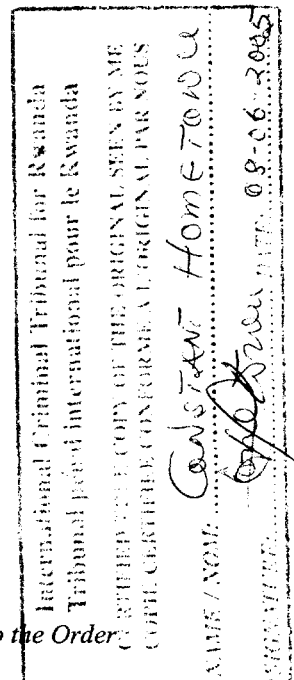
- (iii) **EXTERMINATION, and**
- (iv) **MURDER, as CRIMES AGAINST HUMANITY**

PII05-0019 (E)

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The Prosecutor v. André Rwamakuba - Separate Indictment of 23 February 2005, filed pursuant to the Order issued by Trial Chamber III on 26 May 2005

Translation certified by LSS, ICTR



The Accused

I. Particulars of the Accused

1. **André RWAMAKUBA** was born in 1950 in Gikomero *commune*, Kigali-rural *préfecture*, Rwanda. **André RWAMAKUBA** was trained as a physician and was Minister of Primary and Secondary Education in the Interim Government of 8 April 1994, taking the oath of office on 9 April 1994 and continuing in that capacity until the Interim Government fled from Rwanda in July 1994. **André RWAMAKUBA** also served as “spokesman” for the Interim Government, and was a member of MDR political party, associated with that party’s “Hutu Power” wing.

II. Authority and Legal Duties of the Accused

2. **André RWAMAKUBA** was a member of the Executive Committee of MDR “Power” political party and was a member of that party’s *comité préfectoral* in his *préfecture* of origin. As Minister of Primary and Secondary Education in the Interim Government, he had authority and influence over local administrative officials that executed his instructions. The Accused exercised the same authority and control over regional and local leaders of the “civil defense force”, particularly over the *Interahamwe* and related militias in Gikomero, his home *commune*, and militiamen that were present in and around the Butare University Hospital.

Charges

Count 1: Genocide

The Prosecutor charges **André RWAMAKUBA** with **Genocide**, pursuant to Articles 2 and 6(1) of the Statute of the Tribunal in that on or between 6 April and 30 April 1994, in Gikomero *commune* and at Butare University Hospital, he was responsible for killing or causing serious bodily or mental harm to members of the Tutsi population, or deliberately inflicting conditions of life upon the Tutsi population that were calculated to bring about its physical destruction, with the intent to destroy, in whole or in part, the Tutsi racial or ethnic group;

Or, alternatively,

Count 2: Complicity in Genocide

The Prosecutor charges **André RWAMAKUBA** with **Complicity in Genocide**, pursuant to Articles 2 and 6(1) of the Statute of the Tribunal in that on or between 6 April and 30 April 1994, in Gikomero *commune* and at Butare University Hospital, he instigated or provided the

means to other persons to kill or cause serious bodily or mental harm to members of the Tutsi population, or to deliberately inflict conditions of life upon the Tutsi population that were calculated to bring about its physical destruction, knowing that those other persons intended to destroy, in whole or in part, the Tutsi racial or ethnic group, committed as follows:

3. Following an extraordinary congress of MDR political party held at Kabusunzu in Kigali on or about 26 July 1993, **André RWAMAKUBA** became associated with the party's extremist "Hutu Power" wing as a member of its executive team, along with Frodouald Karamira, a leader of the party, and Jean Kambanda, a leading politician who would subsequently become Prime Minister of the Interim Government of 8 April 1994. After the establishment of MDR "Power" on 26 July 1993 or thereabouts, **André RWAMAKUBA**, practically every weekend, up to and including January 1994, and often accompanied by local authorities and officials of MDR "Power", traveled about his home *commune* in Gikomero, Kigali-rural *préfecture*. He organized meetings and participated in rallies in Kayanga, Gikomero, Rutunga, Gasabo and Gicaca *secteurs*. During the rallies, **André RWAMAKUBA** distributed songs of the Parmehutu party. The *Accused's* objective at the time was to recruit members for MDR "Power" party and to support "Hutu Power". The *Accused* called upon the Hutu majority to oppose the Arusha Peace Accords and to exterminate the Tutsi.

4. During those "sensitization" campaigns in Gikomero *commune*, particularly in January 1994, **André RWAMAKUBA** occasionally went about in a vehicle equipped with a public address system exhorting Hutu to unite in order to get rid of Tutsi. His announcements, the objective of which was to exhort Hutu to unite in order to get rid of Tutsi, included repeated statements that "the time has come for you, Hutu, to get rid of the enemy".

5. During the period from January through June 1994, **André RWAMAKUBA** made statements at various meetings and public gatherings in Gikomero *commune*, or publicly associated himself with statements or acts by other persons at such gatherings. Thus, from January 1994 and during the entire period preceding the events of April 1994 in Sha, Nduba, Shango, Kayanga and Gikomero *secteurs*, and in the *communes* adjoining Gikomero, namely Rutungo, Rubungo and Kanombe, he publicly instigated participants to combat "the enemy", all the Tutsi being characterized as "the enemy", "accomplices of the enemy" or "accomplices of RPF". After these gatherings, during which the *Accused* called for the extermination of Tutsi, the participants became excited, aggressive and disposed to physically attack and destroy the Tutsi as a group. Such speeches by the *Accused* signaled the start of killings in the *commune*. Furthermore, after the killings began in early April 1994, **André RWAMAKUBA** often praised and congratulated militiamen publicly for and on having killed Tutsi, thereby instigating other militias and armed civilians to participate in further attacks and massacres against the Tutsi population.

6. Between 1 January and 17 July 1994, **André RWAMAKUBA**, in Gikomero *commune* and in Butare *préfecture*, participated in a killing campaign against Tutsi throughout Rwanda, instigated or ordered others to participate in this campaign, or otherwise aided and abetted the planning, preparation or execution of the campaign. In so doing, the *Accused* mobilized the physical and logistical resources of his political party, MDR "Power",

the other parties that were allied with MRND and “Hutu Power”, the Interim Government ministries controlled by those parties, and the military, to target Rwanda’s Tutsi population as “the enemy” or “accomplices of the enemy”, and to execute this campaign that sought to attack, kill and destroy the Tutsi as a group.

7. **André RWAMAKUBA** participated in formulating, articulating, publicizing, and legitimizing the policies of the Interim Government of 8 April 1994. Such policies were elaborated and used to implement a vast campaign of violence against the Tutsi population throughout Rwanda.

8. In this regard, **André RWAMAKUBA** utilized a state-endorsed program of “civilian self defense”, whereby officials in the territorial administration [*préfets, bourgmestres* and *conseillers*] and officials in MRND and MDR “Power” political parties recruited civilians, usually local Hutu youth, and consolidated them with political party “youth wing” militias under the authority of retired military officers and reservists. The militias were used to mount and control roadblocks that tracked and killed Tutsi civilians. Furthermore, this “civilian self defense” corps was deployed in armed patrols to identify, search out, and kill the Tutsi population.

9. On or about 17 May 1994, during a meeting of the *Conseil des ministres*, the Interim Government implemented measures to manage the “civil defense force”, formally entrusting responsibility for this program to **André RWAMAKUBA** and other ministers.

10. **André RWAMAKUBA** planned, instigated, ordered, committed or otherwise aided and abetted attacks against the Tutsi population in his home *commune* of Gikomero. All those acts were intended to destroy, in whole or in part, the Tutsi as a group.

11. Between 10 and 20 April 1994, **André RWAMAKUBA** delivered bags of machetes to the home of André Muhire, near Ndatemwa trading center in Gasabo *secteur*, in his home *commune* of Gikomero, Kigali-rural *préfecture*. On that occasion, between 10 and 11 April, **André RWAMAKUBA** held a meeting with several influential local members of MDR “Hutu Power” political party, including the persons known as Joas Habimana, Chairman of MDR “Power” in Rutunga *secteur*, Ndamage and André Muhire. Several days later, about 13 April, André Muhire distributed the machetes to local residents, who then used them to attack and massacre the Tutsi population. Following such attacks, many Tutsi were killed, including residents of Ndatemwa Centre, namely the wife of a man called Gakumba and her son, Kambanda, and the persons known as Kanuma, Rwihimba, Kankidi, Rutembya, Rutembesa, and many unidentified refugees from Rutongo, Nkuzuzu and Rutunga *secteurs*. Again, between 10 and 11 April 2004, **André RWAMAKUBA** delivered bags of machetes to the home of Etienne Kamanzi, the director of the Kayanga Health Center. The Accused knew, or had reasons to know, that the machetes would be used in attacks against the Tutsi in those areas, thereby aiding and abetting the killing campaign against the Tutsi population.

12. Between 10 and 20 April 1994, **André RWAMAKUBA** went to Gikomero *commune* where, during a rally near the *secteur* office, accompanied by RUTAGANIRA, *bourgmestre* of the *commune*, Brigadier NYARWAYA, Mathias KABANGUKA, accountant of the *commune*, and two policemen, he asked persons in the crowd why the massacres had not

started. He then seized documents belonging to two unknown youths, but who were identified as Tutsi, tore the documents and ordered the crowd to seize the youths and kill them. Persons present in the crowd armed with firearms, machetes and clubs, including NGIRUWOSANGA, a *secteur* inhabitant, NGARAMBE and KAYIBANDA, and two communal policemen, immediately seized the two young men that **André RWAMAKUBA** had designated, led them away to a wooded area and killed them as the *Accused*, who was not far, looked on. Thereafter, this same crowd stopped an unidentified man on a motorcycle claiming to flee the massacres in Rutongo *commune*. **André RWAMAKUBA**, while speaking to the crowd, stated that the motorcyclist could not be a Hutu since only Tutsi were fleeing, and decided that the youth should be killed. At the instigation of and following orders from **André RWAMAKUBA**, the same armed crowd led the youth away to a wooded area to kill him. The *Accused* then told the crowd that it had just started the killings and that it was a good start. The same day, in the afternoon, *Interahamwe* militiamen, elements of the Presidential Guard, with the assistance of members of the population, following such orders and instigations, began to massacre Tutsi refugees, in Gikomero *commune*, notably at Kayanga Health Center, Gikomero Protestant School, and Gicaca. Thousands were massacred, including refugees from Remera, in Kigali town centre, refugees from the neighbouring *commune* of Gikoro, and Kabuga *secteur*, Rubungo *commune*.

13. Between 13 and 15 April 1994, in the morning, **André RWAMAKUBA**, accompanied by local authorities, including Mathias RUBANGUKA, accountant of the *commune*, Callixte KABARERA, Inspector of Schools, Brigadier NYARWAYA, RUTAGANIRA, *bourgmestre* of Gikomero *commune*, Thomas MABANGO, *conseiller* of KANYANGA, and soldiers and *Interahamwe* militiamen, arrived at the Kayanga Health Center in Kayanga *secteur*, where many Tutsi fleeing the massacres that had started in their *secteurs* had sought refuge. At the deputy director's request, they assembled in the courtyard of the Health Centre. Upon his arrival, **André RWAMAKUBA** stated that the killings had started everywhere else and that he realized that nothing had been done at the Health Centre. The *Accused*, stating that he was showing the example, then brandished a firearm, signaling the start of the massacres to soldiers and *Interahamwe* who began, in his presence, to attack and kill the Tutsi with firearms, machetes and clubs. Shortly after the beginning of the killings, while it was raining, **André RWAMAKUBA**, referring to the bodies of Tutsi, demanded that such filth be cleared. The *Accused* witnessed the killings until he left the Health Centre, while the soldiers and *Interahamwe* continued the killings for several hours. No one survived the massacre in which about a hundred people are alleged to have died. The bodies of the victims were thrown into a mass grave. These victims were mostly in-patients and Tutsi refugees fleeing the killings in the neighbouring *secteurs*, notably the killings in the Parishes of Gikomero and Gicaca.

14. Between 27 and 29 April, or thereabouts, **André RWAMAKUBA** was spokesman for the Interim Government and, in that capacity, delivered radio addresses and communiqués on Radio Rwanda and RTLM encouraging the *Interahamwe* and the listening audience to continue the hunt for Tutsi. Moreover, from May to June 1994, **André RWAMAKUBA** made several radio broadcasts in which he urged *Interahamwe* militiamen and the listening audience to continue to hunt down the Tutsi wherever they were hiding and to exterminate them.

15. Between 18 and 25 April 1994, at Butare University Hospital, **André RWAMAKUBA**, often accompanied by Dr. Geoffroy Gatera, soldiers, militiamen and armed civilians, ordered, instigated, committed, or otherwise aided and abetted killings of Tutsi patients and displaced persons seeking refuge at Butare University Hospital with intent to destroy, in whole or in part, the Tutsi ethnic group. Thus, during an official delegation's visit to the Hospital, he asked the head of Doctors Without Borders not to treat Tutsi casualties, to get rid of them and not to admit any others. During the above-mentioned period, **André RWAMAKUBA**, armed with a small axe hung on his belt, and often accompanied by Dr. Gatera, armed soldiers, *Interahamwe* militiamen and civilians armed with machetes, axes and clubs, went around the hospital wards checking identity cards and identifying Tutsi refugees and patients, selecting them and putting them on board a vehicle manned by *Interahamwe* armed with clubs and machetes. The persons taken away were never seen again. During this period, in the morning or afternoon, during his rounds, **André RWAMAKUBA** regularly removed drips from patients, in particular, in a ward where unidentified sick Tutsi women were admitted.

16. Concurrently with the events related above, **André RWAMAKUBA** directly caused the death of several persons identified as Tutsi. Thus, during his ward rounds, he caused the death of an unknown Tutsi patient by wounding him in the head with an axe. The militiamen subsequently took away the body of that person. Five of the patients referred to above as having been in the in-patients ward, and who were identified as Tutsi, died from axe wounds inflicted by **André RWAMAKUBA**. The *Accused* wounded Tutsi found in the corridors of the Hospital by striking them on the head with an axe. Some of them, including the persons called Rukara and Mutabazi, who suffered serious bodily harm caused by **André RWAMAKUBA**, were subsequently finished off by *Interahamwe*. As a result of such orders and instigation by the *Accused*, many Tutsi refugees and patients were massacred in Butare University Hospital. The victims included the persons known as Déogène, Placide and the parents of several survivors of the killings. The bodies of hundreds of victims of the massacres organized by **André RWAMAKUBA** at Butare University Hospital were gathered and buried in mass graves located behind the Hospital.

17. On or about 28 April 1994, **André RWAMAKUBA** announced on Radio Rwanda that "security had been restored in Butare because the *Inyenzi* had been suppressed", referring to massacres of Tutsi residents that had taken place after the sensitization campaign of 25 April 1994 or thereabouts conducted by an Interim Government delegation in which he had participated.

18. Massacres of Tutsi at Butare University Hospital continued and intensified through late May 1994, particularly after a meeting, held at the Faculty of Medicine on or about 15 May 1994, where Prime Minister Jean Kambanda addressed university authorities, encouraging them to "continue the fight until ultimate victory".

19. By the time the Interim Government fled Rwanda in mid-July 1994, hundreds of thousands of unarmed men, women and children had been killed as a direct result of policies formulated and authorized by MRND and affiliated "Hutu Power" political parties, and executed through the instrumentalities of the State. **André RWAMAKUBA** contributed to formulating and implementing those policies and is directly responsible for the killing of

hundreds of Tutsi in Gikomero *commune* and Butare University Hospital, and intended those killings to destroy the Tutsi as a group.

Count 3: Extermination as a Crime Against Humanity

The Prosecutor charges **André RWAMAKUBA** with **Extermination as a Crime Against Humanity**, pursuant to Articles 3 and 6(1) of the Statute of the Tribunal in that on or between 6 April and 30 April 1994, in Gikomero *commune* and at Butare University Hospital, he was responsible for killing persons, or causing persons to be killed, as part of a widespread or systematic attack against a civilian population on political, ethnic, or racial grounds.

20. The allegations contained in paragraphs 1 through 19, above, are reiterated and incorporated herein by reference as a concise statement of facts to support the charges under this specific count of the Indictment.

21. Between 6 April 1994 and 17 July 1994, throughout Rwanda there were widespread or systematic attacks against a civilian population based on Tutsi ethnic or racial identification, or political opposition to MRND and “Hutu Power” political parties. **André RWAMAKUBA** planned, instigated, ordered, committed or otherwise aided and abetted the planning and execution of killings of persons perceived to be Tutsi or deemed to be political opponents to “Hutu Power”, as set forth above.

22. **André RWAMAKUBA** is responsible, by act or by omission, for killing numerous persons in Gikomero *commune*, Kigali-rural *préfecture*, and at the Butare University Hospital in that he planned, instigated, ordered, committed or otherwise aided and abetted the planning, preparation and execution of the crimes detailed above.

23. As recounted in paragraphs 11, 12, 13 and 15, between 10 and 25 April 1994, **André RWAMAKUBA** instigated attacks against Tutsi in Gikomero *commune* and at Butare University Hospital that claimed hundreds of victims.

The victims of the said attacks included:

- Many persons identified as Tutsi residing or seeking refuge in Gikomero *commune*, precisely at Ndatemwa Health Centre, and those seeking refuge at Kayanga Health Centre where there were no survivors;
- Many Tutsi refugees and patients forcibly taken out of Butare University Hospital in mid-April by armed militiamen and killed upon the instructions of **André RWAMAKUBA**;
- Many persons killed by armed militiamen in the premises of Butare University Hospital, during the second half of April 1994, upon the orders or instigation of **André RWAMAKUBA**, or in his presence;

Count 4: Murder as a Crime Against Humanity

The Prosecutor charges **André RWAMAKUBA** with **Murder as a Crime Against Humanity**, pursuant to Articles 3 and 6(1) of the Statute of the Tribunal in that on or between 6 April and 30 April 1994, in Gikomero *commune* and at Butare University Hospital, he was responsible for killing persons, or causing persons to be killed, as part of a widespread or systematic attack against a civilian population on political, ethnic, or racial grounds.

24. The allegations contained in paragraphs 1 through 23 above are reiterated and incorporated herein by reference as a concise statement of facts to support the charges under this specific count of the Indictment.

25. **André RWAMAKUBA** is responsible, by act or by omission, for killing numerous persons in Gikomero *commune*, Kigali-Rural *préfecture*, and at the Butare University Hospital in that he planned, instigated, ordered, committed or otherwise aided and abetted the planning, preparation and execution of the crimes detailed above.

26. As recounted in paragraphs 12 and 16, between 10 and 25 April, during the systematic and widespread attacks carried out at Butare University Hospital against Tutsi refugees and patients, **André RWAMAKUBA** was personally responsible for the death of:

- Three unknown youths, but who were identified as Tutsi in a crowd that had gathered near the Gikomero *secteur* office;
- A man who was a patient at Butare University Hospital, unknown but identified as a Tutsi, who was struck on the head with an axe. His body was subsequently taken away by the *Interahamwe*;
- The persons known as Rukura and Mutabazi, two Tutsi encountered in the corridors of Butare University Hospital whom he struck on the head with an axe, seriously wounding them. The said persons were immediately finished off by armed *Interahamwe*;
- Five unknown patients, who were identified as Tutsi, in a Butare University Hospital ward by striking them on the head with an axe, while pulling out their drips.

The acts and omissions of André RWAMAKUBA detailed herein are punishable pursuant to Articles 22 and 23 of the Statute of the Tribunal.

Dated: Arusha, this 8 day of June 2005:

Hassan Bubacar Jallow

Prosecutor