

THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR RWANDA

CASE NO: ICTR-96-4-I

THE PROSECUTOR
OF THE TRIBUNAL

AGAINST

JEAN PAUL AKAYESU

AMENDED INDICTMENT

The Prosecutor of the International Criminal Tribunal for Rwanda, pursuant to his authority under Article 17 of the Statute of the Tribunal, charges:

JEAN PAUL AKAYESU

with **GENOCIDE, CRIMES AGAINST HUMANITY** and **VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS**, as set forth below:

Background

1. On April 6, 1994, a plane carrying President Juvénal Habyarimana of Rwanda and President Cyprien Ntaryamira of Burundi crashed at Kigali airport, killing all on board. Following the deaths of the two Presidents, widespread killings, having both political and ethnic dimensions, began in Kigali and spread to other parts of Rwanda.

2. Rwanda is divided into 11 prefectures, each of which is governed by a prefect. The prefectures are further subdivided into communes which are placed under the authority of bourgmestres. The bourgmestre of each commune is appointed by the President of the Republic, upon the recommendation of the Minister of the Interior. In Rwanda, the bourgmestre is the most powerful figure in the commune. His *de facto* authority in the area is significantly greater than that which is conferred upon him *de jure*.

The Accused

3. **Jean Paul AKAYESU**, born in 1953 in Murehe sector, Taba commune, served as bourgmestre of that commune from April 1993 until June 1994. Prior to his appointment as bourgmestre, he was a teacher and school inspector in Taba.

4. As bourgmestre, **Jean Paul AKAYESU** was charged with the performance of executive functions and the maintenance of public order within his commune, subject to the authority of the prefect. He had exclusive control over the communal police, as well as any gendarmes put at the disposition of the commune. He was responsible for the execution of laws and regulations and the administration of justice, also subject only to the prefect's authority.

General Allegations

5. Unless otherwise specified, all acts and omissions set forth in this indictment took place between 1 January 1994 and 31 December 1994, in the commune of Taba, prefecture of Gitarama, territory of Rwanda.

6. In each paragraph charging genocide, a crime recognized by Article 2 of the Statute of the Tribunal, the alleged acts or omissions were committed with intent to destroy, in whole or in part, a national, ethnic or racial group.

7. The victims in each paragraph charging genocide were members of a national, ethnic, racial or religious group.

8. In each paragraph charging crimes against humanity, crimes recognized by Article 3 of the Tribunal Statute, the alleged acts or omissions were committed as part of a widespread or systematic attack against a civilian population on national, political, ethnic or racial grounds.

9. At all times relevant to this indictment, a state of internal armed conflict existed in Rwanda.

10. The victims referred to in this indictment were, at all relevant times, persons not taking an active part in the hostilities.

10A. In this indictment, acts of sexual violence include forcible sexual penetration of the vagina, anus or oral cavity by a penis and/or of the vagina or anus by some other object, and sexual abuse, such as forced nudity.

11. The accused is individually responsible for the crimes alleged in this indictment. Under Article 6(1) of the Statute of the Tribunal, individual criminal responsibility is attributable to one who plans, instigates, orders, commits or otherwise aids and abets in the planning, preparation or execution of any of the crimes referred to in Articles 2 to 4 of the Statute of the Tribunal.

Charges

12. As bourgmestre, **Jean Paul AKAYESU** was responsible for maintaining law and public order in his commune. At least 2000 Tutsis were killed in Taba between April 7 and the end of June, 1994, while he was still in power. The killings in Taba were openly committed and so widespread that, as bourgmestre, **Jean Paul AKAYESU** must have known about them. Although he had the authority and responsibility to do so, **Jean Paul AKAYESU** never attempted to prevent the killing of Tutsis in the commune in any way or called for assistance from regional or national authorities to quell the violence.

12A. Between April 7 and the end of June, 1994, hundreds of civilians (hereinafter $\hat{=}$ displaced civilians $\hat{=}$) sought refuge at the bureau communal. The majority of these displaced civilians were Tutsi. While seeking refuge at the bureau communal, female displaced civilians were regularly taken by armed

local militia and/or communal police and subjected to sexual violence, and/or beaten on or near the bureau communal premises. Displaced civilians were also murdered frequently on or near the bureau communal premises. Many women were forced to endure multiple acts of sexual violence which were at times committed by more than one assailant. These acts of sexual violence were generally accompanied by explicit threats of death or bodily harm. The female displaced civilians lived in constant fear and their physical and psychological health deteriorated as a result of the sexual violence and beatings and killings.

12B. **Jean Paul AKAYESU** knew that the acts of sexual violence, beatings and murders were being committed and was at times present during their commission. **Jean Paul AKAYESU** facilitated the commission of the sexual violence, beatings and murders by allowing the sexual violence and beatings and murders to occur on or near the bureau communal premises. By virtue of his presence during the commission of the sexual violence, beatings and murders and by failing to prevent the sexual violence, beatings and murders, **Jean Paul AKAYESU** encouraged these activities.

13. On or about 19 April 1994, before dawn, in Gishyeshye sector, Taba commune, a group of men, one of whom was named Francois Ndimubanzi, killed a local teacher, Sylvere Karera, because he was accused of associating with the Rwandan Patriotic Front ($\hat{=}$ RPF $\hat{=}$) and plotting to kill Hutus. Even though at least one of the perpetrators was turned over to **Jean Paul AKAYESU**, he failed to take measures to have him arrested.

14. The morning of April 19, 1994, following the murder of Sylvere Karera, **Jean Paul AKAYESU** led a meeting in Gishyeshye sector at which he sanctioned the death of Sylvere Karera and urged the population to eliminate accomplices of the RPF, which was understood by those present to mean Tutsis. Over 100 people were present at the meeting. The killing of Tutsis in Taba began shortly after the meeting.

15. At the same meeting in Gishyeshye sector on April 19, 1994, **Jean Paul AKAYESU** named at least three prominent Tutsis -- Ephrem Karangwa, Juvénal Rukundakuvuga and Emmanuel Sempabwa -- who had to be killed because of their alleged relationships with the RPF. Later that day, Juvénal

Rukundakuvuga was killed in Kanyinya. Within the next few days, Emmanuel Sempabwa was clubbed to death in front of the Taba *bureau communal*.

16. **Jean Paul AKAYESU**, on or about April 19, 1994, conducted house-to-house searches in Taba. During these searches, residents, including Victim V, were interrogated and beaten with rifles and sticks in the presence of **Jean Paul AKAYESU**. **Jean Paul AKAYESU** personally threatened to kill the husband and child of Victim U if she did not provide him with information about the activities of the Tutsis he was seeking.

17. On or about April 19, 1994, **Jean Paul AKAYESU** ordered the interrogation and beating of Victim X in an effort to learn the whereabouts of Ephrem Karangwa. During the beating, Victim X's fingers were broken as he tried to shield himself from blows with a metal stick.

18. On or about April 19, 1994, the men who, on **Jean Paul AKAYESU**'s instructions, were searching for Ephrem Karangwa destroyed Ephrem Karangwa's house and burned down his mother's house. They then went to search the house of Ephrem Karangwa's brother-in-law in Musambira commune and found Ephrem Karangwa's three brothers there. The three brothers -- Simon Mutijima, Thaddée Uwanyiligira and Jean Chrysostome Gakuba -- tried to escape, but **Jean Paul AKAYESU** blew his whistle to alert local residents to the attempted escape and ordered the people to capture the brothers. After the brothers were captured, **Jean Paul AKAYESU** ordered and participated in the killings of the three brothers.

19. On or about April 19, 1994, **Jean Paul AKAYESU** took 8 detained men from the Taba *bureau communal* and ordered militia members to kill them. The militia killed them with clubs, machetes, small axes and sticks. The victims had fled from Runda commune and had been held by **Jean Paul AKAYESU**.

20. On or about April 19, 1994, **Jean Paul AKAYESU** ordered the local people and militia to kill intellectual and influential people. Five teachers from the secondary school of Taba were killed on his instructions. The victims were Theogene, Phoebe Uwineze and her fiance (whose name is unknown), Tharcisse Twizeyumuremye and Samuel. The local people and militia killed

them with machetes and agricultural tools in front of the Taba *bureau communal*.

21. On or about April 20, 1994, **Jean Paul AKAYESU** and some communal police went to the house of Victim Y, a 68 year old woman. **Jean Paul AKAYESU** interrogated her about the whereabouts of the wife of a university teacher. During the questioning, under **Jean Paul AKAYESU**'s supervision, the communal police hit Victim Y with a gun and sticks. They bound her arms and legs and repeatedly kicked her in the chest. **Jean Paul AKAYESU** threatened to kill her if she failed to provide the information he sought.

22. Later that night, on or about April 20, 1994, **Jean Paul AKAYESU** picked up Victim W in Taba and interrogated her also about the whereabouts of the wife of the university teacher. When she stated she did not know, he forced her to lay on the road in front of his car and threatened to drive over her.

23. Thereafter, on or about April 20, 1994, **Jean Paul AKAYESU** picked up Victim Z in Taba and interrogated him. During the interrogation, men under **Jean Paul AKAYESU**'s authority forced Victims Z and Y to beat each other and used a piece of Victim Y's dress to strangle Victim Z.

Counts 1-3
(Genocide)
(Crimes against Humanity)

By his acts in relation to the events described in paragraphs 12-23, **Jean Paul AKAYESU** is criminally responsible for:

COUNT 1: **GENOCIDE**, punishable by Article 2(3)(a) of the Statute of the Tribunal;

COUNT 2: Complicity in **GENOCIDE**, punishable by Article 2(3)(e) of the Statute of the Tribunal; and

COUNT 3: **CRIMES AGAINST HUMANITY** (extermination), punish

Count 4
(Incitement to Commit Genocide)

By his acts in relation to the events described in paragraphs 14 and 15, **Jean Paul AKAYESU** is criminally responsible for:

COUNT 4: Direct and Public Incitement to Commit **GENOCIDE**, punish

Counts 5-6
(Crimes Against Humanity)
(Violations of Article 3 common to the Geneva Conventions)

By his acts in relation the murders of Juvénal Rukundakuvuga, Emmanuel Sempabwa, Simon Mutijima, Thaddée Uwanyiligira and Jean Chrysostome Gakuba, as described in paragraphs 15 and 18, **Jean Paul AKAYESU** committed:

COUNT 5: **CRIMES AGAINST HUMANITY** (murder) punishable by Article

COUNT 6: **VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA C**

Counts 7-8
(Crimes Against Humanity)
(Violations of Article 3 common to the Geneva Conventions)

By his acts in relation the murders of 8 detained men in front of the *bureau communal* as described in paragraph 19, **Jean Paul AKAYESU** committed:

COUNT 7: **CRIMES AGAINST HUMANITY** (murder) punishable by Article

COUNT 8: **VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA C**

Counts 9-10

(Crimes Against Humanity)
(Violations of Article 3 common to the Geneva Conventions)

By his acts in relation to the murders of 5 teachers in front of the *bureau communal* as described in paragraph 20, **Jean Paul AKAYESU** committed:

COUNT 9: **CRIMES AGAINST HUMANITY** (murder) punishable by Article

COUNT 10 **VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA C**

Counts 11-12
(Crimes Against Humanity)
(Violations of Article 3 common to the Geneva Conventions)

By his acts in relation to the beatings of U, V, W, X, Y and Z as described in paragraphs 16, 17, 21, 22 and 23, **Jean Paul AKAYESU** committed:

COUNT 11:**CRIMES AGAINST HUMANITY** (torture), punishable by Article

COUNT 12:**VIOLATIONS OF ARTICLE 3 COMMON TO THE GENE**

In addition and/or in the alternative to his individual responsibility under Article 6(1) of the Statute of the Tribunal, the accused, is individually responsible under Article 6(3) of the Statute of the Tribunal for the crimes alleged in Counts 13 through 15. Under Article 6(3), an individual is criminally responsible as a superior for acts of a subordinate if he or she knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

Counts 13-15
(Crimes Against Humanity)
(Violations of Article 3 common to the Geneva Conventions)

By his acts in relation to the events at the bureau communal, as described in paragraphs 12(A) and 12(B), **Jean Paul AKAYESU** committed:

COUNT 13: **CRIMES AGAINST HUMANITY** (rape), punishable by Article

COUNT 14: **CRIMES AGAINST HUMANITY**, (other inhumane acts), punish

COUNT 15: **VIOLATIONS OF ARTICLE 3 COMMON TO THE GENE**
rape, degrading and humiliating treatment and indecent
assault) of the Statute of the Tribunal.

DATE:

Louise Arbour
Prosecutor