

INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

CASE No. ICTR-96-10-I

20/10/00
Salem
2000 OCT 20 P 12: 06

ICTR THE PROSECUTOR OF THE TRIBUNAL
JUDICIAL RECORDS/ARCHIVES AGAINST
RECEIVED ELIZAPHAN NTAKIRUTIMANA, GERARD NTAKIRUTIMANA,
& CHARLES SIKUBWABO

INDICTMENT

(Amended pursuant to the order of 5 October 2000)

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

**ELIZAPHAN NTAKIRUTIMANA
GERARD NTAKIRUTIMANA
CHARLES SIKUBWABO**

with **GENOCIDE** or in the alternative, **COMPLICITY IN GENOCIDE;
CONSPIRACY TO COMMIT GENOCIDE, CRIMES AGAINST
HUMANITY** as set forth below:

2. The present indictment charges persons responsible for serious violations of international humanitarian law committed in the Territory of Rwanda during the month of April 1994 at Mugonero Complex in Gishyita commune, Kibuye Prefecture, where hundreds of men, women and children were killed and a large number of persons wounded.
3. **THE ACCUSED**

- 3.1 **Elizaphan Ntakirutimana** is believed to have been born in 1924 in Ngoma sector, Gishyita commune, Kibuye Prefecture. During the time of the events referred to in this indictment, he was the Pastor of the Seventh Day Adventist Church in Mugonero.
- 3.2 **Gerard Ntakirutimana** is believed to have been born in 1957 in Ngoma sector, Gishyita commune, Kibuye Prefecture. During the time of the

events referred to in this indictment, he was a physician and *Medical Director* at Mugonero hospital within the Mugonero complex, Gishyita commune Kibuye Prefecture. *In this capacity, Gérard Ntakirutimana exercised authority and control over employees of the Mugonero hospital including patients that sought medical attention therein.*

- 3.3 **Charles Sikubwabo** is believed to have been born in the early mid-1940s in Gishyita sector, Gishyita commune, Kibuye Prefecture. During the time of the events referred to in this indictment, he was the Burgomaster of Gishyita commune.

4. A CONCISE STATEMENT OF FACTS

- 4.1 During the events referred to in this indictment, Rwanda was divided into eleven Prefectures, one of which was Kibuye. Each Prefecture was governed by a Prefect. The Prefectures were further divided into communes, each of which was governed by a Burgomaster. The Burgomaster was the representative of the executive power in the communes and was in charge of the governmental functions within the commune.
- 4.2 During the events referred to in the indictment, Tutsis were identified as members of an ethnic or racial group.
- 4.3 On April 6, 1994, the plane transporting President Juvenal Habyarimana of Rwanda crashed on its approach to Kigali airport, Rwanda. Attacks and murders of civilians began soon thereafter throughout Rwanda.
- 4.4 During the month of April 1994, a large number of men, women and children from various places sought shelter from the attacks, which were taking place throughout Kibuye Prefecture. Many assembled inside Mugonero Complex, which consisted of several buildings, including a church, an infirmary and a hospital (hereinafter referred to as "the Mugonero Complex"). The majority of these men, women and children were Tutsi and were unarmed.
- 4.5 Many of those men, women and children who sought refuge in the Mugonero Complex did so because **Elizaphan Ntakirutimana** instructed them to go there.
- 4.6 After the men, women and children gathered in the Mugonero Complex, **Gerard Ntakirutimana** and others separated the Tutsi individuals from the others. Those who were not Tutsi were allowed to leave the Mugonero Complex.

- 4.7 On or about the morning of 16 April 1994, a convoy, consisting of several vehicles followed by a large number of individuals armed with weapons went to the Mugonero Complex. Individuals in the convoy included, among others, **Elizaphan Ntakirutimana, Gerard Ntakirutimana & Charles Sikubwabo**, members of the National Gendarmerie, communal police, militia and civilians.
- 4.8 The individuals in the convoy, including **Elizaphan Ntakirutimana, Gerard Ntakirutimana & Charles Sikubwabo**, participated in an attack on the men, women and children in the Mugonero Complex, which continued throughout the day.
- 4.9 The attack resulted in hundreds of deaths and a large number of wounded among the men, women and children who had sought refuge at the Complex.
- 4.10 During the months that followed the attack on the Complex, **Elizaphan Ntakirutimana, Gerard Ntakirutimana & Charles Sikubwabo**, searched for an attacked Tutsi survivors and others, killing and causing serious bodily or mental harm to them.
- 4.11 Before the attack on the Complex, **Charles Sikubwabo** knew or had reason to know that his subordinates, including members of the National Gendarmerie and communal police under his control, were about to participate in the attack on the men, women, and children, and did not take necessary and reasonable measures to prevent the attack. In addition, after the attack, **Charles Sikubwabo** did not punish the perpetrators.
- 4.12 *Before all of the above mentioned attacks, **Gérard Ntakirutimana** knew or had reason to know that his subordinates, including various employees of the Mugonero hospital under his authority and control, were about to participate in attacks on the men, women, and children, and did not take necessary and reasonable measures to prevent such attacks. In addition, after the attacks, **Gérard Ntakirutimana** did not punish the perpetrators.*

5. CHARGES

For all the acts outlined in the paragraphs specified in each of the counts, the accused persons named herein, either planned, instigated, ordered, committed, or otherwise aided and abetted in the planning, preparation and execution of the acts, or knew or had reason to know that persons acting under their authority and control had committed or were about to commit the said acts and they failed to take necessary and reasonable measures to prevent the said illegal acts or punish the perpetrators thereof.

Count 1A: By their acts in relation to the events referred to in paragraphs 4.4-4.10.above, **Elizaphan Ntakirutimana, Gérard Ntakirutimana & Charles Sikubwabo** are individually responsible for the crimes alleged below, pursuant to Article 6(1) of the Statute of the Tribunal.

By their acts in relation to the events referred to in paragraphs 4.4 - 4.12.above, **Gérard Ntakirutimana & Charles Sikubwabo** are individually responsible for the crimes alleged below, pursuant to Article 6(3) of the Statute of the Tribunal.

Elizaphan Ntakirutimana, Gérard Ntakirutimana & Charles Sikubwabo, during the month of April 1994, in Gishyita commune, Kibuye Prefecture, in the Territory of Rwanda, are responsible for the killings and causing of serious bodily or mental harm to members of the Tutsi population with the intent to destroy, in whole or in part, an ethnic or racial group as such, and have thereby committed **GENOCIDE** in violation of Article 2(3)(a) and punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

ALTERNATIVELY

Count 1B: By their acts in relation to the events referred to in paragraphs 4.4-4.10 above, **Elizaphan Ntakirutimana, Gérard Ntakirutimana & Charles Sikubwabo** are individually responsible for the crimes alleged below, pursuant to Article 6(1) of the Statute of the Tribunal.

By their acts in relation to the events referred to in paragraphs 4.4-4.12.above, **Gérard Ntakirutimana & Charles Sikubwabo** are individually responsible for the crimes alleged below, pursuant to Article 6(3) of the Statute of the Tribunal.

Elizaphan Ntakirutimana, Gérard Ntakirutimana & Charles Sikubwabo during the month of April 1994, in Gishyita commune, Kibuye Prefecture, in the Territory of Rwanda, aided or abetted in the killings and causing of serious bodily or mental harm to members of the Tutsi population with the intent to destroy, in whole or in part, an ethnic or racial group as such, and have thereby committed **COMPLICITY IN GENOCIDE** in violation of Article 2(3)(e) and punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

Count 2: By their acts in relation to the events referred to in paragraphs 4.3-4.10 above, **Elizaphan Ntakirutimana, Gérard Ntakirutimana & Charles Sikubwabo** are individually responsible for the crimes alleged below, pursuant to Article 6(1) of the Statute of the Tribunal.

Elizaphan Ntakirutimana, Gérard Ntakirutimana & Charles Sikubwabo, during the month of April 1994, in Gishyita commune, Kibuye Prefecture, in the Territory of Rwanda, did conspire, with each other, to kill or cause serious bodily or mental harm to members of the Tutsi population with intent to destroy, in whole or in part, an ethnic or racial group as such, and have thereby committed **CONSPIRACY TO COMMIT GENOCIDE** as recognized by Article 2(3)(b) and punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

Count 3: By their acts in relation to the events referred to in paragraphs 4.4-4.10 above, **Elizaphan Ntakirutimana, Gérard Ntakirutimana & Charles Sikubwabo** are individually responsible for the crimes alleged below, pursuant to Article 6(1) of the Statute of the Tribunal.

By their acts in relation to the events referred to in paragraphs 4.4-4.12.above, **Gérard Ntakirutimana & Charles Sikubwabo** are individually responsible for the crimes alleged below, pursuant to Article 6(3) of the Statute of the Tribunal.

Elizaphan Ntakirutimana, Gérard Ntakirutimana & Charles Sikubwabo, during the month of April 1994, in Gishyita commune, Kibuye Prefecture, in the Territory of Rwanda, are responsible for the murder of civilians, as part of a widespread or systematic attack against a civilian population or political, ethnic or racial grounds and have thereby committed **CRIME AGAINST HUMANITY** as recognized by Article 3(a) and punishable in reference to Articles 22 and 23 of the Statute of the Tribunal

Count 4: By their acts in relation to the events referred to in paragraphs 4.4-4.10 above, **Elizaphan Ntakirutimana, Gérard Ntakirutimana & Charles Sikubwabo** are individually responsible for the crimes alleged below, pursuant to Article 6(1) of the Statute of the Tribunal.

By their acts in relation to the events referred to in paragraphs 4.4-4.12.above, **Gérard Ntakirutimana & Charles Sikubwabo** are individually responsible for the crimes alleged below, pursuant to Article 6(3) of the Statute of the Tribunal.

Elizaphan Ntakirutimana, Gérard Ntakirutimana during the month of April 1994, in Gishyita commune, Kibuye Prefecture, in the Territory of Rwanda, are responsible for the extermination of civilians, as part of a widespread or systematic attack against a civilian population on political, ethnic or racial grounds and have thereby committed **CRIME AGAINST HUMANITY** as recognized by Article 3(b) and punishable in reference to Articles 22 and 23 of the Statute of the Tribunal

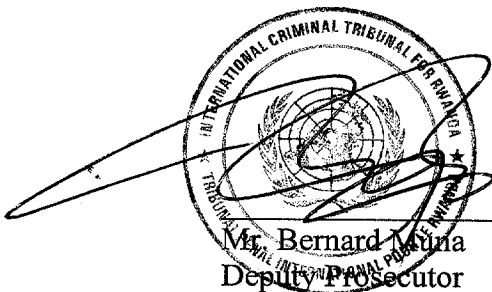
Count 5: By their acts in relation to the events referred to in paragraphs 4.4-4.10 above, **Elizaphan Ntakirutimana, Gérard Ntakirutimana & Charles Sikubwabo** are individually responsible for the crimes alleged below, pursuant to Article 6(1) of the Statute of the Tribunal.

By their acts in relation to the events referred to in paragraphs 4.4-4.12 above, **Gérard Ntakirutimana & Charles Sikubwabo** are individually responsible for the crimes alleged below, pursuant to Article 6(3) of the Statute of the Tribunal.

Elizaphan Ntakirutimana, Gérard Ntakirutimana & Charles Sikubwabo, during the month of April 1994, in Gishyita commune, Kibuye Prefecture, in the Territory of Rwanda, did commit other inhumane acts, including but not limited to, the causing of serious bodily harm, the causing of serious mental harm and the persistent searching for and killing of individuals in the months following the attack, as part of a widespread or systematic attack against a civilian population on political, ethnic or racial grounds and have thereby committed **CRIME AGAINST HUMANITY** as recognized by Article 3(i) and punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

At Arusha Tanzania, this 20th day of October 2000.

For the Prosecutor



Mr. Bernard Mutsaers
Deputy Prosecutor



UNITED NATIONS
NATIONS UNIES

International Criminal Tribunal for Rwanda Tribunal Pénal International pour le Rwanda

Arusha International Conference Centre
P.O.Box 6016, Arusha, Tanzania - B.P. 6016, Arusha, Tanzanie
Tel: 255 57 504207-11 504367-72 or 1 212 963 2850 Fax: 255 57 504000/504373 or 1 212 963 2848/49

PROOF OF SERVICE – ARUSHA

PREUVE DE NOTIFICATION AUX CHAMBRES DE PREMIERE INSTANCE - ARUSHA

Date: 20/10/2000		Case Name / affaire: The Prosecutor v. NTAKIRUTIMANA & 3 OTHERS ICTR-96-10-I	
To: 4:	TC1	received by / reçu par:	ALO received by / reçu par:
	☒ Judge N. Pillay, President	<u>[Signature]</u>	☒ <u>[Signature]</u>
	☒ Judge Møse, Vice President	<u>[Signature]</u>	☒ <u>[Signature]</u>
	☒ Judge A. Gunawardana	<u>[Signature]</u>	☒ <u>[Signature]</u>
	☒ E. Nahamya, Co-ordinator	<u>[Signature]</u>	☒ <u>[Signature]</u>
	TC2		
	☐ Judge L. Kama		☐
	☐ Judge W. H. Sekule		☐
	☐ Judge M. Güney		☐
	☐ C. Aptel, Co-ordinator		☐
	TC3		
	☐ Judge L.G. Williams		☐
	☐ Judge P. Dolenc		☐
	☐ Judge Y. Ostrovsky		☐
	☐ M. Niang, Co-ordinator		☐
OTP / BUREAU DU PROCUREUR			
☒ Trial Attorney in charge of case: <u>[Signature]</u> , received by <u>[Signature]</u> 24/10/00			
DEFENSE:			
☒ Accused / Accusé : G.NTAKIRUTIMANA, E.NTAKIRUTIMANA, C.SIKUBWABO complete / remplir "CMS4 FORM"			
☒ Lead Counsel / Conseil Principal: E.MEDVEN, R.CLARK			
☐ In Arusha / à Arusha _____ (signature) ☐ by fax complete / remplir "CMS3bis FORM"			
☐ Co-Counsel / Conseil Adjoint:			
☐ In Arusha / à Arusha _____ (signature) ☐ by fax complete / remplir "CMS3bis FORM"			
All Decisions: ☐ Appeals Chamber Unit, The Hague ☐ Suzanne Chenault, Jurist Linguist			
All Decisions & Important Public Documents: ☐ Press & Public Affairs ☐ Legal Library			
From:	☐ JP. Fomété	☐ F. Talon	☐ A. Mindua
De:	☐ A. Ogum	☐ K. Afande (TC3)	
CC:	☐ A. Okali	☐ A. Miller, OLA, NY	☐ BBK
Subject	☐ K. Moghalu	☐ WVSS-P	☐ WVSS- D
Objet:	☐ LDFMS	☐ GLSS	
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Pages

1 .INDICTMENT(Amended pursuant to the order of 5October2000)

20/10/2000

6

DEFENSE☐ Accused / accusé :**G.NTAKIRUTIMANA,E.NTAKIRUTIMANA,C.SIKUBWABO** _____ (complete CMS4 Form)☒ Lead Counsel / Conseil Principal: **E.MEDVEN ,R.CLARK** _____ (name / nom)☐ In Arusha (complete CMS 2) ☐ Fax Number:☐ Co-Counsel / Conseil Adjoint: _____ (name / nom)☐ In Arusha (complete CMS 2) ☐ Fax Number:**CO-ACCUSED**☐ Co-accused / co-accusé : see CMS4 Form(s)☐ Lead Counsel / Conseil Principal: name(s) / nom(s)From:
De:☐ JP. Fomété☐ F. Talon☐ A. Mindua☐ R. Muzigo-MorrisonSubject
Objet:

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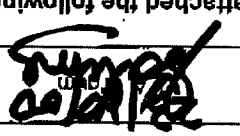
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From: De:	☐ J.P. Fomèle  ☐ F. Talon ☐ A. Mindua ☐ R. Muzigo-Morrison
	DEFENSE ☐ Accused / accusé : G.NTAKIRUTIMANA,E.NTAKIRUTIMANA,C.SIKUBWABO (complete) Lead Counsel / Conseil Principal: E.MEDVEN ,R.CLARK (name / nom) ☐ In Arusha (complete CMS 2) ☐ Fax Number: Co-Counsel / Conseil Adjoint: (name / nom) ☐ In Arusha (complete CMS 2) ☐ Fax Number: CO-ACCUSED ☐ Co-accused / co-accusé : see CMS4 Form(s) ☐ Lead Counsel / Conseil Principal: name(s) / nom(s)

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Pages 6

DEFENSE ☐ Accused / accuse : G.NTAKIRUTIMANA,E.NTAKIRUTIMANA,C.SIKUBWABO _____ (complete) Lead Counsel / Conseil Principal: E.MEDVEN, R.CLARK _____ (name / nom) ☐ In Arusha (complete CMS 2) ☐ Fax Number: _____ ☐ Co-Counsel / Conseil Adjoint: _____ (name / nom) ☐ In Arusha (complete CMS 2) ☐ Fax Number: _____ CO-ACCUSED ☐ Co-accused / co-accusé : see CMS4 Form(s) ☐ Lead Counsel / Conseil Principal: name(s) / nom(s)	From: ☐ J.P. Formete ☐ F. Talon ☐ A. Mindua ☐ R. Muzigo-Morrison	Subject Objet:
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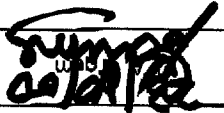
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From: De:	☐ J.P. Formèle 	☐ F. Talon ☐ A. Mindua ☐ R. Muzigo-Morrison
DEFENSE	☐ Accused / accusé : G.NTAKIRUTIMANA,E.NTAKIRUTIMANA,C.SIKUBWABO (complete) (complete) ☒ Lead Counsel / Conseil Principal: E.MEDVEN ,R.CLARK (name / nom) ☐ In Arusha (complete CMS 2) ☐ Fax Number: ☐ Co-Counsel / Conseil Adjoint: (name / nom) ☐ In Arusha (complete CMS 2) ☐ Fax Number: ☐ Co-accused / co-accusé : See CMS4 Form(s) ☐ Lead Counsel / Conseil Principal: name(s) / nom(s)	