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THE KAGALI COURT OF APPEAL, LOCATED IN KIGALI, SITTING IN CRIMINAL MATTERS FOR THE PURPOSE OF PROSECUTING FOR OFFENCES CONSTITUTING THE CRIME OF GENOCIDE OR CRIMES AGAINST HUMANITY AS WELL AS OTHER RELATED OFFENCES, DELIVERED THE FOLLOWING JUDGMENT:

JUDGMENT IN OPEN COURT OF 12/09/97

CASE: PROSECUTION versus KARAMIRA Froduald, son of Segakwerere Silas and Nyiramfikije Cecile, born on 14/8/47 in Muhanga, Mushubati *Commune*, Gitarama *Prefecture*, residing in Nyabitare, Nyamirambo *Secteur*, Nyarugenge *Commune*, Kigali Town *Prefecture*, married to KAMBIMBI Marie Goretti, father of six children (five boys and one girl), trader who previously worked as a paramedic, without known judicial antecedents.

CHARGES

(a) Having, in Kigali town, and in Gitarama in the Republic of Rwanda, between October and July 1994, as perpetrator, co-perpetrator or accomplice as stipulated under Sections 89, 90 and 91 of Volume 1 of the Penal Code, committed the crime.....

(Translated from Kinyarwanda into French by Maniriguha Pierre Damien).

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Whereas Safali Stanley claims total damages of 62,490, 000 francs as explained in his written conclusions submitted to the Tribunal;

Whereas for his part Gatambiye Sylvere explained that he was pleading for himself and six other families, the family of Kabayija Charles which lost six people, that of Ngagi which lost three people, consequently claim damages of three million for each person killed and 123,3000,000 for cattle killed and property looted;

Whereas Mr. Rwangampuhwe François claimed damages for another minor orphan, and the prosecution requested him to justify such damages by producing attestations from the *Commune*;

Whereas concerning actions for damages caused, the prosecution had requested that Karamira be fined 5,000 million as compensation for unidentified minor children and disabled persons following the genocide and killings, and that his property e seized;

Whereas the prosecution further explained the circumstances of crimes with which Karamira has been charged, and concluded by requesting death sentence for count one, two years' imprisonment for count two, death sentence for count three, five years' imprisonment for count four and death sentence for count five, and an order to pay damages and costs;

Whereas in his statement Mr. Kato P. Atita had pleaded for the clemency of the Tribunal and requested it not to impose capital punishment on Karamira which is an extremely severe sentence and advised Karamira to bow in memory of all the victims and ask for pardon;

Whereas when asked whether he had anything to add to his defence, Karamira had said he extended his condolences to all those who lost family members, the grief of whom he shared, and concluded by saying that if his death sentence could help solidify the unity of the country, he would not refuse it;

Notes that the crime of genocide and killings is established in the charge of Karamira, for after causing the split of the MDR party of which he was Vice-President, Karamira formed the faction called "MDR POWER", organized meetings in Kigali and Gitarama at which he asked the Hutus to eliminate the Tutsis and gave divisive interviews over the radio;

Notes that the meeting held in Nyamirambo (Kigali) on 23. 10. 93 was one of the main causes of the genocide and massacres, meeting at which Karamira called on all Hutus of Rwanda to unite so as to do what was necessary, ally with the MRND and CDR parties reputed for the killings throughout the country, join the Interahamwe and the MDR youth (JDR) to wage war against the "cockroaches" and their accomplices;

Notes further that Karamira had organized in Gitarama (town), Ruhango and Nyabisenke (localities in the Gitarama *Prefecture*), meetings at which he called on the Hutus to massacre the Tutsis as attested by eye-witnesses living in those localities;

Notes that in speeches over Radio Rwanda and Radio RTL (Radio Télévision Libre des Mille Collines), at the beginning of the genocide and massacres, Karamira had made himself the

spokesman for the soldiers, scurrying across all Kigali neighbourhoods to have an idea of how the people were killed and to later declare over the radio that all was going on well, and to announce the countrywide programme designed to teach the youth how to handle weapons, a charge that Karamira has never denied;

Notes that in an extensive programme designed to cover the whole country, known as "Civil Defence", Karamira admitted to have been at the origin of the idea of giving weapons to the population, an idea he submitted to the authorities of the Kigali town *Prefecture*; the witnesses affirm that he was the one who distributed weapons in the regions of Kigali and Gitarama (even if he refutes), for such were the guns and other traditional weapons used during the genocide and massacres;

Notes also that Karamira Frouduald, as an official of the MDR party, admitted having collaborated with members of other parties (of the power leanings), in forming the government and it was this government that supervised the genocide and killings throughout the country;

Notes that Karamira must not be prosecuted for the offence of having organized a meeting in Kigali in October 1993 at which he called on the citizens to rise up against each other, for such is the wish of the Prosecution, considering this fact only as evidence of the crime of genocide and massacres;

Notes that the offence of association with evil-doers with which Karamira is charged, is established since there exist units of Interahamwe youth to whom Karamira distributed guns and other traditional weapons and for whom he had such weapons acquired; these units took active part in the genocide and massacres by killing people, mounting roadblocks which prevented the people from escaping and at which they were killed. Karamira Froduald supervised all the activities in the Kigali region and affirmed it over the radio, and it was he who supervised the training in the handling of weapons in the Nyamirambo neighbourhood as he himself said in his programme known as "civil defence" designed for the youth;

Notes furthermore that in the same Nyamirambo neighbourhood, Karamira Froduald presided over meetings of what he called the "crisis committee" which drew up the list of people killed, and of those not yet killed in order to give them up to the killers, which Karamira has never denied throughout his defence;

Notes that the offence of assassination with which he is charged, is established since witnesses from his neighbourhood attested that he played a major role in the death of Sakumi Anselme and the members of his family, since Karamira sent soldiers, charged with his personal safety, to shoot at Sakumi Aselme, his wife, his brother-in-law and an employee named Masumbuko Jean Pierre; concerning the last mentioned, Karamira said " a bullet was shot in the left ear of this good-for-nothing fellow", it went across the left ear but Masumbuko survived; all these acts took place at the roadblocks mounted in front of Karamira's residence and placed under his orders;

Notes further that there were other families living in the same part of the Nyamirambo neighbourhood who were killed by soldiers such as Murokore, nicknamed Elanga, and others,....and

even some Interahamwe like Kigingi Placide, Kibuye and others....when they were leaving Karamira's house in which they had taken refuge;

Notes that the offence of non-assistance to families in danger, whereas he was not at risk, with which Karamira is charged, is also established since he led the group of evil-doers (soldiers and militia members) who executed the orders to act or not to act; this was attested by the fact that there were cases of people killed because he so decided and that others whose life he had promised to protect were not touched; these actions prove that if he had wanted he would have stopped the killers from killing and he would have been obeyed, thereby averting the death of people;

Notes also that as he called on the Hutus (as an official of a big party like MDR) to rise and unite to fight the enemy called "cockroaches" and their accomplices, at meetings and over radio waves and that he was listened to and his speeches were followed by execution; if, acting in the same way, he had told them not to kill, he would have been listened to and the genocide and massacres would not have taken place;

Notes that all offences with which Karamira is charged, are established as notional plurality of offences since they have been perpetrated with the sole aim of committing the crime of genocide and massacres, that these acts place him in the first category since he ranks among the planners, organizers, instigators, supervisors and counsellors of the crime of genocide or crimes against humanity as well as among persons who acted from a position of authority at the level of the nation, the *Prefecture*, the *Commune*, the sector or cell, within political parties, the army, religious organizations or the militia, and in that capacity committed those offences or encouraged other persons to commit them, Karamira is consequently liable for the severest ruling.

Considering Articles 1, 2, 3, 14a, 17a, 29a13,30 of Institutional Act No. 8/96 of 30/8/96 on the organization of prosecution for offences constituting the crime of genocide or crimes against humanity ;

Considering the convention of 9/12/48 on the prevention and suppression of the crime of genocide;

Considering Articles 16, 17, 58, 59, 71, 73 , 76, 83, 84, 90 and 138 of the Criminal Procedure Code;

Declares admissible the action of the Prosecution and the actions of the plaintiffs, for they are lawful and well-founded;

Declares established as notional plurality of offences, the offences with which Karamira is charged, as explained in the reasons;

Awards damages to the plaintiffs as explained in the reasons;

Sentences Karamira Froduald to death;

Pronounces hereby the permanent and total loss of his civic rights;

Orders him, in agreement with the State of Rwanda, to pay total damages of one thousand one hundred and thirty-seven million six hundred and fifty thousand francs (1,137,650,000 F) to be distributed to the plaintiffs according to the table included in the reasons, within one month, failing that, sentences Karamira to 30 days' imprisonment in default, followed by execution of writ;

Orders him, in agreement with the State of Rwanda, to pay forty-five million five hundred and six thousand francs (45,605,000 F) within one month, failing that, sentences Karamira to 30 days' imprisonment in default, followed by execution of writ;

Orders him to pay legal cost of 40,600F, within one month, failing that, sentences Karamira to 30 days' imprisonment in default, followed by execution of writ;

Rules that the time-limit for appeal is 15 days beginning from the day following the judgment date;

Rules that the sentence was passed after the stipulated time-limit owing to a busy schedule;

THUS TRIED AND SENTENCED IN OPEN COURT ON THIS 13/2/97 AT THE KIGALI MAGISTRATE'S COURT, SPECIALIZED TRIAL CHAMBER, LOCATED IN KIGALI, WITH ON THE BENCH: Messrs RUTAREMARA SEKARUSA Jariel (Presiding Judge) , NSANZURWIMO JEAN DE DIEU and MUDAGIRA André (Judges), KALISA Pascal and KAYIHURA Edouard (OMP) and RUTABOBA Marie Rédempta Assumpta (Registrar)

<u>Judge</u>	<u>Presiding Judge</u>	<u>Judge</u>	<u>Registrar</u>
(signed)	(signed)	(signed)	(signed)
Nsanzurwimo J. De Dieu	Rutaremara Sekarusu Jariel	Mudagitri André	Tutabobo MRA