

ICTR-2001-67-I

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INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

Case No. ICTR-2001- 67 -I

THE PROSECUTOR

AGAINST

FULGENCE KAYISHEMA

JUDICIAL RECORDS ARCHIVES
ICTR
RECEIVED

2001 JUL -5 / P 3: 28

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:

Fulgence KAYISHEMA

with **GENOCIDE**; or in the alternative **COMPLICITY IN GENOCIDE**; **CONSPIRACY TO COMMIT GENOCIDE**; and **CRIMES AGAINST HUMANITY** for **EXTERMINATION**; offenses stipulated in Articles 2 and 3 of the Statute of the Tribunal, as set forth below.

II. **THE ACCUSED:**

Fulgence KAYISHEMA was born on 1961, in KIVUMU commune, KIBUYE prefecture, RWANDA. He was the inspector of police at KIVUMU commune, KIBUYE prefecture.

III. **CHARGES, including a CONCISE STATEMENT OF FACTS:**

Count 1: GENOCIDE:

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Fulgence KAYISHEMA** 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 20 April 1994, in KIVUMU commune, KIBUYE prefecture, Rwanda, **Fulgence KAYISHEMA** was responsible for killing or causing serious bodily or mental harm to members of the Tutsi population with intent to destroy, in whole or in part, a racial or ethnic group;

Pursuant to Article 6(1) of the Statute: by virtue of his affirmative acts in planning, instigating, ordering, committing, or otherwise aiding and abetting the planning, preparation or execution of the crime charged.

Or alternatively

Count 2: COMPLICITY IN GENOCIDE:

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Fulgence KAYISHEMA** 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 20 April 1994 in KIVUMU commune, KIBUYE prefecture, Rwanda, **Fulgence KAYISHEMA** was an accomplice to the killing or causing serious bodily or mental harm to members of the Tutsi population with intent to destroy, in whole or in part, a racial or ethnic group.

Pursuant to Article 6(1) of the Statute: by virtue of his affirmative acts in planning, instigating, ordering, committing, or otherwise aiding and abetting the planning, preparation or execution of the crime charged.

Concise statements of facts for Count 1 and Count 2

1. During the events referred to in this indictment, Tutsi, Hutu, and Twa were identified as ethnic or racial groups.
2. KIVUMU is one of the communes of KIBUYE prefecture, republic of Rwanda. During the events described in this indictment it was a commune with a large concentration of Hutu resident, nearly 50,000 Hutu and only 6000 Tutsi.
3. The Nyange Parish was located in Nyange sector, KIVUMU commune, KIBUYE prefecture. Its Church (Nyange Church) had a seating capacity for 1500 persons.
4. During the events referred to in this indictment, Father Athanase SEROMBA was the parish priest, in charge of the Parish of Nyange.
5. During the events referred to in this indictment, Athanase SEROMBA, Grégoire NDAHIMANA, the *bourgmestre* of KIVUMU commune; Fulgence KAYISHEMA, the police inspector of KIVUMU commune, Gaspard KANYARUKIGA, businessman, and others not known to the Prosecution, prepared and executed a plan of extermination of the Tutsi population.
6. After the death of the Rwandan President, on 6 April 1994, attacks against the Tutsi began at KIVUMU commune, causing the deaths of some Tutsi civilians, including, Grégoire NDAKUBANA, Martin KARAKEZI and Thomas MWENDEZI.

7. To escape the attacks directed against them, Tutsis from the different sectors of KIVUMU commune, fled their homes to seek refuge in public buildings and Churches, including the Nyange Church. The bourgmestre and communal police gathered and transported the refugees from the different sectors of KIVUMU commune to Nyange Parish.
8. Athanase SEROMBA questioned the refugees transferred to the Parish about those not yet present, then noted the names of the remaining refugees on a list he gave to the burgomaster Grégoire NDAHIMANA for the purpose of looking for and bringing them to the Parish.
9. A Tutsi named Alexis KARAKE, his wife and his children (more than six) were brought from Gakoma cellule to Nyange Church through that list.
10. On or about 10 April 1994, several important meetings were held at the Parish of Nyange and the communal office. Athanase SEROMBA, Fulgence KAYISHEMA, Gaspard KANYARUKIGA and others not known to the Prosecutor attended these meetings.
11. During the said meetings it was decided to request Kibuye prefecture for gendarmes, to gather all Tutsi civilians of KIVUMU commune at Nyange Church in order to exterminate them.
12. From about 12 April 1994, refugees were confined by the gendarmes and surrounded by the militia and Interahamwe armed with traditional and conventional weapons. Father Athanase SEROMBA did prevent the refugees from taking food and instructed the gendarmes to shoot any "Inyenzi" (reference to Tutsi) who tried to take some food from the *Presbyter* or the Parish banana groves. He refused to celebrate mass for them and stressed that he didn't want to do that for the Inyenzi.
13. On or about 12 April 1994, Father Athanase SEROMBA expelled from the Parish four Tutsi employees (Alex, Féléicien, Gasore, and Patrice). He forced them to leave the Parish, while Interahamwe and militia were beginning the attacks against refugees of the Parish.
14. Father Athanase SEROMBA knew that removing the employees would cause their death. In fact, only one (Patrice) of these people was able to return to the Parish, having been gravely wounded, but Athanase SEROMBA prevented him from entering the Church. He was killed by the Interahamwe and the militia.
15. On or about 13 April 1994, the Interahamwe and the militia surrounding the Parish, launched an attack against the refugees in the Church. The refugees defended themselves by pushing the attackers out of the Church, to a place named "*la statue de la Sainte Vierge*". The attackers in turn, threw a grenade causing many deaths among the refugees. The survivors quickly tried to return to the Church, but Father Athanase SEROMBA ordered that all doors be closed, leaving many refugees (about 30) outside to be killed.

16. On or about 14 April 1994, in the afternoon, Father SEROMBA met Fulgence KAYISHEMA and Gaspard KANYARUKIGA in his Parish Office. Soon afterwards, Fulgence KAYISHEMA went to bring some fuel, using one of the KIVUMU commune official vehicles. That fuel was used by the Interahamwe and the militia to burn down the Church, while the gendarmes and members of the communal police launched grenades.
17. On that same day, Athanase SEROMBA chaired a meeting in his Parish Office with Fulgence KAYISHEMA, Grégoire NDAHIMANA, Gaspard KANYARUKIRA and others unknown to the Prosecution. Immediately after this meeting, following a request from the refugees for protection, the *bourgmestre* Grégoire NDAHIMANA replied that this war was caused by the Inyenzi who killed the President.
18. On or about 15 April 1994, a bus transporting armed Interahamwe and a priest named KAYIRANGWA arrived at Nyange Parish, from KIBUYE préfecture. Soon thereafter, father SEROMBA held a meeting with priest KAYIRANGWA, Fulgence KAYISHEMA, Gaspard KANYARUKIGA and others unknown to the Prosecution.
19. After this meeting, Father Athanase SEROMBA ordered the Interahamwe and the militia to launch attacks to kill the Tutsi, beginning with the intellectuals. Following his orders, an attack was launched against the refugees by the Interahamwe, militia, gendarmes and communal police, armed with traditional weapons and firearms, causing the deaths of numerous refugees.
20. On or about 15 April 1994, in the afternoon, the attacks intensified against the refugees of the Church. The Interahamwe and the militias attacked with traditional arms and poured fuel through the roof of the Church, while gendarmes and communal police launched grenades and killed the refugees.
21. During these attacks, Father SEROMBA handed over to the gendarmes a refugee, a Tutsi teacher named GATARE who was killed immediately. This event encouraged and motivated the attackers.
22. Again during these attacks, some refugees left the Church for the *Presbyter*. Father SEROMBA found them and informed gendarmes about their hiding place. Immediately thereafter, they were attacked and killed. Among the victims were two Tutsi women (Alexia and Meriam).
23. Many refugees were killed during these attacks. A bulldozer was used by three employees of Astaldi company (Mitima, Maurice and Flanbeau,) to remove the numerous corpses of the victims from the Church. Two additional drivers were requested from Fulgence KAYISHEMA to complete the removal. One of them, Evarist RWAMASIRABO, who had refused to participate was killed immediately.
24. In the meantime Interahamwe, militias, gendarmes and communal police, continued their attacks but were unable to kill all the refugees in the Church.

- 25. During the attacks described above, Athanase SEROMBA, Grégoire NDAHIMANA, Fulgence KAYISHEMA, Téléspore NDUNGUTSE, Judge Joseph HABİYAMBERE, assistant *bourgmestre* Védaste MUPENDE and other authorities not known to the Prosecution, were supervising the massacres.
- 26. When the corpses of victims were removed from the Church, Védaste MUPENDE ordered the driver (Anasthase alias 2000) to demolish the Church. The latter refused since the Church was the house of God.
- 27. Immediately thereafter, Védaste MUPENDE, Fulgence KAYISHEMA and Grégoire NDAHIMANA requested the intervention of Athanase SEROMBA, who came and ordered Anasthase alias 2000 to destroy the Church, telling him that Hutu people were numerous and could build another one.
- 28. Anasthase bulldozed the Church and its roof crashed killing more than 2000 Tutsi refugees gathered inside. The few survivors were attacked by the Interahamwe, anxious to finish them off.
- 29. On or about 16 April 1994, after the destruction of the Church, the authorities held a meeting in the Parish. Soon after, Father SEROMBA ordered the Interahamwe to clean the "rubbish". The corpses of victims were placed into common graves.
- 30. The transfer of corpses into common graves took about two days, under the supervision of Athanase SEROMBA, Fulgence KAYISHEMA, Grégoire NDAHIMANA and others unknown to the Prosecution.
- 31. After the destruction of the Church, almost all the Tutsi population of KIVUMU was killed, and in July 1994, there was no Tutsi known in KIVUMU commune.

Count 3: CONSPIRACY TO COMMIT GENOCIDE:

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Fulgence KAYISHEMA** with **CONSPIRACY TO COMMIT GENOCIDE**, a crime stipulated in Article 2(3)(b) of the Statute, in that on or between the dates of 6 April 1994 and 20 April 1994, in KIVUMU *prefecture*, Rwanda, **Fulgence KAYISHEMA**, the Inspector of Police at the commune of KIVUMU, did agree with Grégoire NDAHIMANA, *bourgmestre* of Kivumu commune, Athanase SEROMBA, the priest responsible of Nyange Church, Téléspore NDUNGUTSE, Gaspard KANYARUKIGA and other persons not known to the Prosecution, to kill or cause serious bodily or mental harm to members of the Tutsi population with the intent to destroy, in whole or in part, a racial or ethnic group;

Pursuant to Article 6(1) of the Statute: by virtue of his affirmative acts in planning, instigating, ordering, committing, or otherwise aiding and abetting the planning, preparation or execution of the crime charged.

32. Father Athanase SEROMBA, Grégoire NDAHIMANA, Fulgence KAYISHEMA, Téléspore NDUNGUTSE, and Gaspard KANYARUKIGA did agree to kill the Tutsi ethnic group, and established a plan or a common scheme to execute the extermination of Tutsi in KIVUMU commune.
33. They held regular meetings at Nyange Parish and the communal office, between the dates of 6 April 1994 and 20 April 1994. During these meetings, they did agree on a common strategy to kill and exterminate all Tutsi in the KIVUMU commune.
34. This plan was carried out following three main actions. First to force Tutsi civilians of KIVUMU commune to leave their homes and take refuge in Nyange Church. For this purpose between 7 and 10 April 1994 local authorities and members of communal police launched attacks against Tutsi in their houses, resulting in the killing of some civilians, and forcing the survivors to take refuge in Nyange Church.
35. On or about 10 April 1994, several important meetings were held at the Parish of Nyange and the communal office. Athanase SEROMBA, Fulgence KAYISHEMA, Gaspard KANYARUKIGA and others not known to the Prosecution attended these meetings.
36. During these said meetings they decided to request Kibuye prefecture for gendarmes, to gather all Tutsi civilians of Kivumu commune at Nyange Church to exterminate them.
37. On or about 12 April 1994, Father SEROMBA chaired a meeting in his Parish Office with, among others, Grégoire NDAHIMANA, and Fulgence KAYISHEMA. Immediately after this meeting, Fulgence KAYISHEMA said that KAYIRANGA (a prosperous Tutsi businessman) must be found and brought to the Church.
38. On or about 12 April 1994, the *bourgmestre* Grégoire NDAHIMANA ordered members of the communal police to search for Tutsi civilians, and bring them to the Church.
39. The second step of the plan consisted of keeping the refugees inside the Church, surrounding the Church with Interahamwe and militias and inflicting on the refugees conditions of life calculated to weaken them physically. The plan also included regular attacks by Interahamwe and militias against the refugees to defeat their endurance.
40. To this end from about 12 April 1994, the gendarmes confined the refugees at the Nyange Church, which was surrounded by the Interahamwe and the militias.
41. Athanase SEROMBA prevented the refugees from having access to sanitary places in the Parish and from taking food, ordering the gendarmes to shoot any "Inyenzi" who tried to take food from the *Presbyter* or the banana groves of the Parish.

42. On or about 12 April 1994, in the afternoon, Father Athanase SEROMBA chaired a meeting with Grégoire NDAHIMANA and Fulgence KAYISHEMA. Soon after the *bourgmestre* NDAHIMANA said, "*We choose the richest to be killed, the others can go back to their houses*".
43. On or about 13 April 1994, Interahamwe and militias surrounding the Parish, launched an attack against the refugees in the Church, killing about 30 refugees.
44. The third and final step of the plan consisted in assembling a consistent number of killers, including Hutu civilians, to kill all the refugees. That was done with the demolition of the Church, using a caterpillar Bulldozer with more than 2000 Tutsi civilians trapped inside the Church as described above.
45. The massive attack against the Tutsi refugees was conducted on or about 15 April 1994, under the supervision of Father SEROMBA, Fulgence KAYISHEMA, Grégoire NDAHIMANA, Téléphore NDUNGUTSE, Gaspard KANYARUKIGA and others unknown to the Prosecution.
46. After the complete destruction of the Church, Father Athanase SEROMBA, met with Fulgence KAYISHEMA, Grégoire NDAHIMANA, Gaspard KANYARUKIGA and the drivers of the caterpillar bulldozer and sat drinking beer together.

Count 4: EXTERMINATION as a CRIME AGAINST HUMANITY.

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Fulgence KAYISHEMA** with **EXTERMINATION as a CRIME AGAINST HUMANITY**, as stipulated in Article 3(b) of the Statute, in that on or between the dates of 7 April 1994 and 20 April 1994, in KIBUYE *préfecture*, Rwanda, **Fulgence KAYISHEMA** 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 political, ethnic or racial grounds, as follows:

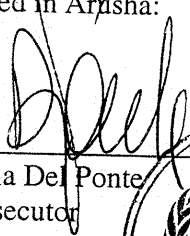
Pursuant to Article 6(1) of the Statute: by virtue of his affirmative acts in planning, instigating, ordering, committing, or otherwise aiding and abetting the planning, preparation or execution of the crime charged.

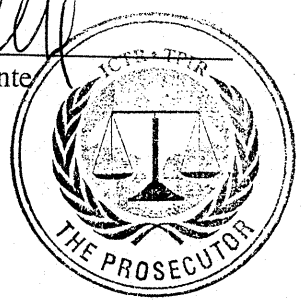
47. On or about 13 April 1994, the Interahamwe and the militia surrounding the Parish, launched an attack against the refugees in the Church. The attackers having been pushed away and out of the Church, to a place named "*la statue de la Sainte Vierge*". The attackers threw a grenade causing many deaths among the refugees. The survivors quickly tried to return to the Church, but Father Anasthase SEROMBA ordered to close all the doors leaving many refugees outside (about 30) to their fatal destiny.

- 48. On or about 15 April 1994, Fulgence KAYISHEMA ordered or planned abetted and encouraged the destruction of the Church of Nyange with more than 2000 Tutsi trapped inside causing their deaths.
- 49. After the destruction of the Church, most of the Tutsi from KIVUMU commune were killed, and in July 1994, there was no Tutsi Known in KIVUMU commune.

The acts and omissions of Fulgence KAYISHEMA detailed herein are punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

Dated in Arusha: this 10 day of June 2001


Carla Del Ponte
Prosecutor





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Tribunal Pénal International pour le Rwanda**

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CONFIDENTIAL

INTEROFFICE MEMORANDUM — MEMORANDUM INTERIEUR

To:	K.Afande	Date:	3 July 2001
A:	Legal Officer, CMS	Ref:	
Through:			
From:	Silvana Arbia		
De:	Senior trial attorney		
Subject:	Confirmed indictments Cases ICTR 2001-66-I ; 2001-67-I ; 2001-68_I		
Objet:			

Please find attached the indictments with the corrections made during the confirmation hearing.

It must be noted that the corrected indictments as filed today must be served to the each concerned accused.

I take this occasion to recall to you the urgent need of the translation of these three indictments from their original English version into French.

Thank you.