


ANNEX II

Indictment ICTR -96-17 (Bisesero)



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INTERNATIONAL CRIMINAL TRIBUNAL
FOR RWANDA

CASE NO: ICTR 96-17-T

THE PROSECUTOR
OF THE TRIBUNAL

AGAINST

ELIZAPHAN NTAKIRUTIMANA
GERARD NTAKIRUTIMANA

AMENDED INDICTMENT

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**

with **GENOCIDE, COMPLICITY IN GENOCIDE, CONSPIRACY TO COMMIT GENOCIDE, CRIMES AGAINST HUMANITY and SERIOUS VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II** 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 months of April through June 1994 in the area known as Bisesero in Gishyita and Gisovu communes, 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 this indictment, he was the Pastor of the Seventh day

Adventist Church in Mugonero, which is located in Kibuye Prefecture. He is currently in the custody of the United States of America.

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 at Mugonero hospital. He is currently in the custody of the International Criminal Tribunal for Rwanda.

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.

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 killings 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 within Kibuye Prefecture sought shelter from attacks which were taking place throughout this area. Many assembled inside Mugonero Complex, which consisted of several buildings, including a church, an infirmary and 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 Tutsi individuals from the others. Those who were not Tutsi were allowed to leave the Mugonero Complex.

4.7 On or about 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** and **Gerard Ntakirutimana**, members of the National Gendarmerie, communal police, militia and civilians.

2556

- 4.8 The individuals in the convoy, including **Elizaphan Ntakirutimana** and **Gerard Ntakirutimana**, participated in an attack on the men, women and children in the Mugonero Complex which continued throughout the day and into the night.
- 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 Mugonero Complex.
- 4.10 Many of those who survived the massacre at Mugonero Complex fled to the surrounding areas, one of which was the area known as Bisesero.
- 4.11 The area known as Bisesero spans the two communes of Gishyita and Gisovu in Kibuye Prefecture. From April through June 1994, hundreds of men, women, and children sought refuge in various locations in Bisesero. These men, women and children were predominantly Tutsis and were seeking refuge from attacks on Tutsis which had occurred throughout the Prefecture of Kibuye. The majority of these men, women and children were unarmed.
- 4.12 From April through June 1994, convoys of a large number of individuals armed with various weapons went to the area of Bisesero. Individuals in the convoy included, among others, **Elizaphan Ntakirutimana** and **Gerard Ntakirutimana**, members of the National Gendarmerie, communal police, militia and civilians.
- 4.13 The individuals in the convoys, including **Elizaphan Ntakirutimana** and **Gerard Ntakirutimana**, participated in attacks on the men, women and children in the area of Bisesero which continued almost on a daily basis for several months.
- 4.14 The attacks resulted in hundreds of deaths and a large number of wounded among the men, women and children who had sought refuge in Bisesero.
- 4.15 During the months of these attacks, individuals, including **Elizaphan Ntakirutimana** and **Gerard Ntakirutimana**, searched for and attacked Tutsi survivors and others, killing or causing serious bodily or mental harm to them.
- 4.16 At one point during this time period, **Elizaphan Ntakirutimana** was in Murambi within the area of Bisesero. **Elizaphan Ntakirutimana** went to a church located in Murambi where many Tutsis were seeking refuge from the ongoing massacres. **Elizaphan Ntakirutimana** ordered the attackers to destroy the roof of this church so that it could no longer be used as a hiding place for the Tutsis.

5. CHARGES

2555

By their acts in relation to the events referred to above, each of the accused are individually responsible for the crimes alleged below pursuant to Article 6(1) of the Tribunal Statute.

Count 1: **Elizaphan Ntakirutimana and Gerard Ntakirutimana**, during the months of April through June 1994, in the area known as Bisesero, in Gishyita and Gisovu communes, 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;

Count 2: **Elizaphan Ntakirutimana and Gerard Ntakirutimana**, during the months of April through June 1994, in the area known as Bisesero, in Gishyita and Gisovu communes, Kibuye Prefecture, in the Territory of Rwanda, were complicit in the killing 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 3: **Elizaphan Ntakirutimana and Gerard Ntakirutimana**, during the months of April through June 1994, in the area known as Bisesero, in Gishyita and Gisovu communes, Kibuye Prefecture, in the Territory of Rwanda, did conspire with each other to kill and cause 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 **CONSPIRACY TO COMMIT GENOCIDE** in violation of Article 2(3)(b) and punishable in reference to Articles 22 and 23 of the Statute of the Tribunal;

Count 4: **Elizaphan Ntakirutimana and Gerard Ntakirutimana**, during the months of April through June 1994, in the area known as Bisesero, in Gishyita and Gisovu communes, 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 on political, ethnic or racial grounds, and have thereby committed a **CRIME AGAINST HUMANITY** in violation of Article 3(a) and punishable in reference to Articles 22 and 23 of the Statute of the Tribunal;

2554

Count 5: **Elizaphan Ntakirutimana and Gerard Ntakirutimana**, during the months of April through June 1994, in the area known as Bisesero, in Gishyita and Gisovu communes, 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 a **CRIME AGAINST HUMANITY** in violation of Article 3(b) and punishable in reference to Articles 22 and 23 of the Statute of the Tribunal;

Count 6: **Elizaphan Ntakirutimana and Gerard Ntakirutimana**, during the months of April through June 1994; in the area known as Bisesero, in Gishyita and Gisovu communes, Kibuye Prefecture, in the Territory of Rwanda, did commit other inhumane acts, including the causing of serious bodily harm, the causing of serious mental harm and the persistent searching for and killing of individuals in the Bisesero area, as part of a widespread or systematic attack against a civilian population on political, ethnic, or racial grounds, and have thereby committed a **CRIME AGAINST HUMANITY** in violation of Article 3(i) and punishable in reference to Articles 22 and 23 of the Statute of the Tribunal;

Count 7: **Elizaphan Ntakirutimana and Gerard Ntakirutimana**, during the months of April through June 1994, in the area known as Bisesero, in Gishyita and Gisovu communes, Kibuye Prefecture, in the Territory of Rwanda, did commit or order others to commit, violence to life, health and physical and mental well-being of persons, including murder and serious bodily and mental harm, and have thereby committed **SERIOUS VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II** thereof, as recognized by Article 4(a) and punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

17
16 April 1998
Arusha, Tanzania

For the Prosecutor



Mr. James K. Stewart

