

1.1 Introduction

1. The pronouncement of this judgement marks one of the fastest completions of a trial of this size in the history of the Tribunal. In 54 trial days, the parties presented evidence from 84 witnesses. Nearly 130 decisions have been issued during the proceedings. The judgement is being rendered just over six months since the parties' closing submissions.

2. Speed, however, has not come at the expense of fairness or careful consideration. The significant and tireless contributions from other organs of the Tribunal have allowed this efficiency and empowered the Chamber, the Prosecution and the Defence to focus on the merits of this case. The Chamber thanks the office of the Registrar, the court management section, the court reporters, the language services section, the witness and victims support section and the security personnel for their essential contributions to justice. The Chamber also thanks the Prosecution and Defence for their professionalism and skilled advocacy. You all have ensured that this Chamber can fulfil its mandate.

3. The Prosecution charges Ildéphonse Nizeyimana with genocide, crimes against humanity and war crimes for violence perpetrated in Butare prefecture, and, for the most part, in Butare town. During the relevant period, Nizeyimana was a captain at the military training school in Butare town called the *École des Sous-Officiers*, which is commonly referred to as "ESO". The Prosecution alleges that from the moment of President Juvénal Habyarimana's death on the night of 6 April 1994, Nizeyimana mobilised ESO soldiers and others to rape and kill Tutsis, as well as other civilians.

4. The Defence evidence confirms that many of the particularized killings that Nizeyimana is charged with did in fact occur. However, it disputes that Nizeyimana had anything to do with the killings and challenges the quality of the Prosecution evidence implicating Nizeyimana. It also presented alibi evidence that Nizeyimana was not in Butare town when many of the killings happened.

5. I will now read the summary of the judgement. Only the written judgement is authoritative. It will be available shortly hereafter, at the completion of the editorial process.

1.2 Rape and Kill Order, 7 April 1994

6. The Indictment alleges that, around 7 April 1994, Nizeyimana ordered soldiers to kill Tutsi civilians and rape Tutsi women. This allegation was supported by a single witness, who testified that he was an ESO soldier who overheard Nizeyimana issue these instructions while at the ESO Camp in Butare on 7 April 1994.

7. The Defence confronted this witness with the evidence he gave in a Rwandan Gacaca proceeding, wherein he stated he was a member of the Para Commando Battalion living in Kigali in April 1994. In that same proceeding, the witness indicated that he did not go to Butare during the month of April. The Chamber has found this witness unreliable. Accordingly, this allegation is not proved beyond reasonable doubt. Other incidents, such as the rape at Rosalie Gicanda's home, which are also only supported by this witness, have not been proven either.

1.3 Sexual Violence

8. The Indictment alleges that from 6 April 1994, Witness BUQ and others were repeatedly raped by soldiers at residences near the ESO Camp. Similarly, it also alleges that soldiers and others, including *Interahamwe*, raped Witnesses MKA, ZBL and DCO inside or near the Butare University Hospital between April and July 1994.

9. The Chamber has no doubt that each of these women was raped. However, none of their testimonies sufficiently implicate Nizeyimana. While the record establishes that, on one occasion, Witness BUQ was raped by an ESO soldier, the evidence fails to demonstrate that Nizeyimana knew or would have had reason to know about this. With respect to Witnesses MKA, ZBL and DCO, the Chamber is not satisfied that their identification of ESO soldiers as the perpetrators is sufficiently reliable. Accordingly, the record fails to establish an evidentiary basis upon which Nizeyimana may be held liable for these crimes.

1.4 Training and Distributions of Weapons

10. The Indictment alleges that Nizeyimana bears criminal responsibility for the training of civilians and the distribution of weapons. Evidence presented in relation to these allegations fails to demonstrate ensuing criminal conduct for which Nizeyimana can be held liable. They are accordingly dismissed.

1.5 Meetings

11. The Indictment alleges that Nizeyimana participated in several meetings between 7 and 20 April 1994, during which he is alleged to have ordered soldiers and militia to kill Tutsi civilians. There is evidence that, around 7 April 1994, Nizeyimana was present at an assembly of ESO soldiers, and that afterward, many were deployed to various defensive positions around Butare town. However, the evidence fails to demonstrate that express orders were given to kill Tutsis or that any resulting criminal conduct followed from the orders given at the assembly.

12. With respect to the alleged meetings or assemblies that occurred on 8 and 20 April 1994 at ESO Camp, the Prosecution led no direct evidence supporting such events. Similarly, evidence supporting meetings at Gatsinzi's Bar in the second half of April and at Gahenerezo around 21 or 22 April was led through a single accomplice witness. His uncorroborated testimony does not establish these allegations beyond reasonable doubt.

1.6 Killing of the Ruhutinyanya Family

13. The evidence demonstrates that, around 17 April 1994, members of the Ruhutinyanya family, which included Tutsis, attempted to flee to Burundi through the Akanyaru border crossing. However, angry and armed civilians at a roadblock near the border threatened this convoy and refused to let it to pass.

14. Prosecution and Defence evidence confirms that ESO soldiers extricated the family and brought them to the ESO Camp. In this context, the Indictment alleges that members of the Ruhutinyanya family were killed on Nizeyimana's instructions.

15. Two Prosecution witnesses provided direct evidence that, on the evening of the Ruhutinyanya family's arrival at the ESO Camp, Nizeyimana was not happy with the presence of this Tutsi family. The following day, around 18 April 1994, two other Prosecution witnesses overheard Nizeyimana order that the family be returned to the location where they had been found. The Chamber finds this Prosecution evidence credible.

16. It is undisputed that ESO soldiers escorted members of the Ruhutinyanya family from the ESO Camp that day. No Prosecution witness saw what happened to the Ruhutinyanya family. However, several Prosecution and Defence witnesses learned that they were killed at the same roadblock near the Akanyaru border crossing. One Defence witness, an ESO soldier who escorted the family, testified that the soldiers and the family were attacked at the

roadblock. The soldiers were forced to flee without the family. Another Defence witness also heard that this is what occurred.

17. The Chamber finds the Defence evidence that ESO soldiers were attacked at the roadblock and forced to flee unbelievable. It is further undermined by general evidence establishing the ability of armed soldiers to move through roadblocks. Notably, another Defence witness escorted Tutsi civilians on this same route days later. While he and the ESO soldiers experienced hostility, they managed to get the Tutsis past roadblocks by merely threatening to use force.

18. Under the circumstances, the only reasonable conclusion is that Nizeyimana ordered the removal of the Ruhutinyanya family knowing that the implementation of this order would lead to their slaughter. The Chamber has no doubt that either the ESO soldiers who transported the family to the roadblock and or the armed civilians and *Interahamwe* manning it directly participated in the killing of members of this family. The Chamber finds Nizeyimana criminally responsible for his role in these killings.

1.7 Attack on Cyahinda Parish

19. The record demonstrates that, around mid April 1994, Tutsis fled ethnically driven attacks in the Gikongoro and Butare prefectures border region. Thousands gathered at Cyahinda Parish in Nyakizu commune, Butare prefecture. The refugees continued to come under attack at Cyahinda Parish. On one occasion, they successfully defended themselves against an assault led by a local official, killing at least two gendarmes in the process.

20. Subsequently, around 17 April 1994, Nizeyimana travelled to Cyahinda Parish as part of a security delegation to meet with the refugees there. The single most significant event that followed this meeting was an attack on Cyahinda Parish around 18 April 1994. Thousands were killed. Survivors fled. The Indictment alleges that ESO and other soldiers, gendarmes and armed civilians participated in this massacre, and that Nizeyimana ordered and authorised it.

21. Three Prosecution witnesses provided direct and consistent evidence that soldiers participated in this attack. One witness, a former gendarme from Butare town, observed ESO's Chief Warrant Officer Paul Kanyashyamba and around 11 ESO soldiers supporting other attackers with heavy artillery and specialised weapons. Having considered relevant Defence evidence, much of which is indirect, the Chamber considers the Prosecution evidence established beyond reasonable doubt.

22. There is no direct evidence of Nizeyimana's presence during the attack on Cyahinda Parish. However, it is significant that the ESO Camp served as the operational command for the Butare and Gikongoro region. In this context, Nizeyimana was an officer charged with military intelligence and operations. Furthermore, evidence reflects that Nizeyimana generally issued orders to and held power over Chief Warrant Officer Paul Kanyashyamba, a participant in the attack. Finally, it is significant that in this final assault, ESO soldiers utilised specialised arms that could, from a safe distance, weaken structural safe havens and kill refugees, who had demonstrated a capacity to defend themselves.

23. Given these factors, the only reasonable conclusion is that Nizeyimana planned and authorised the participation of ESO soldiers in this attack. Nizeyimana's visit to Cyahinda Parish necessarily allowed him to assess the strengths and weaknesses of the displaced Tutsis who had fortified themselves within the parish facilities. The weapons employed by ESO soldiers demonstrate a nuanced understanding of the situation, and undoubtedly are a

reflection of Nizeyimana's contribution to the planning and authorisation of the assault. The Chamber finds Nizeyimana criminally responsible for his role in this attack.

1.8 Killing of a Young Woman as well as the Maniraho and Ngarambe Families

24. The Indictment alleges that, in late April or early May 1994, Nizeyimana ordered the killing of a young Tutsi woman. It further accuses Nizeyimana of having ordered the killing of Jérôme Ngarambe, Jean Marie Vianney Maniraho and members of their families.

25. That these killings occurred is undisputed. The Prosecution witness who implicated Nizeyimana in these attacks conceded to having murdered the young woman and to have raided the Ngarambe household immediately before he and his family were killed. Defence evidence confirms that this witness had a close personal relationship with Nizeyimana and that he spent time at Nizeyimana's home around the period these killings occurred.

26. Notwithstanding, his evidence implicating Nizeyimana is uncorroborated. As an alleged accomplice to these crimes and an apparent fugitive at the time of his testimony, the Chamber views his evidence with caution. His testimony alone, cannot demonstrate Nizeyimana's involvement beyond reasonable doubt. These allegations are dismissed.

1.9 Attacks on the National University of Rwanda

27. The Indictment alleges that, starting 16 April 1994, Nizeyimana ordered soldiers and militia known as *Interahamwe* to kill Tutsi civilians at Butare University.

28. The evidence reflects that Presidential Guards, supported by ESO soldiers, came to Butare University on 21 April 1994. Using lists, the soldiers separated Tutsis from Hutus, and subsequently killed the Tutsis. However, there is no evidence establishing that Nizeyimana contributed to this operation in any way. Likewise, given the participation of Presidential Guards, the Chamber has doubts that Nizeyimana exercised effective control over these ESO soldiers who participated in this attack. Nizeyimana cannot be held responsible for their crimes.

29. The Indictment also alleges that, on 22 April 1994, Nizeyimana went to the Butare University, where he shot and killed four Tutsi women. This was supported by a single accomplice witness. The Chamber has general concerns about his credibility. His evidence, in this instance, cannot support findings beyond reasonable doubt. Other alleged crimes at Butare University were insufficiently supported to establish their occurrences and are, consequently, dismissed.

1.10 Killing of Rosalie Gicanda

30. It is undisputed that Rosalie Gicanda, the former Tutsi Queen of Rwanda, was killed towards the end of April 1994. Prosecution and Defence evidence confirms that ESO Second Lieutenant Bizimana led ESO soldiers who removed Gicanda and others from her home and killed them. The Indictment alleges that Nizeyimana ordered and authorised this killing.

31. The Defence points to evidence, which it suggests, indicates that the killing occurred on 21 April 1994, when Nizeyimana was not in Butare. Defence evidence about the timing is inconclusive, and in some cases supports other evidence that the killing happened around 20 April 1994. Furthermore, two Prosecution witnesses observed Bizimana report the killing to Nizeyimana. The Chamber finds the Prosecution evidence implicating Nizeyimana in this killing established beyond reasonable doubt.

32. Based on the foregoing, the Chamber concludes that Nizeyimana authorised the killing of Rosalie Gicanda. Defence evidence that Bizimana was punished for this attack was

unpersuasive, lacked credibility and was contradicted by other evidence. Nizeyimana bears criminal responsibility for this crime.

1.11 Roadblocks

33. The Indictment alleges that Nizeyimana is responsible for the killing of Remy Rwekaza and the shooting of Witness ZAV, both Tutsis, at the Gikongoro and Kigali roads junction roadblock around 21 April 1994. It further alleges that ESO soldiers acting on Nizeyimana's orders and authorisation killed a Tutsi professor, Pierre Claver Karenzi, at the nearby Hotel Faucon roadblock on the same day. Finally, the Indictment alleges that, around 5 May 1994, Nizeyimana ordered the killing of Beata Uwambaye, a Tutsi, at the roadblock where Rwekaza was killed and Witness ZAV shot.

34. Turning to the killing of Remy Rwekaza and the shooting of Witness ZAV around 21 April 1994, as well as the killing of Beata Uwambaye at the same roadblock weeks later, the Prosecution presented compelling first-hand evidence that Nizeyimana ordered ESO soldiers to perpetrate these attacks. The Defence has presented alibi evidence, indicating that on both dates, Nizeyimana was in Gikongoro prefecture. For the reasons detailed in the judgement, the Chamber has found that Nizeyimana's alibi is not credible and does not call into question the evidence supporting these allegations. The Chamber has found that Nizeyimana is criminally responsible for the killings of Remy Rwekaza and Beata Uwambaye. He is also liable for the serious bodily harm to Witness ZAV.

35. There is no direct evidence implicating Nizeyimana in the killing of Pierre Claver Karenzi at the Hotel Faucon roadblock around 21 April 1994. However, the record demonstrates that the Hotel Faucon roadblock was among a network of geographically proximate roadblocks manned by ESO soldiers that were openly and notoriously targeting and killing Tutsis during this period in April 1994.

36. The only reasonable inference is that the instructions Nizeyimana issued at the Gikongoro and Kigali roads junction roadblock were necessarily transmitted and consistent with those issued to the Hotel Faucon roadblock only a short distance down the road. In light of Nizeyimana's high rank and considerable authority within the ESO, as well as his proven involvement in killings at a nearby roadblock, the Chamber has no doubt that Nizeyimana authorised the killing of Tutsis, and by implication, the murder of Pierre Claver Karenzi at the Hotel Faucon roadblock. He is criminally responsible for this killing. The Chamber, however, has not found that Nizeyimana can be held liable for the killing of Karenzi's wife, Alphonsine Mukamusoni, at the Karenzi residence on the same day.

1.12 Attack on the Matabaro and Nyirinkwaya Residences

37. Prosecution and Defence evidence confirms that in the last third of April 1994, the homes of Butare's Deputy Prosecutor, Jean Baptiste Matabaro, and a Butare Sub-Prefect, Zéphanie Nyirinkwaya, were raided. These two officials, members of their families and others staying in their residences in Butare town were executed a short distance away. The Indictment alleges that Nizeyimana led ESO soldiers in this attack.

38. Three Prosecution witnesses provided first-hand evidence of Nizeyimana's involvement in this murder operation. They testified that it occurred in the early evening of 22 April 1994. The Defence, however, presented evidence that this attack occurred on 21 April 1994. It points to Prosecution evidence that also supports this conclusion. Furthermore, it relies on alibi evidence indicating that Nizeyimana was not in Butare on the evening of 21 April 1994.

39. Having considered all the relevant evidence, the Chamber finds the Prosecution evidence in regards to these killings established beyond reasonable doubt. The alibi is not credible and does not call into question Nizeyimana's involvement in this attack. He is criminally liable for it.

1.13 Attacks on Butare University Hospital

40. The Indictment charges Nizeyimana with several specific killings at the Butare University Hospital starting around 22 April 1994, as well as general killings by particular soldiers, including ESO soldiers.

41. There is no direct evidence of Nizeyimana's involvement in any particular killings at Butare University Hospital. Some Prosecution evidence tends to implicate Presidential Guards in targeted attacks. While the record demonstrates that an ESO soldier killed a man as alleged in the Indictment, evidence of Nizeyimana's involvement is indirect and unconvincing. He cannot be held responsible. Other evidence of killings is insufficient to support findings beyond reasonable doubt or establish Nizeyimana's liability. These allegations are dismissed.

1.14 Attacks on *Groupe Scolaire*

42. Evidence before the Chamber leaves no doubt that ESO soldiers, led by ESO Second Lieutenant Modeste Gatsinzi, abducted between 50 and 140 Tutsi civilians from *Groupe Scolaire* around 29 April 1994. These civilians were taken to Rwasave valley where soldiers and *Interahamwe* killed them. The Indictment alleges that Nizeyimana ordered and authorised these killings.

43. Two Prosecution witnesses placed Nizeyimana at the *Groupe Scolaire* during the attack. However, the Chamber has fundamental concerns about the ability of one witness to identify Nizeyimana. With respect to the second Prosecution witness, the Chamber has general concerns about his credibility given his status as an accomplice. Furthermore, his evidence implicating Nizeyimana was brief and general. The record fails to support Nizeyimana's criminal liability on any basis. Evidence in support of another purported attack at *Groupe Scolaire* was indirect. It cannot support findings beyond reasonable doubt.

1.15 Attack on Benebikira Convent

44. The Indictment alleges that, around 30 April 1994, militia as well as ESO and Ngoma camp soldiers removed 25 Tutsi children from the Benebikira Convent. The Indictment further charges that these children were brought to an area below the Ineza Hotel and killed with others in Nizeyimana's presence.

45. The record reflects that Ngoma Camp soldiers participated in the abduction of Tutsi children from the Benebikira Convent and their subsequent killing. However, only one witness testified that ESO soldiers participated in this attack. The Chamber has some concerns about the credibility of this aspect of his testimony. Likewise his evidence implicating Nizeyimana is weak. The Chamber further views this witness's evidence with caution given his status as an alleged accomplice. It cannot support findings beyond reasonable doubt.

46. In light of the findings above, the Chamber shall now read its verdict.

VERDICT

COUNT 1: GENOCIDE: The Chamber finds Nizeyimana **GUILTY** for:

- the killing of members of the Ruhutinyanya family;
- the attack on Cyahinda Parish;
- the killing of Rosalie Gicanda and others taken from her home; and
- the killing of Pierre Claver Karenzi at the Hotel Faucon roadblock.

Nizeyimana is responsible for all these crimes through his participation in basic joint criminal enterprises. The Chamber also finds Nizeyimana **GUILTY** of **GENOCIDE** for ordering the killings of:

- Remy Rwekaza and Beata Uwambaye at the Gikongoro and Kigali roads junction roadblock as well as the serious bodily harm caused to Witness ZAV at the same barrier.

COUNT 2: EXTERMINATION as a CRIME AGAINST HUMANITY: the Chamber finds Nizeyimana **GUILTY** for:

- the attack on Cyahinda Parish through his participation in a basic joint criminal enterprise.

COUNT 3: MURDER as a CRIME AGAINST HUMANITY: the Chamber finds Nizeyimana **GUILTY** for:

- all the killings underlying his genocide conviction on the basis of the same modes of liability.
- The Chamber dismisses the conviction as it relates to the attack on Cyahinda Parish as it is cumulative of the extermination conviction.

The Chamber also finds Nizeyimana **GUILTY** of **MURDER as a CRIME AGAINST HUMANITY** for:

- the killing of those taken from the Matabaro and Nyirinkwaya homes through his participation in a basic joint criminal enterprise.

COUNT 4: RAPE as a CRIME AGAINST HUMANITY: The Chamber finds Nizeyimana **NOT GUILTY**.

COUNT 5: MURDER as a WAR CRIME: The Chamber finds Nizeyimana **GUILTY** for:

- all the killings and pursuant to the same modes of liability supporting his convictions for genocide, extermination and murder as crimes against humanity.

COUNT 6: RAPE as a WAR CRIME: The Chamber finds Nizeyimana **NOT GUILTY**.

SENTENCE

47. Having considered the gravity of the crimes for which Nizeyimana has been convicted, as well as all the aggravating and mitigating circumstances, the Chamber has the discretion to impose a single sentence and chooses to do so. Considering the relevant circumstances, the Chamber sentences Ildéphonse Nizeyimana to:

LIFE IMPRISONMENT

48. In accordance with Rules 102 (A) and 103, Ildéphonse Nizeyimana shall remain in the custody of the Tribunal pending transfer to the state where he will serve his sentence.

49. The trial of *The Prosecutor vs. Ildéphonse Nizeyimana* has come to an end. Court is adjourned.