

SUMMARY OF JUDGEMENT

1. The Accused in this case is Jean-Baptiste Gatete, born in 1953 in Murambi commune, Byumba prefecture, Rwanda. Between 1982 and 1993, he was the bourgmestre of Murambi commune and in April 1994, a director within the Ministry of Women and Family Affairs. The Prosecution has charged him with genocide, or, in the alternative, complicity in genocide, as well as conspiracy to commit genocide, and extermination, murder, and rape as crimes against humanity. The Defence disputes all charges.

2. The trial commenced on 20 October 2009 and closed on 29 March 2010. The Prosecution called 22 witnesses while the Defence presented 27. Closing Arguments were heard on 8 November 2010.

3. The following is a summary of the central findings concerning the allegations against Gatete. A number of decisions about allegations not pursued by the Prosecution and issues pertaining to the fairness of the proceedings are discussed in the Judgement and will not be read here. Only the written Judgement is authoritative. This will be available soon.

4. The Chamber turns to address each of the allegations in the Indictment with respect to events in Byumba and Kibungo prefectures.

1. GATHERINGS AND THE FACILITATION OF TRANSPORT IN MURAMBI COMMUNE, APRIL 1994

5. With respect to various sectors and cellules in Murambi commune, the Indictment contains a series of allegations concerning Gatete's role in convening meetings involving local administrative officials, for the purposes of distributing weapons to assailants and issuing instructions to kill and rape Tutsi civilians, as well as destroy Tutsi homes. It is also alleged that Gatete facilitated the transport of Interahamwe.

6. The Prosecution presented evidence in support of specific allegations regarding gatherings, orders, killings and rapes in Nyabisindu sector, at the Rwankuba sector office and Akarambo cellule. The Chamber addresses these in turn.

(i) Meeting in Nyabisindu Sector, 7 April 1994

7. It is alleged that, at about 2.00 a.m. on 7 April 1994, Gatete conducted a meeting with local officials in Nyabisindu sector for the purposes of distributing weapons and instructing civilian militia to kill Tutsi civilians.

8. The Prosecution presented one witness in support of this allegation. However, the Chamber finds his evidence insufficient to support findings beyond reasonable doubt. Accordingly, this allegation has not been proven.

(ii) Meeting at the Rwankuba Sector Office, 7 April 1994

9. The Indictment contains a series of allegations concerning Gatete's role in convening meetings with local administrative officials, as well as orders to kill Tutsis in Rwankuba sector, on 7 April 1994. In particular, it is alleged that at about 8.00 a.m., he met with the Murambi commune bourgmestre, Jean de Dieu Mwangé, and the Rwankuba sector conseiller, Jean Bizimungu, for the purposes of distributing weapons and ordering civilian militia to kill Tutsi civilians.

10. The evidence consistently demonstrates that violence erupted in, and around, Nyagasambu cellule, in Rwankuba sector, on 7 April and that the Tutsi Responsable of that cellule was among those killed.

11. The Chamber finds that two Prosecution witnesses provided compelling and largely corroborated evidence. Based on their testimonies, the Chamber finds that, on the morning of 7 April 1994, Conseiller Bizimungu and about 20 Interahamwe had gathered at the Rwankuba sector office. Subsequently, Gatete arrived there with Bourgmestre Mwangé. Shortly after, a vehicle full of Interahamwe also arrived. In total, about 40 Interahamwe were present, together with the conseiller and bourgmestre, when Gatete ordered the crowd to kill Tutsis, telling them to "work relentlessly". Before leaving, Gatete told those gathered to "sensitise" others to the killings. For the reasons set out in the written Judgement, the Chamber finds that, the only reasonable conclusion, based on the evidence, is that the Interahamwe who received orders from Gatete, were among the assailants who participated in the killing of Tutsis in Rwankuba sector. The Chamber further finds that, pursuant to Gatete's instructions, further assailants were recruited and ultimately included soldiers, police and Hutu civilians.

12. In the Chamber's view, the evidence further supports a conclusion that the gathering of Gatete, local officials, and Interahamwe, the subsequent attacks on Tutsis on 7 April, which intensified as the day progressed, and the categories of assailants who were ultimately involved, would have required prior planning and coordination and, thus, could not have been achieved without prior agreement among those involved.

13. In reaching these conclusions, the Chamber has considered the Defence evidence. However, the Chamber finds it to be of limited probative value and insufficient to raise doubt with respect to the compelling Prosecution evidence.

14. Accordingly, the Chamber finds beyond reasonable doubt that Gatete is responsible for the killing of Tutsi civilians in Rwankuba sector on about 7 April 1994.

(iii) Orders to Rape and Kill in Akarambo Cellule, 7 April 1994

15. The Indictment alleges that, on the morning of 7 April 1994, Gatete and the Murambi commune bourgmestre, Jean de Dieu Mwangi, transported a convoy of armed Interahamwe to Akarambo cellule, and instructed those Interahamwe to rape and kill Tutsis, as well as destroy Tutsi homes.

16. The evidence establishes that killings occurred in Akarambo cellule on 7 April 1994. In particular, it is not disputed that a Tutsi woman called Aisha Murekeyisoni and Witness BCS's father, were killed by Interahamwe. Furthermore, the Chamber has no doubt that Witness BAT was raped on 8 and 9 April 1994. However, the critical issue for the Chamber concerns Gatete's alleged responsibility for those killings and rape.

17. The Chamber has separately considered the evidence of Gatete's alleged orders to Interahamwe, his alleged role during the killing of Murekeyisoni and Witness BCS's father, as well as the rape of Witness BAT, and the transport of Interahamwe.

18. The Prosecution presented three witnesses with respect to the allegation that Gatete issued orders to Interahamwe to kill Tutsis. However, three distinct narratives emerge from their accounts. Based on the individual merits of their testimonies, the Chamber finds their evidence insufficiently reliable for the purposes of supporting findings beyond reasonable doubt.

19. Turning to the allegations regarding Gatete's responsibility specifically for the killing of Aisha Murekeyisoni and Witness BCS's father, as well as Witness BAT's rape, the Chamber has considered the evidence of three Prosecution witnesses who, respectively, testified on each of these events. However, the Chamber finds their evidence insufficient to support findings beyond reasonable doubt.

20. Lastly, the Chamber considers whether the evidence establishes that Gatete facilitated the transport of Interahamwe in Akarambo cellule for the purposes of killing Tutsis. Two

Prosecution witnesses provided relevant testimony but the Chamber finds their evidence insufficiently reliable to support findings beyond reasonable doubt.

21. In sum, the Chamber finds that the evidence is insufficient to establish Gatete's orders and responsibility for the killings and rape of Tutsi civilians in Akarambo cellule.

2. ROADBLOCKS, BYUMBA PREFECTURE, APRIL 1994

22. The Indictment alleges that, between 6 and 30 April 1994, Gatete assembled Interahamwe and participated in the sealing off of roads and exits throughout Byumba prefecture, participated in the identification of Tutsi civilians by providing lists of Tutsi names, ordered the killing of Tutsis, and manned roadblocks himself. The Indictment also specifically alleges that, on 8 April, Gatete ordered killings at the Nyagasambu roadblock, and provided dogs to civilian militia to facilitate killings. It is alleged that Tutsi civilians were killed as a result of Gatete's actions.

23. However, the evidence does not establish beyond reasonable doubt that Gatete had any role in the administration and manning of roadblocks, nor that he issued instructions at roadblocks to kill Tutsis in Byumba prefecture. The Prosecution presented one witness with respect to the allegations concerning the Nyagasambu roadblock. The Chamber has reservations about the reliability of this witness and, therefore, has not accepted her evidence in the absence of adequate corroboration. Accordingly, the allegations in the Indictment regarding roadblocks in Byumba prefecture have not been proven.

3. KIZIGURO PARISH, 11 APRIL 1994

24. The Indictment alleges that Gatete ordered, supervised and participated in the killing and rape of Tutsi civilians at Kiziguro parish complex on about 11 April 1994. In particular, it is alleged that Gatete acted with Interahamwe leader Augustin Nkundabazungu, Gasigwa Karangwa, and FAR soldiers. It is alleged that, as a result, thousands of Tutsis were killed.

25. The evidence consistently demonstrates that, in the days following 6 April, hundreds and possibly thousands of mostly Tutsi refugees fled attacks in their localities and sought refuge at Kiziguro parish. On the morning of 11 April, the parish was attacked by members of the armed forces, Interahamwe and civilian militia, including displaced persons from nearby refugee camps. Among the assailants were Interahamwe leader, Augustin Nkundabazungu, and the Kiziguro sector conseiller, Gaspard Kamali. Refugees who were inside the church building were forced out into its courtyard. Tutsi refugees were separated from the Hutus. Subsequently, an extensive assault on the Tutsi refugees was launched and continued for

hours. Hundreds and possibly thousands of Tutsi men, women and children were killed by assailants using guns and traditional weapons.

26. The Prosecution presented six witnesses who were at Kiziguro parish on 11 April. The Chamber finds that four of these witnesses provided compelling and largely corroborated evidence that, on the morning of 11 April, Gatete arrived at Kiziguro parish with Conseiller Kamali, Interahamwe leader Nkundabazungu, and soldiers. Interahamwe and other civilian militia were also at the parish. The Chamber finds that Gatete was present when refugees, who were inside the church, were forced out into the parish courtyard. Gatete was also present during the separation of Tutsi refugees from the Hutus. The Chamber further finds that Gatete issued express orders to kill the Tutsi refugees. As a result, soldiers surrounded the Tutsis so that they could not escape, and Interahamwe and civilian militia attacked the refugees with traditional weapons and guns. As already noted, the brutal attack resulted in the deaths of hundreds, if not thousands of Tutsi civilians. Their bodies were disposed of in a nearby pit, used as a mass grave. Before being killed, some Tutsis were also forced to carry bodies of victims to the pit. Tutsi men were told to remove their shirts so that they were easily identifiable during the disposal of bodies. Once they reached the mass grave, they too were killed and thrown in.

27. The Chamber highlights, as explained more fully in the written Judgement, that the massacre at Kiziguro parish was a well coordinated and planned operation, involving authorities such as Gatete, the conseiller, and an Interahamwe leader, as well as various categories of assailants, including soldiers, Interahamwe and civilian militia. The large-scale killings, and the disposal of bodies, were carried out in a highly efficient manner. In sum, the Chamber finds that the conduct of those involved was concerted and coordinated for the purposes of killing Tutsis. This level of coordination could only have been achieved through prior agreement and planning among those involved.

28. In reaching these conclusions, the Chamber has carefully examined the Defence evidence but finds it of limited probative value and insufficient to cast doubt on the consistent and compelling Prosecution evidence.

29. Accordingly, the Chamber finds beyond reasonable doubt that Gatete is responsible for the deaths of hundreds, and possibly thousands, of Tutsi civilians at Kiziguro parish on 11 April 1994. While the Prosecution also relied on the evidence of two witnesses who testified that women and girls were raped by Interahamwe at the parish, the Chamber finds their

evidence insufficient to conclude that Gatete was also responsible for rapes at Kiziguro parish.

4. MUKARANGE PARISH, 12 APRIL

30. The Indictment alleges that, on about 10 to 11 April 1994, Gatete and the Kayonza commune bourgmestre, Celestin Senkware, transported armed soldiers and Interahamwe to Mukarange parish compound in Kibungo prefecture, where Tutsi refugees were raped and killed.

31. The evidence consistently establishes that more than a thousand mostly Tutsi refugees sought refuge at the Mukarange parish during the days following 6 April. The evidence further demonstrates that, in the early hours of 12 April, the parish was attacked by over a thousand assailants using grenades and other weapons. It is not disputed that civilian authorities, gendarmes, reserve soldiers, and civilian militia participated in the attack. As a result, hundreds, if not thousands, of Tutsi refugees were killed.

32. The Prosecution presented three witnesses who provided compelling and largely corroborated accounts. Based on their evidence, the Chamber finds that, following an initial attack, which the refugees at Mukarange parish were able to repel, Gatete arrived in a vehicle on the football field near the parish with Bourgmestre Senkware, Mukarange sector conseiller Samson Gashumba, Gendarmes Lieutenant Twahira, an official called Ngabonzima, and gendarmes. They brought boxes containing guns and grenades, which were distributed to Interahamwe. Gatete subsequently directed the Interahamwe to attack the Tutsi civilians gathered at the Mukarange parish. Using the weapons brought by Gatete and the other officials, the assailants attacked the mostly Tutsi refugees. Tutsis who survived those attacks were later killed by assailants using traditional weapons such as machetes. As a result, hundreds, if not thousands, of Tutsi civilians were killed that day at Mukarange parish. Notably, the guns and grenades brought by Gatete and the other officials were a decisive factor in the success of the assault.

33. The Chamber also finds, as outlined in detail in its written Judgement, that the massacre at Mukarange parish was a well coordinated and planned operation. Such large-scale killings, involving a prominent personality such as Gatete, authorities such as the bourgmestre, conseiller, a gendarmes lieutenant, and which required the transportation of guns and grenades for distribution among various categories of assailants, could not have been achieved without significant organisation. Given these circumstances, the Chamber

finds that the conduct of those involved was concerted and coordinated for the purposes of killing Tutsi civilians at the parish. This level of coordination could only have been achieved by prior agreement and planning among the individuals involved.

34. In reaching these conclusions, the Chamber has carefully reviewed and considered the Defence evidence but does not find it sufficient to cast doubt on the compelling Prosecution evidence.

35. Accordingly, the Chamber finds beyond reasonable doubt that Gatete is responsible for the killing of Tutsi civilians at Mukarange parish on 12 April 1994. However, it has not been proven that Gatete transported Interahamwe to Mukarange parish. The Prosecution also presented no evidence that rapes took place at the parish.

5. RAPES AND KILLINGS, KAYONZA COMMUNE OFFICE, 10 TO 15 APRIL 1994

36. The Indictment alleges that, sometime between about 10 and 15 April 1994, Gatete arrived in Kayonza commune with a group of armed Interahamwe and the Kayonza commune bourgmestre. A crowd of local residents, including Tutsi women, and recently arrived Interahamwe, had assembled in the Kayonza commune office courtyard. It is alleged that Gatete ordered the Interahamwe to kill Tutsis and rape Tutsi women.

37. The Prosecution presented two witnesses in support of this allegation. However, the Chamber finds their evidence was insufficiently reliable for the purposes of supporting findings beyond reasonable doubt. Accordingly, this allegation has not been proven.

6. CERAI SCHOOL, RULENGE SECTOR, MID TO LATE APRIL 1994

38. The Indictment alleges that, in mid to late April 1994, Gatete arrived in Rulenge sector, in Rukira commune, in a convoy carrying armed Murambi communal policemen, civilian militia and two bourgmestres. It is alleged that Gatete ordered Interahamwe to rape and kill Tutsis in Rukira commune.

39. Two Prosecution witnesses testified with respect to Gatete's orders to Interahamwe at the Cerai school in Rulenge sector and subsequent killings. However, the Chamber finds that the evidence of both witnesses is insufficiently reliable and cannot support findings beyond reasonable doubt. Thus, the Chamber concludes that this allegation has not been proven.

7. KILLINGS AT THE KAYONZA ROADBLOCK, 10 TO 15 APRIL 1994

40. The Indictment alleges that, between about 10 and 15 April 1994, a man called Gatere was kicked by Gatete at a mass grave near the Kayonza commune office and then killed by Interahamwe further to Gatete's orders. It is also alleged that, on about 12 April, Gatete, as well as the Murambi and Kayonza commune bourgmestres, communal police and Interahamwe, inspected identity cards of travellers on the Kibungo road in Kayonza commune. At one roadblock, Gatete ordered killings and Interahamwe complied with those orders. A man called Mahmud was among those killed.

41. The evidence which emerged at trial was that Gatere and Mahmud were killed together at a roadblock near the Kayonza commune office. The Prosecution relied on two witnesses. However, the Chamber finds that their evidence is insufficiently reliable for the purposes of supporting findings beyond reasonable doubt. Accordingly, the Chamber finds that this allegation has not been proven.

8. KILLING OF MULINDA, RUTONDE COMMUNE, 12 APRIL 1994

42. The Indictment alleges that, on about 12 April 1994, Gatete, the Kayonza commune bourgmestre Senkware, and others, shot and killed a refugee called Mulinda who was hiding in a swamp in Rutonde commune. It also alleges that, before and after the killing, Gatete and others patrolled the hills and valleys to search for and kill Tutsi civilians.

43. The Prosecution presented one witness in support of this allegation. The Chamber finds his evidence insufficiently reliable for the purposes of supporting findings beyond reasonable doubt. Therefore, this allegation has not been proven.

In concluding its findings, the Chamber notes that the proven allegations support convictions for genocide, conspiracy to commit genocide, as well as extermination and murder as crimes against humanity. However, for the reasons detailed in the written Judgement, the Chamber has not entered convictions where it has found that cumulative convictions, based on the same facts, are impermissible. In particular, the Chamber has concluded that it is impermissible to enter convictions for both genocide and conspiracy to commit genocide based on the same facts. It has also determined that it may not enter convictions for both extermination and murder as crimes against humanity based on the same facts.

FINDINGS

44. The Trial Chamber finds in respect of Gatete as follows:

Count 1: Genocide: **GUILTY**

Count 2:	Complicity in Genocide:	DISMISSED
Count 3:	Conspiracy to Commit Genocide:	DISMISSED
Count 4:	Crimes Against Humanity (Extermination)	GUILTY
Count 5:	Crimes Against Humanity (Murder)	DISMISSED
Count 6:	Crimes Against Humanity (Rape)	NOT GUILTY

SENTENCE

45. The Chamber has considered the gravity of the crimes for which Gatete has been convicted as well as aggravating and mitigating circumstances submitted by the Parties. The Chamber has the discretion to impose a single sentence and chooses to do so. However, it emphasises that each of the crimes underlying each Count are deserving of the maximum sentence, given their gravity and several aggravating factors. Considering all the relevant circumstances, the Chamber sentences Gatete to a single sentence of life imprisonment. He shall remain in the custody of the Tribunal pending transfer to the state where he will serve his sentence.

46. This marks the end of the summary of the Judgement. The trial proceedings in this case have come to an end.