

1 THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

2 CASE NO.: ICTR-2001-64-I

2001 JUN 28 P 12:03

3 THE PROSECUTOR
4 OF THE TRIBUNAL

5 ICTR
JUDICIAL RECORDS ARCHIVES
RECEIVED

6 AGAINST
7 SYLVESTRE GACUMBITSI

8 26 JUNE 2001
9 1000H
10 INITIAL APPEARANCE

11 Before:

12 Judge Lloyd George Williams, Presiding

13 For the Registry:

14 Mr. Koffi Kumelio A. Afande
15 Mr Constant Kwaku Hometowu
16 Mr Thobias Ruge

17 For the Prosecution:

18 Mr. Richard Karegyesa
19 Ms. Andra Mobberley

20 For the Accused Gacumbitsi:

21 Mr. F.K. Musei

22 Court Reporters:

23 Sithembiso Moyo
24
25

1
2
3 P R O C E E D I N G S
4

5 MR. PRESIDENT:

6 Trial Chamber III is now in session. Can we
7 have the matter announced which is before
8 the Court today?

9 MR. AFANDE:

10 The International Criminal Tribunal for
11 Rwanda is sitting today as Judge Lloyd
12 George Williams, in open session, today,
13 Tuesday the 26th of June 2001, for the
14 initial appearance in the matter of The
15 Prosecutor versus Sylvestre Gacumbitsi, Case
16 No. ICTR-2001-64-I, pursuant to Rule 62 of
17 the Rules of Procedure and Evidence. Thank
18 you.

19 MR. PRESIDENT:

20 Could we have the appearances, starting with
21 the Prosecution.

22 MR. KAREGYESA:

23 May it please Your Lordship. I am Richard
24 Karegyesa for the Prosecution, appearing
25 with Andra Mobberley.

1

2 MR. MUSEI:

3

Your Lordship, for the Defence I am

4

appearing for Sylvestre Gacumbitsi. My name

5

is Musei, Advocate Musei.

6

MR. PRESIDENT:

7

Thank you. Can you tell me if the accused

8

understands French?

9

MR. MUSEI:

10

Your Lordship, my client understands French.

11

He doesn't understand English.

12

MR. PRESIDENT:

13

Very well. Thank you very much.

14

MR. MUSEI:

15

He is very fluent in French.

16

MR. PRESIDENT:

17

Very well. Thank you.

18

19

Mr Registrar, would you kindly read the

20

indictment to the accused.

21

MR AFANDE.

22

Thank you, Mr President.

23

1. The Prosecutor of the International Criminal

24

Tribunal for Rwanda, pursuant to the

25

authority stipulated in Article 17 of the

1
2 Statute of the International Tribunal for
3 Rwanda (the "Statute of the Tribunal")
4 charges:

5 **Sylvestre GACUMBITSI**

6 with Genocide; or in the alternative
7 Complicity in Genocide; Extermination,
8 Murder and Rape as crimes against humanity;
9 offences stipulated in Articles 2 and 3 of
10 the Statute of the Tribunal, as set forth
11 below:

12
13 II. The Accused:

14 Sylvestre Gacumbitsi was born in 1947 in
15 Rusumo *commune*, Kibungo *préfecture*, Rwanda.
16 During the period covered by this
17 indictment, Sylvestre Gacumbitsi was
18 *bourgmestre* of Rusumo *commune* in Kibungo
19 *préfecture*.

20
21 III. Charges and concise statements of facts:

22 Count 1: GENOCIDE

23 The Prosecutor of the International Criminal
24 Tribunal of Rwanda charges Sylvestre
25 Gacumbitsi with GENOCIDE, a crime stipulated

1
2 in Article 2(3)(a) of the Statute, in that
3 on or between the dates of 6 April 1994 and
4 30 April 1994 in Kibungo *préfecture*, Rwanda,
5 Sylvestre Gacumbitsi was responsible for
6 killing or causing serious bodily or mental
7 harm to members of the Tutsi population with
8 the intent to destroy, in whole or in part,
9 a racial or ethnic group;

10
11 Pursuant to Article 6(1) of the Statute: By
12 virtue of his affirmative acts in ordering,
13 instigating, commanding, participating in
14 and aiding and abetting the preparation and
15 execution of the crime charged; and

16
17 Pursuant to Article 6(3) of the Statute: By
18 virtue of his actual or constructive
19 knowledge of the acts and omissions of
20 soldiers, gendarmes, communal police,
21 *Interahamwe*, civilian militia and civilians
22 acting under his authority, and his failure
23 to take necessary and reasonable measures to
24 stop or prevent them, or to discipline and
25 punish them, for their acts in the

1
2 preparation and execution of the crime

3 charged;

4 or alternatively,

5 Count 2: Complicity in genocide

6 The Prosecutor of the International Criminal

7 Tribunal of Rwanda charges Sylvestre

8 Gacumbitsi with complicity in genocide, a

9 crime stipulated in Article 2(3)(e) of the

10 Statute, in that on or between the dates of

11 6 April 1994 and 30 April 1994 in Kibungo

12 préfecture, Rwanda, Sylvestre Gacumbitsi was

13 responsible for killing or causing serious

14 bodily or mental harm to members of the

15 Tutsi population with the intent to destroy,

16 in whole or in part, a racial or ethnic

17 group, as follows:

18
19 Pursuant to Article 6(1) of the Statute: By

20 virtue of his affirmative acts in ordering,

21 instigating, commanding, participating in

22 and aiding and abetting the preparation and

23 execution of the crime charged, in that:

24
25 Concise Statement of Facts for Counts 1 & 2:

- 1
- 2 1. Between 1 January and 31 December 1994,
- 3 citizens native to Rwanda were severally
- 4 identified according to the following ethnic
- 5 or racial classifications: Tutsi, Hutu and
- 6 Twa.
- 7 2. Between 1 January 1994 and 17 July 1994
- 8 there was a state of non-international armed
- 9 conflict in Rwanda.
- 10
- 11 3. Following the death of Rwandan President
- 12 Juvénal Habyarimana on 6 April 1994 and
- 13 resumption of civil hostilities in the
- 14 non-international armed conflict on the
- 15 following day, a newly installed Interim
- 16 Government of 8th April 1994 launched a
- 17 nationwide campaign to mobilise government
- 18 armed forces, civilian militias, the local
- 19 public administration and common citizens to
- 20 fight the Rwandese Patriotic Front (RPF), a
- 21 predominantly Tutsi politico-military
- 22 opposition group. Government armed forces
- 23 and Interahamwe militias specifically
- 24 targeted Rwanda's civilian Tutsi population
- 25 as domestic accomplices of an invading army,

1
2 *ibyitso*, or as a domestic enemy in their own
3 right. Under the guise of national defence,
4 ordinary citizens of Rwanda, primarily its
5 Hutu peasantry, were enlisted in a
6 nationwide campaign of looting, pillaging,
7 murder, rape, torture, and extermination of
8 the Tutsi.

9
10 4. Sylvestre Gacumbitsi organised the campaign
11 against Tutsi civilians in Rusumo *commune*,
12 Kibungo *préfecture*. The campaign consisted
13 in public incitement of Hutu civilians to
14 separate themselves from their Tutsi
15 neighbours and to kill them and resulted in
16 thousands of deaths. Sylvestre Gacumbitsi
17 killed persons by his own hand, ordered
18 killings by subordinates, and led attacks
19 under circumstances where he knew, or should
20 have known, that civilians were, or would be
21 killed by persons acting under his
22 authority.

23
24 5. Notably, on or about 9 April 1994 Sylvestre
25 Gacumbitsi convened a meeting of all the

1
2 *conseillers de secteur, responsables de*
3 *cellule* and party chiefs of MRND and CDR in
4 *Rusumo commune*. The meeting was held at the
5 *bureau communal*. During that meeting
6 *bourgmestre* Sylvestre Gacumbitsi announced
7 that weapons would be distributed for
8 purposes of the extermination of the Tutsi
9 population.

10
11 6. On or about 10 April 1994 Sylvestre
12 Gacumbitsi participated in a meeting at the
13 FAR military camp in Kibungo. Present at
14 the meeting was Colonel Pierre Célestin
15 Rwagafirita and all of the *bourgmestres* of
16 Kibungo *préfecture*. Colonel Rwagafirita and
17 a number of other soldiers distributed cases
18 of grenades, machetes and bladed weapons to
19 each *bourgmestre*. Sylvestre Gacumbitsi
20 received over 100 boxes of weapons, some of
21 which he subsequently delivered to various
22 locations in the *préfecture*.

23
24 7. On or about 12 April 1994, after conferring
25 with Major Ndekezi, Sylvestre Gacumbitsi

1
2 ordered soldiers and boatmen along the lakes
3 in Gisenyi *secteur* to stop refugees in
4 flight from escaping across the border into
5 Tanzania.

6
7 8. As Sylvestre Gacumbitsi exercised authority
8 over his subordinates, among whom can be
9 counted; administrative personnel at the
10 level of the *commune*, including *conseillers*
11 *de secteur*, *responsables de cellule* and
12 *nyumbakumi*; and the communal police. As
13 consequences of this public office as
14 *bourgmestre* of Rusumo *commune* and his
15 membership in the MRND political party,
16 Sylvestre Gacumbitsi also exercised
17 authority over gendarmes and civilian
18 militias in Rusumo *commune*.

19
20 9. Sylvestre Gacumbitsi ordered *responsables de*
21 *cellule* and *nyumbakumi* to deliver weapons to
22 certain members of the populace. He also
23 ordered the *responsables de cellule* and
24 *nyumbakumi* to disseminate to members of the
25 populace and to carry out the official

1
2 policy of massacring civilian Tutsis. These
3 communal officials in turn re-distributed
4 the weapons that they received from
5 Sylvestre Gacumbitsi and participated in the
6 campaign of extermination by ordering their
7 constituents to kill civilian Tutsi
8 throughout the *commune*.

9
10 10. In ordering *conseillers de secteur* and
11 *responsables de cellule* to exterminate the
12 Tutsi, Sylvestre Gacumbitsi directed that
13 the killing should begin with parents whose
14 children had joined the *inkotanyi*, a
15 specific reference to the RPF. Sylvestre
16 Gacumbitsi specifically ordered that attacks
17 be directed against the snakes, a reference
18 to the Tutsi.

19
20 11. During the week of 11 April 1994 Sylvestre
21 Gacumbitsi circulated about Rusumo aboard a
22 vehicle belonging to the *commune*. He was
23 often accompanied by communal police and
24 *Interahamwe*, and the vehicle was often
25 loaded with a quantity of machetes. For

1
2 example, on or about 15 April 1994 Sylvestre
3 Gacumbitsi, accompanied by Munyabugingo,
4 transported weapons, including machetes, in
5 a vehicle heading toward Nyarubuye.
6

7 12. On or about 14 April 1994 Sylvestre
8 Gacumbitsi arrived in Nyabitare *secteur* and
9 summoned all the Hutu *nyumbakumi* and
10 distributed machetes to them. He instructed
11 the communal police and the *nyumbakumi* that
12 all Tutsi in the region should be killed by
13 nightfall, and that whoever killed a Tutsi
14 could then appropriate his belongings. The
15 communal police and *nyumbakumi* did as
16 Sylvestre Gacumbitsi instructed, and many
17 civilian Tutsi were killed, among them:
18 Kagumya Léonard; Gahondogo and her children,
19 Runuya and her children, including Manihiro,
20 Kagumya (two weeks old), Gashumba
21 Mutempundu, Mukabera, Nyamvura, Mukadusabe,
22 Bimenyimana, among others.
23

24 13. In addition to exhorting crowds to massacre
25 the Tutsi civilians, Sylvestre Gacumbitsi

1
2 also travelled to the various *cellules* to
3 monitor the course of the massacres.
4

5 14. On or about 15 April 1994, Sylvestre
6 Gacumbitsi also circulated in Rusumo *commune*
7 aboard a vehicle and announced over a
8 loudspeaker that Tutsi women and children
9 could safely return to their homes, but that
10 Tutsi men would be killed. His
11 announcements were a ruse to facilitate
12 attacks upon women and children that would
13 come out of hiding, and an inciting call to
14 exterminate the Tutsi men.
15

16 15. Between the 15th and 17th April 1994,
17 Sylvestre Gacumbitsi led an attack on the
18 *paroisse* of Nyarubuye, where numerous Tutsi
19 and Hutu refugees had gathered. Sylvestre
20 Gacumbitsi approached the church in a
21 caravan of several vehicles of communal
22 police and *Interahamwe*. Many of the
23 attackers wore berets and *kitenge* uniforms
24 bearing MRND *Interahamwe* insignia. A
25 quantity of machetes was unloaded from the

1

2

vehicles and placed before the church.

3

Sylvestere Gacumbitsi addressed the crowd

4

with a megaphone and ordered Hutu refugees

5

to separate from Tutsi. Once the groups

6

were separated the attacks began.

7

8

16. The communal police and *Interahamwe*

9

surrounded the church compound.

10

THE INTERPRETER:

11

Microphone please. There must be a

12

technical problem. We can't follow the

13

person reading. We cannot hear anything.

14

15

It is suggested, sir, that you move your

16

headset farther away from the microphone.

17

Perhaps that is what is causing the problem.

18

19

There is still a problem, Mr. President.

20

MR. PRESIDENT:

21

Maybe if you shift to one of the other

22

mikes.

23

THE INTERPRETER:

24

Yes, it seems to be okay, now.

25

MR. AFANDE:

1
2 So, I will go over point 15 in the
3 Indictment that is on page 4, English
4 version. This is document number -- or
5 rather page 4, point 15. We take that over
6 again. I will begin.

7
8 15. Between the 15th and 17th April 1994,
9 Sylvestre Gacumbitsi led an attack on the
10 *paroisse* of Nyarubuye, where numerous Tutsi
11 and Hutu refugees had gathered. Sylvestre
12 Gacumbitsi approached the church in a
13 caravan of several vehicles of communal
14 police and *Interahamwe*. Many of the
15 attackers wore berets and *kitenge* uniforms
16 bearing MRND *Interahamwe* insignia. A
17 quantity of machetes was unloaded from the
18 vehicles and placed before the church.
19 Sylvestre Gacumbitsi addressed the crowd
20 with a megaphone and ordered Hutu refugees
21 to separate from Tutsi. Once the groups
22 were separated the attacks began.

23
24 16. The communal police and *Interahamwe*
25 surrounded the church compound. Sylvestre

1
2 Gacumbitsi ordered the Hutu to attack the
3 Tutsi, incorporating former Hutu refugees in
4 attacks against the Tutsi led by communal
5 police and *Interahamwe* under his direction.
6

7 17. Communal police and *Interahamwe* attacked the
8 Tutsi refugees with grenades and firearms
9 and traditional weapons. Other attackers
10 used the machetes previously supplied by
11 Sylvestre Gacumbitsi.
12

13 18. On the following day, Sylvestre Gacumbitsi,
14 accompanied by Rubanguka, the President of
15 the Rusumo Court, and a group of attackers
16 returned to the devastated church compound
17 at Nyarubuye armed with spears, machetes,
18 and bows and arrows. Led by Rubanguka, the
19 attackers finished off the survivors lying
20 among the corpses. Afterwards the attackers
21 looted the church compound, removing
22 cupboards, tables, radios, beds and
23 clothing.
24

25 19. Almost all of the Tutsi refugees, comprising

1
2 several thousands, at Nyarubuye *paroisse*
3 were killed.
4

5 20. Sexual violence against Tutsi women was
6 systematically incorporated in the
7 generalised attacks against the Tutsi. In
8 leading, ordering and encouraging the
9 campaign of extermination in Rusumo *commune*,
10 Sylvestre Gacumbitsi knew, or should have
11 known, that sexual violence against civilian
12 Tutsi was, or would be, widespread or
13 systematic, and that the perpetrators would
14 include his subordinates or those that
15 committed such acts in response to his
16 generalised orders and instructions to
17 exterminate the Tutsi.
18

19 21. Furthermore, Sylvestre Gacumbitsi circulated
20 about Rusumo *commune* in a vehicle announcing
21 by megaphone that Tutsi women should be
22 raped and sexually degraded. For example,
23 on or about 17 April 1994 Sylvestre
24 Gacumbitsi exhorted the population along the
25 Nyarubuye road to "rape Tutsi girls that had

1
2 always refused to sleep with Hutu", and to
3 "search in the bushes, do not save a single
4 snake". Attacks and rapes of Tutsi women
5 immediately followed.
6

7 22. From those first days of April 1994 through
8 30 April 1994 Sylvestre Gacumbitsi ordered,
9 directed or acted in concert with local
10 administrative official in Kibungo
11 *préfecture*, including *bourgmestres* and
12 *conseillers de secteur*, to deny protection
13 to civilian Tutsi refugees and to facilitate
14 attacks upon them by communal police,
15 *Interahamwe*, civilian militias and local
16 residents.
17

18 23. At all times material to his indictment
19 Sylvestre Gacumbitsi failed to maintain
20 public order, or deliberately undermined the
21 public order, in districts over which he
22 exercised administrative authority, in
23 agreement with or in furtherance of the
24 policies of the MRND or the Interim
25 Government, knowing that those policies

1
2 intended the destruction, in whole or in
3 part, of the Tutsi.
4

5 24. By virtue of his positions of leadership of
6 the MRND and the *Interahamwe*, particularly
7 as derived from his status as *bourgmestre* of
8 Rusumo, Sylvestre Gacumbitsi ordered or
9 directed or otherwise authorised government
10 armed forces, civilian militias and
11 civilians to persecute, rape and kill or
12 facilitate the killing of civilian Tutsi.
13 By virtue of that same authority Sylvestre
14 Gacumbitsi had the ability and the duty to
15 halt, prevent, discourage or sanction
16 persons that committed, or were about to
17 commit, such acts, and did not do so, or
18 only did so selectively.
19

20 25. Sylvestre Gacumbitsi, in his position of
21 authority and acting in concert with others,
22 participated in the planning, preparation or
23 execution of a common scheme, strategy or
24 plan to exterminate the Tutsi, by his own
25 affirmative acts or through persons he

1
2 assisted or by his subordinates with this
3 knowledge and consent.
4

5 Count 3:

6 Extermination as a crime against humanity:
7 The Prosecutor of the International Criminal
8 Tribunal for Rwanda charges Sylvestre
9 Gacumbitsi with Extermination as a Crime
10 against Humanity as stipulated in Article
11 3(b) of the Statute, in that on or between
12 the dates of 6 April 1994 and 30 April 1994
13 in Kibungo *préfectures*, Rwanda, Sylvestre
14 Gacumbitsi did kill persons, or cause
15 persons to be killed, during mass killings
16 events as part of a widespread or systematic
17 attack against a civilian population on
18 political, ethnic or racial grounds, as
19 follows:
20

21 Pursuant to Article 6(1) of the Statute: By
22 virtue of his affirmative acts in planning,
23 instigating, ordering, committing, or
24 otherwise aiding and abetting the planning,
25 preparation or execution of the crime

1

2

charged; and

3

4

Pursuant to Article 6(3) of the Statute: By

5

virtue of his actual or constructive

6

knowledge of the acts or omissions of his

7

subordinates, including soldiers, gendarmes,

8

communal police, *Interahamwe*, civilian

9

militia or civilians acting under his

10

authority, and his failure to take necessary

11

and reasonable measures to stop or prevent

12

them, or to discipline and punish them, for

13

their acts in the planning, preparation or

14

execution of the crime charged, in that:

15

16

26. Between 6 April 1994 and 17 July 1994, there

17

were throughout Rwanda widespread or

18

systematic attacks directed against a

19

civilian population on political, ethnic or

20

racial grounds.

21

22

27. Approximately between 15 and 18 April 1994,

23

Sylvestre Gacumbitsi commanded, facilitated

24

or participated in attacks upon civilian

25

Tutsi refugees that had gathered at

1
2 Nyarabuye *paroisse*. Sylvestre Gacumbitsi
3 transported, or facilitated the
4 transportation of, communal police or
5 *Interahamwe* or weapons to Nyarabuye *paroisse*
6 and led attacks against civilian Tutsi by
7 his own example or by ordering and directing
8 the attackers to kill the refugees.
9

10 28. As direct consequences of orders or
11 instructions from Sylvestre Gacumbitsi at
12 Nyarabuye *paroisse*, there were numerous
13 killings of family members and entire
14 families, including Uwiragiye, Mugiraneza
15 and Tuyiringire, three children. The
16 identity of each victim and the proximate
17 number of fatalities and the exact
18 circumstances of each death cannot be
19 detailed exhaustively due to the
20 overwhelming devastation of the massacres.

21 29. Sylvestre Gacumbitsi's affirmative acts in
22 commanding, facilitating or participating in
23 the killings of civilian Tutsi refugees at
24 Nyarabuye *paroisse* are pleaded with greater
25 particularity in paragraphs 4 through 16,

1
2 above, which are reiterated and incorporated
3 herein by reference.
4

5 30. Furthermore, Sylvestre Gacumbitsi's
6 generalised campaign of extermination in
7 Rusumo *commune*, Kibungo *préfecture*, during
8 April 1994, particularly following his
9 distributions of weapons and organisational
10 meetings with military and administrative
11 officials from 7 to 15 April 1994, claimed
12 the lives of hundreds of civilian Tutsi and
13 moderate Hutus. Sylvestre Gacumbitsi's
14 affirmative acts in commanding, facilitating
15 or participating in the killings of civilian
16 Tutsi in Rusumo *commune* are pleaded with
17 greater particularity in paragraphs 4
18 through 16, above, which are reiterated and
19 incorporated herein by reference.
20

21
22 Count 4:

23 Murder as a crime against humanity:

24 The Prosecutor of the International Criminal
25 Tribunal for Rwanda charges Sylvestre

1
2 Gacumbitsi with MURDER as a CRIME AGAINST
3 HUMANITY, as stipulated in Article 3(a) of
4 the Statute, in that on or between the dates
5 of 6 April 1994 and 30 April 1994 in Kibungo
6 *préfecture*, Rwanda, Sylvestre Gacumbitsi did
7 kill persons, or cause persons to be killed,
8 as part of widespread or systematic attack
9 against a civilian population on political,
10 ethnic or racial grounds, as follows:

11
12 Pursuant to Article 6(1) of the Statute; by
13 virtue of his affirmative acts in planning,
14 instigating, ordering, committing, or
15 otherwise aiding and abetting the planning,
16 preparation or execution of the crime
17 charged; and

18
19 Pursuant to Article 6(3) of the Statute; by
20 virtue of his actual or constructive
21 knowledge of the acts or omissions of his
22 subordinates, including soldiers, gendarmes,
23 communal police, *Interahamwe*, civilian
24 militia or civilians acting under his
25 authority, and his failure to take necessary

1

2

and reasonable measures to stop or prevent

3

them, or to discipline and punish them, for

4

their acts in the planning, preparation or

5

execution of the crime charged, in that:

6

7

31. In addition to personally ordering and

8

leading attacks against groups of civilian

9

Tutsi refugees, Sylvestre Gacumbitsi also

10

targeted specific Tutsi civilians in Kibungo

11

préfecture for murder.

12

13

32. On a date uncertain during April 1994,

14

Sylvestre Gacumbitsi approached a pregnant

15

Tutsi woman and her mother-in-law along a

16

roadside. The woman appeared to be in

17

discomfort and asked for assistance.

18

Instead of helping the woman, Sylvestre

19

Gacumbitsi took a knife and slit her

20

abdomen, causing the two fetuses that the

21

woman was carrying to fall from her body.

22

Sylvestre Gacumbitsi, assisted by another,

23

repeatedly stabbed the woman, her

24

mother-in-law and the two babies, causing

25

their deaths.

1

2

3

33. On a date uncertain during April 1994,

4

Sylvestre Gacumbitsi killed a Tutsi woman

5

and her three children in his own home.

6

Sylvestre Gacumbitsi was godfather to one of

7

the children, and the woman sought refuge at

8

the home of her former friend. Instead of

9

protecting the woman and her children,

10

Sylvestre Gacumbitsi personally arranged for

11

their murder.

12

13

34. On or about 14 April 1994, Sylvestre

14

Gacumbitsi personally shot and killed two

15

civilian Tutsi near the Catholic centre in

16

Nyabitare. The two persons pleaded with

17

Sylvestre Gacumbitsi, going so far as to

18

offer him money so that they would be killed

19

with bullets and not by machetes. Sylvestre

20

Gacumbitsi took the money, shot them, and

21

removed the rest of their money.

22

23

35. Sometime between the 17th and 18th of April

24

1994, Sylvestre Gacumbitsi also caused the

25

death of several Tutsi children. Upon

1
2 specific instruction from Sylvestre
3 Gacumbitsi, infant survivors of the attack
4 on Nyarubuye *paroisse* were lured to a
5 location with an offer of food. Once they
6 were assembled, Sylvestre Gacumbitsi ordered
7 all exits blocked and the children were
8 killed with grenades.
9

10 36. On a date uncertain during April - June
11 1994, Sylvestre Gacumbitsi personally
12 ordered the tenants in one of his homes to
13 vacate the premises. After announcing that
14 his home was not CND, a reference to the
15 cantonment of RPF soldiers in Kigali,
16 Sylvestre Gacumbitsi ordered the killing of
17 his former tenants.
18

19 Count 5: Rape as a crime against humanity:
20 The Prosecutor of the International Criminal
21 Tribunal for Rwanda charges Sylvestre
22 Gacumbitsi with rape as a crime against
23 humanity, as stipulated in Article 3(g) of
24 the Statute, in that on or between the dates
25 of 6 April 1994 and 30 April 1994 in Kibungo

1
2 préfecture, Rwanda, Sylvestre Gacumbitsi did
3 cause women to be raped as part of a
4 widespread or systematic attack against a
5 civilian population on political, ethnic or
6 racial grounds, as follows:

7
8 Pursuant to Article 6(1) of the Statute; by
9 virtue of his affirmative acts in planning,
10 instigating, ordering, committing, or
11 otherwise aiding and abetting the planning,
12 preparation or execution of the crime
13 charged; and

14
15 Pursuant to Article 6(3) of the Statute; by
16 virtue of his actual or constructive
17 knowledge of the acts or omissions of his
18 subordinates, including soldiers, gendarmes,
19 communal police, *Interahamwe*, civilian
20 militia or civilians acting under his
21 authority, and his failure to take necessary
22 and reasonable measures to stop or prevent
23 them, or to discipline and punish them, for
24 their acts in the planning, preparation or
25 execution of the crime charged, in that:

1
2
3 37. During April, May and June of 1994, there
4 were widespread or systematic rapes and
5 sexual violence of Tutsi women. The sexual
6 assaults were often a prelude to murder, and
7 was sometimes the cause of death of a number
8 of civilian Tutsi.

9
10 38. On one occasion in particular, on or about
11 17 April 1994, Sylvestre Gacumbitsi lured
12 Tutsi women to a certain location by
13 announcing over a megaphone that Tutsi women
14 would be spared, and that only Tutsi men
15 would be killed. When a number of Tutsi
16 women gathered in response to Sylvestre
17 Gacumbitsi's exhortations, they were
18 surrounded by several attackers, raped, and
19 then killed. The attackers also sexually
20 degraded a number of Tutsi women by
21 inserting objects in their genitals.

22
23 39. On or about 17 April 1994, Sylvestre
24 Gacumbitsi travelled along the Nyarubuye
25 road in a caravan of vehicles, announcing

1
2 with a megaphone and I quote; "Search in the
3 bushes, do not save a single snake... Hutu
4 that save Tutsi should be killed ... Tutsi
5 girls who have always refused to sleep with
6 Hutu should be raped and sticks inserted in
7 their genitals". After Sylvestere
8 Gacumbitsi drove by a group of men attacked
9 Tutsi women who were hiding nearby and raped
10 several of the women. One of the women was
11 killed and a stick was thrust in her
12 genitalia.
13

14 40. The sexual violence was so widespread, and
15 conducted so openly, and was so integrally
16 incorporated in generalised attacks against
17 civilian Tutsi, that Sylvestre Gacumbitsi
18 must have known, or should have known, that
19 it was occurring, and that the perpetrators
20 were his subordinates, subject to his
21 authority and control, and acting under his
22 orders. This is especially so since the
23 perpetrators of sexual violence were often
24 the same individuals that organised and led
25 or participated in the generalised attacks

1

2

against the Tutsi that Sylvestre Gacumbitsi

3

had ordered.

4

5

The acts and omissions of Sylvestre

6

Gacumbitsi detailed herein are punishable in

7

reference to Articles 22 and 23 of the

8

Statute of the Tribunal.

9

MR. PRESIDENT:

10

Mr. Registrar the date and signature to

11

read -- and who the indictment is signed by.

12

MR. AFANDE:

13

The indictment was filed on the 20th day of

14

June 2001 with the records of the Registrar

15

and the seal is duly stamped hereon and is

16

duly signed by Ms. Carla Del Ponte, the

17

Prosecutor of the International Criminal

18

Tribunal for Rwanda.

19

MR. PRESIDENT:

20

Mr. Gacumbitsi, will you come up, please?

21

Will you come forward?

22

Remain standing. Tell him to remain

23

standing.

24

Do you understand the indictment that was

25

read to you?

1

2 THE ACCUSED:

3 Yes, I understood.

4 MR. PRESIDENT:

5 I will now read the respective counts to you
6 and take your pleas.

7

8 Count 1: Genocide

9 The Prosecutor of the International Criminal
10 Tribunal of Rwanda charges Sylvestre
11 Gacumbitsi with Genocide, a crime stipulated
12 in Article 2(3)(a) of the Statute, in that
13 on or between the dates of 6th April 1994
14 and 30th April 1994 in Kibungu *préfecture*,
15 Rwanda, Sylvestre Gacumbitsi was responsible
16 for killing or causing serious bodily or
17 mental harm to members of the Tutsis
18 population with the intent to destroy, in
19 whole or in part, a racial or ethnic group;

20

21 Pursuant to Article 6(1) of the Statute by
22 virtue of his affirmative acts in ordering,
23 instigating, commanding, participating in
24 and aiding and abetting the preparation and
25 execution of the crime charged; and

1

2

3

Pursuant to Article 6(3) of the Statute: By

4

virtue of his actual or constructive

5

knowledge of the acts and omissions of

6

soldiers, gendarmes, communal police,

7

Interahamwe, civilian militia and civilians

8

acting under his authority, and his failure

9

to take necessary and reasonable measures to

10

stop or prevent them, or to discipline and

11

punish them, for their acts in the

12

preparation and execution of the crime

13

charged.

14

15

How do you plead? Guilty or not guilty?

16

THE ACCUSED:

17

Not guilty.

18

MR. PRESIDENT:

19

Count 2: Complicity in genocide

20

The Prosecutor of the International Criminal

21

Tribunal of Rwanda charges Sylvestre

22

Gacumbitsi with Complicity in Genocide, a

23

crime stipulated in Article 2(3)(e) of the

24

Statute, in that on or between the dates of

25

6th April 1994 and 30th April 1994 in

1

2

Kibungu *préfecture*, Rwanda, Sylvestre

3

Gacumbitsi was responsible for the killing

4

or causing serious bodily or mental harm to

5

members of the Tutsi population with the

6

intent to destroy, in whole or in part, a

7

racial or ethnic group as follows:

8

9

Pursuant to Article 6(1) of the Statute: By

10

virtue of his affirmative acts in ordering,

11

instigating, commanding, participating in

12

aiding and abetting the preparation and

13

execution of the crime charged.

14

15

How do you plead? Guilty or not guilty?

16

THE ACCUSED:

17

Once again, I plead not guilty.

18

MR. PRESIDENT:

19

Count 3:

20

Extermination as a crime against humanity:

21

The Prosecutor of the International Criminal

22

Tribunal of Rwanda charges Sylvestre

23

Gacumbitsi with Extermination as a Crime

24

Against Humanity, as stipulated in Article

25

3(b) of the Statute, in that on or between

1
2 the dates of 6th April 1994 and 30th April
3 1994 in Kibungo *préfectures*, Rwanda,
4 Sylvestre Gacumbitsi did kill persons, or
5 cause persons to be killed, during mass
6 killing events as part of a widespread or
7 systematic attack against a civilian
8 population on political, ethnic or racial
9 grounds, as follows:

10
11 Pursuant to Article 6(1) of the Statute; by
12 virtue of his affirmative acts in planning,
13 instigating, ordering, committing, or
14 otherwise aiding and abetting the planning,
15 preparation or execution of the crime
16 charged; and

17
18 Pursuant to Article 6(3) of the Statute; by
19 virtue of his actual or constructive
20 knowledge of the acts or omissions of his
21 subordinates, including soldiers, gendarmes,
22 communal police, Interahamwe, civilian
23 militia or civilians acting under his
24 authority, and his failure to take necessary
25 and reasonable measures to stop or prevent

1

2

them, or to discipline and punish them, for
their acts in the planning, preparation or
execution of the crime charged.

5

6

How do you plead? Guilty or not guilty?

7

THE ACCUSED:

8

Once again, I plead not guilty.

9

10

MR. PRESIDENT:

11

Count 4.

12

Murder as a crime against humanity

13

The Prosecutor of the International Criminal

14

Tribunal of Rwanda charges Sylvestre

15

Gacumbitsi with Murder as a crime against

16

Humanity, as stipulated in Article 3(a) of

17

the Statute, in that on or between the date

18

of 6 April 1994 and 30 April 1994 in

19

Kibungu préfecture, Rwanda, Sylvestre

20

Gacumbitsi did kill persons or cause persons

21

to be killed, as part of a widespread or

22

systematic attack against a civilian

23

population on political, ethnic or racial

24

grounds as follows.

25

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2

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, and preparation or execution of the crime charged; and

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21

How do you plead? Guilty or not guilty?

22

THE ACCUSED:

23

Not guilty.

24

MR. PRESIDENT:

25

Count 5.

1
2 Rape as a crime against humanity:

3 The Prosecutor of the International Criminal
4 Tribunal of Rwanda charges Sylvestre
5 Gacumbitsi with RAPE as a crime against
6 Humanity, as stipulated in Article 3(g) of
7 the Statute, in that on or between the dates
8 of 6 April 1994 and 30 April 1994 in Kibungo
9 préfecture, Rwanda, Sylvestre Gacumbitsi did
10 cause women to be raped as part of a
11 widespread or systematic attack against a
12 civilian population on political, ethnic or
13 racial grounds, as follows:

14
15 Pursuant to Article 6(1) of the Statute: By
16 virtue of his affirmative acts in planning,
17 instigating, ordering, committing, or
18 otherwise aiding and abetting the planning,
19 preparation or execution of the crime
20 charged; and

21
22 Pursuant to Article 6(3) of the Statute: By
23 virtue of his actual or constructive
24 knowledge of the acts or omissions of his
25 subordinates, including soldiers, gendarmes,

1

2

communal police, *Interahamwe*, civilian

3

militia or civilians acting under his

4

authority, and his failure to take necessary

5

and reasonable measures to stop or prevent

6

them, or to discipline and punish them, for

7

their acts in the planning, preparation or

8

execution of the crime charged.

9

10

How do you plead? Guilty or not guilty?

11

THE ACCUSED:

12

Still not guilty.

13

MR. PRESIDENT:

14

Very well. You may stand down.

15

THE ACCUSED:

16

Thank you.

17

MR. PRESIDENT:

18

Does the Prosecution wish to add anything?

19

MR. KAREGYESA:

20

Yes, Your Honour. Your Honour's attention

21

is drawn to the confirmation order in

22

respect of this indictment dated 20th June

23

2001, and particularly the confidentiality

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order in respect of the indictment. The

25

Prosecution submits that by reason of the

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accused Sylvestre Gacumbitsi's arraignment today, the order with regard to the indictment has lapsed; that is, strictly the indictment and the rest of the order remains in force until varied by Your Lordship.

MR. PRESIDENT:

Yes. That is the position, Mr. Karegyesa.

MR. KAREGYESA:

Most obliged, Your Lordship

MR. PRESIDENT:

Does the Defence wish to say anything?

MR. MUSEI:

I have nothing to say.

MR. PRESIDENT:

Thank you very much.

The Registrar, in accordance with the Rules, will arrange a date for trial.


These proceedings are now brought to a close. We adjourn.

(The Court adjourned at 1056H)

C E R T I F I C A T E

I, Sithembiso Moyo, Official Court Reporter of the International Criminal Tribunal for Rwanda, do hereby certify that the foregoing proceedings in the above-entitled cause was taken at the time and place as stated; that it was taken in shorthand (Stenotype) and thereafter transcribed by computer and revised under my supervision and control; that the foregoing pages contain a true and correct transcription of the said proceedings to the best of my ability and understanding.

I further certify that I am not of counsel nor related to any of the parties to this cause and that I am in no wise interested in the result of said cause.


.....
Sithembiso Moyo
(Pages 1 to 40)