

François Karera v. The Prosecutor
Case No. ICTR- 01-74-A

2 February 2009, 9.30 a.m.
Arusha, Tanzania

SUMMARY OF THE APPEAL JUDGEMENT

J'ouvre l'audience de la Chambre d'Appel du Tribunal pénal international pour le Rwanda.

Tout d'abord, je commence par dire bonjour à Monsieur Karera, aux Conseils, aux représentants du Procureur ainsi qu'aux interprètes et au personnel d'appui.

Madame le Greffier d'audience, veuillez annoncer l'affaire inscrite au rôle, s'il vous plaît.

Merci.

Monsieur Karera, est-ce que vous entendez et comprenez bien l'interprétation ?

Je vais à présent demander aux parties de se présenter, en commençant par le Conseil de l'Appelant.

Et maintenant pour le bureau du Procureur ?

Merci,

Conformément à l'ordonnance portant calendrier du 4 décembre 2008, la Chambre d'appel rendra aujourd'hui son arrêt en l'affaire *François Karera contre Le Procureur*.

Suivant la pratique du Tribunal, je ne donnerai pas lecture du texte de l'Arrêt, à l'exception de son dispositif. Je me limiterai à faire le résumé des questions soulevées dans le cadre de l'Appel et des conclusions dégagées par la Chambre d'appel.

Je souligne que le présent résumé ne fait pas partie de l'Arrêt qui est le seul texte faisant foi, s'agissant des décisions et des motifs de la Chambre d'appel.

Copie de l'Arrêt sera distribuée aux parties à l'issue de la présente séance.

L'Arrêt ayant été rédigé en anglais, pour mieux refléter son texte, c'est dans cette langue que le présent résumé sera lu. La traduction en français de celui-ci sera disponible rapidement après l'audience, tandis que la traduction de l'Arrêt lui-même sera fournie ultérieurement.

A. BACKGROUND

1. The Appellant, François Karera, was born in 1938, in Huro sector, Musasa commune, Kigali prefecture. For fifteen years he was the *bourgmestre* of Nyarugenge commune in Kigali-Ville prefecture. On 9 November 1990, the Appellant was appointed sub-prefect in Kigali prefecture, and on or around 17 April 1994, he was appointed by the Interim Government as prefect of Kigali prefecture.

2. The Appellant was tried on the basis of an amended indictment dated 19 December 2005, which charged him with individual criminal responsibility under four counts: genocide (Count 1); complicity in genocide (Count 2); extermination as a crime against humanity (Count 3); and murder as a crime against humanity (Count 4). He was additionally charged with superior responsibility under Counts 1, 3 and 4. The Amended Indictment related to alleged attacks against and the murder of Tutsis: first in the Nyamirambo sector in Nyarugenge commune of Kigali-Ville prefecture; second, in Rushashi commune in Kigali prefecture and finally, at the Ntarama Church in Kigali prefecture.

3. The Trial Chamber found the Appellant guilty, under Article 6(1) of the Statute of the Tribunal, of genocide, and extermination and murder as crimes against humanity. The Trial Chamber acquitted the Appellant of the alternative charge of complicity in genocide, in light of his conviction for genocide. It imposed a single sentence of imprisonment for the remainder of the Appellant's life.

4. The Appellant presented twelve grounds of appeal challenging his convictions and his sentence. He requested the Appeals Chamber to overturn his convictions and to order his release. In the alternative, he requested the Appeals Chamber to order a retrial or as a further alternative, to quash his life sentence and substitute it with a more appropriate sentence. In his brief, the Appellant dropped his Ninth Ground of Appeal, which accordingly has not been addressed by the Appeals Chamber.

5. The Appeals Chamber heard oral arguments regarding this appeal on 28 August 2008. Having considered the written and oral submissions of the parties, the Appeals Chamber hereby renders its Judgement.

6. I will now address each of the Appellant's grounds of appeal. However, I will deal with Ground 1, part of Ground 2, and Ground 7 together, as they all relate to events in Rushashi commune. For the purposes of this summary, the Appeals Chamber will also address grounds 5 and

10 (in part) together, since both relate to the appellant's alleged involvement in a campaign to kill Tutsis in Nyamirambo sector. However, these grounds are addressed separately in the Judgement itself.

B. THE GROUNDS OF APPEAL

1. Assessment of the evidence (Second Ground)

7. In his Second Ground of Appeal, the Appellant submits that in its assessment of the evidence, the Trial Chamber committed "numerous errors of law" that invalidate the Trial Judgement and made erroneous factual findings occasioning a miscarriage of justice. Specifically, he contends that the Trial Chamber erred by applying incorrect standards of law in its assessment of his testimony and in considering conflicting, hearsay, circumstantial, and uncorroborated evidence. He further alleges several errors related to the Trial Chamber's conduct of a site visit.

8. For the reasons given in the Judgement, the Appeals Chamber finds that the Appellant has failed to show that the Trial Chamber made general errors of law and fact in assessing the evidence.

9. With regard to the site visit conducted by the Trial Chamber, the Appellant alleges that the Trial Chamber erred in law by failing: first, to keep records and produce a report of the site visit; second, to provide a reasoned opinion in relation to observations it made at the site visit; and third to provide the Appellant with an opportunity to present a full defence in relation to these factual findings. The Appellant further alleges that the Trial Chamber erred in fact by making factual findings which do not take into account, and in some instances are contrary to, both the observations made by the Trial Chamber during the site visit, and the submissions of the parties that were subsequently made in relation to these observations.

10. The Appeals Chamber does not agree with the Appellant's contention that the Trial Chamber denied the Appellant the right to present a full defence and to be provided with a reasoned opinion. The Appeals Chamber emphasises that detailed records of Trial Chamber's site visits should normally be kept. The purpose of a site visit is to assist a Trial Chamber in its determination of the issues and therefore it is incumbent upon the Trial Chamber to ensure that the parties are able to effectively review any findings made by the Trial Chamber in reliance on observations made during the site visit. However, the Appeals Chamber finds that in this case the Appellant has not demonstrated that he was prejudiced by his inability to challenge the Trial Chamber's observations and that the parties had the opportunity to make arguments based on their observations of the site visit, in their closing arguments and closing briefs to which the Trial Chamber referred in its Judgement.

11. Accordingly, the Second Ground of Appeal is dismissed in part. As previously noted, the remaining arguments presented in the Second Ground of Appeal have been considered together with the Seventh Ground of Appeal, relating to the events in Rushashi.

2. Appellant's authority in Kigali prefecture (Third Ground)

12. Under the Third Ground of Appeal, the Appellant chiefly submits that the Trial Chamber erred in finding that, before his formal appointment as prefect of Kigali prefecture on 17 April 1994, he exercised at least some of the authority which would normally have been exercised by the prefect.

13. For the reasons given in the Judgement, the Third Ground of Appeal is dismissed in its entirety.

3. Appellant's involvement in MRND in Nyarugenge (Fourth Ground)

14. In his Fourth Ground of Appeal, the Appellant submits that the Trial Chamber erred in its assessment of the evidence of certain witnesses relating to his alleged involvement in the MRND in Nyarugenge after 1992 and in finding that he exercised authority over the *Interahamwe* in 1994.

15. For the reasons given in the Judgement, the Appellant's Fourth Ground of Appeal is dismissed in its entirety.

4. Campaign to kill Tutsis in Nyamirambo sector, Nyarugenge (Fifth Ground and Tenth Ground in part)

16. In his Fifth Ground of Appeal, the Appellant claims that the Trial Chamber erred in its factual findings in relation to his involvement in a campaign to kill Tutsis in Nyamirambo sector, Nyarugenge commune. In essence, the Appellant submits that the Trial Chamber erred in finding: that he exercised authority over three policemen involved in the killings and that a number of Tutsi persons were murdered as a result of orders to kill Tutsis which he gave to both *Interahamwe* and the policemen who guarded his house. In support of this claim the Appellant has submitted a number of arguments that are considered in detail in the Judgement.

17. For the reasons given in the Judgement, the Appeals Chamber grants the Appellant's Fifth Ground of Appeal in part. In particular, the Appeals Chamber reverses the Appellant's convictions for ordering genocide and extermination and murder as crimes against humanity, based on the alleged murders of Kahabaye, Ndingutse, and Nyagatare committed in Nyamirambo.

18. In this regard, the Appeals Chamber finds as follows:

- i. The Trial Chamber erred in convicting the Appellant based on the murder of Joseph Kahabaye. The Appeals Chamber finds that no reasonable trier of fact could have concluded beyond reasonable doubt that Kahabaye's murder was a consequence of an order to kill Tutsis given by the Appellant, since the evidence relating to the location of the crime and the identity of the perpetrators was not corroborated and in fact, remained conflicting. The Appeals Chamber further finds that the Trial Chamber failed to specify the link between the murder of Kahabaye and any specific order given by the Appellant. Accordingly, the Appeals Chamber grants this sub-ground of appeal and reverses the Appellant's convictions for genocide and extermination and murder as crimes against humanity based on this event;
- ii. The Trial Chamber erred in convicting the Appellant based on the murder of Ndingutse. The Appeals Chamber finds that no reasonable trier of fact could have accepted the uncorroborated hearsay testimony of Witness BMU that the policemen who killed Ndingutse were the policemen who guarded the Appellant's house. Furthermore, no reasonable trier of fact could have concluded, on the basis of this circumstantial evidence that the only reasonable inference was that Ndingutse had been killed pursuant to the Appellant's orders to kill Tutsi. Accordingly, the Appeals Chamber grants this sub-ground of appeal and reverses the Appellant's convictions for genocide and extermination and murder as crimes against humanity based on this event; and
- iii. The Trial Chamber erred in convicting the Appellant based on the murder of Nyagatare. The Appeals Chamber finds that no reasonable trier of fact could have found that the only reasonable conclusion available from the circumstantial hearsay evidence presented by the Prosecution was that Nyagatare was killed as a result of the Appellant's general order to kill Tutsis in Nyamirambo.

19. The Appeals Chamber finds that the Trial Chamber did not err in finding that between 8 and 10 April 1994, police officer Kalimba forced a man to kill Murekezi, a Tutsi, at the roadblock near the Appellant's house and later boasted that he had carried out the killing following the Appellant's order.

20. However, the Appeals Chamber, *proprio motu*, has considered the question of whether the Trial Chamber erred in using its findings that the Appellant was responsible for the killings of Joseph Kahabaye, Murekezi, Jean Bosco Ndingutse, and Palatin Nyagatare in support of the

convictions it entered under Count 1 of the Amended Indictment for genocide and under Count 3 for extermination as a crime against humanity. The Appeals Chamber invited the parties to address this issue at the appeal hearing.

21. The Appeals Chamber has already quashed the Trial Chamber's findings in relation to the killings of Joseph Kahabaye, Jean Bosco Ndingutse and Palatin Nyagatare for other reasons. Therefore, it need only consider whether it was permissible for the Trial Chamber to convict the Appellant for genocide and extermination as a crime against humanity based on the murder of Murekezi.

22. The Appeals Chamber notes that the allegation of the murder of Murekezi is only made at paragraph 33 of the Amended Indictment in support of Count 4 for murder as a crime against humanity.

23. In *Muvunyi*, the Appeals Chamber observed that "the Prosecution's failure to expressly state that a paragraph in the Indictment supports a particular count in the Indictment is indicative that the allegation is not charged as a crime". The Appeals Chamber considers that the same may be said where a certain allegation is charged under a particular count only. In the present case, the Amended Indictment put the Appellant on notice that the Prosecution was charging him for the murder of Murekezi only under Count 4. There is some basis for argument that by reading the Amended Indictment alone, the Appellant would not have understood that he was also charged for the same fact under Counts 1 and 3. In regard to the Amended Indictment, the Prosecution knew the identity of a finite number of victims and was able, when it sought to amend the Indictment, to specify the circumstances of their murder. It chose not to list Murekezi's killing in the statements of facts pertaining to the counts of genocide and extermination as a crime against humanity. The Appeals Chamber recalls that even in cases where a high degree of specificity is impractical since the identity of the victim is information that is valuable to the preparation of the defence case, if the Prosecution is in a position to name the victims, it should do so.

24. With regard to the Prosecution's submission that the Amended Indictment has to be read as a whole, the Appeals Chamber notes that while the statement of facts supporting Count 4 incorporates the statements of facts supporting Counts 1 and 3, the reverse is not true. The statements of facts supporting Counts 1 and 3 do not incorporate the statement of facts supporting Count 4. This lack of reciprocity might have added to the impression that Murekezi's murder was not incorporated in Counts 1 and 3 of the Amended Indictment.

25. The Appeals Chamber further notes that the process of amending the initial Indictment might have caused confusion on this issue. Originally, Murekezi's killing was listed in a statement of facts pertaining to both Counts 3 and 4. However, this statement of facts was eventually severed, and Murekezi's killing was subsequently mentioned only in the statement of facts applicable to Count 4 Amended Indictment. While the rationale for the severing of the original, combined statement of facts did not centre on Murekezi, the amendment may have given the message that Murekezi's killing related only to Count 4 of the Amended Indictment, rather than serving as a basis for the gravest of the charges involved, namely, genocide and extermination as a crime against humanity. The Appeals Chamber considers that the Prosecution's decision not to refer to Murekezi at all in Counts 1 and 3 of the Amended Indictment, especially in the context of the Indictment amendment process, resulted in vagueness with potentially serious consequences for the preparation of the Appellant's defence. In these circumstances, The Appeals Chamber considers that reversal of the affected convictions is appropriate.

26. The Appeals Chamber further notes that the Amended Indictment was issued on 19 December 2005, seven days *after* the filing of the Prosecution Pre-Trial Brief. As a result, while the Pre-Trial Brief included a summary of anticipated witness testimony, the text of the Pre-Trial Brief and the summaries included only references pointing to either the Indictment or the draft amended indictment annexed to the Prosecution Motion to Amend the Indictment, but not to the Amended Indictment itself. Turning to the Prosecution's contention that the Pre-Trial Brief presented "the factual allegations by location, including Nyamirambo, rather than with respect to each count", the Appeals Chamber does not see how this argument is capable of demonstrating that any defect in the Amended Indictment relating to the facts underlying Counts 1 and 3 was cured by the Prosecution Pre-Trial Brief.

27. The Appellant's counsel might have focused more attention on Murekezi's killing had this key material fact been more specifically linked to a larger number of counts concerning crimes such as genocide and extermination as a crime against humanity, which on their face appear more serious than murder. Instead, the Amended Indictment may have given the opposite impression. This error and the confusion it might have generated justify reversal of the Appellant's convictions under Counts 1 and 3, insofar as they rely on the murder of Murekezi.

28. Accordingly, the Appellant's convictions for genocide and extermination as a crime against humanity based on the killing of Murekezi are quashed.

5. Attack on Tutsi refugees at Ntarama Church, Kigali (Sixth Ground)

29. In his Sixth Ground of Appeal, the Appellant challenges his convictions based on his alleged involvement in an attack on Tutsi refugees at Ntarama Church in Kigali prefecture. For the reasons given in the Judgement, the Appeals Chamber finds that the Appellant has failed to demonstrate any error in the Trial Chamber's findings in relation to this attack and, accordingly, dismisses this ground of appeal in its entirety.

6. Events in Rushashi commune (First, Second (in part) and Seventh Grounds)

30. In his First, Second (in part), and Seventh Grounds of Appeal, the Appellant challenges his convictions based on the events in Rushashi commune.

31. For the reasons given in the Judgement, the Appeals Chamber grants the Appellant's First Ground of Appeal and reverses the Appellant's convictions for aiding and abetting genocide and extermination as a crime against humanity, in so far as they are based on the alleged weapons distribution in Rushashi commune. The Appeals Chamber notes that the Amended Indictment referred to two incidents of weapons distribution, both of which concerned locations other than Rushashi. The Appeals Chamber considers that the Prosecution's post-indictment communications, which referred to weapons distribution specifically in Rushashi, in effect expanded the charges contained in the Amended Indictment by adding a new incident of weapons distribution at a new location. The Appeals Chamber is of the view that this constitutes a *de facto* amendment of the Amended Indictment, which is impermissible. Accordingly, the Appeals Chamber finds that the Trial Chamber erred in holding that, as a matter of law, the Prosecution's post-indictment communications could cure the failure to include the allegation of the Rushashi weapons distribution in the Amended Indictment, and that they in fact did so.

32. The Appeals Chamber also grants the Seventh Ground of Appeal, in part, and reverses the Appellant's conviction for instigating murder as a crime against humanity based on the killing of Gakuru. The Appeals Chamber finds that, on the basis of the Trial Chamber's factual findings, the Trial Chamber could not have reasonably concluded that the Appellant prompted the perpetrators to kill Gakuru. The Trial Chamber made no factual findings supporting such a conclusion. It merely concluded that the Appellant had informed the *Interahamwe* who later killed Gakuru that he was an "*Inyenzi*" and ordered them to arrest him. The Trial Chamber should have further explained how, on the basis of these factual findings, it inferred that the Appellant had prompted the *Interahamwe* to kill Gakuru. In the absence of such an explanation, the Appeals Chamber accordingly finds that the Trial Chamber erred in convicting the Appellant for instigating Gakuru's murder.

33. However, the Appeals Chamber upholds the Appellant's conviction for aiding and abetting murder as a crime against humanity based on the killing of Gakuru. By instructing the *Interahamwe* to arrest Gakuru and telling them that Gakuru was an "*Inyenzi*", the Appeals Chamber considers that it was reasonable for the Trial Chamber to conclude that the Appellant substantially contributed to the commission of his murder through specifically assisting and providing moral support to the principal perpetrators and that, in light of the evidence adduced, he had the requisite *mens rea*.

34. The Appeals Chamber also upholds the Appellant's conviction for instigating and aiding and abetting genocide and extermination as a crime against humanity based on his participation at meetings in Rushashi commune where he raised money for weapons, encouraged youths to join the *Interahamwe*, and urged the commission of crimes against Tutsis.

35. For the reasons given in the Judgement, the Appeals Chamber further finds that the Appellant has not substantiated his allegation that the evidence of his participation in "pacification meetings" is incompatible with evidence that he was involved in the killings in Rushashi and Nyamirambo.

7. Assessment of alibi evidence (Eighth Ground)

36. Under his Eighth Ground of Appeal, the Appellant has raised a number of arguments related to his alibi, and contends that it was impossible for him to be present at the various crime scenes, considering the distances between these sites and the conditions of the roads. For the reasons given in the Judgement, the Eighth Ground of Appeal is dismissed in its entirety.

8. Alleged errors in the legal findings (Tenth Ground)

37. Under his Tenth Ground of Appeal, the Appellant has raised a number of arguments related to the Trial Chamber's legal findings, which in fact challenge the Trial Chamber's factual findings. Since the Appeals Chamber has already addressed these arguments in the respective sections of the Judgement, and in light of the fact that no additional arguments are presented under this ground of appeal, the Tenth Ground of Appeal is dismissed without further discussion.

9. Alleged errors relating to the hearing of the case of Tharcisse Renzaho while deliberating on the Appellant's case (Eleventh Ground)

38. In his Eleventh Ground of Appeal, the Appellant submits that the Trial Chamber erred in law by hearing the case of Tharcisse Renzaho, the former prefect of Kigali, while it was deliberating on the Appellant's case. The Appellant alleges an appearance of bias on the part of the

Trial Judges. He submits that a reasonable observer would have concluded “that the deliberations of the Trial Chamber in the present case were tainted by its hearing of the *Renzaho* case”.

39. For the reasons given in the Judgement, the Appeals Chamber dismisses this ground of appeal. The fact that the Trial Judges heard the *Renzaho* case while, at the same time, they participated in deliberations on the Appellant’s case, does not in itself demonstrate an appearance of bias on the part of the Trial Judges.

10. Sentencing (Twelfth Ground)

40. In his Twelfth Ground of Appeal, the Appellant submits that the Trial Chamber committed an error of law in sentencing him to imprisonment for the remainder of his life. The Appellant claims that the numerous errors of law and fact that affect the Trial Chamber’s findings are such that the Trial Chamber should have acquitted the Appellant and a sentence should never have been imposed on him. In the alternative, the Appellant argues that the Trial Chamber should have imposed a reduced sentence and requests that the Appeals Chamber substitute the current sentence with an “appropriate sentence”. Third, the Appellant submits that the Trial Chamber did not take into account the factors it should have considered in determining the sentence. To this end, the Appellant points to factors that according to him should have mitigated his sentence but were not considered by the Trial Chamber: the “pacification meetings” which he held in Rushashi; his efforts to ensure the safety of Vincent Munyandamutsa, a well-known RPF supporter; the time (thirteen months) spent in detention awaiting judgement during the Trial Chamber’s deliberations; and the fact that, as he is being sentenced for the remainder of his life, the Appellant is not in a position to benefit from the reduction of the sentence granted by the Presiding Judge during the delivery of the Trial Judgement.

41. Article 24 of the Statute allows the Appeals Chamber to “affirm, reverse or revise” a sentence imposed by a Trial Chamber. However, the Appeals Chamber recalls that Trial Chambers are vested with a broad discretion in determining the appropriate sentence. This stems from their obligation to tailor the sentence according to the individual circumstances of the accused and the gravity of the crime. Generally, the Appeals Chamber will not substitute its own sentence for that imposed by the Trial Chamber unless it has been shown that the latter committed a discernible error in exercising its discretion or failed to follow the applicable law.

42. The Appellant made no sentencing submissions during closing arguments. In such circumstances the Trial Chamber was not under an obligation to seek out information that counsel did not put before it at the appropriate time.

43. The Appeals Chamber further finds that in pointing to the “pacification meetings” in Rushashi and to his alleged efforts to ensure the safety of Vincent Munyandamutsa, the Appellant merely presents factual assertions without showing how the mitigating circumstances were undervalued by the Trial Chamber. Therefore, the Appellant has not demonstrated that the Trial Chamber committed a discernible error in its assessment of the individual mitigating circumstances.

44. The Appeals Chamber considers that, in sentencing, the Trial Chamber correctly took into account the gravity of the offences and the degree of liability of the convicted person, the individual circumstances of the Appellant and his role in the crimes, including any mitigating circumstances, as well as the sentencing practices of both the Tribunal and Rwanda. It found it appropriate to impose the maximum sentence. The Appeals Chamber recalls that even where mitigating circumstances exist, a Trial Chamber is not precluded from imposing a sentence of life imprisonment, where the gravity of the offence requires the imposition of the maximum sentence provided for. Mindful of the gravity of the Appellant’s crimes, the Appeals Chamber does not find any discernible error in sentencing.

45. Turning to the Appellant’s claim that the Trial Chamber erred in sentencing him to life imprisonment when the charges against him were not proven beyond reasonable doubt, the Appeals Chamber recalls that it has upheld a number of the Appellant’s grounds of appeal. The Appeals Chamber has also reversed several of the Appellant’s convictions, namely: for aiding and abetting genocide and extermination as a crime against humanity, based on the alleged weapons distribution in Rushashi commune; for ordering genocide and extermination and murder as crimes against humanity, based on the alleged murders of Joseph Kahabaye, Jean Bosco Ndingutse and Palatin Nyagatare; and for instigating murder as a crime against humanity, based on the murder of Gakuru. In addition, the Appeals Chamber, *proprio motu*, has reversed the Appellant’s convictions for ordering genocide and extermination as a crime against humanity, based on the killing of Murekezi.

46. Therefore the remaining question before the Appeals Chamber is whether it should revise the sentence imposed by the Trial Chamber in view of the findings made in the Appeal Judgement. The Appeals Chamber considers that, the crimes for which the Appellant remains convicted on appeal are extremely grave: they include genocide and extermination and murder as crimes against humanity. These crimes resulted in the death of a large number of civilians.

47. The Appeals Chamber has considered the mitigating and aggravating factors discussed by the Trial Chamber, and concurs with the Trial Chamber that the aggravating factors outweigh the mitigating factors. The remainder of the Appellant’s arguments in respect of the sentence are addressed in the Judgement.

48. I will now read out in full the operative paragraphs of the Appeals Chamber's disposition. Mr. Karera, will you please stand.

C. DISPOSITION

49. For the foregoing reasons, **THE APPEALS CHAMBER,**

PURSUANT to Article 24 of the Statute and Rule 118 of the Rules;

NOTING the written submissions of the parties and their oral arguments presented at the hearing on 28 August 2008;

SITTING in open session;

ALLOWS the Appellant's First Ground of Appeal and **REVERSES** the Appellant's convictions for aiding and abetting genocide and extermination as a crime against humanity, based on the alleged weapons distribution in Rushashi commune;

ALLOWS, in part, the Appellant's Fifth Ground of Appeal and **REVERSES** the Appellant's convictions for ordering genocide and extermination and murder as crimes against humanity, based on the alleged murders of Joseph Kahabaye, Jean Bosco Ndingutse, and Palatin Nyagatare;

PROPRIO MOTU, **REVERSES** the Appellant's convictions for ordering genocide and extermination as a crime against humanity, based on the killing of Murekezi;

ALLOWS, in part, the Appellant's Seventh Ground of Appeal and **REVERSES** the Appellant's conviction for instigating murder as a crime against humanity, based on the murder of Gakuru;

DISMISSES the Appellant's appeal in all other respects;

AFFIRMS the Appellant's conviction for instigating and committing genocide during the attack against Tutsi refugees at Ntarama Church on 15 April 1994; **AFFIRMS** the Appellant's convictions for instigating and committing extermination and murder as crimes against humanity through the killings of Tutsi refugees at Ntarama Church on 15 April 1994; **AFFIRMS** the Appellant's conviction for ordering murder as a crime against humanity based on the killing of Murekezi; **AFFIRMS** the Appellant's conviction for aiding and abetting murder as a crime against humanity

based on the killing of Gakuru; **AFFIRMS** the Appellant's convictions for instigating genocide and extermination as a crime against humanity, based on his alleged conduct at meetings held in Rushashi commune between April and June 1994.

AFFIRMS the Appellant's sentence of imprisonment for the remainder of his life, subject to credit being given under Rules 101(D) and 107 of the Rules for the period in which the Appellant was deprived of his liberty for the purposes of this case, that is from 20 October 2001;

RULES that this Judgement shall be enforced immediately pursuant to Rule 119 of the Rules; and

ORDERS, in accordance with Rules 103(B) and 107 of the Rules, that the Appellant is to remain in the custody of the Tribunal pending his transfer to the State in which his sentence will be served.

Monsieur Karera, veuillez vous rasseoir.

Je demande maintenant au Greffier de bien vouloir servir copie du présent arrêt aux différentes parties en la présente affaire.

Je vous remercie.

Nous levons à présent l'audience de la Chambre d'appel.