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2.9.1998
(2637-2344)



International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda

ICTR
CRIMINAL REGISTRY
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1998 SEP -2 A 11: 46

CHAMBER I - CHAMBRE I

OR : ENG

Judge Lennart Aspegren
Judge Navanethem Pillay

Registry: Mr. Amani H. Obeid

D. 11. 1998

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~~CONFIDENTIAL~~

[REDACTED]

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~~CONFIDENTIAL~~

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

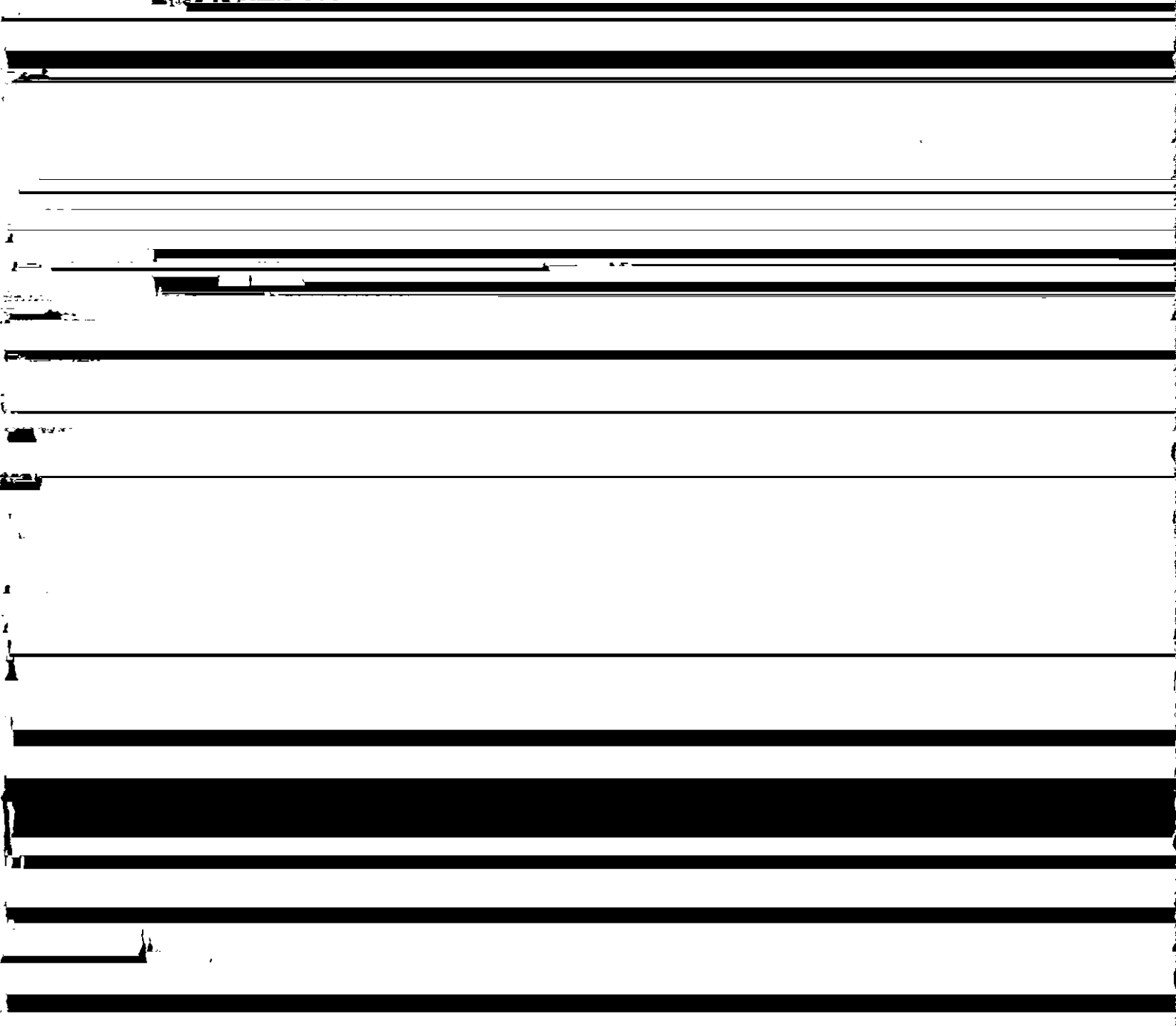
8. VERDICT 293



1. INTRODUCTION

1.1. The International Tribunal

1. This judgment is rendered by Trial Chamber I of the International Tribunal for the prosecution of persons responsible for genocide and other serious violations of international



... in accordance with the Statute of the Tribunal (the "Statute") and to take any

[REDACTED]

of victims of war⁶ and of Additional Protocol II thereto of 8 June 1977, a crime defined in

Article 7 of the Statute provides that the Tribunal has concurrent

1.2. The Indictment

February 1006 and was confirmed on 16 February 1006. It was amended during the trial in June

that which is conferred upon him *de jure*.

The Accused

2

Mr. D. LAZAROVICH

bourgmestre of that commune from April 1903 until June 1904. Prior to his appointment

These acts of sexual violence were generally accompanied by explicit threats of death or bodily

[REDACTED]

[REDACTED]

health deteriorated as a result of the sexual violence and beatings and killings.

122. [REDACTED] Ingr. Doul AKA VESU learned that the acts of sexual violence, beatings and murders were

[REDACTED]

the whereabouts of the wife of a university teacher. During the questioning, under **Jean Paul AKAYESU**'s supervision, the communal police hit Victim Y with a gun and sticks. They bound her arms and legs and repeatedly kicked her in the chest. **Jean Paul AKAYESU** threatened to kill her if she failed to provide the information he wanted.

72 In that night, on or about April 20, 1994, **Jean Paul AKAYESU** ...

in Taba and interrogated her also about the whereabouts of the wife of the university teacher.

COUNT 7: **CRIMES AGAINST HUMANITY** (murder) punishable by Article 3(a) of the Statute of the Tribunal; and

COUNT 8: **VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA**



GOVERNMENT VIOLATIONS OF ARTICLES 1

CONVENTIONS, as incorporated by Article 4(a)(cruel treatment) of the Statute of the Tribunal.

In addition and/or in the alternative to his individual responsibility under Article 6(1) of the Statute of the Tribunal, the accused is individually responsible under Article 6(2) of the Statute of the Tribunal for the following:

11

(Signed)

Louise Arbour
Prosecutor

1.3. Jurisdiction of the Tribunal

Article 2: Genocide

Article 3: Crimes against Humanity

The International Tribunal for Rwanda shall have the power to prosecute persons responsible for the following crimes when committed as part of a widespread or systematic attack against any civilian population on national

political, ethnic, racial or religious grounds:

- a) Murder;
- b) Extermination;
- c) Enslavement;

f) Torture;

g) Rape;

h) Persecutions on political, racial and religious grounds;

- d) Acts of terrorism;
- e) Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault;
- f) Pillage;
- g) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognised as indispensable by civilised peoples;
- h) Threats to commit any of the foregoing acts.

Article 6: Individual Criminal Responsibility

- 1. A person who planned, instigated, ordered, committed or otherwise aided

responsibility, but may be considered in mitigation of punishment if the International Tribunal for Rwanda determines that justice so requires.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1.4. The Trial

9. Jean-Paul Akayesu was arrested in Zambia on 10 October 1995. On 22 November 1995,

~~U. R. ... Trial ... 10 ... 22 ...~~

1907 100714 THE 1907 100714

19

A similar motion by the D.F. ...

ordered that three witnesses then detained in Rwanda be transferred to the Tribunal's Detention Facilities for a period of not more than two months so as to testify in the trial¹⁸. However, two

subsequent requests by the D.F. ...

10 All Documents and Defense are witnesses requiring protection benefited from measures

[REDACTED]

20 No information which could in any way

[REDACTED]

to the Defense. The Prosecutor objected to the request; hence the Chamber by

[REDACTED]

of the Indictment. During the hearing held to that end on 17 June 1997, the Prosecutor sought

1. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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28 None of the parties presented witnesses for rebuttal purposes. The Accused testified in

21 The Defence claims that the Chamber should not require the Accused to be a hero to

[REDACTED]

35. In general, the Defence argued that the Accused was a "scapegoat", who found himself Accused before the Chamber only because he was a Hutu and a bourgmestre at the time of the

messages
[REDACTED]

36. Turning to the specific allegations contained in the Indictment, the Defence case is that there was no change in Akayesu's attitude or behaviour before and after the Murambi meeting of 18 April 1998. Both before and after, he attempted to save Tutsi lives. Witness DBB testified that the Accused gave a Tutsi woman (Witness DEEV) a piece of paper, although he could not

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

nor whether the accused knew at the time that the woman was a Tutsi or not. Witness DEEV

time of his interview by the OTD in Zambia cited witness K as a source. D.C.

[REDACTED]

hered condition that the accused would be sent to the U.S. D.C.

[REDACTED]

credibility which is not particularised with respect to individual witnesses is no attack at all on

1.5. The Accused and his functions in Taba (paragraphs 3-4 of the

Indictment)

these paragraphs in turn paragraph 2 reads as follows:

52. _____

_____ some time following the transition into multicellularity, he was one of the elements that...

by the people in the commune. The bourgmestre was the leader of the commune and commonly treated with great respect and deference by the population.

55 In Taha Commune Akavesu played a major role in leading the people. He would give

advice on various matters concerning security, economics or on the social well-being of the

CO. A. ...

which is composed of representatives of the different sectors in the commune. Below the sectors are the cellules and at the lowest level are the units of ten households. The latter two are really
[redacted] rather than administrative subdivisions

The communal police

62. The communal police with the following powers:

[The remainder of the page is obscured by heavy black redaction bars.]

Powers of a bourgmestre in times of war or national emergency

70. Apart from asking the prefect to request the Gendarmerie to intervene (*supra*), there are few legal provisions on the powers of a bourgmestre in times of war or national emergency.

71. A decree of 20 October 1959 (by the Belgian authorities) on the state of emergency is apparently still on the books. It gives the bourgmestre the power, once the the state of emergency

has been declared, to order the suspension, removal and internment of persons.⁴⁷

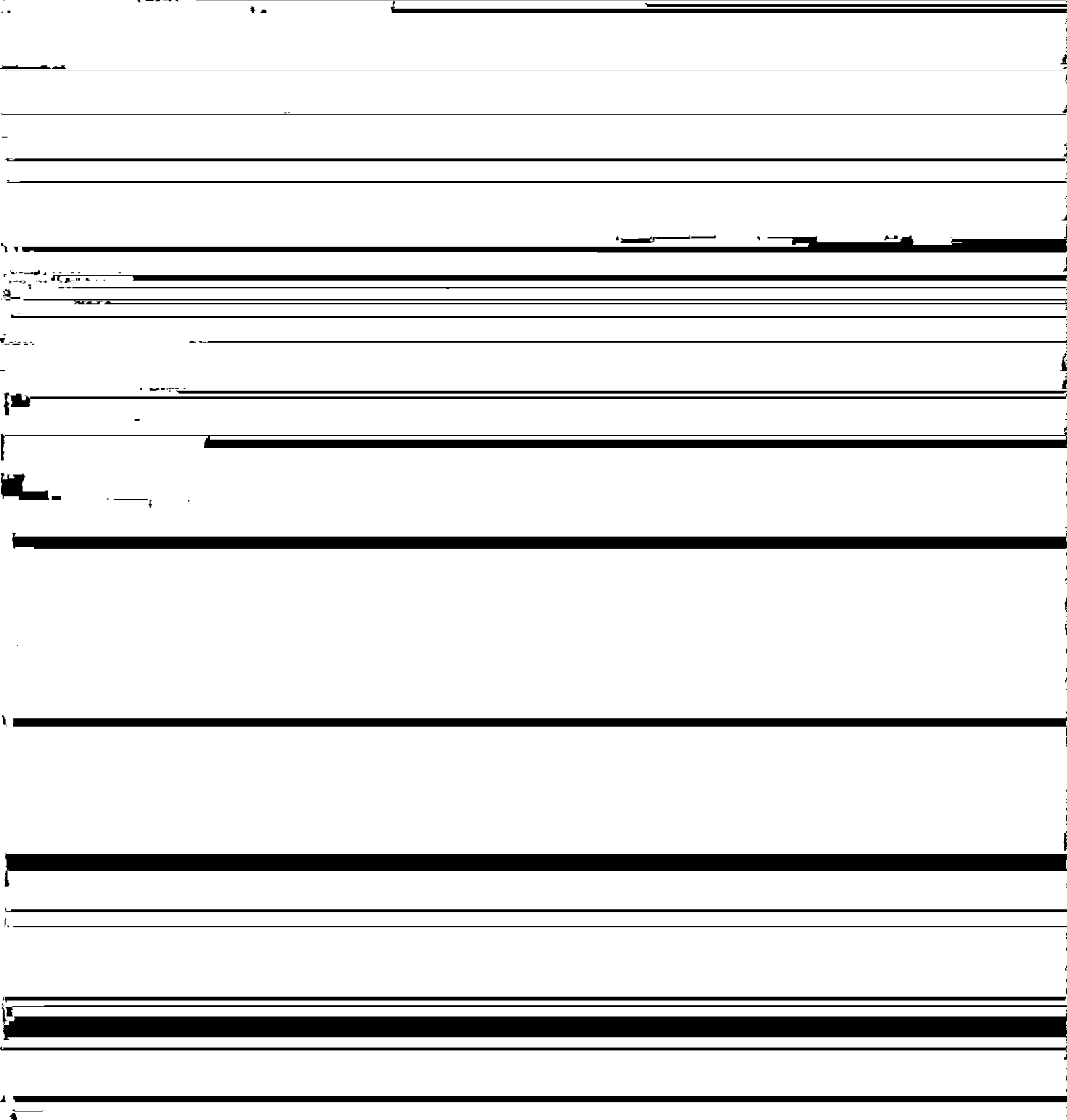
De facto powers

72. A number of witnesses testified before the Chamber as to the *de facto* powers of the bourgmestre and there is indeed evidence to support the Prosecutor's assertion that the bourgmestre enjoyed significant *de facto* authority.

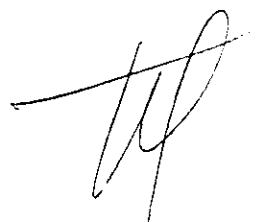
⁴⁷ ÉTAT D'EXCEPTION, 20 octobre 1959. Décret:

73. The expert witness, Alison DesForges, testified that the bourgmestre was the most important authority for the ordinary citizens of a Commune, who in some sense exercised the powers of a chief in pre-colonial times.

74. Witness E said that the bourgmestre was considered as the "parent" of all the population whose every order would be respected. Witness S went further and stated that the people would



bourgmestre is the most powerful figure in the commune. His *de facto* authority in the area is significantly greater than that which is conferred upon him *de jure*".

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke at the top.

HISTORICAL CONTEXT OF THE EVENTS IN

RWANDA IN 1994

79 It is the opinion of the Chamber that in order to understand the events alleged in the

a choice which according to Dr. Alison Desforges was born of racial or even racist

[REDACTED]

Belgians and the church to shift their alliances from the Tutsi to the Hutu, a shift rendered more radical by the change in the church's philosophy after the second world war, with the arrival of young priests from a more democratic and egalitarian trend of Christianity, who sought to develop political awareness among the Tutsi- dominated Hutu majority.

~~Tutsi~~

Tutsi

Tutsi

Tutsi

Tutsi

Tutsi

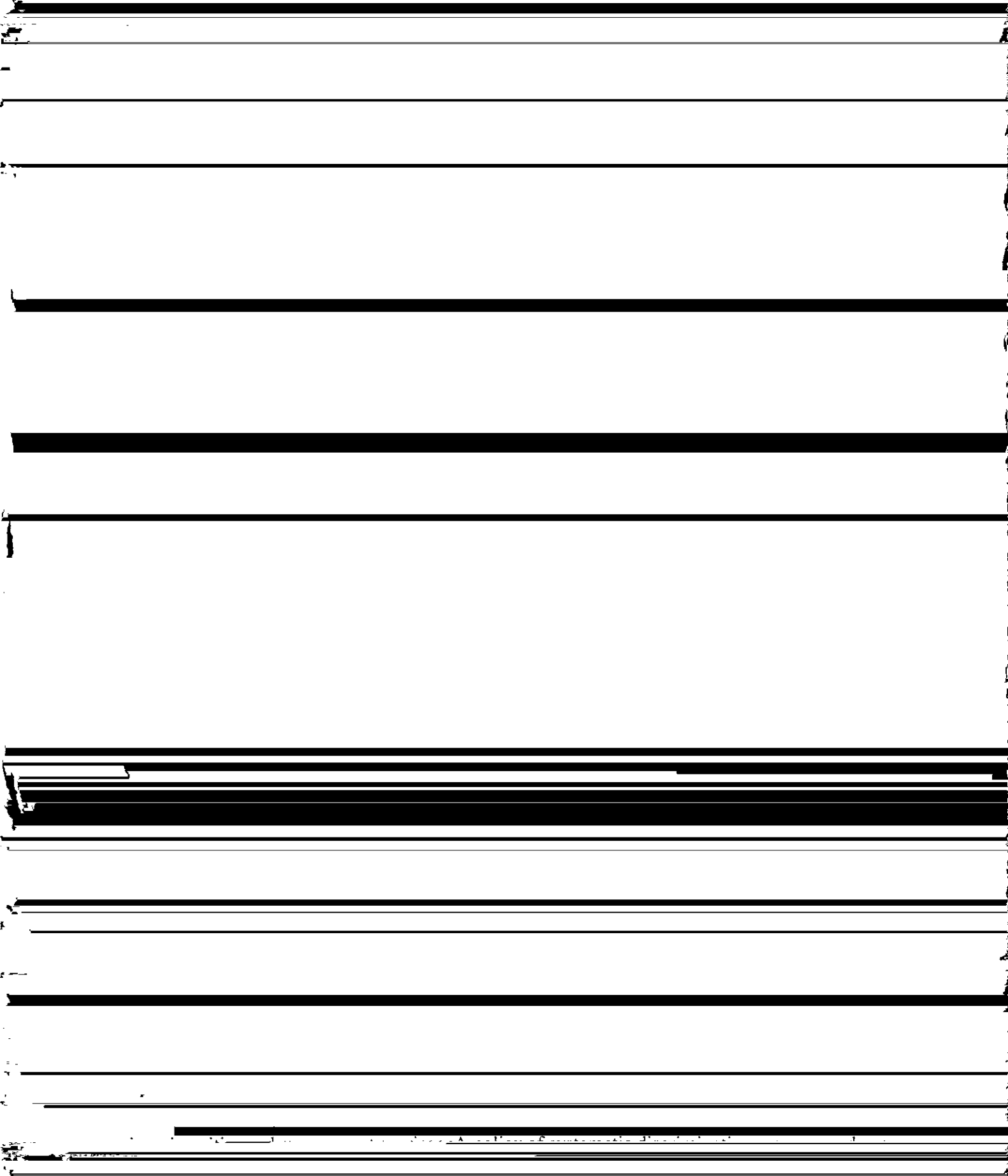
of Tutsi monarchists; and, between the two extremes, the two others, Aprosona, predominantly

~~Ubu~~ and the Rassemblement démocratique rwandais ("RADER") which brought together

he, that is the Gitarama region in the centre of the country. The drift towards ethnic and regional

Establishment, between its key figures from the Centre and those from the North and South who
showed great frustration. In particular, included David Kabila, who had been a prominent figure in the

policies became clearly anti-Tutsi. Like his predecessor, Grégoire Kayibanda, Habyarimana



- the Parti social démocrate (PSD), whose membership included a good number of intellectuals, recruited its members mostly in the South, in Butare;
- the Parti libéral(PL); and
- the Parti démocrate chrétien (PDC).

05

As the organization Total culture...

only to launch incursions into Rwandan territory but also to form a political organization, the

07 [REDACTED] did not deny its objective of gaining power. It therefore increased its military [REDACTED]

100. Mirror politics was also used in Kibulira, in the north-west, and in the Bagoguye region.

to have been penetrated by RPF infiltrators and to attack and kill their Tutsi neighbours. In

passing, mention should be made of the role that Radio Rwanda and, later, the RTLM, founded in 1993 by people close to President Habyarimana, played in this anti-Tutsi propaganda. Besides

UNITED STATES DEPARTMENT OF JUSTICE FEDERAL BUREAU OF INVESTIGATION MEMPHIS, TENNESSEE

103. On 23 October 1993, the President of Burundi, Melchior Ndadaye, a Hutu, was assassinated in the course of an attempted coup by Burundi Tutsi soldiers. Dr. Alison Desforges testified that in Rwanda, Hutu extremists exploited this assassination to prove that it was impossible to agree with the Tutsi, since they would always turn against their Hutu partners to

... accused James M. ... Total ... the media intensified. The

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

PTM constantly stepped up its attacks which became increasingly targeted and violent

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

110 ~~On April 12 1904~~

to unite against the enemy the only enemy and this is the enemy that we have always

3. GENOCIDE IN RWANDA IN 1994?

112. As regards the massacres which took place in Rwanda between April and July 1994, as detailed above in the chapter on the historical background to the Rwandan tragedy, the question

before this Chamber is whether they constitute genocide. Indeed, it was felt in some quarters⁵²

the heaps of bodies which he saw everywhere, on the roads, on the footpaths and in rivers and, particularly, the manner in which all these people had been killed. At the church in Butera, at the

Abidi mission he saw many wounded persons in the hospital who, according to him, were all

slogans popular among the Interahamwe, I believe that these people had the intention of

children , later on , would not know what a Tutsi looked like, unless they referred to history

the fetuses in their wombs were fathered by Tutsi men, for in a patrilineal society like Rwanda, the child belongs to the father's group of origin. In this regard, it is worthwhile noting the testimony of witness PP, heard by the Chamber on 11 April 1997, who mentioned a statement made publicly by the accused to the effect that if a Hutu woman were impregnated by a Tutsi man, the Hutu woman had to be found in order "for the pregnancy to be aborted". According to

b35

were targeted during the massacre. 57

123. Two facts, in particular, which suggest that it was indeed the Tutsi who were targeted should be highlighted: Firstly, at the roadblocks which were erected in Kigali immediately after the crash of the President's plane on 6 April 1994 and, later on, in most of the country's

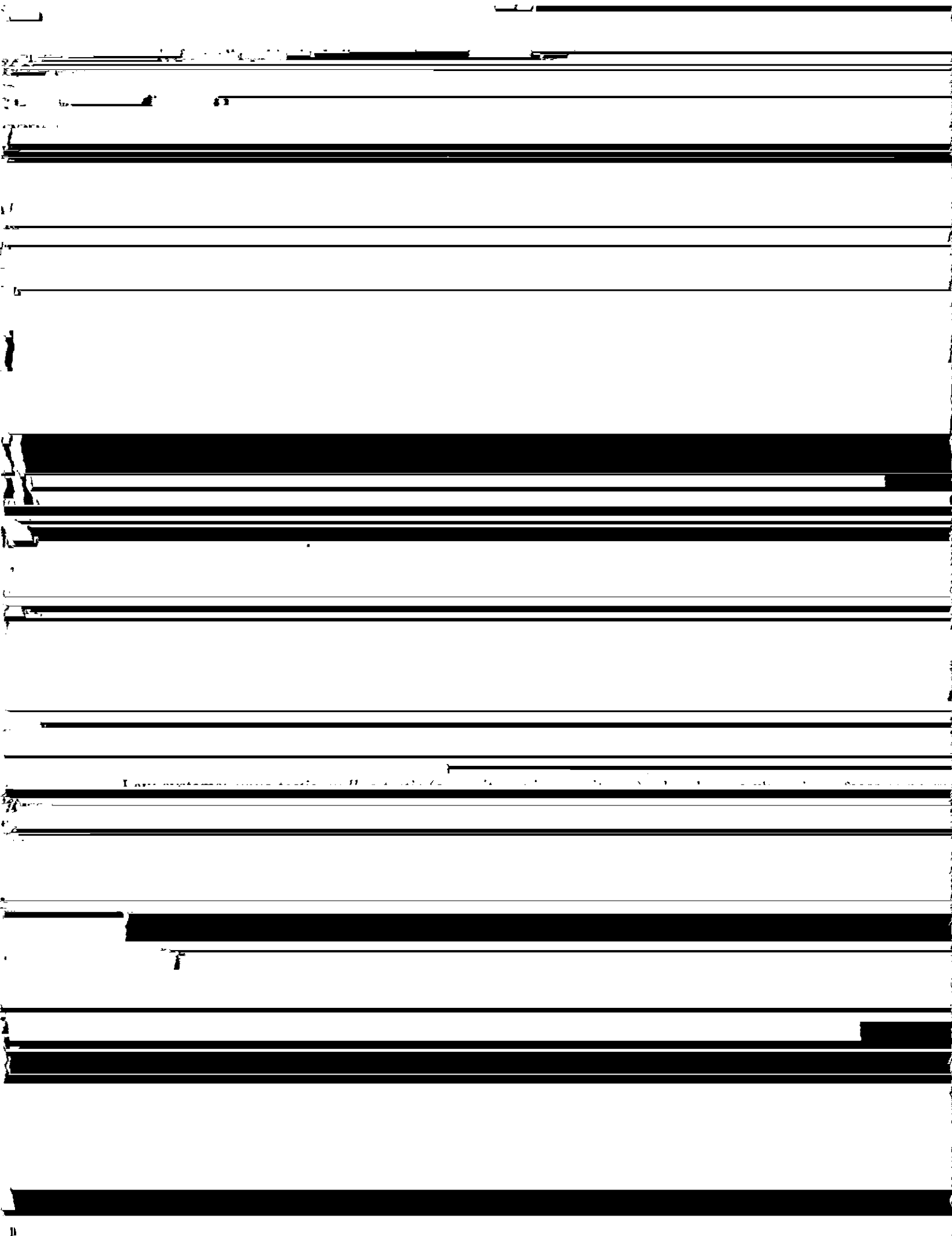
127. Finally, in response to the question posed earlier in this chapter as to whether the tragic events that took place in Rwanda in 1994 occurred solely within the context of the conflict between the RAF and the RPF, the Chamber replies in the negative, since it holds that the

genocide did indeed take place against the Tutsi group, alongside the conflict. The execution of

citizens, and above all, that the majority of the Tutsi victims were non-combatants, including thousands of women and children, even foetuses. The fact that the genocide took place while the

4. EVIDENTIARY MATTERS

138 The Church will address any general evidentiary matters of concern which arise in



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knowingly and wilfully given false testimony. As held by the Chamber in its decision rendered thereon in relation to a Defence motion requesting the Chamber to direct the Prosecutor to investigate the alleged false testimony by a witness⁶⁴, Rule 91(B) provides:

perused the testimonies of these witnesses, those of the Prosecutor as well as those of the Defence, on the assumption that this might possibly have been the case. Inconsistencies or

approximations in the testimonies of witnesses have been compared with that of the

regional background and the atrocities they have experienced or have been subjected to. Most

...the Chamber has called on the French...

accuracy. In some cases, where the words spoken are central to the factual and legal findings of the Chamber, the words have been reproduced in this judgment in the original Kinyarwanda

146. The words Inkotanyi, Inyenzi, Icyitso/Ibyitso, Interahamwe and the expressions used in

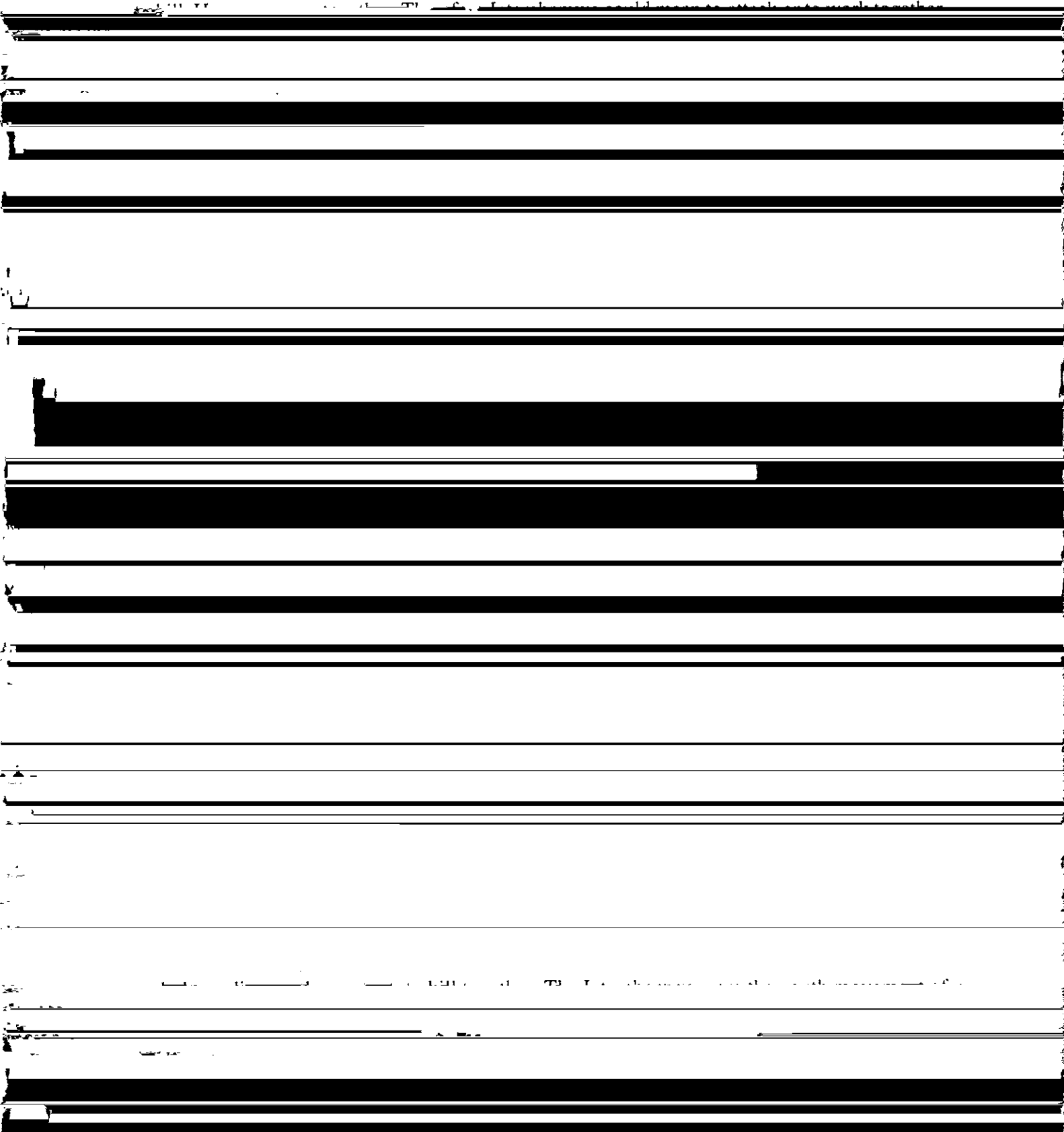
RPF army carried out a number of attacks in Rwanda in 1990. It was thought that the Inyenzi of 1990 were the children of the Inyenzi of the 1960s. "The ..."

and not a butterfly" was an article heading in the magazine Kangura. Another article in this

publication made the reference ...

them, indirectly, calling them Ibyitso¹⁶⁷.

151. The term Interahamwe derives from two words put together to make a noun, intera and hamwe. Intera comes from the verb 'gutera' which can mean both to attack and to work. It was documented that in 1994, besides meaning to work or to attack, the word gutera could also mean



"Molotovskii" met three young men who called him of his late...

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5. FACTUAL FINDINGS

5.1. General allegations (Paragraphs 5-11 of the Indictment)

Events Alleged

157 Paragraphs 5 to 11 of the indictment appear under the heading "General Allegations"

5201 0 and

Hospital that Tutsi civilians were being targeted for attack on a massive scale. Subsequently, Dr.

16 April 1994 - approximately four thousand Tutsi civilians were

...and stress in which the mutilated corpses of men

...women and children floated by at an estimated rate of five bodies every minute. Dr. Zachariah

... ..

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

C. (from the Democratic Republic of Congo) and travelling north towards

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

the legal finding that the Chamber has territorial and temporal jurisdiction

[REDACTED]

of the group as a group with a distinct identity. Every Rwandan citizen was required before 1994 to carry an identity card which included an entry for ethnic group (*ubwoko* in Kinyarwanda and

~~of the group as a group with a distinct identity. Every Rwandan citizen was required before 1994 to carry an identity card which included an entry for ethnic group (ubwoko in Kinyarwanda and~~

~~In 1994, the Rwandan government...~~

Subjective: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Objective: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Dallaire, a witness called by the Defence, that the FAR was and the RPF were "two armies" engaged in hostilities, that the RPF had soldiers systematically deployed under a command structure headed by Paul Kagame, and that FAR and RPF forces occupied different sides of a clearly demarcated demilitarised zone. Based on the evidence presented, the Chamber finds



findings on each count. The Chamber notes that no general allegation has been made by the

Prosecution in connection with Counts 13, 14 and 15, under which the Accused is charged with

individual criminal responsibility under Article 6(3), as well as Article 6(1) of the Tribunal's Statute.

5.2 Killings (Paragraphs 12, 13, 18, 19 & 20 of the Indictment)

501 D 1 10 04 E 11 4 4

179 The Chamber now considers paragraph 19 of the Indictment which alleges the

responsibility of the Accused, his knowledge of the killings which took place in Tabo between

them orders, throughout the period in question. Many witnesses testified as to their perception

of the authority of the bourgmestre. Witness K and Witness NN both stated that as bourgmestre, the Accused was the leader of the commune, and Witness S, Witness V and Ephrem Karangwa,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

being shot at by the Interahamwe. The police returned fire and three Interahamwe were killed. The Accused testified that he confiscated their weapons and their vehicle.

105 The Accused testified that he called for three roadmen at the meeting with the Daima

between 6 April 1994 and 18 April 1994 - all of which were attended by the accused - the third

request of the Prime Minister so that the Prime Minister and other Ministers could address the

188 The Chamber recognises the difficulties a bourgeoisie encountered in attempting to save

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

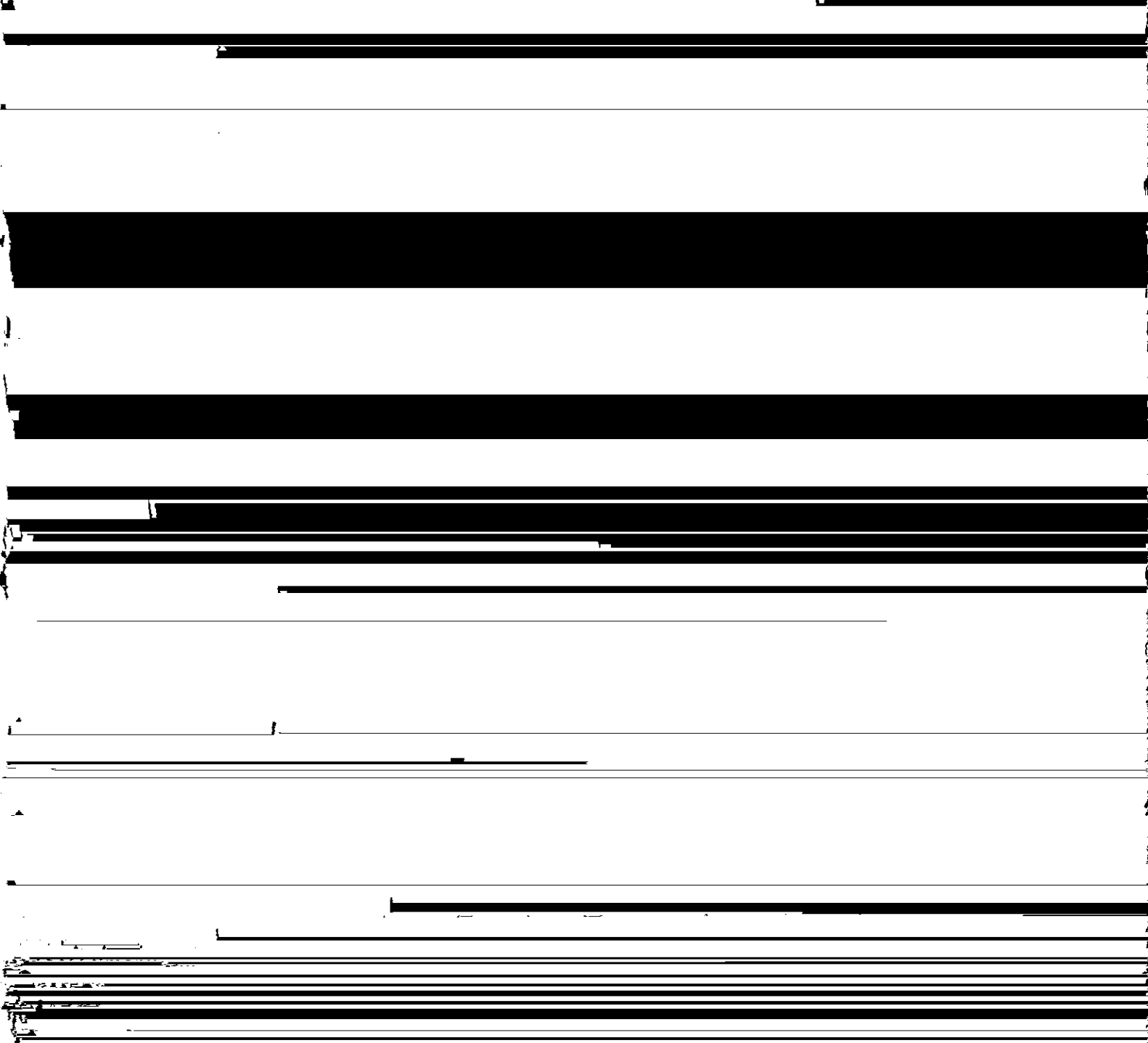
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

193. Nevertheless, the Chamber finds beyond a reasonable doubt that the conduct of the Accused changed after 18 April 1994 and that after this date the Accused did not attempt to prevent the killing of Tutsi in the commune of Taba. In fact, there is evidence that he not only knew of and witnessed killings, but that he participated in and even ordered killings. The fact that on one occasion he helped one Hutu woman protect her Tutsi children does not alter the Chamber's assessment that the Accused did not generally attempt to prevent the killings at all after 18 April. The Accused contends that he was subject to coercion, but the Chamber finds this



Patriotic Front ("RPF") and plotting to kill Hutu. Even though at least one of the

to have him arrested".

195. It is alleged that, by the acts with which he is charged in this paragraph, Akayesu is guilty

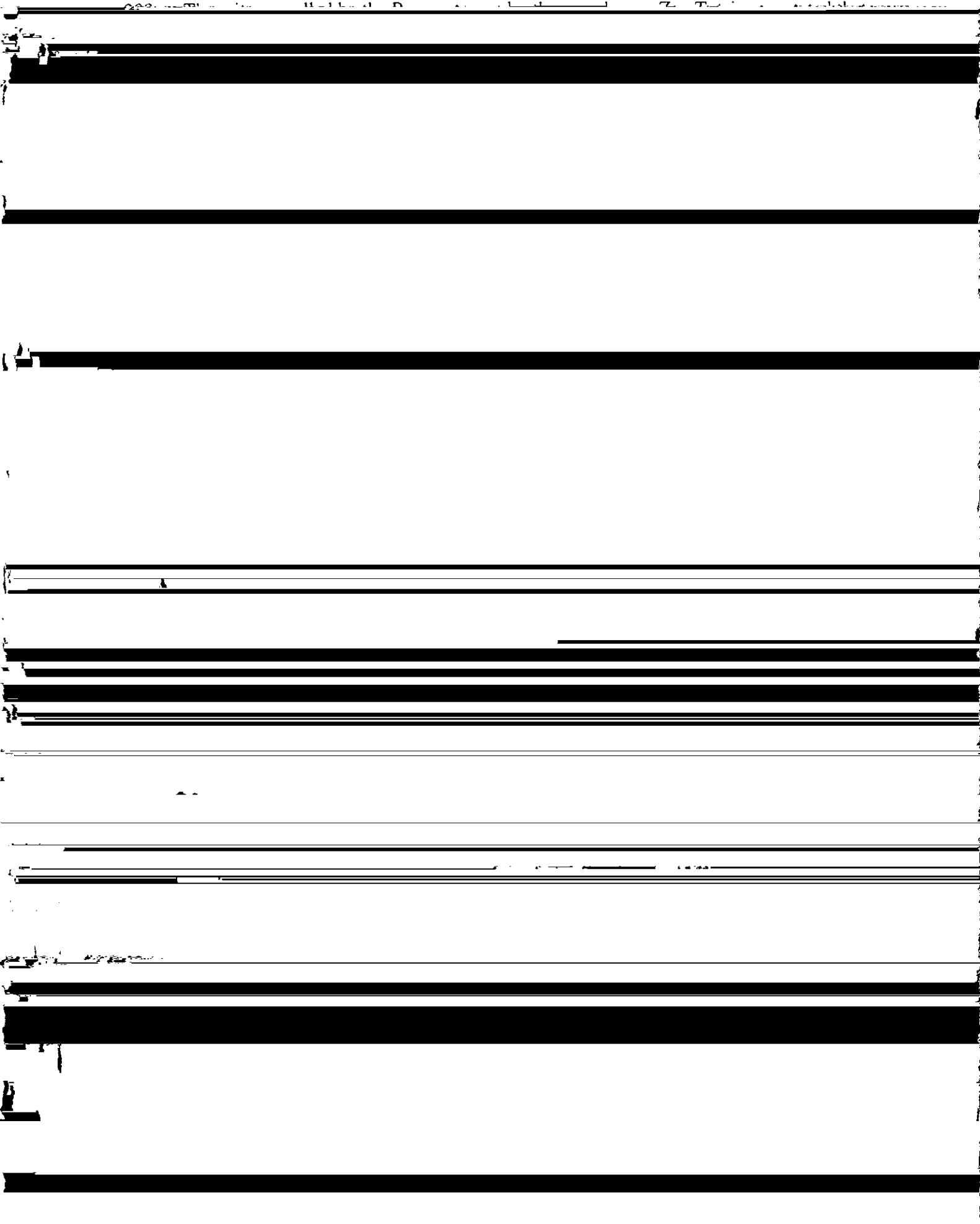
of the offenses which form the subject of these counts.

people shouting that thieves had killed people at Remera school and calling on the population to stop them. Witness A affirmed that, on 19 April 1994, he had gone to Remera school. There he learnt from the headmaster that the prefect of studies, who turned out to be Sylvère Karera, had been killed. The witness saw the body of the teacher before it was covered with a pink sheet at the request of the headmaster.

199. Ephrem Karangwa, a Tutsi man, called by the Prosecutor as a witness who, at the material time, performed the functions of Inspecteur de police judiciaire of the Taba commune, stated
[REDACTED]

killed in the night of 18 to 19 April 1994 by members of the Interahamwe.

200. Witness W, a Tutsi, who resided in Taba, where he worked as a teacher, testified that on



264. D. [redacted] of the accused appearing as witness in his own trial, the

Prosecutor had him confirm that Sylvère Karera was killed in the night of 18 to 19 April 1994
and that later, one member of the Interhemuye, the person who had killed Karera, was also

[REDACTED]

Sylvère Karera as well as the reasons for this murder.

Q10. What is the allegation that at least one of the perpetrators of the killing of Sylvère

[REDACTED]

[REDACTED]

Witness Protection Unit, pursuant to an order of 26 September 1996, but he waived witness

224. Karamuna testified that he had spoken to many people about the events that took place in

Taba. On 14 April 1994, he saw a blue Toyota Minibus pass him. He was informed that this motor vehicle and a white "pick up" were confiscated from the Interahamwe by the people of Kamembe. He was further informed that a police officer was killed and an Interahamwe wounded in this process.

225. Karamuna testified that on the night of 19 April 1994 he was outside his home in

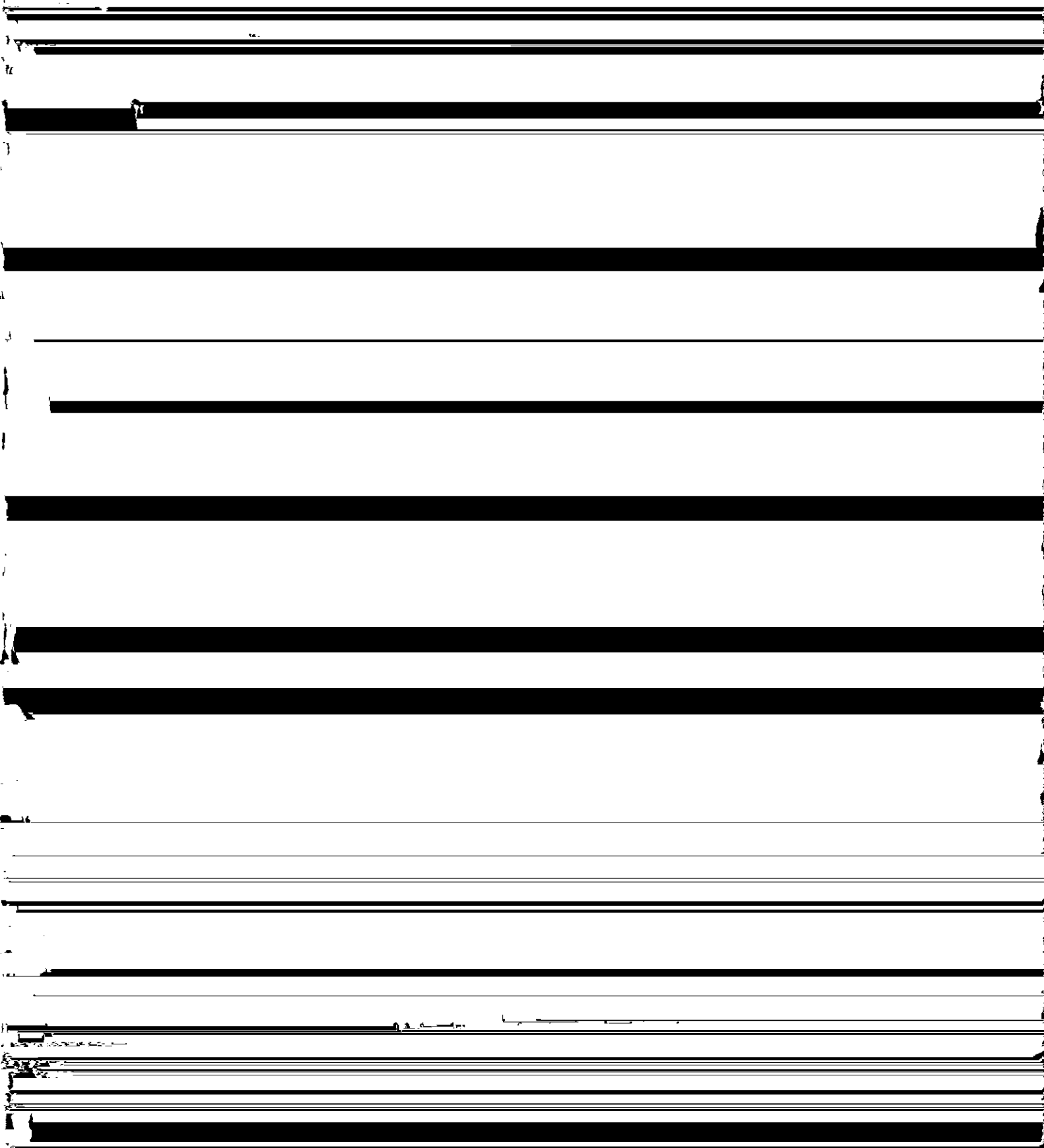
witness identified prosecution exhibits 50 and 51 as being photographs of the remains of these houses.

207. Kaganam testified that this event confirmed the information that [redacted]

then decided to join his family in Musambira. He arrived at Musambira at about 3 o'clock in the [redacted]

230. Karangwa testified that after the killing of his brothers, he fled to Kabgayi, and on arrival at the cathedral, the witness stated that he saw the Accused in a 'pick up' drive up to the cathedral. The Accused was in the company of two police officers from the Taba commune

LE _____

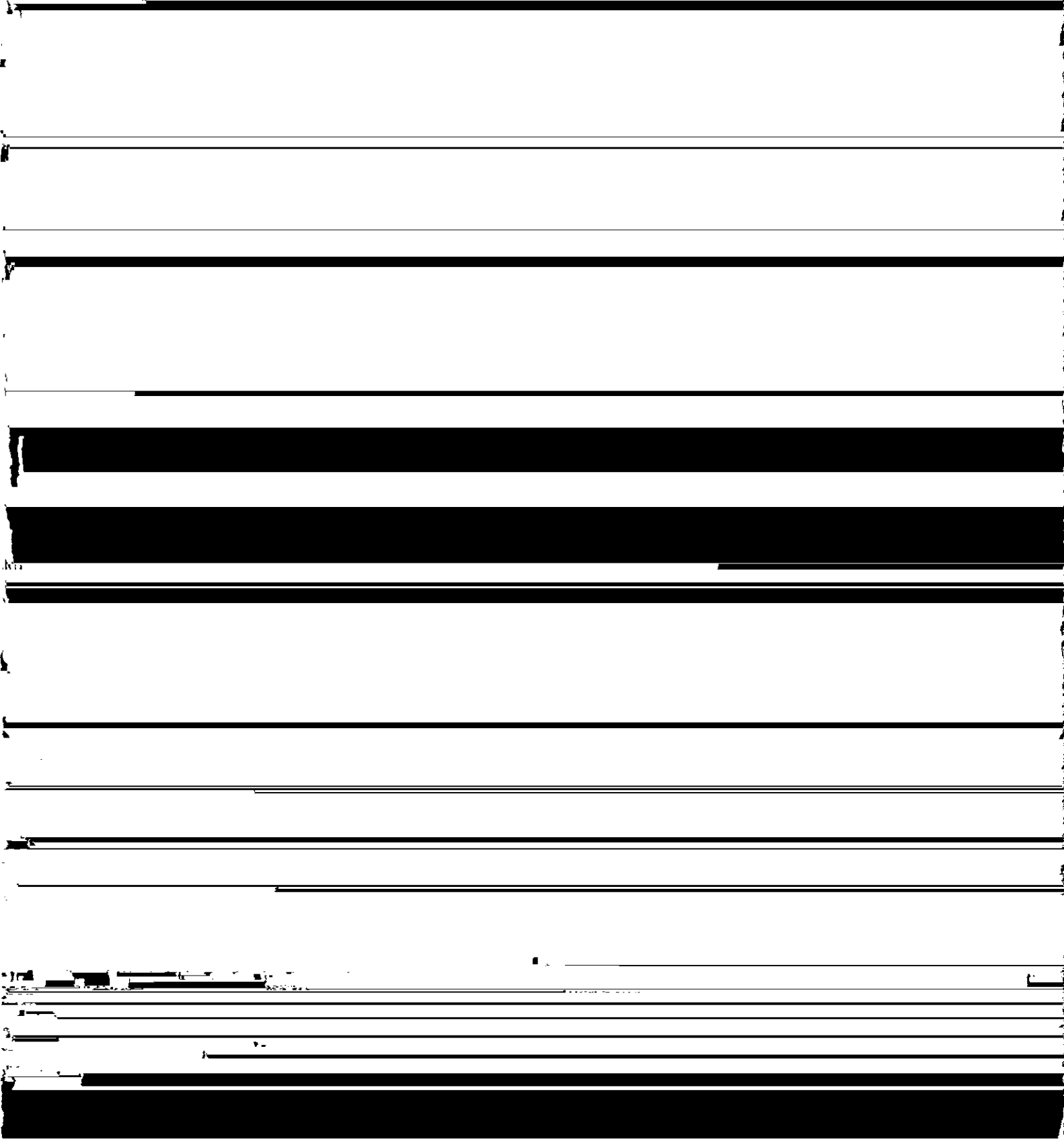


to meetings pertaining to security in Taba. He testified that he saw the Accused between 6 and

10 April 1994 in Kamamba. The Accused was there assessing the security situation since there

was an influx of people that were fleeing Kibuli. The Accused sent some people off to

237. Karangwa testified under cross-examination, that when the Accused arrived at Laurent Kuzanda's house at Muvumbira he immediately approached the house and found his three brothers



Witness S spoke to Ephrem Karangwa who also informed him that killings had began in Taba.

Witness S stepped out of his house and he stated that he

could see columns of smoke. Witness S stated that Karangwa left saying that he was waiting for his brothers and on their arrival they would set off for Kabgavi to join the rest of their family

24. Witness S testified that Ephrem Karangwa's three brothers arrived at his house and

The image shows a table with several rows and columns. The content is almost entirely obscured by thick black redaction bars. Only the grid lines of the table are visible, forming a series of horizontal and vertical lines that define the table's structure. The redactions are most prominent in the middle and lower sections of the page.

had removed from Ephrem Karangwa's house and they were boasting about their actions.

The Testimony of the Accused

254. The accused testified that on 10 April 1994 at about 4.30 p.m. he was in the presence of the

[REDACTED]

As a result, please his vehicle at the Bureau Command and instruct others to also get in so that

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

▲ ▲

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

two occasions and evaded arrest. Karangwa remained in Kabevi from 21 April to 21 June 1994

In cross-examination the witness denied previous statements

statement to the prosecutor and adhered to his testimony before the Chamber. He re-affirmed that

house; among them was the bourgmestre and assistant bourgmestre of Musambira, the Accused, whom he knew as the bourgmestre of Taba, the assistant bourgmestre of Taba, men in police uniforms carrying firearms, two of whom he knew as police from Musambira, and civilians.

262 The Accused held a sword in his hand. The Accused stated that he was standing in front of the house of the Accused, and that he was holding a sword in his hand. The Accused stated that he was standing in front of the house of the Accused, and that he was holding a sword in his hand.

to Kwanavula observation that at the time of the incident, the Accused was holding a sword in his hand. The Accused stated that he was standing in front of the house of the Accused, and that he was holding a sword in his hand.

Paragrap... both... will be treated together

272. A number of specific acts can be identified in the events set out in paragraphs 19 and 20.

... 10. Finally, that Al... took... from the...

traditional weapons, such as machetes and small axes⁶⁹. Witness K said they all gathered close

278 - Witness K testified she heard Abayou tell those present to fetch the person

She said this person was a professor by the name of Samuel. Witness K said that they fetched him and she saw him being killed with a machete blow to the neck.

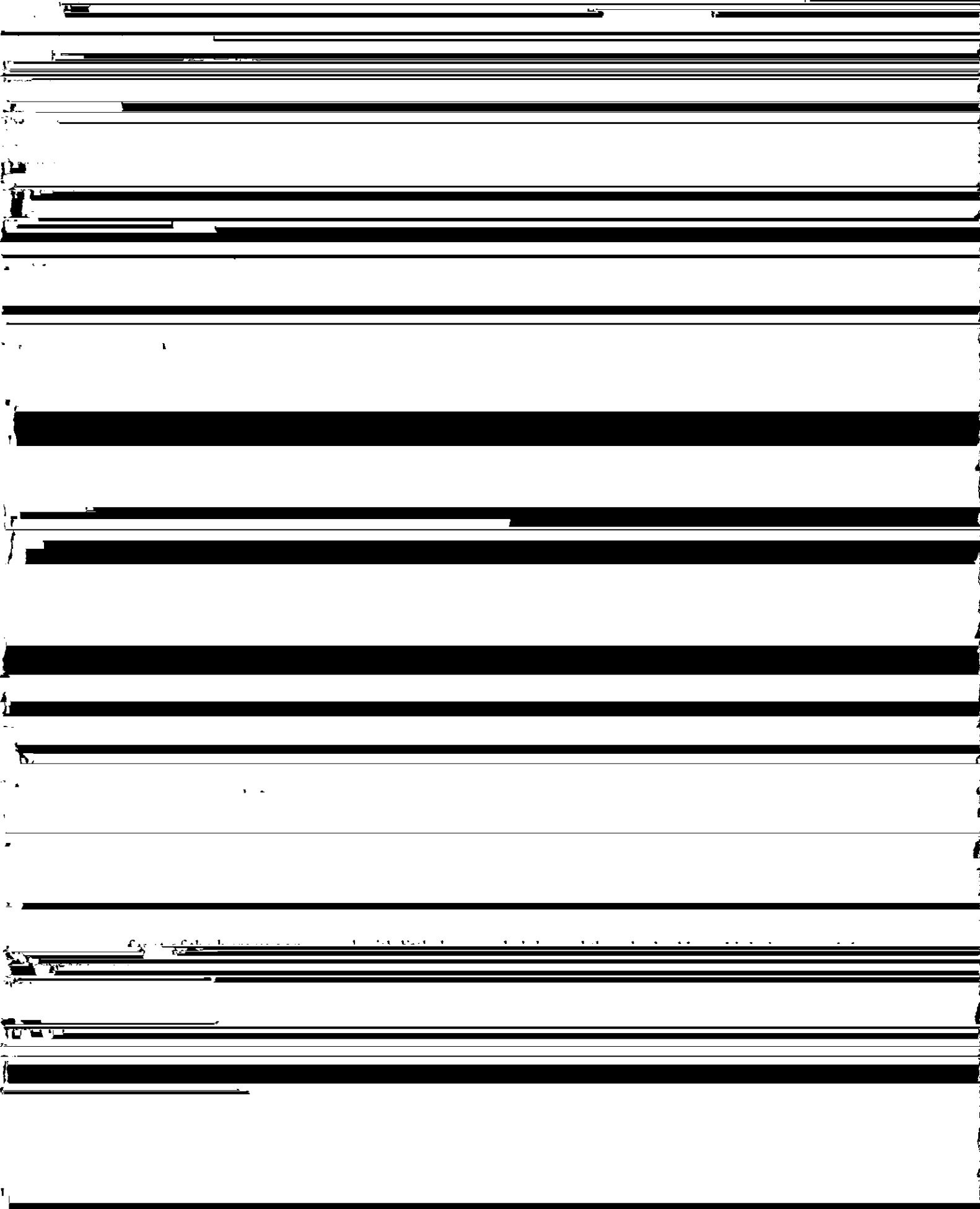
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283. Under cross-examination, questioned about where the teachers she saw being killed had come from, witness K stated that some of the teachers had been brought from the direction of Remera and another from behind the bureau communal. Asked if Akayesu was then still present

she stated that she had explained that Akayesu wasn't present when the actual killings of the

786. According to the testimony of witness KE, Akoyem then went to ...

return, she asserted he was angry and brandished a document which he read to the refugees, by saying "We lived with Tutsi, there was a hatred between us. The IPJ, Karangwa Ephrem had planned to kill me so that he could replace me in my function ..."



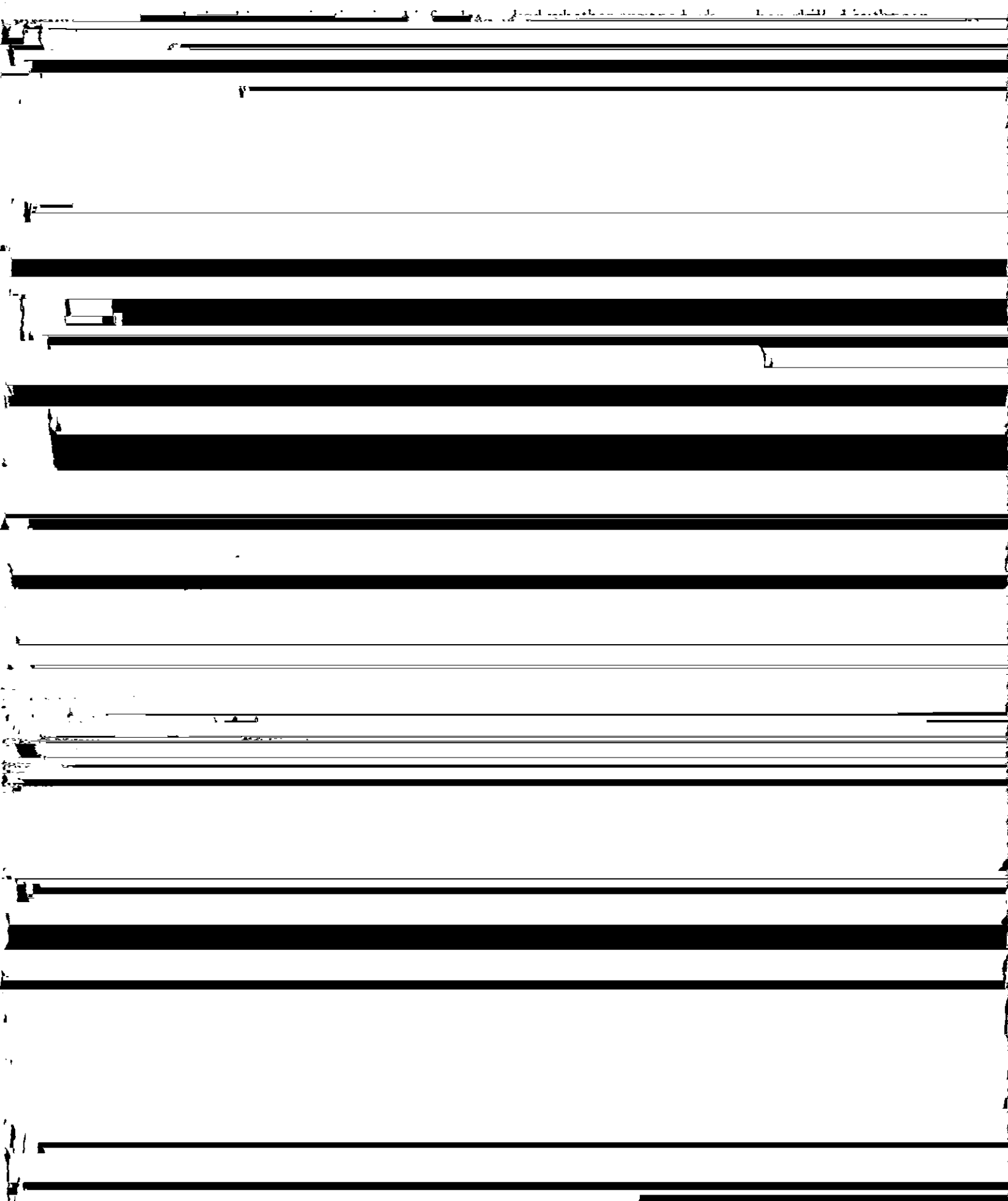
291. Witness DCC testified that after 6 April 1994, refugees from Runda and Shvorongi started arriving at the bureau communal of Taba, where they were welcomed by the authorities and lodged in various premises. He said the refugees were all free and none were locked up in the prison. Witness DCC testified he saw Interahamwe on two occasions come to the bureau communal and kill people. On the first of these occasions, he said the Interahamwe were from Taba but that he did not personally see Akayesu. On the second of these occasions, he saw the

Interahamwe from Runda with military personnel search the office of Akayesu after having forced him out of the bureau communal. He said the Interahamwe terrorised the people at the

that at the time of the interview, Witness DCC was 33 years old, that he had been recruited as the driver of the ~~commune~~ on 1 July 1993 that he had returned to Rwanda and was arrested on

30 April 1996. The Prosecutor read out another extract: "According to Akayesu's driver, [...] Akayesu lost no time in nursing Fohrem. On 19 April Akayesu assistant ~~bourgeois~~

refugees who had been killed, and noted that others had managed to escape. However, at a later



never saw any bodies either outside or inside the perimeter of the bureau compound and never

went behind the primary school. Further, Akayesu testified never personally seeing cadavers save
for the bodies of two dead children in his sector. In answer to questions on the fate of the

300. Further, the Defence contested the credibility of witness K on the premise that Akayesu had indicated to the Prosecutor in April 1996 that she was a potential defence witness. The

and that it does not constitute a defence *per se* as to the allegations contained in paragraphs 19 and 20 of the Indictment. Further the Defence claimed the Prosecutor had called only one witness in respect of the events alleged in the said paragraphs. In light of the above, the

everyday during the events. He saw people, mainly Tutsi, being massacred by the Interahamwe

evidence the statement given by witness DCC to the Prosecutor⁷⁸ The section quoted by the

Defence clearly indicates that Akayesu was at the bureau communal when four people were

Chamber finds it has been proved beyond reasonable doubt that firstly there were refugees at

can render a judgment unto them". It has been demonstrated that he then ordered the release of the refugees and handed them over to the Interahamwe with the words 'here they are' Evidence

and that when they begged for mercy, Aloysius said to the Interahamwe 'do it quickly' To

Interahamwe and communal policemen to fetch him. Evidence has established that persons using

_____ and his wife from behind the bureau communal. Tharcisse and his

[REDACTED]

314 The Chamber finds that it has been proved beyond reasonable doubt that

were killed because they were Tutsi.

5.3 Meeting

5.3.1. Paragraphs 14 and 15 of the Indictment

following the murder of Sylvère Kerega, Jean Paul Agyemang led a meeting in Gaborone, Botswana

firstly, the holding on the morning of 19 April 1994 of a meeting in Gishyeshye sector, alleged to have been attended by over 100 people and led by the Accused alone following the death of Mr. Karera;

secondly, the fact during that meeting the Accused is alleged to have

the death of Sylvère Karera:

criminal matters, the version favourable to the Accused should be selected. In the present case and in accordance with the French version of the Indictment, the Prosecution must not only establish that the Accused led the meeting, but also that he led it alone.

320. The murder of Sylvère Karera, a teacher killed on the night of 18 to 19 April 1994, and

where he attended a meeting at the village of Gishyeshye, in the presence of the Accused, who was

a meeting was then held on the road in Gishyeshye, in the presence of the Accused, who was

possessing a gun, and who organized the said meeting. The witness estimated that the

327 In his closing arguments, the Defence counsel underscored that the Accused never

because

According

attended the Cihuatlan meeting, but that record had negative implications for

and asked Anungjin Sebazungu why he, as a prominent figure and an educated man, had failed

[REDACTED]

to stop the population from killing the young man, to which Sebazungu reportedly replied that there was nothing he could do.

[REDACTED]

read the papers and said that the Tutsi were holding meetings to exterminate the Hutu. Witness

felt that the ~~propaganda~~ wanted to make the population understand that the Tutsi were their

[REDACTED]

[REDACTED]

[REDACTED]

[Faint, illegible text]

[REDACTED]

U. S. Department of Justice, Federal Bureau of Investigation, Washington, D. C. 20535

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

340. Dr. Mathias Ruzindana, Professor of Linguistics at the University of Rwanda, appearing as expert witness for the Prosecution, explained to the Chamber that, based on his own analyses of Rwandan publications and broadcasts by the RTLM and on his personal experience, he was

...and extended meaning from an DDE sympathizer to members of the Tutsi group, depending

harbouring RPF soldiers.

345. In response to Prosecution questions regarding the lists of names mentioned by several Prosecution witnesses, the Accused stated under cross-examination, that a certain Francois had . . .

allegedly tried to dissuade the demonstrators from denouncing anyone in such a manner , by

that the people whose names appeared on the list were indeed

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

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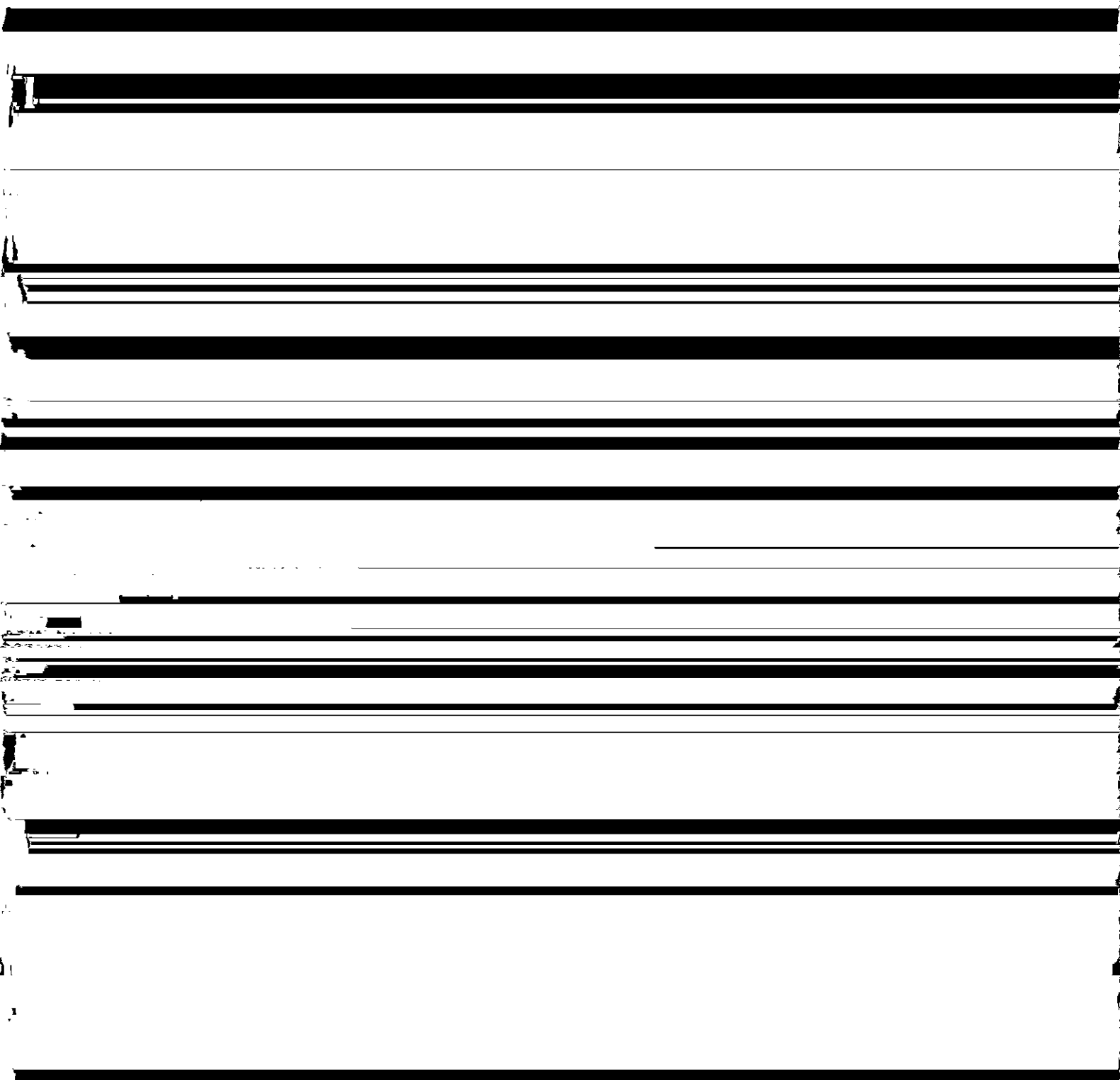
[REDACTED]

[REDACTED]

[REDACTED]

353. Prosecution witness A, a Tutsi man, testified before the Chamber that five Tutsi were killed on the day of the meeting. From that date, witness A personally observed that the people were destroying houses, taking away corrugated iron sheets, doors and anything they could carry, and killing cows which they ate. Some of the people tried to run away when the killings began.

Most of the victims were Tutsi. Witness A said that in his opinion when the Accused began to have good relations with the Interahamwe, the latter did whatever they wanted with the



people.

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gathering, to eliminate the accomplices of the RPF, after considering the weight of all supporting and corroborative evidence, the Chamber is satisfied beyond a reasonable doubt that the Accused clearly called on the population to unite and eliminate the sole enemy: accomplices of the [redacted]. On the basis of consistent evidence heard throughout the trial and the information

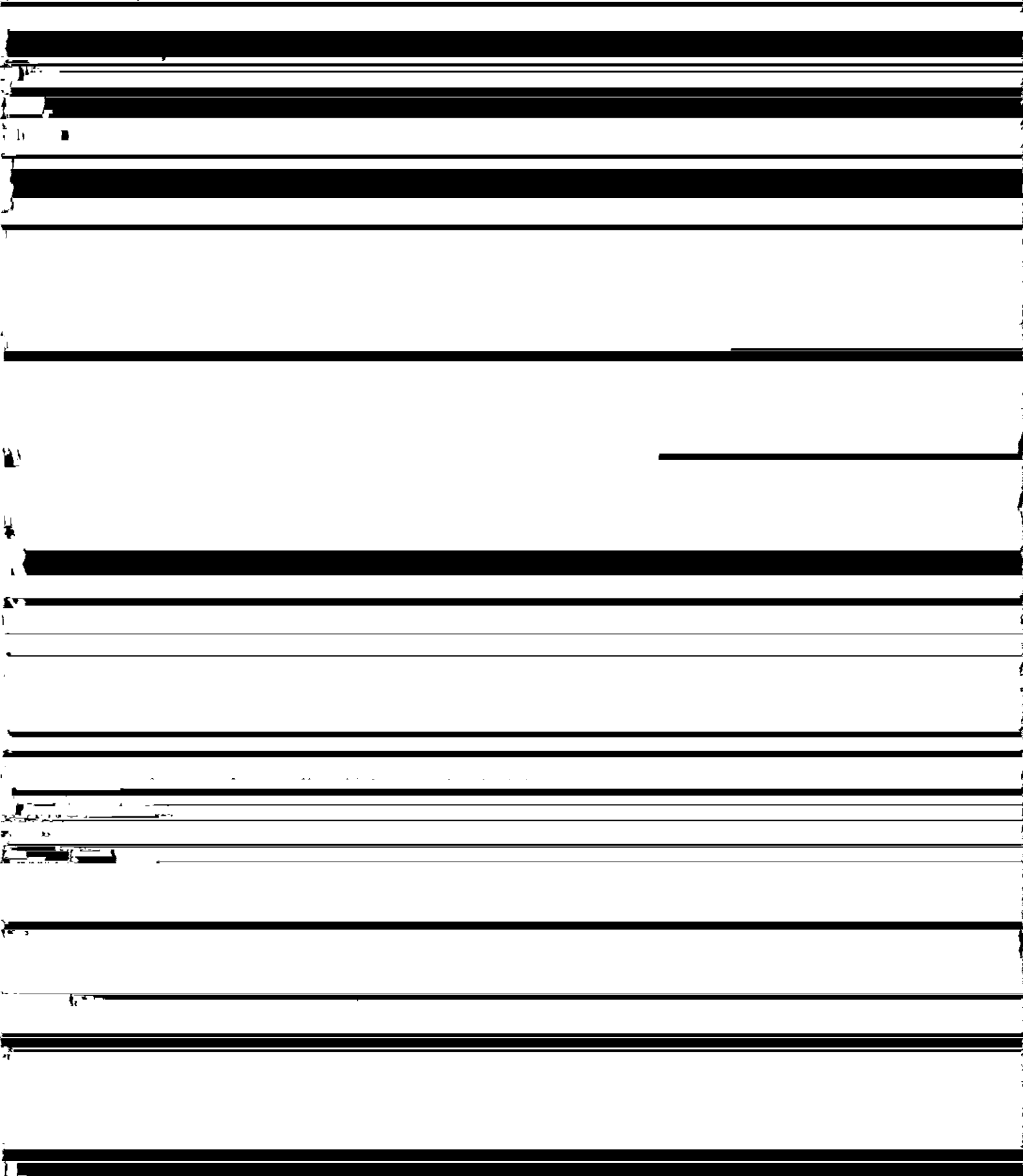
It is the alleged that by his participation in relation to these acts the accused committed offences charged in six counts:

Article 2(2)(a) of the Statute of the Tribunal:

[REDACTED]

Ephrem Karangwa, Juvénal Rukundakuvuga and Emmanuel Sempabwa who had to be killed because of their alleged relationships with the RPF. If it is proved beyond a reasonable that

~~Allegedly named the said three, the Chamber will consider evidence...~~



The table structure is largely obscured by redaction. At the bottom of the page, there is a faint line of text that appears to be a header or a row of data, possibly containing the word "TABLE" and some numbers, but it is mostly illegible due to the redaction.

for these people. Witness A testified that a teacher in the crowd informed Akayesu that he knew

of another accomplice, in response to which Akayesu ordered that this person be found.

376. Under cross-examination, witness A affirmed that during the gathering in Gishyeshye, Akayesu named only Ephrem Karangwa, and mentioned no other names.

Akayesu addressed the crowd. According to the witness, the accused took documents from his

accomplice of the RPF

380. The Defence argued that Akayesu never convened the gathering at Gishyeshye. Instead.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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The Defence submitted that Interahamwe were angry and forced Akayesu to read a document

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

384. The Chamber finds that it has been proved beyond reasonable doubt that Akayesu did cite
Fahim Karamuna during the Gishyamba meeting. It has also been established beyond a

reasonable doubt he did so knowing of the consequences of naming someone as an RPF

accomplice in the temporal context of the events alleged in the Indictment

385. However, the Chamber is of the opinion that the evidence presented in this matter does

33 Thereafter on or about April 20 1994 Jean Paul Akouyou picked up

Paul Akouyou's authority forced Victims 7 and 12 to heat each other's

and then left. At this time she estimated it was about three o'clock in the afternoon. When [REDACTED]

testified that the Accused returned at around midnight with a police officer [REDACTED]

whether she had decided to tell them what she knew. When she said she knew nothing, she said [REDACTED]

displayed in court his right hand with a bent index finger, which he said had been broken from the beating when he raised his hand to ward off the blows. Witness Q testified that the Accused was present during this beating and watched it. He said the Accused was the one apparently responsible.

Q: The other house to house searches referred to in the report were conducted in the area of the village of ...

appear to have taken place on the next day and relate to the search by the Accused for Alexia, the wife of Pierre Ntereye, a university teacher. Witness N (Victim Y), a Hutu farmer, testified that she knew where Alexia was hiding. She said the Accused, whom she had known for two

to Victim V's house, where they were taken out of the vehicle and thrown on the ground. According to the testimony, they started beating Victim Z again with the club and they also beat Victim V and told him to bring out the person he was hiding. Victim V said he was not hiding anybody. On direct examination, Witness N said the Accused told Victim V...

that they could shoot him. On cross-examination, Witness N testified that Mugenzi told Victim V to raise his arms so that they could shoot him. She said they did not shoot him, and that the Accused told Victim V that they would be killing him...

stop, raise and raise his arms in the air so that they could shoot at him. One of the Intercomms

told him a third time to raise his arms so that they could shoot him. Witness C said they did not shoot at Victim X but they again beat him. Witness C on the back with the blunt side of

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do good for Alexis and then, I have also heard that you tried to save Ntarene." He said he left

with the niece and drove to Buguli and that he spoke to her and her sisters, warning them not to

let the children go outside because they would be killed. In his testimony, the A.C. said:

midnight? The Accused did not address any of these questions or specifically

any of these things. He did not even deny specifically that he told the others in her presence that she would be killed after questioning or that he threatened her when he questioned her. The Chamber notes that there is no evidence to suggest that the Accused threatened the

justify a finding of credibility without corroboration of other testimony. The Chamber notes that even if it were to accept the testimony of Victim X in full, it would not be able to find, beyond

witness testified that the Accused was present and watched the beatings, but there is no evidence

a piece of cloth by Mugenzi, which was used to choke him. Victim Z was also forced by Francois

to beat Victim Y with a cudgel he was given. During this time, Victim Z

it is unclear who actually did the interrogation.

412. Following the interrogation of Victim Y and Victim Z, the Accused picked up Victim V at a roadblock and took him, with Victim Y and Victim Z, to his house, which was searched by

Defence of Prosecution witnesses and the evidence presented by the Defence in the form of

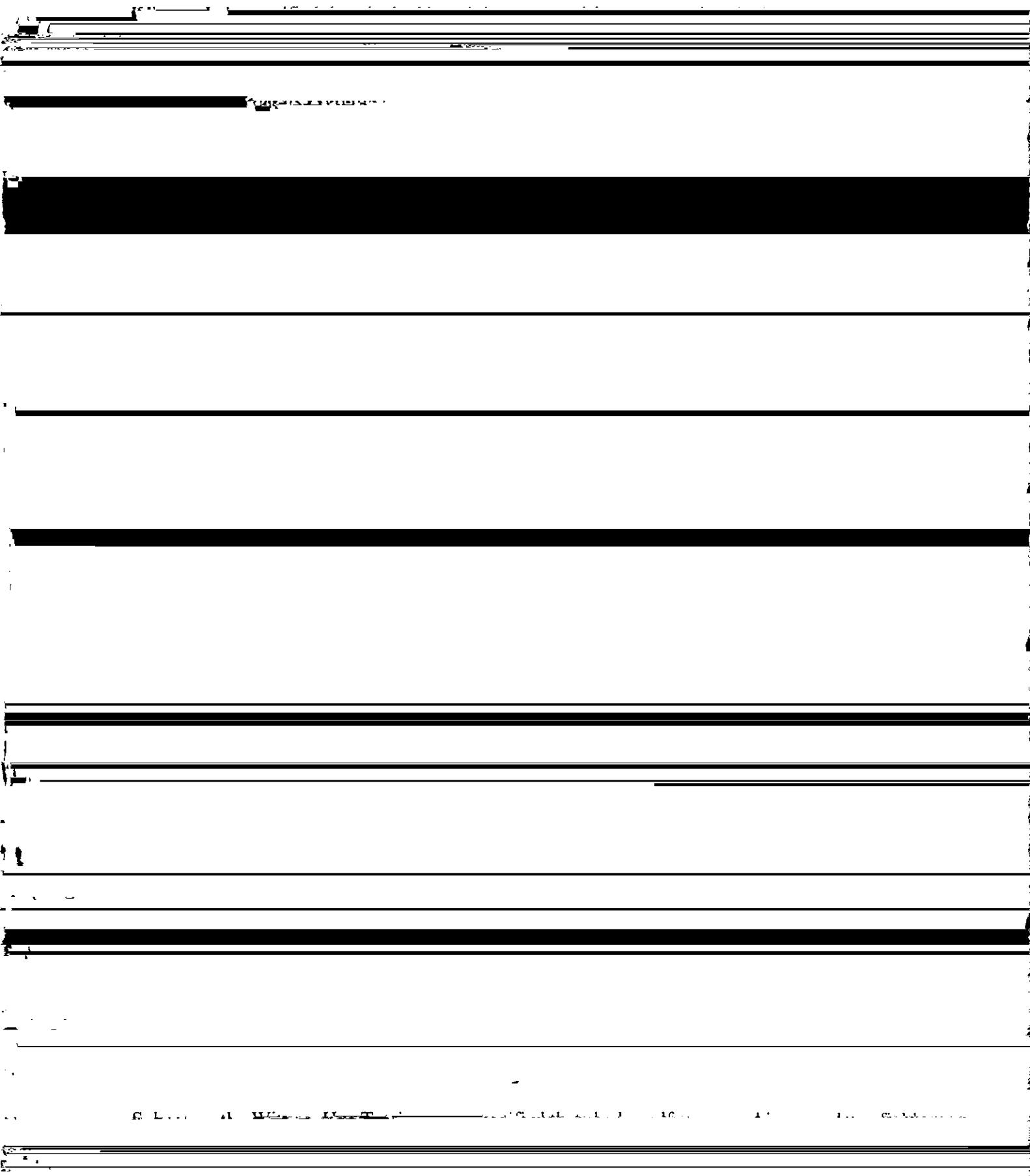
testimony by the Accused. With regard to cross-examination, the Clerk

Prosecution witnesses substantially confirmed their direct testimony. In his testimony, the

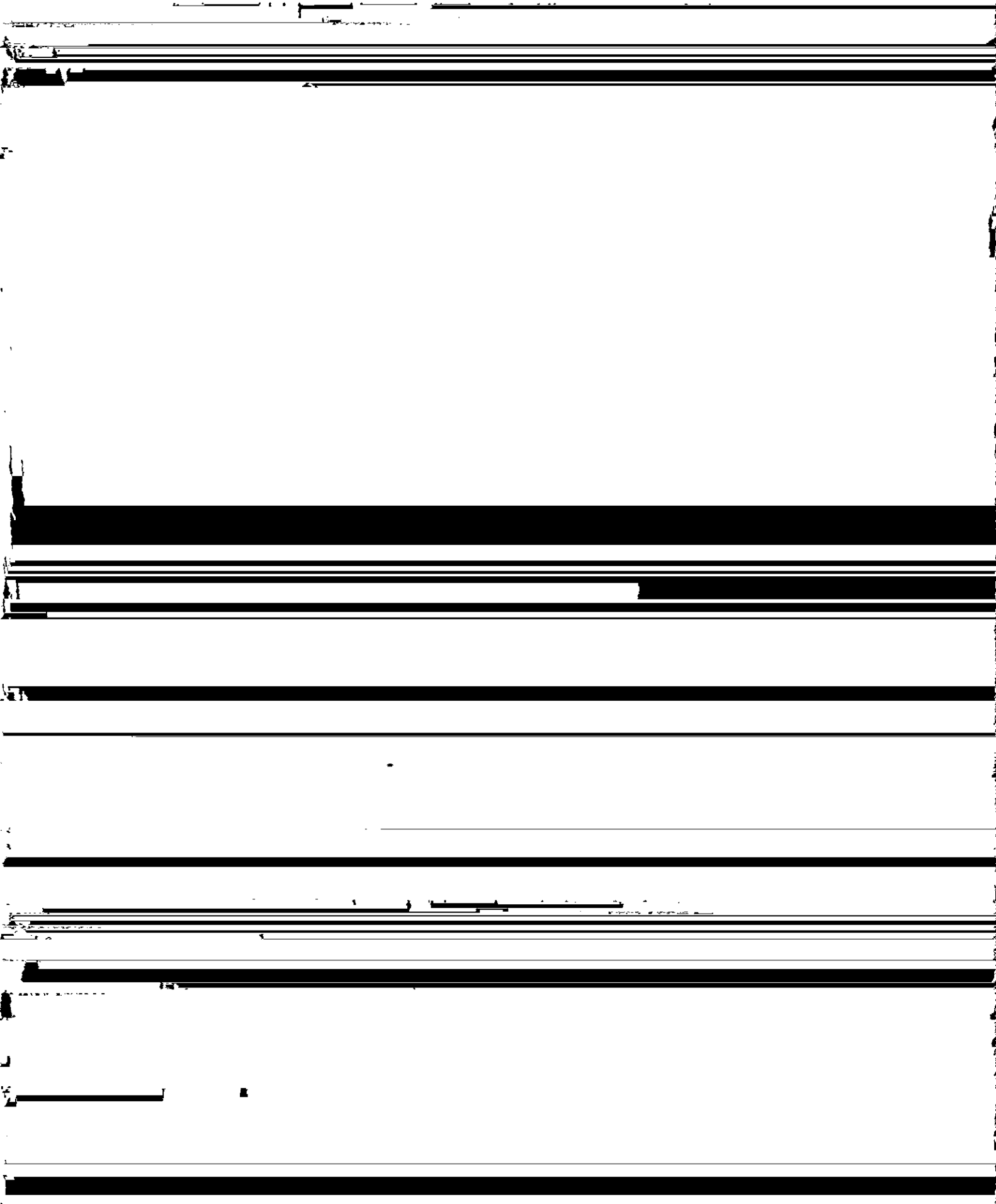
5. General [redacted] (D. [redacted] 12A 6-1994 [redacted])

12A. Between April 7 and the end of June, 1994, hundreds of civilians

by three Interahamwe when they came to kill her father. On examination by the Chamber,



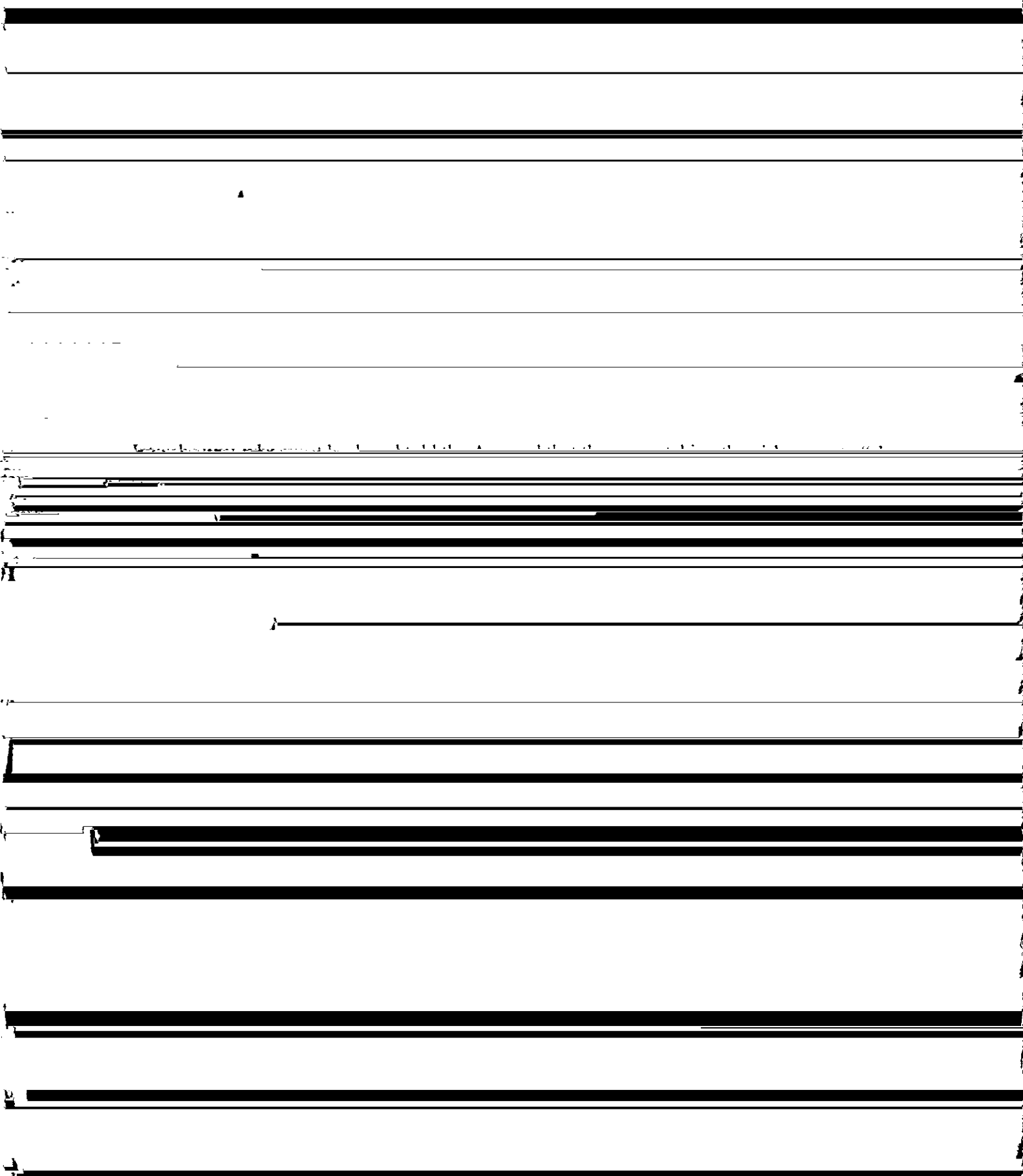
Nevertheless, the Chamber takes note of the interest shown in this issue by non-governmental



she recalled being in the cultural center, having been raped repeatedly by Interhemura, and

hearing the cries of young girls around her, girls as young as twelve or thirteen years old. On the

killing people with machetes. She and two other girls tried to flee but were stopped by the



~~accused~~ in Taha after her home was destroyed. She testified that the Taha refused to

beaten often by the police and the Accused, whom she described as "supervising." She recalled the Accused publicly name a teacher called Tharcisse as an accomplice and send the police to

~~find him. They brought Tharcisse and his wife and made them sit in the car. They~~

this. Afterwards, she said he told the Interahamwes to take her away and said "you should first of all make sure that you sleep with this girl." (*Ngo kandi nababwiye ko muzajya mubanza mukijwanaho mukaronzora abo bakobwa.*) Witness KK also testified regarding the rape of Tutsi

on the road a man and woman who had been killed. She said the woman, whom she knew to be

Witness NN said their mother asked her daughters to leave rather than continue to be tortured in front of her. The girls left and went into hiding with a relative.

432. After hiding for a week and one half, Witness NN said she heard that Akayesu had stopped the killings and she went with her sister towards the bureau.

having taken a different route from her sister, Witness NN said she met two men who said they

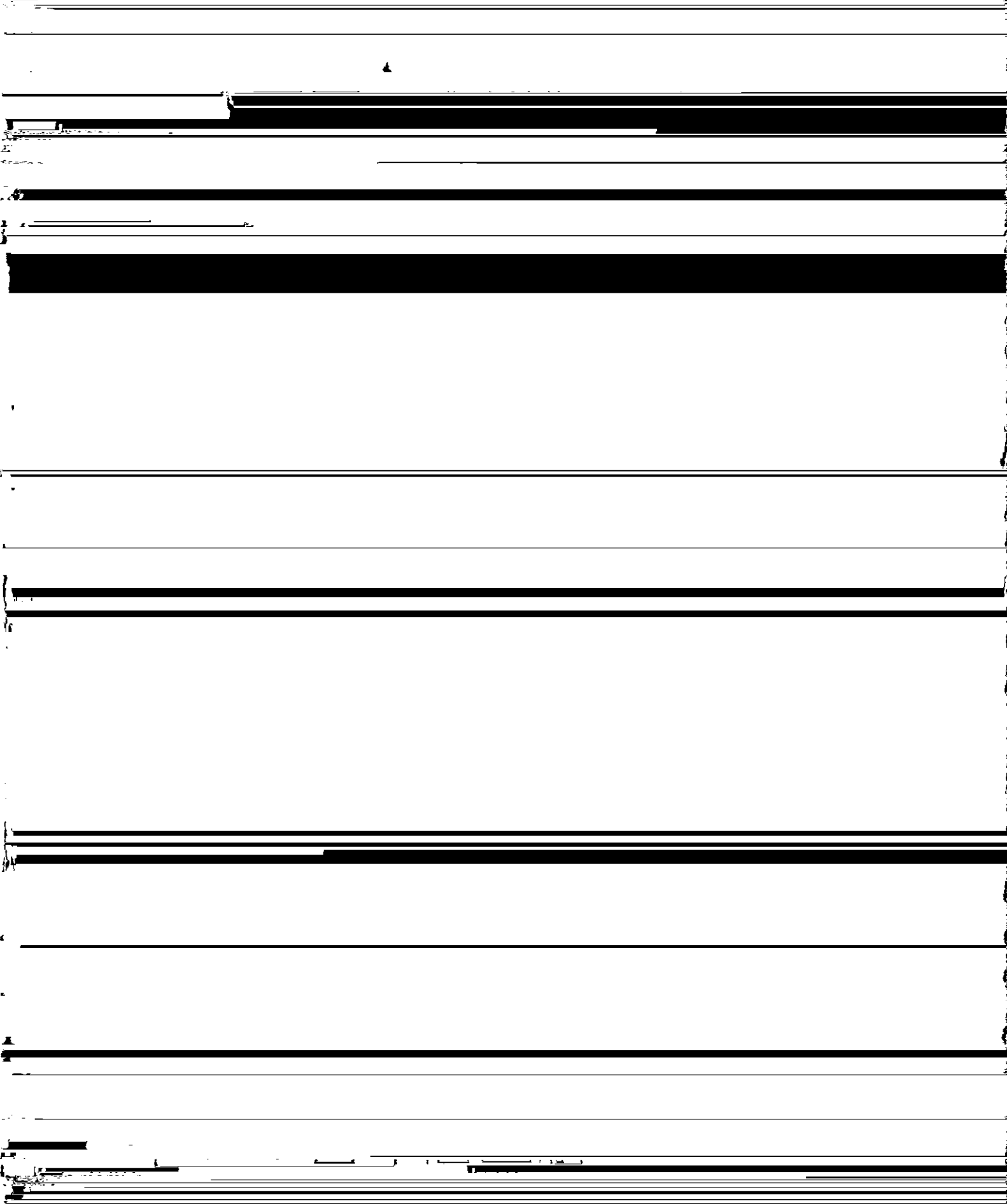
Just that the International did not...

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where she stayed for one week. While she was there, she said she was locked up by Rafiki, who

gave the key to other young men who came and "slept with" her, which she explained meant that they took their "sex" and put it into hers. She did not recall how many times this happened,

and recalled lots of blood coming from her private parts after several men raped her. Louise was



Also, however, it would not have been possible for this case to be used in a similar manner as stated above.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

On cross-examination by the Prosecution, she testified that she herself never went to the bureau

acknowledged that in her written statement submitted to the Def

also testified that the cultural center building is such that it would be difficult to see what was going on inside from the door and that it would be difficult for a woman lying down inside to know who is at the door. The Accused testified that there were women at the cultural center.

outside the bureau communal and that there were women in the cultural center. He denied that the

[The page contains approximately 25 lines of text that have been completely obscured by heavy black redaction bars.]

any communal policemen penetrated rape, and both Witness JJ and Witness KK affirmed that

451. In considering the role of the Accused in the sexual violence which took place and the

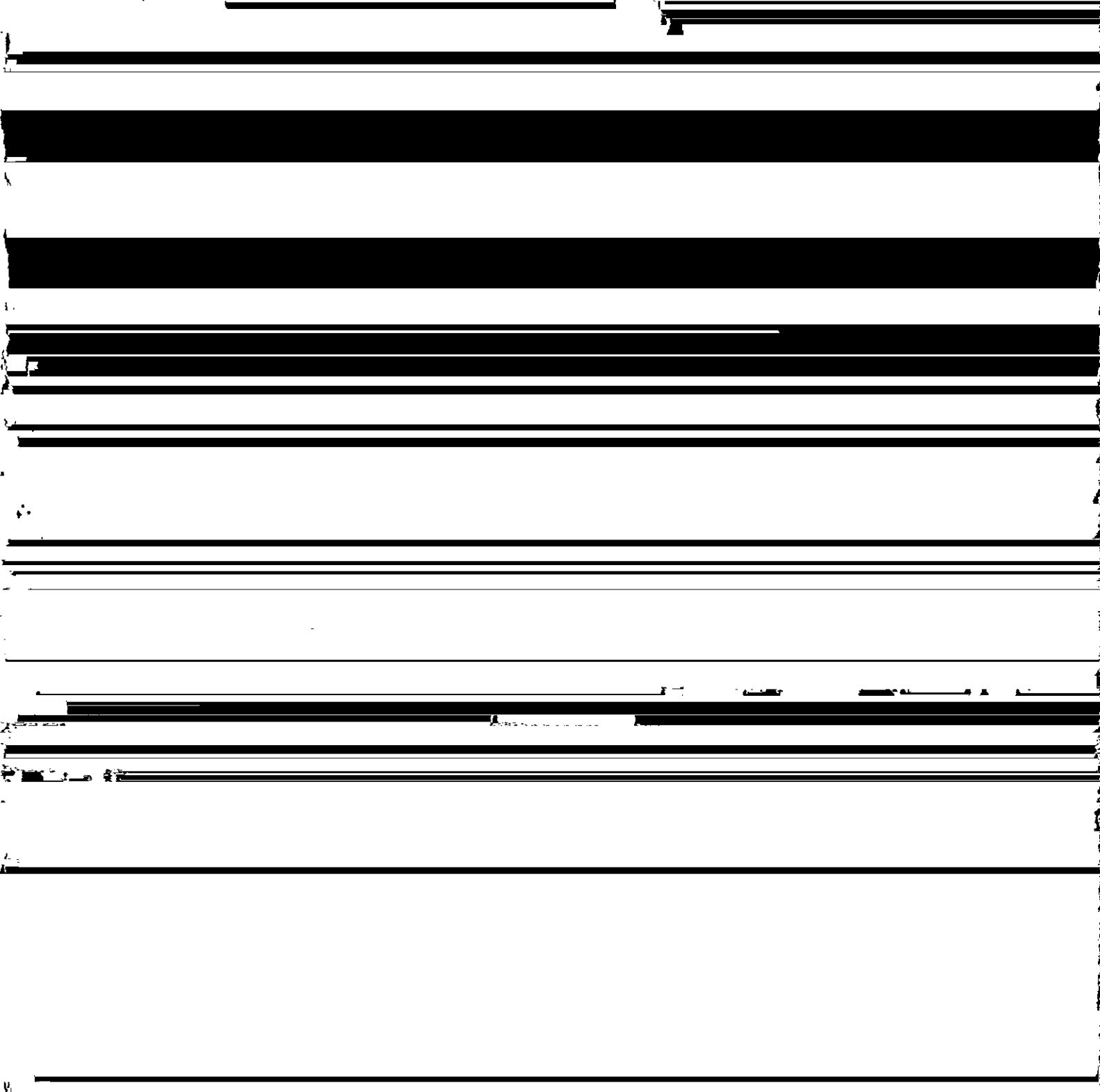
other girls were apprehended by Interahamwe in flight from the bureau communal, the

~~Let's get down to the Accused and told him that the accused said the girls were taken to the~~

them. The Accused said "take them." The Accused told the Interahamwe to undress Chantal and march her around. He was laughing and happy to be watching and afterwards told the Interahamwe to take her away and said "you should first of all make sure that you clean with this."

trial statement, Witness PP had also said "I went out of my house often." The Chamber established that during this period, Witness PP stayed, generally speaking, in the Taba commune, but that she went out of her house often. Selectively quoting from the pre-trial statements, the Defence often suggested inconsistencies which, upon examination or with further explanation, were found not to be inconsistencies.

455 With regard to the inconsistencies which were established by the Defence, the Chamber



What the Defence characterized as the "fantasy" of this witness, which may be "of interest to

psychologists and not justice" the witness characterized as desperation answering his challenge

with the suggestion, "If somebody was chasing you, you would be able to climb a tree."

457. Of the twelve witnesses presented by the Defence, other than the Accused only two - DZZ and DCC - testified that they went regularly to the bureau communal after the killings began in

any time after the killings started. Witness DBB, Witness DAX, Witness DAAX, Witness DIX, Witness DJX, Witness DFX and Witness Matata never went to the bureau communal 1901-1906

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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occurrence of sexual violence at the bureau communal, he does not allow for the possibility that the sexual violence may have occurred but that he was unaware of it.



6. THE LAW

6.1 Cumulative Charges

461. In the amended Indictment, the accused is charged cumulatively with more than one crime

in relation to the same acts of facts in all but count 4. For example, the counts 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

paragraphs 12 to 23 of the Indictment are the subject of three counts of the Indictment: genocide

"In any event, since this is a matter that will only be relevant insofar as it might affect penalty, it can best be dealt with if and when matters of penalty fall for consideration. What can, however, be said with certainty is that penalty cannot be made to depend upon whether offences arising from the same conduct are alleged cumulatively or in the alternative. What is to be punished by penalty is proven criminal conduct and that will not depend upon technicalities of pleading."

Motion on Form of the Indictment at p.10 (No. IT-94-1-T, T.Ch.II, 14 Nov, 1995)

464 In that case, when the matter reached the certain stage, the Trial Chamber II

Code pénal du Rwanda: Chapitre VI - Du concours d'infractions:

Article 03 - Il est puni de la même peine que celle prévue pour l'infraction principale par le même auteur sans qu'une condamnation soit intervenue pour l'une des infractions mentionnées ci-dessus, l'auteur d'une ou plusieurs infractions mentionnées ci-dessus, commises simultanément ou successivement, si ces infractions sont :

par la même auteur sans qu'une condamnation soit intervenue pour l'une des infractions mentionnées ci-dessus, l'auteur d'une ou plusieurs infractions mentionnées ci-dessus, commises simultanément ou successivement, si ces infractions sont :

different interests. The crime of genocide exists to protect certain groups from extermination or attempted extermination. The concept of crimes against humanity exists to protect civilian

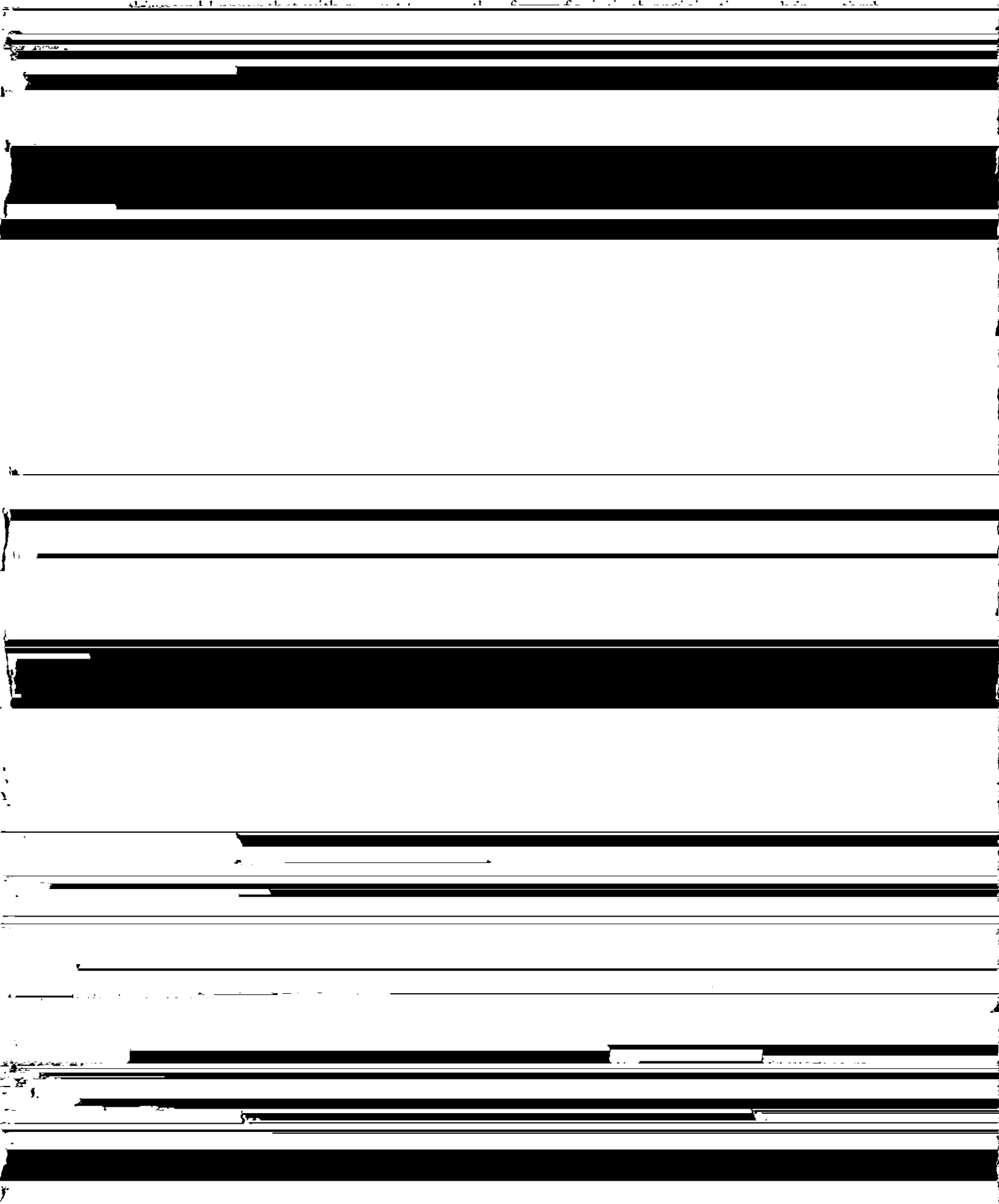
Conventions and of Additional Protocol II is to protect non-combatants from war crimes in civil war. These crimes have different purposes and are, therefore, never co-extensive. Thus it is legitimate to charge these crimes in relation to the same set of facts. It may, additionally, depending on the case, be necessary to record a conviction for more than one of these offences in order to reflect what crimes occurred.

471

The Accused is charged under Article 6(1) of the Statute of the Tribunal with individual

[REDACTED]

responsibility for an attempt to commit a crime obtained only in case of genocide⁸⁰. Conversely,



478. This intent can be inferred from a certain number of facts as concerns genocide crimes

against humanity and some crimes for instance. From their nature and

their atrocity, to be considered *infra* in the judgment, in the Tribunal's findings on the law

legal systems and under Civil law in particular the two concepts are _____

Furthermore, and even assuming that the two words were synonymous, the question would be to

700

abetted in the planning, preparation or execution of a crime referred to in Articles 2 to 4 (...)"

about to commit such acts or had done so and the superior failed to take the
necessary and reasonable measures to prevent such acts or to punish the

490. As to whether the form of individual criminal responsibility referred to Article 6 (3) of the

Statute applies to persons in positions of high official authority, the

not be had the power to take all necessary and reasonable measures to prevent the commission of

the alleged crimes or to punish the perpetrators thereof.

6.3. Genocide (Article 2 of the Statute)

6.3.1. Genocide

[REDACTED]

(f) . Forcibly transferring children of the group to another group."

405 The Commission on the Status of Women, 1946, p. 10.

listed under Article 2(2) of the Statute be committed, that the particular act be committed as a

a specifically targeted group, it being a national, ethnical, racial or religious group.

opinion, by its constitutive physical elements, the very crime of genocide, necessarily entails premeditation.

Causing serious bodily or mental harm to members of the group

r.

life calculated to bring about its physical destruction in whole or in part, should be construed as the methods of destruction by which the perpetrator does not immediately kill the members of the

506. For purposes of interpreting Article 2(2)(c) of the Statute, the Chamber is of the opinion

509. With respect to forcibly transferring children of the group to another group, the Chamber

has found the evidence that, in the case of measures intended to prevent births, the objective is not

only to sanction a direct act of forcible physical transfer but also to sanction acts of threats or

514. The conventional definition of racial group is based on the hereditary physical traits often

identified with a geographical area. _____

factors.

515. The religious group is one whose members share the same religion, denomination or mode of worship.

516. Moreover, the Chamber considered whether the groups protected by the Genocide Convention, echoed in Article 2 of the Statute, should be limited to only the four groups expressly mentioned and whether they should not also include any group which is stable and permanent like

The image shows a table with multiple rows and columns. The content of the table is almost entirely obscured by thick, solid black horizontal bars. The bars are positioned across the rows, often spanning the width of the entire row or covering significant portions of it. The only visible elements are the thin lines that define the structure of the table, including the horizontal lines separating the rows and the vertical lines separating the columns. The overall appearance is that of a redacted or heavily censored document.

522 The perpetration of the act charged therefore extends beyond its actual commission for

[REDACTED]

Thus, in the matter brought before the International Criminal Tribunal for the former Yugoslavia, the Trial Chamber, in its findings, found that

“this intent derives from the combined effect of speeches or projects laying the

groundwork for and justifying the acts, from the massive scale of the acts, and from

effect and from their specific nature, which aims at undermining what is

527. The Chamber notes that complicity is viewed as a form of criminal participation by all criminal law systems, notably, under the Anglo-Saxon system (or Common Law) and the Roman-

who associates himself in an offence committed by another¹⁰⁴, complicity necessarily implies the existence of a principal offence.¹⁰⁵

528. According to one school of thought, complicity is 'borrowed criminality' (criminalité d'emprunt). In other words, the accomplice borrows the criminality of the principal perpetrator.

of genocide has, indeed, been committed.

531. The issue thence is whether a person can be tried for complicity even where the perpetrator

of the principal offence himself has not been tried. Under Article 30 of the Rome Statute, 10.1

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

"may be prosecuted even where the perpetrator may not face prosecution for

printed matter in public places or at public gatherings, or through the public display of placards or

posters, and complicity by harbouring or aiding a criminal. Indeed, according to Article 91 of the Rwandan Penal Code:

1. A person or persons who by means of gifts, promises, threats, abuse of authority or power, culpable machinations or artifice, directly incite(s) to

... "incitation" (incitement), on the one hand, as provided for in paragraph 1

1 of said Article, and "*incitation*" (incitement), on the other, which is referred to in paragraph 4

[REDACTED]

genocide this

[REDACTED]

willingness to participate in the principal offence did not have to be established¹¹⁰. As a result, anyone who knowing of another's criminal purpose, voluntarily aids him or her in it, can be convicted of complicity even though he regretted the outcome of the offence.

⁵⁴⁰ As for genocide is concerned, the intent of the accomplice is thus to knowingly aid or

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ethnic, racial or religious group, as such.

546 ~~At this juncture, the Chamber will address another issue, namely that which, with respect~~

~~to a violation of genocide occurred under Article 2(2)(a) of the Statute, in that it is not~~

The International Criminal Tribunal for the Former Yugoslavia also concluded in the Tadić

Crime against Humanity".¹¹⁸

551. At the time the Convention on Genocide was adopted, the delegates agreed to expressly

[REDACTED]

554. Under the Statute, direct and public incitement is expressly defined as a specific crime.

punishable as such, by virtue of Article 2(3)(c). With respect to such a crime, the Chamber deems

it appropriate to first define the three terms: incitement, direct and public

L

556. The public element of incitement to commit genocide may be better appreciated in light

selective or limited. A line of authority commonly followed in Civil law systems would regard words as being public where they were spoken aloud in a place that were public by definition¹²⁵.

characterized as incitement, or provocation in this case, and a specific offence¹²⁹. However, the

its cultural and linguistic content. Indeed, a particular speech may be perceived as "direct" in one

The image shows a table with multiple rows and columns. The content is almost entirely obscured by heavy black redaction bars. Only a few faint lines and small gaps are visible, suggesting a complex grid structure. The redaction covers the majority of the data cells, leaving only the skeletal framework of the table visible.

6.4. Crimes against Humanity (Article 3 of the Statute)

Crimes against Humanity: Historical development

563. Crimes against humanity were recognized in the Charter and Judgment of the Nuremberg

Tribunal and the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR).

May 1915, the Governments of France, Great Britain and Russia made a declaration regarding the massacres of the Armenian population in Turkey, denouncing them as "crimes against humanity

The district court in the Fichmann stated that crimes against humanity differs from genocide in

570 This case is covered by the provisions of the Charter of the Nuremberg Tribunal.

Court held that:

The fact that the accused, who had been found guilty of one of the crimes enumerated in Article 6(c) of the Charter of the Nuremberg Tribunal, in

perpetrating that crime took part in the execution of a common plan to bring about the deportation or extermination of the civilian population during the war, or persecutions on political, racial or religious grounds, constituted not a distinct offence or an aggravating circumstance but rather *an essential element of the crime against humanity, consisting of the fact that the acts charged were performed in a systematic manner in the name of a State practising by those means a policy of ideological supremacy*¹⁴⁰ (Emphasis added)

679 ...

Y ...

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[Redacted]

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[Redacted]

[Redacted]

... of ...

[Redacted]

[Redacted]

[Redacted]

576. This conclusion is supported by case law. In the Barbie case, the French Cour de Cassation said that:

"inhumane acts and persecution which in the name of a State practising a policy of

ideologica l hegemony, were committed systematically or collectively not only against individuals because of their membership in a racial or religious group but also against the

jurisdiction to prosecute persons for various inhumane acts which constitute crimes against humanity. This category of crimes may be broadly broken down into four essential elements.

namely :

(i) the act must be inhumane, that is to say, it must be of a nature which is likely to cause serious injury to body or to mental or physical health;

(ii) the act must be committed as part of a wide spread or systematic attack;

(iii) the act must be committed against persons who are civilians, that is to say, persons who are not taking part in the hostilities;

must however be some kind of preconceived plan or policy.¹⁴⁵

581 The concept of 'attack' maybe defined as a unlawful act of the kind enumerated in Article

3(a) to (I) of the Statute, like murder, extermination, enslavement etc. An attack may also be non

583. The Statute stipulates that inhumane acts committed against the civilian population must

be committed on 'national, political, ethnic, racial or religious grounds.' Discrimination on the basis of a person's political ideology satisfies the requirement of 'political' grounds as evidenced

in Article 3 of the Statute. For definitions on national, ethnic, racial or religious grounds see supra.

584. Inhumane acts committed against persons not falling within any one of the discriminatory categories could constitute crimes against humanity if the perpetrator's intention was to further

identify those the group discriminated against on one of the grounds listed in Article 3 of the Statute.

Murder

[The following text is completely obscured by heavy horizontal black redaction bars.]

591. The Chamber considers that extermination is a crime against humanity, pursuant to

~~Article 2(2) of the Statute of the International Criminal Tribunal for Rwanda~~

a group of individuals. Extermination differs from murder in that it requires an element of mass destruction which is not required for murder.

capacity 149

definition of this term in international law. While rape has been defined in certain national jurisdictions as non-consensual intercourse, variations on the act of rape may include acts which

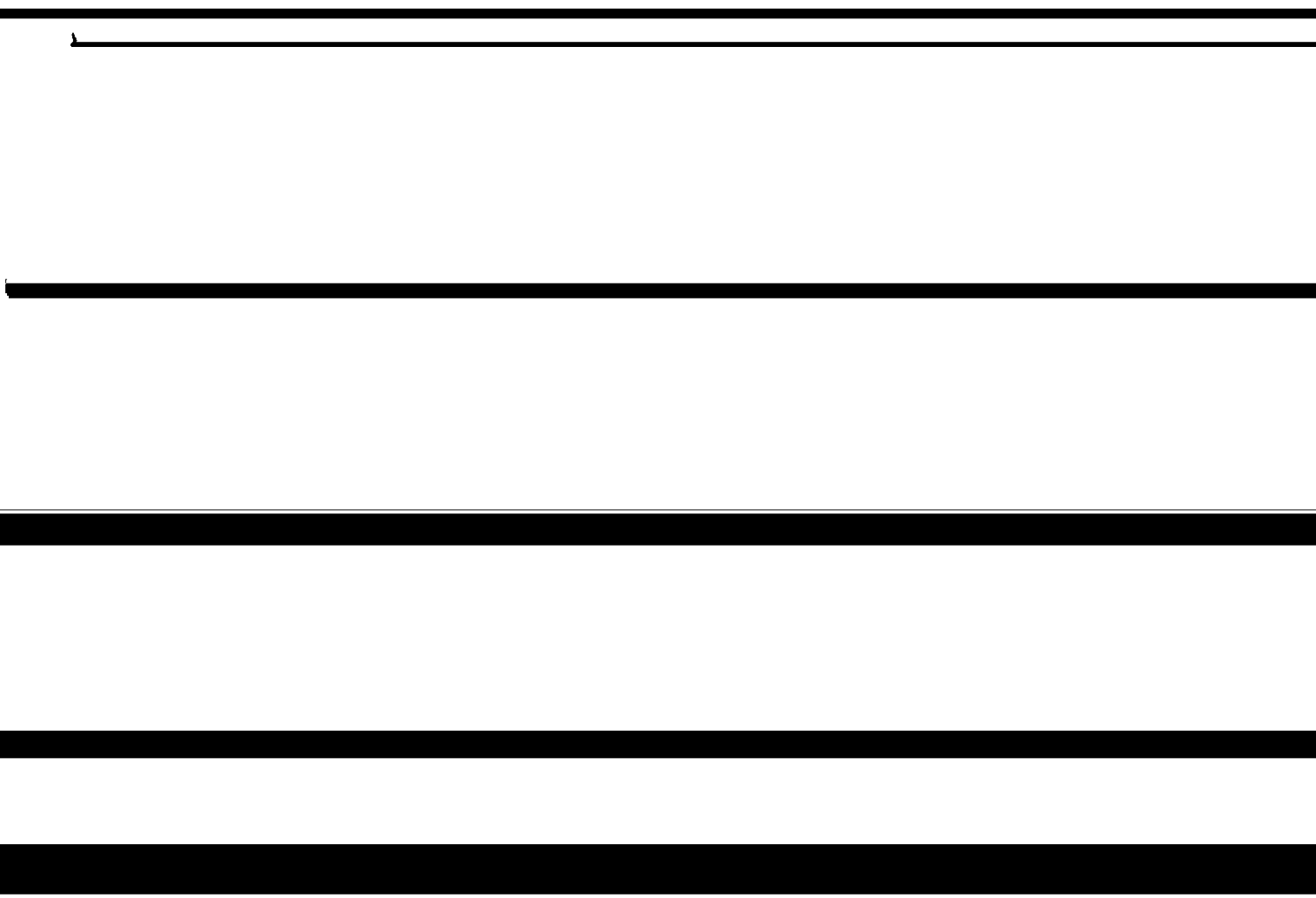
~~include the insertion of objects and/or...~~

6.5. Violations of Common Article 3 and Additional Protocol II (Article 4 of the Statute)

Article 4 of the Statute

599. Pursuant to Article 4 of the Statute, the Chamber shall have the power to prosecute persons committing or ordering to be committed serious violations of Article 3 common to the four

~~Common Article 3 of the Geneva Conventions of 1949 and Additional Protocol II of 1975~~



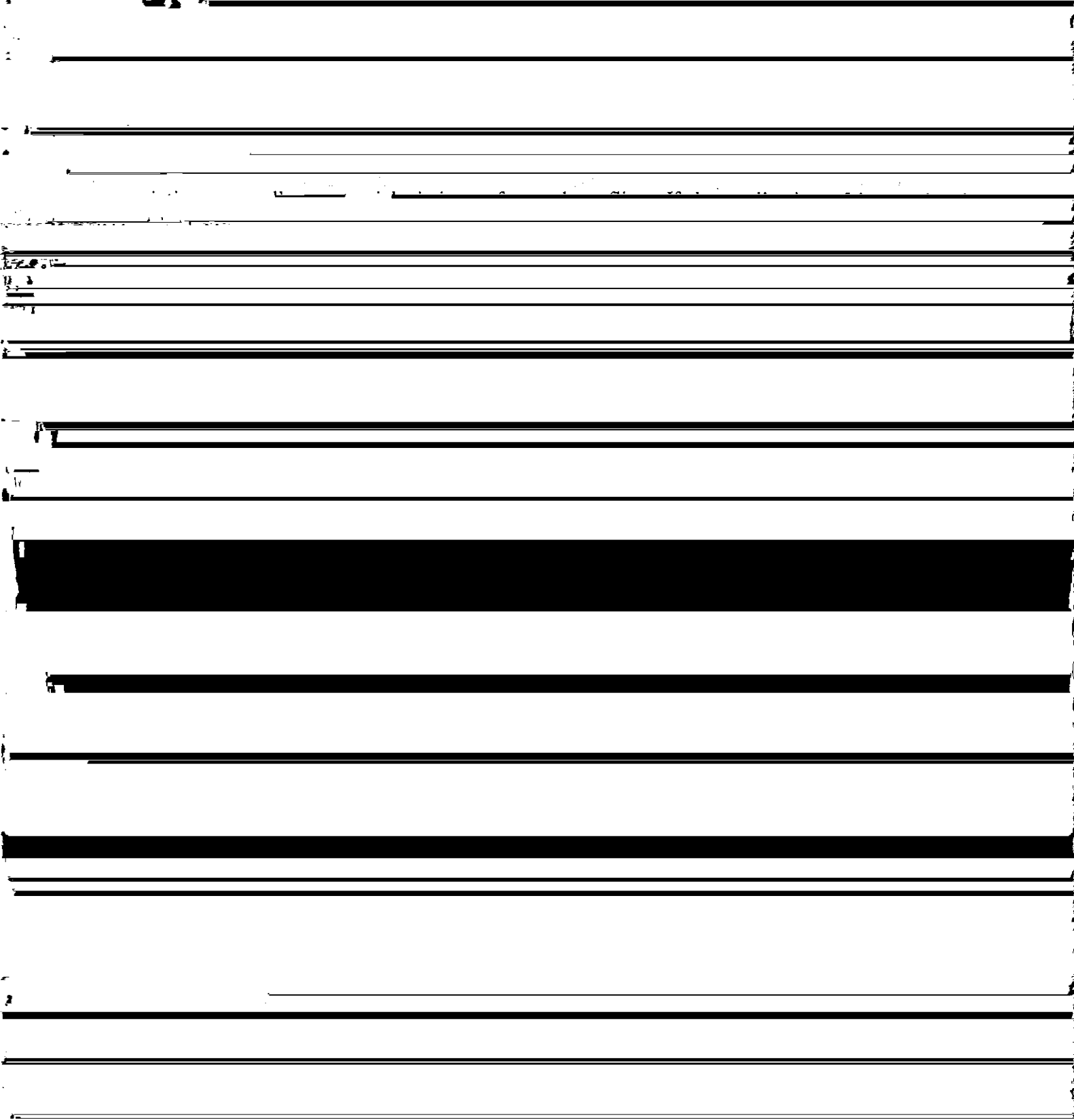
h) threats to commit any of the foregoing acts.

600 Prior to developing the elements for the above cited offenses contained within Article 4

of the Criminal Code, the following information is provided:

conflict, rather it merely develops and supplements the rules contained in Common Article 3 without modifying its conditions of application.¹⁵⁰

603. It should be stressed that the ascertainment of the intensity of a non-international conflict does not depend on the subjective judgment of the parties to the conflict. It should be recalled that the four Geneva Conventions, as well as the two Protocols, were adopted primarily to protect the



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such but, rather, to look only at the relevant parts of Common Article 3 and Additional Protocol

II in the context of this trial. Indeed, the Security Council has itself never explicitly determined

how an armed conflict should be characterized. Moreover, the Security Council has never

by the ICTY Trial Chamber in the Tadić judgment¹⁵⁵ that Article 3 of the ICTY Statute (Customs of War) being the body of customary international humanitarian law not covered by Articles 2

ARTICLE 3 OF THE ICTY STATUTE - CUSTOMS OF WAR - APPLICABLE TO ALL CONFLICTS - UNLESS OTHERWISE SPECIFIED IN THIS STATUTE

Individual Criminal Responsibility

sufficient merely to affirm that Common Article 3 and parts of Article 4 of Additional Protocol II - which comprise the subject-matter jurisdiction of Article 4 of the Statute - form part of international customary law. Even if Article 6 of the Statute provides for individual criminal responsibility as pertains to Articles 2, 3 and 4 of the Statute, it must also be shown that an

“ All of these factors confirm that customary international law imposes criminal

principles and rules on protection of victims of international law

that an armed conflict exists whenever there is protracted armed violence between

its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol”.

623. Thus, the conditions to be met to fulfil the material requirements of applicability of Additional Protocol II at the time of the events alleged in the Indictment would entail showing that:

~~623. Thus, the conditions to be met to fulfil the material requirements of applicability of Additional Protocol II at the time of the events alleged in the Indictment would entail showing that:~~

Rwanda, between its armed forces and dissident armed forces or other organized armed

parties to the conflict. Under Additional Protocol II, the parties to the conflict will usually either be the government confronting dissident armed forces, or the government fighting insurgent organized armed groups. The term 'armed forces' of the High Contracting Party is to be defined

broadly, so as to cover all armed forces as described within national legislations.

696 The armed forces comprise the regular and irregular military forces of the High Contracting Party.

bound by the rules of International Humanitarian law¹⁷⁰. The Chamber finds the said conflict to have been an internal armed conflict within the meaning of Additional Protocol II. Further, the

Ratione personae

¹⁷⁰ Two distinct issues arise with respect to personal jurisdiction over the accused. First, the

~~pythons are responsible for the~~

[REDACTED]

principle of holding civilians liable for breaches of the laws of war is, moreover, favored by a

Additional Protocols, which is to protect war victims from atrocities.

634. Thus it is clear from the above that the laws of war must apply equally to civilians as to

throughout its decision-making process. The International Committee of the Red Cross (ICRC) has consistently held that the provisions of Article 3 of the Geneva Convention apply to all persons in the hands of a party to the conflict, whether or not they are engaged in combat, and whether or not the territory is under its control.

[common] Article 3 also apply outside the narrow geographical context of the actual theatre of combat operations”¹⁷⁴.

¹⁷⁴ Thus the mere fact that Davao was engaged in an armed conflict was sufficient to ensure that the provisions of Article 3 of the Geneva Convention apply to all persons in the hands of a party to the conflict, whether or not they are engaged in combat, and whether or not the territory is under its control.

7. LEGAL FINDINGS

7.1. Counts 6, 8, 10 and 12 - Violations of Common Article 3 (murder and equal treatment) and Count 15 - Violations of Common Article 3 and

Additional Protocol II (outrages upon personal dignity, in particular rape...)

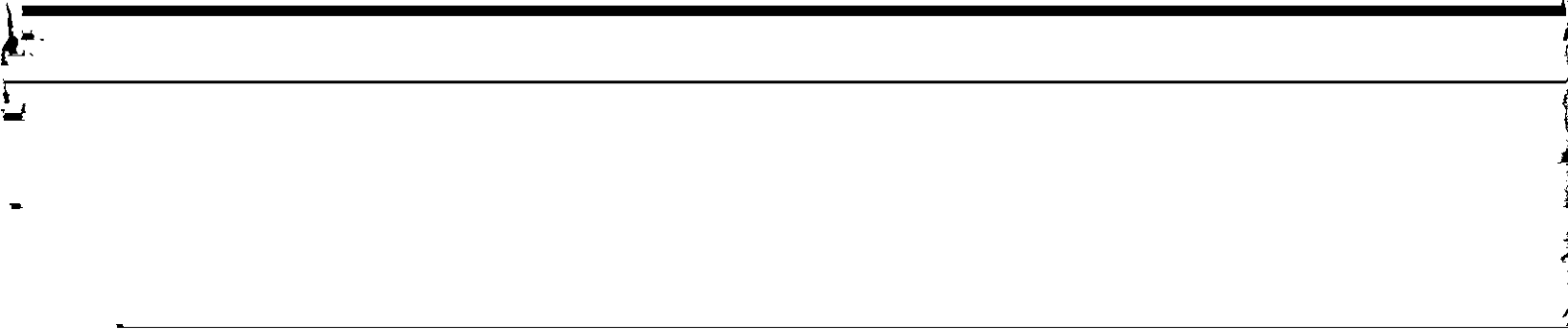
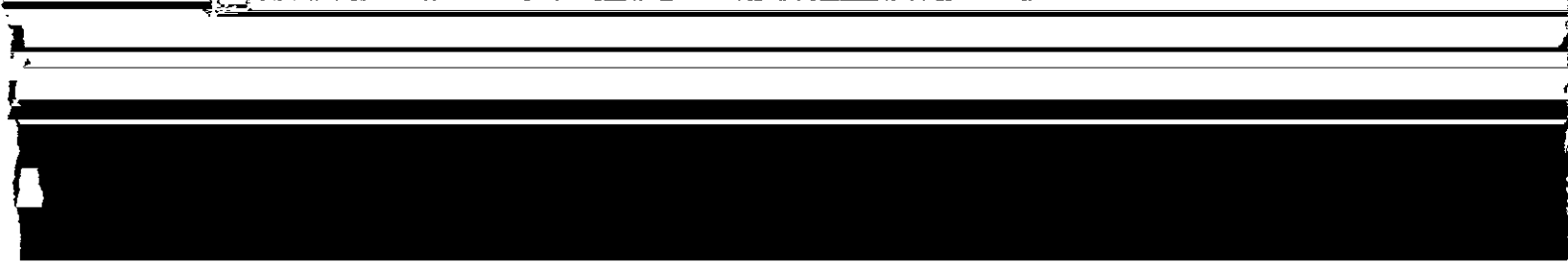
638. Counts 6, 8, 10, and 12 of the Indictment charge Akayesu with Violations of Common Article 3 of the 1949 Geneva Conventions, and Count 15 charges Akayesu of Violations of

641. [Illegible text]

or *de facto* representing the Government, to support or fulfil the war efforts.

644. The Tribunal therefore finds that Jean-Paul Akayesu did not incur individual criminal

responsibility for the crimes against humanity and genocide as charged in the Indictment.



7.3 Count 5 - Crime against Humanity (murder)

645. Count 5 of the indictment charges the Accused with a crime against humanity (murder), pursuant to Article 3(a) of the Statute, for the acts alleged in paragraphs 15 and 18 of the indictment.

651. The Chamber finds beyond a reasonable doubt that in ordering the killing of Simon Mutijima, Thaddée Uwanyiligira and Jean Chrysostome, the Accused is individually criminally responsible for the death of these victims pursuant to Article 6(1) of the Statute.

652. The Chamber finds beyond a reasonable doubt that there was a widespread and systematic

7.3. Count 7 - Crimes against Humanity (murder)

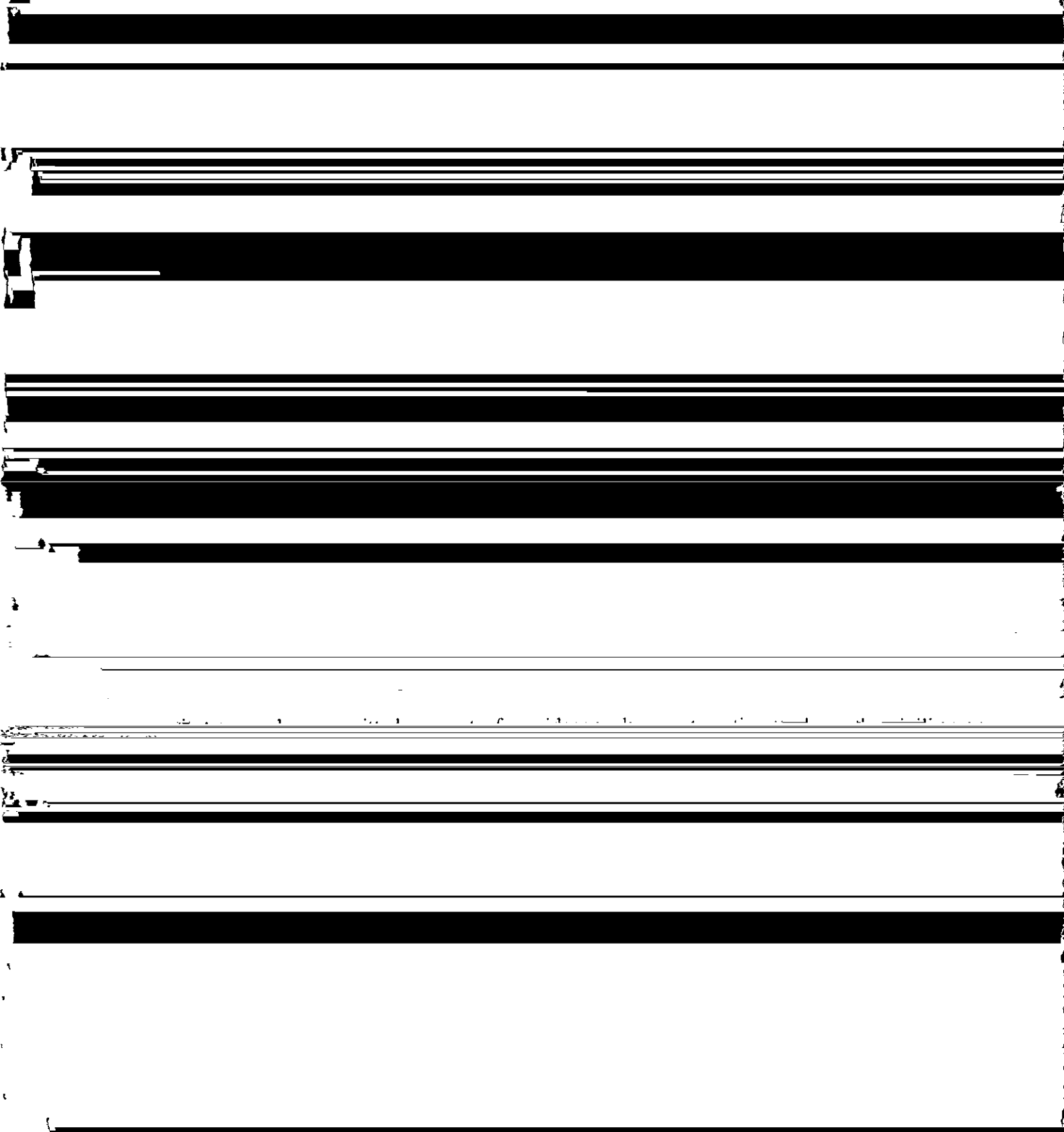
654. Count 7 of the indictment charges the Accused with a crime against humanity (murder), pursuant to Article 3(a) of the Statute, for the acts alleged in paragraph 19 of the indictment.

655. The definition of crimes against humanity, including the various elements that comprise

[REDACTED]

formed part of this attack.

(S) The Ok... of... and... that the... of... of...



7.4. Count 9 - Crimes against Humanity (murder)

66? Count 9 of the indictment charges the Accused with a crime against humanity (murder)

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pursuant to Article 6(1) of the Statute.

670. The Chamber finds beyond a reasonable doubt that there was a widespread and systematic

formed part of this attack.

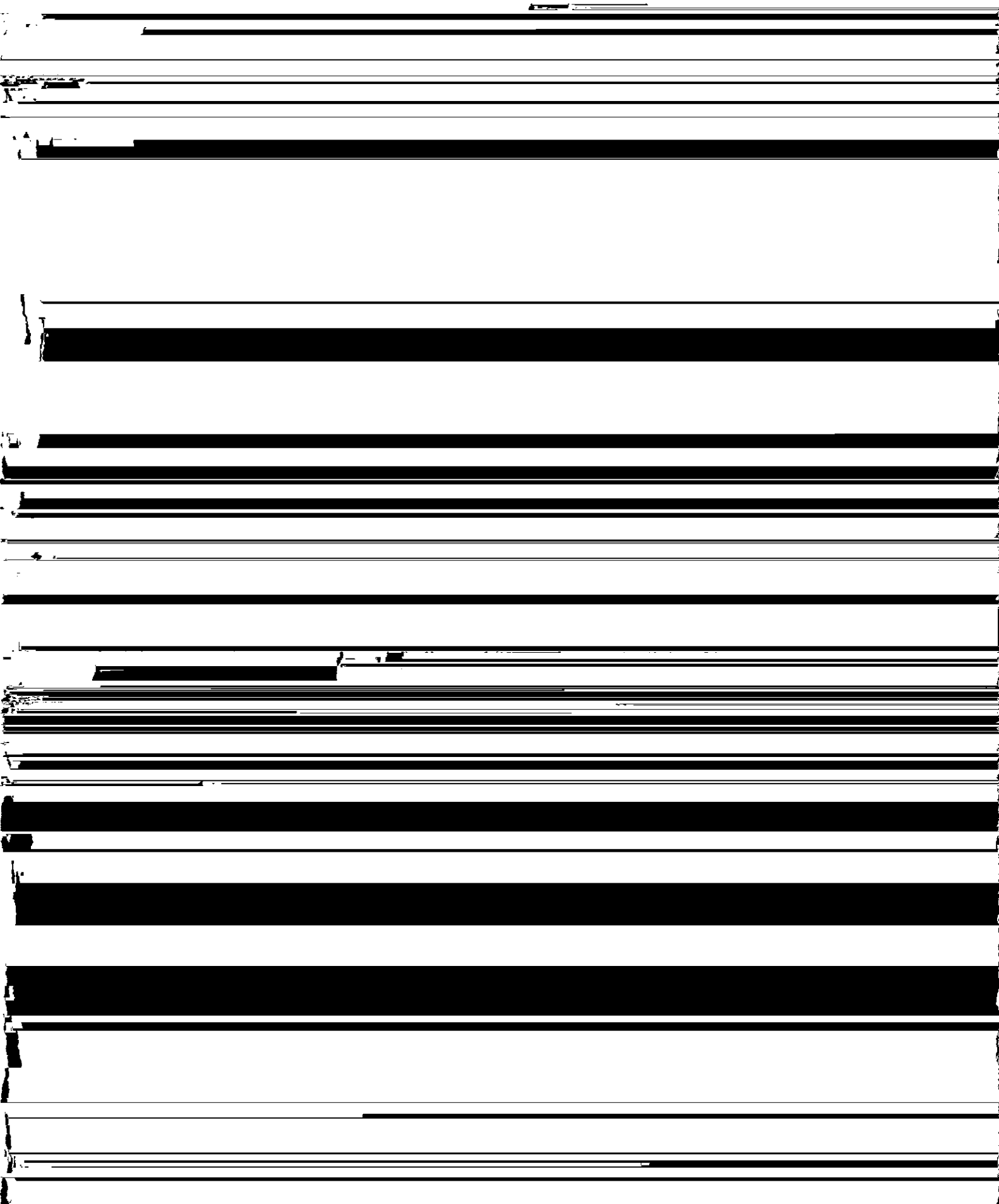
671. The Chamber finds beyond a reasonable doubt that the killing of these five people

672. Count 4 deals with the allegations described in paragraphs 14 and 15 of the Indictment, relating essentially to the speeches that Akoyev reportedly made at a meeting held in Gikhsukha

in the Indictment, to label anyone in public as an accomplice of the RPF would put such a person in danger.

(vii) The Chamber is of the opinion that there is a causal relationship between Alauzen's speeches at the gathering of 10 April 1994 and the

[REDACTED]



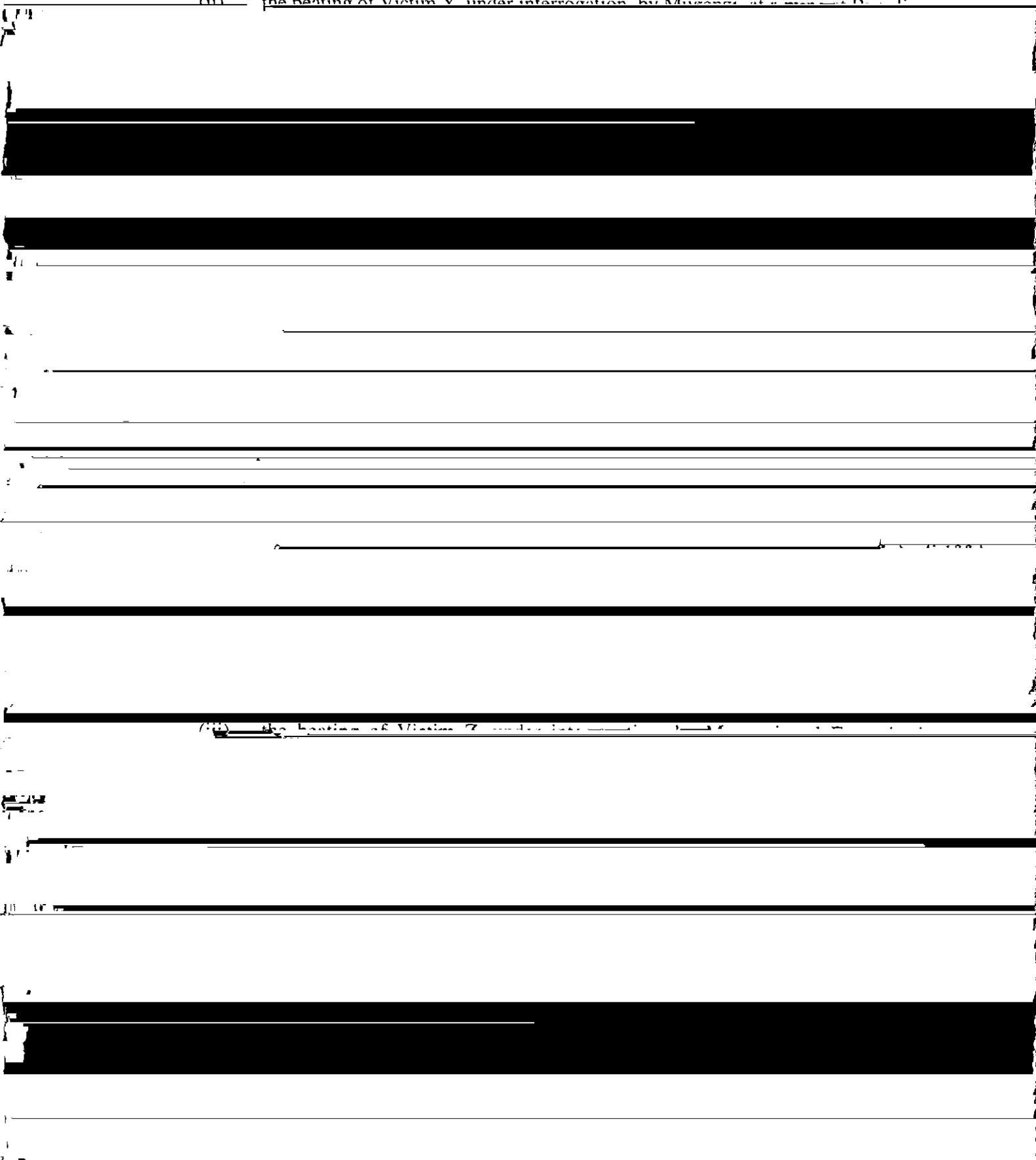
beating of Victim Y under interrogation by Mugenzi, in the presence of the

Accused, on 20 April 1994;

- (iv) the interrogation of Victim W, under threat to her life, at a mine at Buguli by the Accused, on 20 April 1994;
- (v) the beating of Victim Z under interrogation by the Accused, and by Mugenzi and Francois in the presence of the Accused, in Gishyeshye Sector, on 20 April 1994;

humanity under Article 3(a) of its Statute:

- (i) the beating of Victim Y outside of her house by Mugenzi on 20 April 1994;
- (ii) ~~the beating of Victim Y under interrogation by Mugenzi at a prison in D...~~



**7.7. Count 13 (rape) and Count 14 (other inhumane acts) - Crimes against
Humanity**

[REDACTED]

finds this approach more useful in the context of international law. Like torture, rape is used for such purposes as intimidation, degradation, humiliation, discrimination, punishment, control or

of persons. The torture was in violation of personal dignity and was in fact

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

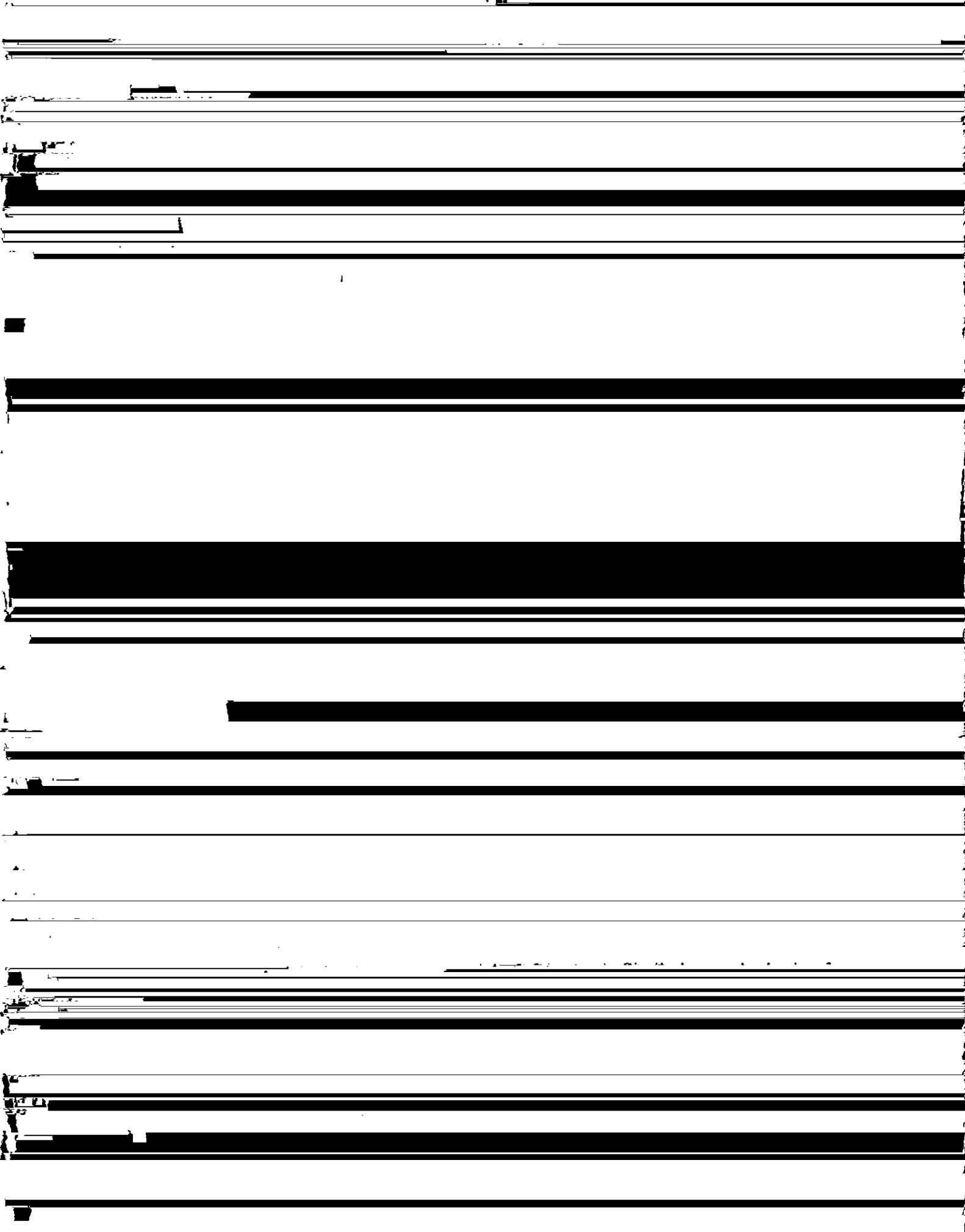
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



692. The Tribunal finds, under Article 6(1) of its Statute, that the Accused, by his own words,

[REDACTED]

(c) [REDACTED] the multiple acts of rape of ten girls and women, including Witness II, by

[REDACTED]

acts of sexual violence which, by virtue of his authority, sent a clear signal of official tolerance for sexual violence, without which these acts would not have taken place:

[REDACTED]

communal and raped her in a nearby forest;

(b) the rape of the younger sister of Witness NN1 by an Interahamwe at the bureau

[REDACTED]

(iv) the rape of Witness OO by an Interahamwe named Antoine in a field near the bureau communal;

communal witnessed by Witness NN;

(v) the rape of the younger sister of Witness NN by an Interahamwe at the bureau

7.8. Count 1 - Genocide, Count 2 - Complicity in Genocide

600 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

the four groups in terms of its stability and permanence, should also be included. The Chamber

should also suggest the intent of the drafters of the Genocide

[REDACTED]

killings and destruction of property of the Tutsi in the area of the ...

Tutsi, and endorsed and even ordered the killing of several Tutsi.

705. In the opinion of the Chamber, the said acts indeed incur the individual criminal responsibility of Akoum for having ordered, committed, or otherwise aided and abetted in the

perception of the killings of members of the Tutsi group and the infliction of

mental harm on members of said group.

708. The Chamber found *supra*, with regard to the facts alleged in **paragraph 13** of the Indictment, that the Prosecutor failed to demonstrate beyond reasonable doubt that they are established.

709. As regards the facts alleged in **paragraphs 14 and 15** of the Indictment, it is established

711. With respect to the Prosecutor's allegations in **paragraph 16** of the Indictment, the Chamber is satisfied beyond a reasonable doubt that on 10 April 1994, Akayesu

threatened to kill victim II, a Tutsi woman, while she was being interrogated. He did so by

the killings of members of the Tutsi group and the infliction of serious bodily and mental harm

716 Regarding the allegations in paragraph 10, the Chamber found that [redacted]

a communal policeman, one Mugenzi, who was armed at the time of the events in question, went to the house of Victim Y, a 69 year old Hutu woman, to interrogate her on the whereabouts of Alexia the wife of Professor Ntereve. During the questioning which took place in the presence

of Akayesu, the victim was hit and beaten several times. In particular, she was hit with the barrel

Akayesu to lie on the ground. Akayesu himself beat her on her back with a stick. Later on, he had

general context in which other vulnerable acts were perpetrated systematically against the same

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

harm on the victims¹⁸¹ and are even, according to the Chamber, one of the worst ways of inflict
harm on the victim as he or she suffers both bodily and mental harm. In light of all the evidence

722

most cases, the rapes of Tutsi women in Taba, were accompanied with the intent to kill those

women. Many rapes were perpetrated near mass graves where the women were taken to be killed.

7.9. Count 3 - Crimes against Humanity (extermination)

735. Count 3 of the indictment charges the Accused with crimes against humanity

of the indictment.

736. The definition of crimes against humanity, including the various elements that comprise the enumerated offences under Article 3 of the Statute have already been discussed.

741. The Chamber finds beyond a reasonable doubt that in ordering the killing of the eight refugees as well as Simon Mutijima, Thaddée Uwanyiligira, Jean Chrysostome, Samuel, Tharcisse,

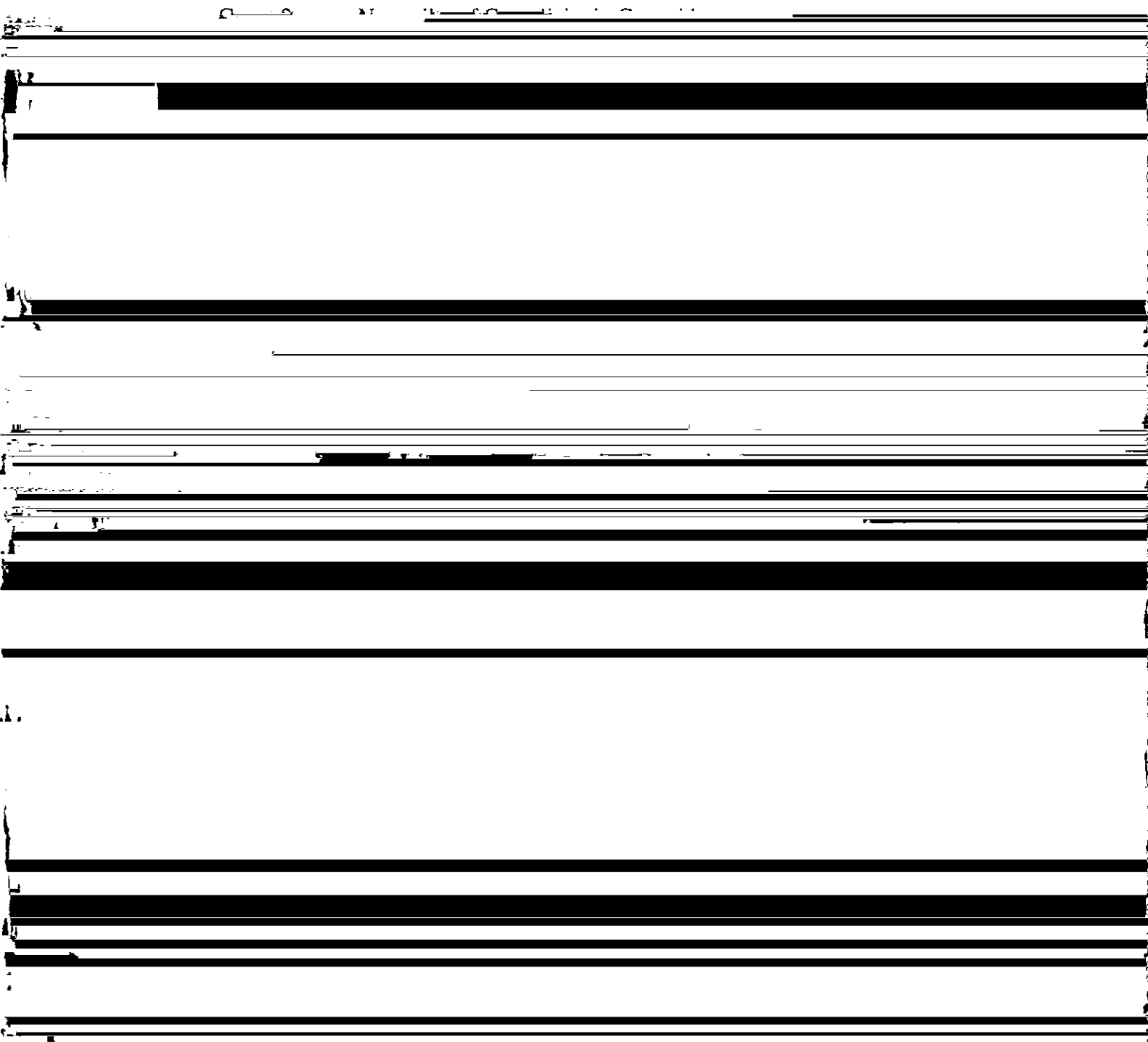


8. VERDICT

FOR THE FOREGOING REASONS, having considered all of the evidence and the arguments.

THE CHAMBER unanimously finds as follows:

Count 1: Guilty of Genocide



Count 12: Guilty of Violation of Article 3 common to the Geneva Conventions

(Cruel Treatment)

Count 13: Guilty of Crime against Humanity (Rape)

Count 14: Guilty of Crime against Humanity (Other Inhumane Acts)

Count 15: Not guilty of Violation of Article 3 common to the Geneva Conventions