

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

MADAME HABYARIMANA, individually, and for the
estate of President of Rwanda, JUVÉNAL HABYARIMANA;

MADAME NTARYAMIRA, individually and for the
estate of President of Burundi, CYPRIEN NTARYAMIRA,

Plaintiffs,

vs.

PAUL KAGAME, an individual, stateless person at all times
relevant to the complaint, which alleges war crimes, crimes
against humanity, common crimes and genocidal crimes, prior
to July 1994 on the territory of the of the sovereign Republic of
Rwanda prior to July1994; long before the current RPF
government came into being;

THEOGENE RUDASINGWA, as an individual, non-
governmental co-conspirator/aider and abettor with
Paul Kagame, prior to July 1994; a governmental and non-
governmental conspirator/aider an abettor after-the fact, until
withdrawing from the conspiracy on October 1, 2011 by
confessing his own complicity in the assassination, and
the continuing cover-up of Kagame’s culpability, *infra*;

PIERRE PROSPER, an individual, conspirator/aider-and-
abettor no longer entitled to immunity for official acts, if

CASE NO.

COMPLAINT

such immunity did attach to war crimes or other heinous acts. Prosper was on notice of defendant Kagame’s culpability for the international crimes alleged in the Complaint no later than 1997 by the ICTR “National Team” that recommended be prosecuted for the assassinations; in 2000 as lead Prosecutor in the *Akeyesu* case; in 2002-03 by Chief ICTR Prosecutor Del Ponte, when he obstructed justice by blocking her from Prosecuting Kagame for the assassinations by having her fired; yet furthers the conspiracy by entering an appearance as Kagame’s legal counsel in 2011 in a suit similar to this, in which Transactions to which he is a party, and will give evidence is now in the 10th Circuit.¹

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William Penn University President ANN M. FIELDS, sponsor of Paul Kagame’s Rwanda Presidential Scholars Program, named in her official capacity only, conspired to further the cover-up of defendant Kagame’s crimes by knowingly and willfully : using systematic and continuous business relationships since 2007, renewed in September 2011 to build the deceptive façade described by former co-conspirator Rudesingwa.²

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Defendants

¹ *Habyarimana v. Kagame*, 11-6315 (10th Cir, 2011).

² According to the William Penn University website: William Penn renewed this agreement September of 2011 and will Over the past five years, William Penn University has hosted the Rwandan Ambassador to the United States, two ministers of education, four presidents of Rwandan universities, and several other officials of the Republic. The University also established an ongoing relationship with a small Rwandan college, the Institute of Agriculture, Technology and Education of Kibungo (INATEK), in 2008. The relationship between William Penn and INATEK includes staff and student exchanges between the two educational institutions. In March of 2012, President Ann Fields led a group of eight graduate and undergraduate students on a two-week study abroad trip to the Republic of Rwanda as part of that exchange program. *See*, Rudesingwa Confession October 1, 2011, Exhibit A.

COMPLAINT WITH JURY DEMAND

WRONGFUL DEATH AND MURDER; CRIMES AGAINST HUMANITY; VIOLATION OF THE RIGHTS OF LIFE, LIBERTY, AND SECURITY; ASSAULT AND BATTERY; INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS; VIOLATIONS OF THE RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT; TORTURE; VIOLATION OF THE CONVENTION AGAINST TORTURE BY AMERICAN CITIZENS, NO MATTER WHERE COMMITTED AND CONTINUING CONSPIRACY IN FURTHERANCE THEREOF.

JURISDICTION

1. The Alien Tort Claims Act, 28 U.S.C. § 1350, provides federal jurisdiction for “any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States.” This Court also has jurisdiction over Plaintiffs’ claims under 28 U.S.C. § 1331 (federal question jurisdiction), 28 U.S.C. §1332 (supplemental jurisdiction), 18 U.S.C. §1332 and 18 U.S.C. §1964(c) (Racketeer Influenced and Corrupt Organizations Act); 42 U.S.C. 1983; 42 U.S.C. 1988(prevailing party attorney fees).
2. Further, the U.S. Federal Extraterritorial Torture Statute, 18 U.S.C.A. § 2340A, provides federal jurisdiction over “whoever outside the United States commits or attempts to commit torture” or conspires to commit torture, *if said person is a national of the United States or is present in the United States*, irrespective of the nationality of the victim or alleged offender.
3. The acts alleged by defendant Kagame all occurred before July 1994, when the current RPF government claimed military victory and began being recognized as the sovereign government of the Rwandan State. Prior to that time, the Republic

of Rwanda of the Habyarimana government, and its successor government, were the sovereign government of Rwanda, as recognized by the United Nations³ and the United States.

4. As such, (a) the current RPF government of Rwanda lacked sovereignty immunity prior to July 1994 from which a “request for immunity” for individual officials immunity flow, or be requested from the United States, when the acts alleged were committed; (b) *none* of Kagame’s crimes alleged *could* have been committed in an “official capacity;” and, (c) Kagame *could* not have been entitled to Head-of-State, or any other sort of immunity requested of the United States, as a stateless person at the time, on sovereign territory of a nation whose President he had assassinated.
5. Further, in November 1993, Robert Flaten, the U.S. Ambassador to Rwanda warned him personally that, anything like the assassinations would trigger mass killings in the territory of the sovereign nation of Rwanda because a similar “genocide” exploded in October 1993, when Kagame’s Tutsi military allies assassinated the 1st Hutu President in Burundi.
6. This was a “second” Burundi/Rwanda genocide in 6-months, intentionally triggered on the territory of a nation friendly to the United States which could request immunity from the United States prior to July 1993...but hardly would do so for an intentional mass murderer warned by the U.S. ambassador....and killed mass of Rwandans, and now seeks Obama’s Presidential immunity.⁴

³ May 25, 1994 Memo of Ralph Zacklin, UN Office of Legal Counsel, *infra*.

⁴ See, Koh Suggestion of Immunity, *Habyarimana v. Kagame*, 11-6315 (10th Cir, 2011)..

PRELIMINARY STATEMENT AND INTRODUCTION

7. On April 6, 1994 at 8:25 p.m., the Falcon 50 jet of the President of the Republic of Rwanda, registration number 9XR-NN, returning from a summit meeting in Dar-Es-Salaam, Tanzania, and on approach to Kanombe International Airport in Kigali, Rwanda, was shot down by two surface-to-air missiles.
8. All passengers perished in the explosion of the aircraft, including:
 - a. Juvénal HABYARIMANA, Chief of State of Rwanda,
 - b. Cyprien NTARYAMIRA, Chief of State of Burundi,
 - c. Déogratias NSABIMANA, Chief of Staff of Rwandan Armed Forces (RAF),
 - d. Elie SAGATWA, Colonel and Chief of the Military Cabinet of the Rwandan president,
 - e. Thaddée BAGARAGAZA, Major and executive officer in the *maison militaire* of the Rwandan president,
 - f. Juvénal RENZAHO, foreign affairs adviser to the Rwandan president,
 - g. Emmanuel AKINGENEYE, personal physician to the Rwandan president,
 - h. Bernard CIZA, Minister of Planning in the government of Burundi,
 - i. Cyriaque SIMBIZI, Communications Minister of Burundi,

And the members of the French flight crew:

 - j. Jacky HERAUD, pilot,
 - k. Jean-Pierre MINABERRY, co-pilot, and
 - l. Jean-Michel PERRINE, flight engineer.
5. The final order to assassinate the President's was given by Defendant KAGAME during a meeting held in Mulindi, Rwanda on or about March 31, 1994, with the planning and the operational phase being entrusted to Col. James KABAREBE, who was specifically charged with the formation of a team specialized in the use

of surface-to-air missiles furnished by Uganda in a conspiracy with members of the non-governmental Rwandan Patriotic Army (hereinafter RPA).

6. The material preparation, the organization and the intelligence necessary for the execution of this plot were brought together with the direct assistance of officers in the RPA non-governmental conspiracy:
 - a. Charles KAYONGA, RPA Battalion Commander,
 - b. Jackson NKURUNZIA, a.k.a. Jack NZIZA, Major,
 - c. Col. Samuel KANYEMERA, a.k.a. Sam KAKA,
 - d. Rose KABUYE, Major,
 - e. Jacob TUMWINE, Major, assistant to Lt.-Col. Charles KAYONGA.
7. Second Lt. Franck NZIZA and Corporal Eric HAKIZAMANA, members of the missile section, fired their SAM-16-type surface-to-air missiles at the President's plane and destroyed it in flight.
8. Defendant KAGAME deliberately chose a *modus operandi* that, in the context of the particular tension pervading both in Rwanda and Burundi between the Hutu and Tutsi communities, could only bring about bloody reprisals against the Tutsi community, and which offered him a veneer of legitimacy for his renewal of hostilities and his seizing of State power in Rwanda by criminally violent means.
9. Following the assassination, the criminal RPF conspiracy, of which Dr. Theogene Rudasingwa has admitted being Secretary General; Chief of Staff to Paul Kagame and Ambassador to the United States, has engaged in an 18 year cover-up of Kagame's role in the assassination, with touched off the Rwandan genocide in

1994, and for which his opponents have been blamed by Kagame;⁵

10. Pierre Prosper is a former ICTR prosecutor is fully aware that the UN Tribunal is the only international tribunal in history with the mandate to prosecute the crimes of *both sides* that, unbelievably has only prosecuted the vanquished, despite the Chief Prosecutor Carla del Ponte recommending to the Security Council in 2002-03 that Kagame should be prosecuted for the assassinations alleged in the Complaint, and for which he has been criminally indicted by judges in France⁶ and Spain.⁷
11. Prosper conspired, aided-and-abetted, and obstructed justice by threatening to remove del Ponte from her UN-ICTR post on May 15, 2003 at a meeting at the State Department with the co-conspirators of defendant Kagame present, if she did not drop investigations and prosecution of Kagame for the crimes alleged herein, while he was a stateless person, before the RPF government existed. She did refuse...and she was fired. Both she and her chief aide Florence Hartmann who was also present confirm his role in covering up Kagame's crimes in May 2003.⁸
12. Ann M. Fields is President of William Penn University and has received hundreds, if not thousands of emails and copies of academic and UN studies confirming the crimes of defendant Kagame. The systematic continuous contacts with defendant with full knowledge of his crimes and the relationship of those crimes with his

⁵ See affidavit of FBI Agent James Lyons, *infra*.

⁶ Bruguiere indictment, 2006;

⁷ Merelles indictment, 2008.

⁸ Florence Hartmann, *Paix et Chatiment*. (Flamarian, Paris 2007); Del Ponte, *Madame Prosecutor*: (the Other Press NY, 2009)

presidency is open an notorious and meets all tests of *International Shoe*, and personal jurisdiction tests for service of process on both “Presidents” where the William Penn University “Rwandan Presidential Scholars” Program is based, and its namesake is the featured graduation speaker.

THE PLAINTIFFS

13. Madame HABYARIMANA brings this action individually, and as administrator of the estate of her husband, Juvénal HABYARIMANA, now deceased, who was a subject, citizen, and resident of Rwanda. Madame HABYARIMANA presently resides outside of the United States and is not a citizen of the United States.
14. Madame NTARYAMIRA brings this action individually, and as administrator of the estate of her husband, Cyprien NTARYAMIRA, Chief of State of Burundi, now deceased. Madame NTARYAMIRA presently resides outside of the United States and is not a citizen of the United States.

THE DEFENDANTS

15. Paul KAGAME, could not have acted in an official capacity for the current RPA government until after July 1994, and was on the WPU campus in a private capacity, as was Domic Strauss Kahn, in his hotel room in NY, before leaving for the airport that famous morning.
16. Whenever and wherever reference is made to individuals who are not named as Defendant in this Complaint, but were employees/agents of Defendant Kagame, such individuals at all relevant times acted on behalf of the Defendant Kagame within the scope of their respective employments.

17. Theogene RUDASINGWA, former RPF Secretary General and Ambassador to Rwanda.
18. Pierre PROSPER, former Prosecutor for the United Nations International Criminal Tribunal for Rwanda and former American Ambassador for War Crimes.

STATEMENT OF FACTS⁹

Planned Assassinations

19. While there may be some dispute regarding the particulars of the long history of conflict for political power in Rwanda and Burundi, between groups known as “Hutu” and “Tutsi”, there can be no doubt that the invasion of Rwandan territory by Tutsi ex-patriot elements of the Ugandan army in October 1990 (a.k.a. the non-governmental RPA), led by Defendant Paul Kagame, is the first cause of events that led to massacres that occurred between April and July 1994¹⁰ and has resulted in more than seven million deaths in Central Africa since that time.
20. After an initial conventional assault on October 1, 1990, the Kagame-led RPA engaged in a planned strategy of “guerilla” warfare with the purpose of: (a) destabilizing the Habyarimana government; (b) making use of the U.N. sponsored Arusha negotiations and association with opposition political parties as a “cover” for RPA war preparations; and (c) having achieved military superiority as early as February 1993, seizing power by military force in a final assault initiated by the

9 Footnote references are to documents and/or testimony in the record in the Military-1 Trial at the International Criminal Tribunal for Rwanda.

10 See testimony of witnesses, DH-90 and DH-91, who witnessed the Invasion in the Parish in which one of them served; Experts Desouter, Strizek, Lugan.

assassination of President Habyarimana.¹¹ It is this plan that touched off the long-predicted civilian killings known as the “Rwanda Genocide.”

21. The months of late 1993 and early 1994 include many examples of acts of sabotage, assassinations and disorder carried out by the Kagame Army (RPA) for the purpose of destabilizing and discrediting the Habyarimana government. These acts included the killing of opposition political leaders and Tutsi civilians and to demonstrate that the current Rwandan government could no longer ensure security of the population and to create propaganda to discredit the Habyarimana government in the eyes of the international community¹².

This strategy went hand-in-hand with the military build-up for the “final assault,” which was the *only* “plan” or “conspiracy” that included the killing of civilians. It was at this time, late November 1993, that U.S. Ambassador Flaten specifically warned then General Kagame and President Habyarimana that the party that resumed hostilities would be responsible for the predicted civilian casualties on the order of the recent massacres in Burundi.¹³ In direct violation of this warning, then-General Kagame resumed hostilities by shooting down the plane carrying the two Hutu presidents.

22. While elements of the Kagame RPA were committing acts of “terrorism” to destabilize and discredit the Habyarimana government in early 1994, its negotiators were actively engaged in blocking the implementation of the U.N.-

11 See testimony of Ruzibiza, Serge Desouter, Lugan Strizek, Colonel Luc Marchal and Witness ALL-42.

12 Testimony of Abdul Ruzibiza, 9 March 2006.

13 Testimony of Flaten, 30 June, 1 July 2005.

sponsored peace agreement (Arusha Accords) and Kagame was already threatening war.¹⁴ By April 1, 1994, not only had the representatives of all interested governments agreed that the issues preventing implementation of the Arusha Accords had been resolved, but U.S. Ambassador David Rawson confirmed that it was the intransigence of the Kagame-led RPA that was preventing the implementation of the Arusha Accords.¹⁵

Defendant Kagame Triggers the Predicted Civilian Massacres
by Assassinating Two Presidents¹⁶

23. The final plans to assassinate President Habyarimana were converted into specific orders from Defendant Paul Kagame on March 31, 1994, which were put into action on April 6, 1994. An assassination team of Kagame's RPA called "the network" launched Uganda-supplied Soviet missiles from Masaka hill at about 8:30 p.m. on April 6, 1994.¹⁷ Not only was this revealed before the ICTR Trial Chamber, but French Terrorist Judge Bruguière arrived at this conclusion based on the testimony that he heard in hearings leading to the indictment issued in November 2006.¹⁸ Similar findings were reached by Spanish investigating Judge Merelles.¹⁹ Further, all RPA commanders had been brought to Mulindi on April 4,

14 Exhibits DNT30, DNT103, DNT105, DNT174, DNT243, DNT253, DNT254, DNT256, and DNT262.

15 Exhibits DNT31, DNT32, DNT104, DNT121, DNT179. *See* CHRONOLOGICAL LISTING OF DOCUMENTARY EXHIBITS/TESTIMONY DESCRIBING THE EXPLANATION OF EVENTS DURING THE 1990-94 RWANDA WAR.

16 *See* CHRONOLOGICAL LISTING OF DOCUMENTARY EXHIBITS/TESTIMONY DESCRIBING THE EXPLANATION OF EVENTS DURING THE 1990-94 RWANDA WAR. Jan-April 6 Sections, *et seq.* Former U.S. Ambassador Flaten testified that he personally warned Kagame that, if HE started the war again, HE would be responsible for killings like those that had recently occurred in Burundi. Once Kagame resumed the war, the predicted killings followed apace. What was lacking was the military capability to stop them by current Rwandan Army (the FAR), and the lack of will to do so, on the part of Kagame's RPA because they were winning the War.

17 *Id.*

18 *See* Bruguiere Indictment of RPF Attached.

19 *See* Merelles Indictment of Paul Kagame and RPA attached.

1994, in apparent preparation for the assault to seize power that Defendant Kagame ordered on the night of April 6, 1994, shortly after he had received news of the successful assassination attack.²⁰

24. The assassination certainly was an act of war, as well as a terrorist act, as well as a violation of the cease-fire. The timing of the orders for the Kagame-led troops to mount the final assault on the night of April 6, 1994 – and not the afternoon on April 7 – belies the assertion that Kagame’s resumption of war was launched in response to the killing of his supporters.²¹
25. In fact, Defendant Kagame and the RPA resumed the war, without any provocation, with the assassinations of Presidents Habyarimana and Ntaryamira. From the standpoint of fixing central responsibility for the massacres that the assassinations of Presidents Habyarimana and Ntaryamira touched off, these acts were undertaken with full knowledge on the part of Kagame that resumption of the war would cause massive civilian casualties, as U.S. Ambassador Flaten had warned some five months earlier and as predicted by the U.S. State Department.²²

Continuing and Deepening the Predicted Bloodbath

26. The responsibility of Defendant Kagame and the RPA for the massacres that the RPA assassination of President Habyarimana touched off does not end with the inception of those killings. Defendant Kagame admitted to U.N. Gen. Dallaire on April 22, 1994, the predicted civilian massacres were an integral part of his war

²⁰ *Id.* See also BRA-1 (T. 05/04/06, p. 64-67).

²¹ Testimony of Colonel Marchal (T. 30/11/06, p. 27-28); Lugan (T. 15/11/06, p. 9); Ruzibiza (T. 09/03/06, p. 26-28, 38-39). ALL42 (T. 09/11/06, p. 21).

²² See footnote 5.

plan. In response to Dallaire's complaint that the RPA was not using its troops to save the predicted Tutsi victims of the renewed combat, Gen. Kagame said that, "There will be many sacrifices in this war. If the refugees have to be killed for the cause, they will be considered as having been part of the 'sacrifice' for this war plan."²³,

27. French Judge Bruguière and Spanish Judge Merelles noted that on numerous occasions, beginning on the night of April 6, 1994, the RPA and Defendant Kagame rejected cease-fire offers by the Rwandan General Army (RGF).²⁴ Gen. Dallaire also noted in contemporary code cables that the RPA would not agree to a cease-fire while it was winning.²⁵ The ICTR testimony of former RPA officer Joshua Ruzibiza, and a confidential witness, (BRA-1), recount specific examples of Defendant Kagame ordering his troops not to intervene to save civilians and removing officers from their command for attempting to do so.²⁶ Judges Bruguière and Merelles found, and other witnesses testified, that the RPA affirmatively blocked the intervention of an international peace-keeping force intended to save Tutsi lives.²⁷
28. In addition to the direct responsibility of Defendant Kagame and the RPA for bringing the Rwanda civilian massacres about by assassinating President

23 Testimony of Dallaire (T. 27/01/04, P. 87-88) and book (Exhibit DNT33) on page 358 (English) or 451 (French); Testimony of Reyntjens (T. 21/09/04, p. 49-50). When commenting on the Kagame statement, Reyntjens confirmed that other RPF leaders made the same statement (T. 21/09/04, p. 49-50). During his testimony, Ruzibiza corroborated Reyntjens (T. 09/03/06, p. 62)

24 Bruguiere Report; Testimony of witness Colonel Luc Marchal (T. 30/11/06, p. 25-26)

25 Exhibits DNS106, DNT111, DNT112, DNT113, DNT118, DNT188 and DNT189.

26 Testimony of Ruzibiza (T. 09/03/06, p. 45) and witness BRA-1 (T. 06/04/06, p. 68)

27 Bruguiere, p. 46; Testimony of witnesses Colonel Dewez (T. 24/06/05, p. 49); Desouter (T. 04/04/06, p. 19) and Colonel Luc Marchal (T. 30/11/06, p. 25-26).

Habyarimana and Ntaryamira and resuming the war, and for blocking the possibility of military intervention to stop the massacres once they began, Kagame and the RPA are also directly responsible for massacres committed in areas occupied by their forces, or where combat was occurring. As early as the night of April 6-7, 1994, squads were leaving RPA headquarters to kill persons, particularly in Remera area, near the RPA headquarters. According to witnesses Prof. Reyntjens and U.N. Colonel Luc Marchal, these were “political killings” of elites and leaders.²⁸

29. Defendant Kagame’s RPA massacred thousands in the stadium in the northern city of Byumba shortly after seizing control of the city on April 7, 1994.²⁹ And, as the main force of Kagame’s RPA swept southward from Byumba/Mutara, it reached the area around Kubungo/Rusomo in the southeast of Rwanda in the two weeks after April 6.³⁰
30. As early as May 17, 1994, United Nations High Commissioner (UNHCR) for Refugees reports show that thousands of civilians were systematically being massacred by Defendant Kagame’s RPA troops in areas around Rusomo and in the eastern third of the country that had been controlled by the RPA since the third week in April.³¹ The RPA massacres in the eastern part of the country were

28 Reyntjens Testimony (T. 22/09/04, p. 30) his book *Rwanda, Trois jours qui ont fait basculer l’histoire*, p. 62 and Testimony of witness Colonel Luc Marchal (T. 01/12/06, p. 1).

29 Testimony of witness BRA-1 on (T. 06/04/06, p. 64-65); witness ALL-42 (T. 08/11/06, p. 41-43)

30 For a summary of some of the crimes committed by Defendant Kagame and co-conspirators in the furtherance of the conspiracy, see summary prepared by Paul Rusesabagina, the main figure depicted in the award winning film, *Hotel Rwanda*, attached.

31 May 17 Code Cable. *See* CHRONOLOGICAL LISTING OF PROSECUTION AND OF DOCUMENTARY EXHIBITS/TESTIMONY DESCRIBING THE EXPLANATION OF EVENTS DURING THE 1990-94 RWANDA WAR. May Section.

documented by Robert Gersony, U.S. State Department Human Rights investigator, who reported that in a few weeks he had concluded that no fewer than 40,000 civilians had been killed by Kagame's RPA troops in a manner that could only have occurred as military operations in a small part of Rwanda.³²

31. Although it cannot be denied that many Rwandans, both Hutu and Tutsi were killed by opponents of the RPA, these killings were not as a result of a "pre-planned government led genocide" or "conspiracy."³³ Rather, like killings had occurred in Burundi in October 1993, as result of violence following the assassination of the first Hutu President, Mechiow Ndadaye. The killings in Rwanda began as a reaction to the assassination of the second and third Hutu presidents killed in the last six months. The Kagame RPA war of invasion, as predicted by U.S. Ambassador Flaten and many others, triggered massive civilian on civilian violence.³⁴
32. The predicted tragedy reached unpredictable proportions because the RPA military objectives required that the country descend into chaos, as part of its war plan, and that massacres of the population were considered merely collateral damage by Defendant Kagame.³⁵ Both he and the RPA bear responsibility for their scope and

32 Gersony Report (Exhibit DK-112) and related testimony by witness Jean Marie Vianney Ndagijimana former RPG Foreign Minister. (T. 16/11/06, p. 50-58). See CHRONOLOGICAL LISTING OF PROSECUTION AND OF DOCUMENTARY EXHIBITS/TESTIMONY DESCRIBING THE EXPLANATION OF EVENTS DURING THE 1990-94 RWANDA WAR. September-October 1994 Sections, *et seq.*

33 See ICTR, Military-1 Judgment of February 8, 2009, acquitting top military officers who opposed Kagame's RPF of conspiracy on planning to commit genocide.

34 The CIA had predicted in January 1994 that in case of resumption of hostilities as many as half a million persons might die. This information is found in the book of Des Forges "Leave none to tell the story" on page 18.

35 Cross examination testimony of Gen. Dallaire related to Code Cable of April 23, 1994, reporting his conversation with Kagame in Mulindi and report of the same in his book, from which the "collateral damage" languages is drawn.

extent, and the conspiracy to avoid responsibility for their own crimes that continue today.

GENERAL ALLEGATIONS

33. As a direct and proximate result of Defendant's unlawful conduct, Plaintiffs have suffered and will continue to suffer harm including pain and suffering, and extreme and severe mental anguish and emotional distress. Plaintiffs are thereby entitled to general and compensatory damages in amounts to be proven at trial.
34. Plaintiffs' causes of action arise under the following laws, agreements, conventions, resolutions and treaties:
- a. Alien Tort Claims Act, 28 U.S.C. § 1350;
 - b. Torture, 18 U.S.C. § 2340A
 - c. Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961-1968;
 - d. Customary international law;
 - e. United Nations Charter, 59 Stat. 1031, #3 Bevans 1153 (1945);
 - f. Universal Declaration of Human Rights, G.A. Res. 217A(iii), U.N. Doc. A/810 (1948);
 - g. International Covenant on Civil and Political Rights, G.A. Res. 2220A(xxi), 21 U.N. Doc., GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966);
 - h. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46, 39 U.N. Doc., GAOR Supp. (No. 51) at 1100, U.N. Doc. A/39/51 (1984);
 - i. Declaration on the Protection of All Persons From Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 3452, 30 U.N. Doc., GAOR Supp. (No. 34) at 91, U.N. Doc. A/I0034 (1976);
 - j. Common law of the United States of America;
 - k. Statutes and common law of the State of Iowa, including but not limited to wrongful death, assault and battery, intentional infliction of emotional

distress, fraud; and

l. Laws of Iowa.

35. There is no independent functioning judiciary in Rwanda and any suit against Defendants there would have been and would still be futile and would result in serious reprisals.

COUNT 1

(Wrongful Death – Murder)

36. On their own behalf and on behalf of their deceased relatives, Juvénal Habyarimana and Cyprien Ntaryamira, Plaintiffs reallege and incorporate by reference the allegations set forth in paragraphs 1 through 35 as is fully set forth herein.
37. As a direct result of the Defendants' acts and omissions and as a result of the death of their respective husbands, Plaintiffs have sustained pecuniary loss resulting from the loss of society, comfort, attention, services, and support of each decedent.
38. Paul Kagame is liable for said conduct in that Defendant directed, ordered, confirmed, ratified, and/or conspired with the military regime in bringing about the wrongful deaths of Juvénal Habyarimana, Cyprien Ntaryamira, Déogratias Nsabimana, Elie Sagatwa, Thaddée Bagaragaza, Juvénal Renzaho, Emmanuel Akingeneye, Bernard Ciza, Cyriaque Simbizi, Jacky Heraud, Jean-Pierre Minaberry, and Jean-Marc Perrine.
39. The acts described herein constitute wrongful death, actionable under the laws of Iowa, the United States, and Rwanda.

COUNT 2

(Crimes Against Humanity)

40. The allegations set forth in paragraphs 1 through 39 of this Complaint are realleged and incorporated by reference as if fully set forth herein.
41. The acts described herein against Plaintiffs constitute crimes against humanity, in violation of customary international law which prohibits inhumane acts of a very serious nature such as willful killing, torture and other inhumane acts committed as part of a widespread or systematic attack against any civilian population. Leaders, organizers, instigators and accomplices participating in the formulation of these acts are responsible for all acts performed by any person in execution of such plan.
42. The acts described herein constitute crimes against humanity in violation of the Alien Tort Claims Act, customary international law, the common law of the United States, the statutes and common law of Iowa, the laws of Rwanda, and the international treaties, agreements, conventions and resolutions described that herein.
43. Defendant Paul Kagame is liable to Plaintiffs for said conduct in that Defendant directed, ordered, confirmed, ratified, and/or conspired with the military regime in bringing about the crimes against humanity committed against Plaintiffs.

COUNT 3

(Violation of the Rights of Life,
Liberty and Security of Person)

44. The allegations set forth in paragraphs 1 through 43 of this Complaint are realleged and incorporated by reference as if fully set forth herein.
45. The shooting down of President Habyarimana's plane constitutes violations of the right to life, liberty and security of person of all those on the plane.
46. The shooting down and killing of occupants of the plane constitutes violations of the rights to life, liberty and security of person, for which Defendant Kagame is liable.
47. The acts described herein constitute violations of Plaintiffs' rights to life, liberty and security of person in violation of the Alien Tort Claims Act, customary international law, the common law of the United States, the statutes and common law of Iowa, the laws of Rwanda, and the international treaties, agreements, conventions and resolutions described that herein.
48. Defendant Paul Kagame is liable for said conduct in that Defendant directed, ordered, confirmed, ratified, and/or conspired with the military regime in bringing about the illegal violations of the rights to life, liberty and security of person.

COUNT 4

(Assault and Battery)

49. The allegations set forth in paragraphs 1 through 45 of this Complaint are realleged and incorporated by reference as if fully set forth herein.

50. As a result of these acts, Plaintiffs were placed in great fear for their lives and suffered severe physical and psychological abuse and agony.
51. Defendant's acts were willful, intentional, wanton, malicious and oppressive.
52. Defendant Kagame is liable for said conduct in that Defendant directed, ordered, confirmed, ratified, and/or conspired with the military regime in bringing about the assault and battery of the occupants of the plane and tens of thousands of Rwandans.
53. The acts described herein constitute assault and battery, actionable under the laws of Iowa, the United States and Rwanda.

COUNT 5

(Intentional Infliction of Emotional Distress)

54. The allegations set forth in paragraphs 1 through 53 of this Complaint are realleged and incorporated by reference as if fully set forth herein.
55. The acts described herein constitute outrageous conduct in violation of all normal standards of decency and were without privilege or justification.
56. These outrageous acts were intentional and malicious and done for the purposes of causing Plaintiffs to suffer humiliation, mental anguish and extreme emotional and physical distress.
57. As a result of Defendant's acts, Plaintiffs were placed in great fear for their lives and were forced to suffer severe physical and psychological abuse and agony.
58. Defendant is liable for said conduct in that Defendant directed, ordered, confirmed, ratified, and/or conspired with the military regime in bringing about

the intentional infliction of emotional distress of the occupants of the plane, the relatives of the occupants and tens of thousands of Rwandans.

59. Defendant's outrageous conduct constitutes the intentional infliction of emotional distress and is actionable under the laws of Iowa, the United States and Rwanda.

COUNT 6

(Violations of the Racketeer Influenced and
Corrupt Organization Act)

60. The allegations set forth in paragraphs 1 through 59 of this Complaint are realleged and incorporated by reference as if fully set forth herein.
61. From not later than 1990 to the present, Defendant Kagame and his agents and co-conspirators formed a RICO “enterprise” within the meaning of 18 U.S.C. § 1961(4) engaged in foreign and interstate commerce.
62. Alternatively, Defendant and his agents and co-conspirators constituted an association in fact for a common purpose with a continuous existence separate and apart from the pattern of racketeering activity in which they engaged. This association in fact constituted an enterprise within the meaning of 18 U. S.C. § 1961(4).
63. Defendant is an “individual or entity capable of holding a legal or beneficial interest in property” and, as such, constitute a “person” within the meaning of 18 U.S.C. § 1961 (3).
64. Defendant is engaged in interstate acts of commerce and the acts alleged herein have a potential effect on commerce.

65. Over a period of years and continuing to the present, Defendant with his co-conspirators or agents, in violation of 18 U.S.C § 1962(b) through a pattern of racketeering activity, have acquired and maintained an interest in resources in the eastern Congo to their own benefit.³⁶
66. At all times relevant to this Complaint, the Defendant and his agents and co-conspirators conducted, or participated directly or indirectly in the conduct of the affairs of the enterprise through a pattern of racketeering activity, within the meaning of 18 U.S.C. § 1961 (1)(5), in violation of 18 U.S.C. § 1962 (c).
67. At all times relevant to this Complaint, the Defendant Kagame, *et al*, in violation of 18 U.S.C. § 1962(d) combined and conspired together and with his agents and co-conspirators to commit conduct the affairs of the enterprise through a pattern of racketeering activity.
68. In furtherance of the conspiracy, and to affect the objects thereof, the Defendant committed overt acts as set forth more fully in paragraphs 1 through 65 and in the attached indictments and ICTR Complaint.
69. During 1990 through 2010, in violation of 18 U.S.C §§ 1962(c) and (d), Defendant, with his agents and co-conspirators, conspired to and did conduct the affairs of the enterprise through a pattern of racketeering activity.
70. The pattern of racketeering activity alleged in paragraphs 1 through 64 above included the following specific acts, all of which constituted and are defined as

³⁶ See Expert Reports of 2001, 2002, 2003, 2008 commissioned by U.N. Security Council detailing ongoing theft of billions of dollars of natural resources from the eastern Congo by Defendants.

racketeering activity by 18 U.S.C. § 1961(1) and all of which are set forth in the specific numbered paragraphs herein which are realleged and incorporated here by reference as if fully set forth, as follows:

- a. arson;
- b. murder;
- c. torture;
- d. extortion;

- 71. Defendant's acts alleged herein have substantial effect within the United States.
- 72. As a direct and proximate result of the Defendant's violations of 18 U.S.C. §§ 1962 (b), (c) and (d) Plaintiffs have suffered injury to business, property, reputation and livelihood.
- 73. The injuries suffered by each Plaintiff were reasonably foreseeable or anticipated by the Defendant as the natural consequence of Defendant's acts.

COUNT 7

(Torture)

- 74. The allegations set forth in paragraphs 1 through 73 of this Complaint are realleged and incorporated by reference as if fully set forth herein.
- 75. Under 18 U.S. C. 2340A (a), whoever outside the United States commits or attempts to commit torture is subject to criminal penalty of not more than 20 years, or both, and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life. Such provision makes out a comparable claim for damages, arising from the tort associated with the aforesaid criminal act.

76. In the moments immediately prior to their deaths, the decedents experienced psychological and physical discomfort amounting to torture, arising from their impending deaths and intentional and murderous acts of defendants Kagame *et al.*
77. The federal courts of the United States have explicit criminal jurisdiction over the activity prohibited in subsection (a) if –the alleged offender is present in the United States, irrespective of the nationality of the victim or alleged offender.
78. Defendant Kagame has been present in the United States on numerous occasions and was present on April 30, 2010, within the forum State of Iowa.
79. The injuries suffered by each Plaintiff were reasonably foreseeable or anticipated by the Defendant as the natural consequence of Defendant's acts.

COUNT 8

(Conspiracy to Torture)

80. The allegations set forth in paragraphs 1 through 79 of this Complaint are realleged and incorporated by reference as if fully set forth herein.
81. Under 18 U.S.C. 2340 (c) –A person who conspires to commit torture, or attempts to commit torture, shall be subject to the same criminal penalties (other than the penalty of death) as the penalties prescribed for the offense, the commission of which was the object of the conspiracy, thus establishing a similar cause of action in tort.
82. Up to and including the moment the plane crashed, thus extinguishing the lives of decedents, Defendant Kagame, his agents and his co-conspirators were engaged in the conspiracy to murder, and torture, the occupants of the plane for which they

had meticulously prepared.

83. The injuries suffered by each Plaintiff were reasonably foreseeable or anticipated by the Defendant as the natural consequence of Defendant's acts.
84. Since the deaths occurred, Defendant has been engaged in a conspiracy to “cover-up” and deny their culpability, along with un-named countries and co-conspirators.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request the following relief:

85. That this Court assume jurisdiction of this cause to determine this controversy and set this case for hearing on the merits;
86. The award of compensatory damages to Plaintiffs in the amount of \$250,000,000.00;
87. The award of punitive damages against the Defendant in the amount of \$100,000,000.00;
88. That this Court allow the Plaintiffs costs, expenses and attorneys’ fees, and also grant such alternative relief as may seem to the Court, just, proper, and equitable.

JURY TRIAL DEMAND

Plaintiffs demand a jury trial, pursuant to the Seventh Amendment to the Constitution of the United States, as to all claims for damages.

PLACE OF TRIAL

Plaintiffs designate Des Moines, Iowa as the place of trial.

Dated:

Respectfully submitted,

Attorney for Plaintiffs, *pro hac vice*
Prof. Peter Erlinder (Ill# 3124291)
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Of Counsel: _____

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Exhibit A

Confession of Dr. Theogene Rudesingwa, MD

Exhibit B

Oskaloosa, Iowa – William Penn University President Dr. Ann Fields announced today that His Excellency Paul Kagame, President of the Republic of Rwanda, will present the commencement address on Saturday, May 12, 2012 to a graduating class of 370 students and receive an Honorary Doctorate of Humane Letters, for his contributions to the humanities or human welfare.

President Kagame has been recognized as a world leader for his role in human interest issues and he is known for empowering young people and women, as evident by the high percentage of women serving on the Rwandan Parliament (56%). President Kagame has received multiple honors during his presidency including: the Clinton Global Citizen Award in 2009, being named to Time magazine's list of the 100 Most Influential People in the World, and His Excellency received the 'Lifetime Leadership Award for Development and Equality' by Rwandan Women in 2010.

William Penn University's relationship with Rwanda began in September of 2007 when Rwandan Ambassador to the United States, James Kimonyo, presented the keynote speech at the President's Convocation. In July of 2008, William Penn signed an agreement with the Rwandan Ministry of Education to accept four Rwandan "Presidential Scholars" to enroll at William Penn University. Three of these four young people will graduate at the May 12 ceremony. The fourth graduated in December of 2011. William Penn renewed this agreement with the Ministry in September of 2011 and will enroll an additional five students from Rwanda per academic year, beginning in the fall of 2012. Over the past five years, William Penn University has hosted the Rwandan Ambassador to the United States, two ministers of education, four presidents of Rwandan universities, and several other officials of the Republic.

The University also established an ongoing relationship with a small Rwandan college, the Institute of Agriculture, Technology and Education of Kibungo (INATEK), in 2008. INATEK opened its doors in 2003 with the vision to rebuild Rwanda in the aftermath of the genocide, which took place in 1994-'95, by providing better education opportunities to the survivors. Since its inception, INATEK has made a significant impact on the economy of the entire province, both on individual and community levels. The relationship between William Penn and INATEK includes staff and student exchanges between the two educational institutions. In March of 2012, President Ann Fields led a group of eight graduate and undergraduate students on a two-week study abroad trip to the Republic of Rwanda as part of that exchange program.

William Penn University is a four-year liberal arts institution founded by Quakers 1873. With 1500 students representing 41 states and 13 countries on three campuses, William Penn has one of the most diverse student populations in the Midwest.