

ICTR-2001-63-1
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**International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda**

Arusha International Conference Centre
P.O. Box 6016, Arusha, Tanzania

UNITED NATIONS
NATIONS UNIES

Tel: 255 27 2504207-11/2504367-72 or 1 212 963 2850 — Fax: 255 27 2504000/2504373 or 1 212 963 2848

INTEROFFICE MEMORANDUM — MEMORANDUM INTERIEUR

To: Koffi Afande
A: Court Management Officer

Date: 26 June 2001

Through:

From: Holo Makwaia
De: Assistant Trial Attorney

Ref:

Subject: Prosecutor vs Simeon Nshamihigo ICTR-2001-1
Objet:

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1. The Prosecutor files herewith an indictment in conformity with the changes ordered on June 23, 2001 by the confirming Judge, Mme Pillay, President.
2. Regards.

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INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

Case No. ICTR-2001- -I

THE PROSECUTOR
AGAINST
SIMÉON NCHAMIHIGO

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[Signature]

INDICTMENT

- I. The Prosecutor of the International Criminal Tribunal for Rwanda, pursuant to the authority stipulated in Article 17 of the Statute of the International Criminal Tribunal for Rwanda (the "Statute of the Tribunal") charges:

SIMÉON NCHAMIHIGO

with GENOCIDE, or in the alternative COMPLICITY IN GENOCIDE; and EXTERMINATION, or in the alternative MURDER, as a CRIME AGAINST HUMANITY; and VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND ADDITIONAL PROTOCOL II, offenses stipulated in Articles 2, 3 and 4 of the Statute of the Tribunal, as set forth below:

II. THE ACCUSED:

Siméon NCHAMIHIGO was born on 8 September 1960 in Gatare *commune*, Cyangugu *préfecture*, Rwanda. **Siméon NCHAMIHIGO** was *Substitut du Procureur de la République* [Deputy Prosecutor] in Cyangugu *préfecture* during the period April – July 1994. **Siméon NCHAMIHIGO** was also the Secretary for the *Coalition pour la Défense de la République* (CDR) in Cyangugu *préfecture*.

III. CHARGES and CONCISE STATEMENT OF FACTS:

Count 1: **GENOCIDE, or alternatively
COMPLICITY IN GENOCIDE:**

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The Prosecutor of the International Criminal Tribunal of Rwanda charges **Siméon NCHAMIHIGO** with **GENOCIDE**, a crime stipulated in Article 2(3)(a) of the Statute, or alternatively **COMPLICITY IN GENOCIDE**, a crime stipulated in Article 2(3)(e) of the Statute, in that on or between the dates of 6 April 1994 and 17 July 1994 in Cyangugu *préfecture*, Rwanda, **Siméon NCHAMIHIGO** was responsible for killing or causing serious bodily or mental harm to members of the Tutsi population with the intent to destroy, in whole or in part, a racial or ethnic group; *and*

Count 2: EXTERMINATION, or alternatively MURDER, as a CRIME AGAINST HUMANITY:

The Prosecutor of the International Criminal Tribunal of Rwanda charges **Siméon NCHAMIHIGO** with **EXTERMINATION as a CRIME AGAINST HUMANITY**, as stipulated in Article 3(b) of the Statute, or alternatively **MURDER as a CRIME AGAINST HUMANITY**, as stipulated in Article 3(a) of the Statute, in that on or between the dates of 6 April 1994 and 17 July 1994 in Cyangugu *préfectures*, Rwanda, **Siméon NCHAMIHIGO** was responsible for killing persons, or causing persons to be killed, as part of a widespread or systematic attack against a civilian population on political, ethnic or racial grounds; *and*

Count 3: VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND ADDITIONAL PROTOCOL II

The Prosecutor of the International Criminal Tribunal of Rwanda charges **Siméon NCHAMIHIGO** with **VIOLENCE TO LIFE, HEALTH AND PHYSICAL OR MENTAL WELL-BEING as a SERIOUS VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTION AND OF ADDITIONAL PROTOCOL II**, as stipulated in Article 4(a) of the Statute, in that on or between the dates of 6 April 1994 and 17 July 1994 in Cyangugu *préfecture*, Rwanda, **Siméon NCHAMIHIGO** was responsible for causing violence to the life, health and physical or mental well-being, in particular murders and killings, of civilian non-combatants during a non-international armed conflict, as follows:

Pursuant to Article 6(1) of the Statute: by virtue of his affirmative acts in planning, instigating, ordering, committing, or otherwise aiding and abetting the planning, preparation or execution of the crime charged, in that:

Concise Statement of Fact for Counts 1, 2 and 3:

1. Between 1 January and 31 December 1994, citizens native to Rwanda were severally identified according to the following ethnic or racial classifications: Tutsi, Hutu and Twa.
2. Between 6 April 1994 and 17 July 1994, there were throughout Rwanda widespread or systematic attacks directed against a civilian population on political, ethnic or racial grounds.

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3. Between 1 January 1994 and 17 July 1994 there was a state of non-international armed conflict in Rwanda
4. Following the death of Rwandan President Juvénal Habyarimana on 6 April 1994 and resumption of civil hostilities in the non-international armed conflict on the following day, a newly installed Interim Government of 8 April 1994 launched a nationwide campaign to mobilize government armed forces, civilian militias, the local public administration and common citizens to fight the Rwandese Patriotic Front (RPF), a predominantly Tutsi politico-military opposition group. Government armed forces and *Interahamwe* militias specifically targeted Rwanda's civilian Tutsi population as domestic accomplices of an invading army, *ibytso*, or as a domestic enemy in their own right. Under the guise of national defense, ordinary citizens of Rwanda, primarily its Hutu population, were enlisted in a nationwide campaign of pillaging, murder, rape, torture, and extermination of the Tutsi and the political opposition.
5. **Siméon NCHAMIHIGO** organized and participated in the campaign against the Tutsi and the political opposition in Cyangugu *préfecture*. The campaign consisted in compiling lists of influential Tutsi and members of the political opposition; identifying persons to be killed on the basis of such lists; generally monitoring and restricting circulation of persons within Cyangugu *préfecture* to facilitate attacks upon Tutsi and suspected political opponents; and supervising roadblocks and distributing weapons to militias at roadblocks to facilitate the killing of such persons.
6. **Siméon NCHAMIHIGO** collaborated with Sgt. Major Marc RUBERANZIZA and Christophe NYANDWI, prefectorial president of the MRND, to organize and supervise military training and weapons distributions for civilian militias in Cyangugu *préfecture*, particularly in Gihundwe *secteur*. These civilian militias subsequently participated in attacks against Tutsi refugees at Hanika, Mibirizi, Nkanka, Shangi and Nyamasheke *paroisses*, causing numerous deaths.
7. During April 1994 **Siméon NCHAMIHIGO** supervised roadblocks throughout Cyangugu town, delivered weapons to men at roadblocks and ordered the men controlling the roadblocks to kill Tutsi passing through, at times providing the names particular persons that should be killed.
8. For example, on or about 7 April 1994 **Siméon NCHAMIHIGO** ordered a group of men at a roadblock in Kamembe to "search out the Tutsi and the RPF accomplices and give them over to the *Interahamwe*" and to "set fire to any place bearing the flag of an opposition party." Shortly thereafter, *Interahamwe* tracked down and killed a number of Tutsi men, women and children. Among those that were killed that afternoon: KONGO; KARANGWA and NAGAPFIZI .
9. **Siméon NCHAMIHIGO** regularly participated in meetings of the *conseil de sécurité préfectoral*. The *conseil de sécurité préfectoral* usually met on a weekly basis and was composed of the following persons: Cyangugu *préfet* Emmanuel BAGAMBIKI; sous-préfets Théodore MUNYANGABE and François NZEYIMANA; Cyangugu Military Camp Commander Lt. Samuel IMANISHIMWE; Gendarmerie Commander Vincent MUNYARUGERERO; and

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the *Procureur de la République*, often represented by **Siméon NCHAMHIGO**, among others.

10. On or about 14 April 1994, **Siméon NCHAMHIGO** collaborated with Cyangugu *préfet* Emmanuel BAGAMBIKI and Cyangugu Military Camp Commander Lt. Samuel IMANISHIMWE in the eviction of Tutsi and moderate Hutus from the relative safety of Gihundwe school, Cyimbogo *commune*, Cyangugu *préfecture*. Tutsi and moderate Hutu seeking refuge from attacks by *Interahamwe* had gathered at the school.
11. Prefectorial authorities, including **Siméon NCHAMHIGO**, sent the Tutsi and moderate Hutu refugees from Gihundwe school to Kamarampaka Stadium but made no provision for shelter, sanitation, food or water, with the result that the more vulnerable refugees died of starvation, exposure, dehydration and disease.
12. On or about 15 April 1994 Cyangugu *préfet* Emmanuel BAGAMBIKI and Cyangugu Military Camp Commander Lt. Samuel IMANISHIMWE, among others, including **Siméon NCHAMHIGO**, forcibly transferred refugees, predominantly Tutsi, from Cyangugu Cathedral to Kamarampaka Stadium. Among those that were transferred to the stadium were Albert TWAGIRAMUNGU and Jean Fidèle MUREKEZI.
13. Soldiers and gendarmes subject to the authority of Cyangugu *préfet* Emmanuel BAGAMBIKI and Cyangugu Military Camp Commander Lt. Samuel IMANISHIMWE tightly controlled the movement of persons into and out of the Kamarampaka Stadium, alternately preventing the arrival of Tutsi seeking shelter to facilitate attacks upon them on surrounding roadways and preventing escape by refugees confined in the stadium by shooting at those that attempted to flee.
14. On or about 16 April 1994 **Siméon NCHAMHIGO** accompanied Cyangugu *préfet* Emmanuel BAGAMBIKI, Cyangugu Camp Commander Lt. Samuel IMANISHIMWE, *Gendarmerie* Commander MUNYARUGERERO and Cyangugu *Interahamwe* leader Christopher NYANDWI, and several other Cyangugu administrative officials to Kamarampaka Stadium and forcibly removed certain persons from among the refugees confined at the stadium for the purpose of killing them, as follows:
 - (a) Backed by a contingent of approximately 30 soldiers, the prefectorial delegation entered the stadium. Cyangugu *préfet* Emmanuel BAGAMBIKI announced the decision of the *conseil de sécurité prefectoral* to remove certain persons suspected of being RPF accomplices for purposes of interrogation by prefectorial authorities.
 - (b) Emmanuel BAGAMBIKI handed a document to the *Gendarmerie* Commander, who then read out approximately twenty names. Lt. Samuel IMANISHIMWE physically identified and grabbed certain persons whose names had been called.
 - (c) Between sixteen and twenty persons were removed from the stadium to an undisclosed location and later killed, among them: Benoît SIBOMANA; Jean Fidèle MUREKEZI; Apiane NDORIMANA; Albert MUGABO; Albert

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TWAGIRAMUNGU; IBAMBASI; Bernard NKAKA; Trojean NZISABIRA Remy MIHIGO; Dominique GAPELI; Albert MUGABO.

- (d) Several persons that had remained behind at Cyangugu Cathedral during the transfer of refugees to Kamarampaka Stadium the previous day were also removed to an undisclosed location with the group of refugees from Kamarampaka Stadium and were also killed: Jean Maire Vianney HABIMANA (alias GAPPUMU); Vital NIBAGWIRE; and Ananie GATAKE.
- (e) The killings took place a short distance from Kamarampaka Stadium almost immediately following the forced departure of the refugees with the prefectoral delegation.
- (f) On or about 18 April 1994, **Siméon NCHAMIHIGO** once again accompanied Cyangugu *préfet* Emmanuel BAGAMBIKI, Cyangugu Camp Commander Samuel IMANISHIMWE, and a delegation of prefectorial authorities, including the army commander of Karamambo barrack, Cyangugu Appeals Court judges NGAGI and KAJANGWE, and sous-prefets KAMONYO and Theodore MUNYAGABE, to remove approximately 20 persons from Kamarampaka Stadium on the basis of a list of names called out by Emmanuel BAGAMBIKI.
15. As Deputy Prosecutor, **Siméon NCHAMIHIGO** would have been responsible for conducting interrogations and filing charges against suspects. **Siméon NCHAMIHIGO**'s presence in the delegation of prefectorial authorities led by Cyangugu *préfet* Emmanuel BAGAMBIKI was an inducement for refugees to step forward when their names were called out.
16. With few exceptions, persons that were removed from Kamarampaka Stadium by **Siméon NCHAMIHIGO** and the delegation of prefectorial authorities were never seen again and are presumed dead. All of the victims were Tutsi civilian non-combatants.
17. On or about 28 April 1994, Cyangugu *préfet* Emmanuel BAGAMBIKI and Cyangugu Camp Commander Samuel IMANISHIMWE, accompanied by **Siméon NCHAMIHIGO**, approached a group of refugees that had gathered near the *préfecture* office by the Rusisi River. In desperation, the refugees had just escaped from Kamarampaka Stadium and were attempting to flee across the border to Zaire. As Lt. Samuel IMANISHIMWE addressed the refugees, soldiers and *Interahamwe* surrounded the group and opened fire, causing numerous deaths.
18. Towards the end of April 1994, **Siméon NCHAMIHIGO** participated in a meeting to organize security measures at the Gihundwe *secteur* office. Interim *bourgmestre* Manase BUVUGAMENSHI presided the meeting, with Védaste HABIMANA, **Siméon NCHAMIHIGO** and Christophe NYANDWI, president of the *Interahamwe* in Cyangugu *préfecture*, alongside. During the meeting **Siméon NCHAMIHIGO** inquired about the security situation in the *secteur* and if there were still Tutsi in hiding that should be killed. Védaste HABIMANA replied that three days would suffice to "mop up" the *secteur*. In the context of the meeting, "to mop up" was understood to mean "to finish killing the Tutsi."

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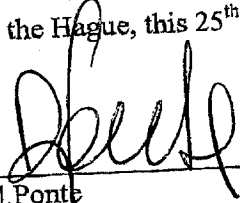
19. On several occasions during April and May 1994, **Siméon NCHAMIHIGO** ordered the killing of a number of individuals that were targeted for being Tutsi, or for being accomplices of the Tutsi, for example:

- (a) Sometime between 13 and 15 April 1994, **Siméon NCHAMIHIGO** ordered the killing of a young student whom he characterized as a traitor and an accomplice of the Tutsi;
- (b) Sometime between 28 and 30 April 1994, **Siméon NCHAMIHIGO** ordered the killing of the accountant of the *préfecture*, a Tutsi that managed to obtain a Hutu identification card;
- (c) **Siméon NCHAMIHIGO** ordered the killing of KARANGWA, a wealthy Tutsi businessman;
- (d) Sometime during May 1994 **Siméon NCHAMIHIGO** approached a roadblock in Kamembe and ordered those in control to kill a unnamed priest from the Catholic *paroisse* in Mibilizi that was expected to pass by. The priest was killed later that same day at the roadblock at the entrance to Kamembe.

20. From those first days of April 1994 through May 1994, **Siméon NCHAMIHIGO** ordered, directed or acted in concert with administrative and military officials in Cyangugu *préfecture*, including Cyangugu *préfet* Emmanuel BAGAMBIKI and Cyangugu Camp Commander Samuel IMANISHIMWE, in the planning, preparation or execution of a common scheme, strategy or plan to deny protection to Tutsi refugees and to facilitate attacks upon them by soldiers, gendarmes, *Interahamwe*, civilian militias and local residents, leading to the deaths of hundreds of persons. The attacks were organized and led under the guise of combating the RPF.

The acts and omissions of Siméon NCHAMIHIGO detailed herein are punishable in reference to Articles 22 and 23 of the Statute.

Dated: At the Hague, this 25th day of June 2001.


Carla Del Ponte
Prosecutor

