

***The Prosecutor v. Simon Bikindi*, Case No. ICTR-01-72-T**
Judgement and Sentence – 2 December 2008

1. Trial Chamber III will now render its judgement in the case of *The Prosecutor v. Simon Bikindi*. The Chamber will read out a summary of the Judgement. The written judgement is the authoritative version and will be distributed after this hearing.

2. Simon Bikindi is a Rwandan citizen born on 28 September 1954 in Rwerere *commune*, Gisenyi prefecture, Rwanda. In 1994, he was a famous composer and singer and was working at the Ministry of Youth and Association Movements of the Rwandan Government. On the basis of an Indictment confirmed on 5 July 2001 and the related orders for arrest and transfer, he was arrested in The Netherlands on 12 July 2001 and transferred to the Tribunal on 27 March 2002. His trial commenced on 18 September 2006 and closed on 7 November 2007, with a site visit in April 2008, followed by the closing arguments in May 2008.

3. Simon Bikindi is charged with six counts pursuant to Articles 2, 3 and 6(1) and (3) of the Statute of the Tribunal: conspiracy to commit genocide; genocide or alternatively complicity in genocide; direct and public incitement to commit genocide; murder and persecution as crimes against humanity. More specifically, the Prosecution alleges that Simon Bikindi participated in the anti-Tutsi campaign in Rwanda in 1994 through his musical compositions and speeches he made at public gatherings inciting and promoting hatred and violence against Tutsi. According to the Prosecution, Simon Bikindi collaborated with government figures, leading figures of the MRND, the CDR, the *Interahamwe* as well as with RTLM and those responsible for media programming, to disseminate anti-Tutsi propaganda and encourage the genocide. Further, the Prosecution alleges that

Simon Bikindi participated in military training of *Interahamwe*, encouraged the militias to attack the Tutsi population and was responsible for specific attacks and killings perpetrated in Gisenyi prefecture, by virtue of his direct participation or his authority over *Interahamwe*, particularly *Interahamwe* members of his *Irindiro* ballet, and civilian militias.

4. The Defence contends that Simon Bikindi was not a politician, but a musician whose songs did not incite discrimination or violence against Tutsi, and argues that he did not take part in the anti-Tutsi campaign through his songs or speeches and did not participate in any of the killings and attacks alleged in the Indictment. The Defence also argues that Simon Bikindi had no authority over the *Interahamwe* and no influence over the Government, the MRND, the CDR or the RTLM.

5. The Prosecution conceded that Simon Bikindi left Rwanda on 4 April 1994 and returned via Zaire around 12 June 1994. As a result, it abandoned its allegation that in early April 1994, Simon Bikindi arrived in Kicukiro *commune* on a bus with about 20 *Interahamwe*, and there participated in the killing of an unnamed wealthy Tutsi.

6. At the closure of the trial, the Prosecution also conceded that it had not presented evidence in support of the allegation regarding the killing of a group of Tutsi women escaping to Zaire. The Chamber further observes that the Prosecution has not adduced evidence in support of the allegations regarding an attack on the Gatenga Youth Center in February 1994 or the killing of an unnamed wealthy Tutsi businessman in Nyamyumba *commune* in June 1994, nor the allegation at paragraph 37 of the Indictment that Simon Bikindi advocated the extermination of the Tutsi over the public radio air-waves. The Chamber therefore summarily dismisses those allegations.

7. The Chamber has considered the Defence's submissions regarding alleged defects in the Indictment with respect to the killings of Stanislas Gasasira and of Karasira and his family. It concludes that the Prosecution's failure to mention those specific killings in the Indictment did not prejudice Simon Bikindi's ability to prepare his defence since he received timely, clear and consistent notice before the start of the trial that he would have to defend himself against those allegations.

8. Before turning to its factual findings on the remaining allegations, the Chamber recalls that it has jurisdiction only in respect of crimes committed between 1 January and 31 December 1994. The Chamber has considered evidence relating to pre-1994 acts only as means of clarifying the context or establishing by inference certain elements of Simon Bikindi's conduct in 1994, notably his *mens rea*.

9. The Chamber has organised the Prosecution's factual allegations against Simon Bikindi in nine chapters: (i) his status as a well-known composer, singer and leader of the *Irindiro* ballet; (ii) his collaboration with Government figures, MRND and CDR political parties; (iii) his relationship with the *Interahamwe*; (iv) his relationship with RTLM and Radio Rwanda; (v) his participation in political gatherings; (vi) his musical compositions; (vii) his broadcast of anti-Tutsi statements through a vehicle outfitted with a public address system; (viii) his participation in specific attacks and killings (ix) his continuation of the anti-Tutsi campaign from exile in Zaire. The Chamber will now summarise the factual findings he made under each of those nine chapters.

10. First, the Chamber notes that the fact that Simon Bikindi was a well-known singer, composer, member and leader of the *Irindiro* ballet is not disputed. However, in addition to that fact, the Prosecution alleges that members of the *Irindiro* ballet were *Interahamwe* or CDR members, who, as a result of the

mobilising effect of Simon Bikindi's music, were recruited into the *Interahamwe*, participated in military training and subsequently killed Tutsi. While the Chamber finds that some members of the *Irindiro* ballet were members of the *Interahamwe*, it finds that the Prosecution failed to adduce evidence in support of its allegations that they joined the *Interahamwe* as a result of the mobilising effect of Simon Bikindi's music, or that some ballet members were also members of the CDR.

11. In relation to Simon Bikindi's collaboration with Government figures, MRND and CDR political parties, the Chamber finds that the Prosecution has not proven that Bikindi collaborated with those alleged to militarise and indoctrinate the MRND youth wing, the *Interahamwe*, with anti-Tutsi ideology and to disseminate anti-Tutsi propaganda. The only specific collaboration proven between Minister Callixte Nzabonimana and Simon Bikindi is some routine assistance with European visas. The Chamber notes that some evidence was adduced of possible collaboration between Simon Bikindi and national leaders of the MRND, in that he was seen at political gatherings for the MRND, took the floor at two MRND meetings in 1993 and was praised by national MRND leader Karemera. However the evidence gave no indication of the nature of this collaboration. The Prosecution also failed to prove that Simon Bikindi conducted membership drives for the MRND, or that he collaborated with the CDR party.

12. In relation to Simon Bikindi's relationship with the *Interahamwe*, the Chamber finds that while Simon Bikindi did not hold any official position within the *Interahamwe*, it was proven beyond reasonable doubt that, in Rwanda in 1994, he was held in very high esteem by the *Interahamwe* and considered to be a figure of authority in the youth movement. However, the Prosecution has failed to prove beyond reasonable doubt that Bikindi agreed or collaborated with national *Interahamwe* leaders to militarise *Interahamwe* militias, indoctrinate them with

anti-Tutsi ideology and disseminate anti-Tutsi propaganda. The Chamber finds that the Prosecution has also failed to prove that Simon Bikindi participated in the recruitment and military training of *Interahamwe* as part of a plan to mobilise civilian militias to destroy the Tutsi.

13. In relation to Simon Bikindi's relationship with RTLM and Radio Rwanda, the Chamber concludes that RTLM was a vehicle for anti-Tutsi propaganda as early as the end of 1993. However, the Chamber finds that Simon Bikindi's involvement in launching RTLM with 49 other individuals, his minor shareholding in RTLM and his interviews on RTLM, are insufficient proof of a close association with any of the officials named in the Indictment or of any control over programming or over RTLM in general. In addition, the Chamber finds that the Prosecution has failed to prove that Simon Bikindi recorded his compositions at Radio Rwanda studios, that he made his songs available to RTLM for broadcast in late 1993, or that under Rwandan legislation, he had a right to forbid or enjoin public broadcasts of his compositions.

14. As regards the Prosecution's allegation that Simon Bikindi participated in the anti-Tutsi campaign by attending public gatherings between 1990 and 1994 where he addressed the audience and performed his musical compositions extolling Hutu solidarity and encouraging anti-Tutsi violence and made specific exhortations to "work", a coded reference advocating the extermination of Tutsi, the Chamber makes the following findings. First, the Chamber finds beyond reasonable doubt that Simon Bikindi attended a political meeting in a football field in Kivumu in Rwanda in 1993 at which he addressed the audience advocating that they must kill Tutsi and during which his music was played on cassette. However, the Prosecution has not proven that this meeting led to anti-Tutsi violence immediately thereafter. Second, the Chamber finds that the Prosecution has proven that Simon

Bikindi was praised at a rally at Nyamirambo Stadium in early 1994 while preparing to perform for those assembled. However, as there was no evidence of which songs Simon Bikindi performed or that he addressed the audience with a speech, the Prosecution has failed to prove that Simon Bikindi's actions constituted anti-Tutsi propaganda or were a motivating factor in anti-Tutsi violence. Third, the Chamber finds that, whereas the Prosecution has proven that Bikindi addressed an MRND meeting in Nyamirambo on 7 November 1993 praising the success of both the MRND and the *Interahamwe*, it failed to prove that Simon Bikindi's address constituted anti-Tutsi propaganda or was a prelude or a motivating factor in anti-Tutsi violence. Finally, the Chamber finds that the Prosecution has failed to prove that Simon Bikindi attended an MRND meeting at Umuganda Stadium in June 1994 or, with the exception of the meeting in Kivumu in 1993, attended any other meeting at which he would have encouraged anti-Tutsi violence. Likewise, the Prosecution has failed to prove that Simon Bikindi publicly addressed MRND or CDR adherents with exhortations to work, at an MRND meeting at Umuganda Stadium in February 1994 and a CDR meeting in March 1994.

15. The Chamber now turns to the allegation that Simon Bikindi participated in the genocide by composing, recording and disseminating songs encouraging ethnic hatred, which were then deployed in a propaganda campaign to target the Tutsi as the enemy and to sensitise and incite the listening public to attack and kill Tutsi. The Prosecution refers to three specific musical compositions in the Indictment: *Twasezereye* ("We Said Good Bye to the Feudal Regime"), *Nanga Abahutu* ("I Hate the Hutu") and *Bene Sebahinzi* ("The Sons of the Father of the Cultivators").

16. For the reasons given in the Judgement, the Chamber finds beyond reasonable doubt that *Twasezereye*, *Nanga Abahutu* and *Bene Sebahinzi* manipulated the history of Rwanda to extol Hutu solidarity. It further finds that

Nanga Abahutu and *Bene Sebahinzi* characterised Tutsi as Hutu enslavers, enemies or enemy accomplices, blamed the enemy for the problems in Rwanda, encouraged Hutu solidarity against a common foe, the Tutsi, and finally supported the spirit of the Bahutu Ten Commandments published in *Kangura*. Although the evidence does not establish Bikindi's intention in composing *Twasezereye* in 1987, the only reasonable conclusion in the Chamber's opinion is that Simon Bikindi composed *Nanga Abahutu* and *Bene Sebahinzi* with the specific intention to disseminate pro-Hutu ideology and anti-Tutsi propaganda, and thus to encourage ethnic hatred. In the context of rising ethnic tension in Rwanda during the early 1990s leading to the genocide, *Twasezereye* was also later used as a vehicle for anti-Tutsi propaganda. In light of the inflammatory content of RTLM journalists' commentary accompanying the repeated broadcasting of Simon Bikindi's songs and the testimonial evidence, the Chamber finds that Simon Bikindi's musical compositions were used by the RTLM in a propaganda campaign to promote contempt for and hatred of the Tutsi population and incite the listening public to target and commit acts of violence against Tutsi. In 1994 in Rwanda, Simon Bikindi's three songs were indisputably used to fan the flames of ethnic hatred, resentment and fear of the Tutsi. Given Rwanda's oral tradition and the popularity of RTLM at the time, the Chamber finds that these broadcasts of Simon Bikindi's songs had an amplifying effect on the genocide. However, there is no evidence that Bikindi played any role in these broadcasts or in the dissemination of the three alleged songs in 1994.

17. In respect of the Prosecution's allegation that Simon Bikindi broadcast anti-Tutsi statements and his songs through a vehicle outfitted with a public address system, the Chamber finds, based on the credible and convincing evidence of Prosecution Witnesses AKJ and AKK, that the Prosecution has proven beyond

reasonable doubt that in late June 1994, in Gisenyi prefecture, Simon Bikindi travelled on the main road between Kivumu and Kayove as part of a convoy of *Interahamwe*, in a vehicle outfitted with a public address system. The Chamber finds that when heading towards Kayove, Simon Bikindi used the public address system to state that the majority population, the Hutu, should rise up to exterminate the minority, the Tutsi. On his way back, Simon Bikindi used the same system to ask if people had been killing Tutsi. The Chamber considers that the Defence evidence did not raise a reasonable doubt in this respect.

18. Regarding the alleged attacks and killings in which Simon Bikindi is alleged to have participated, the Chamber finds the following.

19. Considering the vagueness of the Prosecution evidence or the inconsistencies and contradictions within its evidence, the Chamber finds that the Prosecution has failed to prove beyond reasonable doubt:

- that Simon Bikindi went to Gisenyi prison in June 1994 where he was involved in the killing of eight Tutsi prisoners;
- that Simon Bikindi participated in the killings of Stanislas Gasasira or of Karasira and his family;
- that sometime in mid-late June 1994, Simon Bikindi announced to *Interahamwe* at a roadblock in Rugerero that they should search for Tutsi and kill them and that after uttering these words, he led a caravan of armed *Interahamwe* to Nyamyumba *commune* and killed Tutsi, including Kabayiza and Father Thaddée Gatore as well as two other unidentified priests, and pillaged the belongings of Tutsi residents;

- that following a meeting held at Umuganda Stadium there was an intensive search for Tutsi, as a result of which Ancilla, a Tutsi woman, and her 4 year-old daughter were killed following Simon Bikindi's order;
- that, at the end of June 1994, Simon Bikindi established a roadblock at Camp Scout near the Pentecostal church on the way to Commune rouge, in Gisenyi, and that he gave orders to the *Interahamwe* manning it to kill Tutsi as a result of which Tutsi were actually killed;
- that in early July 1994, Simon Bikindi, in the company of *Interahamwe* to whom he gave orders, transported three Tutsi women by removing them from a compound in Gacuba *cellule* in Gisenyi and driving them in his car to Commune rouge where they were killed by *Interahamwe*.

20. Further, the Chamber notes that, save for the specific incident concerning Ancilla discussed above, the Prosecution failed to adduce evidence in support of its allegation that Simon Bikindi is responsible for the acts of sexual violence committed by *Interahamwe* against Tutsi women in the course of the execution of his orders to kill all Tutsi in Rubavu area. Accordingly, the Chamber finds that the Prosecution has abandoned its allegation.

21. The Chamber therefore concludes that Simon Bikindi's participation in the specific allegations of attacks or killings alleged by the Prosecution has not been proven beyond reasonable doubt.

22. Finally, the Chamber finds that the Prosecution has not proven beyond reasonable doubt that Simon Bikindi continued to demonstrate his anti-Tutsi stance while in exile in Zaire between July 1994 and early 1995 by composing and performing anti-Tutsi songs and by collaborating with ex-FAR military leaders and

former MRND-aligned government officials to continue the anti-Tutsi campaign as a means to regain power.

23. The Chamber will now summarise its legal findings in respect of each of the six counts charged.

24. Under Count 1, the Prosecution charges Simon Bikindi with Conspiracy to commit genocide pursuant to Articles 2(3)(b) and 6(1) of the Statute.

25. The Chamber has found above that the Prosecution failed to prove its allegation that Simon Bikindi agreed or collaborated with President Habyarimana, Callixte Nzabonimana, *Interahamwe* leaders, MRND leaders or persons responsible for media programming to militarise the MRND youth wing or indoctrinate *Interahamwe* militias with anti-Tutsi ideology and to disseminate anti-Tutsi propaganda. In any event, the Chamber notes that, even if had found that Simon Bikindi had collaborated with MRND leaders to disseminate anti-Tutsi propaganda, it would not have been sufficient to prove beyond reasonable doubt that Simon Bikindi agreed with them to commit genocide. The Chamber considers that agreeing to disseminate ethnic hatred against a protected group does not go as far as agreeing to the destruction, in whole or in part, of that group.

26. In the absence of any evidence in the record that Simon Bikindi agreed with any of the individuals named in the Indictment to commit genocide, the Chamber finds that the Prosecution has failed to prove beyond reasonable doubt that Simon Bikindi conspired with others to commit genocide and, consequently, failed to establish Simon Bikindi's criminal responsibility under Articles 2(3)(b) and 6(1) of the Statute for conspiracy to commit genocide. The Chamber finds Simon Bikindi not guilty on Count 1 of the Indictment.

27. Under Count 2, the Prosecution charges Simon Bikindi with genocide pursuant to Articles 2(3)(a), 6(1) and 6(3) of the Statute on the basis of his responsibility 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, as such. In the alternative, the Prosecution charges Simon Bikindi with Complicity in genocide under Count 3 pursuant to Articles 2(3)(e) and 6(1) of the Statute.

28. The Chamber has found above that the Prosecution failed to prove Simon Bikindi's participation in any of the killings or infliction of serious bodily harm to members of the Tutsi ethnic group alleged under Count 2. In addition, the Chamber finds that the Prosecution has failed to establish that Simon Bikindi's alleged subordinates – *Interahamwe*, civilian militias or members of the *Irindiro* ballet – participated in the criminal acts alleged. As a result, the Chamber considers it unnecessary to discuss whether Simon Bikindi was the *de jure* or *de facto* superior of those alleged to be his subordinates.

29. As regards to Article 6(3) liability, the Chamber emphasises that the Prosecution's allegation that Simon Bikindi could be held criminally liable for the crimes committed by the "Hutu population" lacks merit in fact and in law. Whereas the power or authority over subordinates does not necessarily arise from official or formal appointment, the existence of a superior-subordinate relationship is required for the purposes of Article 6(3) of the Statute. The Chamber acknowledges that an accused may have sufficient influence or authority over a community to have an ability to prevent or punish outside a superior-subordinate relationship. However, this would not make him a superior in the sense of Article 6(3) of the Statute *vis-à-vis* any perpetrator from that community.

30. Therefore, the Chamber finds that the Prosecution has failed to establish Simon Bikindi's criminal responsibility under Articles 2(3)(a), 6(1) or 6(3) of the Statute for genocide. The Chamber finds Simon Bikindi not guilty on Count 2 of the Indictment.

31. For the same reasons, the Chamber finds that the Prosecution failed to establish Simon Bikindi's criminal responsibility under Articles 2(3)(e) and 6(1) of the Statute for complicity in genocide. The Chamber finds Bikindi not guilty on Count 3 of the Indictment.

32. Under Count 4, the Prosecution charges Simon Bikindi with Direct and public incitement to commit genocide pursuant to Articles 2(3)(c) and 6(1) of the Statute.

33. Based on its factual findings, the Chamber finds that *Twasezereye*, *Nanga Abahutu* and *Bene Sebahinzi* did not constitute direct and public incitement to commit genocide. The Chamber has also found that there is no evidence that Bikindi played any role in the dissemination of those songs in 1994.

34. However, the Chamber recalls its finding that towards the end of June 1994, in Gisenyi prefecture, on the main road between Kivumu and Kayove, Simon Bikindi used a public address system to state that the majority population, the Hutu, should rise up to exterminate the minority, the Tutsi. On his way back, Bikindi used the same system to ask if people had been killing Tutsi, who he referred to as snakes.

35. The Chamber finds that both statements, broadcast over loudspeakers, were made publicly. The Chamber also finds that Simon Bikindi's call on "the majority" to "rise up and look everywhere possible" and not to "spare anybody" immediately referring to the Tutsi as the minority unequivocally constitutes a direct call to

destroy the Tutsi ethnic group. Similarly, the Chamber considers that Simon Bikindi's address to the population on his way back from Kayove, asking "Have you killed the Tutsis here?" and whether they had killed the "snakes" is a direct call to kill Tutsi. In the Chamber's view, it is inconceivable that, in the context of widespread killings of the Tutsi population that prevailed in June 1994 in Rwanda, the audience to whom the message was directed, namely those standing on the road, could not have immediately understood its meaning and implication. The Chamber therefore finds that Simon Bikindi's statements through loudspeakers on the main road between Kivumu and Kayove constitute direct and public incitement to commit genocide.

36. Based on the words he proffered and the manner he disseminated his message, the Chamber finds that the only reasonable conclusion is that Simon Bikindi deliberately, directly and publicly incited the commission of genocide with the specific intent to destroy the Tutsi ethnic group.

37. For the foregoing reasons, the Chamber finds beyond reasonable doubt that Simon Bikindi is criminally responsible under Articles 2(3)(c) and 6(1) of the Statute as a principal perpetrator based on his exhortations to kill Tutsi on the main road between Kivumu and Kayove towards the end of June 1994. The Chamber finds Simon Bikindi guilty on Count 4 of the Indictment for direct and public incitement to commit genocide.

38. Under Count 5, the Prosecution charges Simon Bikindi with Murder as a crime against humanity pursuant to Articles 3, 6(1) and 6(3) of the Statute.

39. To establish Simon Bikindi's criminal responsibility for murder as a crime against humanity, the Prosecution relies on paragraphs 42 to 47 of the Indictment. The Chamber has found above that the Prosecution failed to prove Bikindi's participation in any of the murders specifically alleged under these paragraphs or

of which he was provided notice. The Chamber further finds that the Prosecution has failed to establish that Simon Bikindi's alleged subordinates participated in the criminal acts alleged.

40. Therefore, the Chamber finds that the Prosecution has failed to establish Bikindi's criminal responsibility under Articles 3, 6(1) or 6(3) of the Statute for murder as a crime against humanity. The Chamber finds Bikindi not guilty on Count 5 of the Indictment.

41. Under Count 6, the Prosecution charges Bikindi with Persecution as a crime against humanity pursuant to Articles 3 and 6(1) of the Statute. Although the Indictment is unclear as to the exact nature of the underlying act of persecution alleged, the Chamber understands that the Prosecution charges Bikindi with aiding and abetting the persecution of Tutsi through the dissemination of his songs, in particular through airplay on RTLM.

42. The Chamber has found above that the Prosecution proved beyond reasonable doubt that Bikindi's songs *Nanga Abahutu* and *Bene Sebahinzi* extolled Hutu solidarity against a common foe, characterised Tutsi as Hutu enslavers, enemies or enemy accomplices and were composed with the specific intention to disseminate pro-Hutu ideology and anti-Tutsi propaganda, and to encourage ethnic hatred. It has also found that *Twasezereye*, *Nanga Abahutu* and *Bene Sebahinzi* were deployed in 1994 in Rwanda in a propaganda campaign to promote contempt for and hatred of the Tutsi population and to incite the listening public to target and commit acts of violence against the Tutsi.

43. Whereas there is evidence that Bikindi composed, recorded and performed *Twasezereye*, *Nanga Abahutu* and *Bene Sebahinzi* before 1994, there is no evidence of him performing or disseminating them in 1994. The Chamber has found that Bikindi performed in January 1994 at an MRND meeting in Kigali and

broadcast some of his songs from a vehicle outfitted with a public address system towards the end of June 1994 on the main road between Kivumu and Kayove. However, nothing in the evidence suggests that Bikindi performed or played the specific songs alleged at that meeting or through the public address system.

44. Further, the evidence does not establish that Bikindi's relationship with RTLM allowed him any influence or control over the broadcasting of his songs on the radio. While Bikindi was interviewed on RTLM in January 1994, the transcripts of the broadcast show that none of the specific songs alleged were played or discussed. His interview was limited to discussing the political situation at the time.

45. The Prosecution argues that Bikindi "acquiesced in the manner in which RTLM used his songs to promote death and destruction". Mere "acquiescence" is not sufficient to entail criminal responsibility in international criminal law. In the present case, the Prosecution has failed to prove that Bikindi's alleged acquiescence amounted to tacit approval or encouragement which had a substantial effect on the perpetration of the alleged crime. The Chamber also recalls that to hold an accused criminally responsible for his omissions, it must be proven that he failed to fulfil a legal duty to act mandated by a rule of criminal law. The Prosecution has failed to prove that Bikindi had a duty in law to stop the broadcast of his musical compositions.

46. The Chamber concludes that the Prosecution has failed to prove beyond reasonable doubt that Bikindi disseminated, in one way or another, or played a role in the deployment of *Twasezereye*, *Nanga Abahutu* and *Bene Sebahinzi*, in 1994. Therefore, the Chamber finds that the Prosecution has failed to establish Bikindi's criminal responsibility under Articles 3 and 6(1) of the Statute for aiding and

abetting persecution as a crime against humanity. The Chamber finds Bikindi not guilty on Count 6 of the Indictment.

Accused, please stand up and come in front, to the witness box.

47. For the reasons stated and having considered all the evidence presented and the arguments before it, the Trial Chamber unanimously finds you, Simon Bikindi, guilty on Count 4 of the Indictment for Direct and Public Incitement to Commit Genocide based on your exhortations to kill Tutsi in a vehicle outfitted with a public address system on the main road between Kivumu and Kayove in late June 1994.

48. The Chamber finds you, Simon Bikindi, not guilty on the five other counts: Genocide (Count 2), Complicity in Genocide (Count 3), Conspiracy to commit genocide (Count 1), Murder and Persecution as crimes against humanity (Counts 5 and 6).

49. Direct and Public Incitement to Commit Genocide is, by definition, a crime of the most serious gravity which affects the very foundations of our society and shocks the conscience of humanity.

50. In considering the appropriate sentence, the Chamber has considered the Tribunal's sentencing practice and that under Rwandan law, genocide carries the possible penalty of life imprisonment, or life imprisonment with special provisions, depending on the nature of the accused's participation.

51. The Chamber has also considered your individual circumstances and finds that you abused your stature as a well-known and popular artist perceived to be an influential member of the MRND and an important figure in the *Interahamwe* movement by using your influence to incite genocide. The Chamber considers this is to be an aggravating factor.

52. The Chamber does not find any circumstance which could mitigate your criminal responsibility.

53. For those reasons, the Chamber sentences you, Simon Bikindi, to 15 years imprisonment, with an entitlement to credit for time already spent in detention since your arrest in The Netherlands on 12 June 2001. In accordance with Rules 102(A) and 103 of the Rules, you shall remain in the custody of the Tribunal pending transfer to the state where you will serve your sentence.