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International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

THE PROSECUTOR

AGAINST

FERDINAND NAHIMANA

AMENDED INDICTMENT

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:

FERDINAND NAHIMANA

with CONSPIRACY TO COMMIT GENOCIDE, GENOCIDE, DIRECT AND PUBLIC INCITEMENT TO COMMIT GENOCIDE, COMPLICITY IN GENOCIDE AND CRIMES AGAINST HUMANITY, all offences stipulated in Articles 2, and 3 of the Statute of the Tribunal, and as set forth below:

1. HISTORICAL CONTEXT

- 1.1 The revolution of 1959 marked the beginning of a period of ethnic clashes between the Hutu and the Tutsi in Rwanda, causing hundreds of Tutsis to die and thousands more to flee the country in the years immediately following. The revolution resulted in the abolition of the Tutsi monarchy and the proclamation of the First Republic in early 1961, confirmed in a referendum held in the same year. Legislative elections held in September 1961 confirmed the dominant position of the MDR-PARMEHUTU (*Mouvement Démocratique Républicain - Parti du Mouvement d'Emancipation Hutu*), led by Grégoire Kayibanda, who was subsequently elected President of the Republic by the Legislative Assembly on 26 October 1961.
- 1.2 The early years of the First Republic, which were under the domination of the Hutus of central and southern Rwanda, were again marked by ethnic violence. The victims were predominantly Tutsi, the former ruling elite, and those related to them, who were killed, driven to other regions of Rwanda or forced to flee the country. The gradual elimination of the opposition parties in those early years confirmed the MDR-PARMEHUTU as the single party, the only party to present candidates in the elections of 1965.
- 1.3 The early part of 1973 in Rwanda was again marked by ethnic confrontations between the Hutus and Tutsis, prompting another exodus of the Tutsi minority from the country, as had occurred between 1959 and 1963. This new outburst of ethnic and political tension between the North and South resulted in a military coup by General Juvénal Habyarimana on 5 July 1973, shifting power from civilian to military hands and from the Hutus of central Rwanda to Hutus of the northern *préfectures* of Gisenyi (Habyarimana's native region) and Ruhengeri.
- 1.4 In 1975, President Habyarimana founded the *Mouvement Révolutionnaire National pour le Développement* (MRND), a single

party, and assumed the position of party chairman. The administrative and party hierarchies were indistinguishable in this single party state from the level of the *Préfet* to the *bourgmestres*, and down to that of the *conseillers de secteur* and *responsables de cellule*.

- 1.5 From 1973 to 1994, the government of President Habyarimana used a system of ethnic and regional quotas which was supposed to provide educational and employment opportunities for all but which was used increasingly to discriminate against both Tutsis and Hutus from regions outside the northwest. In fact, by the late 1980s, persons from Gisenyi and Ruhengeri occupied many of the most important positions in the military, political, economic and administrative sectors of Rwandan society. Among the privileged elite, an inner circle of relatives and close associates of President Habyarimana and his wife, Agathe Kanziga, known as the *Akazu*, enjoyed great power. This select group, almost exclusively Hutu, was supplemented by individuals who shared its extremist Hutu ideology, and who came mainly from the native region of the President and his wife.
- 1.6 In 1990, the President of the Republic, Juvénal Habyarimana, and his party, the MRND, were facing mounting opposition from, among others, Hutus.
- 1.7 On 1 October 1990, the Rwandan Patriotic Front (RPF), made up mainly of Tutsi refugees, attacked Rwanda. Within days the government began arresting thousands of people, presumed to be opponents of Habyarimana and suspected of being RPF accomplices. Although the Tutsi were the main target, Hutu political opponents were also arrested.
- 1.8 Following pressure from the internal opposition and the international community, and the RPF attack of 1 October 1990, President Habyarimana permitted the introduction of multiple political parties and the adoption of a new constitution on 10 June 1991. The *Mouvement Révolutionnaire National pour le Développement* (MRND) was renamed *Mouvement Républicain National pour la Démocratie et le Développement* (MRND). The first transitional government was made up almost exclusively of MRND members,

following the refusal of the main opposition parties to take part. With the second transitional government in April 1992, the MRND became a minority party for the first time in its history, with 9 ministerial portfolios out of 19. On the other hand, the MRND retained its domination over the local administration.

- 1.9 The new government then entered into negotiations with the RPF, which resulted in the signing of the Arusha Accords on 4 August 1993. The Accords provided for a new system of sharing military and civilian power between the RPF, the opposition parties and the MRND.
- 1.10 By the terms of the Arusha Accords, which provided for the integration of both sides' armed forces, the new national army was to be limited to 13,000 men, 60% FAR (*Forces Armées Rwandaises*) and 40% RPF. The posts of command were to be shared equally (50%-50%) between the two sides, with the post of Chief of Staff of the Army assigned to the FAR.
The Gendarmerie was to be limited to 6,000 men, 60% FAR and 40% RPF, with the posts of command shared equally (50%-50%) between the two sides and the post of Chief of Staff of the Gendarmerie assigned to the RPF.
- 1.11 As regards representation within the government, the Arusha Accords limited the number of ministerial portfolios to be held by the MRND to five, plus the Presidency. The other portfolios were to be shared as follows: RPF, five; MDR (*Mouvement Démocratique Républicain*), four (including the post of Prime Minister); PSD (*Parti Social-Démocrate*), three; PL (*Parti Libéral*), three; and the PDC (*Parti Démocrate-Chrétien*), one.
- 1.12 In addition, the parties to the Arusha Accords agreed to reject and fight any political ideology based on ethnic differences. Thus, the political forces that were to participate in the transitional institutions agreed to abstain from all sorts of violence and inciting violence by written or verbal communication, or by any other means, and to fight all political ideologies aimed at fostering any form of ethnic discrimination.

- 1.13 For the men and women close to President Habyarimana, including the members of the *Akazu*, who held positions of prominence in the various sectors of Rwandan society, this new power-sharing plan, as demanded by the political opposition and as stipulated in the Arusha Accords, meant a relinquishment of power and the loss of numerous privileges and benefits. At the same time, many of the military were facing massive demobilisation with the implementation of the Arusha Accords. Lastly, the constitutional statute of the Accords jeopardized the existence of the media which advocated an ideology of ethnic division.
- 1.14 From 1990, Habyarimana and several of his close associates devised a strategy of inciting hatred and fear of the Tutsi minority as a way of rebuilding solidarity among Hutu and keeping themselves in power. They strongly opposed any form of power sharing, including that envisaged by the Arusha Accords.
- 1.15 Determined to avoid the power sharing prescribed by the Arusha Accords, several prominent civilian and military figures pursued their strategy of ethnic division and incitement to violence. They targeted and labelled as RPF accomplices the entire Tutsi population, and also Hutus opposed to their domination, particularly those from regions other than northwestern Rwanda. At the same time, they sought to divide Hutu opposition parties, attracting some of their members back to the support of Habyarimana. These efforts to divide the Hutu opposition were favored by the assassination of Melchior Ndadaye, a democratically elected Hutu President in neighboring Burundi, by Tutsi soldiers of the Burundi army. By late 1993, two of the three major parties opposed to the MRND had each split into two factions. The faction of each known as the "Power" faction aligned itself with the MRND.
- 1.16 The strategy adopted in the early 1990s, which culminated in the widespread massacres of April 1994, comprised several components, which were carefully worked out by the various prominent figures who shared the extremist Hutu ideology, including the members of

the *Akazu*. Added to the incitement to ethnic violence and extermination of the Tutsis and their accomplices was the organization and military training of the youth wings of the political parties, notably the *Interahamwe* (youth wing of the MRND), the preparation and broadcasting of lists of people to be eliminated, the distribution of weapons to civilians, the assassination of certain political opponents and the massacre of many Tutsis in various parts of Rwanda between October 1990 and April 1994.

- 1.17 The incitement of ethnic hatred took the form of public speeches by people sharing the extremist ideology. These political and military figures publicly appealed to hatred and fear of the Tutsis and urged the Hutu majority to finish off the enemy and its accomplices. A perfect illustration is the speech made in November 1992 by Léon Mugesera, vice-chairman of the MRND for Gisenyi *préfecture*, who at the time was already inciting the public to exterminate the Tutsis and their accomplices.
- 1.18 With the intention of ensuring widespread dissemination of the calls to ethnic violence, prominent figures from the President's circle set up an effective hate media, which would exercise great influence over the Rwandan people. Thus the creation of *Radio Télévision Libre des Mille Collines (RTL)* and of the newspaper *Kangura* was a part of the strategy and pursued the same logic. As early as 1993, the Tutsis and political opponents were targeted, identified by name and threatened by these media. Many of them were among the first victims of the massacres of April 1994.
- 1.19 The creation of the youth wings of the political parties, originally intended to encourage or even force adherence to one or another party in the newly established multi-party system, provided Habyarimana's circle with a large, devoted and effective workforce to implement the adopted strategy. These youth organizations, which were affiliated to the political parties, were soon manipulated as part of the anti-Tutsi campaign. Some of the members of these organizations, notably the *Interahamwe* (MRND) and the *Impuzamugambi* (CDR), were organized into militia groups, which were financed, trained and led by prominent civilians and military

figures from the President of the Republic's entourage. They were issued weapons, with the complicity of certain military and civilian authorities. The militia groups were transported to training sites, including certain military camps, in public administration vehicles or vehicles belonging to companies controlled by the President's circle.

- 1.20 During the mass arrests of October 1990, the civilian and military authorities followed lists that had been drawn up in order to identify and locate the presumed accomplices of the RPF, the majority of whom were Tutsi. Later, Army, Gendarmerie, local authorities and *Interahamwe* were given orders to prepare new lists or update the existing ones, which were subsequently used during the massacres of 1994.
- 1.21 Towards the end of 1991, certain Rwandan authorities distributed weapons to certain civilians in the north-eastern region of the country as part of a civil self-defence campaign, in reaction to the RPF attack of 1 October 1990. Later, some authorities distributed weapons nationwide, notably to the *Interahamwe*, *Impuzamugambi* and carefully selected individuals, even in regions distant from the war zone. Towards the end of 1993, the Bishop of Nyundo criticized the distribution of weapons in a public letter and questioned its purpose.
- 1.22 The pursuit of the strategy thus described played a catalytic role in the political and ethnic violence of the time, which climaxed in the April 1994 massacres. The early part of the 90s was marked by numerous political assassinations and large massacres of the Tutsi minority, including the one in Kibilira (1990), that of the Bagogwe (1991) and the one in Bugesera (1992). The massacres were instigated and organized by local authorities with the complicity of certain prominent persons from the President's circle. Therein can be found the components of the strategy which culminated in the genocide of 1994, including the use of written and radio propaganda to incite the commission of the massacres.
- 1.23 In early 1994, certain prominent people from Habyarimana's circle instigated violent demonstrations in Kigali aimed at preventing the

implementation of the Arusha Accords. Soldiers in civilian clothes and militiamen took part, seeking to provoke confrontations with the Belgian UNAMIR soldiers. These incidents were partially the cause of the postponement of the establishment of the institutions envisaged by the Arusha Accords.

- 1.24 On 6 April 1994, the plane carrying, among other passengers, the President of the Republic of Rwanda, Juvénal Habyarimana, was shot down on its approach to Kigali airport.
- 1.25 In the hours which followed the crash of the President's plane, the senior officers of the FAR convened to assess the situation. Those who shared the extremist Hutu ideology, generally from the North, proposed an army take-over. During a second meeting which took place on the morning of 7 April, that option was rejected in favour of setting up an interim Government.
- 1.26 Already on the morning of 7 April and while these discussions were taking place, groups of soldiers, lists in hand, proceeded to arrest, confine and carry out systematic assassinations of a large number of political opponents, both Hutu and Tutsi, including the Prime Minister, some of the Ministers in her Government and the President of the Constitutional Court. At the same time, however, soldiers were evacuating prominent members of President Habyarimana's circle, including the MRND Ministers, to safe locations. The Belgian UNAMIR soldiers sent to protect the Prime Minister were disarmed, arrested and taken to Kigali military camp, where they were massacred, prompting the withdrawal of the Belgian contingent in the days that followed. After the withdrawal of the Belgian troops, the UN Security Council drastically reduced the number of UNAMIR personnel in Rwanda.
- 1.27 The leaders of various political parties not targeted in the assassinations assembled at the request of military officers. Other than members of the MRND, most participants were members of the "Power" wings of their respective parties. Given the political and constitutional void created by the deaths of most national political authorities, they set up a government based on the 1991 constitution.

Composed solely of Hutus, the government was sworn in on 9 April 1994. The MRND held 9 ministerial posts, plus the Presidency of the Republic, while the remaining 11 posts, including that of Prime Minister, went to the "Power" factions of the other parties.

- 1.28 In the hours that followed the crash of President Habyarimana's plane, military and militiamen set up roadblocks and began slaughtering Tutsis and members of the Hutu opposition in Kigali and in other parts of Rwanda. At the roadblocks, they checked the identity cards of passers-by and killed those or most of those who were identified as Tutsi. Military patrols, often involving militiamen, scoured the city, lists in hand, to execute the Tutsis and certain political opponents.
- 1.29 During the entire period of the genocide, FAR soldiers and militiamen, notably the *Interahamwe* (MRND) and the *Impuzamugambi* (CDR), actively participated in the massacres of Tutsis throughout Rwanda.
- 1.30 As soon as it was formed, the Interim Government espoused the plan of extermination put in place. Throughout the period of the massacres, the Government made decisions and issued directives to aid and abet in the extermination of the Tutsi population and the elimination of the Hutu political opponents. Members of the Government incited the population to eliminate the enemy and its accomplices, notably through the media, and some of them participated directly in the massacres.
- 1.31 Local authorities, including *préfets*, *bourgmestres*, *conseillers de secteur* and *responsables de cellule* applied the Government-issued directives in execution of the plan for the extermination of the Tutsi population. They incited and ordered their subordinates to perpetrate the massacres and took a direct part in them.
- 1.32 Starting on 6 April 1994, the incitement of hatred and ethnic violence promoted by the media turned into a genuine call to exterminate the Tutsis and their accomplices. At the centre of this campaign of

extermination was RTLM, described as "the killer radio station", playing a decisive role in the genocide. It became a genuine accomplice of the perpetrators of genocide.

- 1.33 Having been psychologically and militarily prepared for several months, groups of militiamen spearheaded the execution of the extermination plan and were directly involved in the massacres of the civilian Tutsi population and of moderate Hutus, thus causing the deaths of hundreds of thousands of people in less than 100 days.

2. TERRITORIAL, TEMPORAL AND MATERIAL JURISDICTION

- 2.1 The crimes referred to in this indictment were committed in Rwanda between 1 January and 31 December 1994.
- 2.2 During the events to which reference is made in this indictment, Rwanda was divided into 11 *préfectures*: Butare, Byumba, Cyangugu, Gikongoro, Gisenyi, Gitarama, Kibungo, Kibuye, Kigali-Ville, Kigali-Rural and Ruhengeri. Each *préfecture* was subdivided into *communes* and *secteurs*.
- 2.3 During the events to which reference is made in this indictment, the Tutsi, the Hutu and the Twa were identified as racial or ethnic groups. The Belgians were a national group.
- 2.4 During the events to which reference is made in this indictment, there were throughout Rwanda widespread or systematic attacks directed against a civilian population on political, ethnic or racial grounds.

3. THE POWER STRUCTURE

The Government:

- 3.1 According to the Constitution of 10 June 1991, executive power is exercised by the President of the republic, assisted by the government, composed of the Prime Minister and the ministers. The members of the government are appointed by the president of the republic upon the proposal of the Prime Minister. The Prime Minister directs Government program. The government determines and applies national policy. To that effect, it controls the civil service and the armed forces. The Prime Minister decides the functions of the ministers and officials under the Prime Minister's authority. The resignation or termination of tenure of the Prime Minister, for whatever reason, causes the government to resign.
- 3.2 The Ministers implement Government policy, under the direction of the Prime Minister, head of government. In carrying out their duties, the Ministers have at their disposal the central and local administration.
- 3.3 The Minister of Information is in charge of implementing Government policy with regard to information. The Minister manages and controls the activities of the services coming under his authority, including the public and private press divisions. The Rwandan Information Agency (ORINFOR), is under the authority of the Minister of Information.

The Rwandan Armed Forces:

- 3.4 The *Forces Armées Rwandaises (FAR)* were composed of the *Armée Rwandaise (AR)* and the *Gendarmerie Nationale (Gendarmerie Nationale)*.

The Political Parties and The Militia:

- 3.5 During the events to which reference is made in this indictment, the main political parties in Rwanda were the MRND (*Mouvement*

Républicain National pour la Démocratie et le Développement), the CDR (*Coalition pour la Défense de la République*), the MDR (*Mouvement Démocratique Républicain*), the PSD (*Parti Social-Démocrate*) and the PL (*Parti Libéral*). The RPF (Rwandan Patriotic Front) was a politico-military opposition organization.

- 3.6 The CDR (*Coalition pour la Défense de la République*) was formed on 18 February 1992 to defend the republican institutions stemming from the Social Revolution of 1959. At the national level, the CDR had a General Assembly. At the local level were prefectural and communal bodies such as the Regional Assembly, which decided on all party issues for the *préfecture* and was led by a regional committee, made up of four members, including a chairman, a vice-chairman, a secretary and a treasurer, who were elected for four-year terms.
- 3.7 Most of the political parties had created a youth wing. The members of the MRND's youth wing were known as the *Interahamwe* and those of the CDR were known as the *Impuzamugambi*. Most of the MRND and CDR youth wing members subsequently received military training and were thus transformed from youth movements into militias.

The Press in Rwanda:

- 3.8 Between January and July 1994, two radio stations in Rwanda had authorization to broadcast throughout the country, i.e. Radio Rwanda and RTL. In addition, Radio Muhabura, the RPF's radio station, could be received in certain regions of Rwanda.
- 3.9 Between January and December 1994, several press publications were available in Rwanda, including the newspaper *Kangura* with its edition in *Kinyarwanda*. An International version of *Kangura* was published in French.
- 3.10 Pursuant to Law No. 54/91 of 15 November 1991 on the press in Rwanda, anyone wishing to found or operate a radio broadcasting

company must sign an agreement of establishment and operation with the Rwandan government.

- 3.11 This law punished anyone who used the press to commit offences against individuals or groups, such as defamation (Article 44) or public slander (Article 45), or accomplices to such offences (Article 46). Further, Article 166 of the Rwandan Penal Code, provided punishment for any speech made at public meetings or in public places, designed to cause the citizens to rise up against one another. Lastly, Article 49 of the press law to which reference is made in paragraph 3.10 above, determined the persons who may be responsible for offences committed through the press.
- 3.12 The Rwandan Information Agency (ORINFOR), is a public institution with financial and administrative autonomy, responsible for radio and television broadcasts, the print media, cinema and photography services nationwide.

4. THE ACCUSED

- 4.1 Ferdinand Nahimana was born on June 15, 1950 at Gatonde commune, in Ruhengeri Prefecture, Rwanda.
- 4.2 At the time of the events to which reference is made in this indictment, he was a member of the "Comité d'Initiative", the founding body of "Radio Télévision Libre des Mille Collines", (RTLM), s.a. He was a shareholder of the RTLM s.a. and the ideologue behind the creation of the RTLM s.a. He became a senior official of the RTLM radio station. He was also a member of the group known as "Hutu Power" and a member of the MRND and later on CDR political parties. He was named Minister of Higher Education, Scientific Research and Culture under the Peace Accords signed in Arusha on 3 August 1993.
- 4.3 Ferdinand Nahimana was also a member of the *Comité de Salut*, at the National University of Ruhengeri, professor in the National University in Butare, and Director of the Rwandan Information Agency (*ORINFOR*).

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- 4.4 Ferdinand Nahimana was an important and influential person, closely associated with the persons in power, such as president Habyarimana, president Sindikubwabo, Colonel Bagosora, Jean-Bosco-Barayagwiza, Robert Kajuga and others.

5. CONCISE STATEMENT OF THE FACTS: PREPARATION

- 5.1 From 1990 until December 1994, Ferdinand Nahimana, Jean-Bosco Barayagwiza, Hassan Ngeze and Georges Ruggiu conspired among themselves and with others to work out a plan with the intent to exterminate the civilian Tutsi population and eliminate the moderate Hutu. The components of this plan consisted of, among other things, the broadcasting of messages of ethnic hatred and incitement to violence, the training of and distribution of weapons to militiamen, as well as the preparation of lists of people to be eliminated and the broadcasting of their identities. In executing the plan, they organized and ordered the massacres perpetrated against the Tutsi population and moderate Hutu, and at the same time incited, aided and participated in them.

Incitement and Broadcasts:

- 5.2 The incitement of ethnic hatred and violence was a fundamental part of the plan put in place. It was articulated, before and during the genocide, by politicians and businessmen, members of the Government and local authorities, and by elements of the FAR.
- 5.3 The 1990s saw the development of several publications in Rwanda which were designed to ensure that the message of ethnic hatred and incitement to violence was disseminated. In 1990, individuals in President Habyarimana's circle, including Ferdinand Nahimana, Jean-Bosco Barayagwiza and Joseph Nzirorera, formed the newspaper *Kangura* for the purpose of defending the extremist Hutu ideology. Ferdinand Nahimana, Jean-Bosco Barayagwiza and Casimir Bizimungu took part in editing some articles published in the *Kangura*.

- 5.4 Hassan Ngeze, a founding member of the CDR and a close collaborator of Jean-Bosco Barayagwiza, was appointed editor-in-chief of the newspaper *Kangura*. In December 1990, the newspaper published the *Ten Commandments of the Bahutus*, which was not only an outright call to show contempt and hatred for the Tutsi minority but also to slander and persecute Tutsi women.
- 5.5 On 4 December 1991, at the conclusion of a meeting chaired by the Head of State, Juvénal Habyarimana, a military commission was given the task of finding an answer to the following question: *What do we need to do in order to defeat the enemy militarily, in the media and politically?* The newspaper *Kangura* wrote approvingly of the meeting.
- 5.6 The report produced by the commission defined the main enemy as follows: *The Tutsis from inside or outside the country, who are extremists and nostalgic for power, who do not recognize and have never recognized the realities of the Social Revolution of 1959, and are seeking to regain power in Rwanda by any means, including taking up arms.* The secondary enemy was defined as: *Anyone providing any kind of assistance to the main enemy.* The document specified that the enemy was being recruited from within certain social groups, notably: *the Tutsis inside the country, Hutus who are dissatisfied with the present regime, foreigners married to Tutsi women...* Among the activities the enemy was accused of, the document mentioned *the diversion of national opinion from the ethnic problem to the socio-economic problem between the rich and the poor.*
- 5.7 On 21 September 1992, an excerpt from the report was circulated among the troops. The following day, the CDR, issued a press statement in which it listed the names of individuals described as enemies and traitors to the nation.
- 5.8 The characterization of the Tutsis as the enemy and of members of the opposition as their accomplices was echoed by politicians, notably by Léon Mugesera, MRND Vice-Chairman for Gisenyi *préfecture*. In a

speech he made on 22 November 1992, broadcast on Radio Rwanda and therefore reaching a much larger audience, Léon Mugesera called for the extermination of the Tutsi population and their accomplices.

- 5.9 The idea of the creation of a radio in order to defend the extremist Hutu ideology and to promote the use of incitement of hatred and fear of the Tutsi minority was born after the creation of the Law of the Press in 1991. As Director of ORINFOR, Ferdinand Nahimana participated in the discussions. In 1992, Ferdinand Nahimana started to collect funds in Ruhengeri University, for the establishment of the RTLM.
- 5.10 On 19 October 1992, before the Statutes of RTLM s.a. had been signed, traditional weapons were purchased through a bank account in the company's name.
- 5.11 From July 1993 to July 1994, RTLM broadcasts echoed the description of the Tutsis as the enemy and the members of the opposition as their accomplices, regularly using contemptuous expressions such as *Inyenzi* or *Inkotanyi* and referring to them as enemies or traitors who deserved to die.
- 5.12 In addition, RTLM and the newspaper *Kangura* conducted a campaign against the Arusha Accords, which both stipulated power-sharing with the Tutsi minority and rejected any ideology based on ethnic identity. *Kangura's* attacks targeted in particular the Government representative at the negotiations, Minister of Foreign Affairs Boniface Ngulinzira. On 11 April 1994, Boniface Ngulinzira was assassinated by the military. RTLM announced the news of his death in the following words: "*We have exterminated all RPF accomplices. Mr. Boniface Ngulinzira will no longer go to Arusha to sell the country to the RPF. The peace Accords are nothing but scraps of paper as our father Habyrimana had predicted.*"
- 5.13 Between October 1993 and May 1994, Ferdinand Nahimana took part in political debates on RTLM and Radio Rwanda, in which he made extremist remarks about the Tutsis and the Hutus in the opposition

and incited the population to fight them.

- 5.14 Between May 1993 and July 1994, Ferdinand Nahimana, as head, or part of official delegations, took part in political debates, summits and press conferences abroad in order to defend the extremist policies of the government of president Habyarimana. During the same period, Ferdinand Nahimana organized a campaign, for the creation of RTLM.
- 5.15 In March 1994, Ferdinand Nahimana addressed the population in a letter in which he referred to his article of February 1993, entitled "*Rwanda: Actual Problems and Solutions*", calling on the population to find a final solution to the problem of Rwanda and inciting the youth to organize self defence groups to fight against the RPF.
- 5.16 Furthermore, during the same period, Ferdinand Nahimana chaired meetings of MRND members in Ruhengeri. The purpose of the meetings was to discuss the elimination of the Tutsis and moderate Hutus.
- 5.17 Between 1979 and 1994, Ferdinand Nahimana wrote and published articles and books inciting the population against the Tutsis and the moderate Hutus, and espoused the superiority of Hutus from the north.
- 5.18 Between January and July 1994, Ferdinand Nahimana, together with his brother, Munyambibi Venant, organised meetings with the *interahamwe* in Ruhengeri Prefecture. The purpose of the meetings was to establish the future actions of the *interahamwe*.
- 5.19 On 29 March 1994, in Busengo Sub-Prefecture, in Ruhengeri Prefecture, Ferdinand Nahimana attended an MRND and *interahamwe* meeting. At this meeting Ferdinand Nahimana gave orders for the *interahamwe* to kill Tutsis from Nyarutovu commune.
- 5.20 About 12 April 1994, Ferdinand Nahimana held another meeting with the *interahamwe* and MRND members in Gatonde commune in the commune office. After this meeting, the killing of Tutsis started

immediately in the commune.

Establishment of Lists:

- 5.21 In 1993, Ferdinand Nahimana participated in a meeting in Nyamirambo, Kigali, where the *Interahamwe* prepared lists with names of Tutsis to be killed.
- 5.22 From January to July 1994, RTLM broadcast lists of people identified as "*the enemy*." From 7 April to late July, military and militiamen massacred members of the Tutsi population and moderate Hutus by means of pre-established lists and names broadcast on RTLM.
- 5.23 From April 1994, Ferdinand Nahimana, participated in secret meetings organized by the *Interahamwe* in the office of Andre Ntagerura, Minister of Transport.

Precursors Revealing A Deliberate Course Of Action:

- 5.24 The political and ethnic violence of the early 1990s was characterized by the use of the elements of the strategy which achieved its finality in the genocide of April 1994. The massacres of the Tutsi minority at that time, including those in Kibilira (1990), in Bagogwe (1991), and those of Bugesera (1992), were instigated, facilitated and organized by civilian and military authorities. On each occasion, a campaign of incitement of ethnic violence, conducted by local authorities, was followed by massacres of the Tutsi minority, perpetrated by groups of militiamen and civilians, armed and assisted by the same authorities and by certain military personnel. On each occasion, these crimes remained unpunished and the authorities implicated were generally not taken to task.
- 5.25 As Director of ORINFOR and University professor, Ferdinand Nahimana persecuted Tutsis working under his authority, because of their ethnicity. Most of them lost their jobs.
- 5.26 In 1992, Ferdinand Nahimana, as Director of ORINFOR with

responsibility over Radio Rwanda, ordered the broadcast of a press statement which incited the population against the Tutsis in Bugesera. As a result, a large number of Tutsis were killed. With pressure from moderate members of government, Ferdinand Nahimana was dismissed from the post of Director of ORINFOR.

Modus Operandi:

- 5.27 By 7 April 1994, throughout Rwanda, Tutsis and certain moderate Hutus, began to flee their homes to escape the violence to which they were victims. They sought refuge in places where they had traditionally felt safe, notably churches, hospitals and other public buildings such as *commune* and *préfecture* offices. On several occasions, gathering places were indicated to them by the local authorities, who had promised to protect them. In the initial days, the refugees were protected by a few gendarmes and communal police in these various locations, but subsequently, the refugees were systematically attacked and massacred by militiamen, often assisted by the same authorities who had promised to protect the refugees.
- 5.28 Furthermore, soldiers, militiamen and gendarmes raped or sexually assaulted or committed other crimes of a sexual nature against Tutsi women and girls, sometimes after having first kidnapped them.

6. CONCISE STATEMENT OF THE FACTS: RTLM

- 6.1 The idea of the creation of RTLM was implemented on 8 April 1993 with the signing of the statutes by Ferdinand Nahimana, Jean-Bosco Barayagwiza, Félicien Kabuga, André Ntagerura, Georges Rutaganda, Joseph Nzirorera, Simon Bikindi and others. Ferdinand Nahimana became a shareholder of RTLMs.a.
- 6.2 A *comité d'initiative* was set up and some of its members, including notably Félicien Kabuga, the chairman, Ferdinand Nahimana and Jean-Bosco Barayagwiza, acted as officials of RTLM. RTLM broadcast throughout Rwanda from 8 July 1993 until late July 1994. Hassan Ngeze welcomed the creation of the RTLM in *Kangura*, describing it as the birth of a partner in the fight for Hutu unification.
- 6.3 On 30 September 1993, an agreement to establish and operate a radio station was signed by the Government of Rwanda and *Radio Télévision libre des Mille Collines* (RTLM). Article 5(2) of the agreement stipulated notably that RTLM agreed not to broadcast programs that would incite hatred, violence or any form of division.
- 6.4 In 1993, at an RTLM fund raising meeting organized by the MRND, Félicien Kabuga publicly defined the RTLM's purpose as the defence of "Hutu Power". He made these remarks in the presence of Ferdinand Nahimana, Jean-Bosco Barayagwiza, Hassan Ngeze, Froduald Karamira, Justin Magenzi, Mathieu Ngirumpatse and the journalists Kantano Habimana, Valérie Bemmeriki, Noël Hitimana, Gaspard Gahigi and others.
- 6.5 RTLM received logistical support from Radio Rwanda, and also from President Habyarimana, as the station was connected to the power generators at the President's Office, thus enabling it to continue to operate in the event of power failure.

Content and Impact of RTLM Broadcasts:

- 6.6 RTLM's objectives were to promote the extremist Hutu ideology. Its strategy of broadcast evolved from music and other popular programs in 1993 to the incitement of the extermination of the Tutsis and elimination of the Hutus in the opposition in 1994. As from 7 April 1994, RTLM became a weapon in the execution of the genocide, by aiding, abetting and inciting the population and the militiamen to commit massacres. Ferdinand Nahimana was the ideologue and the strategist of the RTLM.
- 6.7 As from April 1994, RTLM broadcast messages inciting the population and the militia groups to exterminate all the Tutsis and eliminate the moderate Hutus and Belgian nationals, by using such expressions as: "*go work*", "*go clean*", "*to each his own Belgian*", "*the graves are not yet full*", "*the revolution of 1959 is not over and must be carried through to its conclusion*".
- 6.8 Thus, during this period, Georges Henri Yvon Ruggiu, in his capacity as a reporter and employee of RTLM since 1 January 1994, presented programs in French that incited the people and the *Interahamwe* militiamen "to work" and "complete the revolution of 1959". These messages of incitement were designed to bring about the extermination of the Tutsi population and the elimination of moderate Hutus and certain Belgian nationals.
- 6.9 Between January and July 1994, other reporters such as Valérie Bemeriki, Kantano Habimana, Gaspard Gahigi and Noël Hitimana also incited the population and the *Interahamwe* to exterminate the Tutsis and moderate Hutus. The same reporters slandered and denigrated Tutsi women over the RTLM airwaves.
- 6.10 Thus, on 2 July 1994, the reporter Kantano Habimana incited the people to rise up, stand fast and fight the *Inkotanyi* using stones, machetes and spears, while rejoicing that in the end the *Inkotanyi* would be exterminated.
- 6.11 Also, in June 1994, Valérie Bemeriki incited the people to set up

roadblocks everywhere in order to monitor the *Inyenzi-Inkotanyi* effectively and expressed satisfaction at the large number of *Inyenzi* killed in the country.

- 6.12 Between April and July 1994, RTLM broadcast interviews, messages and speeches by political and government figures which incited the extermination of the Tutsis and moderate Hutus.
- 6.13 In April, May and June 1994, Hassan Ngeze, co-founder of the CDR, along with Jean-Bosco Barayagwiza, was interviewed on RTLM and Radio Rwanda. During those interviews, Hassan Ngeze called for the extermination of the Tutsis and Hutus in the opposition. He also defended the extremist Hutu ideology of the CDR.
- 6.14 In addition, members of the government and the political parties used the media to incite the massacre of the Tutsi population and moderate Hutus. On 21 April 1994, in particular, the Prime Minister of the Interim Government, Jean Kambanda, stated that the RTLM broadcasts were "a crucial weapon in the fight against the enemy".
- 6.15 From the end of 1993 through July 1994, RTLM identified the locations where the Tutsis had sought refuge and told the *Interahamwe* militiamen to attack those locations. Several of the locations were attacked and the Tutsis there were massacred. In certain cases, RTLM identified certain individuals who were described as accomplices and told the militiamen to find and execute them.
- 6.16 As from 10 April 1994, RTLM and notably two of its employees, Valérie Bemeriki and Noël Hitimana, incited the militiamen to attack the Kadafi mosque in Nyamirambo. The reporters named certain individuals who had sought refuge there and gave orders to eliminate them. In the days that followed, Kadafi mosque was attacked and several refugees were executed.
- 6.17 Between April and July 1994, Georges Ruggiu made broadcasts on RTLM that incited the youth and militiamen to commit massacres of

the civilian Tutsi population. In the broadcasts he called on them to continue to "work" and mobilize themselves at roadblocks and at night rounds.

- 6.18 While the massacres were being carried out, RTLM on several occasions encouraged the militiamen, including those manning the roadblocks, to exterminate the Tutsis and murder the Hutu opponents, and congratulated the killers, praising their vigilance and telling them to continue their "work" with greater vigour.
- 6.19 Following the messages and speeches to which reference is made in this indictment, many members of the Tutsi population, as well as moderate Hutus and certain Belgian nationals, were eliminated.

Control of the Broadcasts:

- 6.20 Between January and July 1994, Ferdinand Nahimana, Jean-Bosco Barayagwiza and Félicien Kabuga exercised authority and control over RTLM s.a., RTLM radio reporters, announcers and all other employees, like Georges Ruggiu, Valerie Bemmeriki, Gahigi Gaspard, and others.
- 6.21 Ferdinand Nahimana, Jean-Bosco Barayagwiza and Félicien Kabuga were aware of the content of RTLM broadcasts. On 26 November 1993 and on 10 February 1994, Ferdinand Nahimana, Jean-Bosco Barayagwiza, Félicien Kabuga and Phoca Habimana, in their capacity as RTLM officials, were summoned to see the Minister of Information, Faustin Rucogoza, and told to stop airing messages inciting ethnic hatred and violence. The broadcasts were in violation of the Arusha Accords, the law of 15 November 1991 governing the press and the agreement of establishment signed by RTLM and the government.
- 6.22 During these two meetings, Ferdinand Nahimana, Jean-Bosco Barayagwiza, and Félicien Kabuga defended the content of the broadcasts and their reporters. The broadcasts to which reference was made in the two meetings continued.

- 6.23 Between January and July 1994, Ferdinand Nahimana knew or had reason to know that his subordinates, including the reporters, announcers and all other RTLM employees, were broadcasting messages inciting, aiding and abetting the population and the militia groups in exterminating the Tutsis and eliminating the moderate Hutus and Belgian nationals, and did not take the necessary and reasonable measures to prevent such acts or to punish the perpetrators.
- 6.24 In addition, throughout the period of the broadcasts, Ferdinand Nahimana knew or had reason to know that the programs, speeches or messages broadcast by RTLM resulted in widespread massacres of the Tutsi population and the murder of numerous moderate Hutus and certain Belgian nationals.
- 6.25 From April to July 1994, several hundred thousand people were massacred throughout Rwanda. The majority of victims died because they were Tutsi or appeared to be Tutsi. The other victims, nearly all Hutu, were killed because they were considered to be Tutsi accomplices, were linked to the Tutsi through marriage or were opposed to the extremist Hutu ideology.
- 6.26 The massacres thus perpetrated were the result of a strategy adopted and elaborated by political, civil and military authorities in the country, including Ferdinand Nahimana, Hassan Ngeze and Jean-Bosco Barayagwiza, who agreed to exterminate the Tutsi population.
- 6.27 Ferdinand Nahimana, in his position of authority, acting in concert with notably Jean-Bosco Barayagwiza and Hassan Ngeze, participated in the planning, preparation or execution of a common scheme, strategy or plan to commit the crimes set forth above. The crimes were committed by him personally, by persons he assisted, or by his subordinates, including militiamen and the reporters, announcers and all other RTLM employees who acted on his orders or with his knowledge and consent.

7. CHARGES.

COUNT 1:

CONSPIRACY TO COMMIT GENOCIDE:

By the acts described in paragraphs 4.1 to 6.27 and more specifically in the paragraphs to which reference is made hereinbelow:

Ferdinand Nahimana: pursuant to Article 6(1), paragraphs 4.2, 4.4, 5.1, 5.2, 5.3, 5.4, 5.5, 5.6, 5.8, 5.9, 5.10, 5.11, 5.12, 5.13, 5.14, 5.15, 5.16, 5.17, 5.18, 5.19, 5.20, 5.21, 5.22, 5.23, 5.24, 5.25, 5.26, 6.1 and 6.2;

conspired together and with others to kill and cause serious bodily or mental harm to members of the Tutsi population, with intent to destroy in whole or in part, that ethnic or racial group as such, and thereby committed Conspiracy to Commit Genocide, stipulated in Article 2(3)(b) of the Statute as a crime, for which he is individually responsible pursuant to Article 6, and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 2:

GENOCIDE:

By the acts described in paragraphs 4.1 to 6.27 and more specifically in the paragraphs to which reference is made hereinbelow:

Ferdinand Nahimana: pursuant to Article 6(1), paragraphs 5.19, 5.20, 5.21, 5.22, 6.6, 6.19, 6.24, 6.25, 6.26 and 6.27;

is responsible for the killing and causing of serious bodily or mental harm to members of the Tutsi population with the intent to destroy, in whole or in part, that ethnic or racial group as such, and thereby

committed GENOCIDE, stipulated in Article 2(3)(a) of the Statute as a crime, for which he is individually responsible pursuant to Article 6, and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 3:

DIRECT AND PUBLIC INCITEMENT TO COMMIT GENOCIDE:

By the acts and omissions described in paragraphs 4.1 to 6.27 and more specifically in the paragraphs to which reference is made hereinbelow:

Ferdinand Nahimana: pursuant to Article 6(1), paragraphs 5.11, 5.12, 5.15, 5.16, 5.17, 5.19, 5.22, 6.7, 6.13 and 6.14;

pursuant to Article 6(3), paragraphs 6.8, 6.9, 6.10, 6.11, 6.12, 6.15, 6.16, 6.17, 6.18, 6.20, 6.21, 6.22, 6.23 and 6.24;

is responsible for direct and public incitement to kill and cause serious bodily or mental harm to members of the Tutsi population, with intent to destroy in whole or in part, that ethnic or racial group as such, and thereby committed Direct and Public Incitement to Commit Genocide, stipulated in Article 2(3)(c) of the Statute as a crime, for which he is individually responsible pursuant to Article 6, and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 4:

COMPLICITY IN GENOCIDE:

By the acts and omissions described in paragraphs 4.1 to 6.27 and more specifically in the paragraphs to which reference is made hereinbelow:

Ferdinand Nahimana: pursuant to Article 6(1), paragraphs 5.19, 5.20, 5.22, 6.6, 6.15, 6.16, 6.17, 6.18, 6.19,

6.24, 6.25, 6.26 and 6.27;

is complicit in the killing and causing of serious bodily or mental harm to members of the Tutsi population, with intent to destroy, in whole or in part, that ethnic or racial group as such, and thereby committed Complicity in Genocide, stipulated in Article 2(3)(e) of the Statute as a crime, for which he is individually responsible pursuant to Article 6 and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 5 :

CRIME AGAINST HUMANITY: PERSECUTION

By the acts and omissions described in paragraphs 4.1 to 6.27 and more specifically in the paragraphs to which reference is made hereinbelow:

Ferdinand Nahimana: pursuant to Article 6(1), paragraphs 5.11, 5.12, 5.15, 5.16, 5.17, 5.19, 5.22, 6.7, 6.9, 6.10, 6.13, and 6.14;

pursuant to Article 6(3), paragraphs 5.20, 6.8, 6.9, 6.10, 6.11, 6.12, 6.15, 6.16, 6.17, 6.18, 6.20, 6.21, 6.22, 6.23 and 6.24;

is responsible for persecution on political or racial grounds, as part of a widespread or systematic attack against a civilian population, on political, ethnic or racial grounds, and thereby committed a Crime Against Humanity, stipulated in Article 3(h) of the Statute as a crime, for which he is individually responsible pursuant to Article 6, and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 6:

CRIME AGAINST HUMANITY: EXTERMINATION

By the acts and omissions described in paragraphs 4.1 to 6.27 and more

specifically in the paragraphs to which reference is made hereinbelow:

Ferdinand Nahimana: pursuant to Article 6(1), paragraphs 5.19, 5.20, 5.21, 5.22, 6.6, 6.19, 6.25, 6.26 and 6.27;

is responsible for the extermination of the Tutsis, as part of a widespread or systematic attack against a civilian population on political, ethnic or racial grounds, and thereby committed a Crime Against Humanity, stipulated in Article 3(b) of the Statute as a crime, for which he is individually responsible pursuant to Article 6 and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 7:

CRIME AGAINST HUMANITY : MURDER

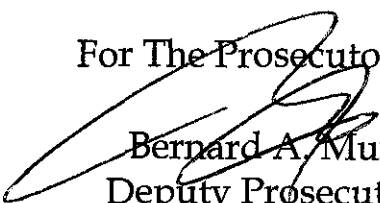
By the acts and omissions described in paragraphs 4.1 to 6.27 and more specifically in the paragraphs to which reference is made hereinbelow:

Ferdinand Nahimana: pursuant to Article 6(1), paragraphs 5.19, 5.20, 5.21, 5.22, 6.6, 6.19, 6.25, 6.26 and 6.27;

is responsible for the murder of Tutsis and certain Hutus as part of a widespread or systematic attack against a civilian population, on political, ethnic or racial grounds, and thereby committed a Crime Against Humanity stipulated in Article 3(a) of the Statute as a crime, for which he is individually responsible pursuant to Article 6, and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

12 July 1999

For The Prosecutor


Bernard A. Muna
Deputy Prosecutor