

INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

OFFICE OF THE PROSECUTOR

CASE No. ICTR-96-11-T

THE PROSECUTOR OF THE TRIBUNAL

AGAINST

FERDINAND NAHIMANA

INDICTMENT

[Amended pursuant to the decision of
Trial Chamber 1, dated 30 August 1999]

ICTR
CRIMINAL REGISTRY
RECEIVED
1999 SEP -6 1 A 10:47

1. 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, 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, as set forth below:

2. THE ACCUSED:

Ferdinand Nahimana was born of 15 June 1950, at Gatonde in Ruhengeri Rwanda. 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 Milles Colline, RTLM, s.a. and a senior officer of the RTLM radio station. He was a shareholder and the ideologue behind the creation of the RTLM. He was also a member of the group known as Hutu Power and a member of the Coalition for the

Defence of the Republic (CDR) political party. He was proclaimed Minister of Higher Education, Scientific Research and Culture under the peace accords signed in Arusha on 3 August 1993. He was a shareholder and the ideologue behind the creation of the RTLM. He was also a member of the group known as Hutu Power.

3. CONCISE STATEMENT OF FACTS:

3.1 At all times relevant to this indictment, Tutsis were identified as a racial or ethnic group.

3.2 FERDINAND NAHIMANA, Jean-Bosco Barayagwiza, Hassan Ngeze, Felicien Kabuga, Serugendo Joseph, Mugimba Jean-Baptiste, Basabose Pierre, Karamira Frodouald, Sebapira Laurent, Atari Augustine, Bamwanga Jean-Baptiste, Major Ntilikina, Major Bagaragaza Thaddée, Ibambasi Antoine, Habimana Kantano and Gahigi Gaspard, together agreed with others to establish the RTLM. By its Statute signed on 8 April 1993, the private company, RTLM S.A. and its radio station were founded. Its broadcasting studios were connected to the electric generators of the Presidential Palace, directly across the street, permitting it to continue to operate in case of power failure. In the latter half of 1993, the RTLM began broadcasting from Kigali across Rwanda through a network of transmitters owned and operated by Government owned Radio Rwanda. It later became a mobile station, installed in an armoured car of the Rwanda Armed Forces(RAF). It sought refuge in what later became the Turquoise Zone set up in the jungle of Gikongoro and Kibuye Prefecture. Radio broadcasts by the RTLM disappeared after mid-July 1994.

3.3 The creation of the RTLM was celebrated by a publication in the Hutu Extremist Kangura Newspaper as a partner in the struggle to unite the Hutu, the majority people, and to awaken and defend them. In advancing the Hutu extremist cause, the RTLM incited ethnic hatred and ethnic violence against the minority Tutsi ethnic group.

3.4 Felicien Kabuga, in the presence of Ferdinand Nahimana, Ngirumpatse, among others, publicly stated the objective of the RTLM to be the defence of Hutu Power. Hutu Power was a slogan of the Hutu extremists whose agenda was the elimination of the Tutsis. Ferdinand Nahimana did nothing to challenge the stated objective of the RTLM.

3.5 Throughout this period, the RTLM broadcast within Rwanda, the ideology and designs of Hutu extremists which included the elimination of the Tutsis and

certain Hutus. The broadcasts furthered this ideology and objective.

3.6 From in or about April 1993 until approximately 31 July 1994, Ferdinand Nahimana exercised control, or had the opportunity to exercise control over the programming, operations and finances of RTLM SA and RTLM.

3.7 Between 1 January 1994 and approximately 31 July 1994, RTLM was used to broadcast messages designed to achieve inter-ethnic hatred and encourage the population to kill, commit acts of violence and persecution against the Tutsi population and others on ethnic, racial and political grounds.

3.8 During the period alleged in this indictment, Tutsis and others were killed, suffered serious bodily or mental harm, and were persecuted as a result of the RTLM broadcasts.

3.9 From April 1993 until approximately 31 July 1994, Ferdinand Nahimana by himself and/or together with Felicien Kabuga and Jean-Bosco Barayagwiza and others planned, directed and defended the Broadcasts made by RTLM.

3.10 On April 7, 1994, the RTLM called on the Hutu to avenge the death of the Rwandese President. It declared: *"The graves are not yet quite full. Who is going to do the good work and help us fill them completely."*

3.11 The broadcasts over the RTLM denigrated Tutsi women and called for acts of hatred and sexual violence against them.

3.12 During the events giving rise to the charges in this indictment, the media exercised great influence over the Rwandan population, depicting the Tutsis as a group who wanted to wrest political power and economic power from the Hutus, and stereotyping and denigrating Tutsis, including sexual denigration.

3.13 On 21 April 1994, Jean Kambanda, the Prime Minister of the Interim Government, declared that the broadcasts made by the RTLM were *"an indispensable weapon in the fight against the enemy"*.

3.14 On or about 7 July 1994, at the request of French officials of the "Opération Turquoise" zone in the Prefecture of Gisenyi, Ferdinand Nahimana ordered RTLM to stop broadcasts that called for the killing of members of the United Nations Assistance Mission for Rwanda (UNAMIR).

3.15 As a result of the orders referred to above, the RTLM immediately stopped calls for the killing of members of the UNAMIR. Belgian soldiers and certain

journalists however continued to be targeted by the broadcasts over the RTLM.

3.16 During the period of the Broadcasts alleged in this indictment, Ferdinand Nahimana knew or had reason to know of the broadcasts and of their effects on the population. Ferdinand Nahimana could have taken reasonable measures to change or prevent the broadcasts, but he failed to do so.

3.17 During the period of the broadcasts Ferdinand Nahimana knew or had reason to know that employees and other subordinates in the RTLM had facilitated and/or broadcasted such broadcasts, or were about to facilitate and/or broadcast such broadcasts, and failed to take the necessary and reasonable measures to prevent such broadcasts or punish the subordinates.

3.18 Georges Henri Yvon Joseph Ruggiu, between about 1 January 1994 and 15 July 1994, was an employee of the RTLM. He maintained close contacts with senior officials of the Rwanda Armed Forces. He left Rwanda for the Republic of Zaire, as it then was, about mid-July 1994.

3.19 As employee of the RTLM, Georges Henri Yvon Joseph Ruggiu made broadcasts over the radio station advancing the theme that the 1959 revolution was unfinished, inviting the population to finish it off, which were calls for the elimination of the Tutsis.

3.20 On 18 June 1994, Georges Henri Yvon Joseph Ruggiu broadcast over the RTLM that Tutsis in Gitwe had not yet been killed, and directed that roadblocks be reinforced so that no one would escape.

3.21 Following the directions to which reference is made in paragraph 3.23 above, on 20 June 1994, the interahamwe went to Gitwe Hill in Mutara Commune, in the company of Bourgmestre Georges Rutaganda and killed members of more than 70 families, mainly of the Tutsi ethnic group.

3.22 On 21 April 1994, Jean Kambanda, the Prime Minister of the Interim Government, declared that the broadcasts made by the RTLM were "*an indispensable weapon in the fight against the enemy*".

3.23 In the months of April and May 1994, Hassan Ngeze made broadcasts over two radio stations in Rwanda, namely the RTLM and Radio Rwanda.

3.24 The broadcasts to which reference is made in paragraph 3.26 above were calls for the elimination of the Tutsis.

4. CHARGES:

COUNT 1: Ferdinand Nahimana, between 1 January 1994 and 31 July 1994, in the territory of the Republic of Rwanda, conspired together with Felicien Kabuga and Jean-Bosco Barayagwiza and others to kill or cause serious bodily or mental harm to members of the Tutsi population with the intent to destroy in whole or in part, an ethnic or racial group as such, and thereby committed CONSPIRACY TO COMMIT GENOCIDE, a crime pursuant to Articles 2 (3) (b) and 6 (1) and punishable in reference to Articles 22 and 23 of the Statute of the Tribunal;

COUNT 2:

By the acts and omissions described in paragraphs 3.1 to 3.24 and more specifically in the paragraphs to which reference is made hereinbelow:

Ferdinand Nahimana: pursuant to Article 6(1), paragraphs 3.6, 3.7
and 3.9;

pursuant to Article 6(3), paragraphs 3.8, 3.14,
3.15, 3.16, 3.17, 3.18, 3.19, 3.20, 3.23 and 3.24;

between 1 January 1994 and 31 July 1994, in the territory of the Republic of Rwanda is responsible for direct and public incitement to kill and cause 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 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 3: Ferdinand Nahimana, between 1 January 1994 and 31 July 1994, in the territory of the Republic of Rwanda, was complicit in killing or causing serious bodily or mental harm to members of the Tutsi population with the intent to destroy, in whole or in part, an ethnic or racial group as such, and is thereby responsible for COMPLICITY IN GENOCIDE, a crime recognised by Articles 2 (3)(e) and 6 (1) and punishable in reference to Articles 22 and 23 of the Statute of the Tribunal;

COUNT 4 :

By the acts and omissions described in paragraphs 3.1 to 3.24 and more specifically in the paragraphs to which reference is made hereinbelow:

Ferdinand Nahimana: pursuant to Article 6(1), paragraphs 3.4, 3.7 and 3.8;

pursuant to Article 6(3), paragraphs 3.10, 3.11, 3.12, 3.19, 3.20, 3.22, 3.23 and 3.24;

between 1 January 1994 and 31 July 1994, in the territory of the Republic of Rwanda 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.

3 September 1999
Kigali, Rwanda.

For The Prosecutor
The Deputy Prosecutor
Bernard A. Muna

