

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

CASE NO.: ICTR-01-72-I
CHAMBER III

THE PROSECUTOR
OF THE TRIBUNAL
v.
SIMON BIKINDI

THURSDAY, 11 AUGUST 2005
1500H
FURTHER INITIAL APPEARANCE

Before the Judge:

Dennis Byron, Presiding

For the Registry:

Mr. Christopher Fry
Mr. Issa Mjui

For the Prosecution:

Mr. William Egbe
Ms. Veronic Wright
Mr. Suleiman Khan
Mr. Patrick Gabaake

For the Accused Simon Bikindi :

Mr. Wilfred Nderitu

Court Reporter:

Ms. Jean Whalen

PROCEEDINGS

1

2 MR. PRESIDENT:

3 Good afternoon, everybody.

4

5 Mr. Registrar, would you please open the proceedings.

6 MR. FRY:

7 Yes, Your Honour. Trial Chamber III of the International Criminal Tribunal for Rwanda, composed of
8 Judge Dennis Byron, presiding, is now sitting in open session today, 11 August 2005, for the further
9 appearance in the matter of the Prosecutor versus Bikindi, Case Number ICTR 2001-71-I (*sic*).

10

11 Thank you, Your Honour.

12 MR. PRESIDENT:

13 Thank you, Mr. Registrar. Could we have appearances of counsel, please. Prosecutor?

14 MR. EGBE:

15 Good afternoon, Your Honour. My name is William Egbe, senior trial attorney. I'm appearing for the
16 Prosecution. And with me is Ms. Veronic Wright, Mr. Suleiman Khan, Mr. Patrick Gabaake,
17 Miss Amina Ibrahim, and Mr. Disengi Mugeyo. Thank you, Your Honour.

18 MR. PRESIDENT:

19 Thank you, Mr. Egbe.

20

21 And Defence?

22 MR. NDERITU:

23 Good afternoon, Your Honour. I'm Wilfred Nderitu for the Defence. Along with me is
24 Mr. Jack Muriuki, legal assistant. Thank you.

25 MR. PRESIDENT:

26 Thank you very much.

27

28 Mr. Egbe, before we commence proceedings, are there any problems that either of you need to
29 address? Mr. Prosecutor.

30 MR. EGBE:

31 Your Honour, we do not have any specific problem at this moment. We've been in constant contact,
32 the Defence counsel and myself, to attempt, in the spirit that this Tribunal has always promoted, to
33 see either -- outstanding issues that we could resolve without having to have recourse to the
34 Chamber; and as of this morning, there were no outstanding issues. Obviously, our only concern is to
35 know if it is possible when we can commence trial. But other than that, nothing else. Thank you.

36 MR. PRESIDENT:

37 Thank you very much, Mr. Egbe.

1 Mr. Nderitu.

2 MR. NDERITU:

3 I think it's been very well put by my learned colleague. I have nothing more. Thank you.

4 MR. PRESIDENT:

5 Thank you very much.

6

7 Could I ask the Accused to be brought to the witness podium, please.

8

9 Good afternoon, Mr. Bikindi. You may sit.

10 THE ACCUSED:

11 Good afternoon.

12 MR. PRESIDENT:

13 I realise that you have been through the process of initial appearance before the Tribunal in this case
14 on other occasions, and in those circumstances you may consider yourself familiar with the
15 procedure. And it may be true that you are already aware of your rights and what is going to happen,
16 but I think I should remind you that the Tribunal is committed to guarantee you a fair trial, a fair and
17 public trial; that you're presumed to be innocent until proven guilty; and that you're entitled to due
18 process according to the Rules of Procedure and Evidence which govern the operations of cases and
19 trials at this Tribunal. Do you understand that?

20 THE ACCUSED:

21 Yes, Mr. President, Your Honour.

22 MR. PRESIDENT:

23 Now, this further appearance became necessary because an amended indictment was filed against
24 you, and in these proceedings I must satisfy myself that your right to counsel has been respected. I
25 will arrange for the indictment to be read to you in a language that you understand and satisfy myself
26 that you understand the indictment itself and then call upon you to plead to the indictment.

27

28 So first I would like to ask you whether you are satisfied with the arrangements that have been made
29 for your legal representation.

30 THE ACCUSED:

31 More or less, Your Honour.

32 MR. PRESIDENT:

33 Okay. I -- well, I take it that means you have no specific problems to raise before me.

34 THE ACCUSED:

35 No.

36 MR. PRESIDENT:

37 Thank you.

1 Now, then I must ask you whether you received a copy of the amended indictment in a language that
2 you are able to read and understand.

3 THE ACCUSED:

4 I did receive it with a little bit of lateness, a little bit late, but I did receive it, Your Honour.

5 MR. PRESIDENT:

6 Thank you very much. And then, although the nature of your discussion with your lawyer is not really
7 anybody's business but your own, but I just would like to know whether you had an opportunity to
8 discuss it and whether you understood the nature of the charges that have been made against you.

9 THE ACCUSED:

10 I did meet him, and I'm quite happy about what we covered during our meeting.

11 MR. PRESIDENT:

12 And you understand what this case is about, the nature of the charges against you?

13 THE ACCUSED:

14 I couldn't understand them because they're all false.

15 MR. PRESIDENT:

16 They're false. Okay. Well, did you have an -- well, you'll have an opportunity to plead to the charges.

17 THE ACCUSED:

18 I cannot understand how I could be accused -- I could be the subject of accusations that are totally
19 false. I cannot understand that.

20 MR. PRESIDENT:

21 Okay. All right. Well, I think that covers the basic questions that I should ask you at this stage.

22
23 What I would like to do now, I would like to ask the registrar to read the indictment to you, the
24 operative sections of the indictment, which will give you an opportunity to indicate how you plead to
25 the charges that have been laid by the Prosecutor.

26

27 Mr. Registrar.

28 MR. FRY:

29 Yes, Your Honour.

30

31 The International Criminal Tribunal for Rwanda, Case Number ICTR 2001-72-I. The Prosecutor
32 against Simon Bikindi, amended indictment pursuant to decisions of 11 May 2005 and 10 June 2005.

33

34 "I. The Prosecutor of the International Criminal Tribunal for Rwanda, pursuant to the authority
35 stipulated in Article 17 of the Statutes of the International Criminal Tribunal for Rwanda, the Statute of
36 the Tribunal, charges Simon Bikindi with conspiracy to commit genocide; genocide, or alternatively
37 complicity in genocide; direct and public incitement to commit genocide; and murder and persecution,

1 as a crime against humanity; offenses stipulated in Articles 2 and 3 of the Statute of the Tribunal, as
2 set forth below.

3
4 “II. The Accused:

5
6 “Simon Bikindi was born on 28 September 1954 in Rwerere *commune*, Gisenyi *préfecture*, Rwanda.
7 During the period material to this indictment, Simon Bikindi was a well-known composer and singer of
8 popular music and director of the performance group Irindiro Ballet. Simon Bikindi was also an official
9 in the ministry of youth and sports of the government of Rwanda and a member of the MRND political
10 party.

11
12 “III. Charges and Concise Statements of Facts:

13
14 “Count I: Conspiracy to Commit Genocide:

15
16 “The Prosecutor of the International Criminal Tribunal of Rwanda charges Simon Bikindi with
17 conspiracy to commit genocide, a crime stipulated in Article 2(3)(b) of the Statute, in that on or
18 between the dates of 1 January 1994 and 31 December 1994, Simon Bikindi did conspire with others,
19 including, but not limited to, the political leadership of the MRND at the regional and national levels,
20 including, though not limited to, Callixte Nzabonimana, Juvénal Habyarimana, Joseph Nzirorera,
21 André Ntagerura, Théoneste Bagosora, Mathieu Ndirumpatse; *Interahamwe* leaders, including
22 Robert Kajuga, Georges Rutaganda, and other persons responsible for the media programming and
23 operations, including, though not limited to, Jean-Bosco Barayagwiza, Ferdinand Nahimana, Joseph
24 Serugendo, and Félicien Kabuga, to kill or cause serious bodily or mental harm to members of the
25 Tutsi population with the intent to destroy, in whole or in part, a racial or ethnic group, as follows:

26
27 “Pursuant to Article 6(1) of the Statute: By virtue of his affirmative acts in planning, instigating,
28 ordering, committing, or otherwise aiding and abetting the planning, preparation, or execution of the
29 crime charged, in that:

30
31 “1. Between 1 January and 31 December 1994, citizens native to Rwanda were severally identified
32 according to the following ethnic or racial clarifica -- classifications: Tutsi, Hutu, and Twa; and

33
34 “2. Between 1 January 1994 and 17 July 1994 there was a state of non-international armed conflict in
35 Rwanda.”

1 "Count 2: Genocide:

2
3 "The Prosecutor of the International Criminal Tribunal for Rwanda charges Simon Bikindi with
4 genocide, a crime stipulated in Article 2(3)(a) of the Statute, in that on or between the dates of 7 April
5 1994 and 14 July 1994 throughout Rwanda, particularly in the Kigali ville and Gisenyi *préfecture*,
6 Simon Bikindi was responsible for killing or causing serious bodily or mental harm to members of the
7 Tutsi population with intent to destroy, in whole or in part, a racial or ethnic group, as such;

8
9 "Pursuant to Article 6(1) of the Statute: By virtue of his affirmative acts in planning, instigating,
10 ordering, committing, or otherwise aiding and abetting the planning, preparation, or execution of the
11 crime charged; and

12
13 "Pursuant to Article 6(3) of the Statute: By virtue of his actual or constructive knowledge of the acts or
14 omissions of his subordinates, including *Interahamwe* and civilian militia, particularly *Interahamwe*
15 members of his Irindiro Ballet, and his failure to take necessary and reasonable measures to stop or
16 prevent them, or to discipline and punish them, for their acts in the planning, preparation, or execution
17 of the crime charged;"

18
19 Or, alternatively,

20
21 "Count 3: Complicity in Genocide:

22
23 "The Prosecutor of the International Criminal Tribunal for Rwanda charges Simon Bikindi with
24 complicity in genocide, a crime stipulated in Article 2(3)(e) of the Statute, in that on or between the
25 dates of 1 January 1994 and 14 July 1994 throughout Rwanda, particularly in Kigali ville and Gisenyi
26 *préfecture*, Simon Bikindi was responsible for killing or causing serious bodily or mental harm to
27 members of the Tutsi population with intent to destroy, in whole or in part, a racial or ethnic group, as
28 such, as follows:

29
30 "Pursuant to Article 6(1) of the Statute: By virtue of his affirmative acts in planning, instigating,
31 ordering, committing, or otherwise aiding and abetting the planning, preparation, or execution of the
32 crime charged."

33
34 Page 11.

35
36 "Count 4: Direct and Public Incitement to Commit Genocide:

1 “The Prosecutor of the International Criminal Tribunal of Rwanda charges Simon Bikindi with direct
2 and public incitement to commit genocide, a crime stipulated in Article 2(3)(c) of the Statute, in that on
3 or between the dates of 1 January 1994 and 14 July 1994, Simon Bikindi was responsible for directly
4 and publicly inciting persons, including, but not limited to, soldiers, local administrative officials,
5 *communal* police, civilian militias, and local residents to kill or cause serious bodily or mental harm to
6 members of the Tutsi population with the intent to destroy, in whole or in part, a racial or ethnic group,
7 as such, as follows:

8
9 “Pursuant to Article 6(1) of the Statute: By virtue of his affirmative acts in planning, instigating,
10 ordering, committing, or otherwise aiding and abetting the planning, preparation, or execution of the
11 crime charged.”

12
13 Page 13.

14
15 “Count 5: Murder as a Crime Against Humanity:

16
17 “The Prosecutor of the International Criminal Tribunal of Rwanda charges Simon Bikindi with murder
18 as a crime against humanity, as stipulated in Article 3(a) of the Statute, in that on or between the
19 dates of 7 April 1994 and 14 July 1994, Simon Bikindi was responsible for killing persons, or causing
20 persons to be killed, as part of a widespread or systematic attack against a civilian population on
21 political, ethnic, or racial grounds, as follows:

22
23 “Pursuant to Article 6(1) of the Statute: By virtue of his affirmative acts in planning, instigating,
24 ordering, committing, or otherwise aiding and abetting the planning, preparation, or execution of the
25 crime charged; and

26
27 “Pursuant to Article 6(3) of the Statute: By virtue of his actual or constructive knowledge of the acts or
28 omissions of his subordinates, including *Interahamwe* and civilian militias, particularly *Interahamwe*
29 members of his Irindiro Ballet, and his failure to take necessary and reasonable measures to stop or
30 prevent them, or to discipline and punish them, for their acts in the planning, preparation, or execution
31 of the crime charged.”

32
33 Page 17.

34
35 “Count 6: Persecution as a Crime Against Humanity:

36
37 “The Prosecutor of the International Criminal Tribunal for Rwanda charges Simon Bikindi with

1 persecution as a crime against humanity, as stipulated in Article 3(h) of the Statute, in that between
2 the dates of 1 January 1994 and 31 December 1994, Simon Bikindi collectively targeted persons
3 belonging to the Tutsi ethnic group and was responsible for directly inciting persons including, but not
4 limited to, soldiers, local administrative officers, *communal* police, civilian militias, and civilian Hutu
5 population to actively persecute people belonging to the Tutsi ethnic group. This conduct was
6 committed as part of a widespread or systematic attack directed against a civilian population.

7
8 “The acts and omissions of Simon Bikindi detailed herein are punishable in references to Articles 22
9 and 23 of the Statute.

10
11 “Signed at Arusha this 15th day of June, 2005, for: Hassan Bubacar Jallow, Prosecutor, UN-ICTR.”
12

13 Thank you, Your Honour.

14 MR. PRESIDENT:

15 Thank you, Mr. Registrar.

16
17 Mr. Bikindi, I must now invite you to stand so that you'll be able to plead to each count of the
18 indictment.

19
20 With regard to the first count, conspiracy to commit genocide, how do you plead, guilty or not guilty?

21 THE ACCUSED:

22 I plead not guilty.

23 MR. PRESIDENT:

24 With regard to the second count, genocide, how do you plead?

25 THE ACCUSED:

26 I plead not guilty.

27 MR. PRESIDENT:

28 With regard to the third count, complicity in genocide, how do you plead?

29 THE ACCUSED:

30 I plead not guilty.

31 MR. PRESIDENT:

32 Count number 4, direct and public incitement to commit genocide, what is your plea?

33 THE ACCUSED:

34 I plead not guilty.

35 MR. PRESIDENT:

36 Count number 5, murder as a crime against humanity, how do you plead?
37

1 THE ACCUSED:

2 Not guilty.

3 MR. PRESIDENT:

4 And finally, with regard to count number 6, persecution as a crime against humanity, how do you
5 plead?

6 THE ACCUSED:

7 I plead not guilty.

8 MR. PRESIDENT:

9 Thank you very much. You may sit.

10

11 You may sit.

12

13 I will now direct the registrar to make arrangements to have the matter sat down -- set down for
14 hearing. When we adjourn these initial appearance proceedings, I think it's scheduled to have a short
15 status conference where we'll deal with matters which will impact on the date at which the trial could
16 commence.

17

18 Before we adjourn these proceedings, I would just invite you, inquire whether there is anything you
19 wish to say to me, to the Court.

20 THE ACCUSED:

21 I did not understand the question.

22 MR. PRESIDENT:

23 Well, it was -- sometimes there might be an issue which you thought -- you might think needs to be
24 brought to the attention of the Court, so I was giving you an opportunity to do that. I don't know if you
25 have anything that you wish to bring to my attention, but if you did, now would be an opportunity to do
26 so.

27 THE ACCUSED:

28 I don't have anything to say.

29 MR. PRESIDENT:

30 Thank you very much. You may return to your seat now.

31

32 Well, this concludes the proceedings and the initial appearance.

33 *(Court adjourned at 1530H)*

34 *(Pages 1 to 8 by Jean Whalen)*

35

36

37

CERTIFICATE

I, Jean Whalen, an Official Court Reporter for the International Criminal Tribunal for Rwanda, do hereby certify that the foregoing proceedings in the above-entitled cause were taken at the time and place as stated; that it was taken in shorthand (*stenotype*) and thereafter transcribed by computer; that the foregoing pages contain a true and correct transcription of said proceedings to the best of my ability and understanding.

I further certify that I am not of counsel nor related to any of the parties to this cause and that I am in nowise interested in the result of said cause.

Jean Whalen