

1 THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA
2
3 CASE NO.: ICTR-2001-72-I THE PROSECUTOR
4 OF THE TRIBUNAL
5 AGAINST
6 SIMON BIKINDI

7 4 APRIL 2002
8 1100H
9 INITIAL APPEARANCE

10 Before: Judge Pavel Dolenc, presiding

11 For the Registry:
12 Mr. Roger Kouambo
13 Mr. Ramadhani Juma

14 For the Prosecution:
15 Ms. Carla Del Ponte
16 Mr. Stephen Rapp
17 Mr. Alphonse Van

18 For the Accused:
19 Mr. Bharat Chadha

20 Court Reporter:
21 Ms. Karlene Ruddock
22
23
24
25

1 P R O C E E D I N G S

2 MR. PRESIDENT:

3 The Tribunal is now in session. I ask the
4 registrar to kindly announce the matter
5 which is before us today.

6 MR. KOUAMBO:

7 Thank you, Your Honour. The International
8 Criminal Tribunal for Rwanda is sitting as
9 Judge Pavel Dolenc in open session today
10 Thursday the 4th of April 2002 for the
11 initial appearance in the matter of the
12 Prosecutor v. Simon Bikindi, Case No.
13 ICTR-2002-72-I pursuant to the Rules of
14 Procedure and Evidence. Thank you, Your
15 Honour.

16 MR. PRESIDENT:

17 The appearance, starting with the
18 Prosecutor.

19 MR. RAPP:

20 On behalf of the Prosecutor appearing today
21 is the Prosecutor, Carla Del Ponte, senior
22 trial attorney, Stephen Rapp, and legal
23 advisor, Alphonse Van.

24 MR. PRESIDENT:

25 Thank you. For the Defence?

KARLENE RUDDOCK - OFFICIAL COURT REPORTER
ICTR - TRIAL CHAMBER III

1 MR. CHADHA:

2 Thank you, My Lord. My name is Bharat
3 Chadha I am a duty counsel for the Accused.
4 Most obliged.

5 MR. PRESIDENT:

6 I am Judge Pavel Dolenc. I seize this
7 matter as duty judge in accordance with Rule
8 28 of the Rules of Procedure and Evidence.
9 Does either party have any objections to
10 conduct these proceedings today?
11 Prosecution?

12 MR. RAPP:

13 No, Your Honour.

14 MR. PRESIDENT:

15 Defence?

16 MR. CHADHA:

17 No, My Lord.

18 MR. PRESIDENT:

19 Now I will ask the officer to accompany the
20 accused person to the witness box.
21 Before --

22 THE WITNESS:

23 Yes I can hear you, Your Honour.

24 MR. PRESIDENT:

25 Before we continue, I would ask to clarify

1 initial matter. What is your native
2 language?

3 THE ACCUSED:

4 It is Kinyarwanda.

5 MR. PRESIDENT:

6 You understand any other language?

7 THE ACCUSED:

8 Yes. I understand Kinyarwanda and French.

9 MR. PRESIDENT:

10 Very well. These proceedings will be held
11 in English and French languages, because
12 these are the two working languages of the
13 Tribunal. But they will be simultaneously
14 translated throughout to another language.

15

16 Firstly, I would like to ask some questions
17 about your identity to be sure that the
18 person which is charged with the Indictment
19 against Simon Bikindi is the same person as
20 is present in the witness box at the moment;
21 however, as you were probably advised
22 already by the duty counsel, you are not
23 obliged to answer any question, including
24 the questions of such a nature.

25

1 So first, I would ask that you tell the
2 Tribunal what is your name and surname.

3 THE ACCUSED:

4 My name is Bikindi, Simon.

5 MR. PRESIDENT:

6 When have you been born?

7 THE ACCUSED:

8 I was born on the 28th September 1954.

9 MR. PRESIDENT:

10 And the place of birth?

11 THE ACCUSED:

12 I was born in the Rwerere commune in the
13 Gisenyi pr fecture.

14 MR. PRESIDENT:

15 What is your citizenship?

16 THE ACCUSED:

17 Rwandan nationality.

18 MR. PRESIDENT:

19 And what is your profession?

20 THE ACCUSED:

21 Yes, I can hear you.

22 MR. PRESIDENT:

23 You don't like to answer this question?

24 THE ACCUSED:

25 Yes.

1 MR. PRESIDENT:

2 I understood that you are represented by
3 Mr. Bharat Chadha, who is assigned as duty
4 counsel. Is that correct?

5 THE ACCUSED:

6 Yes.

7 MR. PRESIDENT:

8 Have you met and have you called any
9 conference?

10 THE ACCUSED:

11 Yes.

12 MR. PRESIDENT:

13 Did he inform you about your rights as the
14 Accused before the Tribunal?

15 THE ACCUSED:

16 Yes.

17 MR. PRESIDENT:

18 Did he inform you, also, about the purpose
19 of this initial appearance?

20 THE ACCUSED:

21 Yes.

22 MR. PRESIDENT:

23 Very well. Now have you received the
24 Indictment against you?

25 THE ACCUSED:

1 Yes, I did.

2 MR. PRESIDENT:

3 In what language?

4 THE ACCUSED:

5 In French and in English.

6 MR. PRESIDENT:

7 Have you received, as well, the decision on
8 confirmation of that indictment?

9 THE ACCUSED:

10 I have it.

11 MR. PRESIDENT:

12 From the act of confirmation of the
13 Indictment, you could see that alternative
14 charge for complicity in genocide was
15 dismissed. You understood?

16 THE ACCUSED:

17 More or less.

18 MR. PRESIDENT:

19 So the purpose of this initial appearance is
20 that after you listen to the Indictment you
21 may plead about the charges. You can plead
22 guilty or not guilty to each count of the
23 Indictment; however, if you decline, if you
24 refuse to plead, the Tribunal will enter the
25 plea on behalf of you as if you are pleading

1 not guilty. Did you understand?

2 THE ACCUSED:

3 Yes, I have understood.

4 MR. PRESIDENT:

5 As I have already indicated, the count and
6 charges regarding complicity in genocide
7 were dismissed from the Indictment;
8 therefore, I ask the registrar, when he will
9 read the Indictment, that he delete the
10 related portions of the Indictment as
11 follows: On page 2, to delete words in
12 Paragraph (1) "or alternatively complicity
13 in genocide." On page 6 of French version,
14 or on page 5 in English version, the text
15 which is starting in Paragraph 2, and I am
16 quoting, "or alternatively" and ending with
17 words "in that." On the same page
18 subheading "Concise Statements of Facts for
19 Counts 2 and 3," is replaced by wording
20 "Concise Statement of Facts for Count 2."
21
22 On pages 8, 10, and 11 of French version,
23 and pages 6, 8 and 9 of English version of
24 the Indictment the Counts 4, 5 and 6 are
25 changed as Counts 3, 4 and 5 respectively.

1

2

Now I ask the registrar to read the

3

Indictment without these portions which I

4

indicated.

5

MR. KOUAMBO:

6

Thank you, Your Honour.

7

8

"The Prosecutor of the International

9

Criminal Tribunal for Rwanda, pursuant to

10

the authorities stipulated in Article 17 of

11

the Statutes of the International Criminal

12

Tribunal for Rwanda, the Statute of the

13

Tribunal, charges Simon Bikindi with

14

conspiracy to commit genocide, genocide

15

direct and public incitement to commit

16

genocide, and murder and persecution as a

17

crime against humanity offences stipulated

18

in Articles 2 and 3 of the Statute of the

19

Tribunal as set forth below.

20

21

"The Accused, Simon Bikindi, was born on 28

22

September 1954, in the Rwerere commune,

23

Gisenyi pr fecture, Rwanda. During the

24

period material to this Indictment, Simon

25

Bikindi was a well-known composer and singer

1 of popular music and director of the
2 performance group Irindiro Ballet. Simon
3 Bikindi was also an official in the Ministry
4 of Youth and Sports of the Government of
5 Rwanda and a member of the MRND political
6 party.

7

8 "Charges and concise statements of facts.

9

10 "Count 1. Conspiracy to commit genocide.

11

12 "The Prosecutor of the International
13 Criminal Tribunal for Rwanda, pursuant to
14 the authority stipulated in Article 17 of
15 the Statute of the International Criminal
16 Tribunal for Rwanda (the "Statute of the
17 Tribunal") charges:

18

19 "Simon Bikindi.

20

21 "With conspiracy to commit genocide;
22 genocide, or alternatively complicity in
23 genocide; direct and public incitement to
24 commit genocide; and murder and persecution
25 as a crime against humanity; offences

1 stipulated in Articles 2 and 3 of the
2 Statute of the Tribunal, as set forth below:

3

4 "(2) The Accused:

5

6 "Simon Bikindi was born on 28 September 1954
7 in Rwerere commune, Gisenyi pr fecture,
8 Rwanda. During the period material to this
9 Indictment, Simon Bikindi was a well-known
10 composer and singer of popular music and
11 director of the performance group Irindiro
12 Ballet. Simon Bikindi was also an official
13 in the Ministry of Youth and Sports of the
14 Government of Rwanda and a member of the
15 MRND political party.

16

17 "(3) Charges and Concise Statement of Facts:

18

19 "Count 1: Conspiracy to commit genocide:

20

21 "The Prosecutor of the International
22 Criminal Tribunal for Rwanda charges Simon
23 Bikindi with conspiracy to commit genocide,
24 a crime stipulated in Article 2(3)(b) of the
25 Statute, in that on or between the dates of

1 1 January 1994 and 31 December 1994, Simon
2 Bikindi did conspire with others, including,
3 but not limited to, the political leadership
4 of the MRND at the regional and national
5 levels, including, though not limited to
6 Callixte Nzabonimana, Juv nal Habyarimana,
7 Joseph Nzirorera; Interahamwe leaders,
8 including Robert Kajuga; and other persons
9 responsible for media programming and
10 operations, including, though not limited
11 to, Jean Bosco Barayagwiza, Ferdinand
12 Nahimana, Joseph Serugendo and F licien
13 Kabuga, to kill or cause serious bodily or
14 mental harm to members of the Tutsi
15 population, with the intent to destroy, in
16 whole or in part, a racial or ethnic group,
17 as follows:

18
19 "Pursuant to Article 6(1) of the Statute: by
20 virtue of his affirmative acts in planning,
21 instigating, ordering, committing or
22 otherwise aiding and abetting the planning,
23 preparation or execution of the crime
24 charged in that:
25

1 "1. Between 1 January and 31 December 1994,
2 citizens native to Rwanda were severally
3 identified according to the following ethnic
4 or racial classifications: Tutsi, Hutu and
5 Twa.

6

7 "2. Between 1 January 1994 and 17 July 1994
8 there was a state of noninternational armed
9 conflict in Rwanda.

10

11 "Concise Statement of Facts:

12

13 "3. Simon Bikindi agreed or collaborated
14 with Head of State, Juv nal Habyarimana,
15 Minister of Youth and Sports, Callixte
16 Nzabonimana, national Interahamwe leader,
17 Robert Kajuga national MRND political
18 leaders, such as Mathieu Ngirumpatse and
19 Joseph Nzirorera, and MRND-aligned military
20 leaders, such as Th oneste Bagosora, to
21 militarize the MRND Interahamwe youth wing
22 and to indoctrinate Interahamwe militias
23 with anti-Tutsi ideology and disseminate
24 anti-Tutsi propaganda as follows:

25

1 "4. During the early 1990s, the tight circle
2 of MRND party and military leaders
3 surrounding President Habyarimana devised
4 and implemented a strategy to consolidate
5 their hold on government power in the face
6 of rising domestic political opposition and
7 threat of military attack by the RPF. That
8 strategy: to incite hatred and fear of the
9 Tutsi and to characterize the Tutsi as
10 ibyitso, domestic accomplices of a foreign
11 invading enemy army. Also incorporated in
12 that strategy: the creation of civilian
13 militias exclusively aligned with the MRND
14 party that would be armed, trained and
15 sensitized to exterminate the Tutsi
16 population.

17
18 "5. Notably, in December 1991 Juv nal
19 Habyarimana, at that time commander in chief
20 of the Forces Arm es Rwandaises (FAR) as
21 well as head of state, set up a military
22 commission to devise an agenda to "defeat
23 the enemy military, in the media and
24 politically." The commission generated a
25 report that defined the enemy as: ...Tutsis

1 from inside or outside the country who are
2 extremist and nostalgic for power, who have
3 never recognized and do not yet recognize
4 the realities of the social revolution of
5 1959, and are seeking to regain power in
6 Rwanda by any means, including taking up
7 arms. Army Chief of Staff D ogradias
8 Nsabimana caused excerpts from the report to
9 be circulated among the military secteur
10 commanders.

11
12 "6. Subsequently, MRND-aligned military
13 leaders provided military training and
14 weapons to Interahamwe militias and
15 sensitized the MRND youth wing to target the
16 Tutsi and members of the political
17 opposition as accomplices of the enemy.
18 This military training was organized
19 throughout Rwanda, particularly in military
20 camps in Kigali, in Mutara and in Gisenyi.

21
22 "7. Prior to the events of April 1994, Simon
23 Bikindi participated in the campaign to
24 defeat the enemy military by conducting MRND
25 membership drives and participating in

1 recruitment and military training of
2 Interahamwe militias knowing and intending
3 that such civilian militias would be
4 deployed in exterminating campaigns against
5 the Tutsi.

6

7 "8. For example, in January 1994 Simon
8 Bikindi participated in military training of
9 Interahamwe militias in Kigali.

10

11 "9. Simon Bikindi participated in the
12 campaign to defeat the enemy in the media by
13 collaborating with Ferdinand Nahimana, Jean
14 Bosco Barayagwiza, Flicien Kabuga, Andr
15 Ntagerura, George Rutaganda, and Joseph
16 Nzirorera, among others, to launch
17 Radio-Télévision Libre des Mille Collines,
18 SA (RTLM) a privately owned radio station
19 aligned with extremist political currents in
20 the MRND and the CDR. In part conceived as
21 a media-alternative to Radio Rwanda, then
22 subject to the programming restrictions of
23 ORINFOR and the newly installed Ministry of
24 Information, RTLM programming interspersed
25 popular music and listener participation

1 with news reports and anti-Tutsi propaganda.
2
3 "10. Although the preamble to the statutes
4 creating RTLM defines its purpose as
5 facilitating the circulation of the diverse
6 ideas and objective news reporting, in
7 actuality RTLM was created as a vehicle for
8 anti-Tutsi propaganda. RTLM's anti-Tutsi
9 broadcasts were often punctuated by musical
10 selections composed and performed by Simon
11 Bikindi. The intertwining objectives of
12 RTLM's media programming and Simon Bikindi's
13 musical recordings were the same: to
14 sensitize the listening public, particularly
15 the civilian militias, the government armed
16 forces and the masses of Rwanda's Hutu
17 peasantry, to extol Hutu solidarity and to
18 target the Tutsi as accomplices of the
19 enemy.
20
21 "11. RTLM received logistical support from
22 Radio Rwanda, the government-owned radio
23 station, and initially broadcasted its
24 programs on the same frequencies as Radio
25 Rwanda, enabling government-controlled Radio

1 Rwanda broadcasts to flow seamlessly into
2 the privately controlled programming of
3 RTLM. Minister of Transport and
4 Communications, Andr Ntagerura, a
5 long-standing senior member of the MRND,
6 facilitated such seeming government support
7 of RTLM by authorizing the continued
8 broadcasts in spite of RTLM's violations of
9 Rwanda media legislation.

10

11 "12. Callixte Nsabonimana, a member of MRND,
12 authorized and sponsored rehearsal and
13 recording of Simon Bikindi's musical
14 compositions and live performances of his
15 dance troop Irindiro Ballet through the
16 Ministry of Youth and Sports. Simon Bikindi
17 organized and rehearsed his compositions
18 with youth groups at the level of the
19 commune, also through the Ministry of Youth
20 and Sports with funds for such purposes
21 disbursed to the youths through the
22 bourgmestres.

23

24 "13. Simon Bikindi consulted with President
25 Juv nal Habyarimana, Minister of Youth and

1 Sports, Callixte Nzabonimana, and
2 MRND-aligned military authority on song
3 lyrics recorded his compositions at the
4 Radio Rwanda studios with assistance from
5 Joseph Serugendo, distributed his tapes to
6 RTLM and performed his compositions at
7 Interahamwe meetings and MRND and CDR party
8 functions, many of which were large public
9 gatherings.
10
11 "14. RTLM played Simon Bikindi's
12 compositions several times a day, usually
13 during an early morning broadcast, at
14 lunchtime and in the early evening. After
15 the reprise of civil hostilities in the
16 non-international armed conflict between
17 April and July 1994, RTLM broadcast Simon
18 Bikindi's compositions repeatedly throughout
19 the day. The compositions that received
20 intense airplay were Bene sebahinzi and Naga
21 abahutu, songs that encouraged Hutu
22 solidarity against a common foe.
23
24 "15. Over the course of April, May, June
25 and the first days of July 1994 hundreds of

1 thousands of civilian Tutsi men, women,
2 children and the elderly were persecuted,
3 attacked, sexually assaulted, tortured,
4 sequestered and killed in Kigali-ville and
5 Gisenyi pr fectures and all across Rwanda.
6 These attacks and killings were products of
7 the government campaign to defeat the enemy
8 by enlisting local administrative
9 authorities and civilians organized as
10 civilian militias or acting individually to
11 exterminate the Tutsi.

12
13 "16. The efficiency of the mobilization of
14 Rwanda's Hutu peasantry for attacks upon the
15 Tutsi during the period 7 April 1994 and mid
16 July 1994, and the systematic nature of such
17 attacks by the military forces of the
18 interim government, including civilian
19 militias equipped, trained and sensitized to
20 target Tutsi civilians, implied planning and
21 coordination at the highest levels of the
22 political military business, and media
23 elites of MRND-affiliated governmental
24 authorities. Simon Bikindi's musical
25 composition and live performances and

1 recruitment training and command of
2 Interahamwe were elements of the plan to
3 mobilize civilian militias to destroy, in
4 whole or in part, the Tutsi.

5
6 "17. Following the military defeat of the
7 FAR and the retreat of the interim
8 government across the border into
9 neighbouring Za re, Simon Bikindi continued
10 the anti-Tutsi campaign by composing and
11 performing anti-Tutsi songs and by
12 collaborating with ex-FAR military leaders
13 and former MRND-aligned government officials
14 to continue the anti-Tutsi campaign as a
15 means to regain power.

16
17 "Count 2: Genocide.

18
19 "The Prosecutor of the International
20 Criminal Tribunal for Rwanda charges Simon
21 Bikindi with genocide, a crime stipulated in
22 Article 2(3)(a) of the Statute in that on or
23 between the dates of 7 April 1994 and 14
24 July 1994 throughout Rwanda, particularly in
25 Kigali-ville and Gisenyi pr fectures Simon

1 Bikindi was responsible for killing or
2 causing serious bodily or mental harm to
3 members of the Tutsi population with intent
4 to destroy, in whole or in part, a racial or
5 ethnic group as such, pursuant to Article
6 6(1) of the Statute, by virtue of his
7 affirmative acts in planning, instigating,
8 ordering, committing, or otherwise aiding
9 and abetting the planning, preparation or
10 execution of the crime charged, and pursuant
11 to Article 6(3) of the Statute by virtue of
12 his actual or constructive knowledge of the
13 facts of the acts or omissions of his
14 subordinates, including Interahamwe and
15 civilian militias, particularly Interahamwe
16 members of his Irindiro Ballet and his
17 failure to take necessary and reasonable
18 measures to stop or prevent them or to
19 discipline and punish them for their acts in
20 the planning, preparation or execution of
21 the crime charged.

22

23 "Concise statements of facts for Count 2.

24

25 "18. Paragraphs 1 through 17 above are

1 incorporated by reference herein.

2

3 "19. During the events referred to in this
4 Indictment, particularly from 6 April 1994
5 through the first days of July 1994,
6 Interahamwe militias engaged in a campaign
7 of extermination against Rwanda's Tutsi
8 population. Hundreds of thousands of Tutsi
9 men, women and children were killed.

10

11 "20. Simon Bikindi among others, planned,
12 instigated and prepared such killings by
13 recruiting members for the Interahamwe
14 militias, organizing and participating in
15 military training for Interahamwe militias,
16 indoctrinating Interahamwe militias with
17 anti-Tutsi ideology and by engaging in a
18 propaganda campaign to characterize civilian
19 Tutsi citizens of Rwanda as accomplices of
20 an invading enemy, and by specifically
21 encouraging the militias to target the Tutsi
22 population for attack.

23

24 "21. During June and early July 1994,
25 particularly in Gisenyi pr fecture, Simon

1 Bikindi led, participated in, instigated and
2 incited a campaign of violence against
3 civilian Tutsis and against Hutus perceived
4 to be politically opposed to the MRND and
5 MRND-aligned political parties resulting in
6 numerous deaths.

7
8 "22. Notably some time in mid late June
9 1994, Simon Bikindi and a band of
10 Interahamwe that had arrived in Gisenyi from
11 Kigali launched an attack on Tutsi living in
12 Nyamyumba commune. Just prior to the
13 attack, Simon Bikindi announced to
14 Interahamwe at a roadblock in Gisenyi-town
15 that they should search out the Tutsis and
16 kill them and that Hutus helping Tutsis to
17 flee to Za re should also be killed. After
18 these words, Simon Bikindi led a caravan of
19 armed Interahamwe including Colonel Buregeya
20 and No 1 Nyamyumba and killed Tutsi
21 residents and pillaged their belongings.

22
23 "23. Similarly, in mid late June 1994,
24 Simon Bikindi addressed an MRND meeting at
25 Umuganda stadium in Gisenyi where he

1 publicly stated that "Hutus should know who
2 the enemy is, and that the enemy is the
3 Tutsi," and that "Hutus should hunt and
4 search for the Tutsis and kill them."
5 Following the meetings, there was an
6 intensive search for Tutsi that were still
7 hiding.

8
9 "24. Also in June 1994 at the border
10 between Gisenyi and Za re following
11 instructions from Lieutenant Colonel Anatole
12 Nsengiyumva, Simon Bikindi ordered his
13 Interahamwe to take a group of Tutsi women
14 that were trying to escape to Za re behind a
15 kiosk called Command Post and to kill them.
16 The women were killed with Uzi guns behind
17 the Command Post. Shortly thereafter, Simon
18 Bikindi remarked, "See where we are now with
19 these Tutsi."

20
21 "25. In early July 1994, No 1 and Pascal,
22 two of Simon Bikindi's Interahamwe,
23 discovered that Ancilla, a Tutsi woman, had
24 been hiding in the ceiling of her home
25 apparently protected by her Hutu husband.

1 Simon Bikindi stated that she was one of the
2 people fighting Hutus and that she should be
3 taken away, killed, and was present when
4 No 1 and Pascal led Ancilla away. No 1 and
5 Pascal killed the woman and her
6 four-year-old daughter and buried them in a
7 shallow grave.

8
9 "26. Sexual violence against Tutsi women
10 was systematically incorporated in the
11 generalized attacks against the Tutsi. In
12 leading, ordering and encouraging the
13 campaign of extermination in Gisenyi
14 pr fecture, Simon Bikindi knew or should
15 have known that sexual violence against
16 civilian Tutsi was or would be widespread or
17 systematic and that the perpetrators would
18 include his subordinates, or those that
19 committed such acts in response to his
20 generalized orders and instructions to
21 exterminate the Tutsi.

22
23 "27. By virtue of his command of the
24 Interahamwe, particularly as reinforced by
25 his close association with leading figures

1 in the national leadership of the MRND and
2 the Interahamwe, coupled with his unique
3 status as a nationally recognized performer
4 and director of the Irindiro Ballet, Simon
5 Bikindi ordered or directed or otherwise
6 authorized civilian militias, particularly
7 Interahamwe members of his own Irindiro
8 Ballet, to prosecute and kill or facilitate
9 the killing of civilian Tutsi. By virtue of
10 that same authority Simon Bikindi had the
11 ability and the duty to halt, prevent,
12 discourage, or sanction persons that
13 committed or were about to commit such acts,
14 and did not do so.

15
16 "Count 3. Direct and public incitement to
17 commit genocide.

18
19 "The Prosecutor of the International
20 Criminal Tribunal for Rwanda charges Simon
21 Bikindi with direct and public incitement to
22 commit genocide, a crime stipulated in
23 Article 2(3)(c) of the Statute, in that on
24 or between the dates of 1 January 1994 and
25 14 July 1994, Simon Bikindi was responsible

1 for directly and publicly inciting persons,
2 including but not limited to soldiers, local
3 administrative officials, communal police,
4 civilian militias and local residents to
5 kill or cause serious bodily or mental harm
6 to members of the Tutsi population with the
7 intent to destroy, in whole or in part, a
8 racial or ethnic group as such, as follows:

9
10 "Pursuant to Article 6(1) of the Statute by
11 virtue of his affirmative acts in planning,
12 instigating, ordering, committing or
13 otherwise aiding and abetting the planning,
14 preparation or execution of the crime
15 charged. In that,

16
17 "28. During the period 1990 to 1994, Simon
18 Bikindi composed, performed, recorded or
19 disseminated musical compositions extolling
20 Hutu solidarity and characterizing Tutsi as
21 enslavers of the Hutu. These compositions
22 were subsequently deployed in a propaganda
23 campaign to target Tutsi as the enemy, or as
24 enemy accomplices and to instigate, incite
25 and encourage the Hutu population to

1 separate themselves from the Tutsi and to
2 kill them.

3
4 "29. Simon Bikindi regularly performed his
5 musical compositions at animation sessions
6 at Interahamwe meetings and at political
7 gatherings of the MRND and CDR political
8 parties. Simon Bikindi often circulated
9 about Gisenyi town and Rwerere commune,
10 Gisenyi pr fecture, aboard a vehicle
11 outfitted with a public address system and
12 performed his compositions or broadcasted
13 recordings of his compositions.

14
15 "30. Simon Bikindi's animated sessions at
16 MRND meetings and rallies were often a
17 prelude or a motivating factor to anti-Tutsi
18 violence against individuals and property in
19 the vicinity of those public gatherings
20 both leading up to the meetings or
21 immediately thereafter.

22
23 "31. Simon Bikindi publicly addressed MRND
24 and CDR adherents at party meetings with
25 specific exhortations to work, a coded

1 reference advocating the extermination of
2 the Tutsi.

3
4 "32. Notably in February 1994, shortly after
5 the assassinations of Martin Bucyana and
6 F licien Gatabazi, Simon Bikindi addressed
7 an MRND meeting at Umuganda Stadium in
8 Gisenyi and told the population to take
9 their clubs, machetes and other weapons and
10 to look for the Inyenzi and kill them.
11 Inyenzi was a derogatory reference to the
12 Tutsi.

13
14 "33. Similarly, in March, 1994, Simon
15 Bikindi addressed a meeting of the CDR and
16 encouraged those in attendance to work and
17 kill those opposed to the CDR and the MRND.
18 During the period relevant to this
19 Indictment, it was well known throughout
20 Rwanda that the CDR was opposed to the
21 Tutsi.

22
23 "34. Simon Bikindi also intervened in RTLM
24 broadcasts and advocated the extermination
25 of the Tutsi over the public radio airwaves,

1 for example, some time following the deaths
2 of Martin Bucyana and another CDR-affiliated
3 Interahamwe, Simon Bikindi stated 'See how
4 the Tutsi are exterminating you, the Hutu,
5 and if you do not react right away it's your
6 fault.'

7
8 "35. Notably during the last week of
9 February 1994, Simon Bikindi attempted to
10 incite violence against a group of Tutsi
11 that had taken shelter at the Gatenga Youth
12 Centre in Kigali. When gendarmes prevented
13 Simon Bikindi and his group of Interahamwe
14 from attacking the youth centre, Simon
15 Bikindi telephoned the RTLM radio station to
16 report that some Hutus were preventing Hutus
17 from attacking the Tutsi at Gatenga.

18
19 "36. Similarly, in late June 1994 in
20 Gisenyi pr fecture, Simon Bikindi operated a
21 vehicle outfitted with the public address
22 system and led a caravan of Interahamwe on
23 the main road between Kivumu and Kayove
24 communes announcing, 'The majority
25 population, it's you the Hutu I'm talking

1 to. You know the minority population is the
2 Tutsi. Exterminate quickly the remaining
3 ones.' Simon Bikindi also used the
4 vehicle-mounted public address system to
5 broadcast his musical compositions.

6
7 "37. Simon Bikindi's song lyrics
8 manipulated the politics and history of
9 Rwanda to promote Hutu solidarity. Among
10 Simon Bikindi's most popular compositions is
11 Twasezereye a song composed in 1987 which
12 means, 'we said good-bye to the feudal
13 regime.' Repeatedly broadcast over Radio
14 Rwanda and RTLM airwaves in 1992 and 1993,
15 Twasezereye was a public call for Hutu
16 solidarity in opposition to the Arusha
17 Accords.

18
19 "38. RTLM repeatedly broadcast other Simon
20 Bikindi compositions, notably, Bene
21 sebahinzi which means 'the sons of the
22 father of the cultivators', and Nanga bahutu
23 which means 'I hate these Hutu.' calls for
24 attack on the enemy in RTLM broadcasts were
25 often preceded or followed by these songs

1 composed and performed by Simon Bikindi. By
2 the terms of Rwanda legislation governing
3 authors rights, Simon Bikindi had a right to
4 forbid or enjoin public broadcast of his
5 compositions.

6

7 "Count 4. Murder as a crime against
8 humanity.

9

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

21

22 "Pursuant to Article 6(1) of the Statute, by
23 virtue of his affirmative acts in planning,
24 instigating ordering, committing or
25 otherwise aiding and abetting the planning,

1 preparation or execution of the crime
2 charged and --

3 MR. PRESIDENT:

4 Just a moment please. This part of the
5 Indictment "command responsibility" under
6 Article 6(3) in Count 4 and Count 2 were not
7 confirmed. So you don't need to read this
8 paragraph which starts "Pursuant to Article
9 6(3)" and ends at "in that."

10 MR. KOUAMBO:

11 Thank you, Your Honour. So I'll go back to
12 Count 4.

13
14 "Count 4. Murder as a crime against
15 humanity.

16
17 "The Prosecutor of the International
18 Criminal Tribunal for Rwanda --

19 MR. PRESIDENT:

20 Just continue with Paragraph 40.

21 MR. KOUAMBO:

22 Very well.

23
24 "40. Simon Bikindi, among others, planned,
25 instigated and prepared such killings by

1 recruiting members for the Interahamwe
2 militias organizing military training for
3 Interahamwe militias, indoctrinating
4 Interahamwe militias with anti-Tutsi
5 ideology, and by engaging in a propaganda
6 campaign to characterize the Tutsi citizens
7 of Rwanda as accomplices of an invading army
8 and by specifically encouraging civilian
9 militias to target Tutsi for attack.

10
11 "41. Notably, during June 1994 on a date
12 uncertain in Nyamyumba commune, Gisenyi
13 pr fecture, Simon Bikindi participated in
14 the killing of a wealthy Tutsi businessman
15 by leading a band of Interahamwe to the
16 man's home and by ordering several
17 Interahamwe, including Paulin, last name
18 unknown, and Nokori and members of his
19 ballet, including Serumveri Bosco and
20 Dusengimana Kizito to kill the Tutsi
21 businessman and to steal his property. The
22 group killed the businessman and loaded his
23 property onto Simon Bikindi's vehicle.

24
25 "42. Sometime during June 1994, at the

1 Gisenyi/Za re border, following instructions
2 from Colonel Anatole Nsengiyumva, Simon
3 Bikindi ordered his Interahamwe to kill a
4 group of Tutsi women that were trying to
5 escape across the border to Za re. The women
6 were then killed with Uzi guns.

7
8 "43. In early July 1994, Simon Bikindi
9 instigated the killing of Ancilla, a Tutsi
10 woman, by advising No 1 and Pascal, two of
11 his Interahamwe, that she was one of the
12 people fighting Hutus and that she should be
13 taken away, killed. No 1 and Pascal killed
14 the women and her four-year-old daughter and
15 buried them in a shallow grave.

16
17 "44. Given the generalized nature of
18 attacks against the Tutsi during April
19 through July 1994, Simon Bikindi is
20 responsible for the killings of numerous
21 Tutsi that followed his exhortations in deed
22 and in song and in word, particularly as
23 directed to Interahamwe and civilian
24 militias.

25

1 "Count 5. Persecution as a Crime against
2 Humanity.

3
4 "The Prosecutor of the International
5 Criminal Tribunal for Rwanda charges Simon
6 Bikindi with persecution as a crime against
7 humanity, as stipulated in Article 3(h) of
8 the Statute in that between the dates of 1st
9 January 1994 and 31st December 1994 Simon
10 Bikindi collectively targeted persons
11 belonging to the Tutsi ethnic group and was
12 responsible for directly inciting persons,
13 including but not limited to, soldiers,
14 local administrative officers, communal
15 police, civilian militias and civilian Hutu
16 population to actively persecute people
17 belonging to the Tutsi ethnic group. This
18 conduct was committed as part of a
19 widespread or systematic attack directed
20 against a civilian population.

21
22 "45. During the period 1990 to 1994, Simon
23 Bikindi addressed public gatherings,
24 composed, performed, recorded, or
25 disseminated musical compositions extolling

1 Hutu solidarity and characterizing Tutsi as
2 enslavers of the Hutu. These compositions
3 were subsequently deployed in a propaganda
4 campaign to target Tutsis as enemy
5 accomplices and to instigate, incite and to
6 encourage the Hutu population to separate
7 themselves from the Tutsi, to commit acts of
8 violence against them and to kill them.

9
10 "The acts and omissions of Simon Bikindi
11 detailed herein are punishable in reference
12 to Articles 22 and 23 of the Statute.

13
14 "Dated: The Hague, this 27th day of June
15 2001. Prosecutor, signed Carla Del Ponte."

16
17 I thank you, Your Honour.

18 MR. PRESIDENT:

19 Thank you, Mr. Registrar. Mr. Simon
20 Bikindi, did you understand the Indictment
21 which was just now read?

22 THE ACCUSED:

23 Yes, I understood it.

24 MR. PRESIDENT:

25 Now, I will read only counts, not -- I will

1 not repeat all the charges, only counts, and
2 after each count you may answer, you may
3 plead guilty or not guilty. Stand up.
4
5 Under Count 1, you are charged with the
6 crime of Conspiracy to Commit Genocide
7 pursuant to Article 2(3)(b) of this
8 Tribunal. In that on or between the dates
9 of 1st January 1994 and 31st December 1994,
10 you conspired with others, including but not
11 limited to the political leadership of the
12 MRND at the regional and national levels,
13 including though not limited to Callixte
14 Nzabonimana, Juv nal Habyarimana, Joseph
15 Nzirodera; Interahamwe leaders including
16 Robert Kajuga and other persons responsible
17 for media programming and operations,
18 including though not limited to Jean Bosco
19 Barayagwiza, Ferdinand Nahimana, Joseph
20 Serugendo and F licien Kabuga, to kill or
21 cause serious bodily or mental harm to
22 members of the Tutsi population with the
23 intent to destroy, in whole or in part, a
24 racial or ethnic group as follows:
25

1 Pursuant to Article 6(1) of the Statute by
2 virtue of your affirmative acts in planning
3 instigating, ordering, committing or
4 otherwise aiding and abetting the planning
5 preparation or execution of the crime
6 charged in that first, between 1st January
7 and 31st December 1994, citizens native to
8 Rwanda were severally identified according
9 to the following ethnic or racial
10 classifications: as Tutsi, Hutu and Twa, and
11 second, between 1st January 1994 and 17th of
12 July 1994 there was a state of
13 non-international armed conflict in Rwanda.

14

15 How do you plea; guilty or not guilty?

16 THE ACCUSED:

17 Loyally and honestly, I plead not guilty.

18 MR. PRESIDENT:

19 Very well. Under Count 2 of the Indictment,
20 you are charged with genocide, a crime
21 pursuant to Article 2(3)(a) of the Statute,
22 in that you on or between the dates of 7th
23 of April 1994 and 14 of July 1994 throughout
24 Rwanda, particularly in Kigali-ville and
25 Gisenyi pr fectures, you were responsible

1 for killing or causing serious bodily or
2 mental harm to members of the Tutsi
3 population with intent to destroy, in whole
4 or in part, racial or ethnic group as such
5 pursuant to Article 6(1) of the Statute, by
6 virtue of your affirmative acts in planning,
7 instigating, ordering, committing or
8 otherwise aiding and abetting the planning,
9 preparation or execution of the crime
10 charged.

11

12 How do you plead; guilty or not guilty?

13 THE ACCUSED:

14 Loyally and honestly, I plead not guilty.

15 MR. PRESIDENT:

16 Count 3. Under this count you are charged
17 with direct and public incitement to commit
18 genocide which crime is stipulated in
19 Article 2(3)(c) of the Statute in that on or
20 between the 1st of January 1994, and 14th of
21 July 1994, you were responsible for directly
22 and publicly inciting persons, including but
23 not limited to, soldiers, local
24 administrative officials, communal police,
25 civilian militias and local residents to

1 kill or cause serious bodily or mental harm
2 to members of the Tutsi population with the
3 intent to destroy, in whole or in part, a
4 racial or ethnic group as such, as follows:
5 pursuant to Article 6(1) of the Statute, by
6 virtue of your affirmative acts in planning,
7 instigating, ordering, committing or
8 otherwise aiding and abetting the planning,
9 preparation or execution of the crime
10 charged.

11

12 How do you plead; guilty or not guilty?

13 THE ACCUSED:

14 Loyally and honestly, I plead not guilty.

15 MR. PRESIDENT:

16 Thank you. Count 4. Under this count you
17 are charged with murder as a crime against
18 humanity which is stipulated in Article 3(a)
19 of the Statute in that, on or between the
20 dates of 7th of April and 14th of July of
21 1994 you were responsible for killing
22 persons or causing persons to be killed as
23 part of a widespread or systematic attack
24 against a civilian population on political,
25 ethnic or racial grounds as follows:

1 pursuant to Article 6(1) of the Statute by
2 virtue of your affirmative acts in planning,
3 instigating, ordering, committing or
4 otherwise aiding and abetting the planning,
5 preparation or execution of this crime.

6

7 How do you plead?

8 THE ACCUSED:

9 Loyally and honestly, I plead not guilty.

10 MR. PRESIDENT:

11 And lastly, under Count 5, you are charged
12 with persecution, a crime against humanity,
13 pursuant to Article 3(h) of the Statute in
14 that, between the dates of 1st of January
15 1994 and 31st of December 1994, you
16 collectively targeted persons belonging to
17 the Tutsi ethnic group and were therefore
18 responsible for directly inciting persons
19 including but not limited to soldiers, local
20 administrative officers, communal police,
21 civilian militias, and civilian Hutu
22 population to actively persecute people
23 belonging to the Tutsi ethnic group. This
24 conduct was committed as part of a
25 widespread or systematic attack directed

1 against a civilian population.

2

3 How do you plead for this charge?

4

5 THE ACCUSED:

6 Loyally and honestly, I plead not guilty.

7 MR. PRESIDENT:

8 Thank you. I believe that after this
9 pleading you can close today's initial
10 appearance. For the record, I should note
11 that some journalists were authorized by the
12 Tribunal to follow the proceedings in the
13 courtroom to take some photos and images.
14 It was done on request of the Tribunal's
15 unit for public relations.

16

17 If the Defence has nothing to add or to
18 propose, we could conclude the proceedings.

19 MR. CHADHA:

20 Thank you, Mr. President. My Lord, I have a
21 few comments to make, if allowed. Not very
22 much, but...

23 MR. PRESIDENT:

24 Yes, go on.

25 MR. CHADHA:

1 My Lord, in my humble opinion, the Accused
2 is entitled to get a correct copy of the
3 confirmed Indictment as provided under Rule
4 55(B) (iii) of the Rules of Evidence and
5 Procedure.

6
7 Now in this case ù I correct myself: Rules
8 of Procedure and Evidence ù in this case as
9 Your Lordships ordered during the
10 proceedings to delete certain paragraphs and
11 counts which show that there was a
12 noncompliance of the said Rule which I have
13 just referred.

14
15 Now under these circumstances, and with
16 respect to the Prosecution, I believe that
17 this document as such before the correction
18 was a misleading document, and it needed to
19 be replaced by the correct and neat and
20 clean copy of this confirmed indictment. So
21 under these circumstances, I submit that it
22 has caused the very fact that the Rule
23 55(B) (ii) was -- a Paragraph B of the Rules
24 of Procedure and Evidence has been violated.
25 It has caused material prejudice to the

1 Accused. It created a confusion which part
2 is to be taken as correct and incorrect.

3
4 So I humbly pray to this Honourable Tribunal
5 to kindly direct the production as provided
6 under Rule 5 of the Rules of Procedure and
7 Evidence to provide a correct, without these
8 handwritten corrections, a neat and clean
9 and correct version of the confirmed
10 Indictment so that he is in a position to
11 prepare his proper defence. That's all,
12 Mr. President. Thank you.

13 MR. PRESIDENT:

14 Thank you. Prosecution?

15 MR. RAPP:

16 Your Honour, in this situation we had a
17 proposed Indictment signed by the Prosecutor
18 and Your Honour, in the confirmation hearing
19 of the 5th of July struck certain --
20 particularly the Count 3 and the 6.3
21 responsibilities as to two of the counts,
22 and in our view the effect of that was to
23 correct a new Indictment confirmed by the
24 Chamber, the specific language of our
25 proposed Indictment as you confirmed it, and

1 as such you directed that a warrant of
2 arrest be issued pursuant to that document,
3 and I think under the circumstances that was
4 sufficient in this case.

5
6 We are willing, if the Court wishes, to
7 redraft the Indictment and leave out the
8 language but I submit that the order of the
9 Court striking that language is entirely
10 sufficient to amend it and that going
11 through this sort of clerical process is
12 frankly unnecessary. But we are certainly
13 willing to do it if the Court wishes.

14 MR. PRESIDENT:

15 Do you wish to respond?

16 MR. CHADHA:

17 Thank you, Mr. President. With respect to
18 my learned colleague, as far as I can read
19 this striking out, dismissal of the charge
20 was done on July the 5th 2001 and today is
21 the 4th April 2002, and I understand there
22 was enough, sufficient time to have it done,
23 but unfortunately it was left to the
24 Honourable President, and I feel, and I
25 still repeat my prayer, a correct copy of

1 the confirmed Indictment may kindly be
2 supplied. It will be in the interest of
3 justice. Much obliged.

4 MR. PRESIDENT:

5 Thank you. Indictment was filed with
6 registry and then handed out to the
7 reviewing judge for confirmations, together
8 with the decision on confirmation constitute
9 the Indictment which is valid and based for
10 trial, not the Indictment which was filed
11 from the Prosecutor without act of
12 confirmation.

13
14 The only confirmed Indictment, therefore, is
15 based for trial. There is no specific rule
16 that in the case if certain counts of the
17 Indictment are dismissed without prejudice
18 for the Prosecutor, which means that
19 Prosecutor can in any time later file
20 petitioning materials for the counts which
21 were dismissed. I don't believe that after
22 today's proceedings the Accused be in any
23 confusion about what parts of the Indictment
24 were confirmed.

25

1 In lack of specific provisions in the Rules
2 of Procedure and Evidence, and on my
3 opinion, there is no need to direct the
4 Prosecutor to file additional or new or
5 cleared up Indictment. I deny this proposal
6 replication of the Defence.

7 MR. CHADHA:

8 May it please Your Lordship.

9 MR. PRESIDENT:

10 Proceedings are called to order.

11
12 (Court adjourned at 1223H)

13
14 (Pages 1 to 48 by Karlene Ruddock)

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25

1 C E R T I F I C A T E

2

3 I, Karlene Ruddock, Official Court
4 Reporter for the International Criminal Tribunal for
5 Rwanda, do hereby certify that the foregoing proceedings
6 in the above-entitled cause were taken at the time and
7 place as stated; that it was taken in shorthand
8 (stenotype) and thereafter transcribed by computer under
9 my supervision and control; that the foregoing pages
10 contain a true and correct transcription of said
11 proceedings to the best of my ability and understanding.

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

16

17

18

Karlene Ruddock

(pages 1 to 48)

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