

CONFIDENTIAL

ICTR-2001-72-I
15-6-2005
(2280 - 2240)

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**International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda**

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To: The Honourable Judges
Trial Chamber III

From: Bill Egbe
Senior Trial Attorney
OTP

Date: 15 June 2005

Subject: Amended Indictment Pursuant To Decisions of Trial Chamber III of 11 May 2005 and 10 June 2005 – *The Prosecutor v. Simon Bikindi* (ICTR-2001-72-I)

JUDICIAL DEPARTMENT/ARCHEVE
ICTR
2005 JUN 15 A 9:57
Bill Egbe

Pursuant to the decision of Trial Chamber III dated 10 June 2005, the Prosecutor hereby files an amended indictment with the particulars ordered.

For the purpose of easy identification of the changes ordered by the Trial Chamber, a document titled "AMENDED INDICTMENT PURSUANT TO DECISIONS OF 11 MAY 2005 AND 10 JUNE 2005 ANNEX" is also filed. In paragraphs 3 and 9 of this document, the Prosecution has specified with double underline, the changes made.

The Prosecution reiterates its application (see 20 May 2005 letter) that the First Submission of Particulars dated 22 October 2003 and the Second Submission of Particulars dated 1 February 2005 be withdrawn, as ordered by the Chamber in the decision of 11 May 2005.

For the purpose of completeness, the Prosecution resubmits its letter of 20 May 2005.

As to the date for the new initial appearance of the Accused, the Prosecution is available anytime from Monday 20 June 2005 to the end of the month of June 2005.

Regards

Attachments

- Letter dated 20 May 2005
- Amended indictment pursuant to decisions of 11 May 2005 and 10 June 2005
- Amended indictment pursuant to decisions of 11 May 2005 and 10 June 2005 **Annex**



International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda

UNITED NATIONS
NATIONS UNIES

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ICTR-2001-72-I
20-5-2005
(2235 - 2196)

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To: Mr. Constant Hometowu
Coordinator
Trial Chamber III

From: Bill Egbe
Senior Trial Attorney
OTP

Date: 20 May 2005

Subject: Amended Indictment Pursuant To Decision of Trial Chamber III of 11 May 2005 – *The Prosecutor v. Simon Bikindi* (ICTR-2001-72-I)

2005 MAY 20 P 12: 23
 AUTHORITY TO ACCESS ARCHIVES
 ICTR

Pursuant to the decision of Trial Chamber III dated 11 May 2005, the Prosecutor hereby submits an amended indictment with the particulars ordered in the decision of 22 September 2003.

The prosecution files the amended indictment today 20 May 2005, in compliance with your decision dated 16 May 2005, granting the prosecution enlargement of time within which to file an amended indictment, as ordered in the 11 May 2005 decision.

To make explicit the changes to the original indictment that are the result of the present authorized amendment, the prosecution uses 3 font types on an annex to the amended indictment that is filed together with the signed amended indictment. The font types are **Arial Black**, **Arial Black underline** and Times New Roman.

Arial Black: *Count 1, paragraphs 3, 7, 8, 9, 10, 12, 13, 16, 17, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 37, 38, 39, 44, 45, 46, 47 and 48.*

This font is used in the paragraphs enumerated above, to show the particulars allowed by the Chamber in the decision of 11 May 2005, as authorized in the decision of 22 September 2003, at paragraph 38.

Arial Black underline: *Paragraphs 8, 16, 25, 26, 27, 29, 33, 44, and 48.*

This font is used in the paragraphs enumerated above, to show the particulars ordered by the Chamber in the decision of 11 May 2005, footnote 5, that were not been provided in full by the Prosecutor in the Bills of Particulars submitted on 22 October 2003 and 1 February 2005.

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Times New Roman: *The rest of the text of the indictment*

The text of the original indictment remains in the Times New Roman font.

The new allegations, in the First Submission of Particulars, included under Paragraph 30 of the Indictment and Paragraph 38(xxxii) of the Decision of 22 September 2003, and in the Second Submission of Particulars, under Paragraph 47 of the Indictment and Paragraph 38(xliv) of the Decision of 22 September 2003, have been expunged from both paragraphs in the amended indictment.

✓ | |
The Prosecution accordingly withdraws the First Submission of Particulars dated 22 October 2003 and the Second Submission of Particulars dated 1 February 2005, as ordered by the Chamber in the decision of 11 May 2005.

Regards.

(2277 - 2261)

2277

INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

Case No. ICTR-2001-72-I

THE PROSECUTOR

AGAINST

SIMON BIKINDI

RECEIVED
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ARCHIVES

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2005 JUN 15 A 10:05

***AMENDED INDICTMENT PURSUANT TO
DECISIONS OF 11 MAY 2005 AND 10 JUNE 2005***

- I. 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:

Simon BIKINDI

with CONSPIRACY TO COMMIT GENOCIDE; GENOCIDE, or alternatively COMPLICITY IN GENOCIDE; DIRECT AND PUBLIC INCITEMENT TO COMMIT GENOCIDE; and MURDER and PERSECUTION, as a CRIME AGAINST HUMANITY; offenses stipulated in Articles 2 and 3 of the Statute of the Tribunal, as set forth below:

II. **THE ACCUSED:**

Simon BIKINDI was born on 28 September 1954 in Rwerere *commune*, Gisenyi *préfecture*, Rwanda. During the period material to this indictment, Simon BIKINDI was a well-known composer and singer of popular music and director of the performance group *Irindiro Ballet*. **Simon BIKINDI** was also an official in the Ministry of Youth and Sports of the Government of Rwanda and a member of the MRND political party.

III. CHARGES and CONCISE STATEMENT OF FACTS:

Count I: CONSPIRACY TO COMMIT GENOCIDE:

The Prosecutor of the International Criminal Tribunal of Rwanda charges **Simon BIKINDI** with **CONSPIRACY TO COMMIT GENOCIDE**, a crime stipulated in Article 2(3)(b) of the Statute, in that on or between the dates of 1 January 1994 and 31 December 1994, **Simon BIKINDI** did conspire with others, including, but not limited to, the political leadership of the MRND at the regional and national levels, including, though not limited to Callixte NZABONIMANA, Juvenal HABYARIMANA, Joseph NZIRORERA, André NTAGERURA, Théoneste BAGOSORA; Mathieu NGIRUMPATSE; *Interahamwe* leaders, including Robert KAJUGA; Georges RUTAGANDA; and other persons responsible for media programming and operations, including, though not limited to Jean-Bosco BARAYAGWIZA, Ferdinand NAHIMANA, Joseph SERUGENDO and Félicien KABUGA, 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, a racial or ethnic group, as follows:

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

1. Between 1 January and 31 December 1994, citizens native to Rwanda were severally identified according to the following ethnic or racial classifications: Tutsi, Hutu and Twa.
2. Between 1 January 1994 and 17 July 1994 there was a state of noninternational armed conflict in Rwanda

Concise Statement of Fact:

3. **Simon BIKINDI** agreed or collaborated with Head of State Juvénal HABYARIMANA, Minister of Youth and Sports Callixte NZABONIMANA, national *Interahamwe* leader Robert KAJUGA, national MRND political leaders, such as Mathieu NGIRUMPATSE, André NTAGERURA and Joseph NZIRORERA, and MRND-aligned military leaders, such as Theoneste BAGOSORA and Georges RUTAGANDA, to militarize the MRND *Interahamwe* youth wing and to indoctrinate *Interahamwe* militias with anti-Tutsi ideology and to disseminate anti-Tutsi propaganda, as set out in paragraphs 7-10 and 12 - 16 below:
4. During the early 1990's, the tight circle of MRND party and military leaders surrounding President HABYARIMANA devised and implemented a strategy to consolidate their hold on government power in

the face of rising domestic political opposition and the threat of military attack by the RPF. That strategy: to incite hatred and fear of the Tutsi and to characterize the Tutsi as *ibityso*, domestic accomplices of a foreign invading enemy army. Also incorporated in that strategy: the creation of civilian militias exclusively aligned with the MRND party that would be armed, trained and sensitized to exterminate the Tutsi population.

- 5. Notably, in December 1991 Juvénal HABYARIMANA, at that time Commander in Chief of the *Forces Armées Rwandaises* (FAR) as well as Head of State, set up a military commission to devise an agenda to "defeat the enemy militarily, in the media and politically." The commission generated a report that defined the enemy as: *...Tutsis from inside or outside the country who are extremist and nostalgic for power, who have never recognized and do not yet recognize the realities of the Social Revolution of 1959, and are seeking to regain power in Rwanda by any means, including taking up arms.* Army Chief of Staff Deogratias NSABIMANA caused excerpts from the report to be circulated among the military Sector Commanders.
- 6. Subsequently, MRND-aligned military leaders provided military training and weapons to *Interahamwe* militias and sensitized the MRND youth wing to target the Tutsi and members of the political opposition as accomplices of the enemy. This military training was organized throughout Rwanda, particularly in military camps in Kigali, in Mutara and in Gisenyi.
- 7. Prior to the events of April 1994, at the end of 1993 and at the beginning of 1994 **Simon BIKINDI** participated in the campaign to *defeat the enemy militarily* by conducting MRND membership drives and participating in recruitment in Mutara in late 1993, and military training of *Interahamwe* militias in Mutara in late 1993, and on several occasions in January 1994 with French soldiers at Club Jaly, in Kigali, knowing and intending that such civilian militias would be deployed in exterminating campaigns against the Tutsi.
- 8. For example, several times in January 1994 **Simon BIKINDI** was present and participated in military training of *Interahamwe* militias at Club Jaly, Kiyoru, in Kigali-ville. On these occasions in January 1994 **Simon BIKINDI**, accompanied by RUCYERATABARO, NGWIGE, and BOSCO were driven by **Simon BIKINDI's** driver to Club Jaly where they were to train the *Interahamwe* militias with French Soldiers. On these occasions **Simon BIKINDI** took part in the military exercises carried out at Club Jaly, by providing drills and instructions on manipulation of arms.

9. **Simon BIKINDI** participated in the campaign to *defeat the enemy in the media* by collaborating with Ferdinand NAHIMANA, Jean-Bosco BARAYAGWIZA, Félicien KABUGA, André NTAGERURA, Georges RUTAGANDA, President Juvénal HABYARIMANA, Callixte NZABONIMANA, Joseph SERUGENDO and Joseph NZIRORERA, to launch *Radio-Télévision Libre des Mille Collines, SA (RTLM)*, a privately owned radio station aligned with extremist political currents in the MRND and the CDR. RTLM in part conceived as a media alternative to Radio Rwanda, then subject to the programming restrictions of ORINFOR and the newly installed Ministry of Information, RTLM programming interspersed popular music and listener participation with news reports and anti-Tutsi propaganda.

10. Although the preamble to the statutes creating RTLM defines its purpose as facilitating the circulation of diverse ideas and objective news reporting, in actuality RTLM was created as a vehicle for anti-Tutsi propaganda. RTLM's anti-Tutsi broadcasts were often punctuated by recorded musical selections containing both instrumental music and lyrics composed and performed by **Simon BIKINDI**. The intertwining objectives of RTLM's media programming and **Simon BIKINDI**'s musical recordings were the same: to sensitize and incite the listening public to target and commit violent acts against the Tutsis, particularly the civilian militias, the government armed forces and the masses of Rwanda's Hutu peasantry; and to extol Hutu solidarity and to target the Tutsi as accomplices of the enemy.

11. RTLM received logistical support from Radio Rwanda, the government-owned radio station, and initially broadcasted its programs on the same frequencies as Radio Rwanda, enabling government-controlled Radio Rwanda broadcasts to flow seamlessly into the privately controlled programming of RTLM. Minister of Transports and Communications André NTAGERURA, a longstanding senior member of the MRND, facilitated such seeming government support of RTLM by authorizing the continued broadcasts in spite of RTLM's violations of Rwanda media legislation.

12. Callixte NZABONIMANA, a member of MRND, authorized and sponsored rehearsal and recording of **Simon BIKINDI**'s musical compositions and live performances of his dance troupe IRINDIRO BALLET through and at the Ministry of Youth and Sports in Kigali, in his capacity as Minister of Youth and Sports. **Simon BIKINDI** organized the rehearsals and rehearsed his compositions with youth groups at the level of the *commune*, including at Rwerere commune and Rubavu commune in late 1993 and early 1994. The Minister of Youth and Sports financed the rehearsals with money being paid to the youth groups, in some instances

through the bourgmestres of the Rwerere commune and Rubavu commune.

13. **Simon BIKINDI** consulted with President Juvenal HABYARIMANA, Minister of Youth and Sports Callixte NZABONIMANA and MRND-aligned military authorities on song lyrics as follows: In order to release a musical composition **Simon BIKINDI** provided a tape with his recorded composition to Callixte NZABONIMANA, who in turn would indicate what changes he thought were necessary. The recorded composition was then passed on to President Juvenal HABYARIMANA who would listen to the tape to ensure that it was in line with government policy and subsequently authorize its release. **Simon BIKINDI** also recorded his compositions at the Radio Rwanda studios with assistance from Joseph SERUGENDO. In late 1993 **Simon BIKINDI** made available to the RTLM for broadcast those songs that had been authorized for release, as set out above. **Simon BIKINDI** also performed his compositions at *Interahamwe* meetings and MRND and CDR party functions, most of which were large public gatherings that were frequently held on Saturdays or Sundays at various stadiums in different parts of Rwanda, including Ruhengeri, Cyasamakamba, Nyamirambo, Cyangugu, Umuganda as well as in Rubona, Bicumbi commune and in Ruyenzi, Gitarama commune.
14. RTLM played **Simon BIKINDI**'s compositions several times a day, usually during an early morning broadcast, at lunchtime and in the early evening. After the reprise of civil hostilities in the non-international armed conflict, between April and July 1994, RTLM broadcast **Simon BIKINDI**'s compositions repeatedly throughout the day. The compositions that received intense airplay were *Bene sebahinzi* and *Naga abahutu*, songs that encouraged Hutu solidarity against a common foe.
15. Over the course of April, May, June and the first few days of July of 1994, hundreds of thousands of civilian Tutsi men, women, children and the elderly, were persecuted, attacked, sexually assaulted, tortured, sequestered, and killed in Kigali-ville and Gisenyi *préfectures* and all across Rwanda. These attacks and killings were products of the Government campaign to *defeat the enemy* by enlisting local administrative authorities and civilians, organized as civilian militias or acting individually, to exterminate the Tutsi.
16. The efficiency of the mobilization of Rwanda's Hutu peasantry for attacks upon the Tutsi during the period 7 April 1994 - mid July 1994, and the systematic nature of such attacks by the military forces of the Interim Government, including civilian militias equipped, trained and sensitized to target Tutsi civilians, imply planning and coordination at the highest levels of the political, military, business and media elites of MRND-affiliated governmental authorities. **Simon BIKINDI**'s musical compositions and

live performances and recruitment, training and command of *Interahamwe*, were elements of the plan to mobilize civilian militias to destroy, in whole or in part, the Tutsi. **Simon BIKINDI**'s songs were a crucial part of the genocidal plan because they incited ethnic hatred of Tutsis and further incited people to attack and to kill Tutsi because they were Tutsi. As a result of the mobilizing effect of **Simon BIKINDI**'s music, members of the Ballet, including Kizito DUSENGIMANA, were recruited into the *Interahamwe* militia, participated in military training and committed subsequent killings of Tutsis.

17. Between July 1994 and early 1995 **Simon BIKINDI** continued to demonstrate his anti – Tutsi stance when, following the military defeat of the FAR and the retreat of the Interim Government across the border into neighboring Zaire, he continued the anti- Tutsi campaign by composing and performing anti- Tutsi songs and by collaborating with ex-FAR military leaders and former MRND-aligned government officials to continue the anti- Tutsi campaign as a means to regain power.

Count 2: GENOCIDE:

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

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

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

or alternatively,

Count 3: COMPLICITY IN GENOCIDE:

The Prosecutor of the International Criminal Tribunal of Rwanda charges **Simon BIKINDI** with **COMPLICITY IN GENOCIDE**, a crime stipulated in Article 2(3)(e) of the Statute, in that on or between the dates of 1 January 1994

and 14 July 1994 throughout Rwanda, particularly Kigali-ville and Gisenyi *prefectures*, **Simon BIKINDI** was responsible for killing or causing serious bodily or mental harm to members of the Tutsi population with intent to destroy, in whole or in part, a racial or ethnic group, as such, as follows:

Pursuant to Article 6(1) of the Statute: by virtue of his affirmative acts in planning, instigating, ordering, committing, or otherwise aiding and abetting the planning, preparation or execution of the crime charged; in that:

Concise Statement of Facts for Counts 2 and 3:

- 18. Paragraphs 1 through 17, above, are incorporated by reference herein.
- 19. During the events referred to in this indictment, particularly from 6 April 1994 through the first days of July 1994, *Interahamwe* militias engaged in a campaign of extermination against Rwanda's Tutsi population. Hundreds of thousands of Tutsi men, women and children were killed.
- 20. **Simon BIKINDI**, among others, planned, instigated and prepared such killings by recruiting members for the *Interahamwe* militias, organizing and participating in military training for *Interahamwe* militias, indoctrinating *Interahamwe* militias with anti-Tutsi ideology and by engaging in a propaganda campaign to characterize civilian Tutsi citizens of Rwanda as accomplices of an invading enemy, and by specifically encouraging the militias to target the Tutsi population for attack, as set out in paragraphs 21-30 below.
- 21. During June and early July 1994, particularly in Gisenyi *préfecture*, **Simon BIKINDI** led, participated in, instigated and incited a campaign of violence against civilian Tutsis and against Hutus perceived to be politically opposed to the MRND and MRND-aligned political parties, resulting in numerous deaths.
- 22. Sometime in mid-late June 1994 **Simon BIKINDI** and a band of *Interahamwe* that had arrived in Gisenyi from Kigali launched an attack on Tutsi living in Nyamyumba *commune*. Just prior to the attack, **Simon BIKINDI** announced to *Interahamwe* at a roadblock in Gisenyi-town that they should search out the Tutsis and kill them, and that Hutus helping Tutsis to flee to Zaire should also be killed. After these words, **Simon BIKINDI** led a caravan of armed *Interahamwe*, including Col. BUREGEYA and NOEL, to Nyamyumba and killed Tutsi residents and pillaged their belongings.
- 23. In mid-late June 1994 **Simon BIKINDI** addressed a MRND meeting at Umuganda Stadium in Gisenyi where he publicly stated that, "*Hutus should know who the enemy is, and that the enemy is the Tutsi*" and that

"Hutus should hunt and search for the Tutsis and kill them." Following the meeting there was an intensive search for Tutsis that were still hiding, and as a result of this intensive search Tutsis were killed, including ANCILLA and her 4 year old daughter, as set out in paragraph 28 below.

24. In June 1994, at the border between Gisenyi and Zaire, following instructions from Lt. Colonel Anatole NSENGIYUMVA, **Simon BIKINDI** ordered the Interahamwe in his company and to whom he gave orders to take a group of Tutsi women that were trying to escape to Zaire behind a kiosk called Command Post and to kill them. The women were killed with UZI guns behind the Command Post. Shortly thereafter **Simon BIKINDI** remarked, *"See where we are now with the Tutsis."*
25. In June 1994, **SIMON BIKINDI** went to Gisenyi prison in the company of Hassan Ngeze, Major Kabera, the prison Director Gasirabo and more than ten body guards. The prison guard Rukara called out the names of 12 prisoners who came out of their cells and were told to stand beside the prison latrine pit. **Simon BIKINDI** then asked the prison director Gasirabo why the 12 prisoners were still alive whilst in Kigali all Tutsis had been killed. The prison director Gasirabo responded that he had been given these prisoners to keep them and he did not know if they were to be killed. Ngeze then asked all the Tutsis prisoners to raise their hands in the air, and 10 of the prisoners who were Tutsi did. Reading from a list of twelve prisoners, **Simon BIKINDI** then called out the names of Tutsi prisoners, starting with Matabaro and Kayibanda. Matabaro came forward to stand near to where **Simon BIKINDI** stood, and he was hit in the back of the head with the back of an axe by one of the bodyguards. **Simon BIKINDI** then called out the name of Kayibanda who was also hit on the back of the head with the back of an axe by **BIKINDI's** body guard. Matabaro and Kayibanda both died as a result of the blows. Eight of the other persons whose names were on the list, all Tutsis, were killed by **BIKINDI's** bodyguards, using bayonets. By reading out from a list of Tutsi prisoners, by asking why they had not yet been killed, **Simon BIKINDI** instigated, and aided and abetted the immediate killings of two of the prisoners, namely Matabaro and Kayibanda. In respect of the other eight Tutsi prisoners who were killed immediately afterwards by **Simon BIKINDI's** bodyguards, by his initial question as to why all the Tutsi prisoners had been not been killed before his arrival at the prison, he instigated, and aided and abetted their subsequent killings by his bodyguards.
26. At the end of June 1994, **Simon BIKINDI**, was in charge of, and provided orders to the Interahamwe manning a roadblock at scout camp, near the Pentecostal church on the way to commune rouge, Gisenye. At this roadblock several Tutsi were massacred. By the following actions of:

- (a) exercising effective control over the *Interahamwe* who manned this roadblock;
- (b) giving orders to these *Interahamwe* to kill Tutsis at the roadblock;
- (c) several Tutsis actually being killed at the roadblock;
- (d) coming to the roadblock several times;

Simon BIKINDI knew or ought to have known that several Tutsis had been killed at this roadblock as a result of his orders. **Simon BIKINDI** ordered, instigated, aided and abetted the deaths of several Tutsis at the scout camp roadblock.

27. In early July 1994, **Simon BIKINDI** in the company of the *Interahamwe* to whom he gave orders transported three Tutsi women by removing them from a compound in Gacuba cellule in Gisenyi and driving them in his car to the commune rouge where they were killed by the *Interahamwe*. By transporting the three Tutsi women to the commune rouge where he knew that they would be killed as other Tutsis were being killed at the same location, **Simon BIKINDI** planned, instigated, and aided and abetted their killings.
28. In early July 1994, NOEL and PASCAL, two of the *Interahamwe* in **Simon BIKINDI**'s company and to whom he gave orders, discovered that ANCILLA, a Tutsi woman, had been hiding in the ceiling of her home, in Murara, Rubavu commune, Gisenyi prefecture, apparently protected by her Hutu husband. **Simon BIKINDI** stated that she was one of the people fighting Hutus and that she should be taken away (killed) and was present when NOEL and PASCAL led ANCILLA away. NOEL and PASCAL killed the woman and her 4-year-old daughter and buried them in a shallow grave.
29. Sexual violence against Tutsi women was systematically incorporated in the generalized attacks against the Tutsi. In leading, ordering and encouraging the campaign of extermination in Gisenyi *préfecture*, **Simon BIKINDI** knew, or should have known, that sexual violence against civilian Tutsi was, or would be, widespread or systematic, and that the perpetrators would include his subordinates or those that committed such acts in response to his generalized orders and instructions to exterminate the Tutsi. For example, in late June 1994, at about 6pm, **Simon BIKINDI** led a group of *Interahamwe*, including Jean KAVUNDERI (Noel's younger brother), PASCAL, CARI, SELAMANI, KABULIMBO, and SENDEGEYA to Rubavu, and ordered them to kill all of the Tutsis in the area. In the course of executing **Simon BIKINDI**'s orders, the *Interahamwe* under his effective control also committed rapes of Tutsi women, of which **Simon BIKINDI** was aware, or ought to have been aware by his presence and effective supervision of the killing and rape operations of the *Interahamwe*. Notably, the *Interahamwe* called SENDEGEYA boasted in the hearing of other persons in the vicinity of

the crimes, including **Simon BIKINDI**, after the rape and murder of ANCILLA that he “had always dreamt of sleeping with a Tutsi woman and now his dream had come true”. During the killings and rape perpetrated by the *Interahamwe* in **Simon BIKINDI**’s company and to whom he gave orders, including the perpetrators named above, **Simon BIKINDI** stood by the road near the home of ANCILLA to ensure his orders were carried out by the *Interahamwe*. By ordering the *Interahamwe* under his effective control to commit acts of violence against Tutsis in Rubavu commune, which included acts of killing and sexual violence, and by effectively staying on the road close to the scene of these crimes to ensure his orders were followed, **Simon BIKINDI** was aware, or ought to have been aware of the acts of rape and sexual violence committed by the *Interahamwe* under his effective control, notably SENDEGEYA, on ANCILLA. Notably still, when the said *Interahamwe* boasted in the hearing of other persons in the vicinity of the crimes, including **Simon BIKINDI**, after the rape of ANCILLA that he “had always dreamt of sleeping with a Tutsi woman and now his dream had come true”, by these specific actions, **Simon BIKINDI** ordered, instigated and aided and abetted in these rapes, notably, in the rape of ANCILLA.

30. **Simon BIKINDI**’s command of the *Interahamwe* is demonstrated by the following facts:
- (a) **Simon BIKINDI** was recognized as one of the most creative persons within the *Interahamwe* organisation and with that talent assumed the role of inspirational leader;
 - (b) **Simon BIKINDI**’s participation in military training of *Interahamwe* militias in Kigali;
 - (c) **Simon BIKINDI** founded the IRINDIRO Ballet whose members were MRND *Interahamwe* or members of the extremist CDR;
 - (d) **Simon BIKINDI** launched an attack with the *Interahamwe* on Tutsi living in Nyamyumba commune. Just prior to the attack, **Simon BIKINDI** announced to *Interahamwe* at a roadblock in Gisenyi-town that they should search out the Tutsis and kill them, and that Hutus helping Tutsis to flee to Zaire should also be killed. After these words, **Simon BIKINDI** led a caravan of armed *Interahamwe*, including Col. BUREGEYA and NOEL, to Nyamyumba and killed Tutsi residents and pillaged their belongings;
 - (e) **Simon BIKINDI** ordered *Interahamwe* to take a group of Tutsi women that were trying to escape to Zaire behind a kiosk called Command Post and to kill them;
 - (f) **Simon BIKINDI** ordered *Interahamwe* at the roadblock at the scout camp, to kill Tutsi;

- (g) **Simon BIKINDI** ordered Interahamwe, in early June 1994, in Murara, Rubavu commune, Gisenyi, to kill ANCILLA, a Tutsi women;
- (h) **Simon BIKINDI** led a caravan of Interahamwe on the main road between Kivumu and Kayove communes and made anti – Tutsi announcements using his vehicle outfitted with a public address system;
- (i) **Simon BIKINDI** incited Interahamwe on 26 February 1994 to attack a group of Tutsi seeking refuge in the Gatenga Youth Center in Kigali;
- (j) Interahamwe guarded **Simon BIKINDI'S** bar in Gatenga sector, Gikondo, Kigali; and
- (k) In early April 1994, **Simon BIKINDI** and about 20 Interahamwe arrived in a bus belonging to **Simon BIKINDI** in Kicukiro commune;

By virtue of his command of the *Interahamwe*, particularly as reinforced by his close association with leading figures in the national leadership of the MRND and the *Interahamwe*, coupled with his unique status as a nationally recognized performer and director of the *Irindiro Ballet*, **Simon BIKINDI** ordered or directed or otherwise authorized civilian militias, particularly *Interahamwe* members of his own *Irindiro Ballet*, including Bosco SERUMVERI and Kizito DUSENGIMANA, to persecute and kill or facilitate the killing of civilian Tutsi. By virtue of that same authority **Simon BIKINDI** had the ability and the duty to halt, prevent, discourage or sanction persons that committed, or were about to commit, such acts, and did not do so.

Count 4: DIRECT AND PUBLIC INCITEMENT TO COMMIT GENOCIDE:

The Prosecutor of the International Criminal Tribunal of Rwanda charges **Simon BIKINDI** with ***DIRECT AND PUBLIC INCITEMENT TO COMMIT GENOCIDE***, a crime stipulated in Article 2(3)(c) of the Statute, in that on or between the dates of 1 January 1994 and 14 July 1994, **Simon BIKINDI** was responsible for directly and publicly inciting persons, including, but not limited to, soldiers, local administrative officials, communal police, civilian militias and local residents, 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, a racial or ethnic group, as such, as follows:

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

31. During the period 1990 to 1994. **Simon BIKINDI** composed, performed, recorded or disseminated musical compositions extolling Hutu solidarity and characterizing Tutsi as enslavers of the Hutu. These compositions were subsequently deployed in a propaganda campaign to target Tutsi as the *enemy*, or as *enemy accomplices*, and to instigate, incite, and encourage the Hutu population to separate themselves from the Tutsi and to kill them.
32. **Simon BIKINDI** regularly performed his musical compositions at animation sessions at *Interahamwe* meetings and at political gatherings of the MRND and CDR political parties in various stadiums in different parts of Rwanda, including, Ruhengeri, Cyasamakamba, Nyamirambo, Cyangugu, Umuganda, as well as in Rubona, Bicumbi commune and in Ruyenzi, Gitarama commune, in late 1992, in 1993 and at the beginning of 1994, in the Kigali and Gisenyi prefectures. **Simon BIKINDI** often circulated about Gisenyi town and Rwerere *commune*, Gisenyi *prefecture* in late June 1993, and February and March 1994, aboard a vehicle outfitted with a public address system and performed his compositions or broadcasted recordings of his compositions.
33. **Simon BIKINDI**'s animation sessions at MRND meetings and rallies in late 1993, early 1994 and June 1994 were often a prelude or a motivating factor in anti-Tutsi violence against individuals and property in the vicinity of those public gatherings, both leading up to the meetings or immediately thereafter. Some of these MRND meetings and rallies included one which took place at Umuganda stadium, Gisenyi, in June 1994, and one which took place at a football ground in Kivumu sector, Nyamyamba commune, Gisenyi prefecture, in 1993.
34. **Simon BIKINDI** publicly addressed MRND and CDR adherents at party meetings with specific exhortations to work, a coded reference advocating the extermination of the Tutsi, as set out in paragraphs 35 and 36 below.
35. In February 1994, shortly following the assassinations of Martin BUCYANA and Félicien GATABAZI, **Simon BIKINDI** addressed an MRND meeting at Umuganda Stadium in Gisenyi and told the population to take their clubs, machetes and other weapons and to look for the *inyenzi* and kill them. *Inyenzi* was a derogatory reference to the Tutsi.
36. In March 1994 **Simon BIKINDI** addressed a meeting of the CDR and encouraged those in attendance to *work* and to kill those opposed to the CDR and the MRND. During the period relevant to this indictment, it was well known throughout Rwanda that the CDR was opposed to the Tutsi.

37. **Simon BIKINDI** also advocated the extermination of the Tutsi over the public radio air-waves. For example, sometime following the deaths of BUCYANA Martin and another CDR-affiliated *Interahamwe*, **Simon BIKINDI** stated in a speech of his made in Nyamirambo stadium that was recorded and then broadcast over RTLM radio station air-waves between February 1994 and March 1994, "*See how the Tutsi are exterminating you, the Hutu. If you do not react right away it's your fault...*".
38. During the last week of February 1994 **Simon BIKINDI** attempted to incite violence against a group of Tutsi that had taken shelter at the Gatenga Youth Center in Kigali. When gendarmes prevented **Simon BIKINDI** and the group of *Interahamwe* in his company and to whom he gave orders from attacking the youth center, **Simon BIKINDI** telephoned the RTLM radio station to report that some Hutus were preventing Hutus from attacking the Tutsi at Gatenga, and his telephone words were broadcast over the RTLM radio station air-waves.
39. In late June 1994 in Gisenyi *préfecture* **Simon BIKINDI** operated a vehicle outfitted with a public address system and led a caravan of *Interahamwe* on the main road between Kivumu and Kayove *communes* announcing, "*The majority population, it's you, the Hutu I am talking to. You know the minority population is the Tutsi. Exterminate quickly the remaining ones.*" **Simon BIKINDI** also used the vehicle-mounted public address system to broadcast his musical compositions in 1993 and late June 1994.
40. **Simon BIKINDI**'s song lyrics manipulated the politics and history of Rwanda to promote Hutu solidarity. Among **Simon BIKINDI**'s most popular compositions is *Twasezereye*, a song composed in 1987 which means "*we said good bye to the feudal regime*". Repeatedly broadcast over Radio Rwanda and RTLM airwaves in 1992 and 1993 *Twasezereye* was a public call for Hutu solidarity in opposition to the Arusha accords.
41. RTLM repeatedly broadcasted other **Simon BIKINDI** compositions, notably *Bene sebahinzi*, which means "the sons of the father of the cultivators", and *Nanga bahutu*, which means "I hate these Hutu ...". Calls for attacks on the enemy in RTLM broadcasts were often preceded or followed by these songs composed and performed by **Simon BIKINDI**. By the terms of Rwandan legislation governing author's rights, **Simon BIKINDI** had a right to forbid or enjoin public broadcasts of his compositions.

Count 5: MURDER as a CRIME AGAINST HUMANITY

The Prosecutor of the International Criminal Tribunal of Rwanda charges **Simon BIKINDI** with *MURDER as a CRIME AGAINST HUMANITY*, as

stipulated in Article 3(a) of the Statute, in that on or between the dates of 7 April 1994 and 14 July 1994, **Simon BIKINDI** was responsible for killing persons, or causing persons to be killed, as part of a widespread or systematic attack against a civilian population on political, ethnic or racial grounds, as follows:

Pursuant to Article 6(1) of the Statute: by virtue of his affirmative acts in planning, instigating, ordering, committing, or otherwise aiding and abetting the planning, preparation or execution of the crime charged, **and**

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

42. During the events referred to in this indictment, particularly from 6 April 1994 through 17 July 1994, there were throughout Rwanda widespread or systematic attacks directed against a civilian population on political, ethnic or racial grounds. Notably, *Interahamwe* militias engaged in a campaign of violence against Rwanda's civilian Tutsi population and against Hutu perceived to be politically opposed to the MRND. Hundreds of thousands of civilian Tutsi men, women and children and "moderate Hutu" were killed.
43. **Simon BIKINDI**, among others, planned, instigated and prepared such killings by recruiting members for the *Interahamwe* militias, organizing military training for *Interahamwe* militias, indoctrinating *Interahamwe* militias with anti-Tutsi ideology and by engaging in a propaganda campaign to characterize the Tutsi citizens of Rwanda as accomplices of an invading enemy and by specifically encouraging civilian militias to target Tutsi for attack.
44. During June 1994, on a date uncertain, in Nyamyumba *commune*, Gisenyi *préfecture*, **Simon BIKINDI** participated in the killing of a wealthy Tutsi businessman (Name unknown) by leading a band of *Interahamwe* to the man's home and by ordering several *Interahamwe*, including Paulin (last name unknown) and NOKORI, and members of his ballet, including SERUMVERI Bosco and DUSENGIMANA Kizito, to kill the Tutsi businessman and to steal his property. The group killed the businessman and loaded his property onto **Simon BIKINDI**'s vehicle. By ordering and instigating the killing of the Tutsi businessman (Name unknown) **Simon BIKINDI** is responsible for his death.

45. Sometime during June 1994 at the border crossing between Gisenyi and Zaire, following instructions from Col. Anatole NSENGIYUMVA, **Simon BIKINDI** ordered the Interahamwe in his company and to whom he gave orders to kill a group of Tutsi women that were trying to escape across the border to Zaire. The women were then killed with UZI guns.
46. In early July 1994 in Murara, Rubavu commune, Gisenyi prefecture, **Simon BIKINDI** instigated the killing of ANCILLA, a Tutsi woman, by advising NOEL and PASCAL, two of the Interahamwe in his company and to whom he gave orders, that she was one of the people fighting Hutus and that she should be taken away (killed). NOEL and PASCAL killed the woman and her 4-year-old daughter and buried them in a shallow grave.
47. Given the generalized nature of attacks against the Tutsi during April through July 1994, **Simon BIKINDI** is specifically responsible for the killings of numerous Tutsi set out below, that followed his exhortations in deed and in song and in word, particularly as directed to *Interahamwe* and civilian militias:
- (a) Sometime in mid-late June 1994 **Simon BIKINDI** and a band of Interahamwe that had arrived in Gisenyi from Kigali launched an attack on Tutsi living in Nyamyumba commune. Just prior to the attack, **Simon BIKINDI** announced to Interahamwe at a roadblock in Gisenyi-town that they should search out the Tutsis and kill them, and that Hutus helping Tutsis to flee to Zaire should also be killed. After these words, **Simon BIKINDI** led a caravan of armed Interahamwe including Col. BUREGEYA and NOEL, to Nyamyumba and killed Tutsi residents and pillaged their belongings;
 - (b) In June 1994, at the border between Gisenyi and Zaire, following instructions from Lt. Colonel Anatole NSENGIYUMVA, **Simon BIKINDI** ordered the Interahamwe in his company and to whom he gave orders, to take a group of Tutsi women that were trying to escape to Zaire behind a kiosk called Command Post and to kill them. The women were killed with UZI guns behind the Command Post. Shortly thereafter **Simon BIKINDI** remarked, "See where we are now with the Tutsis".
 - (c) In June 1994, **Simon BIKINDI** went to Gisenyi prison in the company of Hassan NGEZE, Major KABERA, the prison director GASIRABO and bodyguards. Reading from a list of twelve prisoners, **Simon BIKINDI** called out the names of Matabaro and Kayibanda who were each in turn hit on the back of the head with the back of an axe by **BIKINDI's** bodyguard. Matabaro and Kayibanda died as a result of the blows. Ten of the persons, whose

names were on the list, all Tutsis, were killed. Apart from Matabaro and Kayibanda the other 8 prisoners were killed by the bodyguards that accompanied **Simon BIKINDI**, Hassan NGEZE, Major KABERA, and the prison director GASIRABO. The bodyguards used bayonets to kill these prisoners.

- (d) At the end of June 1994, **Simon BIKINDI** established a roadblock at a scout camp near the Pentecostal church on the way to commune rouge, Gisenyi. **Simon BIKINDI** was in charge of this roadblock and the Interahamwe manning it. He gave the Interahamwe orders on what to do at that roadblock. At the roadblock several Tutsi were massacred.
- (e) In early July 1994, **Simon BIKINDI** in the company of Interahamwe to whom he gave orders, transported three Tutsi women to the Commune Rouge where they were killed.
- (f) In early July 1994, in Murara, Rubavu commune, Gisenyi, NOEL and PASCAL, two of the Interahamwe in **Simon BIKINDI**'s company and to whom he gave orders, discovered that ANCILLA, a Tutsi women, had been hiding in the ceiling of her home, apparently protected by her Hutu husband. **Simon BIKINDI** stated that she was one of the people fighting Hutus and that she should be taken away (killed) and was present when NOEL and PASCAL led ANCILLA away. NOEL and PASCAL killed the women and her 4 year old daughter and buried them in a shallow grave.
- (g) In early April 1994, in Kicukiro commune, **Simon BIKINDI** participated in the killing of an unnamed wealthy Tutsi man. **Simon BIKINDI** ordered Interahamwe to force open the locked door of the man's house. The Interahamwe, in the presence of **Simon BIKINDI**, then beat the pregnant wife of the Tutsi man on her belly with the butt of their rifle and threw grenades into the Tutsi man's house. The Tutsi man and his wife were killed as a result of these actions.
- (h) In June 1994, in Rugerero sector, Rubavu commune, Gisenyi prefecture, **Simon BIKINDI** ordered the Interahamwe to kill all Tutsis in Nyamyumba commune, and specifically ordered the killing of KABAYIZA, a Tutsi man staying in Kivumu sector, Nyamyumba commune as well as father GATORE Thadee and two other priests whose names are unknown. **Simon BIKINDI** told the group of Interahamwe that he himself was going with them to Nyamyumba to kill the Tutsis in that commune. **Simon BIKINDI**, Colonel BUREGEYA, NOEL, one of the Interahamwe

in **Simon BIKINDI's** company and to whom he gave orders, and a group of Interahamwe left to Nyamyumba. Upon their return, NOEL reported to the other Interahamwe who were left behind that they had exterminated all Tutsis in Nyamyumba.

Count 6: PERSECUTION as a CRIME AGAINST HUMANITY

The Prosecutor Of The International Criminal Tribunal For Rwanda charges **Simon BIKINDI** with **PERSECUTION a CRIME AGAINST HUMANITY** as stipulated in Article 3(h) of the Statute in that between the dates of 1st January 1994 and 31st December 1994, Simon BIKINDI collectively targeted persons belonging to the Tutsi ethnic group and was responsible for directly inciting persons including, but not limited to, soldiers, local administrative officers, communal police, civilian militias and civilian Hutu population to actively persecute people belonging to the Tutsi ethnic group. This conduct was committed as part of a widespread or systematic attack directed against a civilian population.

48. During the period 1990 to 1994. **Simon BIKINDI** addressed public gatherings, composed, performed, recorded or disseminated musical compositions extolling Hutu solidarity and characterizing Tutsi as enslavers of the Hutu. These compositions were subsequently deployed in a propaganda campaign to target Tutsi as the *enemy*, or as *enemy accomplices*, and to instigate, incite, and encourage the Hutu population to separate themselves from the Tutsi, to commit acts of violence against them and to kill them. **Simon BIKINDI** composed, wrote, performed, recorded, and disseminated musical compositions and addressed public gatherings as set out above with the specific intention of instigating persecution of all Tutsis, and of Hutus opposed to ethnic division. The basis of responsibility for the deployment of his compositions is Article 6(1) of the Statute for aiding and abetting the persecution of Tutsis, through his songs that assimilated all Tutsis as the enemy, by blaming the enemy for the problems of Rwanda, by continuously making references to the 1959 revolution and its gains by the rubanda ngamwinshi, and by finally supporting the Hutu ten commandments.

The acts and omissions of Simon BIKINDI detailed herein are punishable in reference to Articles 22 and 23 of the Statute.

Signed at Arusha, this 15th day of June 2005.

For: Hassan Bubacar Jallow
Prosecutor
UN-ICTR

(2260 - 2240)

2260

INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

Case No. ICTR-2001-72-I

THE PROSECUTOR

AGAINST

SIMON BIKINDI

JUDICIAL RECORDS ARCHIVES
ICTR

[Signature]

2005 JUN 15 A 10:05

**AMENDED INDICTMENT PURSUANT TO
DECISIONS OF 11 MAY 2005 AND 10 JUNE 2005
ANNEX**

- I. 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:

Simon BIKINDI

with CONSPIRACY TO COMMIT GENOCIDE; GENOCIDE, or alternatively COMPLICITY IN GENOCIDE; DIRECT AND PUBLIC INCITEMENT TO COMMIT GENOCIDE; and MURDER and PERSECUTION, as a CRIME AGAINST HUMANITY; offenses stipulated in Articles 2 and 3 of the Statute of the Tribunal, as set forth below:

II. **THE ACCUSED:**

Simon BIKINDI was born on 28 September 1954 in Rwerere *commune*, Gisenyi *préfecture*, Rwanda. During the period material to this indictment, Simon BIKINDI was a well-known composer and singer of popular music and director of the performance group *Irindiro Ballet*. **Simon BIKINDI** was also an official in the Ministry of Youth and Sports of the Government of Rwanda and a member of the MRND political party.

III. CHARGES and CONCISE STATEMENT OF FACTS:

Count I: CONSPIRACY TO COMMIT GENOCIDE:

The Prosecutor of the International Criminal Tribunal of Rwanda charges **Simon BIKINDI** with **CONSPIRACY TO COMMIT GENOCIDE**, a crime stipulated in Article 2(3)(b) of the Statute, in that on or between the dates of 1 January 1994 and 31 December 1994, **Simon BIKINDI** did conspire with others, including, but not limited to, the political leadership of the MRND at the regional and national levels, including, though not limited to Callixte NZABONIMANA, Juvénal HABYARIMANA, Joseph NZIRORERA, **André NTAGERURA**, **Théoneste BAGOSORA**; **Mathieu NGIRUMPATSE**; *Interahamwe* leaders, including Robert KAJUGA; **Georges RUTAGANDA**; and other persons responsible for media programming and operations, including, though not limited to Jean-Bosco BARAYAGWIZA, Ferdinand NAHIMANA, Joseph SERUGENDO and Félicien KABUGA, 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, a racial or ethnic group, as follows:

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

1. Between 1 January and 31 December 1994, citizens native to Rwanda were severally identified according to the following ethnic or racial classifications: Tutsi, Hutu and Twa.
2. Between 1 January 1994 and 17 July 1994 there was a state of noninternational armed conflict in Rwanda

Concise Statement of Fact:

3. **Simon BIKINDI** agreed or collaborated with Head of State Juvénal HABYARIMANA, Minister of Youth and Sports Callixte NZABONIMANA, national *Interahamwe* leader Robert KAJUGA, national MRND political leaders, such as Mathieu NGIRUMPATSE, **André NTAGERURA** and Joseph NZIRORERA, and MRND-aligned military leaders, such as Théoneste BAGOSORA **and Georges RUTAGANDA**, to militarize the MRND *Interahamwe* youth wing and to indoctrinate *Interahamwe* militias with anti-Tutsi ideology and to disseminate anti-Tutsi propaganda, as set out in paragraphs 7 - 10, and 12-16 below:

4. During the early 1990's, the tight circle of MRND party and military leaders surrounding President HABYARIMANA devised and implemented a strategy to consolidate their hold on government power in the face of rising domestic political opposition and the threat of military attack by the RPF. That strategy: to incite hatred and fear of the Tutsi and to characterize the Tutsi as *ibityso*, domestic accomplices of a foreign invading enemy army. Also incorporated in that strategy: the creation of civilian militias exclusively aligned with the MRND party that would be armed, trained and sensitized to exterminate the Tutsi population.
5. Notably, in December 1991 Juvénal HABYARIMANA, at that time Commander in Chief of the *Forces Armées Rwandaises* (FAR) as well as Head of State, set up a military commission to devise an agenda to "*defeat the enemy militarily, in the media and politically.*" The commission generated a report that defined the enemy as: *...Tutsis from inside or outside the country who are extremist and nostalgic for power, who have never recognized and do not yet recognize the realities of the Social Revolution of 1959, and are seeking to regain power in Rwanda by any means, including taking up arms.* Army Chief of Staff Deogratias NSABIMANA caused excerpts from the report to be circulated among the military Sector Commanders.
6. Subsequently, MRND-aligned military leaders provided military training and weapons to *Interahamwe* militias and sensitized the MRND youth wing to target the Tutsi and members of the political opposition as accomplices of the enemy. This military training was organized throughout Rwanda, particularly in military camps in Kigali, in Mutara and in Gisenyi.
7. Prior to the events of April 1994, **at the end of 1993 and at the beginning of 1994** Simon BIKINDI participated in the campaign to *defeat the enemy militarily* by conducting MRND membership drives and participating in recruitment in **Mutara in late 1993**, and military training of *Interahamwe* militias **in Mutara in late 1993, and on several occasions in January 1994 with French soldiers at Club Jaly, in Kigali**, knowing and intending that such civilian militias would be deployed in exterminating campaigns against the Tutsi.
8. For example, several times in January 1994 **Simon BIKINDI was present and** participated in military training of *Interahamwe* militias **at Club Jaly, Kiyoru, in Kigali-ville. On these occasions in January 1994 Simon BIKINDI, accompanied by RUCYERATABARO, NGWIGE, and BOSCO were driven**

by Simon BIKINDI's driver to Club Jaly where they were to train the Interahamwe militias with French Soldiers. On these occasions Simon BIKINDI took part in the military exercises carried out at Club Jaly, by providing drills and instructions on manipulation of arms.

- 9. Simon BIKINDI participated in the campaign to *defeat the enemy in the media* by collaborating with Ferdinand NAHIMANA, Jean-Bosco BARAYAGWIZA, Félicien KABUGA, André NTAGERURA, Georges RUTAGANDA, **President Juvénal HABYARIMANA, Callixte NZABONIMANA, Joseph SERUGENDO** and Joseph NZIRORERA, to launch *Radio-Télévision Libre des Mille Collines, SA (RTLM)*, a privately owned radio station aligned with extremist political currents in the MRND and the CDR. RTLM in part conceived as a media alternative to Radio Rwanda, then subject to the programming restrictions of ORINFOR and the newly installed Ministry of Information, RTLM programming interspersed popular music and listener participation with news reports and anti-Tutsi propaganda.
- 10. Although the preamble to the statutes creating RTLM defines its purpose as facilitating the circulation of diverse ideas and objective news reporting, in actuality RTLM was created as a vehicle for anti-Tutsi propaganda. RTLM's anti-Tutsi broadcasts were often punctuated by **recorded musical selections containing both instrumental music and lyrics** composed and performed by **Simon BIKINDI**. The intertwining objectives of RTLM's media programming and **Simon BIKINDI's** musical recordings were the same: to sensitize **and incite** the listening public **to target and commit violent acts against the Tutsis**, particularly the civilian militias, the government armed forces and the masses of Rwanda's Hutu peasantry; **and** to extol Hutu solidarity and to target the Tutsi as accomplices of the enemy.
- 11. RTLM received logistical support from Radio Rwanda, the government-owned radio station, and initially broadcasted its programs on the same frequencies as Radio Rwanda, enabling government-controlled Radio Rwanda broadcasts to flow seamlessly into the privately controlled programming of RTLM. Minister of Transports and Communications André NTAGERURA, a longstanding senior member of the MRND, facilitated such seeming government support of RTLM by authorizing the continued broadcasts in spite of RTLM's violations of Rwanda media legislation.

12. Callixte NZABONIMANA, a member of MRND, authorized and sponsored rehearsal and recording of **Simon BIKINDI's** musical compositions and live performances of his dance troupe **IRINDIRO BALLET** through **and at** the Ministry of Youth and Sports **in Kigali, in his capacity as Minister of Youth and Sports**. **Simon BIKINDI** organized **the rehearsals** and rehearsed his compositions with youth groups at the level of the *commune*, **including at Rwerere commune and Rubavu commune in late 1993 and early 1994**. **The Minister of Youth and Sports financed the rehearsals with money being paid to the youth groups, in some instances through the bourgmestres of the Rwerere commune and Rubavu commune.**

13. **Simon BIKINDI** consulted with President Juvenal HABYARIMANA, Minister of Youth and Sports Callixte NZABONIMANA and MRND-aligned military authorities on song **lyrics as follows: In order to release a musical composition Simon BIKINDI provided a tape with his recorded composition to Callixte NZABONIMANA, who in turn would indicate what changes he thought were necessary. The recorded composition was then passed on to President Juvenal HABYARIMANA who would listen to the tape to ensure that it was in line with government policy and subsequently authorize its release. Simon BIKINDI also** recorded his compositions at the Radio Rwanda studios with assistance from Joseph SERUGENDO. **In late 1993 Simon BIKINDI made available to the RTLM for broadcast those songs that had been authorized for release, as set out above. Simon BIKINDI also** performed his compositions at *Interahamwe* meetings and MRND and CDR party functions, **most** of which were large public gatherings **that were frequently held on Saturdays or Sundays at various stadiums in different parts of Rwanda, including Ruhengeri, Cyasemakamba, Nyamirambo, Cyangugu, Umuganda as well as in Rubona, Bicumbi commune and in Ruyenzi, Gitarama commune.**

14. RTLM played **Simon BIKINDI's** compositions several times a day, usually during an early morning broadcast, at lunchtime and in the early evening. After the reprise of civil hostilities in the non-international armed conflict, between April and July 1994, RTLM broadcast **Simon BIKINDI's** compositions repeatedly throughout the day. The compositions that received intense airplay were *Bene sebahinzi* and *Naga abahutu*, songs that encouraged Hutu solidarity against a common foe.
15. Over the course of April, May, June and the first few days of July of 1994, hundreds of thousands of civilian Tutsi men, women, children and the elderly, were persecuted, attacked, sexually assaulted, tortured, sequestered, and killed in Kigali-ville and Gisenyi *préfectures* and all across Rwanda. These attacks and killings were products of the Government campaign to *defeat the enemy* by enlisting local administrative authorities and civilians, organized as civilian militias or acting individually, to exterminate the Tutsi.
16. The efficiency of the mobilization of Rwanda's Hutu peasantry for attacks upon the Tutsi during the period 7 April 1994 - mid July 1994, and the systematic nature of such attacks by the military forces of the Interim Government, including civilian militias equipped, trained and sensitized to target Tutsi civilians, imply planning and coordination at the highest levels of the political, military, business and media elites of MRND-affiliated governmental authorities. **Simon BIKINDI's** musical compositions and live performances and recruitment, training and command of *Interahamwe*, were elements of the plan to mobilize civilian militias to destroy, in whole or in part, the Tutsi. **Simon BIKINDI's songs were a crucial part of the genocidal plan because they incited ethnic hatred of Tutsis and further incited people to attack and to kill Tutsi because they were Tutsi. As a result of the mobilizing effect of Simon BIKINDI's music, members of the Ballet, including Kizito DUSENGIMANA, were recruited into the Interahamwe militia, participated in military training and committed subsequent killings of Tutsis.**
17. **Between July 1994 and early 1995 Simon BIKINDI continued to demonstrate his anti - Tutsi stance when**, following the military defeat of the FAR and the retreat of the Interim Government across the border into neighboring Zaire, **he** continued the anti- Tutsi campaign by composing and performing anti-Tutsi songs and by collaborating with ex-FAR military leaders and former MRND-aligned government officials to continue the anti- Tutsi campaign as a means to regain power.

Count 2: GENOCIDE:

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

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

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

or alternatively,

Count 3: COMPLICITY IN GENOCIDE:

The Prosecutor of the International Criminal Tribunal of Rwanda charges **Simon BIKINDI** with **COMPLICITY IN GENOCIDE**, *a crime stipulated in Article 2(3)(e) of the Statute*, in that on or between the dates of 1 January 1994 and 14 July 1994 throughout Rwanda, particularly Kigali-ville and Gisenyi *prefectures*, **Simon BIKINDI** was responsible for killing or causing serious bodily or mental harm to members of the Tutsi population with intent to destroy, in whole or in part, a racial or ethnic group, as such, as follows:

Pursuant to Article 6(1) of the Statute: by virtue of his affirmative acts in planning, instigating, ordering, committing, or otherwise aiding and abetting the planning, preparation or execution of the crime charged; in that:

Concise Statement of Facts for Counts 2 and 3:

18. Paragraphs 1 through 17, above, are incorporated by reference herein.

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

20. **Simon BIKINDI**, among others, planned, instigated and prepared such killings by recruiting members for the *Interahamwe* militias, organizing and participating in military training for *Interahamwe* militias, indoctrinating *Interahamwe* militias with anti-Tutsi ideology and by engaging in a propaganda campaign to characterize civilian Tutsi citizens of Rwanda as accomplices of an invading enemy, and by specifically encouraging the militias to target the Tutsi population for attack, **as set out in paragraphs 21-30 below.**
21. During June and early July 1994, particularly in Gisenyi *préfecture*, **Simon BIKINDI** led, participated in, instigated and incited a campaign of violence against civilian Tutsis and against Hutus perceived to be politically opposed to the MRND and MRND-aligned political parties, resulting in numerous deaths.
22. **Sometime** in mid-late June 1994 **Simon BIKINDI** and a band of *Interahamwe* that had arrived in Gisenyi from Kigali launched an attack on Tutsi living in Nyamyumba *commune*. Just prior to the attack, **Simon BIKINDI** announced to *Interahamwe* at a roadblock in Gisenyi-town that they should search out the Tutsis and kill them, and that Hutus helping Tutsis to flee to Zaire should also be killed. After these words, **Simon BIKINDI** led a caravan of armed *Interahamwe*, including Col. BUREGEYA and NOEL, to Nyamyumba and killed Tutsi residents and pillaged their belongings.
23. In mid-late June 1994 **Simon BIKINDI** addressed a MRND meeting at Umuganda Stadium in Gisenyi where he publicly stated that, "*Hutus should know who the enemy is, and that the enemy is the Tutsi*" and that "*Hutus should hunt and search for the Tutsis and kill them.*" Following the meeting there was an intensive search for Tutsi that were still hiding, **and as a result of this intensive search Tutsis were killed, including ANCILLA and her 4 year old daughter, as set out in paragraph 28 below.**
24. In June 1994, at the border between Gisenyi and Zaire, following instructions from Lt. Colonel Anatole NSENGIYUMVA, **Simon BIKINDI** ordered **the Interahamwe in his company and to whom he gave orders** to take a group of Tutsi women that were trying to escape to Zaire behind a kiosk called Command Post and to kill them. The women were killed with UZI guns behind the Command Post. Shortly thereafter **Simon BIKINDI** remarked, "*See where we are now with the Tutsis.*"

25. In June 1994, SIMON BIKINDI went to Gisenyi prison in the company of Hassan Ngeze, Major Kabera, the prison Director Gasirabo and **more than ten** body guards. **The prison guard Rukara called out the names of 12 prisoners who came out of their cells and were told to stand beside the prison latrine pit. Simon BIKINDI then asked the prison director Gasirabo why the 12 prisoners were still alive whilst in Kigali all Tutsis had been killed. The prison director Gasirabo responded that he had been given these prisoners to keep them and he did not know if they were to be killed. Ngeze then asked all the Tutsis prisoners to raise their hands in the air, and 10 of the prisoners who were Tutsi did.** Reading from a list of twelve prisoners, Simon BIKINDI **then called out the names of Tutsi prisoners, starting with Matabaro and Kayibanda. Matabaro came forward to stand near to where Simon BIKINDI stood, and he was hit in the back of the head with the back of an axe by one of the bodyguards. Simon BIKINDI then called out the name of Kayibanda who was also hit on the back of the head with the back of an axe by BIKINDI's body guard. Matabaro and Kayibanda both died as a result of the blows. Eight of the other persons whose names were on the list, all Tutsis, were killed by BIKINDI's bodyguards, using bayonets. By reading out from a list of Tutsi prisoners, by asking why they had not yet been killed, Simon BIKINDI instigated, and aided and abetted the immediate killings of two of the prisoners, namely Matabaro and Kayibanda. In respect of the other eight Tutsi prisoners who were killed immediately afterwards by Simon BIKINDI's bodyguards, by his initial question as to why all the Tutsi prisoners had been not been killed before his arrival at the prison, he instigated, and aided and abetted their subsequent killings by his bodyguards.**
26. At the end of June 1994, Simon BIKINDI, **was in charge of, and provided orders to the Interahamwe manning** a roadblock at scout camp, near the Pentecostal church on the way to commune rouge,

Gisenye. At **this** roadblock several Tutsi were massacred. **By the following actions of:**

- (a) exercising effective control over the Interahamwe who manned this roadblock ;**
- (b) giving orders to these Interahamwe to kill Tutsis at the roadblock;**
- (c) several Tutsis actually being killed at the roadblock;**
- (d) coming to the roadblock several times;**

Simon BIKINDI knew or ought to have known that several Tutsis had been killed at this roadblock as a result of his orders. Simon BIKINDI ordered, instigated, aided and abetted the deaths of several Tutsis at the scout camp roadblock.

27. In early July 1994, Simon BIKINDI in the company of **the Interahamwe to whom he gave orders** transported three Tutsi women **by removing them from a compound in Gacuba cellule in Gisenyi and driving them in his car to the commune rouge where they were killed by the Interahamwe.** **By transporting the three Tutsi women to the commune rouge where he knew that they would be killed as other Tutsis were being killed at the same location, Simon BIKINDI planned, instigated, and aided and abetted their killings.**
28. In early July 1994, NOEL and PASCAL, two of the *Interahamwe* **in Simon BIKINDI's company and to whom he gave orders,** discovered that ANCILLA, a Tutsi woman, had been hiding in the ceiling of her home, **in Murara, Rubavu commune, Gisenyi prefecture,** apparently protected by her Hutu husband. Simon BIKINDI stated that she was one of the people fighting Hutus and that she should be taken away (killed) and was present when NOEL and PASCAL led ANCILLA away. NOEL and PASCAL killed the woman and her 4-year-old daughter and buried them in a shallow grave.
29. Sexual violence against Tutsi women was systematically incorporated in the generalized attacks against the Tutsi. In leading, ordering and encouraging the campaign of extermination in Gisenyi *préfecture*, **Simon BIKINDI** knew, or should have known, that sexual violence against

civilian Tutsi was, or would be, widespread or systematic, and that the perpetrators would include his subordinates or those that committed such acts in response to his generalized orders and instructions to exterminate the Tutsi. **For example, in late June 1994, at about 6pm, Simon BIKINDI led a group of *Interahamwe*, including Jean KAVUNDERI (Noel's younger brother), PASCAL, CARI, SELAMANI, KABULIMBO, and SENDEGEYA to Rubavu, and ordered them to kill all of the Tutsis in the area. In the course of executing Simon BIKINDI's orders, the *Interahamwe* under his effective control also committed rapes of Tutsi women, of which Simon BIKINDI was aware, or ought to have been aware by his presence and effective supervision of the killing and rape operations of the *Interahamwe*. Notably, the *Interahamwe* called SENDEGEYA boasted in the hearing of other persons in the vicinity of the crimes, including Simon BIKINDI, after the rape and murder of ANCILLA that he "had always dreamt of sleeping with a Tutsi woman and now his dream had come true". During the killings and rape perpetrated by the *Interahamwe* in Simon BIKINDI's company and to whom he gave orders, including the perpetrators named above, Simon BIKINDI stood by the road near the home of ANCILLA to ensure his orders were carried out by the *Interahamwe*. By ordering the *Interahamwe* under his effective control to commit acts of violence against Tutsis in Rubavu commune, which included acts of killing and sexual violence, and by effectively staying on the road close to the scene of these crimes to ensure his orders were followed, Simon BIKINDI was aware, or ought to have been aware of the acts of rape and sexual violence committed by the *Interahamwe* under his effective control, notably SENDEGEYA, on ANCILLA. Notably still, when the said *Interahamwe* boasted in the hearing of other persons in the vicinity of the crimes, including Simon BIKINDI, after the rape of ANCILLA that he "had always dreamt of sleeping with a Tutsi**

woman and now his dream had come true”, by these specific actions, Simon BIKINDI ordered, instigated and aided and abetted in these rapes, notably, in the rape of ANCILLA.

30. **Simon BIKINDI’s command of the Interahamwe is demonstrated by the following facts:**
- (a) Simon BIKINDI was recognized as one of the most creative persons within the Interahamwe organisation and with that talent assumed the role of inspirational leader;**
 - (b) Simon BIKINDI’s participation in military training of Interahamwe militias in Kigali;**
 - (c) Simon BIKINDI founded the IRINDIRO Ballet whose members were MRND Interahamwe or members of the extremist CDR;**
 - (d) Simon BIKINDI launched an attack with the Interahamwe on Tutsi living in Nyamyumba commune. Just prior to the attack, Simon BIKINDI announced to Interahamwe at a roadblock in Gisenyi-town that they should search out the Tutsis and kill them, and that Hutus helping Tutsis to flee to Zaire should also be killed. After these words, Simon BIKINDI led a caravan of armed Interahamwe, including Col. BUREGEYA and NOEL, to Nyamyumba and killed Tutsi residents and pillaged their belongings;**
 - (e) Simon BIKINDI ordered Interahamwe to take a group of Tutsi women that were trying to escape to Zaire behind a kiosk called Command Post and to kill them;**
 - (f) Simon BIKINDI ordered Interahamwe at the roadblock at the scout camp, to kill Tutsi;**
 - (g) Simon BIKINDI ordered Interahamwe, in early June 1994, in Murara, Rubavu commune, Gisenyi, to kill ANCILLA, a Tutsi women;**

- (h) **Simon BIKINDI led a caravan of Interahamwe on the main road between Kivumu and Kayove communes and made anti - Tutsi announcements using his vehicle outfitted with a public address system;**
- (i) **Simon BIKINDI incited Interahamwe on 26 February 1994 to attack a group of Tutsi seeking refuge in the Gatenga Youth Center in Kigali;**
- (j) **Interahamwe guarded Simon BIKINDI'S bar in Gatenga sector, Gikondo, Kigali; and**
- (k) **In early April 1994, Simon BIKINDI and about 20 Interahamwe arrived in a bus belonging to Simon BIKINDI in Kicukiro commune;**

By virtue of his command of the *Interahamwe*, particularly as reinforced by his close association with leading figures in the national leadership of the MRND and the *Interahamwe*, coupled with his unique status as a nationally recognized performer and director of the *Irindiro Ballet*, **Simon BIKINDI** ordered or directed or otherwise authorized civilian militias, particularly *Interahamwe* members of his own *Irindiro Ballet*, **including Bosco SERUMVERI and Kizito DUSENGIMANA**, to persecute and kill or facilitate the killing of civilian Tutsi. By virtue of that same authority **Simon BIKINDI** had the ability and the duty to halt, prevent, discourage or sanction persons that committed, or were about to commit, such acts, and did not do so.

Count 4: DIRECT AND PUBLIC INCITEMENT TO COMMIT GENOCIDE:

The Prosecutor of the International Criminal Tribunal of Rwanda charges **Simon BIKINDI** with ***DIRECT AND PUBLIC INCITEMENT TO COMMIT GENOCIDE***, a crime stipulated in Article 2(3)(c) of the Statute, in that on or between the dates of 1 January 1994 and 14 July 1994, **Simon BIKINDI** was responsible for directly and publicly inciting persons, including, but not limited to, soldiers, local administrative officials, communal police, civilian militias and local residents, 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, a racial or ethnic group, as such, as follows:

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

31. During the period 1990 to 1994. **Simon BIKINDI** composed, performed, recorded or disseminated musical compositions extolling Hutu solidarity and characterizing Tutsi as enslavers of the Hutu. These compositions were subsequently deployed in a propaganda campaign to target Tutsi as the *enemy*, or as *enemy accomplices*, and to instigate, incite, and encourage the Hutu population to separate themselves from the Tutsi and to kill them.
32. **Simon BIKINDI** regularly performed his musical compositions at animation sessions at *Interahamwe* meetings and at political gatherings of the MRND and CDR political parties **in various stadiums in different parts of Rwanda, including, Ruhengeri, Cyasemakamba, Nyamirambo, Cyangugu, Umuganda, as well as in Rubona, Bicumbi commune and in Ruyenzi, Gitarama commune, in late 1992, in 1993 and at the beginning of 1994, in the Kigali and Gisenyi prefectures.** **Simon BIKINDI** often circulated about Gisenyi town and Rwerere *commune*, Gisenyi *prefecture* **in late June 1993, and February and March 1994,** aboard a vehicle outfitted with a public address system and performed his compositions or broadcasted recordings of his compositions.
33. **Simon BIKINDI's** animation sessions at MRND meetings and **rallies in late 1993, early 1994 and June 1994** were often a prelude or a motivating factor in anti-Tutsi violence against individuals and property in the vicinity of those public gatherings, both leading up to the meetings or immediately thereafter. **Some of these MRND meetings and rallies included one which took place at Umuganda stadium, Gisenyi, in June 1994, and one which took place at a football ground in Kivumu sector, Nyamyamba commune, Gisenyi prefecture, in 1993.**
34. **Simon BIKINDI** publicly addressed MRND and CDR adherents at party meetings with specific exhortations to work, a coded reference advocating the extermination of the Tutsi, **as set out in paragraphs 35 and 36 below.**
35. In February 1994, shortly following the assassinations of Martin BUCYANA and Félicien GATABAZI, **Simon BIKINDI** addressed an MRND meeting at Umuganda Stadium in Gisenyi and told the population

to take their clubs, machetes and other weapons and to look for the *inyenzi* and kill them. *Inyenzi* was a derogatory reference to the Tutsi.

- 36. In March 1994 **Simon BIKINDI** addressed a meeting of the CDR and encouraged those in attendance to *work* and to kill those opposed to the CDR and the MRND. During the period relevant to this indictment, it was well known throughout Rwanda that the CDR was opposed to the Tutsi.
- 37. **Simon BIKINDI** also advocated the extermination of the Tutsi over the public radio air-waves. For example, sometime following the deaths of BUCYANA Martin and another CDR-affiliated *Interahamwe*, **Simon BIKINDI** stated **in a speech of his made in Nyamirambo stadium that was recorded and then broadcast over RTLM radio station air-waves between February 1994 and March 1994**, “*See how the Tutsi are exterminating you, the Hutu. If you do not react right away it's your fault...*”.
- 38. During the last week of February 1994 **Simon BIKINDI** attempted to incite violence against a group of Tutsi that had taken shelter at the Gatenga Youth Center in Kigali. When gendarmes prevented **Simon BIKINDI** and **the group of Interahamwe in his company and to whom he gave orders** from attacking the youth center, **Simon BIKINDI** telephoned the RTLM radio station to report that some Hutus were preventing Hutus from attacking the Tutsi at Gatenga, **and his telephone words were broadcast over the RTLM radio station air-waves.**
- 39. In late June 1994 in Gisenyi *préfecture* **Simon BIKINDI** operated a vehicle outfitted with a public address system and led a caravan of *Interahamwe* on the main road between Kivumu and Kayove *communes* announcing, “*The majority population, it's you, the Hutu I am talking to. You know the minority population is the Tutsi. Exterminate quickly the remaining ones.*” **Simon BIKINDI** also used the vehicle-mounted public address system to broadcast his musical **compositions in 1993 and late June 1994.**
- 40. **Simon BIKINDI's** song lyrics manipulated the politics and history of Rwanda to promote Hutu solidarity. Among **Simon BIKINDI's** most popular compositions is *Twasezereye*, a song composed in 1987 which means “*we said good bye to the feudal regime*”. Repeatedly broadcast over Radio Rwanda and RTLM airwaves in 1992 and 1993 *Twasezereye* was a public call for Hutu solidarity in opposition to the Arusha accords.

41. RTLM repeatedly broadcasted other **Simon BIKINDI** compositions, notably *Bene sebahinzi*, which means “the sons of the father of the cultivators”, and *Nanga bahutu*, which means “I hate these Hutu ...”. Calls for attacks on the enemy in RTLM broadcasts were often preceded or followed by these songs composed and performed by **Simon BIKINDI**. By the terms of Rwandan legislation governing author’s rights, **Simon BIKINDI** had a right to forbid or enjoin public broadcasts of his compositions.

Count 5: MURDER as a CRIME AGAINST HUMANITY

The Prosecutor of the International Criminal Tribunal of Rwanda charges **Simon BIKINDI** with **MURDER as a CRIME AGAINST HUMANITY**, as stipulated in Article 3(a) of the Statute, in that on or between the dates of 7 April 1994 and 14 July 1994, **Simon BIKINDI** was responsible for killing persons, or causing persons to be killed, as part of a widespread or systematic attack against a civilian population on political, ethnic or racial grounds, as follows:

Pursuant to Article 6(1) of the Statute: by virtue of his affirmative acts in planning, instigating, ordering, committing, or otherwise aiding and abetting the planning, preparation or execution of the crime charged, **and**

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

42. During the events referred to in this indictment, particularly from 6 April 1994 through 17 July 1994, there were throughout Rwanda widespread or systematic attacks directed against a civilian population on political, ethnic or racial grounds. Notably, *Interahamwe* militias engaged in a campaign of violence against Rwanda’s civilian Tutsi population and against Hutu perceived to be politically opposed to the MRND. Hundreds of thousands of civilian Tutsi men, women and children and “moderate Hutu” were killed.
43. **Simon BIKINDI**, among others, planned, instigated and prepared such killings by recruiting members for the *Interahamwe* militias, organizing military training for *Interahamwe* militias, indoctrinating *Interahamwe* militias with anti-Tutsi ideology and by engaging in a propaganda campaign to characterize the Tutsi citizens of Rwanda as accomplices of an invading enemy and by specifically encouraging civilian militias to target Tutsi for attack.

44. During June 1994, on a date uncertain, in **Nyamyumba commune**, Gisenyi *préfecture*, **Simon BIKINDI** participated in the killing of a wealthy Tutsi businessman (**Name unknown**) by leading a band of *Interahamwe* to the man's home and by ordering several *Interahamwe*, including Paulin (last name unknown) and NOKORI, and members of his ballet, including SERUMVERI Bosco and DUSENGIMANA Kizito, to kill the Tutsi businessman and to steal his property. The group killed the businessman and loaded his property onto **Simon BIKINDI's** vehicle. **By ordering and instigating the killing of the Tutsi businessman (Name unknown) Simon BIKINDI is responsible for his death.**
45. Sometime during June 1994 at the **border crossing between Gisenyi and Zaire**, following instructions from Col. Anatole NSENGIYUMVA, **Simon BIKINDI** ordered **the Interahamwe in his company and to whom he gave orders** to kill a group of Tutsi women that were trying to escape across the border to Zaire. The women were then killed with UZI guns.
46. In early July 1994 in **Murara, Rubavu commune, Gisenyi prefecture**, **Simon BIKINDI** instigated the killing of ANCILLA, a Tutsi woman, by advising NOEL and PASCAL, two of **the Interahamwe in his company and to whom he gave orders**, that she was one of the people fighting Hutus and that she should be taken away (killed). NOEL and PASCAL killed the woman and her 4-year-old daughter and buried them in a shallow grave.
47. Given the generalized nature of attacks against the Tutsi during April through July 1994, **Simon BIKINDI** is **specifically** responsible for the killings of numerous Tutsi **set out below**, that followed his exhortations in deed and in song and in word, particularly as directed to *Interahamwe* and civilian militias:
- (a) Sometime in mid-late June 1994 Simon BIKINDI and a band of Interahamwe that had arrived in Gisenyi from Kigali launched an attack on Tutsi living in Nyamyumba commune. Just prior to the attack, Simon BIKINDI announced to Interahamwe at a roadblock in Gisenyi-town that**

they should search out the Tutsis and kill them, and that Hutus helping Tutsis to flee to Zaire should also be killed. After these words, Simon BIKINDI led a caravan of armed Interahamwe including Col. BUREGEYA and NOEL, to Nyamyumba and killed Tutsi residents and pillaged their belongings;

(b) In June 1994, at the border between Gisenyi and Zaire, following instructions from Lt. Colonel Anatole NSENGIYUMVA, Simon BIKINDI ordered the Interahamwe in his company and to whom he gave orders, to take a group of Tutsi women that were trying to escape to Zaire behind a kiosk called Command Post and to kill them. The women were killed with UZI guns behind the Command Post. Shortly thereafter Simon BIKINDI remarked, "See where we are now with the Tutsis".

(c) In June 1994, Simon BIKINDI went to Gisenyi prison in the company of Hassan NGEZE, Major KABERA, the prison director GASIRABO and bodyguards. Reading from a list of twelve prisoners, Simon BIKINDI called out the names of Matabaro and Kayibanda who were each in turn hit on the back of the head with the back of an axe by BIKINDI's bodyguard. Matabaro and Kayibanda died as a result of the blows. Ten of the persons, whose names were on the list, all Tutsis, were killed. Apart from Matabaro and Kayibanda the other 8 prisoners were killed by the bodyguards that accompanied Simon BIKINDI, Hassan NGEZE, Major KABERA, and the prison director GASIRABO. The bodyguards used bayonets to kill these prisoners.

- (d) At the end of June 1994, Simon BIKINDI established a roadblock at a scout camp near the Pentecostal church on the way to commune rouge, Gisenyi. Simon Bikindi was in charge of this roadblock and the Interahamwe manning it. He gave the Interahamwe orders on what to do at that roadblock. At the roadblock several Tutsi were massacred.**
- (e) In early July 1994, Simon BIKINDI in the company of Interahamwe to whom he gave orders, transported three Tutsi women to the Commune Rouge where they were killed.**
- (f) In early July 1994, in Murara, Rubavu commune, Gisenyi, NOEL and PASCAL, two of the Interahamwe in Simon BIKINDI's company and to whom he gave orders, discovered that ANCILLA, a Tutsi women, had been hiding in the ceiling of her home, apparently protected by her Hutu husband. Simon BIKINDI stated that she was one of the people fighting Hutus and that she should be taken away (killed) and was present when NOEL and PASCAL led ANCILLA away. NOEL and PASCAL killed the women and her 4 year old daughter and buried them in a shallow grave.**
- (g) In early April 1994, in Kicukiro commune, Simon BIKINDI participated in the killing of an unnamed wealthy Tutsi man. Simon BIKINDI ordered Interahamwe to force open the locked door of the man's house. The Interahamwe, in the presence of Simon BIKINDI, then beat the pregnant wife of the Tutsi man on her belly with the butt of their rifle and threw grenades into the Tutsi man's house. The Tutsi man and his wife were killed as a result of these actions.**

(h) In June 1994, in Rugerero sector, Rubavu commune, Gisenyi prefecture, Simon BIKINDI ordered the Interahamwe to kill all Tutsis in Nyamyumba commune, and specifically ordered the killing of KABAYIZA, a Tutsi man staying in Kivumu sector, Nyamyumba commune as well as father GATORE Thadee and two other priests whose names are unknown. Simon BIKINDI told the group of Interahamwe that he himself was going with them to Nyamyumba to kill the Tutsis in that commune. Simon BIKINDI, Colonel BUREGEYA, NOEL, one of the Interahamwe in Simon BIKINDI's company and to whom he gave orders, and a group of Interahamwe left to Nyamyumba. Upon their return, NOEL reported to the other Interahamwe who were left behind that they had exterminated all Tutsis in Nyamyumba.

Count 6: PERSECUTION as a CRIME AGAINST HUMANITY

The Prosecutor Of The International Criminal Tribunal For Rwanda charges **Simon BIKINDI** with **PERSECUTION a CRIME AGAINST HUMANITY** as stipulated in Article 3(h) of the Statute in that between the dates of 1st January 1994 and 31st December 1994, Simon BIKINDI collectively targeted persons belonging to the Tutsi ethnic group and was responsible for directly inciting persons including, but not limited to, soldiers, local administrative officers, communal police, civilian militias and civilian Hutu population to actively persecute people belonging to the Tutsi ethnic group. This conduct was committed as part of a widespread or systematic attack directed against a civilian population.

48. During the period 1990 to 1994. **Simon BIKINDI** addressed public gatherings, composed, performed, recorded or disseminated musical compositions extolling Hutu solidarity and characterizing Tutsi as enslavers of the Hutu. These compositions were subsequently deployed in a propaganda campaign to target Tutsi as the *enemy*, or as *enemy accomplices*, and to instigate, incite, and encourage the Hutu population to separate themselves from the Tutsi, to commit acts of violence against them and to kill them. **Simon BIKINDI composed, wrote, performed, recorded, and disseminated musical**

compositions and addressed public gatherings as set out above with the specific intention of instigating persecution of all Tutsis, and of Hutus opposed to ethnic division. The basis of responsibility for the deployment of his compositions is Article 6(1) of the Statute for aiding and abetting the persecution of Tutsis, through his songs that assimilated all Tutsis as the enemy, by blaming the enemy for the problems of Rwanda, by continuously making references to the 1959 revolution and its gains by the rubanda ngamwinshi, and by finally supporting the Hutu ten commandments.

The acts and omissions of Simon BIKINDI detailed herein are punishable in reference to Articles 22 and 23 of the Statute.

Signed at Arusha, this 15th day of June 2005.

For: Hassan Bubacar Jallow
Prosecutor
UN-ICTR



TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH CMS

COURT MANAGEMENT SECTION
(Art. 27 of the Directive for the Registry)

I - GENERAL INFORMATION (To be completed by the Chambers / Filing Party)

To:	<input type="checkbox"/> Trial Chamber I N. M. Diallo	<input type="checkbox"/> Trial Chamber II R. N. Kouambo	<input checked="" type="checkbox"/> Trial Chamber III C. K. Hometowo	<input type="checkbox"/> Appeals Chamber / Arusha F. A. Talon
	<input type="checkbox"/> Chief, CMS J.-P. Fomété	<input type="checkbox"/> Deputy Chief, CMS M. Diop	<input type="checkbox"/> Chief, JPU, CMS M. Diop	<input type="checkbox"/> Appeals Chamber / The Hague R. Muzigo-Morrison K. K. A. Afande
From:	<input type="checkbox"/> Chamber III (names)	<input type="checkbox"/> Defence (names)	<input checked="" type="checkbox"/> Prosecutor's Office GKONGORO William Egbe (names)	<input type="checkbox"/> Other: (names)
Case Name:	The Prosecutor vs. S. BIKINDI		Case Number: ICTR-2001 - 72 - I	
Dates:	Transmitted: 15/6/05		Document's date: 15/6/05	
No. of Pages:	22	Original Language: <input checked="" type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda		
Title of Document:	Amended Indictment Pursuant To Decisions of Trial Chamber III of 11 May 2005 and 10 June 2005- The Prosecutor v. S. Bikindi (ICTR - 2001- 72 - I)			
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<input type="checkbox"/> Strictly Confidential / Under Seal		<input checked="" type="checkbox"/> Indictment <input type="checkbox"/> Warrant <input type="checkbox"/> Correspondence <input type="checkbox"/> Submission from non-parties		
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II - TRANSLATION STATUS ON THE FILING DATE (To be completed by the Chambers / Filing Party)

CMS SHALL take necessary action regarding translation.			
<input checked="" type="checkbox"/> Filing Party hereby submits only the original, and will not submit any translated version.			
<input type="checkbox"/> Reference material is provided in annex to facilitate translation.			
Target Language(s):			
<input type="checkbox"/> English	<input type="checkbox"/> French	<input checked="" type="checkbox"/> Kinyarwanda	
CMS SHALL NOT take any action regarding translation.			
<input type="checkbox"/> Filing Party hereby submits BOTH the original and the translated version for filing, as follows:			
Original	in	<input type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda	
Translation	in	<input type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda	
CMS SHALL NOT take any action regarding translation.			
<input type="checkbox"/> Filing Party will be submitting the translated version(s) in due course in the following language(s):			
<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda	
KINDLY FILL IN THE BOXES BELOW			
<input type="checkbox"/> The OTP is overseeing translation. The document is submitted for translation to: <input checked="" type="checkbox"/> The Language Services Section of the ICTR / Arusha. <input type="checkbox"/> The Language Services Section of the ICTR / The Hague. <input type="checkbox"/> An accredited service for translation; see details below: Name of contact person: Name of service: Address: E-mail / Tel. / Fax:		<input type="checkbox"/> DEFENCE is overseeing translation. The document is submitted to an accredited service for translation (fees will be submitted to DCDMS): Name of contact person: Name of service: Address: E-mail / Tel. / Fax:	

III - TRANSLATION PRIORITISATION (For Official use ONLY)

<input type="checkbox"/> Top priority	COMMENTS	<input type="checkbox"/> Required date:
<input type="checkbox"/> Urgent		<input type="checkbox"/> Hearing date:
<input type="checkbox"/> Normal		<input type="checkbox"/> Other deadlines: