

UN prosecution in Rwanda | Former news executives accused Trial examines war crimes,

By Marlise Simons
The New York Times

A RUSHA, Tanzania trial is unfolding far from the spotlight in this East African town, but its outcome may one day ring out around the world. It is the trial of three journalists that focuses on the question, can freedom of speech degenerate into genocide?

Or put differently, can journalism kill? According to prosecutors of the UN war crimes tribunal for Rwanda, the answer to both questions is a forceful yes.

The three men in the dock, all former Rwandan news media executives, stand accused of genocide and incitement to genocide through their use of radio broadcasts and newspapers.

Their trial is also examining the full scope of the role played by the news media in the massacre of more than 800,000 people in Rwanda in 1994.

It is the first time since Julius Streicher, the Nazi publisher of the anti-Semitic weekly *Der Stuermer*, appeared before the Nuremberg judges in 1946 that a group of journalists stands accused before an international tribunal on such grave charges.

Prosecutors have drawn stark parallels between the vitriolic campaigns against the Jews by *Der Stuermer* before World War II and the actions of some Rwandan media organizations be-

fore and during the 1994 slaughter of the Tutsi. At Nuremberg, the charge of genocide did not yet exist.

Legal specialists believe that the outcome of the current trial may set a crucial precedent for future international cases, in particular for the permanent International Criminal Court, which is expected to open later this year to handle accusations of grave rights violations.

"A key question will be what kind of speech is protected and where the limits lie," said Stephen Rapp, an American lawyer who is the senior prosecutor in the case. "It is important to draw that line. We hope the judgment will give the world some guidance."

National laws inevitably vary, and as for international legal standards, "there has been no decision since Nuremberg," Rapp said.

The Allies' military court at Nuremberg, which sent Streicher to the gallows, may seem far away, and the Rwanda tribunal has no death sentence. But questions about the effects of hateful propaganda and whether journalists should exercise self-restraint or even self-censorship in dangerous moments are topical.

"This is very much a living issue," said a judge at the Rwanda tribunal. "People have found Osama bin Laden's hate talk against Americans objectionable. So why did some American media use self-restraint or even self-censorship in his case? Clearly because there were larger values involved."

The accused in what is informally called "the media trial" are Ferdinand Nahimana and Jean-Bosco Barayagwiza, who the prosecutors say founded and controlled a Rwandan radio station and directed its news coverage, and Hassan Ngeze, a former newspaper publisher and editor. Prosecutors charge that all three were part of a well-prepared plan to use their outlets first to spread ethnic hatred and then to persuade people to kill their enemies, the Tutsi and moderate Hutu.

That required demonizing the Tutsi, prosecutors said, and the media played a key role in accomplishing this.

To make their case, prosecutors have armed themselves with 50,000 documents, more than 600 audiotapes of what they say are inflammatory broadcasts from Radio Mille Collines and stacks of copies from the pictorial newspaper *Kangura*, peppered with vicious cartoons and nasty texts.

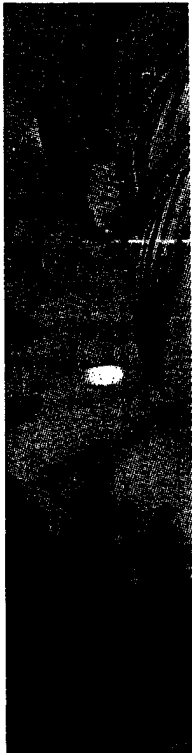
The radio, nicknamed Radio Hate, was the mouthpiece of the extremist Hutu Power movement. At first, it addressed its Tutsi opponents with warnings like "You cockroaches must know you are made of flesh. We won't let you kill, we will kill you."

Once the massacres had begun, the prosecu-



Jean-Marc Bouju/The Associated Press

Jean-Bosco Barayagwiza, one of the defendants accused of persuading people to kill their enemies.



Skulls of victims

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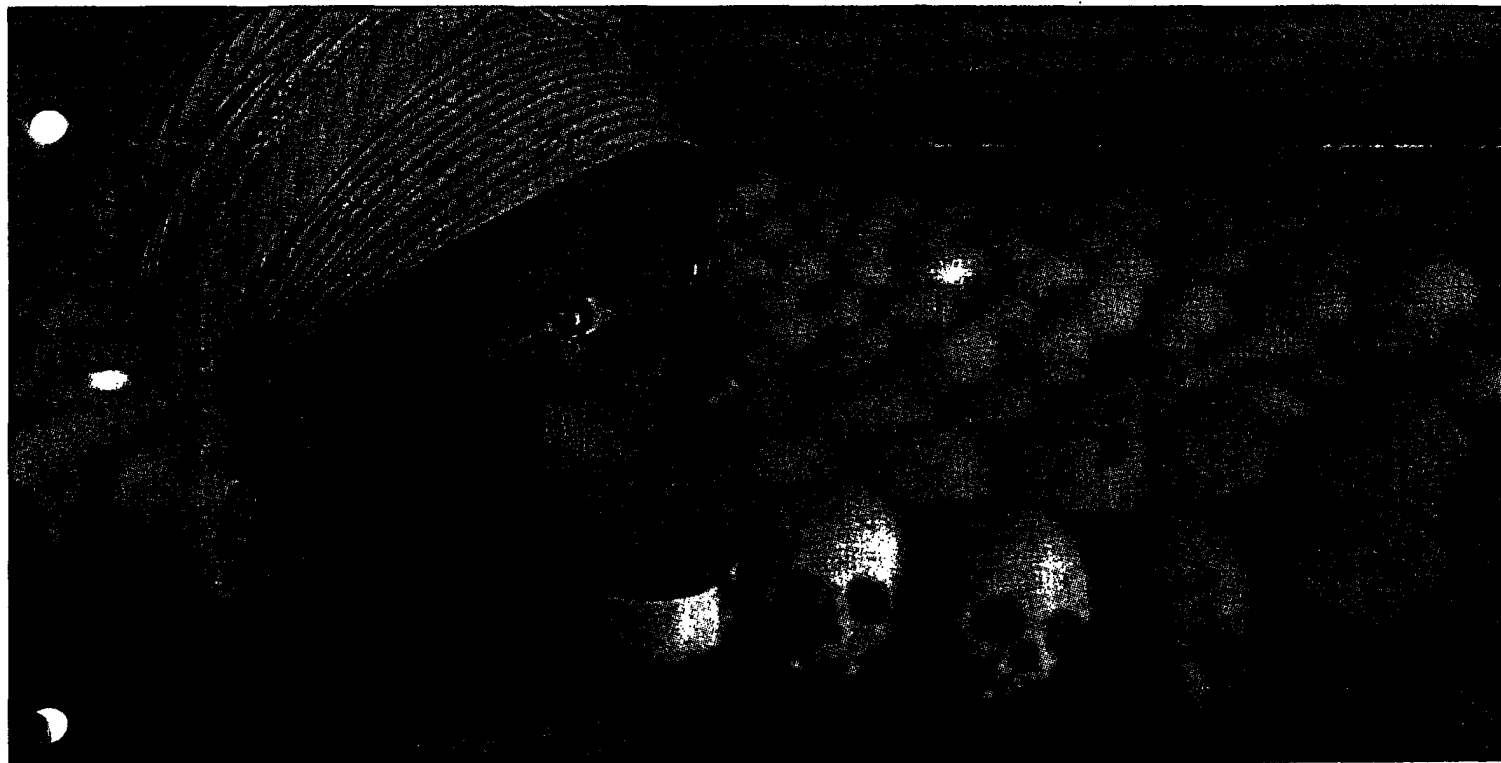
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Karel Prinsloo/The Associated Press

Skulls of victims of the 1994 genocide in Rwanda are preserved where they were killed, at a church in Kigali.

tion said, the broadcasts goaded Hutu militia groups to "go to work" and kept inciting people with messages like "the graves are not yet full."

Defense lawyers have rejected the genocide charges, and the defendants have pleaded not guilty. John Floyd, an American lawyer defending Ngeze, denounced the indictments as a "vulgar farce" and "dangerous stuff."

"What's really on trial here is freedom of the press and intellectual freedom," he said. "These people should never have been indicted. They've already been locked up for five years. Just with these indictments, the UN is already defending press censorship."

Other lawyers have been more circumspect, among them Jean-Marie Biju-Duval, the French defense counsel for Nahimana. In his view, the central question of the trial is, "At what point, if any, does political propaganda become criminal?"

That issue, however it is defined, may soon also apply to songs.

Simon Bikindi, a well-known Rwandan singer, has been indicted by the tribunal on charges of genocide. Arrested in the Netherlands, where he was living, Bikindi is about to be

transferred to Arusha.

According to his indictment, Bikindi composed songs that helped foment fear and hatred of the Tutsi. He is also charged with joining militia gangs on their killing sprees.

The media trial, one of the tribunal's high-profile cases, has been going on since October 2000, plagued, as other cases here, by management problems. Its prosecutors have changed several times, and it may still be months from completion. About 40 witnesses have already been heard.

Complicating matters, two of the defendants opened their own Web sites, and they are reported to have leaked some confidential court data.

One of the defendants, Barayagwiza, a former government information official, is refusing to show up in court, although his two court-appointed lawyers are attending. He became outraged after some judges had first ordered his release, ruling that the prosecution had violated his rights, and then the ruling was reversed. The reversal followed a public outcry in Rwanda and an appeal by the prosecution. Barayagwiza

said he would not bother to attend a trial in a court that was politicized and biased.

Prosecutors argue that their case is not about freedom or excess of the press, but about a criminal conspiracy. They say Radio Mille Collines and the newspaper Kangura were as much part of the well-prepared plan to kill Tutsi as was the creation of extremist militias and the importation and distribution of machetes well before the killing began.

In Rwanda, a nation of few televisions, radio has enormous power, the prosecutors say.

Witnesses told the court that once the slaughter had begun — it lasted about 100 days — Radio Mille Collines was vital in steering the militia and calling direct hits. They said the station would broadcast the names and addresses of people who were targets along with their vehicle license plates and the hiding places of refugees.

"There was an FM radio on every roadblock, there were thousands of roadblocks in Rwanda," a police investigator said. He told the court that in prison interviews, "many people told us they had killed because the radio had told them to kill."

official Kennedy-Oswald finding
Harold Weisberg, 88, an implacable critic of the U.S. government's investigation of the assassination of President John F. Kennedy, died Feb. 21 at his home in Frederick, Maryland.
A former investigator for the Senate Committee on Civil Liberties and Analyst for the Office of Strategic Services in

command or more than 40 planes on the carrier Yorktown, went aloft in his Hellicat fighter.
He ordered that the depth settings of torpedoes be adjusted to ensure that they struck the Yamato below its armor, and six planes swooped down. Several torpedoes struck the Yamato, and on the day of the climactic battle of the Iwo Jima, the Yamato sank with the loss of nearly 2,500 crew members; a

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