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UNITED NATIONS



International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International humanitarian Law Committed in the territory of Rwanda and Rwandan Citizens responsible for genocide and other such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994

Case No. ICTR-97-27

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**THE PROSECUTOR**

**Vs.**

**HASSAN NGEZE**

**AMENDED INDICTMENT**

In conformity with the decision of 5 November 1999 of Trial Chamber I authorizing the Prosecutor to amend the indictment;

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:

**HASSAN NGEZE**

**with GENOCIDE, CONSPIRACY TO COMMIT GENOCIDE, DIRECT AND PUBLIC INCITEMENT TO COMMIT GENOCIDE, COMPLICITY IN GENOCIDE, and CRIMES AGAINST HUMANITY, all offences stipulated in Article 2 and 3 of the Statute of the Tribunal, and as set forth below:**

## 1. HISTORICAL CONTEXT

1.1 The revolution of 1959 marked the beginning of a period of ethnic clashes between the Hutu and the Tutsi in Rwanda, causing hundreds of Tutsis to die and thousands more to flee the country in the years immediately following. The revolution resulted in the abolition of the Tutsi monarchy and the proclamation of the first Republic in early 1961, confirmed in a referendum held in the same year. Legislative elections held in September 1961 confirmed the dominant position of the MDR-PARMEHUTU (*Mouvement Démocratique Républicain - Parti du Mouvement d'Emancipation Hutu*), led by Grégoire Kayibanda, who was subsequently elected President of the Republic by the Legislative Assembly on 26 October 1961.

1.2 The early years of the first Republic, which was under the domination of the Hutus of central and southern Rwanda, were again marked by ethnic violence. The victims were predominantly Tutsi, the former ruling elite, and those related to them, were killed, driven to other regions of Rwanda or forced to flee the country. The gradual elimination of the opposition parties in those early years confirmed the MDR-PARMEHUTU as the single party, the only party to present candidates in the elections of 1965.

1.3 The early part of 1973 in Rwanda was again marked by ethnic confrontations between the Hutus and Tutsis, prompting another exodus of the Tutsi minority from the country, as had occurred between 1959 and 1963. This new outburst of ethnic and political tension between the North and South resulted in a military coup by General Juvénal Habyarimana on 5 July 1973, shifting power from civilian to military hands and from the Hutus of Central Rwanda to Hutus of the northern *préfectures* of Gisenyi (Habyarimana's native region) and Ruhengeri.

1.4 In 1975, President Habyarimana founded the *Mouvement Révolutionnaire National pour le Développement* (MRND), a single party, and assumed the position of party chairman. The administrative and party hierarchies were indistinguishable in this single party state from the level of the *Préfet* to the *bourgmestres*, and down to that of the *conseillers de secteur* and *responsables de cellule*.

1.5 From 1973 to 1994, the Government of President Habyarimana used a system of ethnic and regional quotas which was supposed to provide educational and employment opportunities for all but which was used increasingly to discriminate against both Tutsis and Hutus from regions outside the northwest. In fact, by the late 1980s, persons from Gisenyi and Ruhengeri occupied many of the most important positions in the military, political, economic and administrative sectors of Rwandan society. Among the privileged elite, an inner circle of relatives and close associates of President Habyarimana and his wife, Agathe Kanzigan, known as the *Akazu*, enjoyed great power. This select group, almost exclusively Hutu, was supplemented by individuals who shared its extremist Hutu ideology, and who came mainly from the native region of the President and his wife.

1.6 In 1990, the President of the Republic, Juvénal Habyarimana, and his single party, the MRND, were facing mounting opposition, including from other Hutus.

1.7 On 1 October 1990, the Rwandan Patriotic Front (RPF), made up mainly of Tutsi

refugees, attacked Rwanda. Within days the Government began arresting thousands of people, presumed to be opponents of Habyarimana and suspected of being RPF accomplices. Although the Tutsi were the main target, Hutu political opponents were also arrested.

1.8 Following pressure from the internal opposition and the international community, and the RPF attack of October 1990, President Habyarimana permitted the introduction of multiple parties and the adoption of a new constitution on 10 June 1991. The *Mouvement Révolutionnaire National pour le Développement* (MRND) was renamed *Mouvement Républicain National pour la Démocratie et le Développement* (MRND). The first transitional Government was made up almost exclusively of MRND members, following the refusal of the main opposition parties to take part. With the second transitional government in April 1992, the MRND became a minority party for the first time in its history, with nine ministerial portfolios out of 19. On the other hand, the MRND retained its domination over the local administration.

1.9 The new government then entered into negotiations with the RPF, which resulted in the signing of the Arusha Accords on 4 August 1993. The Accords provided for a new system of sharing military and civilian power between the RPF, the opposition parties and the MRND.

1.10 By the terms of the Arusha Accords, which provided for the integration of both sides' armed forces, the new national army was to be limited to 13,000 men, 60% FAR (*Forces Armées Rwandaises*) and 40% RPF. The posts of command were to be shared equally (50% -50%) between the two sides, with the post of Chief of Staff of the Army assigned to the FAR. The *Gendarmerie* was to be limited to 6,000 men, 60% FAR and 40% RPF, with the posts of command shared equally (50%-50%) between the two sides and the post of Chief of Staff of the *Gendarmerie* assigned to the RPF.

1.11 As regards representation within the government, the Arusha Accords limited the number of ministerial portfolios to be held by the MRND to five, plus the Presidency. The other portfolios were to be shared as follows: RPF, five; MDR (*Mouvement Démocratique Républicain*), four (including the post of Prime Minister); P D (*Parti Social-Démocrate*), three; PL (*Parti Libéral*), three; and the PDC (*Parti Démocratique-Chrétien*), one.

1.12 In addition, the parties to the Arusha Accords agreed to reject and fight any political ideology based on ethnic differences. Thus, the political forces that were to participate in the transitional institutions agreed to abstain from all sorts of violence and inciting violence by written or verbal communication, or by any other means, and to fight all political ideologies aimed at fostering any form of ethnic discrimination.

1.13 For the men and women close to President Habyarimana, including the members of the Akazu, who held positions of prominence in the various sectors of Rwandan society, this new power-sharing plan, as demanded by the political opposition and as stipulated in the Arusha Accords, meant a relinquishment of power and the loss of numerous privileges and benefits. At the same time, many of the military were facing massive demobilisation with the implementation of the Arusha Accords. Lastly, the constitutional statute of the Accords jeopardized the existence of the media which advocated an ideology of ethnic division.

1.14 From 1990, Habyarimana and several of his close associates devised a strategy of inciting hatred and fear of the Tutsi minority as a way of rebuilding solidarity among Hutu and keeping

themselves in power. They strongly opposed any form of power sharing, including the one envisaged by the Arusha Accords.

1.15 Determined to avoid the power sharing prescribed by the Arusha Accords, several prominent civilian and military figures pursued their strategy of ethnic division and incitement to violence. They targeted and labeled as RPF accomplices the entire Tutsi population, and also Hutus opposed to their domination, particularly those from regions other than northwestern Rwanda. At the same time, they sought to divide Hutu opposition parties, attracting some of their members back to the support of Habyarimana. These efforts to divide the Hutu opposition were favoured by the assassination of Melchior Ndadaye, a democratically elected Hutu President in neighbouring Burundi, by Tutsi soldiers of the Burundi army. By late 1993, two of the three major parties opposed to the MRND had each split into two factions. The factions of each known as the "Power" faction aligned itself with the MRND.

1.16 The strategy adopted in the early 1990s, which culminated in the widespread massacres of April 1994, comprised several components, which were carefully worked out by the various prominent figures who shared the extremist Hutu ideology, including the members of the *Akazu*. Added to the incitement to ethnic violence and extermination of the Tutsis and their "accomplices" was the organization and military training of the youth wings of the political parties, notably the *Interahamwe* (youth wing of the MRND), the preparation and broadcasting of lists of people to be eliminated, the distribution of weapons to civilians, the assassination of certain political opponents and the massacre of many Tutsis in various parts of Rwanda between October 1990 and April 1994.

1.17 The incitement to ethnic hatred took the form of public speeches by people sharing the extremist ideology. These political and military figures publicly appealed to hatred and fear of the Tutsis and urged the Hutu majority to "finish off the enemy and its accomplices". A perfect illustration is the speech made in November 1992 by Léon Mugesera, vice-chairman of the MRND for Gisenyi *préfecture*, who at the time was already inciting the public to exterminate the Tutsis and their "accomplices".

1.18 With the intention of ensuring widespread dissemination of the calls to ethnic violence, prominent figures from the President's circle set up true hate media, which would exercise great influence over the Rwandan people. Thus the creation of *Radio Télévision Libre des Mille Collines* (RTLM) and of the newspaper *Kangura* was a part of the strategy and pursued the same logic. As early as 1993, the Tutsis and political opponents were targeted, identified by name and threatened by these media. Many of them were among the first victims of the massacres of April 1994.

1.19 The creation of the youth wings of the political parties, originally intended to encourage or even force adherence to one or another party in the newly established multi-party system, provided Habyarimana's circle with a large, devoted and effective workforce to implement the adopted strategy. These youth organizations, which were affiliated to the political parties, were soon manipulated as part of the anti-Tutsi campaign. Some of the members of these organizations, notably of the *Interahamwe* (MRND) and the *Impuzamugambi* (CDR), were organized into militia groups, which were financed, trained and led by prominent civilians and military figures from the President of the Republic's entourage. They were issued weapons, with the complicity of certain military and civilian authorities. The militia groups were transported

to training sites, including certain military camps, in public administration vehicles belonging to companies controlled by the President's circle.

**1.20** During the mass arrests of October 1990, the civilian and military authorities followed lists that had been drawn up in order to identify and locate the presumed accomplices of the RPF, the majority of whom were Tutsi. Later, Army, *Gendarmerie*, local authorities and *Interahamwe* were given orders to prepare new lists or update the existing ones, which were subsequently used during the massacres of 1994.

**1.21** Towards the end of 1991, certain Rwandan authorities distributed weapons to certain civilians in the north-eastern region of the country as part of a civil self-defence campaign, in reaction to the RPF attack of October 1990. Later, some authorities distributed weapons nationwide, notably to the *Interahamwe*, *Impuzamugambi* and carefully selected individuals, even in regions distant from the war zone. Towards the end of 1993, the Bishop of Nyundo criticized the distribution of weapons in a public letter and questioned its purpose.

**1.22** The pursuit of the strategy thus described played a catalytic role in the political and ethnic violence of the time, which climaxed in the April 1994 massacres. The early part of the 90s was marked by numerous political assassinations and large scale massacres of the Tutsi minority, including the one in Kibilira (1990), that of the Bagogwe (1991) and the one in Bugesera (1992). The massacres were instigated and organized by local authorities with the complicity of certain prominent persons from the President's circle. Therein can be found the components of the strategy which culminated in the genocide of 1994, including the use of written and radio propaganda to incite the commission of the massacres.

**1.23** In early 1994, certain prominent people from Habyarimana's circle instigated violent demonstrations in Kigali aimed at preventing the implementation of the Arusha Accords. Soldiers in civilian clothes and militiamen took part, seeking to provoke confrontations with the Belgian UNAMIR soldiers. These incidents were partially the cause of the postponement of the establishment of the institutions foreseen by the Arusha Accords.

**1.24** On 6 April 1994, the plane carrying, among other passengers, the President of the Republic of Rwanda, Juvénal Habyarimana, was shot down on its approach to Kigali airport.

**1.25** In the hours which followed the crash of the President's plane, the senior officers of the FAR convened to assess the situation. Those who shared the extremist Hutu ideology, generally from the North, proposed an Army take-over. During a second meeting which took place on the morning of 7 April, that option was rejected in favour of setting up an interim Government.

**1.26** Already on the morning of 7 April and while these discussions were taking place, groups of military, lists in hand, proceeded to arrest, confine and carry out systematic assassinations of a large number of political opponents, both Hutu and Tutsi, including the Prime Minister, some of the Ministers in her Government and the President of the constitutional Court. At the same time, however, the military were evacuating prominent members of the dead President's circle, including the MRND Ministers, to safe locations. The Belgian UNAMIR soldiers sent to protect the Prime Minister were disarmed, arrested and taken to Kigali military camp, where they were massacred, prompting the withdrawal of the Belgian contingent in the days that followed. After the withdrawal of the Belgian troops, the United Nations Security Council drastically reduced

the number of UNAMIR personnel in Rwanda.

1.27 The leaders of various parties not targeted in the assassinations assembled at the request of military officers. Other than members of the MRND, most participants were members of the "Power" wings of their respective parties. Given the political and constitutional void created by the deaths of most national political authorities, they set up a government based on the 1991 constitution. Composed solely of Hutus, the government was sworn in on 9 April 1994. The MRND held nine ministerial posts, plus the Presidency of the Republic, while the remaining 11 positions, including that of Prime Minister, went to the "Power" factions of the other parties.

1.28 In the hours following the crash of President Habyarimana's plane, military and militiamen set up roadblocks and began slaughtering Tutsi and members of the Hutu opposition in Kigali and in other parts of Rwanda. At the roadblocks, they checked the identity cards of passers-by and killed those or most of those who were identified as Tutsi. Military patrols, often involving militiamen, scoured the city, lists in hand, to execute the Tutsis and certain political opponents.

1.29 During the entire period of the genocide, FAR military and militiamen, notably the *Interahamwe* (MRND) and the *Impuzamugambi* (CDR), actively participated in the massacres of Tutsis throughout Rwanda.

1.30 As soon as it was formed, the Interim Government espoused the plan for extermination put in place. Throughout the period of the massacres, the Government made decisions and issued directives to aid and abet in the extermination of the Tutsi population and the elimination of the Hutu political opponents. Members of the Government incited the population to eliminate the enemy and its "accomplices", notably through the media, and some of them participated directly in the massacres.

1.31 Local authorities, including *préfets*, *bourgmestres*, *conseillers de secteur* and *responsables de cellule* applied the Government-issued directives in execution of the plan for the extermination of the Tutsi population. They incited and ordered their subordinates to perpetrate the massacres and took a direct part in them.

1.32 Starting on 6 April 1994, the incitement to hatred and ethnic violence conveyed by the media turned into a genuine call to exterminate the Tutsis and their accomplices. At the centre of this campaign of extermination was RTL, described as "the killer radio station", which played a decisive role in the genocide and became a genuine accomplice of its perpetrators.

1.33 Having been psychologically and militarily prepared for several months, the groups of militiamen spearheaded the execution of the extermination plan and were directly involved in the massacres of the civilian Tutsi population and of moderate Hutus, thus causing the deaths of hundreds of thousands of people in less than 100 days.

## 2. TERRITORIAL, TEMPORAL AND MATERIAL JURISDICTION

2.1 The crimes referred to in this indictment took place in Rwanda between 1 January and

31 December 1994.

2.2 During the events referred to in this indictment, Rwanda was divided into 11 *préfectures*: Butare, Byumba, Cyangugu, Gikongoro, Gisenyi, Gitarama, Kibungo, Kibuye, Kigali-Ville, Kigali-Rural and Ruhengeri. Each *préfecture* was subdivided into *communes* and *secteurs*.

2.3 During the events referred to in this indictment, the Tutsi, the Hutu and the Twa were identified as racial or ethnic groups. The Belgians were considered to be a national group.

2.4 During the events referred to in this indictment, there were throughout Rwanda widespread or systematic attacks directed against a civilian population on political, ethnic or racial grounds.

### 3. THE POWER STRUCTURE

#### The Government

3.1 According to the Constitution of 10 June 1991, executive power is exercised by the President of the Republic, assisted by the Government composed of the Prime Minister and the ministers. The members of the Government are appointed by the President of the Republic upon the proposal of the Prime Minister. The Prime Minister directs the Government's programme. The Government determines and applies national policy. To that effect, it controls the civil service and the armed forces. The Prime Minister decides the functions of the ministers and officials under the Prime Minister's authority. The resignation or termination of tenure of the Prime Minister, for whatever reason, causes the Government to resign.

3.2 The Ministers implement the Government's policy, as defined by the Prime Minister. They are answerable to the Head of the Government for doing so. In carrying out their duties, they have at their disposal the Government and local administration corresponding to their functions.

3.3 The Minister of Information is in charge of implementing the Government's policy with regard to information. The Minister manages, controls and focuses the activities of the services coming under his authority, including the public and private press divisions. ORINFOR was under the authority of the Minister of Information.

#### The *Forces Armées Rwandaises*

3.4 The *Forces Armées Rwandaises* (FAR) were composed of the *Armée Rwandaise* (AR) and the *Gendarmerie Nationale* (GN).

#### The Political Parties and The Militia

3.5 During the events referred to in this indictment, the main political parties in Rwanda were the MRND (*Mouvement Républicain National pour la Démocratie et le Développement*), the CDR (*Coalition pour la Défense de la République*), the MDR (*Mouvement Démocratique*

*Républicain*), the PSD (*Parti Social-Démocrate*) and the PL (*Parti Liberal*). The RPF (Rwandan Patriotic Front) was a politico-military opposition organization.

3.6 The CDR (*Coalition pour la Défense de la République*) was formed on 18 February 1992 to defend the republican institutions stemming from the Social Revolution of 1959. At the national level the CDR had a General Assembly. At the local level were prefectural and communal bodies such as the Regional Assembly, which decided on all party issues for the *préfecture* and was led by a regional committee, made up of four members, including a chairman, a vice-chairman, a secretary and a treasurer, who were elected for four-year terms.

3.7 Most of the political parties had created a youth wing. The members of the MRND's youth wing were known as the "*Interahamwe*" and those of the CDR were known as the "*Impuzamugambi*". Most of the MRND and CDR youth wings' members subsequently received military training and were thus transformed from youth movements into militias.

### **The Press in Rwanda**

3.8 Between January and July 1994, two radio stations in Rwanda had authorization to broadcast throughout the country, i.e. Radio Rwanda and RTLM. In addition, Radio Muhabura, the RPF's radio station, could be picked up in certain regions of Rwanda.

3.9 Between January and December 1994, several written press publications were available in Rwanda, including the newspaper Kangura, which was published in Kinyarwanda. The international version was published in French.

3.10 Pursuant to Law No. 54/91 of 15 November 1991 on the press in Rwanda, anyone wishing to found or operate a radio broadcasting company must sign an agreement of establishment and operation with the Rwandan Government. Pursuant to Article 9 of the same law, before launching a new written press publication, the director of the publication must submit a declaration to the prosecutor's office for the *préfecture* [*Parquet de la République*].

3.11 Furthermore, this law punishes anyone who uses the press to commit offences against individuals or groups, such as defamation (Article 44) or public slander (Article 45), or who is an accomplice to such offences (Article 46). Further, Article 166 of the Rwandan Penal Code, the penalties of which apply to Article 46 above, punishes any speech made at public meetings or in public places which is designed to cause the citizens to rise up against one another. Lastly, Article 49 of this law determines the individuals who are responsible for offences committed through the press.

3.12 The Rwandan information bureau (ORINFOR) is a public institution with financial and administrative autonomy which provides the national public radio, television, written press, film and photography services.

## **4. THE ACCUSED**

**HASSAN NGEZE**

4.1 **Hassan Ngeze** was born in 1962 in Nyakabungo *cellule*, Gisenyi *secteur*, Rubavu *Commune*, Gisenyi *préfecture*, Rwanda.

4.2 At the time of the events referred to in this indictment, **Hassan Ngeze** was the editor-in-chief of the newspaper *Kangura*. A founding member of the *Coalition pour la Défense de la République* (CDR) party, **Hassan Ngeze** was an influential member of the party and one of the leaders of the militiamen in Gisenyi *préfecture*. **Hassan Ngeze** was previously a member of the *Mouvement Républicain National pour le Développement*.

4.3 As editor-in-chief of the newspaper *Kangura*, **Hassan Ngeze** had authority and control over his editorial staff, including the reporters. Further, as an influential militiamen in Gisenyi, **Hassan Ngeze** exercised authority over the *Interahamwe* (MRND) and *Impuzamugambi* (CDR) militiamen.

**5. CONCISE STATEMENT OF THE FACTS: PREPARATION**

5.1 From 1990 until December 1994, **Hassan Ngeze**, Jean-Bosco Barayagwiza, Ferdinand Nahimana and Georges Ruggiu conspired among themselves and with others to work out a plan with the intent to exterminate the civilian Tutsi population and eliminate members of the opposition. The components of this plan consisted of, among other things, the broadcasting of messages of ethnic hatred and incitement to violence, the training of and distribution of weapons to militiamen, as well as the preparation of lists of people to be eliminated and the broadcasting of their identities. In executing the plan, they organized and ordered the massacres perpetrated against the Tutsi population and moderate Hutus, and at the same time incited, aided and participated in them.

**Incitement and Broadcasts**

5.2 The incitement to ethnic hatred and violence was a fundamental part of the plan put in place. It was articulated, before and during the genocide of 1994, by politicians and businessmen, members of the Government and local authorities, and by elements of the FAR.

5.3 The 1990s saw the development of several publications in Rwanda which were designed to ensure that the message of ethnic hatred and incitement to violence was disseminated. In 1990, individuals in President Habyarimana's circle, including **Hassan Ngeze**, Jean-Bosco Barayagwiza, Ferdinand Nahimana and Joseph Nzirorera formed the newspaper *Kangura* for the purpose of defending the extremist Hutu ideology. **Hassan Ngeze**, a founding member of the CDR and a close collaborator of Jean-Bosco Barayagwiza, was appointed editor-in-chief of the newspaper *Kangura*.

5.4 In December 1990, the newspaper published the "*Ten Commandments of the Bahutus*",

which was not only an outright call to show contempt and hatred for the Tutsi minority but also to slander and persecute Tutsi women.

5.5 From May 1990 to December 1994, *Kangura* echoed the description of the Tutsis as the enemy and the members of the opposition as their accomplices, regularly using contemptuous expressions such as “*Inyenzi*” and “*Inkotanyi*” and referring to them as “enemies” or “traitors” who deserved to die. In addition, *Kangura* stated that “the social and political revolution of 1959 is not over; it is irreversible”, which constituted a call to eliminate the Tutsis.

5.6 On 4 December 1991, at the conclusion of a meeting chaired by the Head of State, Juvenal Habyarimana, a military commission was given the task of finding an answer to the following question: “What do we need to do in order to defeat the enemy militarily, in the media and politically?” The newspaper *Kangura* was pleased that this meeting had been held.

5.7 The report produced by the commission defined the main enemy as follows: “The Tutsis from inside or outside the country, who are extremists and nostalgic for power, who do not recognize and have never recognized the realities of the Social Revolution of 1959, and are seeking to regain power in Rwanda by any means, including taking up arms.” The secondary enemy was defined as: “Anyone providing any kind of assistance to the main enemy”. The document specified that the enemy was being recruited from within certain social groups, notably: “the Tutsis inside the country, Hutus who are dissatisfied with the present regime, foreigners married to Tutsi women...”. Among the activities the enemy was accused of, the document mentioned “the diversion of national opinion from the ethnic problem of the socio-economic problem between the rich and the poor”. On 21 September 1992, an excerpt from the report was circulated among the troops. The following day, the CDR, which was founded by **Hassan Ngeze**, Jean-Bosco Barayagwiza and others, issued a press communique in which it listed the names of individuals described as enemies and traitors to the nation.

5.8 The characterization of the Tutsis as the enemy and of members of the opposition as their “accomplices” was echoed by politicians, notably by Léon Mugesera, MRND Vice-Chairman for Gisenyi *préfecture*, in a speech he made on 22 November 1992. Broadcast on the state radio and therefore reaching a much larger audience, Léon Mugesera’s speech already at that time was an incitement to exterminate the Tutsi population and their “accomplices”.

5.9 In 1993, in order to defend the extremist Hutu ideology and promote the use of incitement to hatred and fear of the Tutsi minority, Jean-Bosco Barayagwiza, Ferdinand Nahimana, Félicien Kabuga, André Ntagerura, Joseph Nzirorera, Joseph Serugendo and Simon Bikindi conspired among themselves and with others to form a limited company called RTL M S.A., notably in order to operate a radio station, RTL M. The editor-in-chief of *Kangura*, **Hassan Ngeze**, welcomed the formation of RTL M in that newspaper, describing it as the birth of a partner in the fight for Hutu unification. **Hassan Ngeze** and *Kangura* newspaper became shareholders in RTL M.

5.10 From the moment it was formed, RTL M collaborated closely with *Kangura* newspaper in inciting ethnic hatred and in preparing lists of names of members of the Tutsi population and moderate Hutus who were to be exterminated. For instance, the editor-in-chief of *Kangura*, **Hassan Ngeze**, was also RTL M’s correspondent in Gisenyi, while Noël Hitimana, originally a *Kangura* reporter, became one of RTL M’s most vigilant reporters. Certain RTL M reporters

published articles in *Kangura* newspaper inciting ethnic hatred and violence. Further, RTLM made announcements on air whenever an issue of *Kangura* was published.

5.11 In addition, in 1993, **Hassan Ngeze**, as a CDR member and an RTLM shareholder, took part in a meeting organized by the MRND in Nyamirambo to raise funds on behalf of RTLM. At the meeting, Félicien Kabuga, in the presence of Jean-Bosco Barayagwiza, Ferdinand Nahimana, Froduald Karamira, Justin Mugenzi, Mathieu Ngirumpatse and the reporters Kantano Habimana, Valérie Bemmeriki, Noël Hitimana, Gaspard Gahigi and others, publicly defined the purpose of RTLM as being the defence of "Hutu Power". But not expressing opposition to the meeting, **Hassan Ngeze** lent his support to "Hutu Power".

5.12 The newspaper *Kangura* and RTLM conducted a campaign against the Arusha Accords, which both stipulated power-sharing with the Tutsi minority and rejected any ideology based on ethnic identity. *Kangura's* attacks targeted in particular the Government representative at the negotiations, Minister of Foreign Affairs Boniface Ngulinzira. In one article, the newspaper *Kangura* said that what Ngulinzira called the Arusha Accords were nothing other than complicity with the enemy. On 11 April 1994, Boniface Ngulinzira was assassinated by the military. RTLM announced the news of his death in the following words: "*We have exterminated all RPF accomplices. Mr. Boniface Ngulinzira will no longer go to Arusha to sell the country to the RPF. The peace Accords are nothing but scraps of paper as our father Habyarimana had predicted.*" The extremist press had been announcing that Boniface Ngulinzira had sold the country out.

5.13 Between late 1993 and early 1994, **Hassan Ngeze**, Jean-Bosco Barayagwiza and other CDR members organized demonstrations in Gisenyi to protest the Arusha Accords.

5.14 In April, May and June 1994, **Hassan Ngeze** was interviewed on RTLM and Radio Rwanda. During those interviews, he called for the extermination of the Tutsis and the Hutus in the opposition. He also defended the extremist Hutu ideology of the CDR.

5.15 In addition, members of the Government and the political parties used the media to incite the massacre of the Tutsi population and moderate Hutus. On 21 April 1994, in particular, the Prime Minister of the Interim Government, Jean Kambanda, stated that the RTLM broadcasts were "a crucial weapon in the fight against the enemy".

5.16 Between January and April 1994, **Hassan Ngeze** distributed tracts in Gisenyi *préfecture* threatening the members of the Tutsi population and referring to them as *Inyenzi*. Some of the tracts were sent by Jean-Bosco Barayagwiza, president of the CDR regional committee for Gisenyi *préfecture*.

5.17 During the same period, **Hassan Ngeze** incited the youth members of the CDR to eliminate the Tutsi population.

### **Training and Distribution of Weapons to the Militia Groups**

5.18 In order to ensure that, when the time came, the extermination of the enemy and its "accomplices" would be carried out swiftly and effectively, it was necessary to create a militia

that was structured, armed and complementary to the Armed Forces. As from 1993, and even before that date, political figures, in collaboration with officers of the FAR, decided to provide military training to those members most devoted to their extremist cause and to other idle youths. Furthermore, weapons were distributed to them.

**5.19** Between June 1993 and July 1994, in Gisenyi *préfecture*, the militiamen underwent military training and received weapons from **Hassan Ngeze** and Jean-Bosco Barayagwiza among others.

**5.20** Thus, shortly before the President's plane crash, **Hassan Ngeze** used his own vehicle to distribute weapons in Gisenyi *préfecture*.

**5.21** Towards the end of 1993, in an open letter broadcast on national radio, the Bishop of the diocese of Nyundo, in Gisenyi *préfecture*, denounced the distribution of weapons in that *préfecture*.

### **Establishment of List**

**5.22** Having identified the Tutsis as the main enemy and the members of the opposition as their accomplices, civilian authorities, political figures and militiamen established lists of people to be executed. In 1993, at the instigation of Jean-Bosco Barayagwiza, the *bourgmestres*, and *conseillers de secteur* in Gisenyi *préfecture* drew up lists bearing the names of Tutsis and moderate Hutus to be eliminated.

**5.23** **Hassan Ngeze** took part in distributing those lists in Gisenyi *préfecture*, knowing that those whose names were listed would be killed.

**5.24** Between January and July 1994, RTLM broadcast the names of people identified as the enemy. As an RTLM informer in Gisenyi, **Hassan Ngeze** sent the name of an individual from Gisenyi to RTLM, which broadcast the individual's name in April 1994.

**5.26** From 7 April to late July 1994, military personnel and militiamen massacred members of the Tutsi population and moderate Hutus by means of pre-established lists and names broadcast on RTLM and published in the newspaper *Kangura*, among other things.

### **Precursors Revealing A Deliberate Course of Action**

**5.27** The political and ethnic violence of the early 1990s was characterized by the use of the elements of the strategy which achieved its finality in the genocide of 1994. The massacres of the Tutsi minority at that time, including those in Kibilira (1990), in Bugesera (1992) and of the Bagogwe (1991), were instigated facilitated and organized by civilian and military authorities. On each occasion, a campaign of incitement to ethnic violence, conducted by local authorities, was followed by massacres of the Tutsi minority, perpetrated by groups of militiamen and

civilians, armed and assisted by the same authorities and by certain military personnel. On each occasion, these crimes remained unpunished and the authorities implicated were generally not taken to task.

5.28 In 1991, **Hassan Ngeze**, in collaboration with Jean-Bosco Barayagwiza and others, planned the killings of the Bagogwe Tutsis in Mutura *commune*, Gisenyi *préfecture*. They distributed weapons and money to the *Interahamwe* and *Impuzamugambi* militiamen who committed the massacres.

5.29 During the same period, **Hassan Ngeze** took part in meetings chaired by Jean-Bosco Barayagwiza or others, at which the latter individuals incited the militia groups and the civilian population to kill the Tutsis. Following those meetings Tutsis were attacked and killed.

### Modus Operandi

5.30 Finally, as of 7 April 1994, throughout Rwanda, Tutsis and certain moderate Hutus began to flee their homes to escape the violence to which they were victims on their hills and to seek refuge in places where they had traditionally felt safe, notably churches, hospitals and other public buildings such as *commune* and *préfecture* offices. On several occasions, gathering places were indicated to them by the local authorities, who had promised to protect them. For the initial days, the refugees were protected by a few *gendarmes* and communal police in these various locations, but subsequently, the refugees were systematically attacked and massacred by militiamen, often assisted by the same authorities who had promised to protect the refugees.

5.31 Furthermore, soldiers, militiamen and *gendarmes* raped or sexually assaulted or committed other crimes of a sexual nature against Tutsi women and girls, sometimes after having first kidnaped them.

## 6. CONCISE STATEMENT OF THE FACTS: *KANGURA* NEWSPAPER

6.1 The newspaper *Kangura* was established in 1990 to defend and promote the extremist Hutu ideology and unite all Hutus in order to 'heal' Rwanda. The founders were people from President Habyarimana's circle, including certain military personnel, Anatole Nsengiyumva, Jean-Bosco Barayagwiza, Ferdinand Nahimana, Joseph Nzirorera and others. **Hassan Ngeze** was appointed the editor-in-chief of the newspaper.

6.2 Before his appointment as editor-in-chief of *Kangura*, **Hassan Ngeze** was the Gisenyi correspondent and distributor of another newspaper, *Kangura*. *Kangura* was a newspaper which expressed anti-ethnic ideas and criticized the regime in place, notably the military. Its editor-in-chief was arrested and imprisoned.

6.3 *Kangura* began publishing in May 1990. The first issue was financed in entirety by the intelligence service in the Office of the President. The newspapers were distributed throughout Rwanda and particularly in the intellectual centres of the country, Kigali and Butare, until

December 1994. In many *communes*, the newspaper was distributed by the military, the *bourgmestres* and the *conseillers de secteur*. The newspaper was published in Kinyarwanda, with some French excerpts. The international version was published entirely in French.

6.4 The newspaper *Kangura* was printed at the national printing press (*Imprimerie Nationale du Rwanda*) and was financed in large part by certain merchants in Gisenyi as well as the Office of the President.

### Content and Impact of *Kangura* Publications

6.5 *Kangura* newspaper published articles and cartoons designed to create division, called for ethnic hatred and published the names and photographs of persons considered to be accomplices. Some of these articles bore the signature of **Hassan Ngeze**, Noël Hitimana.

6.6 As editor-in-chief of *Kangura*, **Hassan Ngeze** worked in close collaboration with Ferdinand Nahimana and Jean-Bosco Barayagwiza in preparing the articles published in the newspaper. The editorial for the first issue was submitted by military personnel such as Anatole Nsengiyumva and bore the signature of **Hassan Ngeze**.

6.7 In December 1990, *Kangura* published the "*Appeal to the Conscience of the Bahutus*", including the "*Ten Commandments*", which was not only an outright call to show contempt and hatred for the Tutsi minority but also to slander and persecute Tutsi women. Then *Ten Commandments* stipulated, for instance, that, "*Every Muhutu must know that the Umututsikazi (Tutsi woman, wherever she may be, is working on behalf of her Tutsi ethnic group. Therefore, any Muhutu who marries a Mututsikazi or has a mistress who is Umututsikazi is a traitor.*"

6.8 In December 1990, *Kangura* expressed satisfaction at the extremist direction taken by Radio Rwanda's broadcasts under the leadership of Ferdinand Nahimana, the new director of ORINFOR. In the opinion of *Kangura*, the radio station had become "the voice of the people which tells the truth and instills fear into the *Inkotanyi* and their accomplices."

6.9 Further, before December 1994, the newspaper published articles inciting the people and militia groups to ethnic hatred and violence, by attacking the Tutsi population and the CDR's political opponents, notably the moderate Hutus, and by using expressions such as "erase the enemy within", "prevent the *Inyenzi* from returning us to the monarchist regime", "the minority is meat for the crows".

6.10 From its first issues, *Kangura* published lists bearing the names of members of the Tutsi population and moderate Hutus. These names were later published and broadcast by RTLM to incite the population against them.

6.11 In December 1990, *Kangura* No. 7 published a letter signed by the *Préfet* of Kigali, Tharcisse Renzaho, and sent to the President of the Republic, which contained the names and addresses of the merchants who were to be persecuted, as well as the members of their families.

6.12 In February 1993, *Kangura* published a list of names of the young people in Cyangugu, as well as the names of their relatives, who had joined the *Inkotanyi*, and incited the people to

defend themselves against them using guns and to supplement the list with other names.

6.13 In addition, *Kangura* incited the people against Belgian nationals, the United Nations representatives in the country, and the Arusha Accords, which "justified" their presence in the country.

6.14 From its establishment until December 1994, *Kangura* published interviews, messages and speeches by political and Government figures which incited to exterminate the Tutsis and moderate Hutus.

6.15 Between 1990 and 1994, *Kangura* identified the *communes* and *préfectures* where the Tutsis lived and asked the people to exterminate them. Several of these locations were attacked and the Tutsis who were there were massacred. In some cases, *Kangura* identified certain people who were termed accomplices and asked the militiamen to find and execute them.

### Control of the Broadcasts

6.17 Between January and December 1994, **Hassan Ngeze**, as editor-in-chief, was responsible for the contents of *Kangura* newspaper.

6.18 Further, during the period of January to December 1994, **Hassan Ngeze** knew or had reason to know that the articles published in *Kangura* were inciting, aiding and abetting the local population and the militia groups in exterminating all the Tutsis and eliminating the moderate Hutus and Belgian nationals, and did not take reasonable steps to prevent such acts or punish his subordinates, such as Noël Hitimana, Nabantu Sibomana, Stanislas Simbisi and other reporters.

6.19 Further, between January and December 1994, **Hassan Ngeze** knew or had reason to know that the articles, speeches or interviews published in *Kangura* resulted in widespread massacres of the Tutsi population and the murder of numerous moderate Hutus and some Belgian nationals.

## 7. CONCISE STATEMENT OF THE FACTS: OTHER VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW

7.1 As from 7 April 1994, massacres of the Tutsi population and the murder of numerous political opponents were perpetrated throughout the territory of Rwanda. These crimes, which had been planned and prepared for a long time by prominent civilian and military figures who shares the extremist Hutu ideology, were carried out by militiamen, military personnel and *gendarmes* on the orders and directives of some of these authorities, including **Hassan Ngeze**.

7.2 Gisenyi, the *préfecture* of origin of the deceased President, Juvénal Habyarimana, is located in northwestern Rwanda. From the time of the coup d'état in 1973, Gisenyi was the bastion of the *Mouvement Républicain National pour la Démocratie et le Développement* (MRND) and the *Coalition pour la Défense de la République* (CDR). Several prominent civil and military figures who had espoused the extremist Hutu ideology were from this *préfecture*. After 1990, the *préfecture* was the theatre for much inter-ethnic tension and violence, causing

the death of many Tutsis. This was the case with the *Bagogwe* in 1991. In early June 1994, the Interim Government moved to Gisenyi.

7.3 Before April 1994, in the company of **Hassan Ngeze**, Jean-Bosco Barayagwiza held meetings and issued directives to his subordinates to prepare lists to Tutsis to be eliminated and to incite the militiamen to kill the Tutsis when the time came. Hassan Ngeze and Barnabé Sanvura passed those directives on to those in charge of the *Interahamwe* (MRND) and the *Impuzumugambi* (CDR)

7.4 Starting on 7 April 1994, in Gisenyi, members of the CDR, including **Hassan Ngeze**, militiamen and military personnel gave orders to set up roadblocks; they also distributed weapons and incited, aided and abetted the people in exterminating the Tutsis and eliminating the moderate Hutus.

7.5 Following those incidents, roadblocks were set up by the militiamen in Gisenyi *préfecture*. As a leader of the *Interahamwe*, **Hassan Ngeze** traveled around in his car inspecting the roadblocks in order to identify the Tutsis and their "accomplices" and kill them on the spot or take them to the *Commune Rouge* to execute them there. Most of the Tutsi were transported to that location by *Interahamwe* and their leader, **Hassan Ngeze**. In certain cases, the Tutsis as the *Commune Rouge* were forced to undress before being killed. **Hassan Ngeze** was present at this time.

7.6 **Hassan Ngeze** took part in killing the Tutsis at *Commune Rouge*. He supervised the mass graves, commended the *Interahamwe* on their "good work" and encouraged them to continue killing.

7.7 In addition, in May 1994, **Hassan Ngeze**, along with Wellars Banzi and Mathias Nyagasaza, held a meeting with the local population and the *Interahamwe* at Gisenyi stadium to collect funds to purchase weapons and ammunition for the *Interahamwe* and the soldiers, in accordance with the instructions given by Félicien Kabuga at a meeting held at the Méridien hotel.

7.8 On 10 April 1994, Hassan Ngeze shot a Tutsi girl in the side. The girl was then stoned to death by the *Interahamwe* who were accompanying him and who were under his authority. Afterwards, **Hassan Ngeze** ordered the *Interahamwe* to begin conducting searches for other *Inyenzi*.

7.9 On 21 April 1994, in Gisenyi town, **Hassan Ngeze** ordered the *Interahamwe* to kill Modeste Tabaro, a Tutsi and a member of an opposition political party.

7.10 Between April and July 1994, **Hassan Ngeze**, one of the *Interahamwe* leaders in Gisenyi, incited the militiamen to commit rape and sexual assault throughout the *préfecture*.

7.11 Between April and July 1994, the most active groups of militiamen in Gisenyi *préfecture*, led by CDR officials, including **Hassan Ngeze** and Mabuye Twagirayezu, and MNRD officials, including Bernard Munyagishari and Omar Serushago, hunted down, abducted and killed several members of the Tutsi population and moderate Hutus in Gisenyi. In addition, many houses belonging to Tutsis were looted, destroyed and burned down by the *Interahamwe*.

7.12 During the entire period of April to July 1994, **Hassan Ngeze** knew or had reason to know that his subordinates, notably the CDR and MNRD militiamen, had committed widespread massacres of the Tutsi population and numerous moderate Hutus and did not take the necessary and reasonable steps to prevent their acts or punish them.

### **Responsibility**

7.13 From April to July 1994, several hundred thousand people were massacred throughout Rwanda. The majority of the victims were killed solely because they were Tutsi or appeared to be Tutsi. The other victims, nearly all Hutu, were killed because they were considered Tutsi accomplices, were linked to them through marriage or were opposed to the extremist Hutu ideology.

7.14 The massacres thus perpetrated were the result of a strategy adopted and elaborated by political, civil and military authorities in the country, such as **Hassan Ngeze**, Jean-Bosco Barayagwiza and Ferdinand Nahimana, who conspired to exterminate the Tutsi population.

7.15 **Hassan Ngeze**, in his position of authority, acting in concert with, notably Jean-Bosco Barayagwiza, Ferdinand Nahimana, Omar Serushago, Bernard Munyagishari, Mabuye Twagirayezu and Barnabé Sanvura, participated in the planning, preparation or execution of a common scheme, strategy or plan, to commit the atrocities set forth above. The crimes were committed by him personally, by persons he assisted, or by his subordinates, including the militiamen and the reporters of *Kangura* newspaper, who acted under his orders and with his knowledge or consent.

## **8. THE CHARGES:**

### **COUNT 1:**

By the acts or omissions described in paragraphs 5.1 to 7.15 and more specifically in the paragraphs referred to below:

**HASSAN NGEZE:** - pursuant to Article 6(1), according to paragraphs 5.1  
5.2, 5.3, 5.4, 5.5, 5.6, 5.7, 5.9, 5.10, 5.11, 5.12, 5.13,  
5.16, 5.18, 6.1, 6.3, 6.5, 6.6, 7.1, 7.3, 7.4, 7.13, 7.14, 7.15.

conspired with Ferdinand Nahimana, Jean-Bosco Barayagwiza, Barnabe Sanvura, André Ntagerura, Joseph Nzirorera, Frouduald Karamira, Bernard Munyagishari, Omar Serushago and others to kill and cause serious bodily or mental harm to members of the Tutsi population with the intent to destroy, in whole or in part, a racial or ethnic group, and thereby committed **CONSPIRACY TO COMMIT GENOCIDE**, a crime stipulated in Article 2 (3) (b) of the Statute of the Tribunal, for which he is individually responsible pursuant to Article 6 (1) and which is punishable in reference to Articles 22 and 23 of the Statute.

**COUNT 2:**

By the acts or omissions described in paragraphs 5.1 to 7.15 and more specifically in the paragraphs referred to below:

**HASSAN NGEZE:** - pursuant to Article 6(1), according to paragraphs: 5.1, 5.18, 5.19, 5.20, 5.21, 5.22, 5.23 5.24, 5.25, 5.26, 5.30, 7.1, 7.5, 7.6, 7.7, 7.8, 7.9, 7.11, 7.13, 7.14, 7.15

is responsible for killing and causing serious bodily or mental harm to members of the Tutsi population with the intent to destroy, in whole or in part, a radical or ethnic group, and there committed **GENOCIDE**, a crime stipulated in Article 2 (3) (a) of the Statute of the Tribunal, for which they are individually responsible pursuant to Article 6 and which is punishable in reference to Articles 22 and 23 of the Statute.

**COUNT 3:**

By the acts or omissions described in paragraphs 5.1 to 7.15 and more specifically in the paragraphs referred to below:

**HASSAN NGEZE:** - pursuant to Article 6(1), according to paragraphs: 5.1, 5.7, 5.9, 5.10, 5.11, 5.16, 5.19, 5.23, 6.15, 6.16, 7.1, 7.7, 7.8, 7.12, 7.13, 7.14, 7.15

- pursuant to Article 6(3), according to paragraphs: 7.1, 7.3, 7.4, 7.6, 7.11, 7.12, 7.13, 7.14, 7.15

is responsible for killing and causing 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, and thereby committed **COMPLICITY IN GENOCIDE**, a crime stipulated in Article 2(3)(e) of the Statute of the Tribunal, for which they are individually responsible pursuant to Article 6 and which is punishable in reference to Articles 22 and 23 of the Statute.

**COUNT 5:**

By acts or omissions described in paragraphs 5.1 to 7.15, and more specifically in the paragraphs referred to below:

**HASSAN NGEZE:** - pursuant to Article 6(1), according to paragraphs: 5.1, 5.23, 5.26, 7.6, 7.7, 7.8, 7.9, 7.11, 7.13, 7.14, 7.15

- pursuant to Article 6(3), according to paragraphs: 5.1, 6.15, 6.17, 6.18, 6.19, 7.6, 7.7, 7.8, 7.9, 7.11, 7.13, 7.14, 7.15

is responsible for the **extermination** of persons as part of a widespread and systematic attack against a civilian population on political, ethnic or racial grounds, and thereby committed a

**CRIME AGAINST HUMANITY**, a crime stipulated in Article 3(b) of the Statute of the Tribunal, for which they are individually responsible pursuant to Article 6 of the Statute and which is punishable in reference to Articles 22 and 23 of the Statute.

**COUNT 6:**

By acts or omissions described in paragraphs 5.1 to 7.15, and more specifically in the paragraphs referred to below:

**HASSAN NGEZE:** - pursuant to Article 6(1), according to paragraphs:  
5.23, 5.24, 5.26, 6.11, 6.17, 6.18, 6.19, 7.13, 7.14, 7.15

- pursuant to Article 6(3), according to paragraphs:  
5.1, 5.22, 5.23, 5.24, 5.25, 5.26, 6.7, 6.8, 6.9, 6.10,  
6.11, 6.17, 6.18, 6.19, 7.13, 7.14, 7.15

is responsible for the **persecution** on political, racial and religious grounds as part of a widespread and systematic attack against a civilian, and thereby committed a **CRIME AGAINST HUMANITY**, a crime stipulated in Article 3 (h) of the Statute of the Tribunal, for which they are individually responsible pursuant to Article 6 of the Statute and which is punishable in reference to Articles 22 and 23 of the Statute.

**COUNT 7:**

By acts or omissions described in paragraphs 5.1 to 7.15, and more specifically in the paragraphs referred to below:

**HASSAN NGEZE:** - pursuant to Article 6 (1), according to paragraphs:  
5.1, 5.23, 5.25, 5.26, 6.16, 7.1, 7.3, 7.4, 7.5, 7.6, 7.8, 7.11, 7.13, 7.14, 7.15.

- pursuant to Article 6 (3), according to paragraphs:  
5.1, 5.25, 6.15, 6.17, 6.18, 6.19, 7.1, 7.3, 7.4, 7.5, 7.6, 7.8,  
7.10, 7.11, 7.12, 7.13, 7.14, 7.15.

is responsible for the **extermination** of persons as part of a widespread and systematic attack against a civilian population on political, ethnic or racial grounds, and thereby committed a **CRIME AGAINST HUMANITY**, a crime stipulated in Article 3(b) of the Statute of the Tribunal, for which he is individually responsible pursuant to Article 6 of the Statute and which is punishable in reference to Articles 22 and 23 of the Statute.

10 November 1999  
Kigali

For the Prosecutor  
(signed)

N. Sankara Menon  
Senior Trial Attorney