

ICTR-01-76-1
10-05-2004
(1515- 1503)

1515
Ivan

INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

Case No. ICTR-2001-76-1

THE PROSECUTOR

AGAINST

Aloys SIMBA

2004 MAY 10 P 4:00
JUDICIAL RECORDS
RECEIVED

AMENDED INDICTMENT
PURSUANT TO 6 May 2004 Decision

- 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:

Aloys SIMBA

With:

1. **GENOCIDE**, or in the alternative
2. **COMPLICITY in GENOCIDE**
3. **EXTERMINATION as a CRIME AGAINST HUMANITY** and
4. **MURDER as a crime AGAINST HUMANITY**

Offences stipulated in Article 2 and 3 of the Statute of the Tribunal, as set forth below:

II. **THE ACCUSED**

Aloys SIMBA was born on 28 February 1938 in Musebeya commune, Gikongoro prefecture, in the Republic of Rwanda. At the time of the events referred to in this indictment, Aloys SIMBA was a retired Lt. Colonel of the Forces Armées du Rwanda. After retiring from the Army in December 1988, was elected as a Député in the National Assembly where he served from 1989 - 1993. Aloys SIMBA was the president of MRND in Gikongoro prefecture from 5 July 1991 - 12 September 1993. He was designated by the Minister of Defence of the interim government as Conseiller of the civil defense for Gikongoro and Butare prefectures from mid- May 1994.

III. CHARGES, including a CONCISE STATEMENT OF FACTS:

Count 1: Genocide

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Aloys SIMBA** with **GENOCIDE**, a crime stipulated in Article 2(3)(a) and 2(2)(a) and (b) of the Statute, in that on or between the dates of 7 April 1994 and 30 May 1994 in Gikongoro and Butare prefectures, Rwanda, **Aloys SIMBA** was responsible for killing or causing serious bodily harm to members of the Tutsi population, with intent to destroy, in whole or in part, a racial or ethnic group.

Pursuant to Article 6(1) of the Statute: by virtue of his affirmative acts in planning, instigating, ordering, committing or otherwise aiding and abetting in the planning, preparation or execution of the crime charged, in concert with others as part of a joint criminal enterprise.

and /or

Pursuant to Article 6(3) of the Statute: by virtue of his actual and constructive knowledge of the acts and omissions of *Interahamwe*, militiamen and civilians acting under his authority, 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 preparation and execution of the crime charged.

Or alternatively,

Count 2: Complicity In Genocide:

The Prosecutor of the International Criminal Tribunal for Rwanda charges Aloys **SIMBA** with **COMPLICITY** in **GENOCIDE** a crime stipulated in Article 2(3)(e) and 2(2) (a) and (b) of the Statute, in that on or between the dates of 7 April 1994 and 30 May 1994 in Gikongoro and Butare prefectures, Aloys **SIMBA** 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.

Pursuant to Article 6(1) of the Statute: by virtue of his acts in planning, instigating, ordering, committing, or otherwise aiding and abetting the planning, preparation or execution of the crime charged, in concert with others as part of a joint criminal enterprise.

1. Between 1 January and 31 December 1994, Rwandan nationals were severally identified according to the following ethnic or racial classifications: Tutsi, Hutu and Twa.
2. The victims referred to in this indictment were Tutsi and moderate Hutu civilians from Gikongoro and Butare Prefectures, and other civilians who sought refuge in Gikongoro and Butare prefectures.

Concise Statements of Fact For Counts 1 And 2:

3. **Aloys SIMBA** was a retired Lt. Colonel of the Rwandan Armed Forces (FAR). However, during the events described in this indictment, **Aloys SIMBA** conducted himself as if he

were still in active service. In April and May 1994 **Aloys SIMBA** wore military uniform in public. On occasion, he rode in military vehicles.

4. As military and political leader in his community, in January 1993, **Aloys SIMBA** directed a rally against the Arusha Accords in the town of Gikongoro while other MRND and CDR leaders were directing violence elsewhere in the country to block the peace process.
5. As a high ranking military officer, **Aloys SIMBA**, was not subordinate to the prefect in the same way as civilian leaders.
6. Between April and July 1994, **Aloys SIMBA** co-chaired prefectural security meetings in Gikongoro prefecture with **Laurent BUCYIBARUTA**.
7. **Aloys SIMBA** was a Député in the Rwandan parliament and a well-known politician in Gikongoro prefecture.
8. **Aloys SIMBA** also derived authority from his close association with President Habyarimana. The history of Rwanda as taught in schools, from around 1975 through the 1980s, portrayed him as a national hero, who had helped bring President Habyarimana to power in 1973.
9. Gikongoro was one of the poorest prefectures of Rwanda and **Aloys SIMBA** was one of its wealthiest citizens.
10. **Aloys SIMBA** had de facto command and control over soldiers, gendarmes, reservists, interahamwe militiamen and Hutu civilians in Gikongoro prefecture and parts of Butare prefecture. His de facto power was confirmed by the Interim Government when the Ministry of Defence appointed him 'conseiller' of civil defence for Gikongoro and Butare prefectures, in May 1994.
11. **Aloys SIMBA** had access to the scarce commodity of fuel. This gave him additional power in the Musebeya commune.
12. **Aloys SIMBA** had prepared for the genocide in Gikongoro and Butare for at least a year prior to 1994.
13. At a public rally in Kirambi Market, Rukondo Commune, in April 1994, a few days before the death of President Habyarimana, **Aloys SIMBA** raised funds in order to purchase weapons to fight the "inyenzi". A substantial amount of money was collected.
14. In preparing and planning the massacres, which occurred in Gikongoro and Butare prefectures in April and May 1994, **Aloys SIMBA** acted in concert with:

Faustin SEBUHURA, former Gendarmerie Captain, stationed in Gikongoro;

Laurent BUCYIBARUTA, former Prefet of Gikongoro;
Damien BINIGA, former Sous-Prefet of Munini sous prefecture, Gikongoro;
Denys KAMODOKA, former Kitabi tea factory director, Gikongoro;
Juvenal NDABARINZI, former Mata tea factory director, Gokongoro;
Lt. Col RWAMANYA Augustin, former officer in charge of Logistics for the ex- FAR;
Joachim HATEGEKIMANA, former Sous-Prefet of Kaduha, sous prefecture Gikongoro;
Charles MUNYANEZA, former Bourgmestre of Kinyamakara commune; and
OTHERS not known to the Prosecution.

15. **Aloys SIMBA** and all or some of the above met regularly between 1991 and June 1994 to plan the genocide at various locations including, the shop of **Israel NSENGIYUMVA** and the bar of **Landoauld KARAMAGE**, Gasarenda commercial centre, Mudasomwa commune and at the gendarmerie barracks, Gikongoro town amongst other places. More specifically, during the months of April and May 1994 some or all of the above named persons would meet to pass on their instructions to the leading Interahamwe, prior to attacks. They would meet after the attacks for debriefings and celebrations.
16. As part of the planning and preparation of the genocide, in the period from March 1993 – April 1994, at CIPEP in Gikongoro, **Aloys SIMBA** with others participated in the recruitment and training of Hutu militiamen, the acquisition and distribution of weapons, and instigated others to kill the Tusti.
17. **Aloys SIMBA** in the period from March 1993 – April 1994, at CIPEP in Gikongoro, organised, planned and participated in the recruitment and training of the Interahamwe and Hutu youths, who joined in attacks on Kaduha, Kibeho, Murambi and Cyanika, amongst other sites in Gikongoro prefecture and Ruhashya commune in Butare prefecture.
18. More specifically, in or about March 1993, **Aloys SIMBA** together with **Prefet Laurent BUCYIBARUTA** and **Captain Faustin SEBUHURA** trained the trainers of the militia and initiated a census of all Hutu and Tutsi in the prefecture. As a result of **SIMBA's** instructions young Hutu men were recruited from various communes in Gikongoro prefecture and received military training in Nyungwe forest and other places. Former soldiers, communal policemen and others not known to the Prosecution conducted the training. In particular:
 - a) In March 1993, **Aloys SIMBA** organised and supervised the training of bourgmestres, councillors and responsables of Gikongoro Prefecture. The training took place at CIPEP in Gikongoro Town. The course for the responsables concluded with them being given two registers in which they were instructed to register the people of the cellules, one for Hutu and one for Tutsi.
 - b) **Aloys SIMBA** established training camps at Kigeme, Nyamagabe commune and in Mbuga, Mudasomwa commune, where militia were instructed.

- c) In January 1994, **Aloys SIMBA** ordered the bourgmestre and conseillers of Kinyamakara commune to select young men to be given military training. These men were then trained in Mwogo valley for three weeks.
19. During the events of April through June 1994, **Aloys SIMBA** armed militiamen and Hutu civilians who committed the massacres, in Gikongoro and Butare prefectures. He distributed firearms to militiamen for the purpose of killing Tutsi, often using the channels of the local administration, distributing to Bourgmestres for distribution to conseillers and responsables. In this matter, he worked with the Gendarmerie **Captain SEBUHURA**.
20. In the week after the death of the President Habyarimana **Aloys SIMBA** brought 3 boxes containing approximately 50 Kalashnikov rifles to Kinyamakara communal offices. The weapons were off-loaded from **Aloys SIMBA's** vehicle by soldiers and he ordered communal policemen and soldiers to assemble and distribute them. The weapons were distributed to militiamen and those Hutu civilians who had been trained to use rifles. These weapons were used immediately to kill unarmed Tutsi civilians in their homes and at shops at Rugongwe trading centre, Ruhashya commune, Butare prefecture.
21. **Aloys SIMBA** also distributed weapons in April 1994 after the death of President Habyarimana, to Rukondo communal offices. Approximately 40 AK 47 rifles were distributed through the Bourgmestre to conseillers who then distributed them to Hutu civilians.
22. In addition to distributing weapons, **Aloys SIMBA** sought to import arms as early as April 1993. Together with **Prefet BUCYIBARUTA, Capt SEBUHURA, Bourgmestre SEMUKWAVU**, local businessmen and others, he raised funds for the purchase of weapons and ammunition for the *interahamwe* in April and/or May 1994 in Gikongoro prefecture. It was **Aloys SIMBA** who received this money.
23. **Aloys SIMBA** committed the acts described in this indictment with the intent to destroy in whole or in part the Tutsi ethnic group. He publicly expressed his intent to destroy the Tutsis and incited others to do likewise in various rallies and meetings in Gikongoro and Butare prefectures before and during the events of April to July 1994.
- a) In April 1993, after a census of Tutsi and Hutu in the prefectures, at a public rally in the market in Gikongoro town, **Aloys SIMBA** said *'Do you see how many Tutsi there are in Gikongoro now? It would be like a lorry full of sand colliding with a small car.'*
- b) In April 1994, a few days before the death of President Habyarimana, at a public rally in Kirambi Market, Rukondo Commune **Aloys SIMBA** said *'You Banyarwanda do not know what is coming. Everyone of you should get armed and should always walk with your traditional arms. I want you to remember*

what happened in the year 1959. Look at my bald head, I was dragged on the ground by the inyenzi. It is no longer a question of staying in your homes. You must shut the doors so that the cats do not enter your houses. You must also search for the snakes in the bushes and hit them on the head. For those who find the situation difficult, I advise you to flee. Whoever remains in Rwanda will see for himself how the elephants will fight'

- c) On or about 9 April 1994, at the Rugogwe Trading Centre, where he was accompanied by 16 soldiers, **Aloys SIMBA** addressing a group of interahamwe militia, said that the Tutsis were the enemy and that they all should be killed.
- d) On or about 9 April 1994 at the Gasarenda Trading Centre, after having been informed about the killings in the area, Aloys SIMBA said to the interahamwe 'There are still many Tutsis in Mudasomwa Commune who you have not touched. There are very many Tutsis at Kibeho, and although it is not your commune you must go and assist your colleagues there.'
- e) In April 1994, **Aloys SIMBA** addressed a gathering at Nzega Centre, Gasaka sector, Nyamagabe commune, where he asked why the population was idling and not behaving like their counter parts in other areas.
- f) On or about 26 April 1994, at a meeting of local authorities in Gikongoro town, presided over by **Aloys SIMBA**, the Bourgmestre of Muko commune informed the participants that there were still 160 Tutsi seeking refuge at his office. In response, **Aloys SIMBA** together with Sous-prefet **MUSHENGUZI** and Captain **SEBUHURA** said that some people in the Prefecture seemed to be ignoring the fact that the President had died, and were idling in their communes.
- g) On or about 22 May 1994, **Aloys SIMBA** attended the inauguration ceremony of Mathieu Ndahimana as Bourgmestre of Ntyazo commune, Butare prefectures. He urged the participants not to spare a single Tutsi saying when you are killing rats in your home, you do not spare even the pregnant ones. **Aloys SIMBA** described the relationship between Hutu and Tutsi as that between cat and rat. Until this time many women, girls, infirm and elderly had been spared, but shortly after, and as a result of his speech, all surviving Tutsi in the area were killed.

24. **Aloys SIMBA's** intent to destroy and incite others to destroy the Tutsi, is highlighted by his actions in Musebeya commune between April and June 1994:

- a) In April 1994, **Aloys SIMBA** returned to Musebeya dressed in uniform and in an MRND car saying *'the situation is dangerous. Even I have been recalled to military service to help hunt Tutsi'*

- b) Prior to **Aloys SIMBA's** arrival in Musebeya the Bourgmestre, Higirot Viateur carried out directives to keep order and prevent attacks. On his arrival **Aloys SIMBA** countermanded Higirot's directives and led the genocide in Musebeya and the wider area.
- c) In June 1994, **Aloys SIMBA** incited Hutu to 'work' and he distributed money to young men in payment for their assaults on Tutsi. Administrators did not need to be told 'kill Tutsi' to understand that this was the approved policy.
25. On or about the morning of 7 April 1994, **Juvenal NDABARINZE** arrived at Gasarendu Centre in Mudasomwa commune to meet with other organizers of the killings, including **Aloys SIMBA**, **Denis KAMODOKA**, and **Damien BINIGA**. The statement issued by **KAMODOKA** to incite the killing of the Tutsi population explained the purpose of the meeting. On the afternoon of the same day, traditional weapons brought by **Colonel RWAMANYA** were distributed to the militia in the presence of **Juvenal NDABARINZE**.
26. Between 7 April 1994 and 30 May 1994, thousands of Tutsi and moderate Hutu civilians were attacked in their homes by militiamen. As a result, they were assembled by the local authorities, or fled to, sites where they believed that they would be safe, including amongst other sites in Gikongoro and Butare prefectures:
- Kaduha parish and health centre, Karambu commune, Gikongoro
 Murambi Technical college, Nyamagabo commune, Gikongoro
 Gashoba Hill, Ruhashya commune, Butare
 Rugongwe Trading centre, Ruhashya commune Butare
 Cyanika parish, Karama commune, Gikongoro
 Kibeho parish, Mubuga commune, Gikongoro
- Massacre at Kaduha Parish:**
27. Starting from 8 April 1994, as a result of the campaign of burning and looting Tutsi homes, thousands of Tutsi civilians fled from neighbouring communes to Kaduha parish, in Karambo commune, Gikongoro prefecture.
28. On or about the 19 and 20 April **Aloys SIMBA** ordered the displaced children, women and men, at Kaduha parish and health centre to dig their own graves.
29. On or about 19 April 1994, **Aloys SIMBA** and **Joachim HATEGEKIMANA**, addressed Hutus gathered at Kaduha trading centre. **Aloys SIMBA** announced that he would go to Gikongoro to collect guns and ammunition and would distribute them on his return.

30. On or about the 20 April 1994, **Aloys SIMBA** returned to Kaduha with a lorry carrying soldiers, guns, and ammunition to launch the first major firearm attack on Kaduha parish. These weapons were stored in the office of the Sous-prefecture.
31. On or about 20 April 1994, **Aloys SIMBA** announced to the gathering at the Kaduha trading centre that there was now no other way but for the Hutus to kill all the Tutsis. He instructed soldiers to begin shooting Tutsi refugees at 03.00 hours and ordered civilian attackers to follow and kill any surviving Tutsi. He also instructed soldiers to shoot those displaying cowardice during the attack. **Aloys SIMBA** deployed soldiers around Kaduha parish.
32. As a result of the above incitement by **Aloys SIMBA**, at about 05.00 hours, a large group of attackers comprised of soldiers, gendarmes, Interahamwe, reservists or former soldiers, militiamen and Hutu civilians attacked Kaduha parish using guns, grenades, machetes, clubs and other traditional weapons. Several soldiers and National Police were camouflaged in civilian clothing while carrying guns. The attack continued until about 17.00 hours. During the attack, which lasted the whole day, **Aloys SIMBA** replenished the ammunition of the attackers on several occasions.
33. During the attack on Kaduha parish, **BUCYIBARUTA**, transported a group of gendarmes to the massacre site to reinforce the attackers' efforts. The gendarmes group joined the attackers and participated in the killings.
34. As a result of the attack, thousands of men, women and children were massacred at Kaduha parish, Gikongoro prefecture on or around 21 April 1994. A majority of the victims were Tutsi. Many of the dead were buried between 23 April and 26 April 1994 in and around Kaduha.

Massacre at Murambi Technical School:

35. On or about 10 April 1994, **BUCYIBARUTA** held a meeting in the Nyamagabe Commune Office attended by Colonel **Aloys SIMBA**, Captain **Faustin SEBUHURA**, Sous-Préfet **BINIGA**, Bourgmestre of Nyamagabe Commune **SEMAKWAVU**, the representative of the MRND political party, Conseillers of Sectors and other officials as well as ordinary members of the population.
36. During the meeting, **BUCYIBARUTA** said that he did not "want to hear any talk about a single Tutsi who did not go to Murambi. Even those who have taken refuge in the churches must go to Murambi". He explained that "the Tutsis have hatched a plot to kill the Hutus, therefore, the Hutus must start the killing first"
37. At the same meeting **Aloys SIMBA** asked **SEBUHURA** to identify the number of Tutsi gendarmes in his force and **SEMAKWAVU** to identify all young men who were suitable for military training.

38. On or about 11 April 1994, thousands of Tutsi civilians fled their homes and gathered in Gikongoro Diocese. Following the orders of **BUCYIBARUTA**, accompanied by **SEBUHURA** and the then Bourgmestre of Nyamagabe Commune, **SEMAKWAVU**, gendarmes escorted the refugees to Murambi technical school.
39. By 20 April 1994, around 40,000 mostly Tutsi civilians had taken refuge in Murambi technical school. They were surrounded by roadblocks to prevent their escape and were kept under conditions calculated to bring about their destruction. They were denied access to food and water. As a result, some died due to hunger and disease.
40. On or around 19 and 20 April 1994, **Aloys SIMBA**, together with Gendarmerie Captain **SEBUHURA**, Prefet **BUCYIBARUTA**, Sous-prefet **BINIGA** and Bourgmestre **MUNYANEZA** amongst others, organised and ordered government armed forces, militiamen and Hutu civilians to surround and attack the displaced persons who had taken refuge at Murambi technical school. At a meeting, at the gendarmerie barracks, immediately prior to the attack **Aloys SIMBA** urged Captain **SEBUHURA**, prefet **BUCYIBARUTA** and Sous-prefet **BINIGA** to attack the displaced Tutsi at Murambi technical school.
41. On or about the afternoon of 20 April 1994, **BUCYIBARUTA** met with Captain **SEBUHURA** in the gendarmes' Brigade. He informed **SEBUHURA** about the plan to attack Murambi in the early hours of 21 April 1994. Furthermore, he ordered him to release his gendarmes, at about 01.00 hours on 21 April 1994, to join the Interahamwe in the attack on Murambi and make sure that no Tutsi escaped the massacre.
42. **Aloys SIMBA** came to Murambi dressed in military uniform. He arrived in a truck loaded with machetes which he subsequently distributed to the Interahamwe.
43. At about 03.00 hours, on 21 April 1994, following the orders of **BUCYIBARUTA**, a large group of attackers comprised of soldiers, gendarmes, Interahamwe and armed civilians encircled and attacked Murambi using heavy guns, arms, grenades, machetes, clubs and other traditional weapons. Both **Laurent BUCYIBARUTA** and **Faustin SEBUHURA** fired at the refugees.
44. The attack on Murambi continued until about 07.00 hours. Thousands of Tutsi civilians were massacred as a result of this attack and their properties were looted. During the attack, **Aloys SIMBA** delivered and supplied machetes to the attackers and rewarded them after the attack.
45. At about 07.00 hours on 21 April 1994, **Laurent BUCYIBARUTA**, **Aloys SIMBA** and **Faustin SEBUHURA** examined the massacre site. While **Aloys SIMBA** expressed his satisfaction at the results of the killing campaign, **Laurent BUCYIBARUTA** rewarded those who were active in the killing by giving them cows belonging to the victims.
46. As a result of this attack, thousands of men, women and children were massacred at Murambi technical school on or about 21 April 1994. The majority of the victims were

Tutsi. The victims were buried in mass graves dug by prisoners from Gikongoro prison shortly after the attack. The mass burial took approximately one week.

Massacre In Ruhashya Commune:

47. Sometime in April 1994, after the death of the President, **Aloys SIMBA** organised and ordered two major attacks by government armed forces, militiamen and Hutu civilians on displaced Tutsi civilians in Ruhashya commune, Butare prefecture. The first attack was against the displaced people at Rugogwe trading centre and the second attack was against displaced people at Gashoba Hill.
48. **Aloys SIMBA** armed and transported attackers for the purpose of the attacks. He transported interahamwe to Muhange Bridge, on the border between Kinyamakara (Gikongoro prefecture) and Ruhashya (Butare prefecture). From here the interahamwe pursued and killed fleeing displaced people in the communes of Ruhashaya, Rusatira and Nyabisindu, Butare prefecture.
49. **Aloys SIMBA**, together with his escort, participated in these killings by shooting the Tutsi refugees who tried to flee from the interahamwe. In these attacks, many Tutsi men, women and children were killed. During the killings, **Aloys SIMBA** gave instructions and encouragements to the other killers.
50. Prior to the attack on Rugongwe Trading Centre, towards the end of March 1994, **Aloys SIMBA** brought weapons, including long and short guns, to Kinyamakara communal offices, where they were stored. He distributed weapons to the attackers and gave clear instructions on the methods and manner of the attack.
51. **Aloys SIMBA**, armed and dressed in military uniform, led more than a thousand men during the attacks in Ruhashya commune. Some armed local civilians were transported in vehicles belonging to the Bourgmestre, others in a military pickup provided by **Aloys SIMBA**. **Aloys SIMBA** was present at all times, supervising and giving the orders to attack.
52. As a result of the attacks hundreds of men women and children were massacred at Rugongwe and Gashoba in Ruhashya commune. Most of the victims were Tutsi.

Massacre at Cyanika Parish:

53. **Aloys SIMBA** organised and ordered government armed forces, militiamen and Hutu civilians to attack Cyanika parish on or about 21 April 1994. This attack occurred immediately after the attack on Murambi technical school. As a result of this attack, hundreds of displaced men, women and children were massacred at Cyanika parish. Most of the victims were Tutsi.
54. **Aloys SIMBA** supervised and coordinated the massacre of Tutsis in Cyanika and ordered the interahamwe to cut off all escape routes of any one who tried to escape.

Massacre at Kibeho Parish:

55. **Aloys SIMBA** and/or persons trained, armed and instructed by him participated in one or more of a series of massacres during April and May 1994 at Kibeho parish, college, primary school and hospital. This included an attack by Government armed forces, militiamen and Hutu civilians on thousands of displaced people at the parish.
56. On or about 9 April 1994, Aloys SIMBA told the interahamwe in Gasarenda centre to go to Kibeho and help their colleagues there to kill Tutsis.
57. **Aloys SIMBA** distributed weapons to the interahamwe, notably NGOGA, GAKURU, NKUSI, BAKUNDUKIZE Innocent, who participated in the attack on the Kibeho parish.
58. Aloys Simba intended to commit the acts above, this intent being shared by all other individuals involved in the crimes perpetrated.

Count 3: Extermination as a CRIME AGAINST HUMANITY:

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Aloys SIMBA** with **Extermination as a CRIME AGAINST HUMANITY**, as stipulated in Article 3(b) of the Statute in that on or between the dates of 6 April 1994 and 30 May 1994 in Gikongoro and Butare prefectures, Rwanda. **Aloys SIMBA** was responsible for killing persons, or causing persons to be killed, during mass killing events as part of a widespread or systematic attack against a civilian population on political, ethnic or racial grounds.

Pursuant to Article 6(1) of the Statute: by virtue of his acts in planning, instigating, ordering, committing, or otherwise aiding and abetting the planning, preparation or execution of the crime charged, in concert with others as part of a joint criminal enterprise.
and/or,

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 soldiers, gendarmes, communal Police, *interahamwe*, civilian militia or civilians acting under his authority 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.

Concise Statements of Fact For Count 3:

59. Paragraphs 1 through 58 above are incorporated by reference herein.

60. Between 6 April 1994 and 17 July 1994, there were throughout Rwanda widespread or systematic attacks directed against a civilian population on political, ethnic or racial grounds. *Interahamwe* militias engaged in a campaign of violence against Rwanda's civilian Tutsi population and against Hutu civilians perceived to be politically opposed to

the MRND political party. Hundreds of thousands of civilian Tutsi men, women and children and "moderate" Hutus were killed.

61. Between 7 April 1994 and 30 May 1994, **Aloys SIMBA** planned and participated in massacres that occurred in Gikongoro and Butare prefectures, including at Kaduha parish and health centre, Murambi technical school, Ruhashya commune, Cyanika parish and Kibeho parish. These massacres were part of a widespread and systematic attack both within the two prefectures and within Rwanda.
62. **Aloys SIMBA** provided training and weapons to interahamwe, militiamen and others who participated in the attacks. He facilitated the transportation of soldiers, interahamwe, militiamen and others to the above named sites for the purpose of carrying out the attacks.
63. The victims of the massacres were civilians and **Aloys SIMBA** was aware that the victims of the massacres were civilians. He planned and executed the massacres, on the basis of the ethnicity of the victims, namely that they were Tutsi or the political persuasion of the victims, namely that they were in opposition to the MRND party.
64. **Aloys SIMBA** and/ or his subordinates participated directly in the killing of civilians at the massacre sites and elsewhere in Gikongoro and Butare prefectures.
65. These acts were unlawful and intentional.

Count 4: Murder as a Crime Against Humanity

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Aloys SIMBA** with **Murder as a Crime Against Humanity**, as stipulated in Article 3(a) of the Statute in that Aloys SIMBA was responsible for murder, as part of a widespread or systematic attack against a civilian population on political, ethnic or racial grounds.

Pursuant to Article 6(1) of the Statute: by virtue of his affirmative acts in planning, instigating, ordering, committing or otherwise aiding and abetting in the planning, preparation or execution of the crime charged, in concert with others as part joint criminal enterprise.

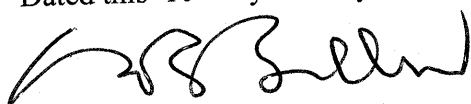
Concise Statements of Fact For Count 4:

66. Paragraphs 1 through 65 above are incorporated by reference herein.
67. On or about 20 April 1994, at the barracks of the Gendarmerie in Gikongoro Town, Aloys SIMBA ordered and supervised the killing of a Tutsi gendarme, NDAGIJIMANA.
68. The Killing of the Tutsi gendarme was part of the campaign against Tutsi civilians.

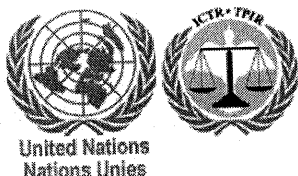
69. On or about 21 April 1994, at approximately mid-day, in the vicinity of Kaduha Trading Centre, Karambo Commune, Gikongoro prefecture **Aloys SIMBA** shot and killed GASANA, Substitut du procureur of Gikongoro prefecture.
70. At the same time and place **Aloys SIMBA** shot and killed Monique MUNYANA, a primary school teacher of Gikongoro prefecture and MUNYANA's child.

The acts and omissions of Aloys SIMBA detailed herein are punishable in reference to articles 22 and 23 of the Statute of the Tribunal.

Dated this 10th day of May 2004



Hassan Bubacar JALLOW
The Prosecutor



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:	☒ Trial Chamber I N. M. Diallo	☐ Trial Chamber II R. N. Kouambo	☐ Trial Chamber III C. K. Hometowu	☐ Appeals Chamber / Arusha F. A. Talon
	☐ Chief, CMS J.-P. Fomété	☐ Deputy Chief, CMS M. Diop	☐ Chief, JPU, CMS K. K. A. Afande	☐ Appeals Chamber / The Hague R. Burriss
From:	☐ Chamber (names)	☐ Defence (names)	☒ Prosecutor's Office AMINA IBRAHIM (names)	☐ Other: (names)
	Case Name: The Prosecutor vs. Aloys SIMBA			Case Number: ICTR-2001-76-1
Dates:	Transmitted: 10.05.04		Document's date: 10.05.04	
No. of Pages:	Original Language:		☒ English ☒ French ☐ Kinyarwanda	
Title of Document:	Amended Indictment following 6 May 2004 Decision of Trial Chamber I			
Classification Level:		TRIM Document Type:		
☐ Strictly Confidential / Under Seal		☐ Indictment ☐ Warrant ☐ Correspondence ☐ Submission from non-parties		
☐ Confidential		☐ Decision ☐ Affidavit ☐ Notice of Appeal ☐ Submission from parties		
☒ Public		☐ Disclosure ☐ Order ☐ Appeal Book ☐ Accused particulars		
		☐ Judgement ☒ Motion ☐ Book of Authorities		

II - TRANSLATION STATUS ON THE FILING DATE (To be completed by the Chambers / Filing Party)

CMS SHALL take necessary action regarding translation.

- ☐ Filing Party hereby submits only the original, and **will not submit** any translated version.
☐ Reference material is provided in annex to facilitate translation.

Target Language(s):

☐ English

☐ French

☐ Kinyarwanda

CMS SHALL NOT take any action regarding translation.

- ☐ Filing Party hereby submits **BOTH the original and the translated version** for filing, as follows:

Original	in	☐ English	☐ French	☐ Kinyarwanda
Translation	in	☐ English	☐ French	☐ Kinyarwanda

CMS SHALL NOT take any action regarding translation.

- ☐ Filing Party **will be submitting the translated version(s)** in due course in the following language(s):
☐ English ☐ French ☐ Kinyarwanda

KINDLY FILL IN THE BOXES BELOW

- ☐ **The OTP** is over-seeing translation.

The document is submitted for translation to:

- ☐ The Language Services Section of the ICTR / Arusha.
☐ The Language Services Section of the ICTR / The Hague.
☐ An accredited service for translation; see details below:

Name of contact person:

Name of service:

Address:

E-mail / Tel. / Fax:

- ☐ **DEFENCE** is over-seeing 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)

☐ Top priority	COMMENTS	☐ Required date:
☐ Urgent		☐ Hearing date:
☐ Normal		☐ Other deadlines: