

32637

CONFIDENTIAL



International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

OR: ENG

TRIAL CHAMBER I

Before: Judge Navanethem Pillay
Judge Erik Møse
Judge Asoka de Zoysa Gunawardana

Registrar: Adama Dieng

Date: 3 June 2003

JUDICIAL RECORDS/ARCHIVES
ICTR
2003 JUN -3 P 3:00

THE PROSECUTOR
v.
FERDINAND NAHIMANA
HASSAN NGEZE
JEAN BOSCO BARAYAGWIZA
(Case No. ICTR-99-52-T)

**DECISION ON THE PROSECUTION'S APPLICATION TO ADMIT TRANSLATIONS
OF RTLM BROADCASTS AND KANGURA ARTICLES**

Office of the Prosecutor:

Mr Stephen Rapp
Ms Simone Monasebian
Ms Charity Kagwi
Mr William Egbe

Counsel for Ferdinand Nahimana

Mr. Jean-Marie Biju-Duval
Ms. Diana Ellis QC

Counsel for Hassan Ngeze

Mr. John Floyd III
Mr. René Martel

Counsel for Jean Bosco Barayagwiza

Mr. Giacomo Barletta Caldarera

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (“the Tribunal”);

SITTING as Trial Chamber I, composed of Judge Navanethem Pillay, presiding, Judge Erik Møse, and Judge Asoka de Zoysa Gunawardana (“the Chamber”);

BEING SEIZED of an application by the Prosecution to admit translations of RTLM broadcasts and Kangura articles, filed on 12 May 2003 (“the application”);

NOTING the Defence for Nahimana opposes the application but requests two additional weeks for submission of its response on the ground that the translation of RTLM broadcasts alone comprises about 800 pages of French and English text and they will need time to read and identify extracts already used by the Prosecution in order to form an opinion as to the need to object to the motion;

NOTING THAT the Prosecution and the Defence for Hassan Ngeze have signed a stipulation, filed on 19 May, 2003 bearing a revised Index No. 2 which, upon admission, will record all referenced articles/excerpts, except two, in both English and French;

CONSIDERING THAT, in the Stipulation, both parties agree that one of the proposed exhibits: P115/6-59/A included several annotations in italics and so stipulate that these annotations be redacted as indicated;

NOTING THAT the Ngeze Defence maintains its right to challenge meanings in the translations, in the same manner as it has challenged the other translations and interpretations, from the Language and Conference Section and to support these arguments with appropriate authority;

RECALLING that at the closure of the Prosecution case, the Chamber rendered an oral decision on 12 July 2003, to admit translations of RTLM and Kangura Journals into evidence in respect of material already referred to in the courtroom;¹

NOTING that all translations offered by the Prosecution are articles that have already been tendered as evidence in Kinyarwanda, in whole or part, and that the Prosecution merely seeks to have the translations admitted for purposes of completing the record;

NOTING that of the 42 translations tendered by the Prosecution eight (8) do not fall into the category of material already referred to in the courtroom, but had been made

¹ Transcript 12 July 2003, p. 185



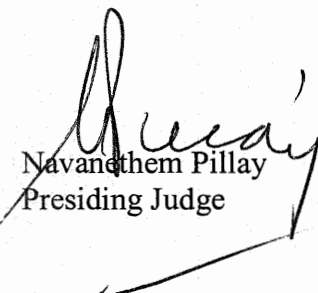
available to the Defence in their original cassette form, and no specific objections have been raised to the receipt of these eight translations;


HEREBY DECIDES the motion solely upon brief, pursuant to Rule 73 of the Rules of Procedure and Evidence.

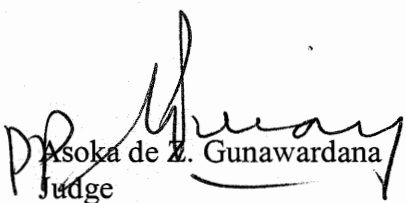
FOR THE FOREGOING REASONS, THE CHAMBER

1. **ADMITS** the RTLM and Kangura Journal translations to complete the record of the evidence already heard by the Trial Chamber.
2. **DIRECTS** the Registry to mark the documents as exhibits in accordance with Index 1 (RTLM) and Revised Index 2 (KANGURA) as annexed hereto.

Arusha, 3 June 2003


Navanethem Pillay
Presiding Judge


Erik Møse
Judge


Asoka de Z. Gunawardana
Judge

The Seal of the Tribunal

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INDEX NO. 1

PROPOSED EXHIBIT N°	FRENCH	ENGLISH	EXCERPT IN EVIDENCE	CITED BY CHRETIEN	OTHER IN EVIDENCE
P36/14G	K0259139		X	X	
P36/23C	K0249406				
P36/34B		K0259331		X	
P36/34C	K0249467			X	
P36/44E	K0258264		X	X	
P36/53E	K0258290		X	X	
P36/54E	K0249596		X	X	
P36/64C	K0249062			X	
P36/73E	K0249743		X	X	
P103/11C	K0235676			X	X
P103/16D		K0238685	X	X	
P103/16E	K0238651		X	X	
P103/47C	K0237778				X
P103/58B		K0236570		X	
P103/58C-R	K0233322			X	X
P103/65C	K0264687				X
P103/70B-R		K0263118	X	X	X
P103/70C	K0258583		X	X	X
P103/84B		K0248176		X	X
P103/97C	K0226840				
P103/120C	K0248484				
P103/130C	K0247927			X	
P103/170C	K0249879			X	
P103/188C	K0263378			X	X
P103/192G	K0258873		X	X	X
P103/198C	K0230533				
P103/205B		K0260705		X	
P103/205C	K0262457			X	
P103/207E	K0262374		X	X	
P103/214E	K0249642		X	X	
P103/217D		K0260917	X	X	
P103/217E	K0258672		X	X	
P103/249E	K0267579		X	X	
P103/267C	K0248397			X	
P103/295B		K0244819		X	
P103/295C	K0244049			X	
P103/296C	K0263696				
K103/300C	K0248229				
K103/302E	K0260345		X	X	
P103/304C	K0259931				
P103/343C	K0263167				
ID53E	K0244708		X	X	X

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INDEX NO. 2

PROPOSED EXHIBIT N°	ERN	FRENCH	ENGLISH
P115/3i/A	K0034171	X	X
P115/3i/B	K0034178	X	X
P115/55/A	K0037468	X	
P115/6/A	K0151205		X
P115/6/B	K0153358		X
P115/6/C	K0153360		X
P115/19/A	K0150174		X
P115/7/A	K0150452		X
P115/26/A	K0151187		X
P115/46/A	K0151189		X
P115/6/D	K0151201		X
P115/19/B	K0151219		X
P115/28/A	K0151268		X
P115/56/B	K0151336		X
P115/54/A	K0151342		X
P115/12/A	K0151673		X
P115/13/A	K0151976		X
P115/2/A	K0152052		X
P115/4/A	K0152591		X
P115/5/A	K0152595		X
P115/5iA	K0153000		X
P115/3i/C	K0153035		X
P115/10iA	K0153037		X
P115/3/A	K0153180		X
P115/11/A	K0153194		X
P115/4iA	K0153298		X
P115/27/A	K0153347		X
P115/6/E	K0153355		X
P115/5/B	K0153667		X
P115/5/C	K0153697		X
P115/3/A	K0154146	X	X
P115/3/B	K0154148		X
P115/6-59/A	K0157989		X
P115/17/A	K0211602	X	
P115/16/A	K0219084	X	
P115/16/B	K0219088		X

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REVISED INDEX NO. 2

PROPOSED EXHIBIT N°	ERN (FROM CD-ROM)	FRENCH (OR REGISTRY NO. OF PAGES TO INCLUDE)	ENGLISH
P115/3i/A	K0034171	X	X
P115/3i/B	K0034178	X	X
P115/55/A	**	3086bis-3087bis	X
P115/6/A	K0153358	*	X
P115/6/B	K0153360	*	X
P115/19/A	K0150174	8159bis-8157bis	X
P115/7/A	K0150452	8179bis-8178bis	X
P115/26/A	K0151187	8140bis-8139bis	X
P115/46/A	K0151189	8113bis-8107bis	X
P115/6/C	K0151201	8190bis-8181bis	X
P115/19/B	K0151219	8155bis-8150bis	X
P115/28/A	K0151268	8145bis-8141bis	X
P115/56/A	K0151336	8087bis-8078bis	X
P115/54/A	K0151342	8106bis-8088bis	X
P115/12/A	K0151673	*	X
P115/13/A	K0151976	*	X
P115/2/A	K0152052	*	X
P115/4/A	K0152591	*	X
P115/5/A	K0152595	*	X
P115/5i/A	K0153000	*	X
P115/3i/C	K0153035	*	X
P115/10i/A	K0153037	*	X
P115/3i/D	K0153180	*	X
P115/11/A	K0153194	*	X
P115/4i/A	K0153298	*	X
P115/27/A	K0153347	*	X
P115/6/E	K0153355	*	X
P115/5/B	K0153667	*	X
P115/5/C	K0153697	*	X
P115/1/A	K0154146	X	
P115/1/B	K0154148		X
P115/6-59/A ***	K0157989		X
P115/17/A	K0211602	X	
P115/16/A	K0219084	X	
P115/16/B	K0219088		X

* Original Text of Article in French in *Kangura*

** The proposed P115/55/A on CD-ROM to be replaced by French translation disclosed in 2000 that is more complete and legible

*** Annotations in italics to be redacted from exhibit (see attached)

K0157989

32631

Pseudonym:

NGEZ9093

Witness Code: NGEZHAS

27E

Ngeze Hasan RADIO-RTL

Kangura #6, #23, #25, #26, #28, #33, #40, #41, #46, 59 en
anglais de 1990.91.92,93-extrets

DOCUMENT INFORMATION			
Doc Type:	Journal	For Witness Statement:	
Doc Sources:	ICTR	Signature Date:	
Doc Location:	ICTR	Interviewer 1:	
Doc Original No:		Interviewer 2:	
Doc Date:		DOCUMENT CODING:	
Format:	Typewritten	Document code:	NGEZ9093
Original language:	Kinyarwanda	ICTR Number:	
Translation:	English	ERN Number:	
Copy:	Typewritten Englis	Disclosure Code:	NGEZ9093
		Disclosable:	Yes
Past Disclosure---Past Disclosure---Past Disclosure---Past Disclosure			
IN	Code Used	Date	Support
Nahimana	NGEZ9093	15-Dec-99	No
Ngeze	NGEZ9093	15-Dec-99	No

JUDICIAL RECORDS ARCHIVES
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2003 MAY 19 11:01

KANGURA.

K0157990

KEY:

The extracts are written in normal print.

1990:

No 6 December 1990:

Page 8: The 10 commandments:

1. Every Hutu must know that any Tutsi woman, wherever she is, is working for her Tutsi ethnic group. In consequence, every Hutu who does the following is a traitor:
 - who espouses a Tutsi woman
 - who takes a Tutsi woman as a concubine.
 - who takes a Tutsi woman as his secretary or his protegee.
2. Every Hutu must know that our Hutu girls are more worthy and more conscientious in their role as women, wives, and mothers. Are they not pretty, good secretaries and more honest!
3. Hutu women, be vigilant and bring your husbands, brothers and sons to their senses.
4. Every Hutu must know that every Tutsi is dishonest in business. He only aims at the supremacy of his ethnic.

"The night will be told by the one who spent it." (Literal translation of a Rwandan proverb.)

Consequently, any Hutu who does the following is a traitor:

- who makes an alliance with Tutsis in his business.
 - who invests his money or the State's money in a company of a Tutsi;
 - who lends or borrows money from a Tutsi;
 - who gives favors to Tutsis in business (granting importing licenses, banking loans, building plots, State markets...)
5. Strategic posts as well as political, administrative, economical, military, and security ones must be put in hands of Hutus.
 6. The education sector (pupils, students, teachers) must be Hutu in the majority.
 7. The Rwandan Armed Forces must be exclusively Hutu. The experience of the October 1990 war teaches us that. A soldier can't take a Tutsi woman as a wife.
 8. Hutus must stop taking pity on Tutsis.
 9. -The Hutus, wherever they are, must be united, interdependent and worried about the condition of their Hutu brothers.
 - The Hutus of the interior and from outside must constantly look for friends and allies for the Hutu cause, starting by their Bantou brothers.
 - They have to constantly counteract Tutsi propaganda.

- The Hutus must be firm and vigilant against their common enemy Tutsi.

10. The 1959 Social Revolution, the 1961 Referendum, and the Hutu Ideology, must be taught to every Hutu and at all the levels.

Every Hutu must widely diffuse the present ideology.

Any Hutu who will persecute his Hutu brother for having read, diffused and taught this ideology is a traitor.

[REDACTED]

1991:

No 23 October 1991:

Last page:

Colonel Rwendeye's photograph:

Caption: " We will always remember Colonel Rwendeye, who sacrificed himself for the mass, and we will avenge him and his mates."

[REDACTED]

No 25 November 1991:

In the editorial: We Hutus, are now angry.

It is now evident that if that continues like that, the mass can take part in that war in another way because wars are identical.

[REDACTED]

No 26 November 1991:

The cover:

Special: Tutsi, God's race.

- Which arms should we use to vanquish Inyenzi forever? (A machete is drawn in front of this title.)

If the Hutu 1959 Revolution should be brought back, for us to vanquish Inyenzi-Ntutsi.

[REDACTED]

Editorial(page3, 3rd column):

But what we can affirm is that as long as the government does not dare to affirm that we are fighting against Inyenzi constituted of Tutsis and supported by Tutsis all over the world, the war will never come to an end. And the National Armed Forces don't have to search for the enemy in Mutara and in the volcanoes, forgetting that even inside the country, the enemy, where he is, is still persevering, except that now, we have started making plans against the Inkotanyi of the towns, if they do not correct themselves. Their accomplices, who can be found all over the country, especially in the higher posts, will pay for the blood of Hutus who continue to be killed or made infirm by Inyenzi-inkotanyi.

[REDACTED]

Page 15, 2nd column, 2nd and 3rd paragraphs:

Now that it is evident that the Inkotanyi who are attacking us are Tutsis who want to restore the monarchy, if the mass kills the "Virgiles" who support the Inkotanyi, will they deny that they did not irritate us?

... You Rwandans, do you accept that the Rwandan Armed Forces continue to wait for the enemy who will come from Uganda while they left enemies in Kigali and in other towns? The Inkotanyi and the "Virgile" must know that they don't bleed milk, because now we are angry for the blood of Rwandans (citizens and soldiers) who are being killed by Inkotanyi.

[REDACTED]

No 28, December 1991:

Page 15, title: The Tutsis of Central Africa are now in danger since all the Hutus are aware that the minority is "the meat of ravens."

[REDACTED]

1992:

KU157993

No 33 March 1992:

Cover: The bad Hutus are those who divide Rwanda for they want to get satisfied and who forget that the enemy of Hutus is one for all of them.

[REDACTED]

1993:

No 39 January 1993:

Cover: The picture is showing Hutus (CDR) with traditional arms, and saying: "if we do not participate in the government, we will do what you have done too."

[REDACTED]

No 40 February 1993:

Editorial: "Ruhengeri and Byumba were attacked, and the Tutsis drank champagne."

1st column, 1st paragraph:

Hutus must be eager to be happy in the same way. It is said that a wound made by a spear is cured by another hot one (literal translation of a rwandese proverb.)

[REDACTED]

Page 6, last paragraph:

Don't worry: when we will reach our objective of taking power, we will shout and those who must die will die. It will be worse than it has been for the Bagogwe.

[REDACTED]

Last page: Ngeze's photograph:

Caption: "All the families who know that they have sent their children to Inyenzi aiming at exterminating the Rwandan Armed Forces and all the Hutus, will pay for their blood that was destroyed by Inkotanyi."

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KO:57994

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[REDACTED]

No 41 March 1993:

Page 4: Title: "The Inkotanyi are making things worse for the Tutsis as well as for themselves."
2nd column, end of 2nd paragraph and beginning of 3rd paragraph:

Tutsis are funny. When you say to a Tutsi: "the day the Hutus will get angry because of what you are doing to them, they will exterminate you." You say this, just joking. And he replies to you with unexpected anger and sorrow: if you cut them, will you finish all of them? Why do Tutsis have a feeling that they must die? But if you take a closer look at it, that is founded. When they remember the atrocities that they committed against Hutus, they decide what they deserve for themselves. Let the Inyenzi continue to endanger them, saying that they have won!

[REDACTED]

End of the article:

If the Hutus decided to avenge their people dead in Ruhengeri and Byumba, will they be wrong? And that can be done!

[REDACTED]

Page 14: end of 2nd column and beginning of 3rd column:

There is no way that you can send soldiers to go and fight against Inyenzi on the borders while you left some other ones in the interior of the country. Why not search for "accomplices?" Why not conducting night patrols? Why not stopping meeting of parties? And then, starting by the bullets' war and then after that one, conduct the war of words?

[REDACTED]

No 46 July 1993:

Page 12, 3rd column, 1st paragraph:

We must do all what is possible, and once the "Inyenzi" are repatriated, we should show to them that we did not forget our people that they have killed. We must show to all those who helped them, wherever they can be found in the country, that they have to pay for what they have done.

[REDACTED]

Page 13: Title: RTLM: The sun cannot light where a Tutsi has put his clothes to dry. (Literal translation of a rwandese proverb.)

[REDACTED]

Page 14: I am not concerned, I am a CDR's member.

1. You the Hutu who took back your property in 1959 after Inyenzi had fled from Rwanda, leave your property as the Arusha agreements say.

"I am not concerned. I am a CDR's member."

2. Rwandese citizen, get ready to be ruled by the force of whip and to give taxes in order to enrich the Inyenzi as the Arusha agreements say it.

"I am not concerned. I am a CDR's member."

3. Soldier, member of the Rwandese army, give out your arm and go to cultivate the marsh as the Arusha agreements say it.

"I am not concerned. I am a CDR's member."

4. Rwandese tradesman, you who are always worried, get ready to pay more taxes to enable the government comprising Inyenzi to pay the loans taken in order to buy arms to attack the majority mass as the Arusha agreements say it.

"I am not concerned. I am a CDR's member."

5. Hutu Minister, leave Kigali and go to work in Byumba where the ^{FDR} Inkotanyi can capture you as the Arusha agreements say it.

"I am not concerned. I am a CDR's member."

6. Rwandese who goes by taxi, get ready to go on filling the Inyenzi's pockets, you see that their relatives are constantly raising their prices before they come, now that they are coming, forty will be multiplied by four.

"I am not concerned, we will use our own ones, I am a CDR's member."

7. Civil servant, give out your office, and give the place to the Inyenzi as the Arusha agreements say it."

"I am not concerned. I am a CDR's member."

8. All the Hutus, get ready to be treated by the Inyenzi who do not look at injections full of AIDS, because the Arusha agreements gave them the Health (*the ministry of health.*)

"I am not concerned. I am a CDR's member."

9. Hutu who is still asleep even if you are intelligent, get ready to be liquidated by Inyenzi as the Inyenzi Museveni has done in Uganda.

"I am not concerned. I am a CDR's member."

10. You innocent people, get ready to lose your peace as the Arusha agreements say it." We are not concerned. We are CDR's members."

[REDACTED]

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7

1994:

K0157996

No 59 March II 1994:

Editorial: 3rd column: Because it (RPF) is aware that if it attacks, all their people will be exterminated and at that time, we will have known them because we will be spending the days with them and will be working with them.

[REDACTED]

Copy

Copy