INDICTMENT

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 and
3. EXTERMINATION as a CRIME AGAINST HUMANITY and
4. MURDER as a CRIME AGAINST HUMANITY

Offenses stipulated in Articles 2 and 3 of the Statute of the Tribunal, as set forth below:

II. THE ACCUSED:

Aloys SIMBA was born on 28 December 1936 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 he was elected as a député in the Conseil National. Aloys SIMBA was the president of MRND in Gikongoro prefecture. He was in charge of 'civil defense' in Gikongoro and Butare prefectures during May and June 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 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 affirmative acts in planning, instigating, ordering, committing or otherwise aiding and abetting in the planning, preparation or execution of the crime charged, 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 the 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.

1. During the events referred to in this indictment, the Tutsi, the Hutu and the Twa were identified as ethnic or racial groups.

2. The victims referred to in this indictment were Tutsi and moderate Hutu civilians from Gikongoro and Butare Prefectures, and other civilians that sought refuge in Gikongoro and Butare prefectures.

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 constantly wore military uniform in public. On occasion, he rode in military vehicles.
4. Aloys SIMBA was the President of the MRND party in Gikongoro prefecture. Aloys SIMBA's de facto authority as military leader of the Interahamwe, reservists and others, was officially confirmed by the Interim Government when the Ministry of Defence appointed Aloys SIMBA as 'conseiller' of civil defense for Gikongoro and Butare prefectures.

5. Prior to this official recognition, Aloys SIMBA had de facto command and control over soldiers, gendarmes, interahamwe, militiamen, reservists and Hutu civilians from 1 January 1994 to 15 May 1994.

6. Aloys SIMBA was a Député in the Rwandan parliament and a well-known politician in Gikongoro prefecture.

7. Aloys SIMBA also derived authority from his close association with President Habyarimana. The history of Rwanda, taught in schools throughout Rwanda, from approximately 1975 throughout the 1980s, portrayed Aloys SIMBA as a national hero, who helped bring President Habyarimana to power in 1973.

8. Gikongoro was one of the poorest prefectures of Rwanda and in this context, Aloys SIMBA was one of its wealthiest citizens.

9. Aloys SIMBA had de facto command and control over soldiers, gendarmes, Interahamwe, militiamen and Hutu civilians in Gikongoro prefecture and parts of Butare prefecture in April, May and June 1994.

10. Aloys SIMBA prepared for the genocide in Gikongoro and Butare for at least a year in advance of 1994. In preparing and planning the massacres, which occurred in Gikongoro and Butare prefectures in April and May 1994, Aloys SIMBA acted in concert with

And OTHERS not known to the Prosecution.

11. Aloys SIMBA and all or some of the above met regularly between 1991 and June 1994 to plan the genocide at various locations including, at the shop of

Gasaconda commercial centre, Mudasonwa 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 and meet after the attacks for debriefings and celebrations.
12. As part of the planning and preparation of the genocide Aloys SIMBA with others participated in the recruitment and training of Hutu militia men, the acquisition and distribution of weapons, and instigated others to kill the Tutsi as described in detail below.

13. Aloys SIMBA organised, planned and participated in the recruitment and training of the Interahamwe and Hutu youths, who joined in attacks on Kaga, Kibeho, Murambi and Cyanika, amongst other sites in Gikongoro prefecture and Rubashya commune in Butare prefecture.

14. More specifically, in or around March 1993, Aloys SIMBA together with [deleted] 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 military training occurred in Nyungwe forest amongst other places, given by former soldiers, communal policemen and others not known to the Prosecution. In particular;

(a) Aloys SIMBA established training camps at Kigeme, Nyamagabe commune and in Mbuga, Mudasomwa commune, where militia were instructed.

(b) In January 1994, Aloys SIMBA ordered the Bourgmestre and counsellors of Kinyamakara commune to select young men to be given military training. These men were then trained in Mwogo valley for three weeks.

(c) In April 1994, after the death of the President Habyarimana, Aloys SIMBA, supervised the military training of approximately 30 young men in Kirambi sector, Rukundo commune, Gikongoro. These men were trained in firing weapons and physical fitness for three weeks.

15. Prior to and during the events of April through June 1994, Aloys SIMBA armed militia men and Hutu civilians who committed the massacres, in Gikongoro and Butare prefectures. He distributed firearms to militia men for the purpose of killing Tutsi, often using the channels of the local administration, distributing to Bourgmestres for distribution to counsellors and responsible in this matter, he worked with the Gendarmerie Capt Sebuhura.

16. More specifically, in the week following 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 Aloys SIMBA 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.

17. Those weapons were immediately used in the killing of unarmed Tutsi civilians at Rugogwe trading centre, Rubashya commune, Butare prefecture.
18. Aloys SIMBA had previously brought weapons to Kinyamakara communal offices, where they had been stored in March 1994.

19. Aloys SIMBA distributed weapons in April 1994 after the death of the President Habiyarimana, to Rukundo communal offices. Approximately 40 AK 47 rifles were distributed through the Bourgmestre to councillors to Hutu civilians.

20. In addition to distributing weapons, Aloys SIMBA sought to import arms as early as April 1993. Aloys SIMBA, together with local businessmen and others, raised funds for the purchase of weapons and ammunition for the Interahamwe in April and/or May 1994 in Gikongoro prefecture.

21. Aloys SIMBA committed the acts described in this indictment with the intent to destroy in whole or in part the Tutsi ethnic group. Aloys SIMBA publicly expressed his intent to destroy and incited others to destroy the Tutsi in various rallies and meetings in Gikongoro and Butare prefectures before and during the events of April through June 1994.

a) In or around April 1993, after a census of Tutsi and Hutu in the prefecture, 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 September 1993 at a public rally at Kinyamakara Communal offices, Aloys SIMBA addressed the crowd with a message to the effect that it had become necessary to arm the Hutu youth to fight against the inyenzi (meaning Tutsi) and send them back to their ancestral origin in Ethiopia. He added that he would provide the Tutsi with transport back to Ethiopia.

c) In April 1994, Aloys SIMBA addressed a gathering at Nzega Centre, Gasaka sector, Nyamagabe commune, where he asked why was the population idling and not behaving like their counter parts in other areas.

d) On or around 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 said that there were some people in the Prefecture who seemed to ignore that the President had died and were idling in their communes.

e) In or around 22 May 1994, Aloys SIMBA attended the inauguration ceremony of Butare prefecture. Aloys SIMBA urged the participants not to spare any Tutsi. Until that time many women, girls and infants or elderly had been spared, but shortly after and as a result of his speech, any surviving Tutsi in the area were killed.
22. Between 7 April 1994 and 30 May 1994, thousands of Tutsi and moderate Hutu civilians were attacked in their homes by militia men. 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:

- Kadaaba parish and health centre, Karambu Commune, Gikongoro
- Murambi Technical college, Nyamagabe commune, Gikongoro
- Gashoha Hill, Ruhashy commune, Butare
- Rugogwe Trading centre, Ruhashy commune Butare
- Cyanika parish, Karambu commune, Gikongoro
- Kibeho parish, Mutuga commune, Gikongoro

23. On or around the 19 and 20 April 1994, Aloys SIMBA organised and ordered government armed forces, militia men and Hutu civilians to march on and attack the displaced persons at Kadaaba. Prior to the attack, Aloys SIMBA appraised himself of the situation of the displaced defenceless children, women and men, at Kadaaba parish and health centre. He organised that the displaced persons should start digging their own graves.

24. On or around 21 April 1994, in the early hours of the morning, the displaced people in Kadaaba parish were attacked from all sides by soldiers, gendarmes, former soldiers or reservists, interahamwe, militia men and Hutu civilians. They used grenades, guns, machetes, and clubs amongst other traditional and modern weapons to kill the refugees. During the attack, which lasted the whole day, Aloys SIMBA replenished the ammunition of the attackers on several occasions.

25. As a result of the attack, thousands of men, women and children were massacred at Kadaaba 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 Kadaaba.

26. On or around 19 and 20 April 1994, Aloys SIMBA, together with Gendarmerie amongst others, organised and ordered government armed forces, militia men and Hutu civilians to surround and attack the displaced persons who had taken refuge at Murambi Technical college. At a meeting, at the Gendarmerie barracks, immediately prior to the attack Aloys SIMBA urged amongst others including Hutu business men and civilians to attack the displaced Tutsi at Murambi Technical College.

27. Aloys SIMBA used a microphone to order the local Hutu civilians to surround Murambi Technical college. At the same time, gendarmes were sent to Mudasamwina commune to collect militia men in vehicles. Guns were brought from Butare, under the instructions of Aloys SIMBA.
28. On or around the night of 20 April or early hours of 21 April, the displaced people in Murambo Technical College were attacked by soldiers, gendarmes, interahamwe, militiamen and Hutu civilians. The attackers used grenades, guns, machetes and clubs amongst other traditional and modern weapons to kill the displaced persons. During the attack, Aloys SIMBA delivered and supplied machetes to the attackers and rewarded them after the attack.

29. As a result of the attack, thousands of women, men and children were massacred at Murambo Technical College on or around 21 April 1994. A 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.

30. 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 displaced persons at Rugogwe trading centre and the second attack was against displaced persons at Gashoha Hill.

31. Aloys SIMBA armed and transported the attackers for the purpose of the attacks. More specifically, he took Interahamwe to Muhange Bridge on the border between Gikongoro and Butare prefectures from where the same Interahamwe then pursued and killed fleeing displaced persons. Aloys SIMBA organised and participated in transporting interahamwe to the prefectural border between Ruhashya (Butare) and Kinyamakara (Gikongoro) to attack and kill Tutsis.

32. Prior to the attack on Rugogwe Trading Centre, Aloys SIMBA distributed weapons to the attackers and gave clear instructions to the attackers on the methods and manner of the attack.

33. As a result of the attacks hundreds of men, women and children were massacred at Rugogwe and Gashoha in Ruhashya commune. Most of the victims were Tutsi.

34. Aloys SIMBA organised and ordered government armed forces, militiamen and Hutu civilians to attack Cyanika parish on or around 21 April 1994. This attack occurred immediately after the attack on Murambo Technical College. As a result of this attack, hundreds of displaced men, women and children were massacred at Cyanika parish. Most of the victims were Tutsi.

35. Aloys SIMBA and/or persons trained armed and instructed by Aloys SIMBA 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 of thousands of displaced persons at the parish on or around 14 and 15 April 1994.
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 préfectures, 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; 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, gendarmerie, 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.

36. Between 7 April 1994 and 10 July 1994, there were widespread or systematic attacks throughout Rwanda, directed against a civilian population on political, ethnic or racial grounds.

37. Between 7 April 1994 and 30 May 1994, Aloys SIMBA planned and participated in massacres that occurred in Gikongoro and Butare préfectures described above in paragraphs 22 to 35, which are incorporated herein by reference, including all Kaduha parish and health centre, Mugamba Technical College, Rubagama commune, Cyanika parish and Kibeho parish. These massacres were part of a widespread or systematic attack both within the two prefectures and within Rwanda.

38. Aloys SIMBA provided training and weapons to interahamwe, militiamen and others who participated in the attacks. Aloys SIMBA facilitated the transportation of soldiers, interahamwe, militiamen and others to the above named sites for the purpose of carrying out the attacks.

39. The victims of the massacres were civilians and Aloys SIMBA was aware that the victims of the massacres were civilians. Aloys SIMBA planned and executed the massacres described above in paragraphs 22 to 35, which are incorporated herein by reference, on the basis of their ethnicity, the victims, namely that they were Tutsi or the political persuasiveness of the victims, namely that they were in opposition to the MRND party.

40. Aloys SIMBA and/or his subordinates participated directly in the killing of civilians at the massacre sites described above in paragraphs 22 to 35 and elsewhere in Gikongoro and Butare préfectures.
41. 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 killing persons, or causing persons to be killed, as part of a widespread or systematic attack against a civilian population on political, ethnic or racial grounds.

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.

Concise statement of facts in support of Count 4

42. On or around 11 April 1994, in the morning, in the vicinity of Gikongoro town market Aloys SIMBA shot and killed a male Tutsi teacher of Nyagisenyi Primary School. Aloys SIMBA shot the man in the head with his pistol in front of a crowd.

43. On or around 21 April 1994, at approximately midday, in the vicinity of Kadunga Trading Centre, Karambo commune, Gikongoro prefecture Aloys SIMBA shot and killed one GASANA, Substitut de procureur of Gikongoro prefecture, MUNYANA MONIQUE, 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 2 day of January 2002

Carla del Ponte
Prosecutor
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