

1 THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA
2 CASE NO.: ICTR-99-54A-T THE PROSECUTOR
3 OF THE TRIBUNAL
4 AGAINST
5 JEAN DE DIEU KAMUHANDA
6 14 MAY 2002
7 0930H
8 CONTINUED TRIAL
9 Before: Judge William H. Sekule, Presiding
10 Judge Winston Churchill Matanzima Maqutu
11 Judge Arlette Ramaroson
12 For the Registry:
13 Mr. John Kiyeyeu
14 Mr. Abraham Koshopa
15 For the Prosecution:
16 Mr. Douglas Marks Moore
17 For the Accused Kamuhanda:
18 Ms. Aïcha Condé
19 Court Reporters:
20 Mr. Petrus Chijarira
21 Mr. Haruna Farage
22
23
24
25

1	I N D E X
2	WITNESS
3	For the Prosecution:
4	WITNESS DAL
5	Cross-examination by Ms. Condé.....3
6	Re-examination by Mr. Moore.....34
7	
8	EXHIBITS
9	Defence Exhibit No. 29.....27
10	Defence Exhibit No. 30.....28
11	Defence Exhibit No. 31.....29
12	Defence Exhibit No. 32.....30
13	Prosecution Exhibit No. 35.....48
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	

1 P R O C E E D I N G S

2

3 MR. PRESIDENT:

4 The proceedings are called to order. Could
5 the Registry introduce the matter coming
6 before the Trial Chamber?

7 MR. KIYEYEU:

8 Thank you, Mr. President. Trial Chamber II
9 of the International Criminal Tribunal for
10 Rwanda, composed of Judge William H. Sekule,
11 presiding, Judge Winston Churchill Matanzima
12 Maqutu and Judge Arlette Ramaroson, is now
13 sitting in open session, today, Tuesday, the
14 14th of May 2002, for the continuation of
15 the trial in the matter of the Prosecutor
16 versus Jean de Dieu Kamuhanda,
17 Case No. ICTR-99-54A-T.
18 Thank you, Mr. President.

19 MR. PRESIDENT:

20 Thank you, Mr. Kiyeyeu for the Registry.
21 May we have the appearances of the parties
22 starting with the Prosecution?

23 MR. MOORE:

24 My name is Moore, I am a senior trial
25 attorney. I am assisted by Ms. Dorothée

1 Marotine in the case against Kamuhanda.

2 MR. PRESIDENT:

3 Thank you, Learned Counsel. May we also
4 have the appearances of the Defence, please?

5 MS. CONDÉ:

6 Yes, Mr. President, Your Honours, I am Aïcha
7 Condé. I am lead counsel for Jean de Dieu
8 Kamuhanda. My assistants are Ms. Guisse and
9 Ms. Benga.

10 MR. PRESIDENT:

11 Thank you, learned counsel.

12
13 Interpreter, could you tell Witness DAL that
14 the Trial Chamber reminds him of the solemn
15 declaration he made yesterday, and that he
16 will continue with his evidence today on
17 that same solemn declaration.

18
19 Okay, yes, what is the position, Counsel?

20 Do you -- have you had your documents?

21 MS. CONDÉ:

22 Yes, sir; all ended well.

23 MR. PRESIDENT:

24 All ended well.

25

1 MR. MOORE:

2 Yes, what we have done is, as you know,
3 there are the documents that were redacted
4 by other parties. I have made a decision
5 to give both documents in an unredacted form
6 so that the complete documents are now in
7 the possession of the Defence.

8 MR. PRESIDENT:

9 Thank you very much, Mr. Moore. Okay, could
10 you please, continue with your
11 cross-examination, Counsel?

12 CROSS-EXAMINATION (continued)

13 MS. CONDÉ:

14 Yes, sir.

15 BY MS. CONDÉ:

16 Q. Witness DAL, at one point yesterday I asked
17 you whether you have had made other
18 statements to the Office of the Prosecutor,
19 and you told us that that the one of July
20 2000 was the only statement you made to the
21 Office of the Prosecutor?

22 A. Yesterday, I thought you were asking me
23 whether I had spoken with anyone else about
24 the deposition, the statements that I had
25 made and that is why I said that that was

1 the only statement that I had made.

2 Q. Very well. The document was shown to you
3 yesterday that you recognised -- or rather,
4 you acknowledged that your signature
5 appeared at the bottom of the document that
6 would be -- and if it was held on 12th of
7 July 1995, as a result of the Rogatory
8 Commission done by a Trial Chamber in
9 Belgium, Witness DAL, could you please refer
10 to the first page of this document?

11 MR. PRESIDENT:

12 That would be Kinyarwandan text or the
13 French text? Which document -- which text
14 are you referring to?

15 MS. CONDÉ:

16 That would be the French text and I am
17 referring to the cover page of the French
18 text.

19 BY MS. CONDÉ:

20 Q. Yes, Witness DAL, on this first page, it is
21 mentioned that we are in Gisenyi and the
22 second question that is put to you -- or
23 rather, the first question deals with your
24 identity and the second question is put to
25 you and you were asked, "Where were you when

1 the war broke out?" And, in their system
2 the question is to be repeated before an
3 answer is given -- it reads as follows --

4 THE ENGLISH INTERPRETER:

5 The interpreter do not have a copy of the
6 document.

7 THE WITNESS:

8 You are asking me where I was when the war
9 broke out?

10 THE INTERPRETER:

11 Counsel, we do not have a copy of the
12 document. We do not have the right
13 documents says the Kinyarwandan interpreter.

14 MR. PRESIDENT:

15 Okay, can you give --

16 MR. MOORE:

17 We have got spare copies we can give to the
18 interpreters?

19 MR. PRESIDENT:

20 Okay. Thank you very much. Good. Can you
21 please start all over again the reference,
22 perhaps for the interpreter?

23 MS. CONDÉ:

24 Yes.

25

1 BY MS. CONDÉ:

2 Q. Witness DAL, I am referring to page 1 and I
3 am not referring to the cover page any more
4 but, rather, to the first of this statement.
5 The text is written in French and then a --
6 the handwritten document appears in
7 Kinyarwanda. I am only referring to the
8 French document. I am referring to
9 paragraph No. 2 of the first page. So the
10 first paragraph deals with your identity,
11 therefore, we will not go over that. Then
12 the second paragraph --

13 MR. MOORE:

14 You can use the K-numbers which all the
15 documents have and that will help the
16 interpreter if there is some difficulty.

17 MR. PRESIDENT:

18 And also, for the record, we might have to
19 come back to them.

20 BY MS. CONDÉ:

21 Q. So, this would be document K-0076614 and the
22 document reads as follows: "You have asked
23 me where I was when the war broke out, I was
24 here in Gisenyi and I remained here but only
25 from 5 April to 25 April 1994 because when

1 the war broke out, the RPF immediately
2 surrounded our area and there was no way for
3 me to go out."

4 And I would like you to explain your answer
5 in view of what you have told us yesterday?

6 MR. MOORE:

7 No, I am sorry that this is unacceptable and
8 I have mentioned this yesterday. My learned
9 friend has got the complete unredacted copy
10 now. There is no excuse at all for putting
11 the question like that if this witness is
12 going to be asked to explain something. He
13 is also going to be referred to another part
14 of the statement where he qualifies and says
15 that he left Giti on the 20th. It is
16 completely unfair to take it in isolation
17 you must ask -- if you are going to ask it
18 on the topic, it must be on the proper
19 basis. I am quite happy to show the Court
20 copies of the statement, if need be, to
21 establish my point.

22 MS. CONDÈ:

23 Mr. President, I hope that I will not have
24 to go through everything like we did
25 yesterday; I wish to move forward. I put my

1 questions to the witness, the Prosecutor,
2 may, when he asks his questions after I have
3 asked mine. I have not cut out any sense; I
4 have read the whole sense. The paragraph
5 that he is referring to is three paragraphs
6 below so that would be the third paragraph.
7 So, the question is quite simple; where were
8 you? There is an answer and then it is
9 three paragraphs later there might be indeed
10 another answer, and it is true that the
11 question was asked in Gisenyi. Maybe if he
12 was requested to answer the question, he
13 might be able to clarify, otherwise, if I
14 have to read it, I might have to read the
15 whole statement as the sentence that the
16 Prosecutor is referring to appears some
17 twelve lines below these sentences that I
18 have just read.

19 MR. PRESIDENT:

20 Yes.

21 MR. MOORE:

22 Yes, with the utmost respect, I have no
23 objection to the witness being asked; why
24 did you say this particular thing? I have
25 no problems about that but the witness must

1 be in fairness, be informed that there is
2 another passage where he says later on,
3 "While I was indeed in Giti from the 5th to
4 the 25th".

5
6 The question then might be posed; if you
7 were in Giti, why did you say that? But you
8 cannot mislead the witness. It is unfair
9 and it is wrong.

10 MR. PRESIDENT:

11 Yes, Counsel, you can -- in fairness, you
12 have to put the full context to the witness.
13 You have read out that part of the passage
14 in the text and, indeed, we don't have the
15 statement. As an officer of the Court --
16 and we would like also to follow your
17 evidence in full context as it appears in
18 the text that you are referring to, and also
19 for the witness to know that he had perhaps
20 said differently in the same statement on
21 the same issue.

22
23 So, I think it would be fair that you phrase
24 your questions in such a way that all these
25 facts are brought out to the witness so that

1 he is in a position to explain or to give an
2 answer because it is the answers that the
3 witness gives on these matters which are
4 extremely important.

5 BY MS. CONDÉ:

6 Very well, Mr. President.

7 BY MS. CONDÉ:

8 Q. Mr. Witness DAL, you have given a statement
9 in Gisenyi in the framework of a Rogatory
10 Commission. In answer to the first question
11 about the facts, they asked you, "Where were
12 you when the war broke out?" You said that,
13 "I was here in Gisenyi". In the same text
14 further down, you say that, you were in
15 Byumba and you referred to Giti bourgmestre.
16 I would like to know exactly in view of the
17 statements that you have made yesterday and
18 you said that you were in Giti when the war
19 broke out and that you stayed there until
20 approximately the 21st.

21 A. Counsel, I think that -- I believe that you
22 are mistaken, that is, you are mixing up --
23 you are mistaking the first war that broke
24 out on 1st of October and when war broke out
25 I was in Gisenyi. Then there was a second

1 war during which massacres were committed
2 and that would the 1994 war and during that
3 war, I was in Byumba.
4 Q. Nevertheless, in the paragraphs that I have
5 read to you, you say; I quote you:
6 "I was here in Gisenyi and remained there
7 but only from 5 April 1994 to 25 April 1994
8 because the war began and the RPF
9 immediately surrounded my area and there was
10 no way out?"
11 MR. MOORE:
12 Again, it is perfectly easy --
13 MS. CONDÉ:
14 We are dealing with dates now.
15 MR. MOORE:
16 With the utmost respect, I have objected now
17 about three times. All my learned friend
18 has to do is to read out the other passage
19 so that the witness has it in context; three
20 times I have objected to this. The Court
21 has given orders specifically on it. My
22 learned friend will not read it out.
23
24 Will you please read out the part that
25 relates to Giti so that the witness will

1 understand the context? That is why he has
2 been talking about an earlier war. That is
3 exactly what the Court has ruled. They do
4 not have the document, you do.

5 MR. PRESIDENT:

6 Mr. Moore, this is a different matter. I
7 think -- can you sit down, please. The
8 witness had made specific reference to a
9 particular period in time or a time frame,
10 and, certainly, counsel has a right to
11 follow it out.

12 MR. MOORE:

13 I don't have problems with that at all, but
14 what I am saying is that if the Court would
15 see the documents they would understand.

16 MR. PRESIDENT:

17 We will follow his evidence and we are
18 capable of following his evidence. Will you
19 sit down, please?

20 MR. MOORE:

21 Yes, of course.

22 MR. PRESIDENT:

23 Yes, ask your question, please?

24 BY MS. CONDÉ:

25 Q. Witness DAL, what did you mean by. "I

1 remained here in Gisenyi -- and I remained
2 there, but only from April 5 1994 to April
3 25, 1994 because when the war broke the RPF
4 immediately surrounded my area and there was
5 no way for me to leave"?

6 A. In fact, that would be the passage that would
7 confirm that on 5 April I was in Byumba.
8 The RPF did not surround my area rather, a
9 few soldiers from the RPF had started to
10 infiltrate the communes that were
11 surrounding mine and that is why I left
12 Byumba to go to Gisenyi.

13 Q. Yesterday, I asked you whether Byumba was an
14 RPF controlled area and I even asked you up
15 until you left and you said to my question
16 you answered "no"?

17 A. No, Counsel you must have misunderstood.
18 Yesterday, you asked me whether Giti commune
19 was controlled by the RPF and I told you
20 that there was no fighting in Giti.
21 I believe that you are trying to sow
22 confusion in my memory -- in my
23 recollections.

24 Q. In a few moments we shall return to what you
25 said yesterday. At the present time, I am

1 trying to locate that passage, but in the
2 meantime, I wish to refer to the next page
3 which would be K-00766165. I am referring
4 to the second paragraph.

5 MR. PRESIDENT:

6 In which text?

7 MS. CONDÉ:

8 As a working document, the only document
9 available is the French text. There is no
10 official translation into English. The
11 original document is in Kinyarwanda, but the
12 witness and the translator have told us that
13 it was not possible to use the Kinyarwanda
14 document and that we could only use the
15 French translation of the Kinyarwanda
16 document.

17
18 Okay, so in this case, we have both the
19 question and the answer that you gave. It
20 reads as follows, "You are asking me if I
21 saw any massacres so that I may describe
22 them to you yes, I saw some. Here in
23 Gisenyi all Tutsis had to die as one person
24 was -- and you mentioned the name of the
25 person who was killed. Could you please

1 translate this passage to the witness?

2 THE ENGLISH INTERPRETER:

3 I have now found the passage. Thank you.

4 BY MS. CONDÉ:

5 Q. Witness DAL, why didn't you mention the
6 massacres that you saw at the roadblock in
7 Nyabugogo?

8 A. When I was being interviewed, I answered
9 the questions that were put to me and the
10 sentence that you just read show the
11 massacres that were committed in Gisenyi
12 were also committed elsewhere.

13 Q. And yet the question that was posed by the
14 Inspector of the Police Judiciaire is very
15 clear, "Did you see any massacres?" And
16 your answer was, "I saw some in Gisenyi."
17 But, yesterday you explained to us what you
18 saw in Kigali?

19 A. I couldn't answer questions that were not
20 put to me. I answered the question that was
21 put to me. I said that there were massacres
22 in Gisenyi and here, you asked me questions
23 about another area and so I mentioned that
24 other area.

25 Q. Three lines from the bottom of the text, you

1 say; I quote: "I have told you everything I
2 know. Talking about what I do not know
3 would be lying".
4 If you have mentioned everything you knew
5 and talking about what you do not know would
6 be lying why didn't you mention what you saw
7 in Kigali?
8 A. I was referring to everything I knew about
9 the questions that had been put to me.
10 MR. PRESIDENT:
11 Yes, Counsel.
12 BY MS. CONDÉ:
13 Q. A second statement is going to be shown to
14 you and the statement is dated the 12th of
15 May 1999. This statement is six pages long.
16 Can you tell me if the signature that
17 appears below the signature -- the witness
18 signature is indeed yours?
19 A. Yes, that is my signature.
20 Q. On the very first page, you said that this
21 was the very first time that you have made a
22 statement with the ICTR investigators, as
23 your previous dealings were with the Belgian
24 investigators. Witness DAL, in this
25 statement you referred to many things and to

1 many people. What I am interested in today
2 would be page K010427 and that would be
3 page 6 of the French version; the heading
4 would be beginning: "The events from 6
5 April 1994 on awards." In the statement you
6 say, indeed, that you were in Giti in Byumba
7 Prefecture towards the middle of the
8 paragraph the statement -- rather, you say,
9 on the morning of the 7th of 1994, I tried
10 to return to Gisenyi immediately but I had
11 no means of transportation." You say as
12 follows; I quote; "The bourgmestre of my
13 commune Edward Shubushumba came to me and we
14 went to the commune office where I found
15 gendarmes and communal policemen. I was
16 given a weapon and together we went out to
17 sensitise people not to kill. I remained
18 at the commune office for about two weeks."
19 Yesterday, I asked whether you met persons
20 from either of the two armies and you said
21 no, but here you said that you found
22 gendarmes. Therefore, you rejoined your
23 call, and that you saw policemen and that
24 you were even given a weapon. So what
25 exactly is the truth, Witness DAL?

1 A. This unit was not in charge of distributing
2 weapons, and it wasn't even a military camp.
3 When I came and met them at the communal
4 office they had come to assist the commune
5 for security purposes.

6 Q. My question is a bit more precise. I want
7 to know why you told me that you did not
8 meet either of the two armies when you met
9 gendarmes who gave you weapons and with them
10 you went to sensitise the population?

11 A. If you remember, yesterday, you asked me
12 whether there was a military camp in the
13 area where I could report to, I told you
14 there was no military camp and this unit was
15 not a military camp.

16 MR. PRESIDENT:

17 Yes, Counsel, move on.

18 BY MS. CONDÉ:

19 Q. The following paragraph reads as follows, I
20 quote: "On the 23rd April 1994, I left
21 Byumba on foot and headed for Gisenyi via
22 Kigali and Gitarama. I arrived in Gisenyi
23 on 27th April. I travelled in a car from
24 Ngororero and Mukamira. When I arrived, I
25 was imprisoned for five days reporting late

- 1 to my post. How is it that you only refer
2 to one car from Ngororero to Mukamira when
3 in fact, that is not the road that you
4 mentioned yesterday?
- 5 A. Well before that -- before this, I have
6 stated that I was answering questions that
7 were put to me.
- 8 Q. Where is Ngororero and Mukamira?
- 9 A. When you leave Gitarama, you go through
10 Ngororero and Ngororero is on the border of
11 the commune and then from Mukamira to
12 Gisenyi, you take that Tarmac road whereas
13 the road from Ngororero to Mukamira is a
14 dirt road.
- 15 Q. So which communes are these places found
16 Ngororero and Mukamira?
- 17 A. I don't know the commune in which Mukamira
18 is, but Ngororero was in Sanseis commune. I
19 don't know what they call it these days,
20 that commune where Ngororero is.
- 21 Q. Are these two locations in Gisenyi?
- 22 A. Ngororero is in Gisenyi, while Mukamira is
23 at the border between Gisenyi and Ruhengeri,
24 madam.
- 25 Q. So why did you tell us yesterday that you

- 1 were taken on a hitch hike lift by a vehicle
2 to Kigali up to Gitarama, whilst here you
3 were saying very clearly, "I left Byumba by
4 foot by going to Kigali and Gitarama. I
5 arrived at Gisenyi on the 27th of April. I
6 was driven by a vehicle --" and the vehicle
7 is apparently the one you talked about
8 yesterday. Is it not the one you talked
9 about yesterday?
- 10 A. Now, here I was just trying to explain the
11 itinerary and the manner in which I left
12 Gitarama to go to Ngororero, but yesterday,
13 I was talking about the manner in which I
14 left Kigali to go to Gitarama and had the
15 question been put to me as to how I left
16 Kigali to go to Gitarama I would have
17 explained that very clearly.
- 18 Q. Now, in this very long statement of six
19 pages, you talked about more than 15 people,
20 Interahamwe, politicians and all of that;
21 you never talked about Jean de Dieu
22 Kamuhanda that gave you a lift, a minister
23 of the interim government and who said so at
24 every roadblock.
- 25 A. Well, I told you, madam, that I was

1 answering questions put to me. I cannot
2 answer questions that are not put to me.
3 Had I been told, "Say everything to us even
4 what we haven't asked for," probably I would
5 have given them some more information, but I
6 was answering questions put to me.

7 MR. PRESIDENT:

8 Yes, Counsel?

9 BY MS. CONDÉ:

10 Q. Yes, My Lord. Witness, if you don't talk
11 about Kamuhanda either in 1995, that is, one
12 year after the events, you talked about him
13 in 1999, but you in the year 2000, that is
14 for the first time, that you told about him.
15 The truth is that you didn't see him before
16 that because you are saying that you are
17 speaking the truth, the whole truth, nothing
18 but the truth. In your statements -- in
19 your second statement you talked about
20 everybody except for the minister of the
21 interim government?

22 A. I do not get your question very clearly,
23 madam.

24 MR. PRESIDENT:

25 In the answer to the question that you put

1 before this matter that you are referring
2 to, he said that he is answering questions
3 put to him and if you have specific aspects
4 you want to follow up, yes you can do so,
5 but that seems to be the answer of the
6 witness.

7 MS. CONDÉ:

8 My Lord, I simply wanted to go back with the
9 witness to the suggestions that I made
10 yesterday that he couldn't have seen
11 Mister --

12 MR. PRESIDENT:

13 You can put to him, but he did answer that
14 question. But if you think there is a need
15 to do that, you can ask the witness by
16 putting -- suggesting to him what you want
17 put to him.

18 MS. CONDÉ:

19 Yes, My Lords. May I go back to it?

20 BY MS. CONDÉ:

21 Q. Now, Witness, I am suggesting that you never
22 saw Jean de Dieu Kamuhanda in that form
23 around the 21st of April firstly because at
24 that time he was not minister as you said,
25 and secondly, he was in Gitarama besides

1 with his family and, thirdly, the vehicle
2 you described was not the vehicle of the
3 minister at the time which were 505
4 Peugeots, and not Pajeros, as official
5 vehicles?

6 A. I have the impression that you are not ready
7 to accept what I am saying even when I am
8 speaking the truth. You do not accept it
9 and I believe even if I were to tell you
10 that I was a man, you would tell me that I
11 was a woman.

12 MR. PRESIDENT:

13 Yes, ask her -- could you tell her, please
14 -- if you could tell Witness DAL to say --
15 to give an answer to this question whether
16 it was true or not. I mean, it is important
17 that he gives an answer to the suggestion
18 being put to him if he knows it in precise
19 terms.

20 THE WITNESS:

21 Thank you, Mr. President. I was simply
22 trying to respond, in other words; I was
23 saying that I was not in agreement with the
24 suggestion of the person that is trying to
25 defend the accused. I have the impression

1 that she is not ready to take my words and
2 she is trying to minimise -- that is,
3 downgrade everything I say.
4 (Pages 1 to 24 by Petrus Chijarira)
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1 1030H

2 MR. PRESIDENT:

3 So, what would your answer be; it's not true
4 -- the suggestion put to you is not true; is
5 that correct? Can you just answer the
6 question, please, so that we can move on?

7 THE WITNESS:

8 Thank you, sir. Her suggestion is not
9 correct.

10 MR. PRESIDENT:

11 Yes, Counsel.

12 MS. CONDÉ:

13 Now, My Lord, I have come to the end of my
14 cross-examination. I have four documents
15 that I should like to tender as exhibits;
16 one, the Kigali city plan with the
17 enlargement, that is, the roundabout from
18 Kigali to Gitarama and the two areas marked
19 by Witness, one and two.

20

21 The second exhibit is his statement of the
22 18th July to the Prosecutor; that is
23 Exhibit 30. Twenty-nine and then 30.

24 MR. PRESIDENT:

25 Can you go stage by stage, one after the

1 other so we are clear with what you are
2 discussing?

3 MS. CONDÉ:

4 Very well, My Lord.

5 MR. PRESIDENT:

6 We started off with the --

7 MS. CONDÉ:

8 The plan. The map.

9 MR. PRESIDENT:

10 The map. There are two maps; are you
11 collectively tendering them as a single
12 exhibits?

13 MS. CONDÉ:

14 All two of them, My Lord. The first and
15 then the enlargement, My Lord.

16 MR. PRESIDENT:

17 All right. And for what purpose, you say,
18 Counsel?

19 MS. CONDÉ:

20 The purpose is that witness spotted the
21 roadblock that he came across and the petrol
22 station, and then also we talked about, if
23 memory serves me right here, Kimisagara,
24 Nyamirambo exist, and that was clearly
25 stated and reflected in this map.

1 MR. PRESIDENT:
2 Yes. Mr. Moore, any objection?
3 MR. MOORE:
4 No objection.
5 MR. PRESIDENT:
6 So let the maps be -- the two maps be
7 collectively admitted as Defence
8 Exhibit number --
9 MS. CONDÉ:
10 Twenty-nine, My Lord.
11 MR. PRESIDENT:
12 Defence Exhibit No. 29. Yes. Next?
13 (Exhibit No. 29 was admitted)
14 MS. CONDÉ:
15 The second exhibit is the statement of the
16 -- the statement of DAL on the 18th of July
17 the year 2000, English version, French
18 version with the two contradictions
19 highlighted. That is, two contradictions I
20 noted highlighted and on which he has given
21 us explanations.
22 MR. PRESIDENT:
23 Yes. Mr. Moore, any objection.
24 MR. MOORE:
25 No objection.

1 MR. PRESIDENT:

2 No objection. All right. Let the statement
3 of Witness DAL of 8th July 2000, as
4 highlighted, be admitted as Defence
5 Exhibit No. 30, and the same shall be kept
6 under seal as it contains -- as they may
7 contain some information relating to
8 Witness DAL, who is a protected witness.

9 MR. KIYEYEU:

10 The registry has taken note, My Lord.

11 MR. PRESIDENT:

12 Yes. Next?

13 MS. CONDÉ:

14 Is the 18th of July, My Lord, not the 8th.

15 MR. PRESIDENT:

16 Oh, 18th of July.

17 MS. CONDÉ:

18 Eighteenth of July, My Lord.

19 MR. PRESIDENT:

20 That would be Exhibit No. 30. Thirty.

21 MR. KIYEYEU:

22 We have taken note, My Lord.

23 (Exhibit No. 30 was admitted)

24 MS. CONDÉ:

25 The next document is the interview of the

1 witness under the framework of -- in the
2 frame work of the rogatory commission of the
3 Brussel's Tribunal that was in 1995 -- 12th
4 June 1995, My Lord. 12th June 1995, the
5 Brussel's rogatory commission.

6 MR. PRESIDENT:

7 Any objection?

8 MR. MOORE:

9 No objection.

10 MR. PRESIDENT:

11 No objection. So let the statement of the
12 witness of 12th June 1995 to the Belgian
13 rogatory Commission be admitted as Defence
14 Exhibit No. -- as highlighted, be admitted
15 as Defence Exhibit No. 31, and the same
16 shall be kept under seal as it may contain
17 personal particulars of this witness; that
18 is, Witness DAL who is a protected witness.

19 MR. KIYEYEU:

20 We have taken note, My Lord.

21 (Exhibit No. 31 was admitted).

22 MS. CONDÉ:

23 The fourth document, My Lord, is Document
24 150140224031. This is the statement of the
25 7th and 12th May 1999.

1 MR. PRESIDENT:

2 Statement of which month -- which date?

3 MS. CONDÉ:

4 Seventh and 12th of May 1999; 1999. And the
5 highlighted passages are in pages -- in page
6 of the French version, from the 6th of
7 April 1999.

8 MR. PRESIDENT:

9 Any objection?

10 MR. MOORE:

11 No objection.

12 MR. PRESIDENT:

13 Okay. So let the statement of Witness DAL
14 of 7th and 12th May 1999, as highlighted, be
15 admitted as Defence Exhibit No. 32, and the
16 same shall be kept under seal, as it may
17 contain personal particulars of the witness
18 who is a protected witness.

19 MR. KIYEYEU:

20 We have taken note, My Lord.

21 (Exhibit No. 32 was admitted)

22 MR. PRESIDENT:

23 Yes. Next. Next? Okay. You are
24 completed? Okay. Thank you, Learned
25 Counsel.

1 Any re-examination, Mr. Moore?

2 MR. MOORE:

3 Yes, there is some. May I deal, please,
4 with the document which is now our
5 Exhibit 31.

6 MR. PRESIDENT:

7 Yes.

8 MR. MOORE:

9 Which is the pro-justitia document; the
10 Rwandese document. I would like that
11 exhibit for the witness to be referred to
12 the French translation, and that's page
13 K0076614. And because they are now exhibits
14 made by my learned friend, I would like to
15 pass forward copies to the Court, please, to
16 follow the re-examination.

17 MR. PRESIDENT:

18 That's right.

19 MR. MOORE:

20 I'm afraid there are only two copies; the
21 third one has been marked up; I will see if
22 I can find a normal copy.

23 MR. PRESIDENT:

24 In which language are they?

25

1 MR. MOORE:

2 They are in French and Kinyarwanda, but it's
3 the structure of the document. I've also
4 got translations if need be, although, I
5 imagine that the interpreters --

6 MR. PRESIDENT:

7 Do you have the translation?

8 MR. MOORE:

9 My Lord, as the Court knows, we only got the
10 document as it was produced to us yesterday.
11 We've got translation on parts I'm going to
12 cross-examined (sic) on. I can do that, but
13 I haven't got the whole document.

14 MR. PRESIDENT:

15 Okay.

16 MR. MOORE:

17 I can pass that forward.

18 MR. PRESIDENT:

19 Even those parts?

20 MR. MOORE:

21 Yes, I can do that.

22 MR. PRESIDENT:

23 Okay.

24 MR. MOORE:

25 May I pass these forward, please? Now, I

1 don't know if the witness has had an
2 opportunity of --

3 MR. PRESIDENT:

4 Mr. Abraham, remember to take back these
5 documents because I can see they may contain
6 -- okay.

7 MR. MOORE:

8 Are they marked up?

9 MR. PRESIDENT:

10 It's all right. Because they have the
11 details of the witness. That is why we want
12 to make sure that they are taken back.

13 MR. MOORE:

14 Yes. But can I just deal then, please, with
15 this particular exhibit; the Rwandese
16 document.

17 MR. PRESIDENT:

18 Yes.

19 MR. MOORE:

20 I don't know if the witness has had an
21 opportunity of looking at it, but --

22 MR. PRESIDENT:

23 Interpreter, do you have a copy before the
24 witness? Good. Right.

25

1 RE-EXAMINATION

2 BY MR. MOORE:

3 Can I deal with the front page which is
4 K0076608? And it's the very first page. It
5 is in French. I have no translation for it,
6 but could I ask the witness the following
7 question. Can he remember where it was this
8 particular document was taken; which
9 location.

10 THE WITNESS:

11 I made this statement in Gisenyi, sir.

12 BY MR. MOORE:

13 Q. And can I direct the witness's attention
14 then to the next page please, which is the
15 handwritten page, which is K0076609. Now
16 that's Kinyarwanda, but this won't create
17 any problems, I trust. Is he able to say if
18 that is his writing or another person's
19 writing, that page and the following pages?

20 A. This handwriting is not mine, sir.

21 MR. PRESIDENT:

22 Where are you referring?

23 MR. MOORE:

24 The Court should have this particular
25 document and there should be handwritten

1 part afterwards, which is the Kinyarwanda --

2 MR. PRESIDENT:

3 Yes. Yes.

4 MR. MOORE:

5 Yes, that's the document that I have
6 mentioned and the page number. So, I
7 mentioned the page number. You see it at
8 the top left-hand corner, K0076609. That
9 was the page I referred to. It's what I
10 would call 11 o'clock. I hope the Court can
11 see where I am pointing, where the K-number
12 is.

13 MR. PRESIDENT:

14 In the handwritten?

15 MR. MOORE:

16 In the handwritten. There is what is
17 called a K-number, which is the stamped
18 number.

19 MR. PRESIDENT:

20 Yes.

21 MR. MOORE:

22 All documents should have that.

23 MR. PRESIDENT:

24 Because the last page I have here is
25 K0076613.

1

2 MR. MOORE:

3 Yes. But I am going just -- moving just
4 into the second page. So, I go the first
5 page, then I go in now to the second page,
6 and I am referring -- and I have given that
7 page number, and I am referring to the
8 photocopy of the handwritten document. And
9 I am asking the witness if that is his
10 handwriting.

11 MR. PRESIDENT:

12 Yes. The document that we have Kinyarwanda,
13 the first page, would be K0076609.

14 MR. MOORE:

15 Correct. That's the document that I have
16 referred the witness to, and then one can
17 see there is a photocopy which is
18 continuing. You can see the top right-hand,
19 it goes page 2, page 3, page 4, page 5 and
20 the signature at the back.

21 MR. PRESIDENT:

22 Yes.

23 MR. MOORE:

24 What I am asking the witness is whose
25 handwriting is this document; is it his

1 handwriting.

2 MR. PRESIDENT:

3 Ah, the entire document?

4 MR. MOORE:

5 This entire document.

6 MR. PRESIDENT:

7 All right.

8 MR. MOORE:

9 So, I am directing his attention to this

10 document.

11 MR. PRESIDENT:

12 Okay.

13 BY MR. MOORE:

14 Q. So, Witness, would you be kind enough,

15 please -- I think he has given the reply

16 that this is not his handwriting. Does --

17 Witness, do you know whose handwriting this

18 is, please?

19 A. No, sir, I don't know who wrote this

20 document.

21 Q. Can I ask to look then at page 5, which is

22 K0076613. It's the very end of the

23 handwritten document. Now, can the witness

24 see his signature there? Can he be ask that

25 please? Direct him to the very end of that

1 document and see if he can see his signature
2 there.

3 MR. PRESIDENT:

4 Page 5?

5 MR. MOORE:

6 Page 5, exactly, K0076613.

7

8 THE WITNESS:

9 I realised that the signature seems to be
10 mine, but it is not very clear, sir.

11 MR. MOORE:

12 Thank you very much. Just to assist the
13 Court, then, we move on to the next page,
14 which is K0076614.

15 MR. PRESIDENT:

16 Go on, Counsel.

17 MR. MOORE:

18 Thank you very much.

19 MR. PRESIDENT:

20 We just wanted to be sure which one was the
21 signature of his, but I think on the -- on
22 page 5.

23 MR. MOORE:

24 Yes. Well, he recognises his signature. I
25 can go into the detail, perhaps. It's not

1 overtly relevant.

2 MR. PRESIDENT:

3 No, you can just go on.

4 MR. MOORE:

5 I can assist the Court -- then, I just move
6 on to the next page, which is clearly a
7 typewritten version -- a typewritten version
8 in French, and that clearly, to assist the
9 Court, is for clarity. Now, can I just ask
10 the witness the following questions.

11 MR. PRESIDENT:

12 Yes.

13 BY MR. MOORE:

14 Q. When he was being interviewed in 1995 at
15 Gisenyi, was he ever asked by the magistrate
16 about Mr. Kamuhanda and his participation at
17 that time? Was the name Kamuhanda ever
18 mention to him?

19 A. Well, thank you for that question, sir. I
20 was answering questions put to me, and any
21 questions put to me about Kamuhanda would
22 have been answered, sir.

23 Q. Well, can we take it then that as
24 Mr. Kamuhanda is not featured in the
25 document at all that you were not asked

1 about Mr. Kamuhanda? Is that what your
2 evidence is; can you clarify, please?

3 A. No question on Kamuhanda was put to me, sir.

4 Q. Can you just describe in a very general way
5 what way the interview went between yourself
6 and the investigator? Can you give us a
7 description of how it occurred?

8 A. Let me put it in a nutshell. He told me, "I
9 am going to put some questions to you
10 concerning the events that took place in
11 Rwanda, and I would like you to answer me
12 about these events". Now, he put some
13 questions to me and I explained, and he
14 recorded what I explained, sir.

15 Q. And who decided the topics that were then
16 inserted in this document; you or him?

17 A. Well, I have just looked at the document; I
18 see that there are two writings; one
19 handwriting of Mr. Mushimirimana, Atanase --
20 let me spell it Mushimirimana,
21 M-U-S-H-I-M-I-R-I-M-A-N-A, and the document
22 is in Kinyarwanda. The second handwriting
23 belongs to Mutazibura, and the document is
24 or, rather, this document is rather
25 typewritten. It is typewritten, sir.

1 Q. The question that I asked you was: When the
2 questions were asked of you, who decided the
3 topics that were under discussion?

4 A. It was him that was asking me questions on
5 topics of his choice, sir.

6 MR. MOORE:

7 Thank you. I would now like to move to the
8 typewritten version. The page I wish to
9 refer to is K0076614. Does the Court have
10 that?

11 MR. PRESIDENT:

12 Yes.

13 MR. MOORE:

14 Thank you very much.

15 MR. PRESIDENT:

16 Yes.

17 BY MR. MOORE:

18 Q. You have been asked by the Defence to give
19 an explanation about a section of this
20 statement. Now, the part of this statement
21 that you have been referred to is the third
22 line down. In the French, it starts, "Vous
23 me demandez de me présenter", forgive my
24 pronunciation, and concludes on the third
25 paragraph "Nulle part où sortir".

1
2 Now, my understanding of the interpretation
3 of that which I had passed to the Court is
4 as follows. Has the interpreter got this?
5 Have the interpreters located the passages,
6 the typewritten version, and the K-number is
7 K0076614? Okay. My understanding of the
8 meaning is as follows: "You are asking me
9 to introduce myself". And then by name, you
10 gave your name, "born in Giti commune, in
11 Byumba, in 1964, married, father of three
12 children. I was a gendarme in the defeated
13 army". And then you go on to indicate where
14 you live, and I don't want to say that in
15 open court.

16
17 The next paragraph reads as follows: "You
18 are asking me where I was when the war broke
19 out. I was here in Gisenyi, and I stayed
20 there, but only from the 5th of April 1994
21 to the 25th April 1994, because when the war
22 began, the RPF surrounded my house right
23 away and I had nowhere to exit through".

24
25 Now, can the witness be reminded of that

1 passage, but I don't want an answer on it
2 because I want to move on to another passage
3 in the document, but can I just have his
4 attention drawn to that section, please.

5 MR. PRESIDENT:

6 Don't mention his name and his place -- the
7 places, as counsel did. Make sure you don't
8 do that.

9 MR. MOORE:

10 Has that now been read to him completely?

11 THE KINYARWANDA INTERPRETER:

12 Yes.

13 MR. MOORE:

14 Okay. I have counted up 16 lines up from
15 the bottom. It's in the middle of that
16 line, it should commence, "Depuis lors, en
17 compagnie du bourgmestre, nous avons ciculé
18 un peu partout", and concludes six lines
19 down with "déjà mort". Has the interpreter
20 located that particular section? That
21 reads, I believe, as follows, and I would
22 give the English translation which I have
23 passed forward to the Court.

24

25 "Since then, in the company of the

1 bourgmestre, we circulated a bit,
2 everywhere, to ensure security. At that
3 time in Giti, no one followed up on the call
4 for massacres. I left Giti on the 20th of
5 April 1994 to arrive here in Gisenyi on the
6 25th of April 1994, but the bourgmestre is
7 still in Giti commune. I found that, I
8 presumed it should be, lots of people were
9 already dead".

10 BY MR. MOORE:

11 Q. Now, it has been suggested to you by the
12 Defence -- they only read the first part. I
13 now read the second part to put it in
14 context; can I ask the following question.

15
16 Firstly, could the interpreter read that
17 section to him and then the following
18 question to be posed: Why did you not tell
19 the investigator this second part; namely,
20 that you have been in your area, but had
21 left Giti on the 20th April and then arrived
22 in Gisenyi on the 25th of April? Why have
23 you given them in two separate paragraphs;
24 can you just clarify that for us, please?

25 A. Thank you. The investigators did not put

1 that question to me. No one put that
2 question to me.

3 Q. It is being said, you see, that you are
4 saying one thing in evidence, but another in
5 this document. When you were at Giti, why
6 did you leave on the 20th; can you tell us
7 what was the method of leaving and how could
8 you know the date?

9 A. I don't really remember the date, but I do
10 remember that the bourgmestre gave me an
11 authorisation to travel and that this
12 document was issued approximately around
13 that date, and so I travelled with this
14 travel authorisation.

15 Q. And was the date on the travel authorisation
16 document, the document you have been given
17 by the bourgmestre?

18 A. Yes. The date appeared on the document, but
19 I don't properly recall the date.

20 Q. You have given, in your evidence at the very
21 start, so that we can just clarify, that you
22 believe that it was around the 21st,
23 slightly before or after. Do you still
24 stick by that date or what -- how many days
25 would it vary? Can you help the Court with

1 that?

2 A. I have no further information about the
3 date, but as I have mentioned before, it was
4 approximately around the 21th, either a few
5 days before or few days after.

6 Q. Thank you very much. Can we then move on to
7 the next document which is been made as an
8 exhibit. That is the document which is
9 Exhibit 32. Again, it's now been made as
10 exhibit by my learned friend, could I
11 perhaps place copies before the Court to
12 assist them. You've got two English copies
13 and a French copy. Before I move on to the
14 last document, could I make an application
15 for the translation that I passed to the
16 Court to be added to that exhibit to assist
17 the English-speaking Judges?

18 MR. PRESIDENT:

19 You can tender it in as your own exhibit as
20 part of this document.

21 MR. MOORE:

22 Yes, I know that. But what I was thinking
23 was that, as the document was already an
24 exhibit, if my learned friend agrees to it,
25 one could basically attach the translation

1 to the document, so that the two -- the
2 documents themselves travel as one unit.

3 MR. PRESIDENT:

4 Yes. But it can be done like that, but that
5 particular document will have to bear the
6 number of the Prosecution. That would be
7 Prosecution Exhibit number?

8 MR. MOORE:

9 I will have to find that.

10 MR. PRESIDENT:

11 The Registry can do that.

12 MR. MOORE:

13 I think that might be 35.

14 MR. KIYEYEU:

15 That's correct, My Lord. Exhibit no. 35.

16 MR. MOORE:

17 So that could be the translation; English
18 translation of the Exhibit 31; D31.

19 MR. PRESIDENT:

20 Yes, the English translation of
21 Defence Exhibit No. 31 -- no, the English
22 translation attached to Defence
23 Exhibit No. 31 should now be admitted, as it
24 is, separate, as Prosecution Exhibit No. P5
25 -- 35.

1 MR. MOORE:

2 I don't think there would be a problem, I
3 imagine, if it was just attached to that
4 Defence exhibit. It can bear the name of a
5 Prosecution exhibit.

6 MR. PRESIDENT:

7 No, it can't be done that way. It has to be
8 separate. It has got to be separate. We
9 keep separately.

10

11 So, it is really -- the formulation is that
12 what is otherwise Defence Exhibit No. 31
13 with the translation, the English text
14 attached to it K00-6614 is now admitted as
15 Prosecution Exhibit No. 35.

16

17 (Exhibit No. 35 was admitted)

18 MR. MOORE:

19 Thank you very much.

20 MR. PRESIDENT:

21 That's a separate copy of that exhibit.

22

23 I hope there is no objection.

24 MS. CONDÉ:

25 There is no objection from the Defence, but

1 we would like to receive a copy of the
2 translation, as the translation come from
3 the Prosecutor.

4 MR. MOORE:

5 In actual fact, you were given the
6 translation yesterday.

7 MS. CONDÉ:

8 Yes, but the translation I have is an
9 excerpt; I only have one paragraph. For,
10 with another paragraph, what I would like to
11 have is the exhibits that has been tendered.

12 MR. MOORE:

13 Yes, of course, we'll do that, again.

14 May I move on now, please?

15 MR. PRESIDENT:

16 Before you move on, Mr. Moore, can the
17 registry later, using, of course, separate
18 copies, not the one that had been formally
19 admitted to the Court as exhibits, make sure
20 that document that we have been discussing
21 is, you know, translated into the two
22 languages of the Tribunal; that's
23 Exhibit 31.

24 MR. KIYEYEU:

25 We shall comply, My Lord.

1 MR. MOORE:
2 Yes.
3 MR. PRESIDENT:
4 Yes, go on, Mr. Moore.
5 MR. MOORE:
6 Thank you very much.
7 MR. PRESIDENT:
8 You are now referring to which document?
9 MR. MOORE:
10 I am going on to Exhibit 32.
11 MR. PRESIDENT:
12 Thirty-two. Yes, we have it before us here.
13 MR. MOORE:
14 And that should be a document K-number going
15 107661, and including in 667.
16 MR. PRESIDENT:
17 Yes.
18 MR. MOORE:
19 And there should be two English copies and
20 one French copy for the Court. Can I deal,
21 please, then with this, I hope a little more
22 quickly.
23 MR. MOORE:
24 Witness -- does the witness have a copy of
25 this document? Can you just clarify that,

1 please? It's a statement dated the 7th to
2 the 12th of May 1999. I know that it is a
3 Court exhibit, but I don't know whether the
4 interpreters got it or not.

5 BY MR. MOORE:

6 Q. Can I ask the witness then, please, again,
7 it says, "Place of interview, Hotel Palm
8 Beach, Gisenyi" and gives the date. Does he
9 remember the interview he had with the
10 Tribunal's investigators?

11 A. Yes, I remember.

12 Q. And the same question that I asked before,
13 was there any question being asked about
14 Mr. Kamuhanda?

15 A. No. No question was put to me about
16 Kamuhanda.

17 Q. The structure of the statement has a number
18 of -- what I would call subheadings from
19 Roman numeral one to Roman numeral 7. Roman
20 numeral one is training; two, is the arrest
21 of Tutsis in 1990; three, from the release
22 of the Tutsis in 1992, the Arusha Peace
23 Accords turning over; four, after the
24 signing of the Arusha Peace Accords; five,
25 training of the Interahamwe and mass

1 recruitment of youths into the army; six,
2 relations between the gendarmerie and the
3 Interahamwe, including a nominated
4 defendant, which I won't say in open Court,
5 if I may, and then seven, from the 6th of
6 April 1994 onwards, concluding with rape.
7 Who decided these headings or topics?

8 A. The investigators chose these subheadings.

9 Q. Finally, this: Can I go right back to the
10 roadblocks that you went through when you
11 were travelling in the Pajero, you said that
12 there were more than 10 roadblocks. When
13 you heard the man say, "I am Kamuhanda, let
14 me through", and I just abbreviate that, did
15 anyone in the vehicle of the escort dispute
16 the fact that it was Kamuhanda in the
17 passenger seat?

18 A. Thank you. There were more than 10
19 roadblocks and none of the persons from the
20 escort ever disputed. After words were
21 mentioned, the roadblocks were opened and we
22 were let through. No one ever disputed the
23 fact that he was Kamuhanda.

24 MR. MOORE:

25 I have no further questions. Thank you.

1 MR. PRESIDENT:

2 Thank you, Mr. Moore, Learned Counsel.

3 MR. KIYEYEU:

4 I'm sorry, My Lord, it is being brought to
5 my attention by my assistant that the
6 Honourable Chamber pronounce that
7 Exhibit P35 was attached to Exhibit D31.

8 MR. PRESIDENT:

9 Yes, D31, document be translated.

10 MR. KIYEYEU:

11 Yes, but then the Court pronounce that it
12 was attached, that exhibit which is not the
13 case here. Maybe it was given to the Judges
14 just to help during the cross-examination.

15 MR. PRESIDENT:

16 Which one?

17 MR. KIYEYEU:

18 The re-examination.

19 MR. PRESIDENT:

20 No, this one should be -- this one should be
21 attached to a separate copy of what
22 constitutes Exhibit 31. Okay. You
23 understand? That means this should be put
24 together with a separate copy of what
25 constitutes to be a separate exhibit, of

1 course, what has gone in as Defence
2 Exhibit No. 31. Do you understand?
3 MR. KIYEYEU:
4 Yes.
5 MR. PRESIDENT:
6 Okay. So, they will have to go together.
7 MR. KIYEYEU:
8 We have taken note, My Lord.
9 MR. PRESIDENT:
10 Okay. And two, we also said that the third
11 document which is -- which we have the
12 French version should also be translated
13 into the other language of the Tribunal, the
14 entire document.
15 MR. KIYEYEU:
16 We have also taken note of that, My Lord.
17 MR. PRESIDENT:
18 Yes. Anything, Mr. Moore.
19 MR. MOORE:
20 Not at all. P35, I think, it's only the
21 French copy that's being exhibited?
22 MR. PRESIDENT:
23 Yes.
24 MR. MOORE:
25 If that is the case, I would thought, with

1 the utmost respect, it might be prudent to
2 also have included the English copy,
3 because --

4 MR. PRESIDENT:

5 Sorry.

6 MR. MOORE:

7 Well, the --

8 MR. PRESIDENT:

9 We don't have the English copy.

10 MR. MOORE:

11 No, what I'm saying is that it should always
12 be French and English going to the Court for
13 reading. And I think one of the exhibits is
14 only a French copy.

15 MR. PRESIDENT:

16 Yes. That is why we were saying that in the
17 process, they should make those trans -- you
18 know, those documents should be translated
19 into the language of the other -- the other
20 language of the Tribunal.

21 MR. MOORE:

22 Forgive me one moment. Yes, Ms. Marotine
23 tells me that D32, which was the witness
24 statement of the 7th and 12th of May, I
25 think it only gone in a French version.

1 MR. PRESIDENT:

2 Okay. We have an English text as well.

3 MR. MOORE:

4 If that's the case, then there is no
5 problems.

6 MR. PRESIDENT:

7 Then, no no, no. If you have an English
8 text, then Exhibit D32, you know, in the two
9 texts should be collectively be admitted as
10 Exhibit -- Defence Exhibit 32.

11 MR. MOORE:

12 Yes. Thank you very much.

13 MR. PRESIDENT:

14 That is, we have the two languages.

15 MR. MOORE:

16 Yes. Exactly. All exhibits should be in
17 two languages.

18 MS. CONDÉ:

19 I am sorry, but there is no English version
20 of D32. The English version that the
21 Prosecutor seeks to tender as exhibit is a
22 free translation that he did, and that he
23 used. And that is why we have given the
24 document a different Exhibit Number which
25 would be P35. We cannot attach his free

1 translation of a document to my defence
2 exhibits. That is Defence Exhibit 31,
3 rather 32, or, excuse me, it should be
4 Exhibit P35, as you have suggested.

5 MR. PRESIDENT:

6 No, we are dealing with two different
7 things. I think we have finished with the
8 Exhibit P5 -- P35 and D31. All right.

9
10 With regard to 32, if there is no official
11 translated text in the other language, then
12 the Trial Chamber directs or orders that
13 also Exhibit D37 be translated into English
14 language, D32.

15 MR. KIYEYEU:

16 We also take note, My Lord.

17 MR. PRESIDENT:

18 Yes. All right. Judge Ramaroson.

19 JUDGE RAMAROSON:

20 Witness DAL, do you know if after the death
21 of President Habyarimana, a transitional
22 government was formed, that is, right after
23 6th April?

24 THE WITNESS:

25 Yes, I am aware of that.

1 JUDGE RAMAROSON:

2 Do you know if Kamuhanda was a member or
3 held a portfolio in this Transitional
4 Government.

5 THE WITNESS:

6 I only heard of this when I reached Kigali,
7 that is, in a vehicle travelling to Gisenyi.
8 But, subsequently, it was mentioned and it
9 was said that he was a minister.

10 JUDGE RAMAROSON:

11 What was the main plan of this Transitional
12 Government?

13 THE WITNESS:

14 The government was instituted in 1994, while
15 massacres were being committed in the
16 country. But I would say that if no support
17 had been given to that government, even the
18 leaders of the massacres would not have been
19 able to do anything and incite to the
20 government to commit massacres.

21
22 I would also add that if one pose oneself to
23 the members of the government or even,
24 rather, if one was not an opponent to this
25 government, this would not have prevented

1 them from killing you.

2

3 JUDGE RAMAROSON:

4 And my last question is as follows:

5

6 Counsel says that Kamuhanda was at
7 Nyabikenke with all of his family, at the
8 same time, you say that you have seen him.
9 Where is Nyabikenke in relation to where you
10 were? Is it very far or is it close by?

11 THE WITNESS:

12 I'm not sure I understand your question.

13 Are you asking me where I was?

14 JUDGE RAMAROSON:

15 No, I am asking you whether Nyabikenke is
16 far -- very far from the area where you saw
17 Kamuhanda; the area where he picked you up?

18 THE WITNESS:

19 I don't know where Nyabikenke is in
20 Gitarama.

21 MR. PRESIDENT:

22 Thank you, Judge.

23

24 Yes. Interpreter, could you please tell
25 Witness DAL that this marks the end of his

1 evidence. We thank him. We shall have time
2 at a later stage to review his evidence,
3 together with the other evidence that is
4 going to be adduce in the course of this
5 trial. But, once again, we thank him and he
6 may leave.

7 THE WITNESS:

8 I thank you. And may God bless you.

9 MR. MOORE:

10 Could I deal with two small matters before
11 the witness departs?

12 MR. PRESIDENT:

13 Yes, please.

14 MR. MOORE:

15 The first relates to Your Lordship telling
16 me to sit down. Can I just indicate within
17 my jurisdiction, if a Judge speaks to me, I
18 am obliged to stand up. It wasn't any
19 discourtesy in any way at all. So I'm
20 afraid that is why I was standing at that
21 time. I hope the Court accepts that.

22 MR. PRESIDENT:

23 Yes.

24 MR. MOORE:

25 The second relates to Judge Ramaroson's

1 question about Nyekabenke (sic).

2

3 MR. PRESIDENT:

4 Nyabikenke.

5 MR. MOORE:

6 I am not terribly good at writing down place
7 names phonetically, but I don't know if that
8 is the -- and I mean no discourtesy to judge
9 Ramaroson's pronunciation, whether that is
10 the correct pronunciation of the place that
11 Ms. Condé had mentioned. I wonder if that
12 could be clarified.

13 MR. PRESIDENT:

14 Yes.

15 MR. MOORE:

16 Ms. Condé had said that Mr. Kamuhanda was at
17 Gitarama at Nyabikenke with all his whole
18 family, but I don't know the pronunciation
19 exactly.

20 MR. PRESIDENT:

21 Yes. Well, the pronunciation is not easy.
22 You remember, learned counsel, Ms. Condé, is
23 it Nyabikenke or?

24 Ms. CONDÉ:

25 Nyabikenge.

1 MR. MOORE:

2 I wonder, in fairness to the witness if that
3 could just be -- if he knows -- the witness
4 knows that place, please.

5 MR. PRESIDENT:

6 Can you pronounce it again, please? If
7 anybody who can assist us, the names are
8 important. Nyabikenke; is that correct?

9 MS. CONDÉ:

10 Nyabikenke.

11 MR. PRESIDENT:

12 Can you asked the witness -- well, we've
13 already thanked him -- but can you ask by
14 way of clarification if he knows that place,
15 Nyabikenke?

16 THE WITNESS:

17 I know that it is in Gitarama, but I don't
18 know exactly where, but I do know it is in
19 Gitarama.

20 MR. PRESIDENT:

21 Okay. Once again, we thank him.

22

23 Yes. Mr. Moore.

24 MR. MOORE:

25 Well, that concludes the witnesses that the

1 Prosecution would seek to call in the case
2 against Mr. Kamuhanda. You may remember
3 that there was another witness which was
4 being recalled called GEK. Might I just
5 indicate the position, as it exist, in
6 relation to that witness. That witness, at
7 the moment is a detained witness in a matter
8 wholly unrelated to this investigation.

9
10 We have, of course, an obligation to contact
11 the Rwandese Government and they then -- and
12 indicate that we would wish to call that
13 witness before the Tribunal. We can only
14 request, we cannot order. We have to sent
15 numerous, and I do underline the word
16 numerous request for that to be done, and
17 this perhaps over the past two months, I
18 could say. We have approach that at the
19 highest level both here and in Kigali, but
20 the Court knows that there has been certain
21 problems existing between the Rwandese
22 Government and the Tribunal. And, while we,
23 ourselves, have drafted a motion and indeed,
24 an affidavit to indicate the difficulties
25 that we have experienced, up until this

1 morning, we have received no document from
2 the Rwandese Government.
3 And if my understanding of the law is
4 correct, I have no power, obviously, to
5 order a government to produce a witness and
6 neither has this Court. The Court have to
7 be satisfied on the correct procedure, which
8 is the presentation of the document from the
9 Rwandese Government saying they are willing
10 for that witness to be released, to come to
11 Arusha, and then the Court makes such an
12 order for that to be done. We've got the
13 gun, but we haven't got the bullets, if I
14 may put it in a rather vulgar way.
15
16 Now, what I can assist the Court with is
17 this: That we have been told, but we have
18 been told before that we should be getting
19 letter today, but that is no guarantee, I
20 regret to say, that's going to happen. Even
21 if it were to happen, having worked with the
22 WVSS and spoken to Mr. Vahidy, the very
23 earliest that witness could be brought,
24 bearing in mind the documentation that has
25 to be put in place, would be two weeks from

1 today, and that is moving quickly.

2

3 I have spoken to Ms. Condé about the matter.

4 That can be dealt with, in my submission in
5 the following way:

6

7 One, we can close the Prosecution case.

8 There is no property, any witness, GEK is a
9 witness that can be recalled by the Defence.

10 There is nothing to stop the Defence calling
11 this witness as part of their case.

12 However, I do appreciate there is difference
13 between cross-examination of a witness and
14 evidence-in-chief. And the proper way to do
15 it, in my submission, is for the Prosecution
16 to produce the witness, tender the witness
17 and cross-examination occur. You can't
18 cross-examine your own witness.

19

20 If that is the case, then, clearly, that
21 cannot be done until the next hearing. So I
22 am entirely in the Court's hand; to close
23 the case or I can technically leave it open
24 until the first day of the next hearing.

25 And I seek the Court's guidance on that.

1 And I hope I speak on behalf of Ms. Condé,
2 in the way that I have explained.

3 MR. PRESIDENT:

4 Good. Thank you very much.

5

6 Yes, Mr. Moore, we propose that you can
7 close your case today, and, you know,
8 subject, of course, to GEK being available.
9 And if he is available, he should be made
10 available during the forth coming session on
11 19th of August, I think, and then, we could
12 go -- she could be made available for
13 cross-examination before the beginning --
14 actual beginning of the Defence case.

15 MR. MOORE:

16 I am quite happy with that course and I will
17 accommodate the Defence. But can I just
18 indicate that there have been problems, the
19 Court is aware of it.

20 MR. PRESIDENT:

21 Yes.

22 MR. MOORE:

23 And we will do our --

24 MR. PRESIDENT:

25 Yes, during this period of time then all

1 efforts be made to see to it that this
2 witness would be available during the
3 forthcoming in August for cross-examination
4 by the Defence.

5 MR. MOORE:

6 When we get the document, we will produce --
7 it doesn't need to be interparties an
8 application -- interparty application by us,
9 and then matters can flow from there.

10 MR. PRESIDENT:

11 Okay. All right. So you can formally close
12 your case with that condition.

13 MR. MOORE:

14 And that being case, I formally close the
15 case against Mr. Kamuhanda.

16 MR. PRESIDENT:

17 Yes. Okay. Thank you. And, Learned
18 Counsel, we had scheduled and agreed to
19 discuss on these matters, so the Defence
20 case will start on the 19th of August 2002.
21 Counsel, Ms. Condé.

22 MS. CONDÉ:

23 We shall be ready. The Prosecutor had
24 spoken of a personal difficulty because of
25 the date of the 19th of August. I don't

1 know if we should keep this discussion for
2 the date of our conference on this matter,
3 but in view of the changes within our team,
4 I believe that we should still be able to
5 respect the proper deadlines.

6 MR. PRESIDENT:

7 We have to try. We don't know exactly what
8 is the position, but because of the time
9 frames we have for this case as well as in
10 other cases that are being lined up, it's
11 very difficult to come up with a different
12 date. Okay. All right.

13
14 So, we'll adjourn these proceedings --
15 before that, I think we thank everybody for
16 facilitating -- facilitating the work we
17 have done and the stage we have reached, and
18 we then adjourn these proceedings to
19 19th August 2002 for the beginning of the
20 Defence case. Until then these proceedings
21 stand adjourned.

22

23 (Court adjourned at 1141H)

24

25 (Pages 25 to 68 by Haruna Farage)

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We, Petrus Chijarira, Haruna Farage, Official Court Reporters for the International Criminal Tribunal for Rwanda, do hereby certify that the foregoing proceedings in the above-entitled cause were taken at the time and place as stated; that it was taken in shorthand (stenotype) and thereafter transcribed by computer; that the foregoing pages contain a true and correct transcription of said proceedings to the best of our ability and understanding.

We further certify that we are not of counsel nor related to any of the parties to this cause and that we are in nowise interested in the result of said cause.

_____ (1 to 24)

Petrus Chijarira

_____ (25 to 68)

Haruna Farage