

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

CASE NO. : ICTR-01-76-T
CHAMBER I

THE PROSECUTOR
OF THE TRIBUNAL
v.
ALOYS SIMBA

WEDNESDAY, 16 FEBRUARY 2005
0855H
CONTINUED TRIAL

Before the Judges:

Erik Møse, Presiding
Sergei A. Egorov
Dennis Byron

For the Registry:

Ms. Marianne Ben Salimo
Mr. Edward Matemanga

For the Prosecution:

Mr. Ignacio Tredici
Mr. Didace Nyirinkwayo

For the Accused Aloys Simba:

Mr. Sadikou Ayo Alao
Ms. Beth Lyons

Court Reporters:

Ms. Sherri Knox
Ms. Donna M. Lewis
Ms. Roxane Lane

I N D E X

WITNESS

For the Defence:

MONIQUE MUJAWAMARIYA

Examination-in-chief by Mr. Alao.3

EXHIBITS

Exhibit No. D. 672

Exhibit No. D. 68A and D. 68B.....27

PROCEEDINGS

1

2 MR. PRESIDENT:

3 Good morning. Good morning.

4

5 Good morning, Madam Witness.

6 THE WITNESS:

7 Good morning, Mr. President.

8 MR. PRESIDENT:

9 You are a protected witness and will be referred to as Witness BMC in these proceedings. You have to
10 tell the truth, and the registry will now take your solemn declaration.

11 *(Declaration made by Monique Mujawamariya in French)*

12 MR. PRESIDENT:

13 Do you have two pages in front of you there, Madam Witness?

14 THE WITNESS:

15 Yes, Mr. President.

16 MR. PRESIDENT:

17 Does the second page bear your signature?

18 THE WITNESS:

19 It's on the third page.

20 MR. PRESIDENT:

21 Well, that may depend on how we count, but is it on your page also just before item 12, on the top of
22 that one?

23 THE WITNESS:

24 Yes, you are right.

25 MR. PRESIDENT:

26 Does this imply that the information contained in this personal information sheet containing your
27 particulars is correct?

28 THE WITNESS:

29 They are correct, and they were written with my own hand.

30 MR. PRESIDENT:

31 Thank you very much.

32

33 Mr. Matemanga, D?

34 MR. MATEMANGA:

35 D. 67.

36 MR. PRESIDENT:

37 Under seal.

1 (Exhibit No. D. 67 admitted)

2 MR. PRESIDENT:

3 Defence, please.

4 MR. ALAO:

5 Thank you, Mr. President. The Defence craves the indulgence of the Court to allow them -- or, rather,
6 to allow this witness to give her testimony in open session, the entire testimony. This was the request
7 of the witness herself. If the Court grants that leave, then the Defence may start their direct
8 examination.

9 MR. PRESIDENT:

10 The main rule is open sessions, and we will just not make any decision to the contrary. So just
11 proceed. Thank you.

12 MR. ALAO:

13 Thank you, Mr. President. I made this request because of the protective measures. That is why we
14 have to make a request so that the revelations that will be made by the witness should not surprise
15 anyone and should not contract -- or, rather, contradict the decision regarding witness protection
16 measures. That is why we made the request. Now that the request has been granted --

17 MR. PRESIDENT:

18 What you are requesting is that we are sticking to an open session, which is the main rule, and that is
19 fair enough. But, of course, the same witness protection measure regime will continue to apply unless
20 you are informing us that the witness want to reveal her identity, and I've not understood your request in
21 that sense. So we will simply follow normal practice, unless you want a different system, namely, that
22 we caution the witness to be careful in open session. Isn't that what we want to do? So let's now start.

23 MR. ALAO:

24 Yes, Mr. President. The witness likes to reveal her identity. She doesn't intend to conceal her identity
25 from the public. That is, indeed, what I wanted to say, Mr. President.

26 MR. PRESIDENT:

27 All right. But that's different.

28

29 Is that so, Madam Witness, that you want to give testimony and not be subjected to the Tribunal's
30 protection measures? Is that what you want to do?

31 THE WITNESS:

32 I think that is what I want. I want my testimony to be given openly and that my name be known.

33 MR. PRESIDENT:

34 All right. Now, if that is the case, then we will not place your personal information sheet under seal
35 because you accept that this information be public, so we will reverse that decision. And then it also
36 means that --

37

1 THE WITNESS:

2 That is no problem, Mr. President.

3 MR. PRESIDENT:

4 And it also means that the court video system will be able to focus on you during your testimony; your
5 face will be known. Just so that you know the implications of this. The public will see you.

6 THE WITNESS:

7 It is clear, Mr. President.

8 MR. PRESIDENT:

9 All right. Thank you. We are, then, hearing the testimony of Monique Mujawamariya. And you have
10 the floor for examination-in-chief, Mr. Alao. Please proceed.

11 MONIQUE MUJAWAMARIYA

12 first having been duly sworn,

13 testified as follows:

14 EXAMINATION-IN-CHIEF

15 BY MR. ALAO:

16 Q. So, Witness, I hope you will allow us that we call you by your first name, Monique.

17 A. Yes, Counsel.

18 Q. I would nevertheless give you some preliminary information concerning the Defence of Aloys Simba.
19 Counsel for Aloys Simba would want objective testimony. We do not want that anything be said which
20 would be interpreted as a way of helping Mr. Simba. Mr. Simba's lawyers are here to -- for that. And in
21 any case, given your background, we do not expect anything other than objective and sincere
22 testimony. I believe we have understood one another.

23 A. Yes, indeed.

24 Q. You should also cooperate with Defence counsel, as well as counsel for the Prosecution. They will also
25 be asking you questions after us, and the Court or the Bench would also like to understand, so we
26 would like that you cooperate with everyone sincerely, candidly.

27 A. Yes, of course I will do that.

28 Q. Thank you very much, Monique.

29

30 Monique, can you tell the Court where you were in April 1994?

31 A. In April 1994 I was in Kigali.

32 Q. Can you also tell the Court what you were doing in Kigali and in what capacity?

33 A. In April 1994 I was executive secretary of the league of human rights in the Great Lakes region. That
34 means that I was the coordinator of the activities of human rights activists in the area, in Zaire, now
35 Democratic Republic of Congo, Burundi, Rwanda, and you can just join the group at that time.

36 Q. Madam, because of the activities that you just mentioned, were you in contact with the international
37 organisations like Human Rights Watch?

- 1 A. I was in contact with Human Rights Watch, Amnesty International, FIDH, and all these institutions were
2 my partners, were the institutions I worked with.
- 3 Q. Ms. Monique, in that capacity did you contribute to the report of the Human Rights Watch, and if yes, to
4 what extent?
- 5 A. Well, up to December 1993, I cooperated closely with Human Rights Watch. Moreover, I had just won
6 for the first time their prize, the prize of the best human rights defender in Africa. I also participated
7 practically in all that they did on Rwanda from -- from March 1991.
- 8 Q. Thank you. Did you make any contribution to the Human Rights Watch report on Rwanda regarding the
9 events of 1994?
- 10 A. No. From the end of 1993 I no longer cooperated with Human Rights Watch regarding what happened
11 in Rwanda in April because I was no longer on the spot. Furthermore, I never produced any report
12 without I personally collecting the evidence on the ground. It was no longer possible. I was in exile;
13 therefore, I did not contribute to that report.
- 14 Q. Can we nevertheless say that you -- that you know Ms. Alison Des Forges?
- 15 A. Yes, I personally know Alison Des Forges because the first mission that she made on the ground in
16 Rwanda, I was her guide. I was her main partner in Rwanda until the end of 1993.
- 17 Q. Ms. Monique, tell us if you know Mr. Aloys Simba.
- 18 A. Yes, I know Mr. Aloys Simba.
- 19 Q. Can you tell the Court since when you know Aloys Simba?
- 20 A. I knew Aloys -- I've known Aloys Simba for the last 32 years.
- 21 Q. How? For the last 32 years, how did you know him?
- 22 A. The first time that I heard people talk about Aloys Simba was during the coup d'état in Rwanda, the
23 coup d'état of 5 July 1973, because that name was regularly mentioned over the radio as one of the
24 comrades of the 5th July coup.
- 25 Q. Do you know him in his military life?
- 26 A. Of course, because in September 1993 I was married to a young lieutenant of the Rwandan army, so I
27 became part and parcel of the family of officers who were very close to one another, who were regularly
28 in contact with one another. Therefore, until my husband left the army in 1986, I knew, I saw, I regularly
29 followed up the career of all the officers of the Rwandan army, including that of Aloys Simba.
- 30 Q. Very well. Madam, this is not a question. I just want to request that you slow down to enable the
31 interpreters to follow and interpret you properly. I know that you speak very well, and you speak
32 quickly. I'm, myself, making an effort to slow my pace. I think this advice applies to both of us.
- 33 A. I will make an effort to that event.
- 34 Q. Well, you just said that you knew -- you know Aloys Simba very well as a soldier.
- 35 A. Yes.
- 36 Q. Can we also say that you knew his political career?
- 37 A. Yes, that can be -- it could be understood that way.

1 Q. Are you in a position to talk about his political career?

2 A. Yes, of course.

3 Q. Very well. Now, let us begin from the beginning. Tell the Court if you saw Aloys Simba in April 1994.

4 A. In April 1994 Aloys -- I saw Aloys Simba for a period of about five minutes. On the 12th April I was in
5 front of *Hôtel des Mille Collines*, and it was -- probably it was the end of the morning -- I cannot specify
6 the time -- Aloys Simba was driving his vehicle, a white Mercedes four-wheel drive. He was on the
7 steering wheel. There were people in his vehicle. I was able to recognise one of the persons whom I
8 knew personally, apart from Simba. It was a young electromechanic. I knew him only by his first name
9 of Jean. He was a huge person wearing big spectacles. He was in the vehicle of Colonel Aloys Simba.
10 They -- they moved -- they turned around the roundabout of *Mille Collines*. They stopped in the
11 entrance to *Mille Collines* hotel for a few minutes, and he looked at me. I also looked at him. He knew
12 me and I knew him. We did not speak to one another. He waved at me and I waved back, and he
13 reversed. He left the premises of the *Hôtel des Mille Collines*.

14 Q. So you are saying, madam, that you saw Aloys Simba on 12th April at the end of the morning at *Hôtel*
15 *des Mille Collines*?

16 A. Yes, Counsel.

17 Q. Are you sure that you did not make a mistake?

18 A. No, I could not have made a mistake because this date is very significant to me, and it's also significant
19 in my life. On 12th April -- or 12th April -- 12th April was the day I left my hiding place, and I was
20 making an attempt to leave Rwanda. At that very time at *Hôtel des Mille Collines* I went out, I came out
21 because I was distressed. In fact, I had just witnessed live the declaration made by Alison Des Forges
22 who was announcing that I was dead over CNN. Since officially I was dead, I was really anxious and
23 worried because I thought that if people felt that I was dead, there will no longer be any initiative to
24 come to my assistance. This date is unforgettable to me. I cannot forget this date, or neither can I
25 confuse it with any other date.

26 Q. So you are very positive the date of 12 April when you saw Aloys Simba. It's very important. That is
27 the date when Alison Des Forges announced over CNN your death, and to you this date is
28 unforgettable?

29 A. It is unforgettable because it is also the date when I was saved by the Belgian embassy, which can also
30 confirm that it was at that time that they heard about me once more since the beginning of the conflict in
31 Rwanda. That is the date when I left Rwanda.

32 Q. Tell us, madam, in spite of all these assertions that you have just made and all these certainties you
33 have expressed, if you are told that a witness came here before the Court to say that on the 12th of
34 April, precisely at about noon and later on at about 6 p.m., Simba was leading *Interahamwe* attacks in --
35 at Kinyamakara *commune*? In other words, you saw Simba on 12th April at the end of the morning at
36 *Hôtel des Mille Collines*, and you are sure about this with all the information that you have given us. On
37 the same 12 of April a Prosecution witness saw Simba who was leading attacks at Kinyamakara at

1 about midday and 6 p.m. What does this call to mind, madam?

2 A. That Colonel Simba can be in several places at the same time, that he's ubiquitous, because I saw him
3 at *Hôtel des Mille Collines* at the end of the morning. Or this could also imply that there was somebody
4 who bears his names. Sometimes this was proven during the Rwandan disturbances. Some young
5 militia took on the names of people they admired, people they would have liked to be identified with. Or
6 another possibility is that perhaps it is an error or an intention to implicate or involve Simba in this
7 category.

8 Q. Thank you, madam. Apart from this 12 of April, with information that you have on what happened in
9 Rwanda, if you were told that Mr. Simba on one date in April and May participated, not only in the
10 preparation of the Rwandan genocide, but that he also participated in that genocide, what would you tell
11 anybody making such allegation?

12 A. Personally I would say no, that that is not possible, because all those who participated in the
13 preparation of the genocide, all those who mastermind or led what happened in Rwanda in April and
14 later on, had a reputation before that; they were known before that. And since I was well positioned to
15 know those people, to know those who were responsible for violating human rights in Rwanda, those
16 who were involved in the training and supervision of militiamen up to April 1994, I never saw anywhere
17 whatsoever the name of Simba mentioned among that category of persons.

18
19 All the reports, all information passed through my office. I was the first person to publish or the person
20 in charge of publishing those reports. I never talked about Simba. I never heard about Simba, except
21 when the newspapers of militiamen also talked about him. Up to April he was the main victim.
22 Moreover, this is what led him to resign from his duties as a chairman of the MRND party sometime in
23 1993. I remember that I saw this very briefly, but I do not remember exactly what month when he
24 resigned.

25
26 Simba never had any connection that would explain that he was part of the gang, that he was ever
27 called (*unintelligible*). Rather, he was marginalised because from the onset he showed that he was a
28 Tutsi ally. If there was any plan to be hatched against the Tutsi, that would not have been entrusted to
29 him.

30 Q. Madam, your knowledge of your Rwandan tragedy, I must confess, impresses me, but the Tribunal has
31 never sought to use your expertise.

32 A. I came to give evidence here for three weeks in the year 2001. I was a Prosecution witness on the hate
33 media. I was congratulated by the Tribunal because they felt that my testimony helped the Tribunal a
34 great deal.

35 Q. Thank you very much for that piece of information.

36 MR. PRESIDENT:

37 Are you saying that you testified for three weeks in the media trial, madam?

1 THE WITNESS:

2 I testified for two weeks because for one week there was, I believe, the death of a Judge, and this made
3 me stay here without doing anything. But for two weeks, yes, I gave testimony before this -- before the
4 Court here.

5 MR. PRESIDENT:

6 Are you saying that you were in the courtroom for two weeks?

7 THE WITNESS:

8 Several days. In any case, I stayed here for three weeks. For one week I didn't have to be here, but
9 for one week I came for three or four days, and for the other week I came for two or three days. I must
10 have given testimony over several days in succession.

11 MR. ALAO:

12 Thank you, Mr. President.

13 BY MR. ALAO:

14 Q. That is very interesting. The Defence thanks you for that information.

15
16 Now, tell us, earlier on you said that Mr. Simba was marginalised quite early. What -- can you explain
17 to the Court what you mean by the fact that Simba marginalised himself?

18 A. Mr. Simba was among the rare young people from the south of the country to join the Rwandan army.
19 That was the first sign of marginalisation. And during his batch, which was the first batch, I think there
20 were only three of them who did not come from the north of the country. He was, in fact, the only one
21 who married a Tutsi. That was another way of marginalising himself, especially as it was known that
22 Rwandan armies were totally forbidden to marry young Tutsi women. But since Simba had married a
23 Tutsi woman before that order was issued, he was maintained in the army because they didn't know
24 what to do with him. He could not be asked to divorce. He was a good officer. He was a brilliant
25 officer, but he was not really in his place. He was not really in his element.

26 Q. Madam, was there another form in which -- another manner in which Simba was marginalised?

27 A. Another manner in which Simba was marginalised, I believe, was that later on -- first of all, when the
28 comrades of 5th July took power, of course, all members of the batch were given good positions in
29 ministries, in business. There was nothing that could be done with Simba, so he became minister of
30 information. But, in fact, his tenure was the shortest in Rwanda. He stayed as minister for seven
31 months. And since there was no reason to dismiss him, in fact, the ministry was simply abolished, at
32 that time marginalisation was very open. Because he was no longer a minister, he no longer had any
33 known functions, he remained as if he was quarantined. I think that he was the only officer who worked
34 under the orders of a junior officer. He was put in a small office in the ministry. He was called the --
35 that office was referred to as the wardroom or cupboard. He worked in the office but was commanded
36 by a colonel called Rusatira, who was much younger than him in the army. In fact, this was
37 scandalous. People felt bad about this. In fact, for a long time it was the topic of conversation and

1 jokes within the Rwandan army. Of course, he was taken out of that position. I think when he was
2 taken out of there he became camp commander, the commander of the Kigali camp, a position which
3 he held for a long time, but at the same time, looking at comparing his career to the career of that of
4 people of his batch, it was seen, it was clear that he was marginalised. He was not in his place.

5 Q. Thank you, madam.

6 MR. PRESIDENT:

7 Witness, when did Colonel Simba marry?

8 THE WITNESS:

9 I do not remember, but it must have been well before. I do not, in fact, remember. I never took an
10 interest in knowing when he got married, but it was before the law prohibiting marriages with Tutsis was
11 enacted.

12 MR. PRESIDENT:

13 Are you saying that there was an explicit statutory provision in Rwanda saying that you shouldn't get
14 married with Tutsi?

15 THE WITNESS:

16 Yes, indeed, because I myself was married by an officer, and I underwent lengthy investigations to
17 verify that I was not Tutsi. But since my mother was Tutsi, I was the subject of a lot of pressure. I was
18 being asked to counsel the marriage. In fact, in the eyes of the army, I was not pure, so to speak.

19 MR. PRESIDENT:

20 So this was an act dealing specifically with marriages within the army, the armed forces, is that so, or
21 was it more general?

22 THE WITNESS:

23 It was officially written and known in the armed forces, but in a subtle manner, in the senior positions, it
24 was important not to be married to a Tutsi woman.

25 MR. PRESIDENT:

26 But I understand that you said that there was an act, a statutory provision, adopted to this effect.

27 THE WITNESS:

28 Yes, yes. It was part and parcel of military rules and regulations.

29 MR. PRESIDENT:

30 When was that act adopted?

31 THE WITNESS:

32 I cannot tell you. In fact, I do not know, but I suffered the consequences of that act. I do not know
33 when it came into force or when it was adopted.

34 MR. PRESIDENT:

35 Did you ever see the provisions of that act?

36 THE WITNESS:

37 I did not see a copy of that provision, but I saw a letter which the head of the intelligence service at that

1 time, who was called Lucinde, had written to my young fiancé telling him even if I am not Tutsi, I am the
2 fruit of Tutsi blood because my mother was Tutsi. He added that if my fiancé indeed sought to make
3 progress in the army, he should listen to him and accept the girl that that person was proposing to my
4 fiancé.

5 MR. PRESIDENT:

6 Did I understand you correctly that Mr. Simba was minister for seven months? Is that the testimony?

7 THE WITNESS:

8 Yes, I do not remember the exact number of dates. It was less than a year. It was less than a year,
9 and it was close to half a year. It was a very brief tenure.

10 MR. PRESIDENT:

11 And which year was this?

12 THE WITNESS:

13 Oh, my God. It was certainly in 1973 around the date when the coup d'état took place.

14 MR. PRESIDENT:

15 So was it before or after the coup d'état of '73?

16 THE WITNESS:

17 Of course after.

18 MR. PRESIDENT:

19 But in the '70s, not far after the '73 coup d'état, is that the testimony?

20 THE WITNESS:

21 Yes, indeed.

22 MR. PRESIDENT:

23 Thank you very much.

24 THE WITNESS:

25 Not at all.

26 MR. ALAO:

27 Thank you, Mr. President.

28 BY MR. ALAO:

29 Q. Madam, we will resume. As I reminded you a while ago, perhaps it will be necessary to slow the pace a
30 little bit. This is very important.

31

32 Now, tell us, madam, do you know that the children of -- do you know that Mr. Simba's children are
33 married to Tutsis?

34 A. Yes, I'm aware of that. I'm aware of it because for a long time it was the topic of conversation in town.
35 Everyone was wondering whether Simba was not mad to allow his elder -- eldest daughter to marry a
36 Tutsi. And before the dust settled, his son married a Tutsi woman. In fact, the conclusion was that -- in
37 fact, there were many comments to -- made. It was said that that was his way of opposing the

1 authorities in place and that he was making efforts to marginalise himself. It was even said that it was
2 his wife who was controlling him since it's her children married Tutsis.

3 Q. Do you consider this as another way of Simba making an effort to marginalise himself?

4 A. I do not think he was making an effort to marginalise himself. I think that Simba is a man -- well, I am
5 convinced that he is a man who always allowed things to follow their natural course. His children fell in
6 love. He was happy with what was happening, but since, on the other side, things were not viewed in
7 that manner, the end result was that he was marginalised.

8 Q. But, madam, tell us, Simba was marginalised by the Hutu, perhaps, but Simba was also marginalised
9 by the Tutsi if one considers what is going on in this trial.

10 A. Of course Simba should be marginalised by the Tutsi. He was Hutu. Even if he's married to a Tutsi,
11 the Tutsi who are extremists would never have confidence in him. There is nothing that can be done to
12 deserve their confidence, to acquire belongingness, so to speak, to that group. Now that things have
13 taken a different turn, in the Rwandan nationality it is bipolar. You are either Hutu or Tutsi, but you
14 cannot just be Rwandan, even if, like me, you have the blood of both Hutu and Tutsi. This
15 marginalisation sometimes is against us. Simba is the victim of this marginalisation. He's Hutu, even if
16 on several occasions he proved through marriages, several marriages in his family, that he's pro-Tutsi,
17 in spite of this, he will remain Hutu whatever he does.

18 Q. Madam, I have one concern. You said that Simba is marginalised by the Hutu, marginalised by the
19 Tutsi, but Simba is also marginalised in the south where he comes from; is that right?

20 A. Simba is also marginalised in the south because Simba was a senior soldier, and not many people
21 enjoyed such a privilege in the south. It was not something that endeared him to many people, that
22 made him deserve the confidence of many people, even if they were proud of what he was. But it was
23 said that in the -- in the south it was said that he was pro-northern. In his right -- in his native region he
24 was appreciated, but not in the entire south. He was appreciated because of his personal
25 achievements, not because he was a soldier.

26 Q. But, madam, were the people of the south marginalised in relation to the Habyarimana regime?

27 A. Yes, of course. The people of the south -- at some point in time I remember a small anecdote. A Tutsi
28 friend from the north one day told me, "Now I think that I'm worth more than you because I come from
29 the south, and even if you are Hutu, he came from the north Tutsi and was more appreciated. When
30 certain groups were being eliminated, mine came after his." The south was for a long time marginalised
31 by the authorities in the north. On the contrary -- rather, when the south also had power, they
32 marginalised people from the north.

33 Q. Madam, perhaps you have to explain to the Court, and we have had testimonies to that effect here,
34 Simba is marginalised in the south. He was marginalised by Tutsi and Hutu. Nevertheless, we had
35 testimony here to the effect that Simba was the pride of people of his area and that he was very
36 popular.

37 A. That is what I have just said, Counsel. Simba was the pride of people of his area, because even if he --

1 the authorities did not like him, it was a source of pride to know that somebody of this region was close
2 to the regime, was in the power -- was in power.

3
4 But I remember an anecdote. I do not remember exactly the year, but during campaigns for
5 presidential elections Simba's area was always portrayed as a rebellious region. There was a period of
6 lengthy famine, and the government, in fact, did not do what was necessary to help the area, the area
7 during that period of famine. Then rains returned. Harvest became abundant, and then there was the
8 presidential election campaign. People remembered how the region neglected the area, and in spite of
9 Simba's efforts -- because in my father's house we lived very near the road that led to Simba's place,
10 very often we saw him pass by. He campaigned vigorously, asked people of his area to vote for the
11 president, and the president was -- in fact, this is the only case in the history where the president was
12 voted at 45 percent, whereas elsewhere he was voted at 90 percent.

13
14 And I remember at that time Simba went through a very bad period, but the people proved that, yes,
15 Simba was their pride, but they do not agree with Simba who is working for the regime that does not
16 support him, does not help them. For a long time, in fact, it was expected that he should be dismissed
17 because President Habyarimana was angry with him. There were many rumours circulating about the
18 injustices he suffered at that time. Simba went through a situation which was always paradoxal, like the
19 history of his country. He was surprised. Yes, he stood his ground. He came from the south. He was
20 a colonel. He was on the first batch. This was a source of pride. But on the contrary, being part of that
21 club of leaders of a regime that did not like the south, for a long time he had to endure the situation, and
22 I think it is that situation which is bringing before this Court today, because Simba is somebody who in
23 the history of Rwanda cannot put himself in any specific category. But alongside that, he is a good man
24 who was appreciated because of his personal acts that he carried out, especially with regard to the
25 people of his area.

26 Q. Thank you, madam. Now, madam, could you tell this Court, do you know whether in April '94, despite
27 the accusations made, whether Simba saved the lives of Tutsis?

28 A. Well, I can think -- I can -- I think so, but at least I know one person that he saved and who is alive and
29 in Kigali, because during my frequent trips to Rwanda I saw that person, and when I asked him what he
30 was doing in Simba's vehicle at *Mille Collines*, that's when this person told me that his brother was the
31 husband of the daughter of Simba, and I didn't know that he is called Jean. He is alive, and it is thanks
32 to Simba, and he's quite open about it. And he told me that when I saw him, he was with many other
33 people and that Simba had saved the lives of many people. He had worked hard to protect Tutsis to
34 which he had access.

35 Q. Now, the Jean you are talking about, is it Jean Gashumba?

36 A. Yes, I learned later that he's called Jean Gashumba. I just knew him as Jean, and we experienced this
37 brief moment together, this visual contact at the *Mille -- Mille Collines* hotel.

- 1 Q. Thank you, madam. Now, madam, Simba was from the south. You say that he was the pride of the
2 people of the south. Even if in Kigali one could think that Simba did not have powers or was
3 marginalised, even if one thinks that as a retired officer he no longer had any control over the soldiers,
4 now in the south, which was his region of birth, and he returned there, don't you think that he could
5 have had enough powers, enough popularity to put an end to the genocide?
- 6 A. No. I would say no.
- 7 Q. Madam, you are still a bit too fast. Could you please pause for translation before beginning your
8 answer? Just be a little slower, madam.
- 9 A. Very well.
- 10 Q. You can proceed.
- 11 A. It was not possible for Simba, whatever happened, to put an end to what was happening. To begin
12 with, Simba no longer had any credibility at the level of those who were exterminating the Tutsis,
13 because in their opinion, he belonged to that group. His wife was Tutsi. His children had married
14 Tutsis. And this was not someone who could stand up and make a difference. Simba was saved
15 because of his personal kindness. People knew that he was a good man, even though it was known
16 that he was a traitor who had married a Tutsi and whose children had married Tutsis. Simba could not
17 have done anything to prevent what happened. And he -- his family was also -- we had Rwandans --
18 many Rwandans who thought they could have done something, and they were killed under the
19 circumstances, and these were people who were apparently even more powerful than him. And he was
20 on retirement; he had recently resigned from the MRND party, so he was more than a traitor. He was
21 twice a traitor. He had betrayed them by marrying a Tutsi. He had betrayed them by resigning from the
22 MRND. So it was impossible for him to do anything at all.
- 23 Q. Madam, are you telling this Court that in his region in the south he was between the hammer and the
24 anvil?
- 25 A. Absolutely. Simba would not have had any possibility at all to put an end to the killings, because the
26 only thing he could do as a family head was to try to survive, but as a soldier of his rank, he could not
27 take any risks because he knew that he did not have the means to make a difference.
- 28 Q. Madam Witness, are you telling this Court that the suspicions against Simba went as far as considering
29 him as a traitor?
- 30 A. Suspicions on the part of who?
- 31 Q. The people to whom he could not give the orders to kill -- to stop the killings.
- 32 A. Well, that's true, Simba was a traitor. It was published in the newspapers all the time. The extremist of
33 the MRND who were at the core of the killers always said that Simba was a traitor. He could not be
34 trusted. He had to be put under surveillance. And this meant that he was a traitor. This was a word
35 that was frequently used while talking about him.
- 36 MR. PRESIDENT:
- 37 Did you read such newspaper articles yourself?

1 THE WITNESS:

2 Yes, at least twice, because in my job I had to be aware of many things, and we read some
3 newspapers with keen interest just to see what was going on.

4 MR. PRESIDENT:

5 When did you read those two newspapers?

6 THE WITNESS:

7 Frankly, I cannot tell you specifically because one does not remember those details, given the huge
8 amounts of information that I had to manage. I cannot even tell you the exact newspaper in which I
9 read this information. Frankly, I cannot do that.

10 MR. PRESIDENT:

11 Was this in the '70s, '80s, or '90s?

12 THE WITNESS:

13 I think I read those articles in the '90s, probably in 1993. I think it is more probable that it was in '93.

14 BY MR. ALAO:

15 Q. Thank you, Madam Monique. I would like to show you a document and to ask you whether you're
16 familiar with that document.

17 MR. ALAO:

18 This would be one of the exhibits of the Defence, and the document would be given to the Bench.

19 MR. PRESIDENT:

20 This one has not yet been tendered as an exhibit. This is a document which may be tendered now?

21 MR. ALAO:

22 Yes, Mr. President. On the list of exhibits that the Defence disclosed to all the parties, this is exhibit
23 number 31. That is exhibit number 31 in the batch of Defence exhibits which was disclosed to all the
24 parties.

25 MR. PRESIDENT:

26 Okay.

27

28 So this is a French version of the Kinyarwanda document 31?

29 MR. ALAO:

30 Yes. That is an in-house translation. It is not an official translation. The original is in Kinyarwanda, and
31 it is for that reason that we disclosed the Kinyarwanda version. Thank you, Mr. President.

32 MR. PRESIDENT:

33 So this is from *Kanguka*, the 28th of July 19 --

34 MR. ALAO:

35 *Kangura -- Kanguka.*

36 MR. PRESIDENT:

37 No, I'm just reading here. At the bottom of this page it's --

1 MR. ALAO:

2 *Kanguka.*

3 MR. PRESIDENT:

4 So is there agreement that this is --

5 MR. TREDICI:

6 Your Honour.

7 MR. PRESIDENT:

8 Let me now first hear the Defence. You want to draw the attention of the Court to this document. That
9 is perfectly legitimate. Please tell us what document you are placing in front of us. Is it your
10 submission that this is a document from *Kanguka* or from *Kangura* or from some other document?

11 MR. ALAO:

12 Mr. President, it was after the question that you put to the witness whether -- on whether she
13 remembered the press articles, and we are giving her this article to ask her whether it means anything
14 to her, because there is a link between the answer -- the question that you put and the answer that the
15 witness gave, because you asked her whether she remembered the press articles and the dates. This
16 is something that is supposed to confirm what the witness has testified to, and this article is from 1993.

17 *(Pages 1 to 14 by Sherri Knox)*

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1 0945H

2 MR. PRESIDENT:

3 Yes, and I understand that, but that is not my question. Now, is this, according to the Defence, the
4 document you are placing before this witness, is this the paper from *Kangura*?

5 MR. ALAO:

6 Absolutely, Mr. President.

7 MR. PRESIDENT:

8 All right. Any comments?

9 MR. TREDICI:

10 Yes, Your Honour. We have problems with the translation. The Prosecution would like to have an
11 official translation of that document.

12 MR. PRESIDENT:

13 Now, Madam, let us first ask you, have you in front of you these two, three pages now? How many
14 pages do you have there now, two or three?

15 THE WITNESS:

16 I have five pages.

17 MR. PRESIDENT:

18 Then let us agree what we now have in front of us. What I've found in the Kinyarwanda version listed
19 as Defence Exhibit Number 31 was 3561 *bis*, 3560 *bis* and 3559 *bis*. Now, do you have those three
20 Kinyarwanda pages in front of you or the French version in front of you, Madam?

21 THE WITNESS:

22 I have the French version.

23 MR. PRESIDENT:

24 All right. Now, is there an extra copy of the Kinyarwanda version because we want, of course, the
25 Kinyarwanda version to be placed before the witness?

26 MR. ALAO:

27 This is a copy of the batch of documents that were disclosed.

28

29 You have to show the Bench first.

30 MR. PRESIDENT:

31 What do you intend to show this witness now, Mr. Alao? Are we talking about three pages, the third
32 page being upside down, or only the first two pages?

33 MR. ALAO:

34 The three pages, including the one that is upside down, I think, she will sort it out herself.

35 MR. PRESIDENT:

36 All right. So, now, Madam Witness, please disregard the French document because we always go for
37 the originals in this courtroom, and what we would wish to find out now is whether you have seen this

1 document before.

2 THE WITNESS:

3 Yes, I have seen this newspaper. I do not recall the details of the document, but I remember the joke
4 about the title that caused people to talk about it in Rwanda.

5 MR. ALAO:

6 Thank you, Mr. President.

7 BY MR. ALAO:

8 Q. Does this article remind you of what you were saying about the criticisms levelled against Mr. Simba by
9 the newspapers?

10 A. Yes, this article reminds me of that period and also of another part of Mr. Simba known to the public.
11 This is someone who has already been open and frank, which is not very Rwandan. And even based
12 on his name, it was linked that he was a Syrian, because Simba is sort of a Syrian -- but this article
13 made people laugh because they were saying that politicians are killing each other, but he was not at
14 the time -- he was a parliamentarian. And I, therefore, remember this newspaper and the headlines,
15 but I don't remember all of the details. As I told you, I had a lot of reading to do, and I really
16 remembered mostly what concerned my work, the possible identification of any problems anywhere and
17 the possible perpetrators of those troubles.

18 MR. ALAO:

19 Mr. President, can we proceed?

20 MR. PRESIDENT:

21 Yes.

22 BY MR. ALAO:

23 Q. Witness, as you are aware, there is an accusation here that we have heard frequently and, after
24 everything that you have said, should one believe that Mr. Simba carried out a census of Tutsis with a
25 view of killing those Tutsis?

26 A. No, absolutely not. I don't think so. Under which circumstances could he have done that, and with
27 which powers? I think it is an aberration.

28 Q. It has also been said, Madam, that Mr. Simba chaired meetings for the mobilisation of extremist Hutus
29 and arms, for those extremist Hutus to go and kill people in several *communes* in Gikongoro *préfecture*.
30 Is that plausible to you?

31 A. No, he couldn't organise meetings of extremists; whereas, active authorities of the MRND were still
32 there. He had been identified as a trader. He could not have armed those people because he was on
33 retirement and active soldiers at that time took pleasure in really crushing retired officers, particularly
34 marginalised retired officers such as himself. But, personally, I don't see how he could have done that.

35 Q. However, we nevertheless noticed that the Prosecutor in his indictment said that he was a *de facto*
36 authority and that the gendarme, police and soldiers considered him as an authority and followed his
37 orders.

1 A. I don't know where that came from because I remember that, even at a time when he was wearing his
2 stripes and uniform, some soldiers from the north, even who were inferior to him, did not respect him as
3 such. So I do not think so. You really have to know the actual situation and subtleties of the behaviour
4 of Rwanda authorities in order to understand what happened. I told you, and that can be verified in the
5 history of the entire army. Simba was a colonel who was working in an office and who was
6 commanded by his subordinate. And how was he going to be respected later when he no longer even
7 wore the uniform? He was not respected when he was in active service. So were these people going
8 to respect him when he was on retirement without a uniform, and when he had resigned from the
9 MRND? I don't believe so.

10 Q. Thank you, Madam, for everything that you have said, but the Defence still has a problem. You have
11 human rights activists? But Human Rights Watch published a report on Rwanda, and they mentioned
12 that Simba was in certain *communes* and that he did certain specific activities on the basis of
13 testimonies. I hope you read that report. Did you read it, Madam?

14 A. Yes, I read it. And that this is a very delicate moment for me because Human Rights Watch is a
15 respectable and respected organisation. They were my partners for a long time. For two straight
16 years, I received their praise for the best activist on the field. But just like any foreign institution, Human
17 Rights Watch cannot totally master and grasp all of the subtleties and motivations of the people that
18 they interviewed as witnesses.

19
20 Several times they would be confronted with witnesses who have motivations that they cannot discern.
21 They carried out – or, compelled this report at a very troubled time when people were influenced, they
22 were threatened, and they had to say what they were told to say. And Human Rights Watch, just like
23 any human endeavour, is not immune to error. And I am a witness to that. I learned on CNN and on
24 the newspaper that Monique Mujawamariya was dead and I'm here and I'm alive. And the person who
25 had given them that information was certainly a reliable person for them to go and say it on television
26 and publish it in newspapers. They relied on their reliability, on this -- on the veracity of this information.
27 I was not dead.

28
29 These were my friends. Alison Des Forges was a friend of mine, and she was crying, saying that I had
30 died. And she had information from -- this was information from a reliable professional, but she had
31 made an error, I was not dead. So, I think that all information -- if Human Rights Watch said that I was
32 on this port as a member of Human Rights Watch, that information could be given some credibility. But
33 I will tell you what gave me my strength and the strength of my organisation on the field, and which
34 made me progress rapidly in this family of human rights is that, in no way at all did I testify about
35 something that had been told to me. I always testified about things that I saw and experienced. And
36 this is not the case in the report of the Human Rights Watch. I don't want to dwell too much on this, but
37 I would like to cast doubt on the credibility of the information that they gave because the weak

1 knowledge of the subtleties of Rwandans. And if I'm confronted with a Rwandan, they are not going to
2 try to lead me astray because they know that I come from the same place and I will understand what
3 they are saying. But Alison Des Forges does not have that advantage. Alison Des Forges is a
4 professional, a very kind and respectable lady, but she is not infallible. The proof is that she said that I
5 was dead, I was her best friend in Rwanda and, yet, I am alive.

6 Q. Thank you, Madam. And now, Madam, given your vast knowledge of Rwanda, I would like to read out
7 to you a series of names, and you are going to tell us whether you know those names. And the
8 objective is to know whether there was any link at all between Mr. Aloys Simba and these persons. I'm
9 going to read these names to you slowly so that you can note them down. The first name is
10 Mr. Faustin Sebhura, and this was a gendarmerie captain. Did you ever hear that name, Madam?

11 A. No. I would like to apologise to the Court. Amongst all of the trauma that I have not really emerged
12 from, despite all of the therapy that I have received, one of them is that I do not remember names, even
13 when I meet somebody, I know that I know the person, that I knew them at that time, but I do not
14 manage to remember the name.

15
16 So, if there is a person who really marked me, who was really very important, I would remember. But
17 for other people, I really have difficulties remembering the name.

18 Q. Thank you, Madam. I think we will take this into account. I will now continue. Have you ever heard of
19 a Laurent Bucyibaruta -- Bucyibaruta, Laurent who was the *préfet* of Gikongoro?

20 A. Yes, I think I remember this person. I remember him. I can even remember how he looked like.

21 Q. Do you know a certain Damien Biniga, who was a *sous-préfet*?

22 A. Yes. Unfortunately, he was notorious and I know that one very well.

23 Q. Very well. Have you ever heard of a certain Denys Kamodoka, who was a factory director in
24 Gikongoro?

25 A. No.

26 Q. And then Mr. Juvénal Ndabarinze who was also a factory director?

27 A. No, not really.

28 Q. What about Colonel Rwamanya, Augustin?

29 A. Rwamanya, no there was no Colonel Rwamanya.

30 Q. R-W-A-M-A-N-Y -- N-Y-W-A (*sic*).

31 A. Can you please repeat the spelling of the name?

32 Q. R-W-A-M-A-N-Y-A.

33 A. No, no, I don't remember that name.

34 Q. This was an (*unintelligible*) officer of the Rwandan Armed Forces?

35 A. No. Can you write down the name for me for because a colonel, it is normal that I would know him?

36 Q. Rwamanya.

37 A. Yes, I know Colonel Rwamanya.

1 Q. I mispronounced, I'm sorry, I'm not used to -- do you remember one Joachim Hategekimana? He is a
2 former *sous-préfet*?

3 A. No, no.

4 Q. And would you remember one Charles Munyaneza?

5 A. No, no, really, no.

6 Q. But, at least, you remember Biniga?

7 A. Yes.

8 Q. And you know *Préfet* Laurent Bucyibaruta?

9 A. Yes.

10 Q. Very well. Let me take them one after the other? Mr. Damien Biniga, I think, was accused of having
11 massacred many people and having been at the original (*unintelligible*) at the Gikongoro *préfecture*. Do
12 you think he could have gone up with Mr. Aloys Simba in that criminal enterprise?

13 A. No, no, no. Not at all, because I personally know Damien Biniga because his wife attended the same
14 school as myself, a school for social welfare officers. And it was a unique school; we had an
15 ex-students' association. From that school we knew one another from the various batches. And on
16 several times I heard Damien Biniga insult Colonel Simba and even denigrate him publicly. It would be
17 difficult for them to be in league.

18
19 And last year -- last month I was in Rwanda. And whenever I went there I would meet Agnacè, Biniga's
20 wife as a friend of mine. We always discussed those things. And this is one of the few men I heard
21 state, honestly and with a lot of pleasure that, "Monique, I am happy that he is no longer alive. I feel
22 fine that he is no longer alive, because this was a bad man both in the house and in the streets." And
23 even though we broached the issue slightly, I said, I cannot understand how Biniga is dead and Simba
24 is in prison. She cannot understand this twist of fate. In her opinion, her husband should have
25 remained alive to answer for all what he has done, but for the sake of her children she was happy that
26 he was dead.

27 Q. So, Madam, for you it was impossible for there to be any association whatsoever, and even when you
28 refer to it as criminal association, between Simba and Biniga?

29 A. No, no, no, not at all.

30 Q. Very well. And do you know Laurent Bucyibaruta to such a point that you could say that he had any
31 association whatsoever to Aloys Simba to commit genocide?

32 A. No. I cannot make any statement regarding their possible links, because I was not very familiar to
33 Laurent Bucyibaruta. I do not know who his acquaintances were. I have never been close him or his
34 family. It would be difficult for me to make any pronouncements in that connection. I would be telling
35 lies if I were to do so. I have nothing to say regarding the possibility of such a collaboration.

36 MR. PRESIDENT:

37 Do you know whether Bucyibaruta played a role during the genocide?

1 THE WITNESS:

2 Bucyibaruta was not much mentioned during that period which was of interest to me. During that period
3 from 1990 to, right up to December 1993, that is when I was monitoring the situation to know who was
4 preparing what, to know exactly what the next massacre scenes would be, but I never heard him being
5 mentioned a lot during that period. If he was carried away subsequently, I wouldn't know, but I do not
6 have enough information regarding Bucyibaruta's possible involvement in the massacres or of
7 genocide.

8 MR. PRESIDENT:

9 So you don't know anything about this when it comes to the period April to July?

10 THE WITNESS:

11 But I know what happened. I know those who were like the ringleaders, I knew those people. The foot
12 soldiers, so to speak, I did not know.

13 MR. PRESIDENT:

14 My question was: do you know whether Bucyibaruta played a role during the genocide? And then you
15 responded with a period from 1990 to December '93. Now, I'm interested in the period from April to
16 July '94. Do you know if he played any role during the genocide? Can you help me with that, please?

17 THE WITNESS:

18 No, I could not know that; I was not in Rwanda. And let me admit that since then I have rarely made
19 any particular interest to know who did what during that time.

20 MR. PRESIDENT:

21 You know whether Damien Biniga played any rule in that four-month period?

22 THE WITNESS:

23 Yes, it is his own wife who told me that this guy was a demon. He was in all of the roadblocks and he
24 participated fully.

25 MR. PRESIDENT:

26 And when did you leave Rwanda? You mentioned that you left at a certain stage.

27 THE WITNESS:

28 Yes, I left Rwanda exactly on the 12th of April, at 20 minutes past 4:00.

29 MR. PRESIDENT:

30 Thank you.

31 BY MR. ALAO:

32 Q. Madam -- I'm sorry, ma'am, this question may lead you to repeat about things, but it is important. After
33 this outstanding testimony you just gave, particularly with regard to Mr. Simba and the events in
34 Rwanda, a legitimate question one may want to ask is to know why, against this backdrop, Mr. Simba is
35 being accused? Why are people taking it out against him? Why is he being prosecuted? In your
36 opinion, what warrants this prosecution?

37 A. Several reasons. Several reasons. Simba was like a gadfly for many people. The Hutus never felt at

1 ease with him because he had also been together with the Tutsis since childhood. And if they wanted
2 to heap blame on him for what the Hutus are having to answer right now, it would have been a splendid
3 idea. Simba was a problem to the Tutsis because he was not a Tutsi. He was a problem to them
4 because right now he is tearing up something that was very regrettable in Rwanda. So, there is this
5 effort to prove that all Hutus are killers, because if there are a few good Hutus, it is as if the wickedness
6 of the others is being mitigated -- so, all of them had to be bad -- and this would make it easy.

7
8 So despite all of the efforts he made to save people, despite the fact that he linked up with those
9 people, these are not enough for him to be credible with regard to the Tutsis. So he is a Hutu who may
10 rehabilitate some other Hutus. And that is not good enough.

11
12 Another reason, which is not the least, is that Simba was wealthy. And sometimes it is as if one had to
13 pay for his wealth, so this is a time for you to pay. We have the means to make you suffer despite you
14 being a wealthy man, so you have to suffer. And also people have the hidden agenda of grabbing his
15 wealth when he is no longer there. But one other unfortunate reason for us as Rwandans is that Simba
16 is a man amongst many others on whom Rwanda could have been built as a nation. This is a Hutu
17 who was a man of integrity, a brilliant fellow who was at ease with everyone, who had nothing else to
18 prove. He could no longer prove that he considered a Tutsi as a fully fledged Rwandan citizen. Since
19 he himself is a Hutu, it would have been the basis to build a genuine nation. And now those people
20 have become a problem. They try to criticise all of those who established power on segregation and
21 division.

22
23 Simba was not someone who could base his life or power, if he had any, on exclusion because he was
24 part and parcel of the Rwandan nation. And for a long time he had been married, happily so, to a Tutsi.
25 He enabled and backed his children to get married to Tutsis. These are people who pose a problem;
26 they pose a problem because they are the real Rwandans. And now, no one wants the real Rwandans,
27 they should either be Hutus or Tutsi. They no longer have the possibility to be either of them. He is a
28 genuine Rwandan.

29
30 I think this is one of the things why everyone is against Simba. And I think it is actually a trial against
31 Rwandanness.

32 THE ENGLISH INTERPRETER:

33 Counsel's microphone.

34 BY MR. ALAO:

35 Q. Thank you very much, Madam. And to end, I would like to ask you if you, yourself, consider yourself as
36 a victim of the genocide?

37 A. Yes, I consider myself as a victim of the genocide. I remember in 1997 I was going back to Rwanda.

1 There was a meeting, a real meeting -- this was no joke -- with people sitting around a table. I was
2 there. And the topic of the meeting was whether Monique Mujawamariya should be considered as a
3 survivor. It is as simple as that. I lost part of my family; they were killed by militiamen because for
4 them, I was a traitor. I was a member of an organisation defending the Tutsis. The other members of
5 my family were killed by the Patriotic Front because they were Hutus. I was able to survive alone with
6 my mother, who died when she had already taken leave of her senses, she could no longer recognise
7 me.

8
9 Well, if I am not a victim of all of that, then I wonder what I am. I am a victim of all of that, and I am very
10 happy to be here before this Court today as a Defence witness. I have been a Prosecution witness, I
11 was proud of being one. And I'm very proud of what I am doing today.

12 Q. Thank you very much.

13 MR. ALAO:

14 The Defence has no further questions for this witness. Thank you, Mr. President.

15 MR. PRESIDENT:

16 Thank you very much.

17

18 Prosecution.

19 MR. TREDICI:

20 It was your decision of yesterday, Your Honour, that the cross-examination of this witness will pass to
21 Thursday, tomorrow.

22 MR. PRESIDENT:

23 Yes, you are absolutely right. So there is nothing more to deal with in connection with the
24 examination-in-chief now.

25

26 The question of exhibits, Mr. Alao, what do you want to have exhibited from the examination-in-chief,
27 please? We have already the personal particulars.

28 MR. ALAO:

29 *(Microphone not activated)*

30 THE ENGLISH INTERPRETER:

31 Counsel's microphone. The interpreters are sorry; they missed the first part of Counsel's intervention.

32 MR. PRESIDENT:

33 If you could start over again, we lost the first part of your statement, please.

34 MR. ALAO:

35 Much obliged, Mr. President. As Madam Monique has been recognised, we would like to tender the
36 personal identification sheet which, for obvious reasons, should not be under seal.

37

1 MR. PRESIDENT:

2 That is already D. 67. Do you have any other documents you want to tender? What about this
3 newspaper, for instance?

4 MR. ALAO:

5 That is what I want to talk about, the article from *Kangura* newspaper, which is already part of our list of
6 exhibits already disclosed to the parties, and which is not in any dispute because it is a document
7 seized from the Accused by the Prosecution, and it has the Prosecution exhibit number.

8 MR. TREDICI:

9 Your Honour, if I may add something. I was advised that these articles are not complete; they are
10 missing pages. We have 3561 *bis*, 3560 *bis* and then there is a missing page there. That is not the
11 end of the article.

12 JUDGE EGOROV:

13 How many pages?

14 MR. TREDICI:

15 We don't know, Your Honours.

16 MR. PRESIDENT:

17 61, 60 and 59, we all have those three, have we?

18 MR. TREDICI:

19 Yes, Your Honour.

20 MR. PRESIDENT:

21 Is something lacking between 60 and 59, according to you?

22 MR. TREDICI:

23 Yes, Your Honour. The article has a missing -- or has more than one missing page. That is not the end
24 of the article. We don't know how many pages, but there are missing pages there.

25 MR. PRESIDENT:

26 Now, it was said by Defence counsel that this document has already a Prosecution exhibit number; is
27 that correct? Is this not now a document you want to tender as a Defence exhibit, and you will probably
28 want to call this D. 68?

29 MR. ALAO:

30 We would really like it to be Defence Exhibit D. 68, of course, but we simply wanted to point out that this
31 document was seized from the Accused by the Prosecution officials. And it was part of the set of
32 documents the Prosecution disclosed to the Accused in the CD. And the Prosecution will be able to
33 locate it easily because the Prosecutor conducted the seizure. I would think, if they had done the work,
34 their homework, as they usually complain regarding the Defence, they would have had things easier.
35 Thank you, Mr. President.

36 MR. PRESIDENT:

37 Okay. So we agree now then that this has not previously been tendered as a Prosecution exhibit. This

1 is the first time this document is being tendered and now as D. 68.

2

3 The next question is whether this document is complete. Do you know whether any pages are
4 missing? It appears to be true, because if you look at page 60 *bis*, it just stops in the middle of a
5 sentence there. There is no full stop after the last word. Now, can anyone help us with that? The third
6 page, namely, 59 would seem to be --

7 MR. ALAO:

8 Mr. President, you have our documents. We do not have any documents any longer.

9 MR. TREDICI:

10 Your Honour, if I may ask a question. I don't know if you included in these exhibits
11 page number 3559 *bis*, which is another document. It is a different document from the article.

12 MR. PRESIDENT:

13 No, that was my next point, I'm coming to that point. It is clear that this 59 *bis* is a document which is
14 later in time commenting on the first two pages. So, we will take this step by step.

15

16 Now, first of all, you, Madam Witness, these two pages in Kinyarwanda, are these the pages that you
17 once read? When you referred to articles which portrayed Colonel Simba as a traitor, did you then refer
18 to some other newspaper article?

19 THE WITNESS:

20 It would be difficult for me to be very specific. I know that I read articles, at least two or three times, in
21 newspapers talking about Simba as a traitor. But I cannot be too sure whether I was referring to this
22 particular article. This is just to give you an idea of the compressive information at the time, but if I have
23 to give specific information, I did not pay particular attention to know how peculiar the articles were.

24 MR. PRESIDENT:

25 All right. But in spite of that, I assume there is no objection with this document being tendered in
26 connection with this witness; am I right in assuming that?

27 MR. TREDICI:

28 Is there no objection?

29 MR. PRESIDENT:

30 No objection. Then, whether you know anything about the following pages of the first part of these
31 three pages, Mr. Alao? Do you have any additional information for us here?

32 MR. ALAO:

33 Yes, Mr. President. The Prosecutor is, indeed, right; there is a missing page in the documents
34 disclosed. We are going to lay hands on it. We just realised that. We deeply apologise. Thank you.

35 MR. PRESIDENT:

36 Okay. So then D. 68 will be composed of three, possibly four pages.

37

1 Let us now turn to the fourth page which has the number 59 *bis*. Now, according to the French
2 translation, and we will come to the French translation afterwards, this seems to be Mr. Simba's right to
3 respond following the first article. And it is then, obviously, printed later. He is objecting to journalist
4 Ravee's depiction of him in the first article.

5
6 Do you know when this second article or this second document was printed in *Kangura*, Mr. Alao?

7 MR. ALAO:

8 The two documents are linked to one another because one of them is the rejoinder. The two
9 documents we have, the article and the document you are referring to which alludes to the rejoinder.
10 The two documents are linked. One comes as a justification to the other, if one could put it as such,
11 because it was as part of the rejoinder right that the article was written, as mentioned.

12 MR. PRESIDENT:

13 Is it your view -- is it your view that the rejoinder appeared in the same number 80, dated the
14 28th of July '93, as the main article? Is that the contention?

15 MR. ALAO:

16 Mr. President, it is the same newspaper which published two articles. We realise it was *Kangura* which
17 is stating it. It is mentioned, Mr. President.

18 MR. PRESIDENT:

19 Yes, but is it the same publication? We have now all understood a long time ago that this is *Kangura*.
20 So my question is only, is it your view that this right of response also appeared on the 28th of July or
21 did it come later? That is the only question. Does anyone know anything about this in the courtroom?

22 MR. ALAO:

23 I understand the relevance of the question, Mr. President, but I would like to ask the person who is at
24 the origin of the article to know what it is. Thank you.

25 MR. PRESIDENT:

26 Any at rate, Madam Witness, thank you for your testimony so far. We have decided, because of illness
27 and also some other reasons that we will stop your testimony now. And then we will resume the
28 cross-examination of your testimony tomorrow because lead counsel for the Prosecution is ill and he
29 wants to do the cross-examination.

30
31 And we have five witnesses for this week so we have ample time to finish those during this week
32 anyhow. So we are accepting that, following also a protest by the Defence. So, I think you can simply
33 leave us now, and we will meet you again tomorrow at 8:45. Thank you very much.

34 THE WITNESS:

35 Thank you very much, Mr. President.

36 MR. PRESIDENT:

37 Mr. Matemanga, if you could assist the witness out of the courtroom.

1 MR. PRESIDENT:

2 Mr. Tredici.

3 MR. TREDICI:

4 Your Honour, we don't see any reference in the second document regarding the source of the
5 document. So, we would like the Defence, if it is available to them, to name the source of the second
6 document, the one numbered 3559 *bis*.

7 MR. PRESIDENT:

8 Do we agree that the first sentence in Kinyarwanda probably reads, "After having read the article in
9 your newspaper concerning the interview which I had with your journalist, Ravee, I find it absolutely
10 necessary for the readers of *Kangura* to do this and that." Do we agree that that is the introductory
11 sentence? Now, if that is the case, isn't it reasonable to believe that this comes from *Kangura*? But
12 the question remains, when. Do we have any information now?

13 MR. ALAO:

14 Thank you, Mr. President. There is a second very important indication to the effect that the rejoinder
15 was received by *Kangura* newspaper. It is at the bottom of the page. The newspaper fixed a stamp at
16 the bottom of the page. And you will see at the bottom of that page mentioned, "The First Independent
17 Newspaper in Rwanda BP", and so on and so forth. And this is on the bottom of the page of
18 Mr. Simba's letter requesting a rejoinder. And this is what authenticates the origin of the document.
19 And this is what the Prosecutor wanted.

20
21 The stamp of the newspaper clearly shows that the article was published by the newspaper which
22 received it; now there is no date. If we have the same document, I wonder whether the document
23 before the President is the request for a rejoinder, which we have here and which bears the stamp.

24
25 In the Kinyarwanda version, obviously, because the French translation is an in-house translation --
26 Mr. President, do you have the Kinyarwanda version?

27 MR. PRESIDENT:

28 Yes, that is the only one I am interested in. That is the one I am checking with.

29 MR. ALAO:

30 Thank you, sir. There is no date; the newspaper did not put a date on that document, but it is likely that
31 the request was received before the article was published, because you need to make a request for a
32 rejoinder. It is when the request is granted that you publish the rejoinder. That is how I understand it to
33 be.

34 MR. PRESIDENT:

35 We will provisionally now mark this D. 68, composed of four papers, after further reflection. If there is
36 anything, you can come back to the fourth page. And we are expecting the third page to be included
37 then, as soon as it is found, so that we have a complete set of the first article.

1 (Exhibit No. D. 68A and D. 68B admitted)

2 MR. PRESIDENT:

3 Then you raised an objection concerning the translation, Mr. Tredici. And we have now 68B, being a
4 provisional translation by the Defence, and that will be replaced by an official translation once the
5 translation department has the capacity to perform it. So, that would bring us to the end -- maybe to
6 the --

7 MR. TREDICI:

8 Your Honour, if I may have -- if we may have an official translation prepared by the Defence, please?

9 MR. PRESIDENT:

10 You haven't got it?

11 MR. TREDICI:

12 No.

13 MR. PRESIDENT:

14 All right. That document, make sure, and that is a request to the Defence that, of course, when you
15 distribute a document there must always be sufficient copies to everyone in the courtroom. This is
16 basic. In other words, three copies to the Bench; two or three copies to the Prosecution; one to the
17 witness; one for the court reporters, to each of them; and one for -- and three for the booths. So that is
18 what we always do. Let me just remind you of the need to make the necessary number of photocopies.
19 You will now receive, from Mr. Matemanga, the French translation prepared by the Defence.

20 MR. TREDICI:

21 Thank you, Your Honour.

22 MR. ALAO:

23 Mr. President.

24 MR. PRESIDENT:

25 Yes.

26 MR. ALAO:

27 While understanding your remarks and taking due note of them, but I think you should also understand
28 that the Defence objective with this document was not to discuss it substantively, it was just to remind
29 the witness, who was before you, one of the aspects of the questions we were asking her on the
30 newspaper. And if we gave a copy of the translation in French, it was simply to enable the Court to know
31 that there is an in-house version. But this translated document, we never intended to -- well, we never
32 -- we know that the translation is under way, so this matter of the document came like an outside
33 element following your question to the witness. Everybody was surprised, including the Defence. So
34 the reaction was not prepared, it was incidental. I would thank you for your understanding,
35 Mr. President.

36 MR. PRESIDENT:

37 That is noted. But yesterday when you distributed photos, they were also not copied. So, I am making

1 this general remark. Now, this brings us back to a loose end of yesterday; namely, whether handwritten
2 comments concerning the photos of yesterday should be exhibited. Do you remember you raised that
3 question? And we have now looked at it. We cannot allow the two pages, with comments from
4 someone that do not originate from the witness himself, be part of the evidence in connection with that
5 witness. This document, having read it, may well contain correct and useful information, but it does not
6 come from the witness.

7
8 So the manner you would wish to proceed with then, Defence, is simply that at a certain stage, when
9 you have someone who knows this place, maybe you would wish to solicit the information from that
10 witness, or the writer of this document, if that person is going to give testimony. That person can, of
11 course, say that this is my handwritten document. So, you can come back to this later.

12
13 Any other issues we need to discuss today before we prepare for tomorrow, the continuation of the
14 witness and the other one?

15 MS. LYONS:

16 Excuse me, I was -- at the end of yesterday the Defence had raised two issues: one of which the Bench
17 has addressed; the other of which has not yet been addressed, which was the issue of the presence of
18 the Defence counsel at the video link with the witnesses. And I believe -- I just wanted to know when
19 the Bench would be addressing that issue.

20 MR. PRESIDENT:

21 Are you now referring to the video link with The Hague?

22 MS. LYONS:

23 Actually, it is a general question to all of the video links, to The Hague and Kigali. I think those are the
24 two places, the two venues.

25 MR. PRESIDENT:

26 Do you have any wish or any request to make? Previously, when we have had video conferences it
27 has been the practice, in some instances, that one representative from the Defence and one
28 representative from the Prosecution has been on the spot where the witness is. I'm not absolutely
29 convinced that that has been necessary. And the question is whether you have any view on it? It will
30 be, of course, understood that in the room where the witness is, will only be a neutral representative of
31 the registry, making sure that the communication is ensured in an efficient way. But please proceed
32 with whatever remarks you may have.

33 MS. LYONS:

34 Thank you. I appreciate the information about past practice. It seems to me that the past practice is
35 necessary and I'd make a request, in this case, on behalf of the Defence that we be permitted to have a
36 representative present. I understand that that person is not present in the actual room where the video
37 is going on. I also understand that questions will be asked from Arusha.

1 But it seems to me that this is necessary to ensure -- one cannot assume what the problems will be,
2 but we all have an interest in assuring the rights of the Accused. And there needs to be a
3 representative there for this purpose, because we are engaged in a judicial proceeding there. So,
4 therefore, we would request that we be permitted to have a representative of the Defence present at
5 each of the venues.

6 MR. PRESIDENT:

7 And to be quite precise, namely, in the very room where the witness is?

8 MS. LYONS:

9 One moment.

10 MR. ALAO:

11 Mr. President, it is more a matter of principle rather than a factual issue, regarding the principle for the
12 Defence to be assured the rights of the Accused to be respected. The Defence should be aware of the
13 conditions and of the environment in which the witnesses are being questioned. It is particularly on this
14 principle that we are insisting that the Defence should be present. This also reassures the witness in
15 question. If this is possible, then the counsel should be present in the room where the interview is
16 being conducted, but if that is not possible for material conditions, the representation would make it
17 possible to know that this principle has been complied with.

18

19 Mr. President, the Defence sometimes has the impression that the Prosecution is represented
20 everywhere, and the Prosecution is part of the Tribunal. To avoid this impression to prevail during the
21 questioning of the witness, it is desirable that, in principle, the Defence be represented. These are the
22 terms under which we are raising this issue. Thank you.

23 MR. PRESIDENT:

24 All right, because there was -- the formulations used first were not clear. So, the request is primarily to
25 have someone in the room where the witness is. Now, that is exactly what previously Defence teams
26 have wanted to have. So, that is okay. Now, the question is whether you want to continue that
27 practice? And I hear that you are saying so.

28

29 Now, Prosecution, do you intend to be present when the witness is being heard by video link from
30 The Hague or Kigali?

31 MR. TREDICI:

32 Your Honour, we don't have a position taken yet. So I guess that the senior trial attorney could address
33 that issue tomorrow.

34 MR. PRESIDENT:

35 This will first arise in Witness FMP1. And FMP1 is giving testimony on the 21st and 22nd of February, if
36 I understand the situation correctly, according to the correspondence I have seen; is that true? Am I
37 right?

1 MR. ALAO:

2 *(Microphone not activated)*

3 THE ENGLISH INTERPRETER:

4 Microphone. Counsel's microphone, please.

5 MR. ALAO:

6 All we indicated was that for one of the witnesses, we should estimate half a day, and for the other a
7 whole day because we do not know exactly the steps, the steps that have been taken by the registry.
8 Otherwise, if we are being told that this will begin on the 21st, one of the witnesses could be called on
9 the 21st, and for the next two following days, the 22 and the 23rd, we will call the second witness who
10 will be more lengthy. The Defence has estimated that the Prosecution will have the same time for
11 questioning the witness, as is the case with the Defence.

12 MR. PRESIDENT:

13 We, obviously, need a representative for the witness protection unit present when we discuss this. So,
14 we will have to call that representative tomorrow, I think. But then, meanwhile, it seems to me that if it
15 is your intention to insist that there is a need to be in a neutral room in The Hague where only a
16 representative of the registry will be present, certainly not the Prosecution, unless they make a formal
17 request, there will never be the lack of equality of arms here. If there is such a request, then I think you
18 have to start making arrangements for next week.

19 MR. ALAO:

20 I think the message is well understood.

21 MR. TREDICI:

22 Your Honour, if I may, it is not clear yet if Witness FMP1 will testify either from Paris or The Hague.

23 MR. ALAO:

24 Mr. President --

25 MR. PRESIDENT:

26 I think FMP1 is definitely testifying from The Hague. It is the other one which is open to doubt; isn't that
27 so, Mr. Alao?

28 MR. TREDICI:

29 That is correct, Your Honour.

30 MR. ALAO:

31 Mr. President, I have been made to understand, because as I told you yesterday, the possibility of
32 organising a video conference from Paris is not realistic and, perhaps, not plausible. According to the
33 last discussion I had with the registry this morning, it would, indeed, appear that the two video links
34 should be organised from The Hague. The possibility of organising one in Paris does not arise, even if
35 we need a lifting of some prohibitions that were against the witness.

36 MR. PRESIDENT:

37 Well, let's come back to this tomorrow when the witness protection unit is present. And I think we

1 should all reflect on whether it is really necessary to have someone present in the room where the
2 video is being recorded. It is true that we have done this in the past, but that was the early stage of the
3 Tribunal. If we can make sure that it is absolutely neutral ground, with neutral registry persons involved
4 -- and I wonder whether we should give it a second thought. It is costly, it is cumbersome, but I leave
5 that for reflection. And we will then come back to this issue tomorrow. But if the final decision is that,
6 yes, there must be one or two parties in that room, then there will be a need to make the necessary
7 preparations in terms of travel arrangements.

8
9 Is there anything else we need to deal with today?

10 *(Pages 15 to 31 by Donna M. Lewis)*

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1 1045H

2 MR. ALAO:

3 Mr. President, sir, while it's not so much another matter to be dealt with today, it is -- come back to the
4 original approach of the Defence which, from the point of view of the Tribunal, consisted in designating
5 someone to collect this testimony. That would be less expensive than a video link and all that we are
6 imagining, because if the Tribunal had designated a judge in the presence of the two parties to hear the
7 witness on the matters of interest to us, this would be less expensive; only three people have to travel.
8 If the parties agree, this would be less expensive. But I just wanted to bring this back again on the table
9 because you talked about the costs and we want to contribute to reducing the costs borne by the
10 Tribunal. Thank you, Mr. President.

11 MR. PRESIDENT:

12 The point is that witnesses should be heard by the entire Bench. That's the point. Okay.

13

14 Shall we stop for today and meet again tomorrow at 8:45. Thank you.

15 *(Court adjourned at 1051H)*

16 *(Page 32 by Roxane Lane)*

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CERTIFICATE

We, Sherri Knox, Donna M. Lewis and Roxane Lane, 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.

Sherri Knox

Donna M. Lewis

Roxane Lane