

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

CASE NO.: ICTR-01-65-T  
CHAMBER I

THE PROSECUTOR  
OF THE TRIBUNAL  
v.  
JEAN MPAMBARA

THURSDAY, 29 SEPTEMBER 2005  
0900H  
CONTINUED TRIAL

Before the Judges:

Jai Ram Reddy, Presiding  
Sergei A. Egorov  
Flavia Lattanzi

For the Registry:

Ms. Marianne Ben Salimo  
Mr. Edward Matemanga

For the Prosecution:

Mr. Richard Karegyesa  
Ms. Andra Mobberley  
Mr. Didace Nyirinkwaya  
Mr. Ousman Jammeh

For the Accused Jean Mpambara:

Mr. Arthur Vercken  
Mr. Vincent Courcelle Labrousse

Court Reporters:

Ms. Judith Baverstock  
Ms. Sherri Knox

I N D E X

WITNESS

For the Prosecution:

WITNESS AHY

Examination-in-chief by Mr. Karegyesa. ....2

EXHIBIT

Exhibit No. P. 15. ....2

## PROCEEDINGS

1

2 MR. PRESIDENT:

3 Yes, we are ready to proceed with this Witness, I take it, Prosecution?

4

5 Yes, can you administer the oath.

6 THE KINYARWANDA INTERPRETER:

7 He says he cannot hear.

8 *(Declaration made by Witness AHY in Kinyarwanda)*

9 MR. PRESIDENT:

10 Now, Witness, AHY. You have before you a personal --

11 THE ENGLISH INTERPRETER:

12 Microphone, Mr. President.

13 MR. PRESIDENT:

14 You have before you a personal information sheet, will you kindly look at it.

15 THE WITNESS:

16 *(Microphone not activated)*

17 MR. PRESIDENT:

18 Have you read it?

19 THE ENGLISH INTERPRETER:

20 The witness's microphone seems to be off, Mr. President.

21 MR. PRESIDENT:

22 Would you please turn it on? It's on now?

23

24 You have read it.

25 THE WITNESS:

26 I do not understand the language in which it's written.

27 MR. PRESIDENT:

28 Well, do you read your name there?

29 THE WITNESS:

30 I do not understand the language in which this document is written.

31 MR. KAREGYESA:

32 Your Honours, if I may assist. It was read to him. He does not read. It was read to him and he affixed  
33 his signature.

34 MR. PRESIDENT:

35 You have signed that document, have you not? Is that your signature at the bottom?

36 THE WITNESS:

37 Yes.

1 MR. PRESIDENT:

2 And this document was read and explained to you and you agreed with it and then signed it? Is that  
3 right?

4 THE WITNESS:

5 That's correct, Your Honour.

6 MR. PRESIDENT:

7 Yes, all right. The personal information sheet of AHY --

8 THE ENGLISH INTERPRETER:

9 Microphone, Mr. President.

10 MR. PRESIDENT:

11 The personal information sheet of AHY is admitted into evidence as exhibit --

12 MR. MATEMANGA:

13 P. 15.

14 MR. PRESIDENT:

15 P. 15, under seal.

16 MR. KAREGYESA:

17 May it please, the President, Your Honours, the, the -- it may not be necessary to have it under seal.

18 The witness has indicated that he will be testifying, not under his pseudonym but --

19 MR. PRESIDENT:

20 All right.

21 MR. KAREGYESA:

22 -- but under his given names.

23 MR. PRESIDENT:

24 Yes, all right. In view of that, there is no need to have this document under seal.

25 *(Exhibit No. P. 15 admitted, under seal)*

26 MR. PRESIDENT:

27 You wish to testify as an unprotected Witness, is that correct? You waive protection.

28 THE WITNESS:

29 I will testify in my own name without using the pseudonym.

30 MR. PRESIDENT:

31 Good, thank you.

32 WITNESS AHY,

33 first having been duly sworn,

34 testified as follows:

35 EXAMINATION-IN-CHIEF

36 BY MR. KAREGYESA:

37 Q. Good morning, Witness.

1 A. Good morning, Counsel.

2 Q. Witness, where were you living in April 1994?

3 A. I was living in Rukara.

4 Q. And who was the *bourgmestre* of Rukara *commune* in April 1994?

5 A. It was Mpambara.

6 *(Pursuant to the Court's oral decision of 29 September 2005, at this point in the proceedings, a portion*  
7 *of the transcript [page 4] was extracted and sealed under separate cover, as if the session were heard*  
8 *in camera)*

9 *(Pages 1 to 3 by Judith Baverstock)*

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

1 BY MR. KAREGYESA:

2 Q. Now, I know it is 11 years since, but if you met the Accused today, would you be able to recognise him?

3 A. Yes, I would because I know him well.

4 Q. Can you tell this Court whether he is sitting in this room today?

5 A. I have seen him in the room.

6 Q. And can you tell the Judges where you have seen him in the room?

7 A. He is over there, and he is wearing spectacles.

8 Q. Can you tell us which row he is sitting in?

9 A. He is seated in the second row from behind.

10 Q. If it please, Your Honours --

11 MR. PRESIDENT:

12 Yes, let the record reflect that the Accused has been correctly identified.

13 BY MR. KAREGYESA:

14 Q. Now, Witness, subsequent to the death of President Habyarimana on the night of the 6th of April 1994,  
15 did you ever meet the Accused?

16 A. After the death of Habyarimana, I met him when I went to his home. I had been looking after his cattle,  
17 and I went to his home and I saw him there and even greeted him.

18 Q. Now, can you recall how many times you saw the Accused after the death of President Habyarimana,  
19 other than on this occasion when you went to his home?

20 A. On the 9th of April, I saw him at the centre near my home, I again saw him on the 12th of April.

21 However, on the 9th, I saw him twice at the -- first, between 9:30 and 10 a.m. and then again between  
22 -- around 6 p.m. towards 7 p.m.

23 Q. Thank you, Witness.

24  
25 Right. Now I want us to focus on the sighting of the morning of the 9th of April 1994. Can you give us  
26 the name of the centre at which you saw the Accused?

27 A. This is a centre -- it is a small centre near my home which is called Paris. It is still called that name  
28 after today.

29 MR. KAREGYESA:

30 Paris, Your Honours, is spelt P-A-R-I-S:

31 BY MR. KAREGYESA:

32 Q. And to the best of your recollection, what time of the morning was this?

33 A. It was between 9:00 and 9:30 a.m.

34 Q. And can you tell the Chamber what you were doing at the trading centre that morning?

35 A. That morning I had left my home at 7 a.m. and went to see my brother named Gahirwa, who was very  
36 sick. And when I arrived there, I sat and talked to him. I left his place at eight and went to that centre  
37 known as Paris. When I got there, I sat and I was in the company of Mupagasi, Karinganire, Kibuka,

1 Habimana, and many other people. Those are the names that I am able to recall right away. So we sat  
2 and talked. And around the time I mentioned, between 9:00 and 9:30 a.m., that is when Mpambara,  
3 the then *bourgmestre*, arrived from the direction of Karubamba in the *communal* official vehicle.

4 Q. Can you please pause, Witness.

5 MR. KAREGYESA:

6 Your Honours, Mupagasi is not on the list and is spelt M-U-P-A-G-A-S-I. Similarly, Karinganire is not  
7 on the list; it is spelt K-A-R-I-N-G-A-N-I-R-E. Kibuka is spelt K-I-B-U-K-A. Habimana is number 60 on  
8 the list of proper nouns.

9 BY MR. KAREGYESA:

10 Q. Witness, just to take you back a bit: Prior the arrival of the *bourgmestre* between 9:00 and 9:30, as you  
11 have told us, were you discussing anything concerning the prevailing security situation with the people  
12 you have just mentioned?

13 A. It is obvious that there were rumours about the war, and people were all the time talking about the war  
14 situation. So, indeed, we were talking about the prevailing war situation.

15 Q. And prior to the arrival of the *bourgmestre*, did any of the local authorities or local leaders come into the  
16 trading centre?

17 A. Mupagasi, whom I mentioned was with us, was a member of the *cellule* committee, as well as  
18 Karinganire, and Damascène Rukwavu was also there and was also a member of the *cellule*  
19 committee.

20 MR. KAREGYESA:

21 Rukwavu, Your Honours, is spelt, R-U-K-W-A-V-U.

22 BY MR. KAREGYESA:

23 Q. Yes. But other than the ones you have just mentioned, who you were sitting with, did any other local  
24 authority or local leader come to the trading centre where you were?

25 A. No. Those were the only local leaders who were there with us.

26 Q. Now, did you see the *bourgmestre* arrive at the trading centre?

27 A. Yes, I saw him arrive because I was there.

28 Q. And did he come on foot or was he in a vehicle?

29 A. He was -- he came on board the *commune* official vehicle.

30 Q. And what official vehicle was this, Witness?

31 A. It was a white pickup.

32 Q. And were you able to tell from which direction this pickup approached the trading centre?

33 A. The vehicle arrived from the Karubamba direction, that is, from the direction of the *commune* office.

34 Q. And are you in a position to give us the approximate distance between your trading centre and the  
35 *commune* office, Witness?

36 A. About three kilometres.

37 Q. Now, was the *bourgmestre* alone or was he accompanied?

- 1 A. He was with two gendarmes; he was the third person in the vehicle.
- 2 Q. And how were you able to tell that he was accompanied by two gendarmes? Did they have any  
3 identifying features?
- 4 A. We -- we knew that the gendarmes wore red berets and khaki attire. That is how I came to know that  
5 they were gendarmes.
- 6 Q. And did they carry any weapons with them?
- 7 A. The two gendarmes had rifles.
- 8 Q. And, did the *bourgmestre* park his car?
- 9 A. Yes. When he arrived, he turned and faced the direction from which he'd come, and then stopped.
- 10 Q. And can you tell us what happened when the *bourgmestre* parked his car?
- 11 A. After parking his car, the people there approached his vehicle, and I was one of those who approached  
12 his vehicle. And he told us that the Tutsis who had -- who had taken refuge in the Karubamba church  
13 were getting ready to attack us. And so he said, "Get ready to defend yourselves. Every person should  
14 get ready to defend themselves." Those are the words he told us.
- 15 Q. Witness, you said people approached the car, including yourself, how many people approached the  
16 *bourgmestre's* car on this occasion?
- 17 A. I did not count the number of people who were there. However, there were many people. I would  
18 estimate it to be between 20 and 30 people. We did not all get very close to the vehicle, but we were  
19 standing -- some were standing close to the vehicle and others behind those who were closer to the  
20 vehicle.
- 21 Q. And, on this occasion, Witness, how close were you to the vehicle?
- 22 A. There was a short distance between me and the vehicle, to the extent that I could hear what was being  
23 said. So I was close -- I was not very close to the vehicle, but I could hear what was being said.
- 24 Q. Can you give us approximately how many paces between you and the vehicle?
- 25 A. This I -- I would estimate the distance between me and the vehicle to be about 1 metre, because I could  
26 reach the vehicle. When I was standing -- where I was standing, my hand was on the vehicle. So it  
27 was about 1 metre or so away from me.
- 28 Q. And can you recall the words that the Accused used when he was addressing you?
- 29 A. I have just told you what he said. He was very brief. He said that, "The Tutsis who had taken refuge in  
30 the church have got out of church and are coming to attack you." Then he said that, "All of you should  
31 get ready to defend yourselves." Those are the only words that he said.
- 32 Q. And what did you understand "defending yourselves" to mean, Witness, in the context of the times?
- 33 A. After telling us those words, we all decided that we must -- that the Tutsis were about to come and  
34 attack us. And this was just a few days after the death of Habyarimana, and it was being said that it is  
35 the *Inyenzi* who had killed him. And so we understood that the Tutsis were coming to attack us and so  
36 we had to find ways of defending ourselves.
- 37 Q. Now, can you tell us what happened after the *bourgmestre* addressed you?



1 A. After the *bourgmestre* addressed himself to us, the gendarmes were on top of the vehicle. The  
2 *bourgmestre* himself had talked to us himself while seated in his car. So the gendarmes who were on --  
3 behind, on top of the vehicle, asked us if there was anyone who knew how to use grenades. And only  
4 Gahirwa and Ntaganda knew how. So Ntaganda was given two grenades and Gahirwa was also given  
5 two grenades. So the vehicle took off, and he said that he was going to Ruyenzi.

6 MR. KAREGYESA:

7 Gahirwa is spelt, Your Honours, G-A-H-I-R-W-A. Ntaganda is spelt N-T-A-G-A-N-D-A.

8 BY MR. KAREGYESA:

9 Q. Now, Witness, are you aware whether the *bourgmestre* observed this transaction when gendarmes  
10 were giving grenades to Gahirwa and Ntaganda?

11 A. He was seated in the vehicle. The gendarmes were behind in the pickup, and people who received the  
12 grenades were standing down, outside the vehicle. And so the person -- a person who is inside the  
13 vehicle must have seen that action that took place.

14 Q. And are you in a position to tell us whether the *bourgmestre* overheard the gendarmes asking who  
15 knew how to use grenades?

16 A. The gendarmes were speaking loudly, so the person who were -- who was inside a vehicle must have  
17 heard the gendarmes speak. So I think that he must have heard when the gendarmes asked that  
18 question.

19 Q. Now, after the gendarmes gave grenades to Ntaganda and Gahirwa, did the *bourgmestre* say anything  
20 before departure?

21 A. He said that he is going to Ruyenzi and Gitarama to tell -- to inform the population about the situation.

22 Q. And can you tell us what situation? Did he mention what situation, Witness?

23 A. I think he was going to inform -- to give them the situation information that he had just given us, that the  
24 Tutsis had got out of the church and were about to attack us. So he was going to attempt to give the  
25 same information to the people at Ruyenzi and Gitarama.

26 MR. KAREGYESA:

27 Ruyenzi is spelt, Your Honours, R-U-Y-E-N-Z-I; and Gitarama is spelt G-I-T-A-R-A-M-A.

28 BY MR. KAREGYESA:

29 Q. Can you tell us approximately how long this interaction with the *bourgmestre* and the gendarmes  
30 lasted?

31 A. They were there for a short while, between 10 and 15 minutes, then he left.

32 Q. Now, Witness, subsequent to the departure of the *bourgmestre* and the gendarmes, were you attacked  
33 by the Tutsi refugees who had allegedly left the parish?

34 A. No. Actually, we were the ones who attacked them where they were.

35 Q. Witness, did any local authority or local leader come to the trading centre after the departure of the  
36 Accused?

37 A. It is not the local authority who came, rather, it was a person called Nyirahuku, a teacher, who came.

1 He arrived after the departure of the *bourgmestre*.

2 Q. And can you tell us about how long after the departure of the *bourgmestre* Nyirahuku arrived?

3 A. About ten minutes after his departure.

4 Q. And can you give us Nyirahuku's occupation in April 1994?

5 A. He was a teacher.

6 MR. KAREGYESA:

7 The name Nyirahuku, Your Honours, appears at number 185 of the list.

8 BY MR. KAREGYESA:

9 Q. And other than being a teacher, was he in any way connected to the *bourgmestre*?

10 A. He was his brother-in-law. He was married to his sister.

11 Q. Who was married to whose sister, Witness? Can you clarify?

12 A. The *bourgmestre*'s wife is Nyirahuku's sister.

13 Q. Thank you. And do you know to which party François Nyirahuku belonged?

14 A. He was a member of the CDR party.

15 Q. And are you aware whether he had held any office in that party?

16 A. He was the vice-president of that party.

17 Q. Right. Now, can you tell us what happened when François Nyirahuku came to the trading centre after  
18 the departure of Mpambara?

19 A. He came and asked us what the *bourgmestre* had told us. We told him what the *bourgmestre* had told  
20 us, that the Tutsis had left the church and were about to come and attack us. Then he said, "Actually, I  
21 know Mpambara is not brave enough. If he had been brave, the issue of Tutsis would have been  
22 solved a long time ago." Then he said, "Instead of waiting to be attacked here, we should organise  
23 ourselves, get all the tools needed in order to attack them." So we decided to look for all the necessary  
24 tools we would need, and then we went to attack the Tutsis at the church.

25 Q. Now, Witness, you are referring to "tools," can you please clarify what you mean by "tools"?

26 A. I am talking of weapons. We had traditional weapons like machetes, spears, sticks. So that's -- that's  
27 the type of weapons he was telling us to find.

28 Q. And did you find the weapons you have just referred to?

29 A. Some of us went back to their homes. Those who had spears brought them. Those who had spears  
30 (*sic*) brought them, and those who had sticks also brought them. But we took some time at Paris  
31 because people were not coming immediately in big numbers. So it is after that that we left and  
32 attacked.

33 Q. So at approximately what time did you leave Paris, your trading centre?

34 A. We had to wait for big numbers, so this took some time. So we left at around 2 p.m. to go to  
35 Karubamba. We, however, did not go directly to the church, a person named Kanyemera --

36 Q. Can you please proceed?

37 A. We did not go to the church immediately because a person named Kanyemera had been there, and he

1 told us the people from Gitarama and Ru -- we would meet the people from Gitarama and Ruyenzi at  
2 Buyonza behind the *commune*, and then we would plan how to go to the church. So we arrived at the  
3 meeting point before those people arrived there, and so we had to wait.

4 MR. KAREGYESA:

5 And Your Honours, Kanyemera is spelt K-A-N-Y-E-M-E-R-A.

6 BY MR. KAREGYESA:

7 Q. Can you tell the Chamber Kanyemera's occupation in April 1994?

8 A. At that time Kanyemera was an agricultural officer; however, I think he was on leave because he had  
9 suffered a fracture. But that was his occupation; he was an agricultural officer.

10 Q. For which *commune* or *préfecture* was he an agricultural officer?

11 A. For Rukara *commune*.

12 Q. Right. So you have told the Chamber that you left Paris at around 2 p.m. Approximately how many  
13 armed attackers were you that left Paris?

14 A. When we left Paris, we were few because not all people had gathered there. But according to what I  
15 remember, we were 11 people when we left Paris and we headed to the meeting point, then other  
16 people joined us there. And as time went on more people joined us.

17 Q. All right. Now, how long did it take you to get from Paris to your meeting point?

18 A. This is a short distance. I think that it is about three kilometres to that point. We normally walked for  
19 30 minutes in order to get there at a short pace, at a small pace. In fact, if one is fast enough, it can  
20 take about 15 minutes to get there.

21 Q. So, how many were you by the time you arrived at the meeting point?

22 A. I told you that we -- when we left Paris, we were 11. When we got there, the people from Gitarama had  
23 not arrived, so we sat there and waited for them. But as we waited for those people, then others --  
24 other people from Paris also joined us, and then also from the other areas also joined us there at the  
25 meeting place.

26 Q. All right. Now, how far was this meeting place from the *commune* office, Witness?

27 A. It is near. From our meeting place to the *commune* is about a hundred metres. These -- we were --  
28 this place is at a point where there are Cyprus trees, just beyond the *commune*. The distance is about  
29 a hundred metres.

30 Q. And what was the name of this meeting point, Witness?

31 A. It is Buyonza *cellule*. It is called Buyonza.

32 MR. KAREGYESA:

33 Buyonza, Your Honours, appears at number 22 in the list of common names.

34 BY MR. KAREGYESA:

35 Q. Now, you have told the Chamber that the people you left with from Paris were 11 and that other people  
36 from Paris joined you at Buyonza. Can you tell us the number of attackers who hailed from Paris who  
37 joined you at Buyonza?

- 1 A. I had not plans -- I had not prepared myself to count all the people who joined us, but I can make an  
2 estimate and say that, according to what I recall, we were about 40 people.
- 3 Q. Thank you, Witness. And were these 40 people, including yourself, armed with any weapons,  
4 traditional or modern?
- 5 A. They were armed with traditional weapons, spears, machetes, sticks. All the people present there had  
6 a weapon.
- 7 Q. And were you organised under a common leader who led this group of 40 people?
- 8 A. Was -- the person who was leading us from Paris, Nyirahuku, was still the guy -- the person who was  
9 leading the group.
- 10 Q. And did this group of 40 include Gahirwa and Ntaganda?
- 11 A. Yes, Gahirwa and Ntaganda are from my *cellule* of Mitungo and we had left Paris together.
- 12 Q. And were you in a position to know what kind of weapons Gahirwa and Ntaganda carried on this  
13 occasion?
- 14 A. Gahirwa and Ntaganda had received the grenades I mentioned, and they carried them, but they also  
15 had other traditional weapons. They had spears as well as the grenades they had received earlier.
- 16 Q. Now, you have told this Chamber that Buyonza was a meeting point and you were expecting more  
17 people from Ruyenzi and Gitarama. Did they ever arrive to join you at Buyonza?
- 18 A. Yes, they came, although they came late. They arrived there around 5 p.m. That is when we realised  
19 we had a sizeable group that can carry out an attack.
- 20 Q. And are you in a position to give us an estimate of how many people joined your group from Ruyenzi  
21 and Gitarama?
- 22 A. Many people came from Gitarama, and many people also came from Ruyenzi. But, at that time, I did  
23 not know that at one time I will be asked how many people came, so I did not count them. I can only  
24 make an estimate. I believe that when we took off from there to attack the church, we were about a  
25 hundred people.
- 26 Q. Now, this group that came from Ruyonza -- Ruyenzi and Gitarama, how were they armed -- or, did they  
27 carry any arms and weapons?
- 28 A. All -- they all had machetes, spears. People from Kinunga, however -- Gitarama and Ruyenzi, I saw  
29 two people from those two areas who had grenades. There was one man called Paul, who had  
30 grenades in a plastic bag, another one called Kavutse also had a grenade.
- 31 Q. And do you remember Paul's other name?
- 32 A. Mujyambere is his family name.
- 33 MR. KAREGYESA:  
34 Mujyambere, Your Honours, appears at number 126 on the list of common names. Kavutse is spelt  
35 K-A-V-U-T-S-E.
- 36 BY MR. KAREGYESA:  
37 Q. Now, do you know whether this group that arrived from Gitarama and Ruyenzi were under any common

1 leader, or leaders?

2 A. Each group had a leader. Those people that came from Ruyenzi and Gitarama were led by Paul.

3 Q. And by Paul, you mean Mujyambere?

4 A. Yes, that's correct.

5 Q. Can you briefly tell us what happened at Buyonza when this group from Gitarama and Ruyenzi joined  
6 yours?

7 A. After their arrival at around 5:30 or later, they decided that we should attack the church. We divided  
8 into two parts. Paul led one group and Nyirahuku led another group. So each one led the people he  
9 was with, and we attacked the church.

10 Q. And do you know approximately what time the attack on the church commenced?

11 A. I really didn't have a watch to know the exact time. I am simply estimating, but when we attacked the  
12 church, it was approximately around 6 p.m.

13 Q. Now, this group of a hundred attackers, Witness, were they all civilians or did you have any member of  
14 the armed forces within this group?

15 A. There was no policeman, no soldier, except one gendarme whose name is Rupaca, son of Kabano.  
16 And I believe he had been -- he had left the gendarmerie. He was a guard at Mugabo's shop at  
17 Karubamba.

18 MR. KAREGYESA:

19 Rupaca is spelt R-U-P-A-C-A, and Mugabo appears on the list at number 117.

20 BY MR. KAREGYESA:

21 Q. Do you recall what Rupaca was wearing on this occasion Witness?

22 A. He was wearing a gendarme uniform, that is, a red beret and khakish uniform.

23 Q. And was he carrying any weapons, Witness?

24 A. Yes, he was armed with a rifle at the time.

25 Q. Now, you have told the Chamber that the group of about a hundred attackers split themselves into two  
26 groups in order to launch the assault on the Tutsi refugees at the parish. Which group did you  
27 participate in; which of the two groups?

28 A. I followed Nyirahuku's group, that is, the rear part of the church, and the other people attacked from the  
29 front of the church, those who were led by Paul.

30 Q. And how did the group you were in, Witness, attack the Tutsi refugees at the parish?

31 A. On leaving the place, we had been given orders on how to attack. They told us that we shouldn't go  
32 beyond 30 minutes, that within 30 minutes we must have finished. So we left, and we found some  
33 Tutsis who were guarding cattle behind the church. When they saw us armed with spears and  
34 machetes, and they started throwing stones at us, and we threw stones at them, too. So Gahirwa threw  
35 a grenade at them, so they scattered and they ran away. When we reached in front of the church, they  
36 met the other group that had passed in front of the church, and they entered the church. And, as they  
37 were entering the church, grenades were being thrown at them.

1 I remember a certain Rusagara threw a grenade that didn't explode, and Paul Mujiyambere took it and  
2 kept it. Then Kavutse threw a grenade among people who had come from Gitarama; and he didn't  
3 throw it well and it injured him. And the others, like Ntaganda, threw the grenade, as they had been  
4 given them. When the time came, after the 30 minutes, we stopped.

5 Q. Now, approximately how many grenades were lobbed at the Tutsi refugees on this occasion?

6 A. It was my first time to hear a grenade explosion. I did not really take it to knowing how many grenades  
7 were exploded, but I estimate the number of grenades that exploded at six, at least.

8 Q. And of the approximately six grenades that exploded on that occasion, Witness, how many did you  
9 personally see being thrown at the refugees?

10 A. I personally saw the grenades that were thrown by Gahirwa, and the one that didn't explode thrown by  
11 Rusagara, which was thrown by Gahirwa and Paul. Those are the ones that I saw with my eyes  
12 explode.

13 Q. Witness, I will ask you to go over that again. I didn't get the answer -- the answer isn't clear.

14  
15 You have mentioned about six grenades exploding on this occasion. And all I need to know is the  
16 number of grenades you actually saw being thrown at the refugees, the ones you saw with your own  
17 eyes.

18 A. The ones I saw, was that thrown by Gahirwa, and then the one thrown by Rusagara, which did not  
19 explode. That one was picked by Paul. Then Paul threw another one, and I was watching him. Then  
20 Kavutse threw another one which injured him on the eye. Then Ntaganda threw another grenade. You  
21 understand I wouldn't really know the exact number of grenades that exploded. It could even be higher  
22 than six.

23 Q. Right. Now, Witness, do you know whether anybody amongst the Tutsi refugees was killed or injured  
24 during this attack?

25 A. At the time, we didn't go to count those people who had died. Really, I didn't count the dead, but  
26 personally, from where I was standing behind the hangar, one person called Rugomwa, a teacher, ran  
27 and he met Kanyamera, who struck him with a stick, and another person called Mahuko speared him,  
28 and he died.

29 MR. KAREGYESA:

30 Rugomwa, Your Honours, appears at number 196 of the list, and Mahuku is spelt M-A-H-U-K-U.

31 BY MR. KAREGYESA:

32 Q. Witness, can you tell the Chamber why you attacked the Tutsi refugees at Rukara parish on that  
33 evening of the 9th of April 1994?

34 A. The reason why we attacked those refugees is that we had been told that they had left the church and  
35 that they were preparing to attack us. And people had been saying that those people had killed  
36 Habyarimana some days before. So we decided that we must attack them.

37 Q. When you refer to "those people who killed Habyarimana," what exactly do you mean?

- 1 A. It was said that the *Inyenzi* had killed him, meaning the Tutsi, and that -- that's what was being said,  
2 that the Tutsis or *Inyenzi* had killed the president.
- 3 Q. And do you know why these *Inyenzi* or Tutsi civilians had congregated at Rukara parish?
- 4 A. You -- I understand that people flee because they feel that they were not secure. They must have felt  
5 insecure to flee and take refuge there. They must have really felt insecure to take refuge there.
- 6 Q. Now, prior to the 9th of April 1994, that is to say, between the death of the president on the 6th and the  
7 9th of April, were you aware of any reasons why the Tutsis in the neighbourhood should feel insecure?
- 8 A. The reason is that in 1990, in our area, people caused disturbances looking for accomplices, and they  
9 were looking for Tutsis. That lasted for some time, and then got finished after the time. So when they  
10 heard about the death of Habyarimana, they also panicked, and that is what really made them flee and  
11 seek refuge somewhere.
- 12 Q. Now, to your knowledge, are you aware whether they were attacked -- Tutsis were generally attacked in  
13 their homesteads prior to fleeing to the parish?
- 14 A. You mean from the 6th?
- 15 Q. Yes, Witness.
- 16 A. In our area, no Tutsi had been attacked at his home, but we only saw people fleeing to the church. But  
17 after that time, nobody had attacked any other person.
- 18 Q. Now, beyond your home, beyond your *cellule*, did it come to your knowledge that Tutsis were being  
19 attacked in their homesteads and their property destroyed?
- 20 A. Before the 9th, I only knew the news of my *cellule*, and I didn't know the news from the other *cellule*.  
21 But, at the time when we -- when we sat around, people would tell stories about people who had come  
22 from Murambi and Ryamanyoni, gathering at the church after fleeing their homes.
- 23 Q. Now, Witness, taking you back to the attack on the Tutsi refugees of the parish, were any local  
24 authorities or leaders participants in this attack? Were they amongst the hundred or so attackers?
- 25 A. I told you that there were *cellule* leaders and the -- and the civilians, and then there was that  
26 Kanyemera, but no other leader came around, not even a policeman.
- 27 Q. And who are the *cellule* leaders, Witness, who were involved, or who participated in this attack?
- 28 A. I told you that Karinganire was a *cellule*, then Mupagasi was a *cellule*, then Damascène was a *cellule*  
29 leader. They were all there in the attack.
- 30 Q. What is the surname of Damascène?
- 31 A. The other name is Rukwavu, Jean Damascène.
- 32 Q. And what office did he hold in April 1994?
- 33 A. You mean Damascène?
- 34 Q. Yes.
- 35 A. He was head of the *cellule*.
- 36 Q. Would that be the same as *responsable*, Witness, *de cellule*?
- 37 A. The *responsable* was Mupagasi.

- 1 Q. And would the -- would Jean Damascène Rukwavu been a member of the *cellule* committee?
- 2 A. Yes, he was a member of the *cellule* committee.
- 3 Q. Now, other than lobbing grenades, Witness, at the Tutsi refugees of the parish, can you tell us whether  
4 there was any act of plunder, or pillage, or looting?
- 5 A. At the time, people who had fled to the church had cattle. Many people took away cows. I wouldn't tell  
6 you the total number. I saw a certain Kibuka, a young man called that, he came with about six cows he  
7 had looted.
- 8 Q. From where you were at the parish on this occasion, Witness, during the attack, were you able to  
9 give -- to estimate the number of Tutsi refugees at that parish.
- 10 A. I would be lying if I told you the number of people that -- who were there, who had fled there, but there  
11 were very many. People had come from Gahini, others had come from Nyawera, and others from  
12 Kawangire. People from all the *secteurs* had fled from there to the church, but it was a large number.
- 13 Q. And I know you can't be precise, Witness, but can you give us just an estimate?
- 14 A. You can make an estimate of people who were close together in one place. Some people were moving  
15 out, others would -- would be moving around, but I really cannot make an estimate of such a moving  
16 group.
- 17 Q. Were they the same number as the attackers?
- 18 A. The people who led the attack were fewer. They -- the attackers were about a hundred, but the others  
19 were very many. You understand, people who came from Ryamanyoni, Nyawera, Nyakabungo. They  
20 were very many people. They cannot be the same number as those people who led the attack, who  
21 were just a mere hundred people or so.
- 22 Q. Thank you, Witness. Now, did this attack last 30 minutes, as you had been instructed?
- 23 A. It lasted a short time. It might even have been shorter than 30 minutes. It was very quick, and within a  
24 few minutes it was all over.
- 25 Q. And how did you know that the attack was now over and you should withdraw?
- 26 A. The gendarme, Rupaca, who had a gun, he shot in the air and said, "The attack is over, let's withdraw."  
27 So we all withdrew.
- 28 Q. And, Witness, can you tell us where you withdrew to?
- 29 A. From the -- from there, people scattered, and each one went home. People from Kinunga, that is  
30 Gitarama and Ruyenzi, left. People took the road by the shop. Others took the direction above the  
31 *commune*. I withdrew with that gendarme called Rupaca.
- 32 Q. Yes, and I was asking more specifically about yourself. Now, can you tell us where you and Rupaca  
33 withdrew to?
- 34 A. At the time, I and Rupaca, Rupaca was from our home area and he was guarding the shop of that  
35 trader. He told me to go to their bar so that he may take his effects and take them home before going  
36 back. It was close to 7 p.m., so we went to their bar. That is why -- where I found Mpambara standing  
37 with a certain Kalibwende, who had taken refuge at Karubamba. They were in the company of Gatete.



- 1 There was a Daihatsu vehicle, which I believe had brought him. I entered the house with that Rupaca. I  
2 heard Gatete asking Mpambara why this Tutsi issue was not over. "Is there any shortage of bullets or  
3 grenades or *Interahamwe*? Tell me if you need *Interahamwe*, and then I send them and this issue is  
4 resolved." Mpambara didn't answer. So I left the place, and I went home.
- 5 Q. I will just take you back a bit. Where about was this bar that you are referring to? Where is it located?  
6 In which centre?
- 7 A. It was close to the *commune* at Karubamba, near the market, if anybody knows the place. That is  
8 where Mugabo had a bar.
- 9 Q. And what was the distance, approximate distance, between the parish where you had just been and the  
10 trading centre where this bar was located?
- 11 A. It was not even up to one kilometre. It's probably about 800 metres. From the bar to that parish where  
12 we were, it is shorter than a kilometre. My approximation is about 800 metres.
- 13 Q. And at around what time in the evening was this, Witness?
- 14 A. It was about 7 p.m. or slightly before 7 p.m.
- 15 Q. Now, you have told us that you found Mpambara there in the company of two other people, namely,  
16 Gatete and Kalibwende. What was Gatete's occupation.
- 17 A. Gatete was the *bourgmestre* of Murambi *commune*?
- 18 Q. Was it your first time to see him or had you known him prior to the 9th of April 1994?
- 19 A. Yes, I used to see him before. It wasn't the first time to see him. Immediately I saw him, I recognised  
20 him.
- 21 Q. And was he -- are you aware whether he was still the *bourgmestre* of Murambi as of April 1994?
- 22 A. I believe there must have been another one, but I know that he had been *bourgmestre* of Murambi  
23 before. That's how I knew.
- 24 Q. Thank you. And what about Kalibwende, what was his occupation?
- 25 A. It was said that Kalibwende was a member of parliament. I don't know whether he was from Byumba or  
26 somewhere, but he had taken refuge at Karubamba. For some days I had been seeing him, so there  
27 was no mistake about it. It was him.
- 28 Q. And can you tell the Chamber whether you knew where he was living in Karubamba prior to the 9th of  
29 April 1994? Did he have a house?
- 30 A. I am sure he was staying at someone's house or renting a house. He came as a refugee and as a  
31 displaced person, and when he reached Karubamba he rented a house, I believe.
- 32 Q. Do you know in which house Kalibwende was staying, Witness?
- 33 A. It was said that he was living in Mpambara's house, except if he moved from it afterwards. But it was  
34 said that he was staying in Mpambara's house.
- 35 Q. And do you know for how long he had lived in Karubamba prior to the 9th of April 1994?
- 36 A. Given the time he had spent there, I wouldn't tell you the month or the year. It is a -- it is a long time  
37 since. All I know is that he was a displaced person who came to Rukara, but I wouldn't -- I wouldn't

- 1 give you the number of months or so. I cannot be precise about it.
- 2 Q. Thank you, Witness. Now, you have told this Chamber that you found these three gentlemen, Gatete,  
3 Kalibwende and Mpambara at Mugabo's bar. Were they sitting --
- 4 A. They were not in the bar -- inside the bar, they were in front of the bar.
- 5 Q. Right. Now, how close did you get to them on this occasion?
- 6 A. They were not far from the door. They were close to the door. I passed by them. But when I heard the  
7 words that were being uttered, I listened, but they were not far from the door.
- 8 Q. Yes, I am not talking about the door, Witness, I am talking about the distance between yourself and the  
9 three gentlemen you have just mentioned.
- 10 A. It was very close. It was between 5 and 6 metres, that's between me and the three gentlemen.
- 11 Q. And on this occasion in front of Mugabo's bar, other than overhearing Gatete, did you hear the Accused  
12 say anything?
- 13 A. When I left, he hadn't said anything. He didn't even reply. So I left them after listening to what Gatete  
14 was saying. But Mpambara did not utter any word in reply.
- 15 Q. And did you eventually go home that night with Rupaca, the gendarme?
- 16 A. Rupaca delayed inside the house. When he delayed, I left thinking that he might find me on the way.  
17 On the way, I met a certain young man called Rusanganwa. We went together until we separated. But  
18 I hadn't seen Rupaca; he hadn't joined us.
- 19 Q. Now, I will take you back to the attack on the Tutsi refugees at Rukara parish, Witness. Were there any  
20 gendarmes or *communal* policemen guarding the Tutsi refugees at the parish at the time you launched  
21 the attack?
- 22 A. We would have seen them if they had been there. There was never a gendarme nor *communal* police.  
23 We would have known on reaching there, but there was -- they were not guarded by anybody.
- 24 Q. Witness, what is your level of education?
- 25 A. I never attended school.
- 26 Q. Now, subsequent to the attack on the Tutsi refugees at Rukara parish on the 9th of April 1994, did you  
27 participate in any other attack at the parish?
- 28 A. I did not participate in any other attack at the time from that date onwards.
- 29 Q. Are you aware whether the parish was attacked again subsequent to the 9th of April 1994?
- 30 A. Whether some other people went back, some people attacked that place on the 12th, but I didn't  
31 participate; but there was an attack on the 12th.
- 32 Q. And how do you know there was an attack on the 12th of April 1994, Witness?
- 33 A. The attack of the 12th, there was a certain Tabera Ruvugo, who used to be in the former army. He was  
34 a lieutenant and he was demobilised. He was working in Gahini. And a certain Mutsinzi, and another  
35 man called Munyambo from Muzizi. They came to that centre -- parish, and they held a meeting saying  
36 that they were going to attack the church. And I had known about that plan that they were going -- they  
37 were going there. And I was late because the attack was carried out at night. And when I reached

1 there, they had left. But I knew there was such a plan.

2 When I found that they had left, I feared to go alone during that night, and I went back home. But they  
3 had said they would be attacking the parish that day.

4 MR. KAREGYESA:

5 Ruvugo, Your Honours, appears at number 206 of the list, Mutsinzi appears at number 152; and  
6 Munyambo is spelt M-U-N-Y-A-M-B-O.

7 BY MR. KAREGYESA:

8 Q. At what time did these three gentlemen visit your trading centre on the 12th of April 1994 to organise for  
9 the attack?

10 A. They came in the morning of the 12th. It was still early and I went up. I was guarding one cow. I found  
11 them inside Habimana's house, and they told me that they were planning to attack in the evening; and  
12 they said there were soldiers who would be coming from Murambi to give them a hand. Then I had  
13 some problems and I delayed, and when I reached there, they had already left. So I feared going alone  
14 at night, and I went back home.

15 Q. To the best of your recollection, at what time -- or what time had been agreed upon as the time to set  
16 off on the attack?

17 A. They had said that they would leave at 6 p.m. That is the time they had given everybody who would be  
18 joining them in the attack.

19 Q. And what time did you arrive at the appointed place?

20 A. I reached there after seven. It was approaching 8 p.m. When I asked the time they had left, people  
21 said that they had left much earlier, so I decided not to go.

22 Q. Right. And are you aware whether an attack took place at the parish on that night?

23 A. Yes, the attack took place, because you could hear the explosions of bullets and grenades. You could  
24 hear the explosions there at the church. We did not hear any other place that had been attacked, other  
25 than that church at Rukara.

26 *(Pursuant to the Court's oral decision of 29 September 2005, at this point in the proceedings, a portion*  
27 *of the transcript [pages 19 to 22] was extracted and sealed under separate cover, as if the session were*  
28 *heard in camera)*

29 *(Pages 5 to 18 by Judith Baverstock)*

30

31

32

33

34

35

36

37

1 1055H

2 BY MR. KAREGYESA:

3 Q. Witness, have you been induced or promised any inducement in order to come and testify against  
4 Jean Mpambara in this Tribunal?

5 A. Nothing was promised to me, nothing at all.

6 Q. Are you expecting any form of gratification for having testified against Jean Mpambara in this trial?

7 A. Nothing. There will be no advantage whatsoever. I decided to tell the truth because at the stage we  
8 are in now we should speak out and tell the truth, and I'm doing my best to speak the truth, and that's  
9 why I decided to get rid of my pseudonym and to speak the truth about what I saw, about what I did,  
10 and I should not hide any of this, and I have -- I have already pleaded guilty, and I have asked for  
11 forgiveness for my role in those activities.

12 MR. KAREGYESA:

13 I have no further questions for this witness, Your Honours.

14 MR. PRESIDENT:

15 Judge Egorov has a question or questions.

16 JUDGE EGOROV:

17 Mr. Witness, I would like to clarify something. During your chief examination, the Catholic church was  
18 called sometimes Karubamba and sometimes Rukara. Is this the same place indicated by two names?

19 THE WITNESS:

20 Yes, it is Rukara parish. It is known as Rukara parish. Karubamba is like a *secteur* -- it's like a *cellule*,  
21 but it is in Rukara, and it is known as Rukara parish. It is the Rukara parish.

22 JUDGE EGOROV:

23 *(Microphone not activated)*

24 THE WITNESS:

25 But located at Karubamba.

26 JUDGE EGOROV:

27 Okay, thank you. And the second question also concerns the names of the place. You mentioned  
28 Paris, Paris trading centre. Is it the same or a different place as Akabeza trading centre?

29 THE WITNESS:

30 Akabeza is at Gahini *secteur* -- in the Gahini *secteur*, whereas Paris is in the Rukara *secteur*. They are  
31 different localities.

32 JUDGE EGOROV:

33 Thank you. Could you remind me, approximately at what time did you see Mpambara and the other  
34 two gentlemen at the Mugabo bar, approximately?

35 THE WITNESS:

36 It was about 12:30 towards 7 p.m. I found -- it was around 6:30 p.m. he was with Kalibwende and --

37

1 JUDGE EGOROV:

2 It happened approximately one hour after the attack was complete; is that correct?

3 THE WITNESS:

4 The attack had already taken place while leaving the place of the attack. The operation had lasted only  
5 30 minutes. And when we left the parish, we found the three people at -- at that bar. There was  
6 Mpambara, Gatete, and Kalibwende at that bar.

7 JUDGE EGOROV:

8 And what's the distance between Mugabo bar and the parish?

9 THE WITNESS:

10 I have explained that it's about 800 metres, maybe slightly over, but it is certainly under 1 kilometre.

11 JUDGE EGOROV:

12 Okay. Thank you very much.

13 MR. PRESIDENT:

14 Yes, I think we will take our morning break now, and when we come back, we will discuss how we  
15 proceed from here. We'll take a slightly longer break so that will give Defence some time to reflect on  
16 this evidence and to decide how they want to proceed from here. Let's say at quarter to 12? Quarter to  
17 12, so it's almost 40 minutes' break.

18 *(Court recessed from 1103H to 1154H)*

19 MR. PRESIDENT:

20 Yes, the Defence, are you prepared to begin your cross-examination now or later in this section? What  
21 is your position? We'll hear you before we make any decisions.

22 MR. VERCKEN:

23 We will like to do it later, Mr. President. Sorry.

24 MR. PRESIDENT:

25 That's all right. I understood.

26

27 Later, later in this session or beyond this session?

28 MR. VERCKEN:

29 Later, with a real -- a time period that would allow us to prepare our cross-examination. In other words,  
30 to my mind, after this session.

31 MR. PRESIDENT:

32 Has the Prosecution any position on this? I'm aware that you had indicated that the cross-examination  
33 could take place just before the Defence opens its case in January. Is that -- that remains your  
34 position, Prosecution?

35 MR. KAREGYESA:

36 Your Honours, I wasn't aware that the Defence case would be opening in January. But --

37

1 MR. PRESIDENT:

2 Isn't that -- wasn't that agreed on at the status conference with the President earlier on? That's my --  
3 my recollection.

4 MR. KAREGYESA:

5 My recollection, Your Honours, is that no date was actually agreed, and --

6 MR. PRESIDENT:

7 Might have been mentioned as a possible -- possible date in January.

8 MR. KAREGYESA:

9 Possibly, Your Honours.

10 MR. PRESIDENT:

11 But please indicate what your --

12 MR. KAREGYESA:

13 Our preference would be, Your Honours, that at least -- the Defence at least attempts to cross-examine  
14 during this session with a possibility of recall. It would be difficult, Your Honours, for us to, you know,  
15 close our case when there's been no cross-examination. But we concede with Your Honours that  
16 indeed the Defence may have been taken by surprise, but this relates more to the personal details and  
17 the antecedents of the current witness, rather than the substance of the allegations.

18

19 What we're trying to suggest, Your Honours, is that the Accused, who is alleged to have distributed  
20 grenades and weapons on the 7th, 8th, 9th, and the 12th, this is a story that the Defence are fully  
21 aware of. They were fully briefed before they took conduct of this matter or they accepted  
22 taking conduct of this matter, and should be in position, at least, to cross-examine the witness on the  
23 substantive facts alleged in his testimony with a right subsequent to that to have the witness recalled for  
24 further cross-examination on any matters that they may unveil during the investigations of the witness.

25

26 Most obliged, Your Honours.

27 MR. PRESIDENT:

28 What is the Defence response to that the suggestion being that you should begin your  
29 cross-examination during this session, not necessarily today, possibly on a day next week with a right  
30 to recall at a later stage? How do you respond to that?

31 MR. VERCKEN:

32 We have two reactions. To our mind, cross-examination cannot be divided into two parts. The first part  
33 of the cross would be just a lap of honour, and we're not interested, frankly speaking, in just talking for  
34 the sake of talking.

35

36 My second reaction to what the Prosecution has just said is that -- absolute objection to what he's just  
37 said that the surprise effect could only bear on the personal information relating to this witness. That is

1 quite false, because it is quite deliberately that the Prosecution is mixing the facts, the events and the  
2 offences. If it is true that the offence, everything concerning the distribution of weapons, is in the  
3 indictment, the specific events, in fact, spoken of by the witness here this morning were never  
4 mentioned before in this trial. So we have to undertake investigation of those facts, those events, and  
5 not in an offhand manner regarding vague and general distribution of arms between the 7th and the  
6 12th. Well, why not go, then, and investigate any arms deliveries or issue -- distribution anywhere in  
7 the world. But here this morning, specific people, specific places, specific times were mentioned. I  
8 have, myself, 14 pages of notes, and we intend to undertake our preparations in such a manner -- in  
9 such a manner as to undertake a cross-examination worthy of the name and matching the dignity of this  
10 institution.

11 MR. KAREGYESA:

12 Now, should Your Honours be inclined to grant the Defence application to adjourn the proceedings and,  
13 you know, do the cross-examination at one go, we would request, Your Honours, that it be sooner  
14 rather than later. January is too far off, and anything could happen to this witness, Your Honours. He  
15 has gone public. We have no means of ensuring that no ill fortune befalls him, and what would happen  
16 in such a scenario with the Defence not having had the opportunity of testing his evidence through  
17 cross-examination?

18  
19 Since the rules allow a 31-day period between full disclosure and cross-examination of a witness  
20 testifying, with your indulgence, we would request that the period not exceed 31 days from when the  
21 disclosures were made.

22 MR. PRESIDENT:

23 When does that take us to? When -- when does it expire?

24 MR. KAREGYESA:

25 It would take us, Your Honours, to the latter half of October. Now, I'm fully aware that the Chamber or  
26 the Judges are committed in various trials, but if there's an indication of how long this  
27 cross-examination may last, we'd ask Your Lordships to take that into consideration and set off half a  
28 day or a day so that cross-examination can be conducted.

29 MR. PRESIDENT:

30 Now, how long do you think you need to carry out your investigations to be able to do justice to your  
31 client? Can you give us some indication?

32 MR. VERCKEN:

33 Mr. President, to the extent that -- you should know that we have accepted that this trial begin in  
34 September at the last minute, and on the condition that we be able to work the whole summer on this  
35 matter. The President directed and asked us, and we did agree to that arrangement. I don't know  
36 whether you know it, but we are -- our offices are in France. We're going back to France. We have  
37 professional commitments there. We are not established in Arusha. We have other matters in hand.

1 We organised ourselves in order to be able to devote nearly three months entirely to this matter, to this  
2 trial, and now we're being asked to add a month on the pretext that a surprise witness comes at the last  
3 instant. I'm sorry, but I must tell you I don't think that's very fair.

4  
5 I did raise with some people the matter that the cross-examination take place either just before the  
6 Defence case, if that suited the Tribunal, but there was also an opening in December, and I would  
7 maintain that, according to whether you are available or not, but I think we could either -- we could do  
8 that when you have the time to do it in December or just before the presentation of the Defence case.

9 MR. COURCELLE LABROUSSE:

10 And if you would allow me to add something on this point, Mr. President. Apart from our logistical  
11 problems, I think that the Prosecution is trying to pull off a master's stroke. If, indeed, witnesses are  
12 fully disclosed 31 days before the beginning of a hearing, nonetheless, the factual elements of their  
13 statements are disclosed well before, and the sum of the statements, therefore, of the witnesses that  
14 the Prosecutor wished to call here were given to us some two years ago, some more recently. But on  
15 the specific facts alleged by the Prosecutor, a distribution of grenades on the morning of the 9th of April  
16 1994 is a factual -- a very specific point that was never alleged by any Prosecution witness. So the  
17 facts on which we've been working quite seriously, I think I might say, for the last two years lead to the  
18 same -- the need of the same time frame, time period, at least a month and a half, to undertake  
19 investigations of this witness's allegations. And you will note, Mr. President, Your Honours, that if you  
20 compare the written statement -- the witness's written statement that was disclosed to us in relation to  
21 the very lengthy examination-in-chief, already there's a discrepancy, and it leads us to make -- that  
22 there is a difference apart from what he's just stated, the witness has just stated, on the basis of the  
23 statement that was disclosed to us at the beginning of the week, we'd need time to investigate.

24  
25 Now, the Prosecution is trying to limit the time. I understand that he is concerned for this witness who's  
26 revealed his identity to the Court, but I think that's a problem the Prosecution has to manage to solve  
27 and allow us at least a month and a half to undertake our investigations and not to undertake a  
28 truncated cross-examination in two shares, two halves, so as to allow us to prepare and properly  
29 question the question.

30 MR. PRESIDENT:

31 Yes. Judge Egorov and I are in another trial which resumes next Monday, Monday week, and goes on  
32 until the 15th of December. And it's a multi-Accused trial with four Accused and counsel, witnesses all  
33 over the world. And as far as we can see, the only possibility is to fit it in at around mid-December.

34  
35 I think what we would like to do is to take a short break, five minutes, confer among ourselves and  
36 come back and give a decision.

37 *(Court recessed from 1210H to 1226H)*



1 MR. PRESIDENT:

2 Yes, very well. This is our decision. In the light of the arguments of the parties and the schedule of  
3 other trials in which we are sitting, we believe that the cross-examination --

4 THE ENGLISH INTERPRETER:

5 I'm sorry, Mr. President, not too quickly, please. Sorry, for the court reporters.

6 MR. PRESIDENT:

7 I will start all over again slowly. Thank you.

8  
9 In light of the arguments of the parties and the schedule of other trials in which we are sitting, we  
10 believe that the cross-examination of AHY should take place on the 14th and 15th of December 2005.  
11 We will also hold the pre-trial Defence conference at this time. The Defence case will begin on 9th  
12 January 2006 and should be concluded by 3rd of February 2006. The Defence should make their  
13 pre-trial disclosures accordingly.

14  
15 So if there is no further matters that require our consideration, we will now adjourn until December.

16 MR. KAREGYESA:

17 Your Honours, a question arises from your ruling as to what is to become of the witness. He is on oath,  
18 still under examination, and ought to, under ordinary circumstances, to have remained sequestered. So  
19 is the witness going to stay in Arusha up to December, or will he be returned to Rwanda? We suggest,  
20 Your Honours, that since he is a witness still under examination under an oath, he should remain  
21 sequestered here in Arusha.

22 MR. PRESIDENT:

23 Does the Defence have any position on that?

24 MR. VERCKEN:

25 Of course not. Whether -- the witness can go where he likes.

26 MR. PRESIDENT:

27 Yes, I think on this -- on this issue we need to talk to the WVSS and just find out what -- what  
28 precedents there are, because from my experience in the Military case where we had similar  
29 situations -- situation, the witnesses were allowed to go back and then recalled. But we will look at it  
30 and then give a written ruling.

31 MR. VERCKEN:

32 Mr. President, just a small question with regard to the closure of the Prosecution case. The Defence  
33 would like that it should be confirmed that apart from the question of the cross-examination of AHY and  
34 the Prosecution's response to that, apart from that, the Prosecution case is effectively closed. We  
35 should like that assurance.

36 MR. PRESIDENT:

37 Do you have a response to that, Prosecution?

1 MR. KAREGYESA:

2 Your Honours, we had indicated in our motion to have this witness added to the list that we would be in  
3 a position to close the Prosecution case, subject to his cross-examination. We do, however, advert to  
4 the potential of anything happening to this witness and what would happen then. Would we be allowed,  
5 if we do close the case, to open it again in the event that we must replace his testimony? These are  
6 considerations that are real and which we've taken into account, and we'd seek your directions in this  
7 matter, Your Honours.

8

9 If I may just add, Your Honours, that it's become more complicated because the witness waived his --  
10 the protective measures and, as such, has no recourse of -- should anything happen to him.

11 MR. PRESIDENT:

12 Well, in the jurisdictions in which I am -- with which I'm accustomed to, the prerogative to close or not to  
13 close the case belongs to the Prosecutor, and I think it's really for you to decide. And you did indicate  
14 earlier on that you would close your case subject to the Defence right to cross-examine.

15

16 As for an application to reopen the case, if the circumstances change and if there is merit in such an  
17 application, naturally, it would be entertained.

18 MR. KAREGYESA:

19 Most's obliged, Your Honours. We had anticipated, Your Honours, in line with your ruling of  
20 27th September that there was a possibility that this witness would be cross-examined within this  
21 session, in which case we would close the case subject to Defence right to recall. Nonetheless, Your  
22 Honours, this is our last Prosecution witness for the time being, and we would, in the circumstances, be  
23 closing the Prosecution case, subject to the Defence right to cross-examine and our right to  
24 re-examine, all things remaining constant.

25

26 Most obliged, Your Honours.

27 MR. PRESIDENT:

28 Thank you. That's a very helpful approach.

29

30 That addresses your concerns?

31 MR. VERCKEN:

32 Yes, Mr. President.

33 MR. PRESIDENT:

34 Very well. Then, in that case, we will now adjourn until 14th of December. And thank you for your help.

35 *(Court adjourned at 1234H)*

36 *(Pages 23 to 29 by Sherri Knox)*

37

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37

CERTIFICATE

We, Judith Baverstock and Sherri Knox, 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.

\_\_\_\_\_  
Judith Baverstock

\_\_\_\_\_  
Sherri Knox