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THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

CASE NO.: ICTR-2001-65-I

THE PROSECUTOR
OF THE TRIBUNAL

AGAINST

JEAN MPAMBARA

8 AUGUST 2001
1100H
INITIAL APPEARANCE

Before: Judge Andresia Vaz

For the Registry:

Mr. Koffi Kumelio A. Afande
Mr. Constant Kwaku Hometowu

For the Prosecution:

Ms. Andra Mobberley

For the Defendant:

Mr. Bharat B. Chadha

Court Reporter:

Ms. Kelly Allemang

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P R O C E E D I N G S

MADAM PRESIDENT:

The session is called to order. Please usher in the accused. I presume you'll be speaking in French? Yes, very well, I thank you. The representative of the Registry, please call the roll for this morning.

MR. AFANDE:

Thank you, Madam President. The International Criminal Tribunal for Rwanda is sitting as Judge Andresia Vaz in open session, today, Wednesday, 8th August 2001 for the initial appearance in the matter of the Prosecutor v. Jean Mpambara in Case No. ICTR-2001-65-I pursuant to Rule 62 of the Rules of Procedure and Evidence.

MADAM PRESIDENT:

I thank the Registry. Mr. Mpambara, could you please tell us who you are?

THE ACCUSED:

My name is Jean Mpambara. I was born in 1954 in Rukara *commune*, Kibungo *préfecture*, in the Republic of Rwanda.

1 MADAM PRESIDENT:

2 Can you tell us the names of your parents
3 and give us your last address?

4 THE ENGLISH INTERPRETER:

5 Microphone for the --

6 THE ACCUSED:

7 My last residence -- my last domicile is
8 that I was a Rwandan refugee and I was
9 living in a refugee camp in Kubwa, in
10 Kibondo district in Kigoma region in
11 Tanzania.

12 MADAM PRESIDENT:

13 I am now asking the other parties to kindly
14 introduce themselves. We begin with Office
15 of the Prosecutor.

16 MS. MOBBERLEY:

17 May it please Your Honour. The Prosecution
18 bar is represented by myself, Ms. Mobberley,
19 and I am assisted by Ms. Elliott.

20 MADAM PRESIDENT:

21 Thank you, madam. Now, I wish to ask the
22 Defence counsel to introduce himself.

23 MR. CHADHA:

24 May it please you, Madam Judge. My name is
25 Bharat B. Chadha. I am a duty counsel for

1 the Accused and I am a private advocate
2 based in Arusha. May it please you,
3 Madam Judge.

4 MADAM PRESIDENT:

5 Thank you. Thank you, sir. The
6 representative of the Registrar, could you
7 kindly read the indictment.

8 MR. AFANDE:

9 The Prosecutor against Jean Mpambara. The
10 reading of the indictment. The Prosecutor
11 of the International Criminal Tribunal for
12 Rwanda, pursuant to the authority stipulated
13 in Article 17 of the Statute of the
14 International Criminal Tribunal for Rwanda,
15 charges:

16
17 JEAN MPAMBARA

18
19 with genocide; an offense stipulated in
20 Article 2 of the Statute of the Tribunal, as
21 set forth below:

22
23 The Accused:

24
25 Jean Mpambara was born in 1954 in Rukara

1 *commune*, Kibungo *préfecture*, in Rwanda.
2 During the period covered by this
3 indictment, Jean Mpambara was *bourgmestre* of
4 Rukara *commune* in Kibungo *préfecture*. As
5 *bourgmestre*, Jean Mpambara exercised
6 authority over his subordinates, among whom
7 can be counted: administrative personnel at
8 the level of the *commune*, including
9 *conseillers de secteur*, *responsables de*
10 *cellule*, *nyumbakumi* and the communal police.
11 Jean Mpambara also exercised authority over
12 *gendarmes* and *Interahamwe* militias in Rukara
13 *commune*.

14 CHARGES AND CONCISE STATEMENT OF FACTS:

15 Count 1: GENOCIDE

16 The Prosecutor of the International Criminal
17 Tribunal for Rwanda charges Jean Mpambara
18 with genocide, a crime stipulated in
19 Article 2(3)(a) of the Statute, in that on
20 or between the dates of 6 April 1994 and
21 16 April 1994 in Kibungo *préfecture*, Rwanda,
22 Jean Mpambara was responsible for killing or
23 causing serious bodily or mental harm to
24 members of the Tutsi population with the
25 intent to destroy, in whole or in part, an

1 ethnical or racial group;

2

3 Pursuant to Article 6(1) of the Statute: by
4 virtue of his acts in planning, instigating,
5 ordering, committing, or otherwise aiding
6 and abetting the planning, preparation or
7 execution of the crime charged, in that:

8

9 Concise Statement of Facts:

10 Between 1 January and 31 December 1994,
11 citizens native to Rwanda were severally
12 identified according to the following ethnic
13 or racial classifications: Hutu, Tutsi and
14 Twa.

15

16 Following the death of Rwandan President
17 Juvénal Habyarimana on 6 April 1994 and
18 resumption of hostilities between the *Forces*
19 *Armées Rwandaises* ["FAR," the national army]
20 and the *Front Patriotique Rwandais* ["FPR," a
21 predominantly Tutsi politico-military
22 opposition group], certain MRND-aligned
23 political and military leaders launched a
24 nationwide campaign to mobilize government
25 armed forces, civilian militias, the local

1 public administration and common citizens to
2 exterminate the Tutsi population.
3 Government armed forces and *Interahamwe*
4 militias targeted Rwanda's civilian Tutsi
5 population as domestic accomplices of an
6 invading army, *Ibyitso*. Under the guise of
7 national defense, ordinary citizens of
8 Rwanda, primarily its Hutu peasantry, were
9 enlisted in a nationwide campaign of
10 pillage, murder, rape, and torture with the
11 objective of destroying the Tutsi.

12
13 Preparation:

14 Jean Mpambara prepared the campaign against
15 the Tutsi in Rukara *commune*, Kibungo
16 *préfecture*. Preparation consisted in
17 stating anti-Tutsi propaganda among the
18 local population; recruiting, training and
19 arming *Interahamwe* militias; and
20 distributing arms to civilians for purposes
21 of attacks against the Tutsi. Execution of
22 the campaign entailed disarming the Tutsi
23 and disabling resistance to the attacks and
24 strategically directing armed attacks
25 against large groups of Tutsi.

1

2

The campaign was coordinated through the

3

political structures of the government

4

territorial administration and through the

5

organisational apparatus of the MRND and

6

MRND-aligned political parties in meetings

7

called or attended by *bourgmestres*,

8

conseillers de secteur, and political party

9

leaders.

10

11

Jean Mpambara organized or participated in

12

such meetings, as follows:

13

14

(i) on a date or dates unknown between 1992

15

and 1994 in Rukara *commune* with Member of

16

Parliament Innocent Kalibugende also known

17

as [Kalibwende] and others;

18

19

(ii) on dates unknown in 1993, in Rukara

20

commune with Justin Mugenzi, *conseiller de*

21

secteur, Jean Bosco Butera and others;

22

23

(iii) on a date or dates unknown in January

24

or February 1994, in front of the Rukara

25

commune office, as chairman of the meeting,

1 while wearing a green and yellow *Interahamwe*
2 cap, with *Interahamwe* and others;

3
4 (iv) in March 1994, in Ryamanyoni, Rukara
5 *commune*, with MRND leaders from Gahini,
6 Ryamanyoni and Kiyenzi *secteurs*;

7
8 (v) in March 1994, in Mitongo, with Member
9 of Parliament, Innocent Kalibugende also
10 known as [Kalibwende], Jean Baptiste Gatete,
11 and others;

12
13 (vi) in March 1994, at Lake Muhazi, with
14 Jean Baptiste Gatete and Octavien Ngenzi;

15
16 (vii) on or about 7 April 1994, at Samson
17 Gacumbitsi's house, with other *commune*
18 authorities;

19
20 (viii) on a date or dates unknown, at a
21 property occupied by Colonel Pierre Célestin
22 Rwagafirita, with Rwagafirita, *bourgmestres*
23 from Kayonza, Kabarondo, Kigarama, Sake and
24 Birenga, and *Interahamwe* chief Cyasa and
25 others;

1

2

(ix) on or about 8 April 1994, at the
prefectural office in Kibungo, with other

3

4

bourgmestres of Kibungo *préfecture*,

5

Col. Pierre Célestin Rwagafirita and Cyasa;

6

7

(x) on or about 10 April 1994, at the FAR

8

military camp in Kibungo with Col. Pierre

9

Célestin Rwagafirita and *bourgmestres* of

10

Kibungo *préfecture*, including Sylvestre

11

Gacumbitsi.

12

13

Furthermore, Jean Mpambara organized,

14

facilitated or acted in concert with others,

15

including military leaders such as

16

Col. Pierre Célestin Rwagafirita, and

17

bourgmestres and other communal authorities,

18

such as Sylvestre Gacumbitsi, to distribute

19

weapons to local politicians and civilians,

20

intending and anticipating that they would

21

be used in attacks against the Tutsi. For

22

example:

23

24

(i) Since approximately 1990, Jean Mpambara had

25

stockpiled weapons in the Rukara *commune*

1 office buildings purportedly for civilian
2 defence purposes, which he instead
3 distributed to the *Interahamwe* on a date or
4 dates unknown;

5
6 (ii) on a date or dates unknown, Jean Mpambara
7 and Jean-Bosco Butera were jointly and
8 severally in charge of weapons distribution
9 for Rukara *commune* and distributed weapons
10 intending that they be used in a campaign of
11 extermination against the Tutsi population;

12
13 (iii) at the meeting held on or about 10 April
14 1994, Jean Mpambara with Col. Pierre
15 Célestin Rwagafirita, *bourgmestres* of
16 Kibungo *prefecture*, including Sylvestre
17 Gacumbitsi and others received weapons which
18 were distributed by or on behalf of
19 Col. Pierre Célestin Rwagafirita;

20
21 (iv) on a date or dates unknown, Jean Mpambara
22 served as a mediator between various Hutu
23 parliament military youth groups of the
24 extremist parties, coordinated their
25 training and used his vehicle to transport

1 *Interahamwe* to military exercises and
2 training.

3

4 Execution:

5 Between 7 April 1994 and 9 April 1994,
6 Jean Mpambara circulated in Rukara *commune*
7 aboard his vehicle, advised the Tutsi
8 population to take shelter at Rukara Parish,
9 assured them that they would be safe, and
10 transported persons seeking shelter to
11 Rukara Parish in his vehicle. He also
12 listed the names of certain Tutsi civil
13 servants and gathered those persons, along
14 with their families, at Rukara Parish.

15

16 Subsequently, Jean Mpambara ordered, led,
17 instigated, facilitated or otherwise aided
18 and abetted attacks against civilian Tutsi
19 men, women and children, and other persons
20 that gathered in public buildings in Gahini
21 *secteur*, such as Gahini Hospital and Rukara
22 Parish. The attacks were progressively
23 executed and incorporated a strategy to
24 gather Tutsi civilians in large groups in
25 order to harm or kill them with efficient

1 use of human and material resources.

2

3 Rukara Parish is comprised of a church
4 building, a training room, a cinema hall, a
5 primary school, a health centre and a
6 residence for nuns and priests. During
7 April 1994, approximately 5,000 civilian
8 Tutsis and Hutus married to Tutsis or
9 politically opposed to the Interim
10 Government sought shelter in the various
11 buildings on the Rukara Parish compound.

12

13 On and between 7 and 16 April 1994, the
14 strategy or pattern of killing in Rukara
15 *commune* included:

16

17 (i) *Interahamwe* attacks against Tutsi
18 civilians in their homes and neighborhoods,
19 including setting fire to the homes of
20 Tutsis and pillage, to induce large numbers
21 of unarmed civilians to seek shelter in
22 nearby public buildings, such as Gahini
23 Hospital, as occurred on or about 7 April or
24 8 April 1994 in Gahini *secteur*;

25

1 (ii) luring Tutsi civilians to such public
2 shelters with assurances of refuge and
3 protection, as occurred on or about 7 April
4 or 8 April 1994 in Gahini *secteur*;

5
6 (iii) listing names of certain Tutsi civil
7 servants and gathering those persons, along
8 with their families, at the Rukara Parish,
9 such as occurred on or about 8 April 1994;

10
11 (iv) transferring groups of unarmed
12 civilians to a central location, such as
13 Rukara Parish, either forcibly or by
14 providing assurances of protection, as
15 occurred on or about 9 April 1994;

16
17 (v) completely disarming civilians that had
18 gathered, forcibly or by choice, at Rukara
19 Parish, and luring them to exit the building
20 enclosures and to gather in the Parish
21 compound, allegedly for a security meeting
22 or with promises of protection, as occurred
23 on 9 April 1994;

24
25 (vi) ordering *gendarmes* to shoot firearms

1 into the grouping of unarmed civilians,
2 causing numerous deaths and injuries, as
3 occurred in a courtyard at Rukara Parish on
4 or about 9 April 1994;

5
6 (vii) ordering or facilitating *Interahamwe*
7 armed with machetes and traditional weapons
8 to attack survivors of the firearm attacks
9 from soldiers, as occurred at Rukara Parish
10 on or about 9 April;

11
12 (viii) ordering or facilitating soldiers to
13 attack civilians that had barricaded
14 themselves within the buildings of the
15 Rukara Parish with explosive grenades,
16 causing numerous deaths and injuries, as
17 occurred in a follow-up attack at the church
18 on or about 10 April;

19
20 (ix) ordering or facilitating *Interahamwe*
21 armed with machetes and traditional weapons
22 to attack survivors of the grenade attacks
23 from soldiers, as occurred at the Rukara
24 Parish on or about 10 April;

25

1 (x) ordering or facilitating soldiers or
2 *Interahamwe* to attack civilians that were
3 sheltered in buildings at Rukara Parish with
4 petrol, causing many deaths and injuries, as
5 occurred on or about 12 April;

6
7 (xi) ordering or facilitating attacks on
8 civilians sheltered at the Rukara Parish
9 with large stones, which were thrown at the
10 church, or other projectiles, such as
11 explosive grenades, as occurred on or about
12 12 April;

13
14 (xii) shutting off the water supply to
15 Rukara Parish, further exacerbating the
16 precarious living conditions of survivors of
17 the attacks to facilitate renewed attacks by
18 *Interahamwe* and armed civilians to encourage
19 survivors to abandon the Parish, as occurred
20 on or about 13 April.

21
22 Jean Mpambara ordered, led, facilitated or
23 aided and abetted these attacks at Gahini
24 Hospital at Rukara Parish by transporting or
25 luring civilians to Rukara Parish;

1 commanding or authorizing gendarmes to
2 attack; collaborating with, and reinforcing
3 the authority of *conseiller de secteur*
4 Jean Bosco Butera, who commanded or
5 participated in the attacks; collaborating
6 with and reinforcing the authority of the
7 *commandant de brigade*, who commanded or
8 participated in the attacks; providing
9 petrol for attackers; transporting stones to
10 Rukara Parish for use in the attacks, and
11 transporting the attackers themselves,
12 including *Interahamwe*, to the Parish
13 compound.

14

15 Furthermore, between 9 April and 15 April
16 1994, during his visits to the Parish,
17 Jean Mpambara told the refugees to leave the
18 Parish at times when he knew the *Interahamwe*
19 would attack Tutsi who left that location.
20 He also refused to help a Tutsi refugee
21 escape when he was requested to do so.

22

23 On or about 7 April 1994, Jean Mpambara
24 denied a Tutsi civil servant access to his
25 place of work at the Rukara *commune* offices.

1 Jean Mpambara then distributed grenades and
2 other arms to persons, including ex-soldiers
3 and officials, from a building at or nearby
4 the *commune* offices. Killings in Rukara
5 *commune* followed.

6
7 On a date or dates unknown, Jean Mpambara
8 witnessed the massacres of Tutsis as he
9 drove around Gahini *secteur* in Rukara
10 *commune* but made no attempt to intervene.

11
12 At all times material to this indictment,
13 Jean Mpambara failed to maintain public
14 order, or deliberately undermined the public
15 order, in districts over which he exercised
16 administrative authority, in agreement with
17 or in furtherance of the policies of the
18 MRND or the Interim Government, knowing that
19 those policies intended the destruction, in
20 whole or in part, of the Tutsi.

21
22 During April 1994, Tutsi women were often
23 victims of sexual violence. The sexual
24 assaults were often a prelude to murder and
25 were sometimes the cause of death. The

1 sexual violence was so widespread, and
2 conducted so openly, and was so integrally
3 incorporated in generalized attacks against
4 civilian Tutsi, that Jean Mpambara must have
5 known, or should have known, that it was
6 occurring, and that the perpetrators were
7 his subordinates, subject to his authority
8 and control, and acting under his orders.
9 For example:

10

11 (i) on a date or dates unknown, a pregnant Tutsi
12 woman in Nyawera *secteur*, Rukara *commune*,
13 was raped by multiple attackers and lost her
14 pregnancy. The rape followed an attack on
15 her home in which her husband and
16 mother-in-law were killed and her home
17 looted and destroyed;

18

19 (ii) on or about 8 April 1994, a Tutsi woman in
20 Gahini *secteur*, Rukara *commune*, was beaten
21 and raped by two attackers. The two
22 attackers each raped her, beat her with a
23 hoe until her teeth fell out, and then
24 attacked her with machetes;

25

1 (iii) on a date or dates unknown, the soldiers who
2 reinforced the *Interahamwe* during attacks on
3 Rukara Parish in April 1994 raped a number
4 of Tutsi women at the church;

5
6 (iv) on a date or dates unknown, Tutsi women were
7 taken outside of the Rukara Church compound,
8 raped, and killed.

9
10 Criminal Responsibility

11 Jean Mpambara, acting in concert with
12 others, participated in the planning,
13 preparation or execution of a common scheme,
14 strategy, plan, or campaign with the intent
15 to destroy the Tutsi by his own affirmative
16 acts, or through persons he assisted or
17 commanded, or by persons following his
18 exhortations in deed and in word,
19 particularly as directed to soldiers,
20 *Interahamwe*, civilian militias and armed
21 civilians at Rukara Parish and throughout
22 Gahini *secteur*.

23
24 The acts and omissions of Jean Mpambara
25 detailed herein are punishable in reference

1 to Articles 22 and 23 of the Statute.

2

3 The indictment is dated: Arusha, this 23rd
4 day of July 2001, and was signed by Kenneth
5 Fleming, Acting Chief of Prosecutions, for
6 the Prosecutor Carla Del Ponte.

7

8 MADAM PRESIDENT:

9 We wish to know whether counsel for the
10 Defence has understood the indictment. Can
11 he insure that the Accused understood the
12 indictment and whether he is ready to take a
13 plea on the indictment.

14 MR. CHADHA:

15 Much obliged, Madam Judge. I can insure
16 that this indictment has been explained to
17 the Accused, but for his -- some complaints
18 which he has put in writing, he is ready to
19 proceed for the further proceedings.

20 MADAM PRESIDENT:

21 I thank you, Counsel.

22

23 Mr. Mpambara, did you understand the content
24 of the indictment?

25 THE ENGLISH INTERPRETER:

1 Microphone, please, for the Accused.

2 THE ACCUSED:

3 The indictment was served on me on the 23rd
4 July 2001 in English, a language which I do
5 not understand. I requested that I be given
6 a French version of the indictment. It was
7 promised that the said version -- the French
8 version would be given to me -- would be
9 served on me the next day, but this was not
10 done until today. I have only today
11 received the French version this very
12 morning in the courtroom. Therefore, I did
13 not receive the text of the indictment in a
14 language in which I understand, so that I be
15 able to read it and understand it in all its
16 details so that I can take a plea today.

17 MADAM PRESIDENT:

18 I wish to inform you that you are saying you
19 received the indictment in English, but we
20 had not started the session today at 10 to
21 allow you the 30 minutes you needed to read
22 the indictment. We allowed you this time
23 that you requested in order to enable you to
24 read the indictment in French.

25

1 Furthermore, this indictment has once again
2 been read to you, and I believe now that you
3 should be in a position to know fully well
4 the allegations with which you are charged
5 in the indictment. I, therefore, wish to
6 give the floor to the Registry.

7 MR. AFANDE:

8 Thank, Madam President. I am confirming the
9 notice that you have issued, that the
10 indictment was read to the Accused today,
11 but I wish to indicate that it is not only
12 today that the indictment has been read.
13 Yesterday, he met his counsel in the
14 presence of an interpreter and the same
15 exercise was carried out. Thank you.

16 THE ENGLISH INTERPRETER:

17 Microphone.

18 MR. AFANDE:

19 In other words, the indictment has been read
20 to him and interpreted to him and that he
21 does understand the same.

22 MADAM PRESIDENT:

23 I thank you, the representative of the
24 Registrar.

25

1 Now, Mr. Mpambara, I'll read to you the
2 charge, in other words, the count and you
3 are going to say whether you're pleading
4 guilty or not guilty.

5
6 The Prosecutor of the International Criminal
7 Tribunal for Rwanda charges you,
8 Jean Mpambara, with genocide, a crime
9 stipulated in Article 23(a) of the Statute
10 in that on or between the dates of 6 April
11 1994 and 16 April 1994 in Kibungo
12 *préfecture*, Rwanda, you were responsible for
13 killing or causing serious bodily or mental
14 harm to members of the Tutsi population with
15 the intent to destroy, in whole or in part,
16 an ethnic or racial group. By virtue of
17 your acts in planning, instigating,
18 ordering, committing, or otherwise aiding
19 and abetting, the planning, preparation or
20 execution of the crime against you pursuant
21 to Article 6(1) of the Statute.

22
23 This is, therefore, a summary of the
24 allegations against you. So I am now going
25 to ask you how you plead: Do you plead

1 guilty or not guilty?

2 THE ACCUSED:

3 I plead not guilty.

4 MADAM PRESIDENT:

5 Very well, it shall be noted that

6 Mr. Jean Mpambara is pleading not guilty.

7

8 I now wish to remind the representative of

9 the Office of the Prosecutor, I wish to

10 remind you of the provisions of 66(a)(ii),

11 which require that you disclose within 31

12 days to the Defence all copies of the

13 supporting material which accompanied the

14 indictment when consummation was sought, as

15 well as prior statements obtained by the

16 Prosecutor from the Accused. I further wish

17 to remind the parties that within 30 days of

18 the said disclosure they may, pursuant to

19 Rule 72, raise any preliminary motions in

20 written form.

21 MS. MOBBERLEY:

22 I am obliged, Your Honour.

23 MADAM PRESIDENT:

24 I thank you, Madam.

25

1 Mr. Mpambara, do you have any remarks, any
2 observations you wish to make?

3 THE ACCUSED:

4 Yes, I do have is some observations,
5 Madam President.

6 THE ENGLISH INTERPRETER:

7 Kindly move the microphone closer to the
8 speaker, please.

9 THE ACCUSED:

10 Observations which I have to make are
11 pertaining to irregularities, which I have
12 noticed during my arrest and detention by
13 the Tribunal. Number one, I was arbitrarily
14 arrested on 20th June 2001 in Kibondo in
15 Tanzania in a refugee camp where I was
16 residing under my real identity for several
17 years to the full knowledge other Tanzanian
18 authorities. Before me, the representative
19 of the Prosecutor had asked for the arrest
20 of Mr. Sylvestre Gacumbitsi. According to
21 the same representative of the Prosecutor, a
22 second Rwandan, other than myself, and whose
23 name was mentioned -- I could provide you
24 this name by writing if this is necessary --
25 was also to be arrested. When that person

1 was unattainable, the representative of the
2 Prosecutor asked, however, that I also be
3 placed under detention, even if I was not
4 amongst the persons who were to be arrested.
5 Despite my vigorous protests and the
6 information I provide on my identity, I was
7 kept arbitrarily under detention for three
8 days until the return of the representative
9 of the Prosecutor, who rapidly made up some
10 accusations against me. I was, therefore, a
11 victim of my past as a civil servant of my
12 state.

13
14 It was not surprising that even the
15 indictment, which was rapidly concocted, was
16 not supported by any serious and concrete
17 facts regarding a crime I may have allegedly
18 committed. I believe that my arrests and
19 detention are a result of a mistaken
20 identity of the accused which the Prosecutor
21 is seeking to camouflage by the fabrication
22 of an indictment and these shall not be
23 acceptable or justified by the Chamber. The
24 identity which is revealed in the affidavit
25 is not mine. I, therefore, request that I

1 immediately be released by the virtue of the
2 principle of *habeas corpus*.

3 I also wish, furthermore, to file before the
4 Chamber a complaint concerning the
5 unacceptable detention conditions which I
6 was submitted to when I was transferred to
7 the Tribunal. In fact, instead of being
8 placed under detention at the UNDF,
9 according to the transfer order of 21 June
10 2001, I was taken to a house where I was
11 isolated from all the other detainees,
12 including my compatriot Sylvestre
13 Gacumbitsi, who was transferred three days
14 before me. No explanation or reason was
15 given to my isolation, which is equivalent
16 to moral torture and I was not provided with
17 any information.

18
19 Furthermore, I was unable to take exercise
20 for two weeks until the doctor noticed that
21 my feet were swollen. It was only on the
22 18th of July 2001 that I was transferred to
23 the UN Detention Facility. It was on that
24 day that my isolation came to an end without
25 any explanation. I believe that my

1 fundamental rights have been violated during
2 my detention and require appropriate relief,
3 and that is my immediate release.

4
5 I am also given the fact that there was a
6 case of mistaken identity and the Prosecutor
7 has not provided any tangible proof for me
8 to be charged with any crime under the
9 jurisdiction of the Tribunal. Furthermore,
10 the indictment was served on me in English,
11 a language which I do not understand, and I
12 was unable to understand the content and
13 details of this indictment. The duty
14 counsel placed at my disposal did not know
15 my case nor the language in which I express
16 myself, French, and he, himself, was unable
17 to provide me with adequate explanation to
18 enable me to understand the charges levelled
19 against me.

20
21 Be that as it may, I am formerly submitting
22 to the Chamber that it states its case with
23 regard to my arrest and arbitrary and
24 unlawful detention and the violation of my
25 fundamental rights during my detention by

1 the Tribunal and to order my immediate
2 release. I thank you.

3 MADAM PRESIDENT:

4 Thank you. We have taken notice of your
5 statement. Nevertheless, I should mention
6 that this your initial appearance, and as
7 such, the points that you have raised can be
8 raised in a preliminary motion, and your
9 counsel will, therefore, be able to file one
10 or several written motions and the Tribunal
11 will then render an official decision. The
12 purpose of today's hearing was to advise you
13 of the indictment to tell you what are the
14 facts you are being charged with and to
15 determine whether you were going to plead
16 guilty or not guilty.

17
18 As far as the Tribunal is concerned, we
19 order that the Accused be maintained in a
20 detention, and therefore, after this
21 hearing, you will be transferred to the UNDF
22 facilities in Arusha.

23
24 We, therefore, take note of the fact that
25 the initial appearance of the Accused,

1 Jean Mpambara, took place on this date in
2 conformity with Rule 62 of the Rules and
3 we'll now take note of this.

4
5 If no further questions need to be raised,
6 then the representative of the Registry now
7 has the floor.

8 MR. AFANDE:

9 As you are giving me the opportunity to
10 speak, I just wish to mention that the
11 Accused raised some points and that the
12 Registry will respond to some of these
13 points at a later date. In particular,
14 the -- just the question that he raised
15 about his arbitrary arrest, as this was done
16 with respect to Rule 40 and 40bis at the
17 request of the Prosecutor, but the Registry
18 reserves the right to respond to all of
19 those points at a more appropriate time; as
20 you have said, that is when they will have
21 been -- when the pretrial motion will have
22 been properly drafted and filed.

23 MADAM PRESIDENT:

24 Thank you. If there are no further
25 questions from either the Defence or the

1 Proseution, then -- Madam Prosecutor, do you
2 wish the floor?

3 MS. MOBBERLEY:

4 Your Honour, I have one housekeeping matter
5 to raise and that I do, pursuant to Rule
6 62(a)(iv) of the Rules of Evidence and
7 Procedure, I invite Your Honour to instruct
8 the Registrar to set a date for trial,
9 pursuant to that section.

10 MADAM PRESIDENT:

11 Thank you. Thank you, Madam Prosecutor. I
12 will, therefore, instruct the Registrar to
13 set a date for trial. Of course this will
14 be done in conformity with the
15 responsibilities of the Defence and the
16 Office of the Prosecutor. Thank you.

17
18 Very well, if there are no further questions
19 raised, then I will now state that this
20 hearing is closed.

21 (Court recessed at 11.45 a.m.)

22 (Pages 1 to 32 by Kelly Allemang)

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C E R T I F I C A T E

I, Kelly Allemang, Official Court Reporter 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 my ability and understanding.

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


Kelly Allemang

(Pages 1 to 32)