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E R R A T A

I, Shannon Fleming, Official Court
Reporter for ICTR, hereby make the
following correction to the transcript of
the 26th January 2001, in the matter of
the *Prosecutor v Juvénal Kajelijeli*, case
No. ICTR-98-44A-I:

The name of Edward Matemanga should read
Abraham Koshopa on the cover page.

Shannon L. Fleming
Official Court Reporter
Done this 6th day of February 2001 in
Arusha.

1 THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA
2
3 CASE NO.: 98-44A-I THE PROSECUTOR
4 OF THE TRIBUNAL
5
6 AGAINST
7
8 JUV NAL KAJELIJELI
9
10 26 JANUARY 2001
11 1430H
12 INITIAL APPEARANCE
13
14 Before: Judge Mehmet Güney
15
16 For the Registry:
17 Ms. Alice Leroy
18 Mr. John Kiyeyeu
19 Mr. Edward Matemanga
20
21 For the Prosecution:
22 Ms. Ifeoma Ojemeni
23 Mr. Jayantha Jayasuriya
24
25 For the Defendant:
Professor Lennox Hinds
Court Reporters:
Ms. Shannon Fleming

1 JUDGE GÜNEY:

2 Good afternoon. The proceedings now are
3 called to order. Could the Registrar
4 introduce the matter coming before us this
5 afternoon.

6 MR. KIYEYEU:

7 Thank you, Mr. President. Trial Chamber II
8 of the International Criminal Tribunal for
9 Rwanda, composed of Judge Mehmet Güney,
10 Presiding, a single judge designated by the
11 Chamber, is now sitting in open session,
12 today, Friday, the 26th of January, 2001,
13 for the initial appearance of the Accused
14 pursuant to Rule 50(B) of the Rules of
15 Procedure and Evidence in the matter of the
16 Prosecutor v Juv nal Kajelijeli, case
17 No. ICTR-98-44A-I. Thank you,
18 Mr. President.

19 JUDGE GÜNEY:

20 Thank you. Could we have the appearance of
21 the Prosecutor's side for the record,
22 please.

23 MS. OJEMENI:

24 With due respect Your Honour,
25 Ifeoma Ojemeni. I appear with

1 Mr. Jayasuriya for the Office of the
2 Prosecutor. And we have in attendance our
3 case manager, Dorothe Marotine.

4 JUDGE GÜNEY:

5 The Defence, please.

6 MR. HINDS:

7 May it please the Court. Lennox Hinds
8 representing Mr. Kajelijeli and I am
9 assisted by Mr. Baragahoranye.

10 JUDGE GÜNEY:

11 Thank you. I am the Judge designated by the
12 members of the Bench of Trial Chamber II
13 under Rule 62 of the Rules of Procedure and
14 Evidence to preside over this initial
15 appearance session.

16
17 I note the Accused's right to be assisted by
18 counsel is duly observed. And before we
19 continue, I would like to ask if there are
20 any preliminary comments or statements to be
21 made by either party. Can I ask the Defence
22 if they have anything to say?

23 MR. HINDS:

24 Yes, Your Honour. We have some observations
25 to make with respect to the indictment and

1 some other preliminary matters. But I am
2 not sure whether or not the Court would like
3 me to make those observations now or after
4 my client enters his plea. It is up to the
5 Court.

6 JUDGE GÜNEY:

7 Maybe it would be better, more appropriate,
8 if you have no problems with that, maybe he
9 enters a plea and then you would be at
10 liberty to make your preliminary statements
11 or observations that you intend to make.

12 MR. HINDS:

13 Thank you.

14 JUDGE GÜNEY:

15 I would like the Accused to move to that
16 area in front of me. Could the Registrar
17 please assist in moving the Accused to the
18 box in front of me.

19

20 Mr. Kajelijeli, could you give us your
21 particulars, your name, first name, the name
22 of your father, your mother, date of birth,
23 place of birth.

24 THE ACCUSED:

25 Do I have to stand?

1 JUDGE GÜNEY:

2 Yes. Thank you.

3 THE ACCUSED:

4 From the outset, I assume the Prosecutor
5 would have my particulars, my identity.

6 JUDGE GÜNEY:

7 Well that's the customary, that's
8 established procedure, because when we
9 engage in the initial appearance that's what
10 we do.

11 THE ACCUSED:

12 It appears in the indictment my date of
13 birth.

14 JUDGE GÜNEY:

15 Well, start with your names.

16 THE ACCUSED:

17 I am Kajelijeli, Juv nal. I was born on the
18 26th of December, 1951, at the Mukingo
19 commune, Rwinzovu cellule and Ruhengeri
20 pr fecture in Rwanda.

21 JUDGE GÜNEY:

22 Thank you. Could you be seated.

23 THE ACCUSED:

24 Thank you, Mr. President.

25 JUDGE GÜNEY:

1 Which language are you fluent in, English or
2 French?

3 THE ACCUSED:

4 My working language is Kinyarwanda,
5 Mr. President.

6 JUDGE GÜNEY:

7 I mean among the working languages of the
8 Tribunal, which ones are you fluent in?

9 THE ACCUSED:

10 I would prefer to speak in Kinyarwanda
11 because in the course of my own career I use
12 Kinyarwanda.

13 JUDGE GÜNEY:

14 But to facilitate the work of the Tribunal
15 we are going to ask that the indictment be
16 read out in a language --

17 THE ACCUSED:

18 It's Kinyarwanda.

19 JUDGE GÜNEY:

20 English or French? Between English and
21 French.

22 THE ACCUSED:

23 I can't say I am fluent in French because
24 there are some technical words which I
25 cannot manipulate.

1 JUDGE GÜNEY:

2 There would be translation, of course.

3 THE ACCUSED:

4 But the translation will not take care of my
5 concerns.

6 JUDGE GÜNEY:

7 There will be translation; there would be
8 the language in which you have answered to
9 my question, and that's in French.

10 THE ACCUSED:

11 Well, you told me to choose a language. I
12 mean, you can't impose a language that I am
13 not fluent in on me.

14 JUDGE GÜNEY:

15 But you have already -- we have the
16 interpretation; is that correct, in a
17 language in which you are fluent? You are
18 free, you are at liberty, and the facilities
19 are provided for you to hear the reading of
20 the indictment in Kinyarwanda.

21

22 However, however, in order to facilitate our
23 work, I am going to ask the Registry to read
24 out this in a working language which you are
25 fluent in better than the other and that

1 will be the French.

2 THE ACCUSED:

3 Well, Mr. President, you are imposing a
4 language on me, contrary to Article 20 of
5 the Statute of the Tribunal. Article 20 of
6 the Statute allows me to speak in a language
7 in which I am fluent. I am not fluent in
8 French or English.

9 JUDGE GÜNEY:

10 You can express yourself in Kinyarwanda and
11 there will be simultaneous interpretation
12 towards the working languages of the
13 Tribunal.

14 THE ACCUSED:

15 These are Rwandans. I can understand what
16 they would be saying against me. Please
17 allow me to defend myself in Kinyarwanda.

18 MR. HINDS:

19 May it please the Court. I don't think that
20 we need to pursue this matter. It just
21 seems to me that we are at this time
22 proceeding along a path that we don't need
23 to.

24

25 In the past, in the past, the Registry read

1 in English. It was translated to
2 Mr. Kajelijeli in his working language. And
3 that I think we just proceed. At this
4 point, we are going back and forth and I am
5 not sure whether or not we are resolving
6 anything.

7
8 He is clearly not fluent in but one
9 language. The Registry can read in any of
10 the other working languages. It would be
11 translated to him. And we should proceed.

12 JUDGE GÜNEY:

13 Mr. Hinds, thank you for that assistance.
14 That was my intention.

15
16 You could be seated. Thank you.

17
18 I would now ask the Registry to read out --
19 there was the first initial appearance that
20 took place. During that first initial
21 appearance, the indictment was read out in
22 English and there was simultaneous
23 interpretation facility available. And the
24 Accused has just communicated without any
25 difficulty in French. I am going to ask the

1 Registry to read out the indictment, the
2 amended indictment in French and there will
3 be simultaneous interpretation into the
4 Kinyarwanda language. Could you please
5 start, Registry.

6 MS. LEROY:

7 International Criminal Tribunal for Rwanda,
8 case No. ICTR-9844-A-I, the Prosecutor v
9 Juv nal Kajelijeli, Amended Indictment,
10 pursuant to the Tribunal order, dated
11 25 January 2001. The Prosecutor --

12 JUDGE GÜNEY:

13 Louder, please.

14 MS. LEROY:

15 The Prosecutor of the International Criminal
16 Tribunal for Rwanda, pursuant to the
17 authority stipulated in Article 17 of the
18 Statute of the International Criminal
19 Tribunal for Rwanda, the Statute of the
20 Tribunal, charges Juv nal Kajelijeli with
21 genocide or, in the alternative, complicity
22 in genocide, conspiracy to commit genocide,
23 direct and public incitement to commit
24 genocide, crimes against humanity and
25 violations of Article 3 Common to the Geneva

1 Conventions and Additional Protocol II,
2 offences stipulated in Articles 2, 3 and 4
3 of the Statute of the Tribunal.

4 JUDGE GÜNEY:

5 Could she go a bit slowly, particularly for
6 my Kinyarwanda colleagues, so the
7 interpreters in general can also perform
8 their duty as appropriate.

9 MS. LEROY:

10 The Accused:

11

12 1.1 Juv nal Kajelijeli was born on
13 26 December 1951 in Rwinzovu cellule,
14 Rwinzovu secteur, Mukingo commune, Ruhengeri
15 pr fecture, in Rwanda.

16

17 2. Territorial, temporal and material
18 jurisdiction.

19

20 2.1 The crimes referred to in this
21 indictment took place in Rwanda between
22 1 January and 31 December, 1994, and in
23 particular the Mukingo commune and the
24 neighbouring area within the Ruhengeri
25 pr fecture.

1

2

2.2 During the events referred to in this indictment, the Tutsis were identified as a racial or ethnic group.

5

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10

2.3 During the events referred to in this indictment, there were throughout Rwanda widespread or systematic attacks directed against a civilian population on political, ethnic or racial grounds.

11

12

13

14

15

2.4 During the events referred to in this indictment, there was a state of non-international armed conflict in Rwanda.

16

17

18

19

20

2.5 The victims referred to in this indictment were Tutsi civilians in Mukingo commune and other persons of Tutsi origin who had taken refuge in that commune and its neighbouring area.

21

22

23

24

25

2.5.1 These victims were persons who were protected under Article 3 Common to the Geneva Conventions of 1949 and Additional Protocol II thereof and did not actively

1 participate in the conflict.

2

3 3. The local Public Administration.

4

5 3.1 During the events referred to in this
6 indictment, Rwanda was divided into eleven
7 pr fectures, one of which was Ruhengeri.

8 This pr fecture was divided into communes,
9 one of which was Mukingo, and the commune
10 was divided into secteurs, which were also
11 divided into cellules.

12

13 3.2 The pr fet represented executive power
14 at the pr fecture level. The pr fet was
15 appointed by the President of the Republic
16 on the recommendation of the Minister of the
17 Interior and carried out his duties under
18 that minister's hierarchical authority. The
19 pr fet's authority covered the entire
20 pr fecture and he administered the
21 pr fecture.

22

23 3.3 In his capacity as administrator of
24 the pr fecture, the pr fet was responsible
25 for ensuring peace, public order and the

1 safety of people and property. The pr fet
2 had hierarchical authority over all civil
3 servants and all persons holding public
4 office within the boundaries of the
5 pr fecture, including the bourgmestres and
6 the conseillers de secteur.

7
8 3.4 The bourgmestre represented executive
9 power at the level of the commune. Like the
10 pr fet, he was appointed by the President of
11 the Republic on recommendation from the
12 Minister of the Interior. The bourgmestre
13 was under the hierarchical authority of the
14 pr fet. He had authority over the civil
15 servants posted in his commune. Moreover,
16 he had policing duties in regard to
17 maintaining order and law enforcement and
18 for ensuring peace, public order and the
19 safety of people and property within the
20 Mukingo commune.

21
22 In discharging these duties, he may request
23 for the intervention of the Police Communale
24 and Gendarmerie Nationale.

25

1 3.5 The Accused served as bourgmestre of
2 Mukingo commune from 1988 to 1993 and was
3 reappointed bourgmestre of Mukingo commune
4 in June 1994. He remained in that post
5 until mid-July 1994.

6
7 3.4 In his capacity as bourgmestre, the
8 Accused exercised authority over his
9 subordinates, including civil servants,
10 members of the Police Communale and
11 Gendarmerie Nationale, the civilian
12 population of Mukingo commune and
13 Interahamwe-MRND.

14
15 4. The political parties, youth wings and
16 militia.

17
18 Political parties

19
20 4.1 (Mouvement R volutionnaire National
21 pour le D veloppement) was founded by
22 Juv nal Habyarimana on 5 July 1975. The
23 organisation was in fact a true party-state.
24 Its aim was to provide the President of the
25 Republic with a powerful apparatus intended

1 to control the workings of the state.

2

3 The Movement's objectives were, among
4 others, to support and control the actions
5 of the various state powers. Only the
6 Chairman of the MRND could stand for the
7 presidency of the Republic. All Rwandans
8 were members of the MRND from birth.

9

10 4.2 The organs of the MRND (Mouvement
11 R volutionnaire National pour le
12 D veloppement) were centralised at the top
13 and spread out at the bottom. The national
14 organs included the chairmanship, the
15 general secretariat, the national Congress
16 and the central committee. The central
17 committee was made up of the Chairman, other
18 members appointed by the Chairman, the
19 national secretary-general and the speaker
20 of parliament (the Conseil National de
21 D veloppement -- CND). At the local level,
22 there were organs at the pr fecture, and
23 cellule levels.

24

25 4.2.1 The pr fet and bourgmestre were each

1 responsible for the implementation of the
2 policy of the MRND in their respective
3 administrative districts. These two figures
4 were civil servants directly appointed by
5 the President of the Republic, who was also
6 the Chairman of the MRND.

7
8 4.3 The MRND controlled the policy of the
9 government and the government gave effect to
10 that policy at the national, pr fecture and
11 commune levels through the structure set out
12 in paragraph 3.3 and 3.4 above.

13
14 4.4 With the institution of the multiparty
15 system and the adoption of a new
16 constitution on the 10th of June, 1991, the
17 Mouvement R volutionnaire National pour le
18 D veloppement (MRND) was renamed the
19 Mouvement R publicain National pour la
20 D mocratie et le D veloppement (MRND).
21 Although its statutes were amended, the
22 structure of the new party remained the
23 same.

24
25 4.5 The renamed MRND was a political party

1 in Rwanda during 1994.

2

3 4.6 The Accused had close ties with MRND's
4 national secretary-general, Joseph
5 Nzirorera, former minister in the MRND
6 governments of 1987, 1989, 1990 and 1991,
7 and a fellow native of Mukingo commune. And
8 he benefited in authority and status from
9 this association.

10

11 4.6.1 At times other than those referred to
12 in paragraph 3.5 above, the Accused
13 exercised the de facto authority of
14 bourgmestre in Mukingo commune as a result
15 of his association with, and patronage of,
16 Joseph Nzirorera.

17 JUDGE GÜNEY:

18 Could you please slow down that your ideas
19 could flow. Don't go too fast.

20 MS. LEROY:

21 The youth wings of the militia.

22

23 After the attack of October 1990 in Rwanda
24 by the Rwandan Patriotic Front (RPF), an
25 allegedly Tutsi organisation, some groups

1 within the then-Rwandan government and
2 military structure, initiated the
3 characterisation of the Tutsis as the enemy
4 to be eliminated from Rwanda.

5
6 4.8 This characterisation defined the main
7 enemy as the Tutsis from inside or outside
8 the country, who allegedly wanted power, who
9 allegedly did not recognise the achievements
10 of the revolution of 1959 and who allegedly
11 were seeking armed confrontation. The
12 secondary enemy was defined as the moderate
13 Hutus who provided any kind of assistance
14 to, or sympathised with the main enemy or
15 opposed the government or the MRND's
16 policies.

17
18 4.9 Furthermore, from late 1990 through
19 about July 1994, military personnel, members
20 of the government, political leaders, civil
21 servants and other influential
22 personalities, including the Accused and
23 Joseph Nzirorera, conspired among themselves
24 and with others to work out a plan to
25 exterminate the civilian Tutsi population

1 and eliminate members of the opposition, so
2 that the MRND could remain in power.

3
4 4.10 In 1991, the MRND created its own
5 youth wing. The members of the MRND's youth
6 wing were known as the "Interahamwe". The
7 youth wing was formed in response to two
8 requirements within the MRND:
9 (a) sensitising the youth to politics; and,
10 (b) mobilising the youths.

11
12 4.11 The Interahamwe-MRND was highly
13 structured, along the same lines as the MRND
14 party. At the national level, it had a
15 chairman, two vice-chairmen, a
16 secretary-general and a treasurer. The
17 chairman was to liaise with the central
18 committee of the MRND, among other things.

19
20 4.12 Beginning in 1992, numerous MRND youth
21 wings' members received military training
22 and weapons, and were thus transformed from
23 youth movements into militias.

24
25 4.12.1 The reason for creating the militia

1 was to use them at the appropriate time to
2 execute the plan of the MRND to exterminate
3 the Tutsis.

4
5 4.12.2 The Tutsis were considered the
6 enemies of the MRND, the state and the
7 Interahamwe.

8
9 4.13 The military training and distribution
10 of the weapons to the members of the
11 Interahamwe were organised by the leaders of
12 the MRND including the pr fet and
13 bourgmestre in collaboration with the
14 officers of the Forces Arm es Rwandaises
15 (FAR). The Accused participated actively in
16 the training and the distribution of the
17 weapons.

18
19 4.14 In order to ensure a smooth and swift
20 execution of the plan referred to in
21 paragraph 4.9 above, the central committee
22 of the MRND decided to create
23 Interahamwe-MRND branches in the various
24 pr fectures which would in effect create an
25 adequate representation of the militias in

1 every locality sufficient to carry out the
2 said plan.

3
4 4.15 The Accused was a founder and leader
5 of the Interahamwe in the Mukingo commune
6 from 1991 to July 1994.

7
8 4.16 The Interahamwe in the Mukingo commune
9 under the leadership of the Accused from
10 1991 to July 1994 were: (a) given military
11 training organised by the Accused;
12 (b) distributed weapons and uniforms by the
13 Accused, which were provided by Joseph
14 Nzirorera; and, (c) distributed lists of
15 Tutsis to be eliminated.

16
17 4.16.1 The Accused consulted regularly with
18 the national secretary-general of the MRND,
19 Joseph Nzirorera, on the matters set out in
20 paragraph 4.16 above.

21
22 4.17 In pursuance of the plan to
23 exterminate the Tutsis, several meetings
24 were held in the pr fectures, communes and
25 at the government level between 1 January

1 and April 1994, by the persons mentioned in
2 paragraph 4.9 above, who shared this
3 extremist cause with a view to formulating
4 the strategies for the plan.

5
6 4.18 During such meetings, speeches were
7 made by influential persons, including the
8 Accused and Joseph Nzirorera, inciting their
9 audience who were predominantly members of
10 the MRND and Hutus, to assault, rape and
11 exterminate the Tutsis who were excluded
12 from such meetings on account of their
13 ethnicity.

14
15 4.18.1 Apart from the public meetings,
16 there were also private meetings at such
17 places like the communal offices, homes of
18 influential persons such as military
19 personnel, MRND's officials, bourgmestres or
20 pr fets and government officials including
21 the home and communal office occupied by the
22 Accused.

23
24 4.19 The components of this plan consisted
25 of, among other things, recourse to hatred

1 and ethnic violence, the training of and
2 distribution of weapons to militiamen as
3 well as the preparation of lists of people
4 to be eliminated.

5
6 4.19.1 In executing the plan, the persons
7 referred to in paragraphs 4.9 and 4.18.1,
8 organised, ordered and participated in the
9 massacres perpetrated against the Tutsi
10 population and moderate Hutus.

11
12 4.20 On 6 April 1994, the plane carrying
13 the President Juv nal Habyarimana of Rwanda
14 crashed on its approach to Kigali, Rwanda.
15 This situation created a perfect opportunity
16 for the execution of the plan, and the
17 massacre of the Tutsis began soon thereafter
18 throughout Rwanda.

19 JUDGE GÜNEY:

20 The interpreters are having some difficulty
21 following her. Could she slow down?

22 MS. LEROY:

23 I'll make an effort.

24

25 4.21 Following the news of the death of

1 President Habyarimana, a new government was
2 constituted by the MRND and several meetings
3 were held amongst themselves with the
4 pr fets and other persons in authority
5 between 8 and 13 April 1994, for the purpose
6 of assessing and analysing the situation in
7 the country at the time, particularly the
8 massacres in each pr fecture. Similarly,
9 meetings were held in the pr fectures and
10 communes, including Ruhengeri and Mukingo.

11
12 4.22 The policies of the MRND formulated at
13 the said meetings were implemented at the
14 national, pr fecture, commune and cellule
15 level through the structures set out in
16 paragraphs 3.3 and 3.4 above.

17
18 4.23 The massacres of members of the Tutsi
19 population and the murder of the moderate
20 Hutus extended throughout the territory of
21 Rwanda. In every pr fecture, local, civil
22 and military authorities and militiamen
23 including the Interahamwe-MRND espoused the
24 plan of extermination and followed the
25 directives in order to execute it.

1

2

They called on the civilian population to eliminate the enemy and its accomplices.

3

4

They distributed weapons to the civilians and militiamen. They gave orders to commit, aided and abetted and participated in the massacres.

5

6

7

8

9

4.24 The Accused adhered to, elaborated and executed this plan at the commune level in Mukingo and neighbouring areas.

10

11

12

13

5. Concise statement of facts: Events in Ruhengeri pr fecture.

14

15

16

5.1 The Ruhengeri pr fecture is located in the northwest of Rwanda, a region that was historically a power base for the MRND.

17

18

19

Between 1973 and 1992 Ruhengeri was the site of periodic massacres of the civilian Tutsi population.

20

21

22

23

5.2 The Accused's relationship with such an influential figure as Joseph Nzirorera enabled him to flout the local authorities,

24

25

1 carry out atrocities against the Tutsi
2 population and avoid any criminal sanctions.

3
4 5.3 From April through July 1994, many
5 Tutsi men, woman and children were attacked,
6 abducted, raped and massacred in their
7 residences or at their places of shelter
8 within the Mukingo commune or arrested,
9 detained and later murdered. The Accused
10 commanded, organised, supervised and
11 participated in these attacks.

12
13 5.4 These attackers, comprising the
14 members of the Police Communale, Gendarmerie
15 Nationale and Interahamwe militia who were
16 under the control of the Accused, used guns,
17 grenades, machetes, spears, pangas, cudgels
18 and other weapons to slaughter the Tutsi.

19
20 5.5 The Accused ordered and witnessed the
21 raping and other sexual assaults on the
22 Tutsi females. At all times material to
23 this indictment, the Accused, as a person in
24 authority over the attackers, failed to take
25 any measure to stop these nefarious acts on

1 the Tutsi females.

2

3 5.6 During the course of the events
4 referred to in this indictment, the Accused
5 had the authority to issue circulation
6 passes (laissez-passer) to persons in the
7 commune who were eventually evacuated from
8 the commune. But he refused to exercise
9 this authority to prevent or stop the
10 killings of Tutsis in his commune. Rather
11 he employed various means, including
12 roadblocks, to deny them free movement
13 within and outside the commune.

14

15 5.7 The Accused intended to destroy the
16 Tutsi as a racial or ethnic group, they
17 having been identified as the enemy by the
18 MRND as defined in paragraphs 4.7, 4.8 and
19 4.9 above, in furtherance of the government
20 policy to defeat the RPF, eliminate the
21 Tutsi and retain power.

22

23 5.8 The Accused intended the incitement
24 and massacres described in the indictment to
25 be part of the non-international armed

1 conflict against the RPF. By his actions
2 during the period referred to in this
3 indictment, the Accused sought to eliminate
4 any base of support for the RPF that might
5 exist in Ruhengeri pr fecture, with
6 particular reference to Mukingo commune, by
7 eliminating the Tutsis.

8
9 5.9 The Accused, in his position of
10 authority and acting in concert with others,
11 participated in the planning, preparation or
12 execution of a common scheme, strategy or
13 plan to commit the atrocities set forth
14 above.

15
16 He committed some of the crimes personally,
17 and some were committed through persons he
18 assisted or by his subordinates including
19 the members of the Police Communale
20 Gendarmerie Nationale and Interahamwe-MRND,
21 with his knowledge and consent.

22 MR. KIYEYEU:

23 Mr. President, now the Registry will read
24 the charges.

25

1 6. The charges.

2

3 For all the charges the acts described in
4 the paragraphs specified in each of the
5 counts below, the Accused either planned,
6 incited to commit, ordered, committed or in
7 some other way aided and abetted the
8 planning, preparation or execution of the
9 said acts. And the Accused knew or had
10 reason to know that his subordinates were
11 preparing to commit or had committed one or
12 more of the acts referred to in Articles 2
13 to 4 of the Statute of the Tribunal and
14 failed to take the necessary and reasonable
15 measures to prevent the said acts from being
16 committed or to punish those that were
17 responsible.

18

19 Count 1: Conspiracy to commit genocide,
20 pursuant to Article 2(3)(b) of the Statute.
21 Juv nal Kajelijeli, by the acts or omissions
22 described in the paragraphs to which
23 reference is made herein below,

24

25 Pursuant to Article 6(1): Paragraphs 2.1,

1 2.2, 2.3, 2.4, 3.5, 3.6, 4.6, 4.6.1, 4.9,
2 4.12, 4.12.1, 4.13, 4.15, 4.16, 4.16.1,
3 4.17, 4.18, 4.18.1, 4.19, 4.19.1, 4.21,
4 4.22, 4.23, 4.24, 5.3, 5.4, 5.5, 5.6, 5.7,
5 5.9;

6
7 Pursuant to Article 6(3): According to
8 paragraphs 2.1, 2.2, 2.3, 2.4, 3.5, 3.6,
9 4.6, 4.6.1, 4.9, 4.12, 4.12.1, 4.13, 4.15,
10 4.16, 4.16.1, 4.17, 4.18, 4.18.1, 4.19,
11 4.19.1, 4.21, 4.22, 4.23, 4.24, 5.3, 5.4,
12 5.5, 5.6, 5.7, 5.9,

13
14 Conspired with others to kill or cause
15 serious bodily or mental harm to members of
16 the Tutsi population with the intent to
17 destroy, in whole or in part, a racial or
18 ethnic group, and thereby committed
19 conspiracy to commit genocide, pursuant to
20 Article 2(3)(b) of the Statute of the
21 Tribunal and punishable in reference to
22 Articles 22 and 23 of the Statute of the
23 International Criminal Tribunal for Rwanda.

24
25 Count 2: Genocide, pursuant to Article

1 2(3)(a) of the Statute: Juv nal Kajelijeli
2 by the acts or omissions described in the
3 paragraphs to which reference is made herein
4 below:

5
6 Pursuant to Article 6(1): According to
7 paragraphs 2.1, 2.2, 2.3, 2.4, 3.5, 3.6,
8 4.6, 4.6.1, 4.8, 4.9, 4.12, 4.12.1, 4.13,
9 4.15, 4.16, 4.16.1, 4.17, 4.18, 4.18.1,
10 4.19, 4.19.1, 4.21, 4.22, 4.23, 4.24, 5.3,
11 5.4, 5.5, 5.6, 5.7, 5.9,

12
13 Pursuant to Article 6(3): According to
14 paragraphs 2.1, 2.2, 2.3, 2.4, 2.5, 3.5,
15 3.6, 4.6, 4.6.1, 4.9, 4.12, 4.12.1, 4.13,
16 4.15, 4.16, 4.16.1, 4.17, 4.18, 4.18.1,
17 4.19, 4.19.1, 4.21, 4.22, 4.23, 4.24, 5.3,
18 5.4, 5.5, 5.6, 5.7, 5.9

19
20 Is responsible for killing or causing
21 serious bodily or mental harm to members of
22 the Tutsi population with the intent to
23 destroy, in whole or in part, a racial or
24 ethnic group, and thereby committed the
25 crime of genocide,

1

2

Pursuant to Article 2(3)(a) of the Statute
of the Tribunal and punishable in reference
to Articles 22 and 23 of the Statute of the
International Criminal Tribunal for Rwanda.

6

7

Or alternatively, Count 3, complicity to
commit genocide, pursuant to Article 2(3)(e)
of the Statute, Juv nal Kajelijeli, by the
acts or omissions described in the
paragraphs to which refrence is made herein
below:

11

12

13

14

15

16

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19

20

21

22

23

24

25

Pursuant to Article 6(1): according to
paragraphs 2.1, 2.2, 2.3, 2.4, 2.5, 3.5,
3.6, 4.6, 4.6.1, 4.9, 4.12, 4.12.1, 4.13,
4.15, 4.16, 4.16.1, 4.18, 4.19, 4.19.1,
4.21, 4.22, 4.23, 4.24, 5.3, 5.4, 5.6, 5.7,
5.8, 5.9,

In conformity with Article 6(3): paragraphs
2.1, 2.2, 2.3, 2.4, 2.5, 3.5, 3.6, 4.6,
4.6.1, 4.9, 4.12, 4.12.1, 4.13, 4.15, 4.16,
4.16.1, 4.18, 4.19, 4.19.1, 4.21, 4.22,
4.23, 4.24, 5.3, 5.4, 5.6, 5.7, 5.8, 5.9,

1

2

Is responsible for killing and causing
serious bodily and mental harm to members of
the Tutsi population with the intent to
destroy, in whole or in part, a racial or
ethnic group, and thereby committed
complicity in genocide,

8

9

10

11

12

13

14

15

16

17

Count 4: Direct and public incitement to
genocide, pursuant to Article 2(3)(c) of the
Statute.

18

19

20

21

Juv nal Kajelijeli, by the acts or omissions
described in the paragraphs to which
reference is made herein below:

22

23

24

25

Pursuant to Article 6(1): According to
paragraphs 2.1, 2.2, 2.3, 2.4, 2.5, 3.5,
3.6, 4.10, 4.16, 4.18, 4.18.1, 4.19, 4.19.1,
4.23,

1

2

Pursuant to Article 6(3): According to

3

paragraphs 2.1, 2.2, 2.3, 2.4, 2.5, 3.5,

4

3.6, 4.10, 4.16 , 4.18, 4.18.1, 4.19,

5

4.19.1, 4.23,

6

7

Is responsible for direct and public

8

incitement to kill and cause serious bodily

9

or mental harm to members of the Tutsi

10

population with the intent to destroy, in

11

whole or in part, a racial or ethnic group,

12

and thereby committed direct and public

13

incitement to genocide pursuant to

14

Article 2(3)(c) and punishable in reference

15

to Articles 22 and 23 of the Statute of the

16

International Criminal Tribunal of Rwanda.

17

18

Count 5: Crimes against humanity - Murder,

19

pursuant to Article 3(a) of the Statute:

20

21

Juv nal Kajelijeli, by the acts or omissions

22

described in the paragraphs to which

23

reference to made herein below:

24

25

Pursuant to Article 6(1) of the Statute:

1 According to paragraphs 2.1, 2.2, 2.3, 2.4,
2 2.5, 3.5, 3.6, 4.6, 4.6.1, 4.9, 4.12,
3 4.12.1, 4.13, 4.15, 4.16, 4.16(1), 4.18,
4 4.19, 4.21, 4.22, 4.23, 4.24, 5.3, 5.4, 5.5,
5 5.6, 5.7, 5.8, 5.9, 5.10.

6 JUDGE GÜNEY:

7 Just a minute, please. When you were
8 reading this paragraph, I think there was a
9 typographical mistake. It should be
10 corrected. When it says pursuant to
11 "Article 6.1" it should read "6.3". 6.3.
12 Could the Prosecutor corroborate this?

13 MS. OJEMENI:

14 Which paragraphs are you referring to,
15 Your Honour?

16 JUDGE GÜNEY:

17 It is 6.3. The first paragraph indicates
18 6.1, which is correct. In the second it has
19 to be 6.3.

20 MS. OJEMENI:

21 Which page?

22 JUDGE GÜNEY:

23 Page 9. You didn't follow the lecture?

24 MS. OJEMENI:

25 Your Honour, I was doing something.

1 JUDGE GÜNEY:

2 This is page 12 of the English document. It
3 is second "pursuant to". The first is
4 Article 6.1. The second should read
5 "Article 6.3"; is that correct?

6 MR. HINDS:

7 It's correct in English.

8 JUDGE GÜNEY:

9 Just for the French version?

10 MS. OJEMENI:

11 Yes, Your Honour.

12 MR. KIYEYEU:

13 May I repeat, Mr. President. According to
14 Article 6(3), 6(3): According to paragraphs
15 2.1, 2.2, 2.3, 2.4, 2.5, 3.5, 3.6, 4.6,
16 4.6.1, 4.9, 4.12, 4.12.1, 4.13, 4.15, 4.16,
17 4.16(1), 4.18, 4.19, 4.21, 4.22, 4.23, 4.24,
18 5.1, 5.3, 5.4, 5.5, 5.6, 5.7, 5.8 5.9,

19

20 Is responsible for the murder of Tutsis as
21 part of a widespread and systematic attack
22 against a civilian population on political,
23 ethnic or racial grounds, and thereby
24 committed crimes against humanity, pursuant
25 to Article 3(a) and punishable in reference

1 to Articles 22 and 23 of the Statute of the
2 International Criminal Tribunal for Rwanda.

3
4 Count 6: Crimes against humanity -
5 Extermination, pursuant to Article 3(b) of
6 the Statute:

7
8 Juv nal Kajelijeli, by the acts or omissions
9 described in the paragraphs to which
10 reference is made herein below:

11
12 Pursuant to Article 6(1) of the Statutes:
13 According to paragraphs 2.1, 2.2, 2.3, 2.4,
14 2.5, 3.5, 3.6, 4.6, 4.6.1, 4.9, 4.12,
15 4.12.1, 4.13, 4.15, 4.16, 4.16(1), 4.18,
16 4.19, 4.21, 4.22, 4.23, 4.24, 5.3, 5.4, 5.5,
17 5.6, 5.7, 5.8, 5.9,

18
19 Pursuant to Article 6(3) of the Statute:
20 According to paragraphs 2.1, 2.2, 2.3, 2.4,
21 2.5, 3.5, 3.6, 4.6, 4.6.1, 4.9, 4.12,
22 4.12.1, 4.13, 4.15, 4.16, 4.16(1), 4.18,
23 4.19, 4.21, 4.22, 4.23, 4.24, 5.3, 5.4, 5.5,
24 5.6, 5.7, 5.8, 5.9,

25

1 Is responsible for the extermination of
2 Tutsis as part of a widespread and
3 systematic attack against a civilian
4 population on political, ethnic or racial
5 grounds, and thereby committed crimes
6 against humanity, pursuant to Article 3(b)
7 of the Statute and punishable in reference
8 to Articles 22 and 23 of the Statute of the
9 International Criminal Tribunal for Rwanda.
10
11 Count 7: Crimes against humanity - Rape,
12 pursuant to Article 3(g) of the Statute:
13
14 Juv nal Kajelijeli, by acts or omissions
15 described in the perhaps to which reference
16 is made herein below:
17
18 Pursuant to Article 6(1) of the Statute,
19 according to paragraphs 2.1, 2.2, 2.3, 2.4,
20 2.5, 3.5, 3.6, 4.6, 4.6.1, 4.9, 4.12,
21 4.12.1, 4.13, 4.15, 4.16, 4.16(1), 4.18,
22 4.19, 4.21, 4.22, 4.23, 4.24, 5.3, 5.4, 5.5,
23 5.6, 5.7, 5.8, 5.9,
24
25 Pursuant to Article 6(3) of the Statute,

1 according to paragraphs 2.1, 2.2, 2.3, 2.4,
2 2.5, 3.5, 3.6, 4.6, 4.6.1, 4.9, 4.12,
3 4.12.1, 4.13, 4.15, 4.16, 4.16(1), 4.18,
4 4.19, 4.21, 4.22, 4.23, 4.24, 5.3, 5.4, 5.5,
5 5.7, 5.8, 5.9,

6
7 Is responsible for the rape of Tutsis as
8 part of a widespread and systematic attack
9 against a civilian population on political,
10 ethnic or racial grounds, and thereby
11 committed crimes against humanity, pursuant
12 to Article 3(g) of the Statute and
13 punishable in reference to Articles 22 and
14 23 of the Statute of the International
15 Criminal Tribunal of Rwanda.

16
17 Count 8: Crimes against humanity -
18 Persecution on racial, political and
19 religious grounds pursuant to Article 3(h)
20 of the Statute:

21
22 Juv nal Kajelijeli, by the acts or omissions
23 described in the paragraphs to which
24 reference is made herein below:

25

1 Pursuant to Article 6(1) of the Statute,
2 according to paragraphs 2.1, 2.2, 2.3, 2.4,
3 2.5, 3.5, 3.6, 4.6, 4.6.1, 4.9, 4.12,
4 4.12.1, 4.13, 4.15, 4.16.

5 MS. OJEMENI:

6 (Inaudible).

7 JUDGE GÜNEY:

8 Have you taken note? Not brackets, but
9 "point" 1.

10 MR. KIYEYEU:

11 4.16 -- I should repeat. 4.16.1, 4.18. I'm
12 sorry, Your Honour, does it apply to all
13 cases?

14 MS. OJEMENI:

15 (Inaudible). Yes, it does. That's what I
16 said.

17 MR. KIYEYEU:

18 4.16.1, 4.18, 4.19, 4.21, 4.22, 4.23,
19 4.23 [sic], 4.24, 5.3, 5.4, 5.5, 5.7, 5.8,
20 5.9,

21

22 Pursuant to Article 6.3 of the Statute:
23 According to paragraphs 2.1, 2.2, 2.3, 2.4,
24 2.5, 3.5, 3.6, 4.6, 4.6.1, 4.9, 4.12,
25 4.12.1, 4.13, 4.15, 4.16, 4.16.1, 4.18,

1 4.19, 4.21, 4.22, 4.23, 4.24, 5.3, 5.4, 5.5,
2 5.7, 5.8, 5.9, 5.10,

3
4 Is responsible for the persecution of Tutsi
5 as part of a widespread and systematic
6 attack against a civilian population on
7 political, ethnic or racial grounds, and
8 thereby committed a crime against humanity,
9 pursuant to Article 3(h) of the Statute and
10 punishable in reference to Articles 22 and
11 23 of the Statute of the International
12 Criminal Tribunal for Rwanda.

13
14 Count 9: Crimes against humanity - Other
15 Inhumane Acts, pursuant to Article 3(i) of
16 the Statute:

17
18 Juv nal Kajelijeli, by the acts or omissions
19 described in the paragraphs to which
20 reference is made herein below:

21
22 Pursuant to Article 6.1 of the Statute
23 according to paragraphs 2.1, 2.2, 2.3, 2.4,
24 2.5, 3.5, 3.6, 4.6, 4.6.1, 4.9, 4.12,
25 4.12.1, 4.13, 4.15, 4.16, 4.16.1, 4.18,

1 4.19, 4.23, 4.24, 5.3, 5.4, 5.5, 5.6, 5.7,
2 5.8, 5.9,

3
4 Pursuant to Article 6(3) of the Statute
5 according to paragraphs 2.1, 2.2, 2.3, 2.4,
6 2.5, 3.5, 3.6, 4.6, 4.6.1, 4.9, 4.12,
7 4.12.1, 4.13, 4.15, 4.16, 4.16.1, 4.18,
8 4.19, 4.23, 4.24, 5.3, 5.4, 5.5, 5.6, 5.7,
9 5.8, 5.9,

10

11 Is responsible for other inhumane acts
12 against the Tutsis as part of a widespread
13 and systematic attack against a civilian
14 population on political, ethnic or religious
15 ground, and thereby committed crimes against
16 humanity, pursuant to Article 3(i) and
17 punishable in reference to Articles 22 and
18 23 of the Statute of the International
19 Criminal Tribunal of Rwanda.

20

21 Count 10: Serious violations of Article 3
22 Common to the Geneva Conventions and
23 Additional Protocol II, pursuant to Article
24 4(a) of the Statute:

25

1 Juv nal Kajelijeli, during a
2 non-international armed conflict, by his
3 acts or omissions described in the
4 paragraphs to which reference is made herein
5 below:

6
7 Pursuant to Article 6(1) of the Statute,
8 according to paragraphs 2.1, 2.2, 2.3, 2.4,
9 2.5, 3.5, 3.6, 4.6, 4.6.1, 4.9, 4.12,
10 4.12.1, 4.13, 4.15, 4.16, 4.16.1, 4.18,
11 4.19, 4.23, 4.24, 5.3, 5.4, 5.5, 5.6, 5.7,
12 5.8, 5.9,

13
14 Pursuant to Article 6(3) of the Statute,
15 according to paragraphs 2.1, 2.2, 2.3, 2.4,
16 2.5, 3.5, 3.6, 4.6, 4.6.1, 4.9, 4.12,
17 4.12.1, 4.13, 4.15, 4.16, 4.16.1, 4.18,
18 4.19, 4.23, 4.24, 5.3, 5.4, 5.5, 5.6, 5.7,
19 5.8, 5.9,

20
21 Is responsible for causing violence to life,
22 health and physical or mental well-being of
23 persons, in particular murder, as well as
24 cruel treatment, such as torture, mutilation
25 or any form of corporal punishment against

1 the Tutsi, and has thereby committed serious
2 violations of Article 3 Common to the Geneva
3 Convention of the 12th of August, 1949, for
4 the Protection of War Victims, and of
5 Additional Protocol II thereto of 8 June
6 1977,

7
8 Pursuant to Article 4 (a) of the Statute a
9 crime which is punishable in reference to
10 Articles 22 and 23 of the Statute of the
11 International Criminal Tribunal for Rwanda.

12
13 Count 11: Serious violations of Article 3
14 Common to the Geneva Conventions and
15 Additional Protocol II, pursuant to
16 Article 4(e) of the Statute,

17
18 Juv nal Kajelijeli, during a
19 non-international armed conflict, by his
20 acts or omissions to which reference is made
21 herein below:

22
23 Pursuant to Article 6(1) of the Statute,
24 according to paragraphs 2.1, 2.2, 2.3, 2.4,
25 2.5, 3.5, 3.6, 4.6, 4.6.1, 4.9, 4.12,

1 4.12.1, 4.13, 4.15, 4.16, 4.16.1, 4.18,
2 4.19, 4.23, 4.24, 5.3, 5.4, 5.5, 5.6, 5.7,
3 5.8, 5.9,

4
5 Pursuant to Article 6(3) of the Statute,
6 according to paragraphs 2.1, 2.2, 2.3, 2.4,
7 2.5, 3.5, 3.6, 4.6, 4.6.1, 4.9, 4.12,
8 4.12.1, 4.13, 4.15, 4.16, 4.16.1, 4.18,
9 4.19, 4.23, 4.24, 5.3, 5.4, 5.5, 5.6, 5.7,
10 5.8, 5.9,

11
12 Is responsible for causing outrages upon
13 personal dignity, in particular, humiliating
14 and degrading treatment, rape, enforced
15 prostitution and any form of indecent
16 assault against the Tutsi, and has thereby
17 committed serious violations of Article 3
18 Common to the Geneva Conventions of 13
19 August 1949 for the Protection of War
20 Victims, and of Additional Protocol II
21 thereto of the 8th June 1977,

22
23 Pursuant to Article 4(e) of the Statute, a
24 crime which is punishable in reference to
25 Articles 22 and 23 of the Statute of the

1 International Criminal Tribunal for Rwanda.

2

3 Done in Arusha on this day, the 25th day of
4 January, the year 2001. Signed Carla
5 Del Ponte, the Prosecutor. With the seal of
6 the Prosecutor and that of the Tribunal. I
7 thank you, Your Honour.

8 JUDGE GÜNEY:

9 Thank you, Registry, for reading out the
10 amended indictment pursuant to a decision of
11 the Tribunal, dated 25th January 2001.

12

13 Before reading out the charges, and prior to
14 asking the Accused to enter a plea on each
15 of the charges, I would like to state that
16 the Accused had already entered a plea of
17 not guilty on each of the charges during the
18 initial appearance that took place on the
19 7th and 8th of April, 1999, by decision
20 dated 25 January 2001.

21

22 Trial Chamber II had allowed the Prosecutor
23 to amend the indictment. The amended
24 indictment was filed by the Prosecutor on
25 the 25th of January, 2001 and was

1 immediately served upon the Accused and his
2 counsel.

3
4 I would like to be reassured by counsel that
5 the Accused has already had time to acquaint
6 himself with the amended indictment and
7 would be prepared to enter a plea. In the
8 meantime, I wish further to point out that,
9 although the amended indictment does not
10 include new charges, some of the charges
11 have been further strengthened and new
12 charges added on. In the opinion of the
13 Chamber, these new charges further
14 strengthen and amend the previous 11
15 charges. Accordingly, the Chamber is of the
16 view that in the instant the Accused enter a
17 new plea with respect to all 11 charges
18 after the reading of the amended indictment
19 has taken place.

20
21 I'll, therefore, ask counsel for the Accused
22 if he has agreed that we proceed in this
23 manner.

24 MR. HINDS:

25 Your Honour, counsel respectfully disagrees

1 with the Court's interpretation with respect
2 to this amended indictment. And I have read
3 the decision of this Trial Chamber, which
4 was served upon me yesterday. It is my
5 understanding that this Trial Chamber
6 concluded that the facts and allegations
7 that were contained in the amended
8 indictment are sufficiently provide what
9 amounts to new charges. And in particular,
10 I make reference to paragraph 30 of the
11 decision.

12
13 So, therefore, it is clear to me that this
14 amended indictment includes new charges.
15 And furthermore, when we look at the areas
16 in which the amended indictment recites to
17 the specific counts, we can see that they
18 are so commingled that it is impossible to
19 extricate what would be considered to be the
20 original counts from what were the new
21 factual allegations; and therefore, there is
22 no way that Mr. Kajelijeli could plead
23 except to each of the 11 counts.

24
25 And so, therefore, I think that we have to

1 proceed with him pleading to all 11 counts
2 of the indictment. And the only point I am
3 making, Your Honour, and I don't know if it
4 was the translation or whether it is what
5 you said, but what I got through the
6 translation suggested to me that you felt
7 that the decision was such that there were
8 not new charges. The decision clearly
9 indicates that there are new charges.

10 JUDGE GÜNEY:

11 It would appear there was an interpretation
12 problem. Of course there are new charges
13 which do affect the indictment. And it is
14 for that reason that we are asking the
15 Accused to enter a new plea for each of the
16 charges, each of the 11 charges. Is that
17 clear now?

18 MR. HINDS:

19 That's clear to me, Your Honour.

20 JUDGE GÜNEY:

21 That stated, I wish to be assured before
22 reading out the charges, I want to be
23 assured by counsel for the Accused, counsel
24 for the Accused, assured that the Accused
25 has had time to acquaint himself with the

1 amended indictment and would be ready to
2 enter a plea with respect to that new
3 amended indictment.

4 MR. HINDS:

5 Yes, Your Honour. Mr. Kajelijeli has had
6 opportunity to review each of the 11 counts
7 and is familiar with them. But I'd like to
8 point out, and, again, it may have been a
9 problem in translation, but there is some
10 confusion, at least on my part, with respect
11 to whether or not there is conformity
12 between the French and the English versions
13 in two areas in particular.

14
15 I first make reference to Count 5, pursuant
16 to Article 6(3). And the translator read
17 "paragraphs 4.21, 4.22, and 4.23". Now, in
18 the English version, there's only 4.19 and
19 then we go to 4.23. So I'm not quite sure
20 whether or not 4.21 and 4.22 is also
21 included under Articles 6(3). I'd like a
22 clarification on that.

23
24 And it is the identical same situation in
25 Count 8, 6(3). Identical situation. And it

1 may have been just with the repetition of
2 all of these numbers that there may have
3 been an omission or something of this
4 nature.

5 JUDGE GÜNEY:

6 Thank you. Could the Prosecutor please come
7 in. Do you want the Defence to repeat its
8 remark once more?

9 MS. OJEMENI:

10 Yes, for clarity.

11 MR. HINDS:

12 If you turn to page 12 and look under
13 Count 5, pursuant to Article 3, I have
14 before me the English version. It reads
15 "4.19, 4.23", etc. The translator when he
16 read it out also included 4.21 and 4.22.
17 And I am saying I am not sure whether or
18 not, since I wasn't following the French, I
19 didn't know whether the French version had
20 4.21 or 4.22, and he was simply reading that
21 or whether it was just fatigue.

22 MS. OJEMENI:

23 I think it must have been a mistake. It is
24 correct the way it is in English.

25 MR. HINDS:

1 It's correct in English?

2 MS. OJEMENI:

3 Yes, it is.

4 MR. HINDS:

5 Well, what about the French? Does the
6 French have the 4.21 and 4.22? Well, who
7 speaks French? Somebody who speaks French
8 must see the document.

9 JUDGE GÜNEY:

10 It is correct in English.

11 MR. HINDS:

12 So the error is in the French?

13 JUDGE GÜNEY:

14 Well, I suppose it should tally with the
15 English version.

16 MS. OJEMENI:

17 Could I have a look at your French version,
18 please?

19 JUDGE GÜNEY:

20 As you already determined, the English
21 version is correct.

22 MS. OJEMENI:

23 The English version is correct.

24 MR. HINDS:

25 Then the French version is wrong.

1 JUDGE GÜNEY:

2 I suppose the French version then has to be
3 tallied with the English version.

4 MS. OJEMENI:

5 Yes, Your Honour.

6 JUDGE GÜNEY:

7 Okay. Maybe you can read out or they can
8 read out the 5th count so they can compare
9 it with the French version, and we will see
10 which version is the correct one.

11 MS. OJEMENI:

12 Okay. What I have, which is the English
13 version, is correct. And let me compare it
14 with what they have in the French version.

15 JUDGE GÜNEY:

16 Okay. Go ahead.

17 MS. OJEMENI:

18 Your Honour, my attention has just been
19 brought to -- it is wrong. It should read
20 Article 6(3) under Count 5. It should read
21 4 -- second paragraph of that should read:
22 4.19, 4.21, 4.22, 4.23, 4.24. I think that
23 is the mistake. They missed 4.21 and 4.22.

24 JUDGE GÜNEY:

25 What about the 8th Count?

1 MS. OJEMENI:

2 What we have under the English in Count 8 is
3 correct. It is correct; the French is
4 wrong. So we have 4.19, 4.23, is correct.
5 But the French wrongs to 4.21, 4.22. So it
6 should be 4.19 and 4.23.

7 JUDGE GÜNEY:

8 That has cleared the problem raised by
9 Defence counsel. That clears the problem
10 raised by Defence counsel.

11 MS. OJEMENI:

12 The same Count 5, what we have under Count 5
13 should reflect in the French version. What
14 I am saying in a sense is that we should
15 have 4.19, 4.21, 4.22, 4.23 in all of them,
16 in both 8 -- and Count 5 and Count 8. So
17 there is a mistake.

18 JUDGE GÜNEY:

19 All these will be tallied with the English
20 version. You've just pointed out that the
21 English version is the correct one.

22 MR. HINDS:

23 Your Honour, just so that we are all singing
24 out of the same hymn book, is it my
25 understanding that both with respect to

1 Count 8 and Count 5 that we should have
2 4.15, 4.21 and 4.22; is that correct? I
3 thought that's what counsel said in terms of
4 her latest statement. And I just want to be
5 sure, because it's contrary to what you said
6 prior to that.

7 MS. OJEMENI:

8 What I am saying is that -- that's exactly
9 what I am saying that you have 4.19, 4.21,
10 4.22 and 4.23.

11 MR. HINDS:

12 Okay. With respect to both counts?

13 MS. OJEMENI:

14 Both counts.

15 MR. HINDS:

16 All right.

17 JUDGE GÜNEY:

18 Mr. Juv nal Kajelijeli, the amended
19 indictment has just been read out to you. I
20 want to be sure that you've understood the
21 contents of the charges brought against you
22 and the various counts that have been read
23 out against you.

24 THE ACCUSED:

25 Thank you, Mr. President. When perusing or

1 looking through the indictment, and as far
2 as I understood, as far as I know, this is
3 the first time that I am getting acquainted
4 with the indictment that contains the
5 various charges brought against me.

6
7 If you look at page 10, paragraph 5.10, I
8 did not see any reference -- I don't see any
9 reference to 5.10. That's on page 10 of the
10 indictment. I see no reference to 5.10.
11 Was that an oversight in the indictment?
12 Thank you, Mr. President.

13 JUDGE GÜNEY:

14 You want to say that the paragraph you just
15 referred to is not referred to anywhere or
16 is not mentioned anywhere in the indictment.

17 THE ACCUSED:

18 But in the counts, reference is made to
19 paragraph 5.10, of paragraph 5.10, whereas
20 it appears nowhere in the main body of the
21 document, under Count 8, for instance.

22 JUDGE GÜNEY:

23 Let the Prosecution clarify the point.

24 MS. OJEMENI:

25 Your Honour, may I then take the opportunity

1 to correct errors I've discovered here.

2 MR. HINDS:

3 I can't hear.

4 MS. OJEMENI:

5 May I then clarify what I said earlier
6 regarding 4.19 and 4.13 in Counts 5 and
7 Count 8. The English version that we have
8 here on Count 5 and Count 8 is correct.
9 There shouldn't be 4.21 and 22 in Count 8.
10 The way it is now is correct in English
11 version. So, that's what I have to say on
12 this.

13

14 Then 5.10 is obviously a typographical
15 error. It shouldn't be included because we
16 don't have it in the indictment. It is a
17 typographical error. The factual allegation
18 stopped at 5.9, it is a mistake.

19 JUDGE GÜNEY:

20 Madam Prosecutor, we'll now proceed the way
21 you have directed us to. But let me say
22 that for the future, if there are any such
23 errors, the text that would be available to
24 the Accused would be the one to be used.
25 Thank you.

1 MS. OJEMENI:

2 Thank you.

3 JUDGE GÜNEY:

4 Mr. Juv nal Kajelijeli, could you stand,
5 please.

6 THE ACCUSED:

7 Thank you, Mr. President, I am ready.

8 JUDGE GÜNEY:

9 Now I am going to read again the counts, and
10 I am going to ask you to enter a plea of
11 guilty or not guilty to the count.

12

13 Count 1, conspiracy to commit genocide,
14 pursuant to Article 2(3)(b) of the Statute.
15 What is your plea, guilty or not guilty?

16 THE ACCUSED:

17 Not guilty. These are absolute lies,
18 Mr. President.

19 JUDGE GÜNEY:

20 A not-guilty plea is entered with respect to
21 Count 1.

22

23 Count 2, genocide, pursuant to
24 Articles 2(3)(a) of the Statute. How do you
25 plead?

1 THE ACCUSED:

2 I plead not guilty. Absolute lies,
3 Mr. President.

4 JUDGE GÜNEY:

5 A not-guilty plea is entered with respect to
6 Count 2.

7

8 Count 3, complicity to commit genocide,
9 pursuant to Article 2(3)(e) of the Statute.

10 How do you plead?

11 THE ACCUSED:

12 Not guilty. Absolute lies, Mr. President.

13 JUDGE GÜNEY:

14 Count 4, direct and public incitement to
15 commit genocide, pursuant to Article 2(3)(c)
16 of the Statute. How do you plead?

17 THE ACCUSED:

18 I plead not guilty. They are absolute lies,
19 Mr. President.

20 JUDGE GÜNEY:

21 Not guilty plea is entered under Count 4.

22

23 Count 5, crimes against humanity - Murder,
24 pursuant to Article 3(a) of the Statute.

25 THE ACCUSED:

1 I plead not guilty, because these are
2 absolute lies, Mr. President.

3 JUDGE GÜNEY:

4 A not guilty plea is entered under Count 5.

5

6 Count 6, crimes against humanity -
7 Extermination, pursuant to Article 3(b) of
8 the Statute. How do you plead?

9 THE ACCUSED:

10 I plead not guilty. Total lies,
11 Mr. President. I would not want you to
12 characterise what type of lies at all.

13 JUDGE GÜNEY:

14 So a not guilty plea is entered under
15 Count 6.

16

17 Count 7, crimes against humanity - Rape,
18 pursuant to Article 3(g) of the Statute.
19 How do you plead?

20 THE ACCUSED:

21 Not guilty.

22 JUDGE GÜNEY:

23 A not guilty plea is entered under Count 7.

24

25 Count 8, crimes against humanity -

1 Persecution on racial, political and
2 religious grounds, pursuant to Article 3(h)
3 of the Statute. How do you plead?

4 THE ACCUSED:

5 Not guilty, Mr. President.

6 JUDGE GÜNEY:

7 A not guilty plea is entered under Count 8.

8

9 Count 9, crimes against humanity - Other
10 Inhumane Acts, pursuant to Article 3(i) of
11 the Statute. How do you plead?

12 THE ACCUSED:

13 Not guilty, Mr. President.

14 JUDGE GÜNEY:

15 A not guilty plea is entered under Count 9.

16

17 Count 10, serious violations of Article 3
18 Common to the Geneva Conventions and
19 Additional Protocol II, pursuant to
20 Article 4(a) of the Statute. How do you
21 plead?

22 THE ACCUSED:

23 Not guilty, Mr. President.

24 JUDGE GÜNEY:

25 A not guilty plea is entered under Count 10.

1

2

Count 11, serious violations of Article 3

3

Common to the Geneva Conventions and

4

Additional Protocol II, pursuant to Article

5

4(e) of the Statute. How do you plead?

6

THE ACCUSED:

7

I plead not guilty, Mr. President.

8

JUDGE GÜNEY:

9

Thank you. We have entered in the record

10

the not guilty plea for all the 11 counts.

11

You may be seated.

12

THE ACCUSED:

13

Thank you, Mr. President.

14

JUDGE GÜNEY:

15

I order that the Accused be remanded in

16

custody at the UN Detention Facility in

17

Arusha.

18

19

If there are no further comments from the

20

parties, I intend to bring to an end this

21

part of the hearing dealing with the initial

22

appearance, the part of the hearing dealing

23

with the initial appearance.

24

MR. HINDS:

25

At the very initial part of these

1 proceedings, Your Honour asked whether or
2 not I had any observations, and I thought I
3 had indicated that I would reserve my
4 comments until after my client pled. Am I
5 still able to proceed?

6 JUDGE GÜNEY:

7 Absolutely.

8 MR. HINDS:

9 Thank you, Your Honour. I'd like to make
10 two comments, one related to the indictment,
11 and the second, the issues that may impact
12 the effect of us moving forward as
13 expeditiously as we had contemplated in the
14 conference that both the Prosecutor and
15 myself had with Trial Chambers on Tuesday
16 afternoon at 4:00.

17
18 First of all, I have already argued
19 substantival with respect to my views on the
20 amended indictment, but I'd simply like to
21 point out that looking at the indictment and
22 also looking at the evidence that the
23 Prosecutor intends to produce as reflected
24 in the witness statements that were
25 presented on October 30th, we will be

1 challenging the competency of this Tribunal
2 and the jurisdiction of this Tribunal to
3 proceed under this indictment based upon the
4 Prosecutor's submissions.

5
6 It is our view that the introduction of
7 evidence beyond the dates that this Court
8 has jurisdiction over is ultimately ultra
9 vires and the temporal jurisdiction of the
10 Tribunal is fairly set forth in the Statutes
11 of the Tribunal, and in particular, Article
12 7 of the Tribunal.

13
14 And the sole authority for expanding the
15 jurisdiction of this body is the Security
16 Council and not the Prosecutor's office.
17 And I refer to paragraphs 3.5 in the
18 indictment, 3.6 in the indictment, 4.6, 4.7,
19 4.9 , 4.10, 4.12, 4.15, 4.16, 5.1. It is
20 clear that the Prosecutor is attempting to
21 try Mr. Kajelijeli for acts that preceded
22 January 1 of 1994. And we certainly will be
23 filing the appropriate motions. But I am
24 making my comments at this time and we will
25 be filing our motions, of course,

1 pursuant --

2 JUDGE GÜNEY:

3 Professor Hinds, may I interrupt you,
4 please, for a while. Of course you can file
5 objections, preliminary motions, pursuant to
6 Rule 72. But what I have done today is to
7 perform a duty under Rule 62 which deals
8 with initial appearance. Of course will be
9 within your right to file such motions
10 pursuant to the appropriate or the relevant
11 provisions in that regard. That's it. Do
12 you have any further --

13 MR. HINDS:

14 Yes. I have two further observations,
15 Your Honour, not going directly to the
16 indictment but going to trial and whether or
17 not we would be able to proceed as we had
18 planned and agreed upon earlier this week.
19 I asked the Prosecutor in the presence of
20 the Tribunal --

21 JUDGE GÜNEY:

22 I apologise for interrupting you. My
23 apologies for interrupting you. I said I
24 was going to bring to an end the part of our
25 proceedings on the initial appearance. And

1 after that we have two decisions that have
2 been handed down by the Trial Chamber which
3 I intend to read out to you. And I think it
4 would be more appropriate for you to make
5 the comments that you intend to make after I
6 shall have read out the oral decisions made
7 by the Trial Chamber. In that manner, your
8 comments would be made fully cognizant with
9 those decisions. Thank you for your
10 cooperation.

11
12 So before we conclude our proceedings on the
13 initial appearance, I would like to thank
14 counsel for the Defence and the accused
15 Juv nal Kajelijeli for cooperating with the
16 Chamber. I also wish to thank the Office of
17 the Prosecutor for their assistance they
18 have extended to us in the course of the
19 initial appearance. I also would like to
20 thank the interpreters together with the
21 court reporters, who have been here to
22 assist us in the course of an afternoon,
23 which is supposed to be free for them. I
24 also wish to thank the representatives of
25 the Registrar for their assistance.

1

2

So, that brings to an end the part of the proceedings that deals with the initial appearance.

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Now I wish to inform you of two oral decisions rendered by Trial Chamber II. On Friday, 26 January 2001, these were decisions adopted unanimously by Trial Chamber II, first that is with respect to the pretrial brief, and, secondly, on the motion filed by Defence seeking the withdrawal of counsel. Both decisions heard by the Trial Chamber on Monday, 22 January 2001.

Firstly, the Chamber decided to allow the extension of the time limit for the filing of the pretrial brief by the Prosecutor. Said brief should be filed no later than Monday, 5th of February, 2001, as the Prosecutor did undertake to proceed during the hearing of the 22nd of January 2001.

Secondly, in view of the fact that the

1 counsel for the Accused had indicated in the
2 course of the hearing that for reasons
3 connected with the organisation of his
4 office in New York and also due to the
5 difficulties encountered with his
6 co-counsel, it would be impossible for him
7 to mount an appropriate Defence for his
8 client if the trial were to commence on the
9 22nd of January 2001, as scheduled.

10

11 The Trial Chamber duly notes the fact that
12 the trial has been adjourned and the motion
13 has accordingly become without merit, null
14 and void.

15

16 So those are the two oral decisions that I
17 wanted to indicate to you. Professor Hinds,
18 you have the floor.

19 MR. HINDS:

20 Thank you, Your Honour, for your indulgence.

21 The comments I was about to make are not
22 altered at all by the decisions. As you
23 recall in conference on Tuesday at 4:00,
24 Mr. Fleming indicated that when the trial is
25 to be resumed, presumably the week of March

1 12th, he would make his opening remarks, in
2 addition he'd plan to put on maybe one or
3 two investigators. I indicated then that if
4 he planned to put on these investigators, I
5 needed to have their statements and any
6 other exhibits that they plan to introduce
7 before I left Arusha today. And maybe they
8 will provide me with that information, but I
9 plan to leave here, with the Court's
10 indulgence, in the next 15 minutes to catch
11 a plane.

12
13 So I spoke to Mr. Fleming earlier today and
14 he said they would make all efforts to
15 provide me with the information. If I don't
16 have that information, then I've indicated
17 that I may have to reserve cross-examining
18 those two witnesses to when we reconvene at
19 the end of June. Now that is the first
20 point.

21
22 The second point relates to a Bill of
23 Particulars. And I spoke to Mr. Fleming
24 also about that. And on the 19th we
25 attempted to serve upon the Prosecutor's

1 office through Mr. Webster a communiqu
2 requesting more particularity with respect
3 to the proposed witness statements. In
4 addition we requested the original, or
5 copies of the original interviews with these
6 witnesses. If they were done by tape, we
7 wanted the tape recordings and particularly
8 we wanted it in the original language, as
9 opposed to the translations that we have.
10
11 We think we have a right under the Rules to
12 have the original language, so that we can
13 make a determination as to the authenticity
14 of the translations. And we feel we have a
15 right to that information as soon as
16 possible. We have also asked particular
17 questions with respect to each of the
18 witnesses in terms of particularity, dates,
19 times and places.
20
21 Now, apparently the Prosecutor's office did
22 not receive -- may not have received the
23 communiqu because the Registrar's office
24 did not also have a copy. So I had copies
25 made for all of the parties this afternoon.

1 I am making this statement in open court
2 because I wanted to be very clear that the
3 Defence needs a response to this request
4 expeditiously since we are now on the eve of
5 trial. And would be unfair for the
6 Prosecutor's office not to respond
7 immediately. So this information which we
8 happen to think they have in their
9 possession and they certainly have the
10 capacity. If they don't have it in their
11 possession, to get it forthwith and turn it
12 over to the Defence.

13

14 So those are the comments that I wanted to
15 make, Your Honour. One, with respect to
16 discovery and the other, of course, was my
17 comment about the indictment itself.

18 JUDGE GÜNEY:

19 Thank you, Professor Hinds. The Prosecutor,
20 please.

21 MS. OJEMENI:

22 Your Honour, if I get the Defence, you are
23 asking if we received the Bill of
24 Particulars and we have response for you,
25 that's for the discovery.

1 MR. HINDS:

2 The first was whether or not you received
3 the Bill of Particulars before today. I
4 know that you may have received it today,
5 but it was sent out on the 19th, and I am
6 not sure whether or not you in fact received
7 it when it was sent out.

8 MS. OJEMENI:

9 To that I would say Mr. Fleming told me
10 exactly what you said, that he met with you
11 in the lift today and he told you that we
12 have not received it. But, however, just
13 before I left, about 30 minutes before I
14 came down, somebody brought it from the
15 Chambers and gave it to my colleague. So as
16 I was coming out, it was given to me. So
17 that's about the Bill of Particulars.

18
19 But then, again, I would say that the
20 pretrial brief should be able to take care
21 of the questions you are asking for in your
22 Bill of Particulars, because that is exactly
23 an American practice. So if I may say -- I
24 won't speak for Mr. Fleming -- but if I am
25 to comment on this, I'll say that the Bill

1 of Particulars is what obtains in America
2 and the pretrial brief will definitely take
3 care of what you are asking for in the Bill
4 of Particulars. So that's what I have to
5 say as per that.

6
7 As regards the photographs that you are
8 asking for, the exhibits that the
9 investigator would tender, we will get that
10 from Kigali. And we will assure you we will
11 definitely get that before -- or we'll send
12 them over to you in the next couple of --
13 maybe 10 days from now. So if that is okay
14 for you. Otherwise, we will send them
15 through the Registrar.

16 MR. HINDS:

17 Your Honour, I am asking the Prosecutor to
18 respond in particularity with each of the
19 requests that we have made on each single
20 witness. I don't know what they plan to do
21 in their pretrial brief. But we are asking
22 them to tell us with respect to each witness
23 who claims to have seen Mr. Kajelijeli at a
24 particular time, at a particular place, to
25 say so with particularity or to the extent

1 that they can, and with respect to each
2 witness. And that we want them to respond
3 to.

4
5 Secondly, we have requested that each
6 interview, the original, be provided to us
7 in that language. I don't know if they plan
8 to do that in their pretrial brief, but that
9 is what we are asking for. And I don't want
10 a situation where there's confusion in the
11 Prosecutor's office based upon our request
12 and I come here in March we still don't have
13 the information.

14
15 So I wanted to be very clear what we are
16 asking for. If the Prosecutor is not sure.
17 I'll be willing to -- if they have any
18 questions, I'm willing to communicate with
19 them. But we have a specific request and I
20 want them to study it and respond thereto.

21 MS. OJEMENI:

22 Your Honour, we will definitely provide you
23 with the original statements. I am sure
24 Mr. Fleming has already undertaken to do
25 that and that's what I said we will be

1 getting from Kigali. As regards the Bill of
2 Particulars, I said we just got them. We
3 just got the motion for that, and we will
4 definitely, you know, respond to that.

5
6 But I just said perhaps most of the
7 questions or most of the things you are
8 asking for in the Bill of Particulars will
9 be provided in the pretrial brief. But
10 definitely we'll study it and give you
11 adequate response.

12 JUDGE GÜNEY:

13 I think the informal meeting of the parties
14 that took place recently created or served
15 as a framework for close cooperation, and
16 within that framework the issues raised by
17 Defence will be addressed and resolved in
18 the spirit of cooperation. So I suppose
19 that could bring to an end the current
20 discussion. Before I conclude -

21 MS. OJEMENI:

22 May I say something?

23 JUDGE GÜNEY:

24 Sure.

25 MS. OJEMENI:

1 May I, on behalf of the Office of the
2 Prosecutor since that we have noted your
3 comments on our attitude, or the attitude of
4 the prosecuting counsel in your decision of
5 yesterday. We will at the appropriate time
6 apologize formally. We do apologize.

7 JUDGE GÜNEY:

8 Most obliged, thank you.

9
10 So before we rise I would like to state, and
11 this is intended for the accused Juv nal
12 Kajelijeli, that Juv nal Kajelijeli is still
13 presumed innocent until his guilt is proven
14 beyond a reasonable doubt, pursuant to the
15 provisions of this Statute.

16
17 That having been stated, if there is no
18 other item to be dealt with and I see none,
19 we now rise.

20
21 (Court adjourned at 1650H)

22
23
24
25

1 C E R T I F I C A T E

2

3 I, Shannon Fleming, Official Court
4 Reporter for the International Criminal Tribunal for
5 Rwanda, do hereby certify that the foregoing proceedings
6 in the above-entitled causes were taken at the time and
7 place as stated; that it was taken in shorthand
8 (stenotype) and thereafter transcribed by computer under
9 my supervision and control; that the foregoing pages
10 contain a true and correct transcription of said
11 proceeding to the best of my ability and understanding.

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

16

17

18 _____
Shannon L Fleming

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