



**International Criminal Tribunal for Rwanda  
Tribunal Pénal International pour le Rwanda**

UNITED NATIONS  
NATIONS UNIES

**TRIAL CHAMBER I**

**Original: English**

**Before:** Judge Navanethem Pillay  
Judge Erik Møse  
Judge Asoka de Z. Gunawardana

**Registry:** Mr. A. Dieng

**Order of:** 20 May 2002

**THE PROSECUTOR  
V.**

**Ferdinand Nahimana,  
Hassan Ngeze  
and  
Jean-Bosco Barayagwiza  
(Case No. ICTR-99-52-T)**

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**ORAL DECISION ON QUALIFICATION OF EXPERT – ALISON DES FORGES**

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**The Office of the Prosecutor**

Mr. Steven Rapp  
Ms. Simone Monasebian  
Ms. Charity Kagwi  
Mr. W. Egbe  
Mr. William Mubiru

**Defence Counsel for Nahimana:**

Mr. Jean-Marie Biju-Duval  
Ms. Diana Ellis

**Defence Counsel for Ngeze:**

Mr. John Clifford Floyd III  
Mr. René Martel

**Defence Counsel for Barayagwiza:**

Mr. Giacomo Barletta Caldarera

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The Chamber has had an opportunity to

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deliberate on this matter. We have a motion

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1 by the Prosecutor for the admission of  
2 Dr. Des Forges as an expert witness in the  
3 area of human rights and political and  
4 social history. We've heard all three  
5 counsel -- in one case no objection, but  
6 reservations on the part of Mr. Floyd and  
7 Mr. Pognon, and a comprehensive motion was  
8 filed by Ms. Ellis. And her motion was to  
9 the effect that Dr. Des Forges's testimony  
10 should be limited to the specific areas of  
11 her expertise.

12  
13 Ms. Ellis concedes that that expertise lies  
14 in Dr. Des Forges's knowledge and writings  
15 on the history of Rwanda and matters flowing  
16 from there, as well as her human rights  
17 issues which she researched, and that  
18 matters beyond that, particularly, the  
19 evidence that the Prosecution intends to  
20 lead from this witness pertaining to  
21 communications, the media and RTLM, radio  
22 stations, are outside her expertise. It was  
23 also argued before us that Dr. Des Forges is  
24 not a military strategist or a linguist,  
25 which Dr. Des Forges has readily conceded.

1 The result of our deliberations is that the  
2 Judges are fully aware of how expert  
3 testimony is received by a Chamber. We  
4 understand from Dr. Des Forges's area of  
5 study, which is history, that many  
6 disciplines are interlinked in a study of  
7 history. Dr. Des Forges has said in  
8 response to question from the Defence that  
9 although she's not an expert on  
10 communications as a separate discipline, if  
11 such a discipline exists, all areas of  
12 social sciences are interlinked. And we  
13 tend to agree with that, that in the course  
14 of her study of history and her extensive  
15 research on human rights and the research  
16 and publication she has produced in respect  
17 of the causes of genocide, qualifies her to  
18 speak on the areas to which Ms. Ellis raises  
19 objection, such as evidence relating to the  
20 role of the media.

21  
22 She may not be a military strategist, but as  
23 an historian it is well within her expertise  
24 to testify to documents of a military nature  
25 that she had access to.

1 We bear in mind that the original area of  
2 study was the early history of Rwanda. And  
3 here I wish to interject that we are not  
4 particularly interested in hearing a vast  
5 amount of information on the early history  
6 of Rwanda and the monarchy and so on.  
7 However, it's not a situation where she  
8 studied the early history and stopped there.  
9 She continued her study into the history of  
10 developments in Rwanda. She has researched  
11 and published this work on the causes of  
12 genocide. She has made at least 25 to 30  
13 visits in Rwanda, all on the basis of her  
14 studies as a commentator on the developing  
15 events in Rwanda. So her expertise in the  
16 field of history and her human rights  
17 expertise are interlinked and cannot be  
18 separated from the area relating to the  
19 media.

20  
21 And, finally, we wish to stress that the  
22 evidence of a witness, of an expert witness,  
23 as the Chamber indicated in the last expert  
24 witness voir dire that the implication of  
25 such evidence is that it is merely a guide

1 to the Chamber, and, as Judge Gunawardana  
2 was saying in his question, it is of  
3 persuasive value. So much of what was  
4 brought to our notice in Ms. Ellis' motion  
5 are important matters which will occupy the  
6 Chamber at the stage of evaluation of the  
7 evidence. And if opinions turn out to be of  
8 a general nature, or are unsubstantiated or  
9 tend to be based on evidence that we  
10 ourselves have heard in this courtroom, then  
11 the Chamber has a discretion and will  
12 exercise a discretion to intervene in the  
13 course of the testimony to limit such  
14 evidence. The Chamber is definitely not  
15 interested in any opinion that is not based  
16 on sound research and expertise or facts.

17  
18 We do invite counsel, of course, to raise  
19 matters by way of objection to us in the  
20 course of the testimony because the Chamber  
21 does have some disadvantage in that we are  
22 anticipating the testimony based on a report  
23 that has been filed. So we do expect that  
24 some of these matters, at least, will be  
25 drawn to our attention in the course of the

1 testimony.

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3 Our ruling on the Prosecutor's application  
4 is, then, that we conclude from all the  
5 evidence placed before us that Dr. Alison  
6 Des Forges is an expert in human rights and,  
7 as an historian, has expertise in the  
8 political and social history of Rwanda, and  
9 her evidence will, then, be admitted as an  
10 expert.