

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

CASE NO.: ICTR-00-56-I  
CHAMBER II

THE PROSECUTOR  
OF THE TRIBUNAL

v.

AUGUSTIN NDINDILYIMANA  
FRANÇOIS-XAVIER NZUWONEMEYE  
INNOCENT SAGAHUTU  
AUGUSTIN BIZIMUNGU

THURSDAY, 20 OCTOBER 2005

0908H

CONTINUED TRIAL

Before the Judges:

Joseph Asoka de Silva, Presiding  
Taghrid Hikmet  
Seon Ki Park

For the Registry:

Mr. Roger Kouambo  
Mr. Abraham Koshopa

For the Prosecution:

Mr. Ciré Aly Bâ  
Mr. Segun Jegede  
Mr. Abubacarr Tambadou

For the Accused Augustin Ndindiliyimana:

Mr. Christopher Black

For the Accused François-Xavier Nzuwonemeye:

Mr. Charles Taku

For the Accused Innocent Sagahutu:

Mr. Fabien Segatwa  
Mr. Seydou Doumbia

For the Accused Augustin Bizimungu :

Mr. Gilles St-Laurent  
Mr. Ronnie MacDonald

Court Reporters:

Mr. Sheriffo Jammeh  
Ms. Karen Holm  
Ms. Verna Butler  
Ms. Ann Burum

I N D E XWITNESS

For the Prosecution:

WITNESS ANH

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## P R O C E E D I N G S

1  
2 MR. PRESIDENT:

3 Good morning, ladies and gentlemen. Sessions are on. Appearances as before.

4

5 Yes, Mr. MacDonald -- Mr. Black.

6 CROSS-EXAMINATION (continued)

7 BY MR. BLACK:

8 Q. Why were you transferred to\*\*\*\*\*?

9 A. I was transferred to \*\*\*\*\* in order to be detained there because in Nyabisindu is a prison.

10 Q. And you have been detained there ever since?

11 A. Yes, I am at \*\*\*\*\*. Up to date I am still there.

12 Q. Do you know how many prisoners are in \*\*\*\*\*?

13 A. We were about 4,000 and a few hundreds when the last information on that matter was given to us.

14 Q. Are you held in a cell, or barracks, sort of, where you are kept at night?

15 A. I am detained in the large room in which each detainee has a bed, and each person occupies a room of  
16 about 400 millimeters.

17 Q. 400 millimeters, centimeters wide?

18 A. No, in fact, I talked about 80 centimeters width and two meters in height.

19 Q. And how many men are in that same room?

20 A. It all depends on the size of the room. There are several rooms of various dimensions. In some rooms  
21 are 200 detainees, and in others there are more than 200 detainees, so it all depends on the  
22 dimensions.

23 Q. How many men are held in the room you are in?

24 A. In the room in which I am detained, there are about 200 of us, detainees.

25 Q. Is that room the same size as this room; a bit bigger or smaller?

26 A. This courtroom is bigger than the room in which I am detained.

27 Q. Okay. Looking at this courtroom and it as a reference, can you indicate to the Judges how big your  
28 room is? Is it half the size of this courtroom, smaller, bigger?

29 A. These are the dimensions of the room in which I am detained: 10 meters by 12, and there are bunk  
30 beds in that room. Sometimes you even have beds in three levels that are superimposed, that is, three  
31 beds per bunk bed.

32 Q. And are you allowed visitors?

33 A. Yes, we are entitled to visits.

34 Q. And, again, to bring food, as well as, to see you -- to bring food and clothes, as well as to see you?

35 A. Yes, you are right. People come to visit the detainees, and those visitors bring to the detainees various  
36 items that the detainees request their family members to bring to them when they come to visit them, so  
37 that includes food and other items requested by the detainee.

1 Q. And for those prisoners who don't have family to come and visit them as supposed like in a penal jail,  
2 they have to rely on -- or hope that the other prisoners share their food with them?

3 A. Usually, the prison administration feeds detainees. We usually have breakfast and lunch every day.  
4 So if a detainee has no family members who come to visit him or her to give him or her food and other  
5 provisions, the prison administration is in charge of feeding them. So, there are rations for each  
6 detainee. Such rations are provided by the prison administration.

7 Q. I take it that since families bring prisoners food that the prison food itself is not very good, so they hope  
8 their families bring better food.

9 A. No, that is not true, because some of the detainees' family members come to visit the detainees without  
10 bringing any food. They simply come to talk to the detainees. So, if family members do not bring any  
11 food for the detainees, they may well content themselves with the food -- with the food rations provided  
12 by the prisons administration.

13 Q. The prison would prefer to have food brought in by families if they can?

14 A. No, it is not the wish of the detainees, since detainees in Rwanda are generally poor, ordinary citizens,  
15 in the prison, we are given porridge in the morning, and at mid-day, we have hot meal with oil. That  
16 means that the food we received at the prison is better than the food that people eat generally in their  
17 homes, since we are dealing with average detainees, detainees of an average class.

18 Q. And during the day, are you allowed out of that room?

19 A. Yes, that is allowed.

20 Q. For what purpose?

21 A. We do manual work inside the prison.

22 Q. What type of manual work do you do and for whom?

23 A. We clean the prison premises; for instance, we also do farming on the farms next to the prison. We  
24 also have a coffee and banana plantation which we take care of because we plant banana trees. We  
25 also cultivate vegetables. We also grow vegetables.

26 Q. Do you know who own the farms that you sometimes work on?

27 A. Yes, I know.

28 Q. And who are they, generally speaking, the owners of these farms?

29 A. The farms we have belong to the prison. The farms on which we work belong to the prison.

30 Q. What is the coffee and bananas -- are they used inside the prison or are they sold elsewhere as well, in  
31 the market?

32 MR. JEGEDE:

33 Your Honours, objection here. We've been treated all morning to architectural details of the prison, the  
34 diet of prisoners and what the prisoners -- I don't know for what purpose he is taking this line, if

35 Your Honours can ask him to tell us where he is taking us.

36 MR. BLACK:

37 It is quite clear Mr. Jegede's motivation for telling a story.

1 BY MR. BLACK:

2 Q. Can you answer the question, sir, as to the coffee and bananas and other things used only inside the  
3 prison or the product is sold in the open market?

4 MR. JEGEDE:

5 Your Honours, I made an objection. I believe I deserve your ruling.

6 MR. PRESIDENT:

7 If it is owned by the prisons, I think, mostly -- it is appropriate by the prison, maybe excess may be sold.

8 MR. BLACK:

9 That is what I want to know.

10 BY MR. BLACK:

11 Q. Those products sold in the open markets --

12 A. When we harvest vegetables, for instance, they are given to patients who are hospitalised. As for the  
13 other crops, what is harvested is sold, and 10 percent of the income is given out to detainees who  
14 participate in the farm work. That is all I can say regarding harvest that is sold.

15 Q. While you have been in prison, have you joined any prisoner committees?

16 A. What committee are you referring to?

17 Q. I am not referring to any committee. Do you belong to any prisoner committee of any type?

18 A. I am a member of the Gacaca committee, that is, the committee of the Gacaca court within the prison.

19 Q. What is the purpose of that committee?

20 A. The purpose of that committee is to sensitise our co-detainees to tell the truth and to make a  
21 confession, that is, to admit and confess to the role they played in the events that occurred in Rwanda  
22 during the genocide of 1994.

23 Q. Tell us how that works. When a new prisoner comes in, what happens? How does -- let me ask you  
24 this: Is every prisoner a member of that committee?

25 A. No, the committee consists of eight to ten members I'm referring to \*\*\*\*\* . Generally, a committee  
26 consists of a maximum of eight detainees.

27 Q. You are talking about a maximum of eight, ten detainees held in each room. Is that how it breaks  
28 down?

29 A. No, members of a committee are not necessarily detained in the same room.

30 Q. So, how many committees exist in \*\*\*\*\*?

31 A. There is only one committee in charge of Gacaca trials, and that committee is known as Ukuri.

32 THE ENGLISH INTERPRETER:

33 And it is spelt as follows: U-K-U-R-I.

34 BY MR. BLACK:

35 Q. Does Ukuri translate into English? Does it have a translation, or is it an acronym? Can the interpreter  
36 help? The word "Ukuri," sir, is that a word or is that an acronym?

37 A. That committee is known as Ukuri. Ukuri is a word pertaining to transparency, that is to say, it has to

do with carrying out activities in a transparent manner.

THE ENGLISH INTERPRETER:

The Kinyarwanda interpreter adds that Ukuri means the truth.

MR. BLACK:

Thank you, Mr. Interpreter.

BY MR. BLACK:

Q. So, these could be called truth committees, then? How does that work? How does that committee deal with the prisoners when they come in, in order to, as you said, quote, "sensitise them to tell the truth and do something to confess"?

A. The committee has a work programme. Every week, the committee may decide to work with people who hail from the former Nyabisindu *commune*, and we work according to *secteur*. We take those from the *secteur* of the *commune* concerned, we put them together, and if the *secteur* consist of three *cellules*, for example, the members of each *cellule* are set apart and we set up bureaus per *cellule* or committees per *cellule*. We start by asking questions, giving each detainee the opportunity to say what he or she knows about what happens in their *cellule*, for instance, how many homes or families were in the *cellule* in 1994, and we go round the *cellule*. Then, we count those who died in the *cellule*. Then, we draw up a list of those people. Subsequently, we talk about people who died in that *cellule* but who were not from the *cellule* per se.

And after that, we start with the first person on the list of the dead, and we ask questions regarding what happened. Everyone who has information concerning the death of that person stands up and explains circumstances in which that person died. If the person concerned participated in the killing of that person, we will talk about his role as well as that of any co-perpetrators. If he was only a spectator, he would relate what happened only. That is how we proceed.

So, as I said, we proceed by *cellule*, and after we finish with all the *cellules* in a *secteur*, we meet with members from another *secteur* and so on and so forth, until we finish with all the people from a *commune*, and then we move on to another *commune*, proceeding in the same manner. In each *commune*, there are people who confess and who make a guilty plea. Those are the people who try to persuade the co-detainees to do the same thing, that is, to confess. That is how the Gacaca committee in \*\*\*\*\* functions.

Q. So, each *cellule* a subcommittee is basically formed for each *cellule*, who will be placed in charge of the subcommittee, prisoners who already confessed and gone through this process?

A. Possibly. The person in charge of the committee at *cellule* level is someone who has already confessed or could be the reverse. It depends on each individual's understanding and their intellectual aptitude of the fellow detainees, since some detainees cannot write.

Q. When the conversation started halfway, do you know -- or the committee people, do they already know

1 what these people are charged with or accused of doing beforehand, that is, if they receive documents  
2 or word from the prison administration of what the allegations are against these prisoners in that  
3 committee?

4 A. No, we do not know the charges against each detainee.

5 Q. Do the prisoners know the charges against them when the committee is formed and set up?

6 A. The detainees know they are accused of taking part in the genocide and the crime of extermination.  
7 Generally, detainees who have already met prosecution officials are already aware of the charges  
8 brought against them.

9 Q. For those who do not know what they are charge -- of generally taking part in the so-called genocide,  
10 they have no other specific knowledge about the crimes they are charged with when they start meeting  
11 in this committee. It is the job of this committee to bring out the specifics of those charges or crimes.

12 A. Now, our committee is not supposed to update or expose crimes committed by individuals. We drop a  
13 report that we submit to the prosecution official, and based on that report the prosecution office -- the  
14 prosecution department summoned the detainees to inform them of the charges brought against them.  
15 So, it is not for us to disclose the charges brought against individuals. This work is for the public  
16 prosecution department.

17 Q. From what you just said, I take it then that during these meetings, prisoners stand up and if they  
18 confess to something, a report is made and handed up somehow to the prosecutor. The prosecutor  
19 based on that report from the committee, then brings the prisoners forward to meet them, and they tell  
20 them what the charges are based on that report. Is that correct?

21 A. I told you that in general the detainees are not aware of the charges they are facing. For those  
22 detainees who are not aware of the charges that they face, we drop a list of the detainees and we  
23 submit that to the prison authorities, who in turn forward it to the public prosecution department. And  
24 once the public prosecution department is aware of this, seize of the matter, it summons the detainee  
25 and informs him of the charges brought against him.

26 Q. That doesn't make sense to me. The prison authorities already know who is in the prison, don't they?  
27 They've already got a list of prisoners. Why would they need you to give them another list so they can  
28 be summoned to the prosecutor to be charged? When you make this report, it's not just a list of  
29 prisoners, it must be a report of what the prisoners have said in those meetings; isn't that correct?

30 A. If I gave you the answer I gave you, it was because you were saying that it was us; we were disclosing  
31 the charges to the detainee. But I told you that, in fact, what we did was inform the prison authorities  
32 that there were detainees who were not aware of charges they were facing, and the prison authorities  
33 then informed the public prosecution department, who would then summon the detainee so as to inform  
34 the detainee of charges against them.

35  
36 Now, with regard to the Gacaca, when we inform the detainees, we tell the prison authorities, who  
37 would then inform the public prosecution department. That is the sequence we follow.

1 Q. But what else is in this report when -- for those prisoners who know the charges and have already  
2 appeared before a prosecutor in some fashion and they are taken to these committees, I take it that a  
3 report is made of what goes on in the committee and who says what, who confesses and who doesn't  
4 confess, and so on; otherwise, why would a report be made?

5 A. Yes. During a committee meeting with the detainees, everything that is said is noted, and we draw up a  
6 report of what was said. And if some detainees do confess, then such detainees countersign our report  
7 before it is forward to the various authorities.

8 Q. I suppose at no time any prisoner is told that they have a right to remain silent until the charges against  
9 them are proved by the prosecutor; that they don't have to say anything?

10 A. Please repeat your question.

11 Q. I take it that at no time are the prisoner involved in these meetings told that they don't have to say  
12 anything to anybody; they have a right to remain silent?

13 A. Our task is not to tell the detainees to be silent; rather we are to tell them to tell the truth. If they decide  
14 to keep quiet, well then, nothing will be known and justice will not be served. The detainees must  
15 speak.

16 Q. And what happens to them if they refuse to speak, or reluctant to speak? What happens to them, or  
17 what influence is brought to bear to induce them to speak?

18 A. Each one has the right to speak or be silent, or not to speak. There is no punishment for those who do  
19 not -- we take down what is said by those who speak and we leave those who refuse to speak alone,  
20 because sooner or later they will have to talk, for instance, during their trials.

21 Q. Well, you've never had a trial, not in eight years.

22 A. Yes, I have not yet been tried.

23 Q. And that's true, the majority of the prisoners, they haven't had trials in many, many years; isn't that  
24 correct? That's what other prisoners have told us. Your situation is common, isn't it?

25 A. For some detainees, their trials have already taken place, and for others, their trials have just begun  
26 and some others have not yet been tried.

27 Q. Well, you said earlier that the committee attempted to persuade these prisoners to confess. What  
28 methods are used to persuade them?

29 A. I have already answered that question, but I will repeat it. We gather natives of *communes* and we sort  
30 them out by the *secteur* where they come from, and then we break that down to *cellules*, and each  
31 *cellule* deals with events that took place in that particular *cellule*.

32 Q. I am not interested in the structure of those meetings; I am interested in what goes on inside the  
33 meeting. What methods are used to persuade prisoners attending a meeting to confess, or to talk?  
34 You said you try to persuade them to talk; how do you do that?

35 A. In order to sensitise them to confess, we used, for instance, the word of God; for the word of God  
36 makes it possible for people, once they know it, to confess their crimes and, once they have confessed,  
37 to ask to be pardoned. So I would say, generally speaking, we use the Good News; the word of God to



1 convince the detainees.

2 Q. One of the Ten Commandments says: "Thou shall not bear false witness." So, how again do you use --  
3 how do you use the Bible or other methods to persuade people to talk when the Bible says it's a sin to  
4 say things which are not true?

5 A. We do not force them to lie; we encourage them to tell the truth. The word of God says, "We should go  
6 towards them and encourage them to confess their deeds and to ask for forgiveness." If you read the  
7 word of God, you will find a passage that says one should go towards sinners to ask them to confess  
8 their sins.

9 Q. One of the prisoners stands up to you and say "Look, that's fine, but I didn't do anything wrong. What  
10 are you talking about? So I'm not going to confess to anything. I don't know what you are talking  
11 about. So, what do you do then?

12 A. That scenario is possible, and it does happen sometimes. A detainee can say -- get up and say he has  
13 nothing -- he has done nothing wrong and therefore he has nothing to confess. And it is possible that  
14 that person is innocent, and sometimes the detainees will corroborate that person's story to say he is, in  
15 fact, innocent. You should know that during those sessions we do not just talk about the criminals, we  
16 also talk about those who are innocent. The detainees take the floor to say such-and-such has been  
17 falsely accused. I am the perpetrator of the crimes he's been accused of, and so it happens that  
18 detainees exculpate fellow detainees during the Gacaca hearings.

19 Q. Gacaca hearings where? Gacaca hearings inside the prison?

20 A. Yes, we have hearings in the prison for that purpose.

21 Q. To be clear, you have Gacaca trials inside the prison?

22 A. No, these are not trials. What we are doing is encouraging our fellow detainees to make confessions  
23 and ask for pardon -- to be pardoned, at least, in the case of those who acknowledge that they have  
24 committed crimes. We also sensitise the detainees about the law. We inform them about the law  
25 because there are provisions -- legal provisions providing for those who confess to be given reduced  
26 sentences. It is part of the procedure of the guilty plea that one can make a confession and ask for  
27 forgiveness of the victim, thereby obtaining reduced sentences.

28 Q. It is also part of that law that for a confession to be accepted prisoners have to name other people --  
29 other people involved, allegedly, in those crimes, correct? They have to denounce others to get that  
30 benefit?

31 A. Yes, you are correct.

32 Q. What happens, then, when a prisoner, as I said, stands up and says I am not -- in fact, what does the  
33 committee say -- does the committee say you are charged -- well, people say you did this and that in  
34 this area, what do you have to say about that, or they're just asked to stand up and say why they think  
35 they have been arrested?

36 A. First of all, we draw up a list of the Tutsis who died in a cellule. We start by citing the names of the  
37 Tutsis killed on the list, and then we ask, for instance, which of you are aware of Rubiogo -- say,

Rubiogo's death? Say, if somebody knows about Rubiogo's death, he gets up and talks -- testifies, and if that person, in fact, killed Rubiogo, he says it, confesses it and mentions his fellow perpetrators. And if anybody else in attendance is aware of the circumstances of that person's death, then that participant can stand up and testify. That is how the work is conducted.

Q. What happens if everybody in every committee stands up and say you know what, we are not guilty to anything; these are all false charges; we are not going to participate in this process any longer; we are being asked to denounce each other in a circle; we are all asked to denounce each other and want to get out of here and the whole prison population says we are not going take part in this, what would the prison authority do then? What's going to happen to you?

A. I can only speak for what happens in \*\*\*\*\*, where I am. This procedure was not imposed on the detainees; it is the detainees who called for that procedure to be implemented in the prison so that the perpetrators would be known according to where they came from. And if the detainees refuse -- had refused to apply that procedure, the prison authority would have had no choice but to leave them alone.

Q. So, if several people or committees say that prisoner X over there committed this crime in this area and he stands up and says that's a lie, I'm I confessing to that, what happens to --

MR. JEGEDE:

Objection, Your Honour. I think, we were going into the region of conjecture here. What is -- what is he doing -- I don't know where he is taking us. He's asked about four questions now, what if this, what if this happened. This is speculative. And you are not allowed to ask speculative questions because this trial would be tried on facts given by the witness and not a speculation.

MR. PRESIDENT:

Since there are no coercion witnesses, if they want to be silent, they can be silent.

MR. BLACK:

Well, isn't that the essence of the question?

MR. PRESIDENT:

No, you said if they don't speak what happens. Nothing happens because prisoners, at least, can't do anything.

BY MR. BLACK:

Q. I'm going to ask you this question: When a prisoner is denounced in the committee by other prisoners and then he stands up and says that's not true, I'm not confessing to anything, what happens to that man? What do the other prisoners -- how -- what's the attitude of the other prisoners?

MR. JEGEDE:

Objection. I object vehemently to this question. It's the same line of questioning that he is towing up. The witness has said the system itself was designed by prisoners themselves, not the authorities.

MR. BLACK:

Do you believe that, Mr. Jegede?

MR. JEGEDE:

1 I believe -- I believe wholeheartedly all that he said today.

2 MR. BLACK:

3 Really?

4 MR. JEGEDE:

5 Yes.

6 MR. BLACK:

7 Do you believe that the prison authorities don't have any influence on these prison committees being?

8 MR. JEGEDE:

9 Well, it's for you to find that out.

10 MR. BLACK:

11 You will be naive if you think that.

12 MR. JEGEDE:

13 Look, it's -- the -- the best -- I don't know, Your Honours In every trial, there are rules guiding a trial,  
14 whether in adversarial setting or under the continental system. Now, I don't know where Mr. Black got  
15 this manner of the way he is conducting his case. I don't understand it at all. He takes us forward and  
16 takes us backward. He wants to run this Court. This is a clear usurpation of the functions of this Court.

17 MR. BLACK:

18 I don't know what he is talking about.

19 BY MR. BLACK:

20 Q. So can you answer the question: If a man is actually denounced by other prisoners in the committee,  
21 he stands up and says this is not true, what happens to him?

22 MR. JEGEDE:

23 That is speculative.

24 MR. BLACK:

25 It is not; he is in the committee. He did tell us.

26 MR. JEGEDE:

27 It is speculative.

28 MR. BLACK:

29 Mr. President, please tell that man to sit down; it's not speculative. This man is in the committee; he  
30 can tell us what happens. It's not speculative.

31 MR. PRESIDENT:

32 He has already said so, Counsel.

33 MR. BLACK:

34 I haven't got an answer satisfactory to me.

35 MR. JEGEDE:

36 It is speculative.

37 MR. PRESIDENT:

1 He can't give an answer to satisfy you, he can only give an answer, it doesn't matter. He has already  
2 said that if a person says he has nothing to do, he is left alone.

3 MR. BLACK:

4 And I am asking -- I am allowed in cross-examination to ask questions multiple times because you don't  
5 believe the answer. I'm not allowed to ask once, that's not cross-examination.

6 MR. PRESIDENT:

7 Cross-examination does not mean that you can put the question ten times. That is not  
8 cross-examination.

9 MR. BLACK:

10 I haven't brought it ten times.

11 MR. PRESIDENT:

12 How many times have you put that now? You've gone more than five times.

13 MR. BLACK:

14 We wasted ten minutes on this one question, which could have been answered in 30 seconds. Are you  
15 ordering me not to ask the question?

16 MR. PRESIDENT:

17 What is the question now?

18 MR. BLACK:

19 The same thing.

20 BY MR. BLACK:

21 Q. If prisoners in the committee are openly denounced in the committee, a prisoner denies those  
22 allegations, what happens to that prisoner?

23 MR. PRESIDENT:

24 If a person says he doesn't want to confess, what happens to that person?

25 THE WITNESS:

26 Nothing happens to him. We note down statements of the detainees. We also note down statements  
27 of their accusers and other co-detainees who exculpate him. Everything goes into a report, nothing  
28 more.

29 MR. PRESIDENT:

30 Do you force anybody who says he has not done anything to say yes, -- that that he has done  
31 something?

32 THE WITNESS:

33 No, we do not coerce anybody to make a confession. Our meetings are held within the framework of  
34 the work of the Gacaca courts. The objective is to bring the truth to light. All we do, therefore, is to  
35 write down what the detainees tell us. We do not force them to say anything whatsoever.

36

37 BY MR. BLACK:

- 1 Q. Except by telling that if they don't confess they are not going to be released. Isn't that correct, that only  
2 those who confess and denounce others have the chance of being released or pardoned?
- 3 A. We tell them that anyone who is falsely accused will be acquitted. That is what the Gacaca court is all  
4 about. By the way, trials at Gacaca courts started on hills. We, therefore, tell the detainees that those  
5 who will be proved innocent will be acquitted, and those who confess will have their sentences reduced.
- 6 MR. PRESIDENT:
- 7 Counsel, I think, just because a man confesses, he can't go home, as you suggest. He has confessed;  
8 he is still there.
- 9 MR. BLACK:
- 10 Well, I'm going to get to that.
- 11 BY MR. BLACK:
- 12 Q. But the prisoners know, sir, from experience that there is no possibility of being acquitted because they  
13 have no ability to arrange defence -- to arrange defence witnesses, have lawyers to defend them, or  
14 anything like that. These Gacaca hearings, people just come and accuse them. So, how could -- you  
15 know very well that no prisoner has ever been acquitted going through this process, including you.
- 16 A. No, I do not agree with you. There are detainees who have been acquitted, whereas they did not have  
17 lawyers to defend them.
- 18 Q. Why are you still in prison? You said you confessed eight years ago, why are you still sitting there?
- 19 A. That question can perhaps be answered by the Rwandan government authorities.
- 20 Q. Sir, you were a \*\*\*\*\* in your -- I can't name the name, but you have some intelligence of how  
21 things work in the system. You must know your own case file; you must know what your status is. Why  
22 haven't you been released if you confessed? You must know.
- 23 A. I am not in a position to know anything; all I know is that I am still waiting for my trial in the  
24 Gacaca court. I am not the only one left in prison. There are people who were detained before me who  
25 are still in prison. Gacaca trials have started. When my turn comes, my problems will be resolved.
- 26 Q. Have you met with the prosecutor in charge of your file?
- 27 A. I have met with the prosecutor in charge of my file.
- 28 Q. When was the last time you met with that prosecutor?
- 29 A. That was when he interviewed me and wrote down a report on that interview.
- 30 Q. So, I take it that the last time you saw the prosecutor was 2001? You met the prosecutor in 2001, four  
31 years ago?
- 32 A. I met the prosecutor on the 23rd of May 2001, and on that occasion he put a few questions to me.
- 33 Q. In those questions you admitted to -- you confessed to -- you stated that certain things happened.  
34 What did he tell you that was going to happen to you now that you said that?
- 35 A. The prosecutor told me that since I had made a confession, asked for forgiveness and since I did so  
36 before I was brought before the Rwanda courts, I would receive a reduction of my sentence in  
37 accordance with the law; in accordance with provisions of the law regarding that subject.

1 Q. So your sentence would be reduced from what to what?

2 A. I do not know. The law provides that -- that only the Gacaca courts can place an accused person under  
3 a particular category. I cannot place myself under any category as provided for in the Gacaca court.

4 Q. What about the regular court system? You are not going to make an appearance for a trial in the  
5 regular court system? You have no right to a trial like that?

6 A. Only the Gacaca court handling my file can send me to an ordinary court, but that can only be done in a  
7 case where I am placed under the first category. So it is the Gacaca court that has to decide whether I  
8 should be referred to a conventional, court depending on the category under which I would be placed.

9 Q. That is not true, sir. The law stipulates what category you are under, depending on the crimes you had  
10 alleged against you. You are alleged to have committed mass murder --

11 MR. JEGEDE:

12 This man is not a lawyer, so why is he taking on -- taking him on in a legal argument? He is not a  
13 lawyer -- he is not in any way -- he can't help us in this case.

14 MR. PRESIDENT:

15 He is talking about his understanding of the law, so he will (*inaudible*).

16 MR. BLACK:

17 No, sir, he is not. He is a man who is in prison for eight years. You can't tell me he doesn't know the  
18 status of his file, what's going to happen with him in the future. I can't believe that. Nobody in this room  
19 could believe that. He doesn't care what his status is; he doesn't care what's going to happen to him.  
20 He doesn't know what sentence he would have got, so when he gets the sentence, he doesn't know if  
21 it's going to be reduced or not. I can't believe any of that.

22 MR. PRESIDENT:

23 But he said that he has already been told that he will get a reduced sentence.

24 MR. BLACK:

25 From what to what. He can't tell you. Reduced sentence from what? If he gets a sentence, he doesn't  
26 know if it's reduced or the normal sentence. So he's never been told what a reduced sentence will be.

27 MR. PRESIDENT:

28 But no one is informed that he is going to get this sentence and it would be reduced.

29 MR. BLACK:

30 Exactly. That's what I'm saying to him.

31 BY MR. BLACK:

32 Q. So you've never been told what sentence you would have got if you haven't --

33 MR. PRESIDENT:

34 I think I remember some person got the -- the period that he spent in the prison was set off against the  
35 sentence. One person came and said so.

36

37 MR. BLACK:

1 That's right. If you remember that prisoner -- if you set off the amount he was supposed to get  
2 reduction for, he should have been released five years before, and he is still in prison.

3 MR. PRESIDENT:

4 But, then, that is the system.

5 MR. BLACK:

6 It's not the system; they are being held hostage here.

7 BY MR. BLACK:

8 Q. Sir, you don't know, then, if you are going to get a reduce sentence because you have never been told  
9 by the prosecutor what your sentence would be if you didn't confess, right? So you can never know if  
10 you going to get a reduced sentence; that's what you are telling us?

11 A. When I met the officer from the office of the prosecutor on the 19th of December 1997, I explained the  
12 offence I committed, and he told me that since I was doing so before having been tried, I would be  
13 placed under the second category. That was, therefore, the category under which the prosecutor  
14 placed me on that occasion.

15 Q. So, you know the range of sentence but you don't know the actual sentence they would give you? Did  
16 he tell you what sentence they will seek for you that now you confessed? Did he say, "Now I'm going to  
17 try and get 8 years, 12 years, 15 years, 4 years"? Did he give you an indication at all what he was  
18 going to try and get for you?

19 A. No, he told me nothing of the sort. He did not tell me what sentence he was going to request for me.

20 Q. Is that because your sentence depends on your testimony, both in the Gacaca hearings and before this  
21 Tribunal? They want to see what you are going to say and whether you continue to maintain your  
22 confession or not?

23 A. Actually, it is the Gacaca courts that determine the category of each offender, so I would be tried in  
24 accordance with the category that would be determined by a Gacaca court.

25 Q. Do you have a date for hearing in either the Gacaca system or the regular court system for a trial or  
26 hearing? Do you have any date at all? Is it pending your testimony in this trial here?

27 A. My testimony in this trial has nothing to do with my trial in Rwanda. My trial in Rwanda will depend on  
28 the manner in which I will defend myself before the judges in accordance with Rwanda law, but that will  
29 not depend on my testimony here before this Tribunal.

30 Q. I am going to give you a name on a piece of paper, and I want you to tell me if you know this person.

31 MR. BLACK:

32 If the -- Mr. Registrar, could you --

33 MR. PRESIDENT:

34 Yes. Can he read?

35 MR. BLACK:

36 He was a \*\*\*\*\* he must have been able to read.

37 BY MR. BLACK:

1 Q. Do you recognise that name, sir?

2 A. Yes, I know this person.

3 Q. Is that person -- he is also in the same prison -- was he also in the same committee as you are?

4 A. Yes.

5 Q. Thank you.

6 MR. BLACK:

7 Perhaps I will make an exhibit -- that name was Witness ANA, who testified here previously.

8 MR. PRESIDENT:

9 At this stage Counsel Black writes the name of a witness who had given evidence in this case and

10 witness recognises that named person and counsel made (*inaudible*) pseudonym is ANA.

11 MR. BLACK:

12 To be marked as a sealed exhibit.

13 MR. PRESIDENT:

14 Name written on the paper is marked as D. 74 [Ndindiliyimana].

15 (*Exhibit No. D. 74 [Ndindiliyimana] admitted, under seal*)

16 MR. JEGEDE:

17 Under seal.

18 MR. PRESIDENT:

19 It should be kept under seal.

20 BY MR. BLACK.

21 Q. Just one last question in this area. So when -- what's the purpose of meeting with the prosecutor --

22 MR. JEGEDE:

23 If you could put the pseudonym of the witness on the paper.

24 MR. BLACK:

25 Perhaps Mr. President could do that. It is ANA.

26 BY MR. BLACK:

27 Q. When that person whose name I showed you was in the committee with you, were you involved in his

28 confession or was he involved in yours?

29 A. When we met, each of us had given a confession separately.

30 Q. In different committees or in the same committee?

31 A. We were members of the same committee.

32 Q. And therefore, you know what he said; he knows what you confessed to?

33 A. I knew a few points in his confessional statement.

34 Q. And that's because you've seen that statement at some point?

35 A. A confessional statement by a detainee is confidential, and it is kept by the detainee. A copy is kept by  
36 the prison authorities. You cannot have access to such a document.

37 Q. So I take it that, since you knew some of the points in the confession, is because he told you those



1 points himself?

2 A. During Gacaca court session, when someone talks about his acts, we take cognizance of that. It was  
3 therefore, not necessary for him to tell me of his confessional statement because, as I told you, during  
4 Gacaca court sessions, it is not a trial per se. So a witness or a detainee can ask another detainee to  
5 talk about some of what is in his confessional statement.

6 Q. So in the committee -- these hearings of the committee, as you say, he would have mentioned what  
7 was in his confessional statement?

8 A. I told you that when the circumstances in which somebody died are explained, that is written down. It is  
9 not the committee that drafts the confessional statement of a detainee, and I told you that the members  
10 of a committee are people who have already given a confessional statement.

11 Q. I want to ask you straight up. You said you knew some of the points of the confessional statements,  
12 that they are confidential. You must have found out somehow what was in his confessional statement.  
13 How do you do that?

14 A. When people live together, they talk to one another. They have discussions. That is, how I came to  
15 know about it, but I did not go into details such as to know all the points in his confessional statements,  
16 because I wasn't conducting an investigation. So it is thanks to conversations with co-detainees that  
17 you may be informed of some of the points in that person's confessional statement.

18 Q. Now, you want to get out of this prison, don't you?

19 A. Yes. Every detainee would, by all means, like to be released, because, as you would understand,  
20 detention is always detention.

21 Q. Right. You miss your family, correct?

22 A. You are right. When you spend so many years outside of your family, you would be anxious to join  
23 members of your family. Even the detainees here in Arusha would like to join members of their  
24 families.

25 Q. And the only way you can do that is to confess, correct, because the likelihood that you will have a real  
26 trial is slim, so your only hope is to confess, denounce others, and hope that you are forgiven and  
27 pardoned, correct?

28 A. The organic law relating to the setting up of Gacaca courts provides that anyone who gives a  
29 confession would have his sentence reduced. I'll probably have to accept whatever sentence will be  
30 imposed on me, and I shall serve that sentence wherever I am sent to serve it.

31 Q. You wouldn't have confessed if you expected to get a life sentence -- the rest of your life in prison. You  
32 are hoping for something less than that, or a complete freedom, isn't that correct, even though you  
33 confessed to mass murder?

34 A. No, no, no. I was prompted by my conscience. When I was handed over to the Rwandan authorities, I  
35 knew I ran the risk of getting even the death sentence, but I wanted to save my soul.

36 Q. You can always save your soul if you seek God's forgiveness, but I'm talking about the national state  
37 government of Rwanda. You expect them, if you confess, to either reduce your sentence down from a

total life sentence down to something lesser or complete freedom; isn't that the case? Otherwise, you wouldn't be bothered to confess.

A. No. When I handed myself over to the Rwandan authorities, the law relating to the setting up of the Gacaca courts had not yet been enacted.

Q. My suggestion, again, is that you didn't hand yourself into the police; you were arrested.

Anyway, I put it to you that your sentence, what happens to you in whichever system you are dealt with in Rwanda depends upon your testimony here at this Tribunal, in part or, at least, if not totally. Isn't that correct?

A. No, no. I do not agree with you. First of all, I was not arrested. I told you that I was prompted by my conscience to hand myself in to the Rwandan judicial authorities. Besides, I do not come to give evidence here to influence my sentence. I shall be tried on the basis of Rwandan law, and I would, therefore, be sentenced on that basis. That is the situation exactly as it is.

Q. You have not in eight years seen one document charging you with anything, have you? You said to the authorities", I did this; I did that, but nobody has ever charged you with anything. You are not even held legally. Nobody has charged you before a court with these certain crimes. You've just been picked, arrested, or turned in, as you said, and just held with no charges laid which you are aware of. That is what you said yesterday.

A. No, I told you I was told that I was accused of genocide and criminal enterprise. Go through your notes and you will find that.

Q. That is not a charge at all. They have to charge you with specific events, specific crimes, killings, specific persons, specific times, specific places. You have never received any document stating what those crimes are; have you, never in eight years?

A. When I will appear before the Gacaca court, I will be given a reading of all these charges, and I will defend myself accordingly.

Q. So you don't know them right now, sitting here today? You don't know what the charges against you are, apart from the general use of the term "genocide"?

MR. JEGEDE:

Objection, Your Honours. It is stated several times here during his testimony in-chief and now that they told him what the charges were and that when it is his turn to appear before the Gacaca court, the entire thing would be read to him and he would answer the charges accordingly. That's what he said, so why are we going on with what is just --

MR. BLACK:

Well, okay, it is quite clear you have never been presented with a formal charging document, so you are held illegally.

BY MR. BLACK:

- 1 Q. So your conscience dictates everything. What was your conscience doing in April 1994?
- 2 A. I told you that during that time I was still living in ignorance, but when the time came, my conscience  
3 dictated that I take another path.
- 4 Q. I thought you are a Seventh Day Adventist.
- 5 A. Absolutely, I was. At least, I had grown up in that faith by tradition.
- 6 Q. And the teachings of that faith are quite strict and quite rigid and quite clear, aren't they?
- 7 A. I quite understand you, Counsel, yes. This church has clear-cut lessons, but we don't always  
8 internalise that message the same way. When we go to school, for instance, some passed and others  
9 failed. So, yes, I was an Adventist at the time; I would go and worship. I was counted as an Adventist  
10 and nothing else.
- 11 Q. So your conversion to a full understanding of the faith only happened when -- after you've been,  
12 according to you, sensitised in prison; is that correct?
- 13 A. It happened when I was still in Burundi. My conscience prompted me to return to Rwanda. That did not  
14 happen when I was in detention. I decided to go back home, confess, and asked to be pardoned.
- 15 Q. You are telling us that you had some sort of conversion like Paul on the way to Damascus. There was  
16 suddenly a light in the sky and God came down and look you better think again? What happened on  
17 those four days? You said your conscience was telling you to flee to Burundi, and four days later you  
18 are going back to Rwanda to turn yourself in and face the death penalty.
- 19 A. Yes, that is what happened. My conscience dictated that I go back to Rwanda, confess, and I followed  
20 my conscience. Now, as for Paul, that is the same message today.
- 21 Q. You can't tell us what changed your conscience from -- before entering Burundi, you were going to flee  
22 and escape. You never confessed to anybody. Four days later you changed your mind. You can't tell  
23 us what prompted that change in your conscience? Did you hear some words from God or something?
- 24 A. You know, God is to be found in the heart of every man. If it is your conscience that can mislead you, it  
25 is also your conscience that can lead you back to the right path. And my conscience in 1994 led me  
26 astray, but when I was in Burundi in March 1997, my conscience spoke to me, told me I should return  
27 and confess so that the rights of persons would be restored and the guilty punished.
- 28 Q. How did your meeting with the ICTR investigators come about? Can you tell us about that?
- 29 A. As I said, I am detained in \*\*\*\*\*. When someone comes in search of a detainee, the prison director  
30 summons that detainee to meet the visitor. I heeded the call, and the person -- the persons who came  
31 to see me introduced themselves. They said they were working for the International Tribunal. They  
32 questioned me, and I answered their questions according to my knowledge. Those are the  
33 circumstance under which we met.
- 34 Q. When was the first time you met with these -- with the ICTR personnel? Because you said you've met  
35 with them at least four times.
- 36 A. I do not remember the exact date, but I think the first time I met them was before the year 2000, or early  
37 in 2000 and they came also during the year 2000 --

1 Q. What did they want to talk about?

2 A. The first ones who came to see me asked me about the events and acts committed by the clergy in  
3 1994. I had no information about that, and the others who came to see me took my statements on the  
4 8th of November 2000. They asked me questions about the actions of gendarmes in Nyabisindu in  
5 April 1994.

6 Q. The statements that you had nothing to say about the clergy can't be correct because you said there  
7 were at least three previous interviews and your evidence was about the activities of the clergy. If you  
8 had nothing to say to them about the clergy, they would never have come back after the first time. So  
9 you got three interviews; they came back to talk about the clergy three times, and you say, "My  
10 evidence was about the activities of the clergy," so you must have told them something about the  
11 clergy. That's what you say in your statement here. So, what did you tell them?

12 A. When one is conducting an investigation, one goes more than once. He thought I had information to  
13 give, and, if that is the case, then he could have come three, four, or five times, and then I would give  
14 answers according to what information I have.

15 Q. I don't know what the (*inaudible*) could do, I want to know what you did do. You said that they came;  
16 you had nothing to say to them about clergy, but that can't be so when they came back two more times,  
17 at least, to see you about the clergy. That can't be true. You must have had something interesting to  
18 say about the clergy, so what was it? And you go on to say that "My evidence was about the activities  
19 of the clergy." You must have told them something. Why are you telling us today that you didn't?

20 A. They did not ask me questions. Yes, it is true that they asked me questions about the clergy, but I  
21 know the statement I signed. So, if you do not see my signature on a statement, you must take it that I  
22 did not give testimony on other occasions.

23 Q. I don't understand what you are saying in that answer. They came to see you the first time. How many  
24 people came the first time?

25 A. Three people came to see me the first time.

26 Q. And you remember who they were?

27 A. No, I do not know their names.

28 Q. Do you remember the names of the people who took the statements you made, I have here, on  
29 8th of November 2000. Do you remember the names of those persons?

30 A. I could not have remembered all those names; all I know is that they were representatives of the  
31 International Tribunal for Rwanda.

32 Q. Were they different people each visit or the same people for each visit?

33 A. Different people would come to see me; those who would come to see me on a given day would be  
34 different from those who came to see me the following day.

35 Q. On the first visit, what did you talk about? They came in -- were you placed in some sort of interview  
36 room to meet them inside the prison?

37 A. We spoke outside the prison.

- 1 Q. Where?
- 2 A. In a room at the public prosecution department.
- 3 Q. Was a member of the public prosecution department present in the room as well?
- 4 A. No.
- 5 Q. Was there a policeman in the room with you?
- 6 A. There was none.
- 7 Q. That first meeting, did they tell you why they want to speak to you, what interested them about you?
- 8 A. We spoke; they introduced themselves, saying they were working for the International Tribunal for  
9 Rwanda. They asked me questions, and I provided answers based on what I knew. Here I am  
10 referring to the time they came to question me about actions of gendarmes.
- 11 Q. My question was quite clear, sir. I am talking about the very first meeting, you said -- I thought that was  
12 the one outside the prison. I am talking about the very first meeting you had when they came to ask  
13 you about the clergy. Where did that meeting take place?
- 14 A. On each occasion, we would meet outside the prison.
- 15 Q. This first meeting, where did that meeting take place, in the public prosecution department in \*\*\*\*\*?
- 16 A. Yes, in a room at the public prosecution department of \*\*\*\*\*.
- 17 Q. And these people from the ICTR, did they tell you how they came to know about you and why you seem  
18 to be of interest to them?
- 19 A. I noticed I had been called, but they did not tell me how they learnt of my existence. I heeded the call.
- 20 Q. And, of course, you never asked why they were interested in you, right?
- 21 A. Yes, I did ask them, and they answered that they wanted us to give them information on the killings that  
22 had taken place at Nyabisindu. And whenever we had some information, we would provide it to them.
- 23 Q. Who is "we"? Was there more than one prisoner in that room at the same time?
- 24 A. I mean the representative of the International Tribunal who had come; they were three, and we were  
25 speaking to them.
- 26 Q. You are saying again "we were speaking to them". Who is the "we"? You and who else?
- 27 A. I mean the person being interviewed by the representative. At that particular time, the representatives  
28 of the Tribunal were speaking to me, questioning me.
- 29 MR. PRESIDENT:
- 30 When you were interviewed, were you alone? That is the question. Answer was, we were questioned  
31 (*inaudible*). So, the counsel wants to know whether you were alone, whether there was another person  
32 with you, another detainee, or any other person. Were you alone in that interview?
- 33 THE WITNESS:
- 34 I was alone with the representatives of the International Tribunal.
- 35 BY MR. BLACK:
- 36 Q. Why did you say twice -- why did you use the word "we"?
- 37 A. An investigation was being conducted on many people. The investigators may have spoken to other

1 detainees, but we did not go into the room at the same time. We would take turns to explain what  
2 happened. They could take three, four, or five people out of the prison at a time, but they would only  
3 speak to one individual at a time.

4 Q. In this first meeting, you said you asked them why they were interested in you, so what did they tell  
5 you? This is the first meeting.

6 A. That first meeting, they asked me questions about the actions of a priest named  
7 Omistas Sengimana (*phonetic*), if my memory serves me right.

8 Q. Did you tell them anything about this man?

9 A. I told them he was a priest, a Catholic priest. I knew he was a father at \*\*\*\*\* . But I told them that if  
10 they wanted information on that priest they should go and speak to that person's neighbours. I told  
11 them he was not my neighbour but that he had neighbours that they could contact. So I gave them the  
12 names of those neighbours so that they could be questioned.

13 Q. How long did that interview last, roughly?

14 A. It was not long because they could not put any further questions to me since I told them I did not know  
15 much.

16 Q. When did they come back to talk to you about the clergy again?

17 A. I know they came again, but I cannot give you the exact date. I did not commit it to memory. They  
18 asked me questions again, and I said I did not know anything, but they asked me the name of the  
19 person who had information about the clergyman in question. That is what happened on that day.

20 Q. So they came back to ask you again about the same man?

21 A. Yes, they came to ask me questions on that clergyman, I told them that I knew nothing about him and  
22 they asked me for the name of a person who knew the priest. They found that person and interviewed  
23 him.

24 Q. Well, how do you know they did that?

25 A. I know because when I went back to prison -- rather, I noticed that he was summoned to the prison and  
26 you know, when someone is your neighbour, you do speak. Therefore, he told me.

27 Q. Who told you the contact of this man again, the man you named? He told you the ICTR came to see  
28 him. Is that what I understood?

29 A. I told you the prison authority called him, questioned him, and after this questioning, he told me that he  
30 met with the investigators. And since he is a fellow detainee, we were together in the prison.

31 Q. And then they come back a third time. Why did they come back a third time?

32 A. They returned on a third occasion and wanted to keep talking to the clergyman's neighbour. At that  
33 point, they asked me a question, they said, regarding actions of any other clergyman, and I told them  
34 that I did not know anything about what the clergyman had done. And our conversation ended shortly  
35 thereafter.

36 Q. Was that interview with the neighbour in the room as well -- this man you named to them?

37 A. He is a fellow detainee, but we do not live in the same room. We meet in the inner prison yard, but we

1 do not sleep in the same quarter.

2 Q. My question was when the ICTR came to speak -- I got the impression that you and a neighbour were  
3 interviewed together, am I incorrect in that or correct?

4 A. That is not what I stated. I was questioned alone, and he, too, was questioned alone.

5 Q. What is his name?

6 A. I believe it is out of place to give his name in open session, and I have been told this session is an open  
7 one.

8 Q. Why would it be out of place to give his name?

9 MR. PRESIDENT:

10 He is a neighbour.

11 MR. BLACK:

12 He is a neighbour in prison. He hasn't been in that area for eight years.

13 MR. PRESIDENT:

14 If you want, we can ask him to write the name if you really want.

15 MR. BLACK:

16 Can you write down the name, then?

17

18 All right. While we are looking at (*inaudible*), let me --

19 MR. PRESIDENT:

20 We will take a break now. Court is adjourned for ten minutes.

21 (*Court recessed from 1103H to 1123H*)

22 MR. PRESIDENT:

23 Mr. Prosecutor, how many witnesses do you have now for next week, apart from this one?

24 MR. BÂ:

25 This week, we don't have another witness, but we have two witnesses for next week, and those are OX  
26 and Major Luc Lemaire.

27 MR. PRESIDENT:

28 Mr. Black, you can conclude a little early.

29 MR. BLACK:

30 I might be able to do so.

31 (*Pages 1 to 21 by Sheriffo Jammeh*)

32

33

34

35

36

1 1130H

2 BY MR. BLACK:

3 Q. All right, sir. So on the third meeting with the ICTR, you were again asked about the same clergyman,  
4 or other ones?

5 MR. BLACK:

6 I don't know if he got that. Is his mike -- oh, there we go.

7 THE WITNESS:

8 I was questioned on the same priest, and I said I did not know anything on him. I told them about  
9 people who knew him. I gave them the name of a person who knew him, and I asked -- I told them they  
10 could go and contact that person if they needed any more information.

11 BY MR. BLACK:

12 Q. So each time they came to talk about this priest, they only came to get names of other people who  
13 could tell them about the priest; you never gave any information yourself?

14 A. I did not give them any information on that priest; you are right.

15 Q. And during those sessions with the ICTR, discussing the priest, when you said, "Like, I've got nothing to  
16 tell you about this priest, but I can tell you about some other people like Kayitana and this gendarme  
17 captain," why didn't you mention that?

18 A. Counsel, when someone puts a question to you, you cannot circumvent that question and answer a  
19 question that was not put to you. All you have to do is to answer questions put to you. Otherwise, you  
20 would either be circumventing the question or digressing.

21 Q. Sir, it's not a matter of digressing or circumventing a question. Questions aren't orders or rules, sir.  
22 They asked you a question, "Do you know anything about a priest?" You say, "No," but you could have  
23 said, "You know what? I've got something better than a priest to tell you about. Are you interested in  
24 this?" You could have said that very easily, and they would have said, "Wow, tell me. Tell us more."  
25 You didn't do it, did you?

26 A. I told the investigators of the Tribunal that I knew nothing regarding that priest. I pointed out to them a  
27 person who knew him, and I told them they could go and contact him, to question him with regard to  
28 that priest.

29 Q. Well, then, if you never mentioned Kayitana, the *sous-préfet*, or this gendarme captain you talk about,  
30 to the ICTR on those three previous occasions, why did they come back the fourth time to ask you  
31 about this gendarme captain?

32 MR. JEGEDE:

33 Objection, Your Honour. He can't answer that question.

34 BY MR. BLACK:

35 Q. All right. Why did they tell -- what did they tell you about why they came back the fourth time to talk  
36 about a gendarme captain and Kayitana? How did they know you knew anything about that?

37 A. The investigators who came the fourth time asked me whether I was aware of the acts of gendarmes in



1 Nyabisindu, and I told them I knew something about that.

2 Q. What -- why -- did they tell you why they thought you knew something about that? Because up until  
3 that point, as far as I'm aware, you hadn't mentioned gendarmes to anybody, except in passing -- no,  
4 prior to 2000, as far as I'm aware.

5 A. The investigators who asked me questions about the gendarmes are not the same ones who put  
6 questions to me about the priest.

7 Q. All right. And like the other interviews, this also was in the prosecutor's office, public prosecution  
8 office?

9 A. Yes. They questioned me at the public prosecution office. We usually met the prosecutors at the  
10 public prosecution department.

11 Q. All right. And in that room -- was one of the public prosecutors -- prosecutors in the room with the  
12 investigators when you were questioned about what's contained in this statement we have before us  
13 now?

14 A. No. The public prosecutor was not present during meetings with investigators from the Tribunal.

15 Q. When -- you were asked to sign your statement and have your signature on the statement; that's  
16 correct, isn't it? After it was read back to you and you confirmed that it was accurate, you were asked  
17 to sign it?

18 A. Yes, that is what happened. My statement was read to me and I realised it tallied with what I had said,  
19 and I countersigned the document.

20 Q. Well, then why did you sign a document which said the place of interview was \*\*\*\*\*, when that  
21 wasn't true? Because that's what it says on here, "Place of interview: \*\*\*\*\*."

22 A. I was detained in \*\*\*\*\*. Moreover, that public prosecution office is located in \*\*\*\*\*, so  
23 \*\*\*\*\* falls under that public prosecution department.

24 Q. But it's not correct, sir. The place of interview is set out in this document that you signed as \*\*\*\*\*,  
25 but you've told us, as all these interviews, they took place at the \*\*\*\*\* public prosecution  
26 department. It's a totally different place. Why did you sign that document when you knew it was not  
27 correct?

28 A. I was detained in \*\*\*\*\*. The investigators from the International Criminal Tribunal for Rwanda come  
29 to the prison and take the detainees, then take them to the public prosecution department. Anybody  
30 who comes to see me in \*\*\*\*\*, I presume they come to contact me at the prison because that is my  
31 address.

32 Q. Well, you knew that wasn't correct on this piece of -- on this statement here. Why did you allow that to  
33 sit there, incorrect; why did you say it was the \*\*\*\*\* public prosecution department? I put it to you  
34 that the reason you did not change that is because you and the ICTR investigators did not want us to  
35 know that the interview took place in the public prosecution department in \*\*\*\*\*.

36 A. What matters is the content of my statement, not the place where the interview took place. What is  
37 important is that I explain what happened. But whether the interview took place at \*\*\*\*\* or the

1 prosecutor's office, the public prosecution department, that doesn't change a thing.

2 MR. BÂ:

3 Counsel, I don't think your observation is logical because, had he had something to hide, he would  
4 have continued -- maintained that it took place at \*\*\*\*\*. He is the one who told you it took place at  
5 the public prosecution department; therefore, he has nothing to hide.

6 MR. BLACK:

7 It doesn't make any sense, Mr. Bâ. He's just forgotten he said "\*\*\*\*\*" on this document. That's what  
8 the problem is, Mr. Bâ.

9 BY MR. BLACK:

10 Q. The reason, I put it to you, sir, that you did not change that and the reason the investigators put that  
11 there is that they did want to hide the fact the interview took place where you said it was, in the public  
12 prosecution department, and the reason they wanted to hide that is because in that room were public  
13 prosecution officials when the interview took place. That's what they want to hide.

14 MR. JEGEDE:

15 Objection again, Your Honour.

16 MR. BLACK:

17 Well, he can answer that question.

18 MR. JEGEDE:

19 No, he is not in the mind of the investigators. He didn't write the statement, so why would he know why  
20 they put \*\*\*\*\* there?

21 MR. BLACK:

22 Because I'm suggesting he does know.

23 MR. PRESIDENT:

24 Well, Counsel, he has already said that no, no one from the DPP's office was present.

25 MR. BLACK:

26 Well, I want to make the suggestion.

27 BY MR. BLACK:

28 Q. Isn't that why you didn't correct this, because there were, in fact, people from the public prosecution  
29 department in that office when the interview took place? That's why they try and tell us, when they give  
30 us these statements, that it was actually some other place the interview occurred.

31 A. No. When I met the Tribunal investigators, no one else was in the room. I was with the Tribunal  
32 investigators and there was nobody else.

33 Q. In what language was the interview conducted in?

34 A. I would give answers to the investigators' questions in Kinyarwanda, whereas the questions put to me  
35 were translated by an interpreter.

36 Q. Let's go to your story about the killing of this teacher called Denis Sekimonyo, S-E-K-I-M-O-N-Y-O. Tell  
37 us about how that man was -- what happened to him again.

1 A. Denis Sekimonyo, a teacher, was a resident of my *secteur* and, therefore, he was hiding in that *secteur*  
2 at his parents' house. He sent a message, summoning me. I went to see him, and he asked me to  
3 contact Captain Bilikunzira, who was gendarmerie commander in \*\*\*\*\*, asking him to come and see  
4 him in order for Sekimonyo to explain why he was in hiding. I relayed the message; I went to relay the  
5 message to the \*\*\*\*\* gendarmerie commander, Captain Bilikunzira, and Captain Bilikunzira erupted  
6 in anger and told me that if that person disappeared, I, too, would disappear.

7  
8 He gave me four gendarmes, who came in a vehicle. I preceded them on my motorbike, and when we  
9 went to the house where Sekimonyo was, we entered; we spoke. He came out of the house, and once  
10 he was outside the house, I handed him over to the gendarmes. The gendarmes asked him where his  
11 wife was. He answered that she was inside the house, and they asked him to bring her out. The  
12 woman came out. They boarded their vehicle and took them to the gendarmerie brigade.

13  
14 The following day, I went to the gendarmerie brigade, and I found out that Sekimonyo's wife had been  
15 killed the previous day. She was Tutsi. Two days later, I returned to the gendarmerie to enquire about  
16 Sekimonyo from Captain Bilikunzira. He told me that he had been killed; however, he did not know who  
17 had killed him. However, it was common knowledge that all those detained at \*\*\*\*\* brigade were  
18 removed from the jail and taken to the people manning roadblocks, and it was those manning  
19 roadblocks who killed them, killed the detainees who were removed from the gendarmerie jail. That is  
20 what I have to say in relation to the circumstances of Sekimonyo's death as well as that of his wife.

21 Q. You've also told a story about Denis Sekimonyo to the prosecution officials in Rwanda, correct?

22 A. Yes.

23 Q. But you told them a different story, sir.

24 A. I consider the version that I have given you on Sekimonyo's death -- I consider that version -- I feel that  
25 it corresponds with the version I gave to the public prosecution department, only that when I related the  
26 circumstances of Sekimonyo's death to the public prosecution department, I remembered the name of  
27 the wife of Sekimonyo. Her name was Bernadette Mukamugema. That is the only difference between  
28 the version I am giving you here and that which I gave to the public prosecution -- public prosecutors.

29 Q. Well, the difference is night and day, sir. So you told us Sekimonyo asked you to go and talk to this  
30 captain to plead his case. The captain gets angry, sends you to go and get him. You go to the house.  
31 He comes out, is spoken to; the wife is also taken. Then they're taken back to the captain, and then  
32 you hear they're handed over to civilians to be killed. This is what you said to the public prosecution  
33 people in Rwanda on May 11th, 2001, which is several months after you gave the statement to the  
34 ICTR.

35  
36 You say -- this is in French. It's on page 5 of the May 11th statement, K0358460. You told them this:  
37 "I also took part in an attack together with the soldiers that Captain Bilikunzira had sent to the place,

1 during which attack Denis Sekimonyo and his spouse, Bernadette Mukamugema were taken away.

2 Apart from me, no other civilian took part in that attack."

3  
4 So you told the public prosecution man -- officer that they were killed in an attack by  
5 Captain Bilikunzira's men.

6 MR. JEGEDE:

7 No, no, no, no, no, no. He never said that they were killed in an attack. "*Amener*" means --

8 MR. BLACK:

9 "Eliminated."

10 MR. JEGEDE:

11 Where?

12 MR. BLACK:

13 That's what she said, "eliminated."

14 MR. JEGEDE:

15 Where is that?

16 MR. BLACK:

17 "*Amener*," that's what it's translated as, "eliminated." And yesterday --

18 MR. JEGEDE:

19 No, no, no, no, no. "*Amener*" means bring. He asked them to bring them -- (*microphones*  
20 *overlapping*)...

21 MR. BLACK:

22 Yesterday, they translated it as "eliminate" and then again today.

23 MR. JEGEDE:

24 Does it matter what the translation is? "*Amener*" means bring.

25 MR. PRESIDENT:

26 Counsel, if there was a problem with regard to translation, that can be corrected.

27 MR. JEGEDE:

28 As the Court pleases.

29 MR. BLACK:

30 Well, I'll read it again.

31 MR. PRESIDENT:

32 You can't put that on the witness.

33 MR. BLACK:

34 I'll read it again, because Mr. Jegede wants to confuse the issue again, in his dishonest way.

35 BY MR. BLACK:

36 Q. "I also took part in an attack together with soldiers that Captain Bilikunzira had sent to the place,  
37 during which attack Denis Sekimonyo and his spouse, Bernadette Mukamugema were taken away."

And that can be translated also as "eliminated" because that's how the translator used the same word yesterday -- I'm not sure if it was a man or a woman, but "taken away" can also be "eliminated."

MR. BLACK:

Isn't that correct, madam interpreter?

MR. PRESIDENT:

*(Microphone not activated)*

THE WITNESS:

I explained. Normally, when questions are put to you, you answer those questions according to the way they were put to you. Those two people were taken away, and they were taken away to the gendarmerie, and that is where they were killed. So when representatives of the public prosecution department put questions to you, after a certain point, they will ask you to stop at a certain point. However, the investigators of the International Criminal Tribunal for Rwanda give you enough time to go into the details. That is what I can say on the death of Denis Sekimonyo and his wife.

BY MR. BLACK:

Q. Sir, you can't transform going to visit -- to see somebody and then they're arrested as an attack. You said to the public prosecutor you participated in an attack -- not an arrest, not a detention, not an interview -- an attack. It's quite clear.

A. No. If you read the document carefully, you will understand I did not say I went to visit Sekimonyo. I went with gendarmes to the house where he was, and he was taken away by the gendarmes. So it is not a visit. Read it carefully and you will understand.

Q. Why did you say to the public prosecutor you participated in an attack against those two people and mentioned nothing about them being brought to the gendarmerie office or them being killed by Hutus later? Because you say, "Apart from me, no other civilian took part in that attack."

A. Indeed. That means that I and the four gendarmes were there, that we went to the house where Sekimonyo was, and that he was taken with his wife. So apart from me, there was no other civilian. There were the four gendarmes who took Sekimonyo and his wife to the gendarmerie.

Q. The story doesn't make any sense. You're telling me -- how did you know Sekimonyo, Mr. Sekimonyo, was hiding in the first place? He's hiding from people like you, apparently.

A. Sekimonyo sent a message to me, asking me to go to him.

Q. And how did this message come to you?

A. One of his relatives came to see me and told me that Sekimonyo wanted to meet me, and I went to see him.

Q. That's not what you say in your statement. You just say, "He asked me to go." You don't mention anything about relatives coming to contact you. Why did you leave that out of your statement?

A. When I say that Sekimonyo summoned me, clearly, he sent a messenger to contact me. He did not ask me to come and see him by telephone; that is obvious.

Q. And you met with this man?

- 1 A. Yes, I met him.
- 2 Q. Where?
- 3 A. I was in Gisoro *cellule*. He found me in that *cellule*. I was on my way home and he met me there and
- 4 gave me that message.
- 5 Q. Who met you there and gave you that message?
- 6 A. The person who gave me the message is called -- or, at least I remember his nickname,
- 7 Rupakase (*phonetic*).
- 8 Q. How do you spell that?
- 9 A. Perhaps you could give me a piece of paper so that I write out the name.
- 10 MR. BLACK:
- 11 Perhaps one of the interpreters could do it for us.
- 12 BY MR. BLACK:
- 13 Q. Anyway, when this fellow came to give you this message, didn't you tell him, "Look, he wants to meet
- 14 Captain Bilikunzira. Is he crazy? Do you know what Captain Bilikunzira's doing? He's roaming around
- 15 all over the place, killing people. Tell him to stay in hiding. Forget I even heard about it. I don't know
- 16 you. I don't know him. Tell him to stay where he is"?
- 17 A. That person did not tell me why Sekimonyo wanted to see me. It is Sekimonyo himself who told me
- 18 why he wanted to see me, when we met.
- 19 Q. All right. And where did you meet, and when?
- 20 A. I found him in Gisoro *cellule*, in his parents' house, in April, although I do not remember the date.
- 21 Q. So when you met him, what did he tell you?
- 22 A. He asked me to go and tell Captain Bilikunzira to call him so that Sekimonyo could explain the reasons
- 23 that had led to his flight and the reason he had gone into hiding.
- 24 Q. Why on earth would he want to do that? Why would he want to ask forgiveness or explain things to a
- 25 man on a rampage, murdering everybody in sight? Didn't you tell him, "Look, you're crazy. Do you
- 26 know what this guy's doing? Stay where you are. You meet him, you're a dead man"?
- 27 A. I did not tell him that because Sekimonyo was Hutu. Beside, he was one of us. He therefore thought
- 28 he would succeed in convincing Captain Bilikunzira with his explanation, since the people we were
- 29 looking for were Tutsis.
- 30 Q. Explanation for what?
- 31 A. Only Sekimonyo can answer that question. I do not know the explanations he was going to give the
- 32 captain. He knew he was Hutu and that those who were looking for him were Tutsis.
- 33 Q. Okay, so Sekimonyo isn't hiding from the Tutsis. Tutsis were trying to kill Sekimonyo?
- 34 A. Sekimonyo was in hiding because he was a member of the PSD party, and it had indeed been
- 35 observed that he held opinions that were different from those of the MRND party. He therefore thought
- 36 that he was going to be pursued because of that, and that is why he went into hiding.
- 37 Q. It doesn't make any sense. You were a member of the PSD party. You went around with

- 1 Captain Bilikunzira, killing people. He didn't kill you. You didn't feel the need to go into hiding, so why  
2 would Sekimonyo go into hiding because he belonged to the PSD?
- 3 A. I have told you that people are ruled by their consciences differently. Sekimonyo's conscience told him  
4 to go into hiding, and mine prompted me otherwise.
- 5 Q. Well --
- 6 A. My conscience prompted me to do what Bilikunzira asked me to do.
- 7 Q. No, your conscience wouldn't have allowed you to do what Bilikunzira, you say, told you to do because  
8 he told you to kill people. No conscience would allow you to do that. You go to see Sekimonyo. You  
9 must have had a conversation with him. You must have gone something like, "So why are you in  
10 hiding? Nobody knew you were in hiding. I thought you were just visiting your parents. Why are you in  
11 hiding?" He must have told you. And then, "Why do you want to meet this captain?" "I'm not in  
12 hiding." Don't tell me he couldn't have told you.
- 13 A. He was in hiding. While he was at his parents' place, no one knew where he was. He had left the track  
14 he had covered with his wife and decided to go back home. Beside, his house had been destroyed.  
15 That is why he went back to his parents' place.
- 16 Q. You said he went back to his parents' place to hide. There's nothing in your statement about him going  
17 to see them because of his house being burned down.
- 18 A. If I said that he went to his parents' place, that doesn't mean that he specifically went to his father's  
19 house. He hid among members of his family in Gisoro *cellule*.
- 20 Q. You told us he stayed -- he hid at his parents' place. Now you're changing it to just relatives. Which is  
21 it?
- 22 A. When I say that he was with members of his family in Gisoro *cellule*, did I say that he was in his  
23 family -- in his father's house? I don't see the difference.
- 24 Q. Well, you told us today that he was with his parents. Now you're changing that to just relatives, which  
25 excludes his parents. Why are you changing your story?
- 26 A. I am referring to the family in the broad sense of the word. It is said that he was with members of his  
27 family. That is what is written down, Counsel.
- 28 Q. And you didn't tell him that this Captain Bilikunzira was on some sort of wild rampage, killing everybody  
29 around, and that the idea of contacting him was a very, very bad idea?
- 30 MR. JEGEDE:
- 31 Your Honours, I believe he's answered that question twice now. Does he want a third answer?
- 32 MR. BLACK:
- 33 Yes, I do.
- 34 BY MR. BLACK:
- 35 Q. You didn't warn him that Captain Bilikunzira was on a rampage and that it was a very bad idea to  
36 contact him, when he was safe and sound where he was?
- 37 A. Under such circumstances, you respond to the call of the person who has contacted you. Sekimonyo

1 was an intelligent man. He had been to school, and I understood that he had taken that option because  
2 he was going to be more lucky taking that option. That is why I rendered him such service.

3 Q. So you didn't warn him what Bilikunzira was doing; you led him into a trap. You said nothing. You said,  
4 "That's a good idea. Maybe he can help you." Right? You set him up to be killed?

5 A. In my testimony I have told you what Captain Bilikunzira had told us. He hasn't asked us to warn or to  
6 keep people on guard. So I did not have to put him on guard because, in Captain Bilikunzira's  
7 message, that point did not come up.

8 Q. What kind of man are you? You've got a conscience, you say. You know Captain Bilikunzira,  
9 according to your stories, is killing everybody around. A man asks you to contact this man to get  
10 assistance, and you don't warn him this man's killing people; he's going to kill him, too, because  
11 Captain Bilikunzira didn't tell you to warn people? It's bizarre, what you're saying.

12 MR. JEGEDE:

13 Objection, objection.

14 MR. PRESIDENT:

15 I think, Counsel, he said that, because he was Hutu, that he thought he had a chance there.

16 MR. BLACK:

17 That's not what he said. *(Microphones overlapping)* ...

18 He said that -- *(Microphones overlapping)* ... Captain Bilikunzira didn't tell him to warn him.

19 MR. JEGEDE:

20 No, no. The President is here. I don't know where Mr. Black is.

21 MR. BLACK:

22 I don't know where you are.

23 MR. JEGEDE:

24 Obviously, he has no questions for this witness, and I think Your Lordship should make the proper  
25 orders.

26 MR. PRESIDENT:

27 Yes.

28 MR. BLACK:

29 I'll be here all day and we won't get a break if you keep this up, Mr. Jegede. I can finish in a couple of  
30 hours, if you keep quiet.

31 BY MR. BLACK:

32 Q. You're telling us that because -- you didn't warn Sekimonyo because Captain -- this captain didn't tell  
33 you to warn people. That's the only reason you didn't warn him?

34 A. I did not warn him because, as I told you, that was not in the mission or assignment on which  
35 Captain Bilikunzira had sent us; I repeat. I have also told that you that man, Sekimonyo, was more  
36 educated than myself. I believe he deemed it appropriate to do what he did. I therefore did not warn  
37 him because he himself had taken that choice, that option.



1 Q. What kind of Christian are you? This man seeks you out, asks for your help, comes to you -- you go to  
2 him, and he's walking right into death, and you don't warn him?

3 MR. PRESIDENT:

4 Well, Counsel, how can you suggest that? Because Sekimonyo knew that the Captain was killing  
5 Tutsis, not Hutus.

6 MR. BLACK:

7 No, he also mentioned Hutus who were -- he had been at the calabash story: Those who helped the  
8 Tutsis also were being killed. We've forgotten about the calabash story, haven't we, and the snake  
9 around the calabash? Kill the snake, you've got to kill the calabash, too.

10 BY MR. BLACK:

11 Q. This man comes to you. You're a Christian. He comes to you for help, and you don't tell him this is a  
12 very bad idea. You let him walk right into a trap. Your story doesn't make sense.

13 MR. JEGEDE:

14 Objection, Your Honour. I don't know for how long we are going to go with this question. The witness  
15 has given his answer, which is clear to everyone who is present in this Court, and he's given an  
16 intelligent answer to the question, saying this man was Hutu, just as Bilikunzira was Hutu. So he had --  
17 and, also, this man was an intelligent person, whom he considered -- he thought that he could have  
18 considered the options open to him. And when he called him, he just obeyed his orders. So isn't that  
19 clear enough?

20 MR. BLACK:

21 It doesn't make any sense, Mr. Jegede, and you know it.

22 MR. BÂ:

23 *(Microphones overlapping).*

24 MR. BLACK:

25 I'm not going to face two lawyers. Mr. President, I'm not going to face two lawyers like this again.

26 *(Microphones overlapping)* ... objections -- I could be finished this by 2:30, if they keep quiet.

27 MR. BÂ:

28 You may continue up to Monday, if you like. I didn't know you had become a *catéchiste*. Because what  
29 you are doing is to preach; you are preaching to the witness.

30 MR. BLACK:

31 All right, Mr. Bâ, we're going to be here until Monday with this fellow. That's what you want, that's what  
32 we're going to do.

33 MR. PRESIDENT:

34 Well, Counsel, I will control this Court.

35 MR. BLACK:

36 Well, I've got questions to ask this man.

37

1 MR. PRESIDENT:

2       These are not questions. How many times can you ask these questions?

3 MR. BLACK:

4       Well, if I get one answer out of him, I'll be satisfied.

5 MR. JEGEDE:

6       He has given one answer thrice now.

7 MR. BLACK:

8       No, he hasn't. He hasn't answered the question why, if a person approaches him, he's a Christian, a

9       Seventh-day Adventist, a man asks him for assistance and he doesn't warn him. What kind of

10      humanity is that? He hasn't answered that question, except to say, "Well, this captain who kills people

11      told me not to warn people." That's not an answer.

12 MR. PRESIDENT:

13      Well, his answer is that "I didn't warn him," that's all.

14 MR. BLACK:

15      And I'm asking him why he didn't warn him; that's exactly the point.

16 MR. PRESIDENT:

17      It doesn't matter whether he is a Seventh Day Adventist or whether he is an Assembly of God man or

18      Christian or Muslim.

19 MR. BLACK:

20      I think it does.

21 MR. PRESIDENT:

22      He says that "I didn't tell him."

23 MR. BLACK:

24      And I want to know why he didn't tell him. He hasn't told me.

25 JUDGE PARK:

26      That's the reason why he's in prison.

27 MR. BLACK:

28      Well, he's in prison, Judge Park, because they've arrested 10 per cent of the whole Hutu population and

29      held them hostage. That's why he's in prison.

30 MR. PRESIDENT:

31      Well, Counsel, go on. You can ask him again. We will see whether we will get another answer.

32 BY MR. BLACK:

33 Q.    Why didn't you warn him when he comes to you for assistance, as a fellow human being?

34 A.    A while ago you told me I was a Christian, but I've told you that in April 1994, when I received

35      instructions from Captain Bilikunzira, the former gendarmerie commander in \*\*\*\*\*, I told you that I

36      was controlled by Satan. Satan led me down the abyss. But today you should consider that I have

37      changed. I am no longer the person who followed Satan's instructions. Today I do good things. I'm no

1 longer the person I was in 1994. I have changed completely today. That is why on the day I did not  
2 warn him, if I have to tell you the truth about what happened at that time. I was working for Satan.

3 Q. All right. So you had a conversation with Satan one day and he told you to do all these bad things?

4 A. While I was with Captain Bilikunzira and he told me this: "Your enemy is a Tutsi. Kill him. Destroy his  
5 house and eat his cattle." Well, some of those Tutsis had given me cattle when I accepted  
6 Captain Bilikunzira's instructions. I followed Satan's instructions. If there hadn't been a representative  
7 of Satan at the gendarmerie brigade in \*\*\*\*\*, I won't have followed those instructions. I believe that  
8 at that time there were disciples of Satan. I could not have done anything against that brigade because  
9 they represented Satan.

10 Q. Okay. So, Satan's in charge. So what you've saying is you deliberately -- because Satan told you to do  
11 bad things, you led this guy -- if this story is at all true, you led this guy in a trap. He asked you for  
12 assistance. You lead him to this captain, knowing he's going to be killed, according to you. That's what  
13 you did, right? So you lied to him because you gave him the impression you were going to give him  
14 assistance, but you didn't; you lied to him?

15 A. Yes. That is how Satan works. He does not show you that things are evil and you fall in his trap, and it  
16 is only after the fact that you realise what you have done. Sekimonyo came to explain his problem to  
17 Captain Bilikunzira. He had thought of Captain Bilikunzira and the relations he had had with him  
18 before. He did not know that that Bilikunzira had changed and become an agent of Satan. The reason  
19 why he thought of Captain Bilikunzira was that he had had smooth relations with him earlier, that  
20 Bilikunzira had once been the head of the *commune*. So you would understand that he knew other  
21 influential authorities.

22 Q. And you didn't -- as we said, you did not advise Mr. Sekimonyo that Captain Bilikunzira had changed,  
23 right? You made a conscious decision not to tell him that?

24 A. What other answer do you expect me to give you, Counsel? I did not tell him anything. I simply passed  
25 on his message to the receiver. If you continue asking me this question even for the umpteenth time, I  
26 will give you the same answer.

27 Q. Tell me about how the *bourgmestre*, Gisagara, was killed again, and briefly, if you can, not the entire  
28 script you've got in this statement here.

29 A. Right. I will be brief, because I was there. When *Bourgmestre* Gisagara was arrested at Eliade's place,  
30 he was taken to \*\*\*\*\*, town, and at about midday Captain Bilikunzira ordered that he be  
31 killed. He was therefore killed, and the perpetrators of that crime included a gendarme, Musafari.

32  
33 Jean-Marie Vianney Gisagara asked the gendarme to shoot him. The gendarme said he did not have  
34 any bullets to waste. He was struck with an axe until he died.

35 Q. Well, that can't be correct because I have a telegram here, sent to the minister of interior of Rwanda --

36 MR. BÂ:

37 Can we see that telegram? Can we have a copy of it?

1 MR. BLACK:

2 Not yet.

3 BY MR. BLACK:

4 Q. I have a telegram here, sir, which states the following. I'm not filing it as an exhibit; I'm just referring to  
5 it. This is sent by the *sous-préfet*, Kayitana, to the minister of interior. And it says -- it's in French --

6 MR. BLACK:

7 Well, I can give one -- I can give everybody a copy.

8 MR. JEGEDE:

9 I think we should have a copy of what you're reading.

10 MR. PRESIDENT:

11 Do you have a copy with you?

12 MR. BLACK:

13 Yes. And one to the interpreter.

14 BY MR. BLACK:

15 Q. This appears to be dated the 24th, because it refers to something "yesterday on the 23rd." So 24th of  
16 April, this is dated.

17 MR. BLACK:

18 If the interpreter has a copy, I'd like just to read the text.

19 BY MR. BLACK:

20 Q. So it's from the *sous-préfet* Nyabisindu to minister of interior, information regarding *préfet*, Butare. The  
21 K-number is K0026777. It reads as follows, sir: "Subject: My telegram of the 22nd of April, 1994.  
22 Inform you that the *bourgmestre* of Nyabisindu *commune*, Mr. Gisagara, JMV, with all the *communal*  
23 police officers, corrupted -- the corrupt *communal* police officers left the town to retreat to Gahanda  
24 *secteur*, where he organised with the population that he corrupted an attack against the population  
25 which does not espouse his ideals and from there in order to attain \*\*\*\*\* town. The gendarmerie  
26 went to that location where it was against that population, but the *bourgmestre* and his police officers  
27 could not be found. The research" -- or, "The search continues. I went to the *communal* office at  
28 Nyabisindu on the 23rd of April and found the office empty, that is to say, without any police officers. I  
29 received information to the effect that before leaving the town, he looked for the cashier and accountant  
30 and spent some time in the office, obviously, in order to take some money. In fact, he decided to go  
31 underground."

32

33 So that's a completely different story, isn't it, sir? You've got the *bourgmestre* leave -- quitting his post,  
34 taking policemen with him, corrupt policemen with him, stealing money and going underground and, our  
35 evidence will be, to fight with the RPF. Nothing about him being killed. Gendarmes are looking for him  
36 to arrest him, but because he's deserted his post and has stolen money and is trying to incite the  
37 population against each other.

1 A. Can you tell me today that Gisagara is still alive? He was killed. He was killed, and as I stated when I  
2 met the investigators of the International Criminal Tribunal, I explained to them that the Tutsi called  
3 Fashasho from Nyarusange *secteur*, when he was killed, Gisagara went there with the judicial police  
4 inspector, in the presence of Rutebuka and *communal* policemen. They arrested the perpetrators of  
5 that crime, who were Tutsis, and imprisoned them.

6  
7 The person who arrested and imprisoned them is Gisagara, *bourgmestre* of Gisagara (*sic*) *commune*.  
8 When I met the investigators of ICTR, I told them that Captain Bilikunzira, former commander of the  
9 gendarmerie in \*\*\*\*\*, went to the location where the 15 Hutus had been detained by the judicial  
10 police inspector and the *bourgmestre* and released them. When he released them, you would  
11 understand that the following day, the *bourgmestre* was not supposed to go to the office. He had to  
12 flee. That was when he fled.

13  
14 The *sous-préfet* presented this telegram to deceive the judicial authorities and lead them off the track.  
15 That fact is public knowledge to public authorities. That *bourgmestre* was killed in the *commune* office  
16 and in broad daylight. Any children could reason -- even all people can testify to that, at least those  
17 who were there. The person who drafted that fax -- and I believe it is ironical, because when he  
18 prepared that fax, he did not know what was going to happen. Because I have described to you the  
19 circumstances of the death of that person.

20 Q. Well, it's funny, then, that this is written on the 23rd -- the 24th, and you say this *bourgmestre* was killed  
21 on the 21st. But, according to them, as of the 24th, he's just gone underground with the RPF or  
22 somebody sympathetic to him. He's just gone underground; nothing about him being killed.

23 MR. PRESIDENT:

24 When you get killed, also you go underground.

25 MR. BLACK:

26 If you're buried.

27 MR. JEGEDE:

28 Yes, thank you, Mr. President, for that comment.

29 MR. PRESIDENT:

30 Mr. Black.

31 THE WITNESS:

32 On the 21st of April, I said that it was on that date that he started to flee, but he was killed in that same  
33 month on a date I do not know. He started fleeing on the 21st, and he sought refuge in police  
34 officer Eliade's house, but members of the population knew he had gone into hiding and told the  
35 gendarmes, who went and arrested him.

36  
37 I did not say that he was killed on the 21st. I have pointed out that he started fleeing in order to go into

1 hiding on the 21st. He was subsequently arrested in Eliade's house with the latter, and was killed on a  
2 date I do not know. He therefore started fleeing when Captain Bilikunzira had just released the 15  
3 Hutus who had killed the Tutsi called Fashasho.

4  
5 I told you in my testimony that Captain Bilikunzira told us that he was going to do something to our  
6 *bourgmestre* and that he was even no longer *bourgmestre* at that time. He told us so while we were at  
7 the gendarmerie, after we had left the place where the *sous-préfet* was.

8 MR. BLACK:

9 We'll come back and point out to the Judges why that story is not true either, after lunch.

10 MR. PRESIDENT:

11 Court is adjourned till 2:00.

12 (*Court adjourned from 1232H to 1406H*)

13 MR. PRESIDENT:

14 Yes, Mr. Black.

15 BY MR. BLACK:

16 Q. I just want to continue with this telegram, sir. You say that the second *bourgmestre*, Nyagasaza, was  
17 shot dead after being transported a certain distance in a vehicle. The gendarmes took him out of the  
18 vehicle and just shot him, right? That's basically the story.

19 A. Yes, that is how it happened. He was taken from Ntyazo *commune* and killed in another locality.

20 Q. Well, this telegram says this: "Also informs you that yesterday, 23rd April, Mr. Nyagasaza, Narcisse,  
21 *bourgmestre* of the Ntyazo *commune*, was taken and killed by the population while trying to cross the  
22 Akanyaru with others and cattle to Burundi."

23  
24 That's how he died.

25 A. That is not the truth about his death. This telegram came out after it was learned that the *bourgmestre*  
26 had died in the Nyabisindu *commune* instead of the *secteur* that I mentioned to you. And as I said  
27 earlier, he was arrested in the company of six other Tutsis, and he was the seventh Tutsi. All those  
28 people were killed at Nyabisindu in the *cellule* that I mentioned. That is what happened.

29 MR. BÂ:

30 Maybe I'm the one not understanding, because it appears there are two *bourgmestres* here.

31 MR. BLACK:

32 (*Microphones overlapping*).

33 MR. BÂ:

34 Well, he's finished.

35 MR. BLACK:

36 No, he's not. I'm still hearing here -- I just missed 45 seconds of his answer because you stood up.

1 MR. BÂ:

2 Yes, but which *bourgmestre* are you referring to? There is Mr. Nyagasaza, Narcisse, *bourgmestre* of  
3 Ntyazo, and Mr. Gisagara, Jean-Marie, who is *bourgmestre* of Nyabisindu *commune*. I think there are  
4 two different persons.

5 MR. BLACK:

6 God give me strength.

7 MR. BÂ:

8 Hmm?

9 MR. BLACK:

10 I said, "God give me strength." I'm talking about the second one.

11 MR. BÂ:

12 So now we're on the second one, because this morning it appeared to me you were talking about the  
13 first one.

14 MR. BLACK:

15 That's right.

16 MR. BÂ:

17 I did not notice the transition. I did not notice the transition. I just wanted a clarification, that's all.

18 MR. BLACK:

19 Mr. President, I'd like to make this document an identification document for later identification, we hope  
20 by the person that sent it or the person who received it.

21 MR. PRESIDENT:

22 He said that -- his answer was that this particular *bourgmestre* was arrested with six other Tutsis.

23 MR. BLACK:

24 Right.

25 MR. PRESIDENT:

26 At this stage, counsel moves to mark as an identification document the telegram he referred to so far in  
27 the evidence.

28 MR. BLACK:

29 Yes, maybe put the K-number, is K0026777.

30 MR. PRESIDENT:

31 K026777.

32 MR. KOSHOPA:

33 ID. 14, Mr. President.

34 MR. PRESIDENT:

35 ID. 14, within brackets, "Ndindiliyimana."

36 (*Exhibit No. ID. 14 [Ndindiliyimana] admitted, for identification*)

37

1 BY MR. BLACK:

2 Q. Sir, something which strikes all of us in the testimony of quite a number of Prosecution witnesses  
3 coming from Rwanda is that they use the number six in their stories: six soldiers, six *Interahamwe*, six  
4 people, six this and that. And you've now done it again. You say in your testimony that there were six  
5 gendarmes. In your statement you say Biguma stopped the vehicle, ordered the six gendarmes at the  
6 back to remove six of the Tutsi prisoners. Who told you to use the number six as an easy number to  
7 remember?

8 A. No one asked me to mention that figure. I mentioned that figure just as I mentioned the figure 10 in my  
9 testimony. I have not limited myself to figure six.

10 Q. Well, the number 10 appears quite frequently in the Butare case. That number appears in many, many  
11 witnesses, that number 10. So 6 and 10 are easy to remember, so I suggest to you that somebody told  
12 you to use 6 because it's an easy number for you to remember.

13 MR. JEGEDE:

14 Objection, Your Honour. This witness does not know anything about the Butare case.

15 MR. PRESIDENT:

16 Butare, number 10 must be for those witnesses.

17 MR. JEGEDE:

18 These are pedestrian questions, Your Honour. I don't think we should --

19 MR. PRESIDENT:

20 No, he has said that no one asked him to use it, so we will move on.

21

22 Yes, Mr. Black.

23 BY MR. BLACK:

24 Q. In your position as \*\*\*\*\*, you must have known that this fellow Biguma, his real name was  
25 Hategekimana, is that correct? H-A-T-E-G-E-K-I-M-A-N-A.

26 A. No, I don't know about that.

27 Q. You don't know his real name?

28 A. I know him as Warrant Officer Biguma.

29 Q. Well, I'm telling you his real name was Hategekimana. And you must have known that there was an  
30 investigation into this man's actions because he failed to follow orders and comply with regulations with  
31 respect to, in particular, the incident at -- you described about that hill, where a soldier is challenged to  
32 come or -- and refuses to come down.

33 MR. JEGEDE:

34 By whom? Investigation by whom? When?

35 MR. BLACK:

36 By the authorities in Kigali.

37



1 MR. JEGEDE:

2 When?

3 MR. BLACK:

4 Around this time, on the -- in the early days of the 20th April 1994.

5 BY MR. BLACK:

6 Q. I'm told the 26th of April '94.

7 A. I'm not aware of these investigations. If any investigations were conducted, I would have been the first  
8 person to be interviewed by the investigators, given the fact that I was the leader of the *secteur* in  
9 question. Since I was not interviewed, that would mean that there was no investigation.

10 Q. Well, the evidence will be that there was an investigation and you must have been aware of it, as you  
11 say, in your position. And he was investigated along with other gendarmes who had deserted, or  
12 otherwise run amuck, by the gendarmerie. And a specific reference to this incident, you state about this  
13 sergeant Ngirinshuti, Petero; you describe that incident as you and the gendarmes going there, asking  
14 this fellow to come down. He refuses. The gendarmes are ordered to attack the people on the hill.

15

16 Let me put it to you that the real version is that this Sergeant Ngirinshuti was a deserter. He was not  
17 alone; there were other military deserters with him, mixed in with civilians on that hill. And that, under  
18 regulations, Hategekimana was required to separate the armed deserters from civilians, in order to deal  
19 with it, without harming civilians, and he didn't comply with regulations. And an investigation was  
20 ordered. But those people fled, deserted, so nothing came of it because Hategekimana also  
21 disappeared.

22

23 You must have been aware of that investigation, sir, to find out what happened.

24 A. There was no investigation. If you have a report of the investigations, you can show it to the Chamber,  
25 but to my knowledge there was no investigation. With regard to Sergeant Ngirinshuti, he was a Tutsi,  
26 member of the former Rwandan Armed Forces, and he came to protect members of his family, even  
27 though he was not able to achieve that because the attackers were stronger than him. He was not with  
28 other deserters as you claim; he was with other Tutsi refugees on the hill that I mentioned and where  
29 those refugees were killed.

30 Q. In the investigation, the \*\*\*\*\*that replaced the *bourgmestre* and another witness who testified -- and  
31 you -- testified in this investigation that, in fact, the allegations against this Hategekimana, otherwise  
32 known as Biguma, were not true. Some people said he had done this. Other people, including you,  
33 said he didn't do it. So nothing came of it because of different information.

34 MR. JEGEDE:

35 Objection, Your Honour. This witness has said that he does not know about any investigations. So if  
36 he has a report of the investigation conducted, let him make it available to the Court so we can all see it  
37 and follow, and follow the proceedings.

1 MR. PRESIDENT:

2 Yes, Counsel.

3 MR. BLACK:

4 Why don't you produce it? You probably have it.

5 BY MR. BLACK:

6 Q. You were part of that investigation, sir, and you testified he wasn't involved.

7 A. Today I have denounced Biguma in my testimony, and I mentioned his name in my statement. If you  
8 say that I deny his participation, then show me where I made that statement. It appears to me that  
9 that's a lie on your part.

10 Q. No, it's a lie on your part. The investigation was conducted by the G2 section of the gendarmerie, in  
11 particular, Major Cyiza. Does that ring a bell, C-Y-I-Z-A?

12 A. I don't know that major you are referring to. Even if you have a document, it's a false document,  
13 fabricated by those people. In any event, if you have a document, it's a false document. It was not a  
14 document that was prepared at the end of any investigation. And if you are saying that I was a witness  
15 in the investigations, show me the statement I made during that investigation and my signature on such  
16 documents. If you are not able to show those documents, that will mean that what you're saying is not  
17 true and that it is false.

18 Q. Well, that means that what you've told us about speaking to the ICTR investigators is not true, too,  
19 because you can't produce the notes that they took from you when you made your statement, sir. It  
20 applies both ways. And this investigation was, further, broad enough to include an investigation into the  
21 number of gendarmes and military deserters, Tutsis who deserted from the army and were working --  
22 or, operating in that area; isn't that right?

23 MR. JEGEDE:

24 Objection, Your Honour. I don't think we should go on with this charade. The witness has said that  
25 there was no investigation, so why does he insist on putting questions about a fake investigation that  
26 does not exist? We are just wasting time here, Your Honours.

27 MR. BLACK:

28 It's not a fake investigation, Mr. Jegede. There was an investigation; we'll demonstrate that. Your  
29 witness is fake.

30 MR. JEGEDE:

31 So why don't you just say that, then, and let the other counsel take him on, if he's fake?

32 MR. BLACK:

33 If you're not worried about my questions, Mr. Jegede, why do you want me to sit down?

34 BY MR. BLACK:

35 Q. You made another strange statement. You said on the other -- that on the 21st -- you're talking about  
36 *Conseiller* Kamuhanda, and you said that there were many Tutsis in your *secteur* and that he showed  
37 you this crowd of Tutsis that were camped nearby, and the soldiers opened fire at them for about

1 10 minutes. And you said in your testimony in-chief they used STRIM grenades, correct?

2 A. They fired with STRIMs, but the STRIMs did not explode.

3 Q. And a STRIM is a grenade fired from what looks like a rifle, isn't it?

4 A. Well, you know, I'm not a soldier, nor a gendarme. But from my own observation, it's a rocket which is  
5 fixed to a gun and then fired. That is what I saw.

6 Q. No, that's what you say in your statement. It was a rocket-propelled grenade, an RPG, which is a  
7 totally different thing, an entirely different system. It's not a STRIM. RPGs are not STRIMs. Further, I  
8 put it to you that the gendarmerie never had such systems. The only people that had STRIM weapons  
9 were the RPF.

10 A. The gendarmes had this weapon that they call STRIM. I do not know any other name for those  
11 weapons. I only saw them. I saw the weapons, but I'm not a specialist in weaponry so I have no  
12 further clarification to give on that. I'm only telling you what I saw at that time.

13 *(Pages 22 to 41 by Karen Holm)*

1 1430H

2 BY MR. BLACK:

3 Q. And then, where did you get the word "STRIM" from? Since you are not an expert in military  
4 equipment, how did you know they are called STRIM? It's not a common word to know.

5 A. One of the gendarmes, who fired, told his colleague to give him a STRIM. He said, "Give me a STRIM  
6 and I will show you what we can do." I did not invent the word "STRIM". I heard it from that gendarme.

7 Q. No, you didn't hear it from that gendarme, because they never had that weapon, sir. That's -- evidence  
8 from the Prosecution witness, a Belgian colonel, confirmed they had another system, not STRIM. Only  
9 the RPF had that. I put it to you, you put the word "STRIM" in your testimony because the RPF regime,  
10 they used STRIM, so when they wanted you to talk about grenades being launched, they just referred  
11 to their own system, when they concocted this story for you. That's how you got the word "STRIM" in  
12 here, because that's what the RPF uses -- or, used at that time.

13 A. No, I got to know of the existence of STRIM on that day when the gendarmes used them.

14 Q. So what? They give you a lecture on this gun before they started killing people?

15 A. I saw them in action.

16 Q. Seeing something doesn't mean you know the name of it, sir. And in your statement to the ICTR, you  
17 say they used RPGs, which was a very different weapon.

18 MR. PRESIDENT:

19 Counsel, I think you are putting two contradictory versions to this witness. You said there was an  
20 investigation with regard to the incident he spoke of. By doing that, you are corroborating the witness to  
21 a certain extent.

22 MR. BLACK:

23 This is --

24 MR. PRESIDENT:

25 At the same time, you are saying that --

26 MR. BLACK:

27 This is a --

28 MR. PRESIDENT:

29 -- RPF concocted story for him.

30 MR. BLACK:

31 I'm not sure what you mean. But I'm not referring to the same incident now. This is a totally different  
32 incident. This is the attack on the hill of the Tutsi refugees. He said that they entered Cyarwa *cellule*,  
33 C-Y-A-R-W-A, on the 21st, that a man named Masongo blew a whistle, gathered all the people, told the  
34 Hutus they got to kill the Tutsis, the Tutsis fled. "Then they showed us some Tutsis in a camp nearby;  
35 the soldiers fired (*unintelligible*) with RPGs". That's a totally different thing from the hill when the  
36 sergeant was called out and he refused to come. It's on page 4 of the statement.

37

1 BY MR. BLACK:

2 Q. So in your statement you said rocket-propelled grenades, or RPG, and now in your testimony you said  
3 STRIM. In respect to your statement, you say this guy, Masongo, blew the whistle, right, to gather all  
4 the people from the houses?

5 A. Yes, that was my testimony.

6 Q. Okay. How many houses were there, and how far apart?

7 A. There were more than 20 houses. Here, we are referring to a commercial centre, a shopping centre,  
8 with a marketplace and drinking bars where they were selling banana beer.

9 Q. How far apart were the houses?

10 A. It was this -- this is a trading centre that is called the Cyarwa trading centre.

11 Q. And how far apart are the houses from each other?

12 A. The houses were very close to each other, because the distance between one house and the other was  
13 about 10 metres, only.

14 Q. And you are saying that both Tutsis and Hutus left their houses and came on the command -- on the  
15 blow of this whistle?

16 A. Yes, that is what happened.

17 Q. How many people came?

18 A. There were many. But I can't give you a figure.

19 Q. Yes, you can; you were there. Tell us how many.

20 A. There were many. It is difficult for me to give you a figure. All I can say is there were more than a  
21 hundred people.

22 Q. How many more than a hundred, 200?

23 A. No. More than a hundred persons; just note there were more than a hundred persons and also that I  
24 did not count these people, that we were there for a very brief period, I mean, at that centre.

25 Q. And how many were Tutsis?

26 A. I was not the \*\*\*\*\* of that *secteur*. It is true that there were Tutsis among them, but I don't know the  
27 number of the Tutsis. Just note that there were people from all the ethnic groups.

28 Q. Yes. But, sir, you say that when Masongo told them that they should kill Tutsis. He's addressing both  
29 Hutus and Tutsis, and then the Tutsi leave the crowd rapidly. So how many Tutsis were there?

30 A. I was not able to figure out the number of Tutsis. It is true that they left the rest of the group to flee, but  
31 I was not able to figure out their number because we climbed aboard a vehicle to continue on our way.

32 Q. It doesn't make any sense. You are telling the crowd to go and kill all the Tutsis; there's Tutsis in the  
33 crowd and they just melt away and nobody tries to stop them to kill them? And you and the gendarmes,  
34 you say, you get back in the vehicle and just drive off. I thought you were there to kill Tutsis. Why  
35 didn't you kill 'em? They are right in front of you.

36 A. My testimony is as follows: our message to the Hutus was that the Tutsi was the enemy, that he had to  
37 be killed, his property destroyed and his livestock eaten up.

1 Q. And that's the script?

2 A. And when the Tutsi heard this message they --

3 THE ENGLISH INTERPRETER:

4 The Kinyarwanda interpreter said he could not finish.

5 MR. BÂ:

6 Can you allow him to finish his explanation?

7 BY MR. BLACK:

8 Q. Sir, can you answer the question without going back in your head to look at the memorised script you  
9 got in your head? Can you do that?

10 MR. JEGEDE:

11 Your Honours, I object to him doing this line of questioning. He asked the witness a question and the  
12 witness answered appropriately, as he knew it.

13 MR. BLACK:

14 No, he didn't.

15 MR. JEGEDE:

16 He says he is meeting --

17 MR. PRESIDENT:

18 Counsel, you must give time for him to answer.

19 MR. BLACK:

20 He didn't answer. He started off going back four lines in the story, and then tracked back, found his  
21 reference point and then proceeded to tell again what's exactly in here.

22 MR. PRESIDENT:

23 Well, Counsel, this may be a story for you, but he says that this is the incident that happened.

24 MR. BLACK:

25 You actually believe this?

26 MR. PRESIDENT:

27 Well, we have to test that --

28 MR. BLACK:

29 Well, I'm testing it, and it's not credible, sir.

30 MR. PRESIDENT:

31 You give him time to answer.

32 MR. BLACK:

33 And can you sit forward? I can't see you.

34 MR. JEGEDE:

35 Your Honours, I empathise with Mr. Black for his frustration with this witness, but the purpose of  
36 counsel in court is to ask questions and, then, the duty of a witness is to answer. So we should respect  
37 that rule for once.

1 MR. BLACK:

2 Thank you. So I can ask my question.

3 BY MR. BLACK:

4 Q. Sir, you didn't answer my question. My question was simple: why didn't you kill the Tutsi? And don't go  
5 back into telling me the speech that Masongo gave, again, about the killing of the Tutsis, burning the  
6 houses, eating the cows; killing the Tutsis, burning the houses, killing the cows. You tell me why you  
7 didn't killed the Tutsis on the spot.

8 A. On that day our task somehow consisted in firing up -- or, inciting the members of the population to do  
9 what we wanted them to do. We did our work and went on our way. Our task that day was not to kill.

10 Q. What better way to fire up the population by setting a good example, and having the gendarmes and  
11 you go and kill a few of Tutsis in front of them, saying, "There you go." You got Tutsis standing right in  
12 front of you. You are telling the crowd to kill Tutsis. You don't kill any. You expect us to believe that --  
13 that story?

14 A. You must believe me. This message emanated from the authorities and that is how Captain Bilikunzira  
15 came to use the leaders to transmit this message to members of the population. The captain was  
16 aware of the fact that the population would follow the message, given that it was delivered -- or,  
17 transmitted by elected authorities of that very population. Our task -- or, mission was to transmit the  
18 message to members of the population in different places.

19 Q. That doesn't make any sense because, right after that, you say you went to Rwabucuma *secteur*, met  
20 the *conseiller*, Kamuhanda, who told you that there were many Tutsis in your *secteur*, Mishirungu, and  
21 he showed this crowd of Tutsis, and you say you and your soldiers started firing some sort of grenades  
22 at them. Why didn't you do that in Cyarwa?

23 MR. JEGEDE:

24 He didn't say he and the soldiers fired. He didn't say that.

25 MR. BLACK:

26 Well, he's part of that. He's a party to it.

27 BY MR. BLACK:

28 Q. It doesn't make sense, sir. You drive on to the next *secteur* in your little jaunt through the countryside,  
29 and the next place you saw Tutsis, you just started firing at them.

30 MR. JEGEDE:

31 Your Honours, I believe we should be careful here. We are sailing close to the wind. He is mentioning  
32 areas that could identify the witness to listeners.

33 MR. BLACK:

34 Identify him to whom? He is in prison. I don't think anybody is going to hurt him in prison there.

35 BY MR. BLACK:

36 Q. So you got any answer for that, why you drive on a few minutes later and start firing at Tutsis, but just  
37 before that, in another location, you don't bother, even although they are standing right in front of you?

- 1 A. When we left Cyarwa centre we did not immediately proceed to Rwabucuma. We passed through  
2 another shopping centre called Mugasiza (*phonetic*) and, there, we were in the company of the  
3 Nyarusange *conseiller*. And this *secteur conseiller* had the same message as the one we had given at  
4 Cyarwa, and we went on our way. They had already started burning houses. From Gasiza we went to  
5 Rwabucuma, where we found that *secteur's conseiller*, and he showed us the Tutsis who had started  
6 leaving Mushirarungu and who were in the valley. The gendarmes then fired on the Tutsis, using the  
7 STRIM, as I said. But a few minutes later -- 10 minutes later, they noticed that they had no more  
8 grenades. Then we continued on our way. We went to my *secteur*, and I believe you have the name of  
9 the locality we went to. Once we left Rwabucuma, we went to a *cellule* of my *secteur* to carry out a  
10 similar sensitisation exercise to the one we had conducted in other areas. You have the name of my  
11 *secteur* -- of the *cellule* in my *secteur*.
- 12 Q. That word "sensitisation" is only a word used by the RPF regime. You didn't go to sensitise anybody.  
13 That's -- that word's adopted by the RPF. They use that word in relation to you prisoners, sensitising  
14 you. That's another indication you've been prepped for this testimony, sir.
- 15 A. No one prepared this testimony for me. I am giving you eyewitness testimony. I am relating the events  
16 I experienced, that I was an eyewitness of. There is no point in levelling personal accusations at me for  
17 acts I did not commit, or trying to blame people for acts they did not commit. I am relating the events  
18 which I witnessed; nothing more.
- 19 Q. You are blaming people for things they never did. So, you say that when they had you, you saw a  
20 vehicle come with Biguma and seven Tutsis, including this *bourgmestre*, Nyagasaza, that they drove  
21 on, and after about -- some certain distance, at a certain person's home, Biguma stopped the vehicle  
22 and ordered the six gendarmes to kill six -- the Tutsi prisoners, leaving the *bourgmestre* still alive. But,  
23 first, they searched them, right, before killing them? That's what your story is?
- 24 A. That is correct.
- 25 Q. So you expect us to believe that these gendarmes didn't search these seven Tutsis when they first  
26 arrested them in Ntyazo *commune*, didn't search them for money or weapons and they just put them on  
27 a vehicle and they could have been armed? It doesn't make any sense. They are just driving down the  
28 road and say, "Oh, my God, we forgot to search the prisoners; let's get them off here and search them."  
29 It's like Keystone Cops. You don't know that reference. They are -- Keystone Cops were a silent film  
30 version of very inept policemen.
- 31 A. They searched those people. I'm not inventing this fact. I witnessed it. Besides, I told you that the  
32 search yielded nothing. The gendarmes found nothing on those people. I was there. I saw what the  
33 gendarmes did. I'm not making anything up.
- 34 Q. I put it to you, you are. And what you've done is put yourself there so you can say you saw them  
35 searched and you put the search in a very unlikely place and an unlikely time. But, in reality, those  
36 men, if they really had taken those prisoners, would have searched them when they detained them first.  
37 That's basic. There would have been no need to search them on the road. So your story's a fantasy as



1 far as I'm concerned, sir.

2 MR. JEGEDE:

3 Your Honours, I don't believe he wants the witness to comment on that. But that's something that is  
4 beyond the witness's observations. He wasn't there when they were first arrested. They only told the  
5 Court what he saw them do when they were taken out of the vehicle.

6 MR. BLACK:

7 All right. Let's ask another improbable -- unlikely scenario.

8 BY MR. BLACK:

9 Q. Why didn't they shoot the *bourgmestre* at the same time? They go to the trouble of dismounting from  
10 the vehicle, searching six Tutsis and they leave the *bourgmestre* there and then drive him a bit further  
11 down the road, take him out and shoot him some other place. That doesn't make any sense.

12 MR. JEGEDE:

13 Objection, Your Honour.

14 MR. BLACK:

15 Would you stop with my questions?

16 MR. JEGEDE:

17 The witness can -- how would he be able to answer that --

18 MR. BLACK:

19 He was at the --

20 MR. JEGEDE:

21 Why did he do --

22 MR. BLACK:

23 He was in the vehicle.

24 MR. JEGEDE:

25 Why did the gendarmes decide to kill at some point?

26 MR. BLACK:

27 Because he there and heard their conversations.

28 MR. JEGEDE:

29 He wasn't a gendarme.

30 MR. BLACK:

31 He was sitting with them (*microphones overlapping*) ...

32 MR. JEGEDE:

33 Was he in their minds? Who told you that?

34 MR. BLACK:

35 Did he tell you he didn't? Why don't you sit down and let me ask the questions? Mr. President --

36 MR. JEGEDE:

37 Your Honour, he's just --

1 MR. BLACK:

2 -- I don't like this.

3 MR. JEGEDE:

4 -- taking us, Your Honour, on a bad ride.

5 MR. BLACK:

6 I'm sorry it's a bad ride for you. It's probably an LSD trip for you, but that's too bad.

7 MR. JEGEDE:

8 Your Honour --

9 MR. PRESIDENT:

10 Yes. Counsel, I think you must ask questions which the witness can answer. He can't read the mind.

11 So he can't say as to why they didn't kill people. We behave differently. All of us don't think the same  
12 way.

13 MR. BLACK:

14 I have to thank both you, Mr. President, and the Prosecution, Mr. Jegede, for giving this guy the answer  
15 to my question.

16 MR. PRESIDENT:

17 Well, that is not the answer.

18 MR. BLACK:

19 Well, it will be now. He'll say, "I didn't hear the conversation; I don't know what's in their mind." That's  
20 what he's gonna say now.

21 BY MR. BLACK:

22 Q. Isn't it? Why did the gendarmes not take out Nyagasaza and shoot him with the other six Tutsis?

23 MR. PRESIDENT:

24 Did they tell them -- did they tell you as to why he -- they were going to take this man to another place,  
25 Witness?

26 THE WITNESS:

27 The gendarmes did not tell me why, but, later, I began to think -- or, rather, reflect, trying to understand  
28 why the gendarmes had killed the people in question and at the place where they killed them.

29 MR. PRESIDENT:

30 Why do you think?

31 THE WITNESS:

32 It was a deduction I made, based on a number of elements. It's not anything the gendarmes said to  
33 me.

34 MR. PRESIDENT:

35 How far did they take this particular person from the place where they killed the other Tutsis?

36 THE WITNESS:

37 The distance between the two places is about a kilometre.

1 MR. PRESIDENT:

2 Yes, Counsel.

3 BY MR. BLACK:

4 Q. Well, sir, you must have heard the gendarmes in this little scenario of yours talking. They must all be  
5 excited and hepped up. They'd just shot six people. They got the *bourgmestre* in the vehicle. You are  
6 in the vehicle. There must have been some conversation between everybody. And Nyagasaza must  
7 have said, "What's gonna happen to me?" There must have been conversations. They must have  
8 said, "You know what? We're gonna shoot you in about one more kilometre." Come on, sir, don't tell  
9 me you were in that vehicle and this happened and no conversation took place.

10 A. They were -- that is, Nyagasaza was in the cabin, but if you looked into their eyes, you could see that  
11 he was petrified, he was very afraid. But I did not hear the gendarmes' conversation.

12 Q. And, of course, you didn't ask them why they shot six Tutsis at that spot or why they didn't shoot this  
13 fellow, did you? You didn't ask anything, right? You don't care; you're just along for the ride to enjoy  
14 the sunshine.

15 A. No. This was not a joyride. I saw what happened and I saw the gendarmes shoot down all those  
16 people. I figured they would also shoot Nyagasaza since he was Tutsi and because those who were  
17 killed were Tutsis. I did not need to ask about this, since I am an adult and that I was seeing what was  
18 happening and could draw my own conclusions.

19 Q. Let's go to the -- this hill where you say 300 refugees were killed that day. You say that Biguma asked  
20 for this fellow, Ngirinshuti, to come forward, but that soldier refused. So I guess that soldier was  
21 identified among the crowd, correct?

22 A. No, one could not see the soldier in the crowd, but Biguma knew that the soldier was there, and that is  
23 why he mentioned his name and called him.

24 Q. And the soldier didn't respond?

25 A. He said he was not going to approach the captain. He added he knew why they were there and that  
26 they should go ahead and do their work.

27 Q. So he must have been identified in the crowd; he must have seen him. When he spoke, he was  
28 identified in the crowd.

29 A. No, we did not see him. All we did was hear the disembodied voice of the person speaking. There  
30 were many people in that place.

31 Q. So you don't know who spoke, then, do you?

32 A. It is Pierre (*sic*) Ngirinshuti who answered, and I know this because I knew his voice.

33 Q. So you knew his voice. And how far away was he when he said this? How far apart were the people --  
34 you and the people and the gendarmes when he said this? How far?

35 A. There was about 300 metres separating us.

36 Q. I put it to you, it's impossible to hear anybody talk or shout from 300 metres, sir. That's an impossibility.

37 A. Let me tell you that even further from 300 metres away one can hear a person's voice. Three hundred

- 1 metres is not big a distance.
- 2 Q. Three hundred metres, sir, is a very long distance and no human voice can carry that far, naturally, sir.
- 3 Since you haven't got an answer to that one -- since this disembodied voice was somewhere in the
- 4 crowd -- sorry?
- 5 A. I have an answer for you. Our voices do not carry the same distance. Some peoples' voices carry
- 6 further, are more resonant and, for others, their voices do not carry so far. It is true that, in my case,
- 7 right now, I'm using a sound system which carries my voice further, but there are people who are able
- 8 to speak without microphones -- or, megaphones and be heard over a long distance.
- 9 Q. Well, then, you tell me who, and I'll be happy. But while you are thinking about who can do that, I'll
- 10 move on to another point. How do you know this soldier escaped that attack? You say he escaped.
- 11 How do you know that? You never saw him.
- 12 A. I did not see him again. But the residents of Nyarusange *secteur*, where that soldier was killed,
- 13 informed us subsequently and they told us about what happened to him.
- 14 Q. You say 300 people were killed on that day on that hill?
- 15 A. Yes.
- 16 Q. And you buried the people on that hill?
- 17 A. Yes.
- 18 Q. Do you have any photographs of the grave? Do you have a map where the grave is?
- 19 A. Those days, burials were not done in the normal manner. There were some gutters and we buried
- 20 them in those gutters. There was no cemetery in that neighbourhood.
- 21 Q. You buried them in gutters. What gutters? Where?
- 22 A. There were furrows, anti-erosion furrows, that had been dug along the hills, and we buried them in
- 23 those furrows. And we also used holes around the hill for the burial because there was no burial on the
- 24 hill, and that is how we managed to bury those bodies.
- 25 Q. Are you telling me you buried these bodies on drainage ditches on the hill?
- 26 A. These were not burials. We just put them in those holes which were on the hill -- or, in the hill (*sic*) that
- 27 was available on the hill. This was not a burial, so to speak.
- 28 Q. And where is this hill?
- 29 A. This hill is located in the *secteur* that I was leading, and in the -- and the name of the *cellule* in which
- 30 the hill is located is in my statement.
- 31 Q. When you talked to the -- you didn't mention this to the prosecutors in Rwanda that I'm aware, of and --
- 32 but, when you talk -- which is another question: why you didn't mention this massacre to them? But
- 33 when you talked to the ICTR investigators, didn't they ask you to go and show them where this
- 34 massacre you allege took place took place, so they could take photographs, try to find the bodies, do
- 35 forensics on it, take a map -- photographs of the site, and so on and so forth, establish there actually
- 36 was a massacre at that place?
- 37 A. No, the investigators of the Tribunal did not ask me to show them that site.

1 Q. Didn't you ask them, you know, "I can go -- if you arrange for me to get out one day, I can -- we go can  
2 go on a trip; I can show you exactly where we buried these bodies; take photographs; make diagrams;  
3 dig some up; check on who they were"? 'Cause right now, sir, the only word we have there was a  
4 massacre at that site is yours, and your word is not worth very much, as far as I am concerned. Didn't  
5 you suggest that to them?

6 A. I was in detention then, and if the investigators wanted to take me to lead them to the site so they could  
7 have taken photographs, I would have done so, but they didn't ask me. Even, today, if someone wants  
8 me to take them there, I can always do that. Because the hill is still there; it hasn't moved along, so I  
9 can show it to whoever is interested.

10 MR. BLACK:

11 In that case, Mr. President, I suggest we take him up on that and take the Bench and this trial to that  
12 site to make a finding, that we ask this witness to lead us there and show us these bodies.

13 BY MR. BLACK:

14 Q. You can do that, right? If we all go there, you can show us these bodies, where you buried them?

15 A. Yes, I can show you the hill and where we buried the victims. But, today, it is possible that the remains  
16 of those victims do not exist any longer because dignified burials were organised for victims, and before  
17 such burials, they had to exhume the bodies. But, today, if you are interested, I can show you the hills  
18 where we buried the victims.

19 Q. So I take it, then, you can't establish there was a massacre there because you're afraid we're not gonna  
20 find anything; the bodies may have disappeared.

21 A. There was -- or, there were dignified burials organised for victims, and before that was done the bodies  
22 were exhumed, so I can show you where the bodies were exhumed.

23 Q. You cannot possibly know that, sir; you can't possibly know whether they were exhumed or not, if they  
24 exist, because you were in flight in Gikongoro for '95 through '97. Then you've been in prison since  
25 then. You can't possibly be aware of an exhumation and a reburial.

26 A. You know, in prison, prisoners have radio receivers so they can listen to -- they can tune in to radio  
27 stations and listen to news and watch television and watch the exhumation of bodies and the dignified  
28 burials that were organised because we do have television sets within the prison. Further, we could get  
29 information from residents of our *secteur* who come and visit. We ask them to give us information and  
30 they tell us.

31 Q. You haven't mentioned anything like that in your statement. You're just doing that because you know  
32 you're in trouble; there are no bodies there. And you've never told anybody in Rwanda about this  
33 particular massacre, as far as I can ascertain, so nobody was aware as to a massacre took place to  
34 exhume the bodies. The whole story is concoction, sir.

35

36 Let's go back to your first statements, before I conclude with you.

37

1 MR. BLACK:

2 Mr. President, I may be able to get you out of here early.

3 THE WITNESS:

4 No, my testimony is not a concoction because I was a witness of the events that happened in my  
5 *secteur*. No one can concoct stories for me. It is true that there were victims on our hill. It is true that  
6 people took refuge on the hills and that they were killed. How will I not recount these stories that  
7 occurred within a *secteur* which is under me? How can I not recount this to you?

8 MR. JEGEDE:

9 Your Honour.

10 THE WITNESS:

11 You know, I am doing this because I decided to plead guilty -- to confess and plead guilty.

12 MR. JEGEDE:

13 He said -- that same evidence that was just given in relation to the massacre is here. It's contained in  
14 the statement, *pro justicia*, containing his -- the judicial records sent to us, which Mr. Black has. On  
15 page 2 of the *pro justicia* of 11 April 2001, it talks about the attack of 23rd April 1994. And that's on  
16 page 2. I asked question No. 4. Question 4: "Are you able to give us the names of --

17 MR. BLACK:

18 Mr. President, he can't do that. He can say, "Look at that page." He can't read this into the record.

19 MR. JEGEDE:

20 Why? Why can't I do that?

21 MR. BLACK:

22 Because it's evidence --

23 MR. JEGEDE:

24 Because you --

25 MR. BLACK:

26 Because you are giving the answer -- the witness the answer.

27 MR. JEGEDE:

28 You've done it all day.

29 MR. BLACK:

30 You can tell me to read this, but you can't read it to him. You're giving him the answer.

31 MR. JEGEDE:

32 But it's there anyway, Your Honours.

33 MR. PRESIDENT:

34 Yes, you can say that there's a reference to this massacre in the *pro justicia*, given on a particular date.

35 So that will cover you, I think.

36 MR. BLACK:

37 Well, it doesn't cover him. Let me read that.

1 MR. PRESIDENT:

2 No, you said --

3 MR. BLACK:

4 Let me read that.

5 MR. PRESIDENT:

6 No, what you said was that he has not mentioned this to anybody.

7 MR. BLACK:

8 It's --

9 MR. PRESIDENT:

10 He's countering that.

11 MR. BLACK:

12 Well, he's wrong. So I'll read it to you.

13 BY MR. BLACK:

14 Q. You said -- as Mr. Jegede says, you were asked a question. Above this, you'd said, "These are the  
15 attacks that I recall."

16 MR. JEGEDE:

17 No, no, no, no, that's not the one.

18 MR. BLACK:

19 Well, which one are you talking about then? You said, April 23rd, the attack.

20 MR. JEGEDE:

21 No, no, no, no, the 11 April 2001, *pro justicia* --

22 MR. BÂ:

23 May.

24 MR. JEGEDE:

25 Oh, sorry, May.

26 MR. PRESIDENT:

27 May.

28 MR. BLACK:

29 Yeah, well --

30 MR. PRESIDENT:

31 May, May.

32 MR. BLACK:

33 I got that and I got the -- I got -- you got -- I got the 23rd April reference. Which one are we talking  
34 about?

35 MR. PRESIDENT:

36 What is the page?

37

1 MR. JEGEDE:

2 Page 2, Your Honours --

3 MR. BLACK:

4 That's what I'm reading.

5 MR. JEGEDE:

6 -- last paragraph.

7 MR. BLACK:

8 That's what I'm reading.

9 MR. JEGEDE:

10 Then you can read it.

11 MR. BLACK:

12 Well, let me read it.

13 BY MR. BLACK:

14 Q. So you say above that: "These are the attacks that I recall." And then you're asked this question: "Are  
15 you able to give us the names of the attackers who participated in these attacks?"

16

17 Answer: "The attack of 23rd April was mainly against soldiers who came from Nyanza."

18

19 It doesn't mention that an attack took place -- which attack? You are referring to -- or another attack? It  
20 doesn't mention anything about a hill, or 300 Tutsis being --

21

22 So, are we to take it that is the attack, or is that another attack?

23 A. I was answering a question that was put to me. The person who asked me the question told me not to  
24 go into details, talking about the location where the attack was launched, and that is why my answer  
25 was brief. And I said that it was an attack in which gendarmes participated at Munyinya.

26 Q. You don't say how many people are killed there. You don't tell anybody that there were 300 people  
27 killed there or anything like that. So you've never told anybody that that many people were killed there.

28 A. I did say that there was a large number of victims. And, you know, you cannot answer a question -- or,  
29 you can only answer a question in relation to the manner in which a question was put to you. If they  
30 had asked me to give an estimate of the number of victims, I would have done that, just as I did when  
31 they asked me to give an estimate of the number of victims.

32 Q. Do you take us for fools, sir? You tell people there was an attack; people were killed, and you don't tell  
33 the investigators how many people were murdered? You gotta be kidding me. Nobody's going to  
34 accept that. It's not important how many people were killed? They don't ask, so you don't tell 'em? If  
35 there are 10,000 you wouldn't have mentioned it?

36 A. I answered a question that was put to me; otherwise, I would have been digressing. I could not ask  
37 them to ask me certain questions; neither could I suggest questions to them.



1 Q. It's also strange -- you give on that page a list of some of the victims, you say, were that day in that  
2 attack, but you don't mention Ngirinshuti, who figures prominently in the story. You list -- "These are all  
3 the names of people I can remember killed in that attack." One, two, three, four, five, six ... nine, you  
4 name, and you include 13 others who lived at some guy's -- some person named Sharushi's (*phonetic*)  
5 house -- or, place. You don't mention Ngirinshuti, Petero, around which your story here is constructed.  
6 How did he drop out of the picture?

7 A. I made reference to Ngirinshuti in this statement, and if you read that statement properly, you see that I  
8 did say that he was killed in the Nyarusange *secteur*, whereas the question that was put to me was in  
9 relation to Mushirarungu *secteur*. And, therefore, I made reference to Ngirinshuti when said he fled,  
10 was arrested and killed in Nyarusange *secteur*. Regarding those attacks, the question was put to me in  
11 relation to the attack that was launched in the *secteur*, and I made reference to the various attacks that  
12 I knew about. I knew some of them, among the attacks that were launched in my *secteur*.

13 Q. Let me go back --

14 MR. BLACK:

15 I won't be much longer, Mr. President, I don't think.

16 BY MR. BLACK:

17 Q. Before I quit, let me go back to something one of my colleagues drew my attention to here. You said --  
18 in your statement to the ICTR you said you were in Burundi for six or seven weeks, March -- February  
19 and March 1997. Here, you change your story and say you were only in Burundi for four days. But  
20 when you talked to the prosecutors in the statement in Rwanda of -- in Rwanda, May 11, 2001, when  
21 they ask you were you present during a so-called genocide in 1994, you say, "I was in my domicile at  
22 Mushirarungu since the beginning, until Nyanza was taken by the *Inkotanyi* in July. I fled to Gikongoro,  
23 where I stayed until my return in May 1997." You don't mention Burundi at all. So you got three  
24 different stories on this -- where you were in 1997. You got you are in Burundi, six weeks or  
25 seven weeks; you got one where you are in there only four days and you see this light from God, and to  
26 the Rwandans -- are you, several months after you made this statement, saying you were in Rwanda  
27 for six or seven weeks? Several months later you tell them you never entered Burundi.

28 A. When you answer a question, you do so in relation to the question that was put to you. The officers of  
29 the department of public prosecutions in Rwanda did not want me to give them my entire itinerary. If  
30 they had wanted me to do so, I would have done it. I was only answering the question they put to me.

31 Q. So, you lied to them because you didn't want to look like you had fled, you had tried to flee the regime,  
32 right? You didn't want them to know you tried to run away, which made you look even more guilty. So  
33 you dropped out the Burundi story, right? That's why you left it out.

34 A. No, the officers of the department of public prosecutions did not ask me the question in that manner. If  
35 they had asked me the various places I spent the night, what I ate, I would have answered all those  
36 questions. I simply answered all the questions they put to me, and I have nothing to add to that.

37 Q. Then why did you mention fleeing to Gikongoro and staying until 1997 at all? They just asked, "Where

1 were you during this genocide in 1994?" You go on and tell them where you were in 1997. And I'm  
2 sure you told the investigators of the ICTR you were telling them the truth when you said you were  
3 there for six weeks in Burundi. Several months later you tell the Rwandan authorities you were always  
4 in Rwanda. And you must have only have done that, sir, 'cause you didn't want them to know you tried  
5 to flee, because that didn't make you look too good. So you lied to them.

6 A. I was not the only one to go into exile. There were very many of us, and there's nothing wrong with  
7 being an exile. And you'll understand that I could not have answered the question that was not put to  
8 me. The officers of the DPP did not ask me where I went into exile, the various dates. The main issue  
9 was that I was back and the authorities were happy that I was happy to tell the whole truth about the  
10 crimes that I committed, but they were not interested in the various details about places where I spent  
11 the night, what I ate. The important thing was that I was answering the questions that they were putting  
12 to me.

13 Q. So if the Rwandan authorities get hold of this transcript, if they read this transcript -- it's a public record;  
14 it's reported on the news here -- and they hear you fled to Burundi, that's not going to be a problem for  
15 you?

16 A. No, that cannot create any problems for me because the Rwandan -- the Burundi -- Rwandan  
17 government recognised our right to answer questions, all the questions that were put to us, and I'm  
18 here to answer questions, so I cannot be punished for that.

19 Q. Sir, you have no rights in Rwanda. You've been detained for eight years without any charges being  
20 laid; no trial. Are you telling me you got rights in Rwanda? Come on.

21  
22 Let's go on to something else. You made a -- I got a statement here from a person named  
23 Augustin Ndamutsa. You ever heard of that person; N-D-A -- sorry, N-D-A-M-U-T-S-A? It was made to  
24 the Rwandan prosecutor on 21st of January 1998.

25 A. I know him.

26 Q. Well, he's asked a question and is accusing you. This is what he says. Question --

27 MR. BLACK:

28 Interpreters, if you have this; it's on page 1 of that statement. It's K0358368.

29 BY MR. BLACK:

30 Q. Question: "Against whom are you testifying and what are you accusing them of?"

31  
32 Answer: "I'm accusing the following persons who, from what our former \*\*\*\*\* told me" -- and it  
33 names you -- "were in his company when they came to kill people and loot their belongings in their  
34 homes."

35  
36 And this is who this man says you were with: Joram Munyankumburwa -- sorry, it's Joram, J-O-R-A-M;  
37 Munyankumburwa, M-U-N-Y-A-N-K-U-M-B-U-R-W-A. I'm not hearing any translation. Why am I not

1       hearing a translation of that?

2 THE ENGLISH INTERPRETER:

3       Because you are speaking English, Counsel.

4 MR. BLACK:

5       I usually hear it back, everything. I hear everything back I say.

6       *(Pages 42 to 57 by Verna Butler)*

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1 1530H

2 MR. PRESIDENT:

3 We were reading -- yeah, what did the --

4 MR. BLACK:

5 I'm reading in French. Anyway.

6

7 Okay. Jerome Munyankumburwa.

8

9 I'm still hearing nothing (*microphone not activated*).

10

11 Eliza (*phonetic*) --

12 THE ENGLISH INTERPRETER:

13 Does counsel want us to interpret the names?

14 MR. BLACK:

15 (*Microphone not activated*)...just read them. It helps me maintain a flow so I don't go too fast for you.

16 THE ENGLISH INTERPRETER:

17 Precisely.

18 MR. BLACK:

19 "Precisely."

20 THE ENGLISH INTERPRETER:

21 Yes. Counsel is on the English channel, so it goes into the English records.

22 MR. BLACK:

23 All right. I'll just read them out, then. Sorry.

24 BY MR. BLACK:

25 Q. All right. Third name, Kanyarwanda (*phonetic*); fourth name, Wanditzi (*phonetic*); fifth name,  
26 Ukandimana (*phonetic*), alias Sebioza (*phonetic*). And then they go on. There's also another one  
27 called Nyeradenkwe. He's detained here. He kept cattle and currently is in Kigali.

28

29 No gendarmes are mentioned. No Captain Bilikunzira is mentioned. And they do go on the next page  
30 to say, in French, on the second sentence, "They were also in the company of Emil (*phonetic*)."

31 MR. BÂ:

32 The one -- you say you continue. It's not him speaking. It is the complainant who was speaking.

33 MR. BLACK:

34 (*Microphone not activated*)

35 MR. BÂ:

36 Well, I heard in the interpretation that on the next page you continue. The document does not speak  
37 about him. And that person is talking about the attack on his house, the attack against his house.

1 MR. BLACK:

2 It says these -- they talk about these persons, Mr. Bâ, then they continue. "They were also in the  
3 company of Emil (*phonetic*), a former policeman who was throwing grenades into our house. I will also  
4 recall Morangayzi (*phonetic*)."

5

6 No Captain Bilikunzira mentioned. Let me have --

7 MR. JEGEDE:

8 Your Honours --

9 MR. PRESIDENT:

10 (*Microphones overlapping*)...let him answer.

11 MR. JEGEDE:

12 (*Microphones overlapping*)...this is a completely different attack. If we -- we didn't go -- in my direct, I  
13 didn't go into all the attacks that he participated in. I -- but I -- he spoke about attacks that he  
14 participated with gendarmes only, not with civilians. So if he's talking about it's a different attack -- but  
15 I'm sure the witness can deal with that.

16 MR. PRESIDENT:

17 Yes, yeah --

18 MR. BLACK:

19 (*Microphones overlapping*)...oh, thank you very much, Mr. Jegede. I'm sure he thanks you too.

20 BY MR. BLACK:

21 Q. Let's go through a lot more attacks. There's a statement I have here made 28th of June 2001. There  
22 are other complainants against you and others, and the person named Médiatrice Mukakabera, who  
23 came forward to accuse, among others, you. That's on page 3 of that statement. It's K0358358.

24 MR. BÂ:

25 Which statement are you referring to, Counsel, statement of which date?

26 MR. BLACK:

27 Twenty-eighth of June 2001. It's K0358358.

28 BY MR. BLACK:

29 Q. This person, Médiatrice Mukakabera -- I'll read it. "On the 8th of May, 1997, one  
30 Médiatrice Mukakabera came to accuse Nsengimana and his father, named Furere Ntabareshya --"

31 MR. PRESIDENT:

32 (*Microphone not activated*)...mention his name when it comes to it.

33 MR. BLACK:

34 Yes.

35 BY MR. BLACK:

36 Q. Pierre Rekeraho; Kibaya, Zikimabahari; Bidini; Azarie Kayihura; you, the witness; Kayiranga; and  
37 Kalinda, who came to kill a person named Mukarwego and another named Kinjuri (*phonetic*) at their

house. Again, no gendarmes mentioned, no Captain Bilikunzira. It doesn't give a date of that attack.

MR. PRESIDENT:

You just said the 8th of May, you said?

MR. BLACK:

That's when the complainant made the complaint, in 1997.

BY MR. BLACK:

Q. And they talk about this witness -- or, this complainant talks about another event three days after this first one and says, "Three days later, Furere, called Rekerahaho (*sic*), and his son, Antoine. They arrested Jean Mukangwije, Odette, (*microphone not activated*), Mukagarambe, and the child she carried on her back.

"Nsengimana ordered Mukangamije to leave the child at Isaac's house, but she refused. Ntabareshya, Nsengimana, Rekeraho, Antoine," and you, Mr. Witness, (*microphone not activated*)..."took the victims away and -- led the victims and killed them, together with that child, a (*sic*) Butare and Munyinya -- to Butare and Munyinya."

She then goes on -- I don't know if it's a woman or a man -- but this complainant (*unintelligible*) read this one. It says, "Three days later, you were involved in the killing of other people, with certain named people, a group of people, among whom there are no gendarmes at all."

Then on page 4 they have another complainant made on the 20th of June, 1997, by a man named Fidel Ngarambe, N-G-A-R-A-M-B-E, who talks about killing people with a group, among whom you were one of the assailants. In fact, they came from your home. They say these attackers took them to the house of the \*\*\*\*\*, and they killed them and buried them at your residence. Again, no gendarmes mentioned.

Then on page 5, we have another complainant from the 26th of August 1997, a woman named Cecile Mukangoga, who came forward to accuse you, among several other people, with killing -- well, eight other people. And, again, no gendarmes mentioned.

On the 28th -- next is on the 28th January 1998. This Augustin Ndimutsa (*phonetic*) came forward again to accuse you, sir, in collaboration with five other people. And this police officer, Emil (*phonetic*), communal police, of killing several people and taking five cows. Again, no gendarmes mentioned, no Captain Bilikunzira.

On the page 6 on the 10th of May 1999 another complainant came forward named Gedeon, that's G-E-D-E-O-N, Ntware (*phonetic*), concerning the death of Augustin Munyentwari and his wife Bagirinka.

1 And they -- he said that these victims were killed by a grenade during an attack lead by you and this  
2 police officer named Emil (*phonetic*). No gendarmes mentioned.

3  
4 On the 13th of May 1999, a complainant named Judith Makabadege (*phonetic*) came forward  
5 concerning the death of this Munyamantware (*phonetic*) and Bagirinka and confirms the previous  
6 testimony -- or, complaint and says that you were involved. But, again, no gendarmes mentioned.

7  
8 On the 13th of May, 1999, they heard a man named Marc Ndayambaje, N-D-A-Y-A-M-B-A-J-E, on the  
9 subject of the same death of those two people I just mentioned. And they say that all those -- these  
10 victims were killed by assailants led by you and a police officer named Emil. No gendarmes mentioned.

11 MR. PRESIDENT:

12 Yes. Witness, what have you got to say to this? These people have mentioned your name and  
13 accused you of doing certain acts. In your confessional statement, have you referred to all this?

14 THE WITNESS:

15 The various attacks enumerated make no mention of the gendarmes. And, in my case as well, when I  
16 testified through officers of the International Criminal Tribunal, I did not accuse the gendarmes. I only  
17 accused them in attacks in which they took part. So I'm not denouncing the gendarmes in the various  
18 attacks that were read out to me. I only denounced them with regard to the attacks in which they took  
19 part. I don't know if such attacks were included in the list, whether the various statements contain what  
20 I declared to officers of the International Criminal Tribunal.

21 BY MR. BLACK:

22 Q. Well, sir, two things strike everybody as odd about these Rwandan judicial documents, is that, first of  
23 all, you had various complainants coming forward and saying you did -- committed certain crimes with a  
24 *communal* policeman named Emil. No gendarmes mentioned. That's curious.

25  
26 But, more importantly, it's quite clear that the Rwandan authorities were seeking corroboration of the  
27 crimes you have committed, descriptions of the crimes you committed and whom with. People have  
28 come forward over the years, and there's not one statement in the gendarme -- in the Rwandan  
29 authorities' dossier indicating gendarmes took part in any of these crimes or other crimes. There's  
30 nothing. So I put it to you, sir, that gendarmes were never involved. You just inserted them because  
31 people wanted you to insert them.

32 A. That is not correct. I talk about the gendarmes in giving an account of the events they took part in. If  
33 you conduct an investigation, you will come up with the same result. I cannot include them in acts they  
34 did not participate in. Therefore, I am mentioning them in relation to actions they took.

35 Q. It's quite clear that the Rwandan authorities did a -- a -- an investigation of you and all the things you --  
36 you could have done. And there's nothing in their files corroborating your version you gave to the  
37 ICTR, and your version to the ICTR appears just a few months after General Ndindiliyimana's been

1 arrested. I find that very curious too. It's only after he's arrested that you make this statement to the  
2 ICTR.

3 A. I made that statement when officers from the Tribunal came to question me. I could not take the  
4 initiative to talk anyhow. I related the events to them as they occurred -- as they had occurred.

5 Q. And the reason I'm -- I'm going to say again that your story was concocted. It was because you spoke  
6 to the ICTR investigators at least three times before you made this statement in 2000, November of  
7 2000. And in those statements you said you only talked about priests. And I put it to you, again, that if  
8 gendarmes had been involved in the crimes with you, you would have told the ICTR investigators, "No,  
9 I can't tell you anything about priests, but I got -- I can get a general involved. You want to know about  
10 that? You want to know about gendarmes? I'll tell you that -- about that. You didn't mention it. Only  
11 after he's arrested did they come back and get a statement from you mentioning gendarmes.  
12

13 So I say it to you, sir, people heavily suggested you put together this story, this false story, to implicate  
14 gendarmes. Everything indicates that, sir.

15 A. I told you I could not invent a story. There was no point in me doing that. I had no interest in doing so,  
16 blaming people for actions they did not take. There are people I do not mention because I have no  
17 information involving them in what happened. So I haven't made anything up. I have proof that can  
18 support what I am saying. And if you visit the sites, you will see that the various events took place.  
19 And when information was being gathered for the Gacaca courts, I stated all of this. I did not make  
20 anything up. I gave the truth.

21 Q. Well, we've seen various instances where that's not true, sir, but let me just --

22 MR. BLACK:

23 Mr. President, just one second. I may be able to finish.  
24

25 I'm happy to tell you, Mr. President, we can go home. So I have no further questions. Thank you.

26 MR. PRESIDENT:

27 *(Microphone not activated)*

28 MR. MACDONALD:

29 He's putting me in a very bad situation.

30 MR. BLACK:

31 I didn't think *(microphones overlapping)*...I'm sorry.

32 MR. MACDONALD:

33 *(Microphones overlapping)*...I have three lines of questioning --

34 MR. PRESIDENT:

35 Yeah.

36 MR. MACDONALD:

37 -- so I might not be finished by 4 o'clock, but certainly by 4:15. So I suggest we, maybe --



1 MR. PRESIDENT:

2 Yeah.

3 MR. MACDONALD:

4 -- go on to 4:15.

5 MR. PRESIDENT:

6 Yeah.

7 CROSS-EXAMINATION

8 BY MR. MACDONALD:

9 Q. Sir, I draw your attention to one specific incident. You recall the incident with Fasaho, F-A-S-A-H-O,  
10 who was killed on April the 20th, 1994?

11 A. I remember it, Counsel.

12 Q. Okay. And following his killing, I understand that some people were arrested. I believe 15 people were  
13 arrested and, you mentioned, subsequently released by the Captain Bilikunzira; is that correct?

14 A. That is correct.

15 Q. Now, did you try to oppose in any way the arrest of -- of these killers?

16 A. After Fasaho's death, I went to the *sous-préfet's* house in the company of my friend. This was before I  
17 heeded the call by Captain Bilikunzira to all the \*\*\*\*\* --

18 THE ENGLISH INTERPRETER:

19 There was a part the interpreter missed.

20 THE WITNESS:

21 That is what we did, but we were not well received, which pushed us to do nothing -- which drove us  
22 all -- led us to do nothing further.

23 BY MR. MACDONALD:

24 Q. Okay. But before going to the office of the *sous-préfet*, should we understand that you did not do  
25 anything to oppose these -- these arrests -- that's the question -- before going to the *sous-préfet's*  
26 office; is that correct?

27 A. These people lived in Nyarusange *secteur*. They did not live in my own *secteur*.

28 Q. Okay. Now, following the release by Captain Bilikunzira, you say in your examination-in-chief that this  
29 Captain Bilikunzira sent a communiqué to you -- well, actually, to all the \*\*\*\*\* ,  
30 the \*\*\*\*\* , is that correct?

31 A. Yes, he sent a message to all the \*\*\*\*\* .

32 Q. Okay. And when was the meeting set? Was there a date set where you had to meet with the -- with  
33 the captain?

34 A. It was the 21st of April, 1994.

35 Q. Is that the date when you got the communiqué?

36 A. I had received the message the day before.

37 Q. Well, how could you -- you received the message on -- on April the 20th?

- 1 A. Yes, in the evening.
- 2 Q. But Fasaho was killed on the 20th of April; isn't that correct?
- 3 A. Yes. We were told he had died on the 20th -- or, the 20th we were told he had died in Nyarusange
- 4 *secteur* -- Nyarusange *secteur*.
- 5 Q. So you don't know if that communiqué was issued after or before Fasaho's death; is that correct?
- 6 A. It was after Fasaho's death.
- 7 Q. Well, how do you know that? You weren't a witness to Fasaho's death. You don't even know who
- 8 killed Fasaho. People were arrested, but you're assuming that these people were responsible. But you
- 9 didn't see anything of that; isn't that correct?
- 10 A. I did not witness the crime. However, the 15 persons I mentioned were released. One of those
- 11 persons told me that everybody had been released, and that very evening I received the invitation to
- 12 attend the meeting. So after the 15 persons -- the 15 persons who had been held at the *communal* jail
- 13 were released.
- 14 Q. No, you're getting ahead of yourself, here. I'm just trying to figure out -- you found out that 15 people
- 15 were responsible for his death. You say he died on the 20th of April and --
- 16 A. We learned he was dead on the 20th of April.
- 17 Q. Okay. What type of communiqué was that?
- 18 A. A summons, or invitation, requesting us to go and participate in a meeting. It was an invitation to
- 19 participate in a meeting.
- 20 Q. But was that a written invitation? Was it a verbal invitation? Was it a phone call, a fax, a telex? What
- 21 form did that particular invitation take?
- 22 A. It was a written invitation.
- 23 Q. And who was that given to? Was that sent to your house or was that presented to you in another way?
- 24 How -- how did -- how did that work?
- 25 A. The invitation was handed to me by a policeman named Emir Ruangitwa (*phonetic*).
- 26 Q. And what was on that communiqué? What was written on that communiqué?
- 27 A. It said in the text that all \*\*\*\*\* were invited to attend a meeting at the gendarmerie.
- 28 Q. That's it? It wasn't mentioned on that communiqué the -- the -- the purpose of that meeting?
- 29 A. I only remember what I've just told you.
- 30 Q. All right. So you're -- Fasaho dies on the -- on the 20th of April. People are arrested. You get a
- 31 communiqué to show up at the gendarmerie detachment for a -- for a meeting, all of the \*\*\*\*\* ,
- 32 but you don't know what for. That's -- that's what I understand from the testimony.
- 33
- 34 Was that the proper procedure?
- 35 A. (*No interpretation*)
- 36 Q. Whenever you were requested to, say, show up at the gendarmerie detachment, was that usual
- 37 procedure, people would -- well, the \*\*\*\*\* , anyways, would be convoked by a written

- 1 summons?
- 2 A. Yes, that was the procedure when we had a meeting at the *commune*. This was the very first time we  
3 were being invited to attend a meeting of the gendarmerie.
- 4 Q. So we can't really speak about standard procedure if that was the first time you were invited at the  
5 gendarmerie. So that was the first time, and that time they invited you by written summons, correct?
- 6 A. It was the very first time that we were being invited to a meeting at the gendarmerie. Prior to that, there  
7 were no meetings at the gendarmerie station.
- 8 Q. But before going to the gendarmerie, according to your testimony, you stopped -- or, you went -- I'm not  
9 sure if you were on your way there or not, but you went to the sub-*préfet's* office; is that correct?
- 10 A. That is correct.
- 11 Q. Was that on your way to the meeting?
- 12 A. Yes, Counsel.
- 13 Q. But you say in your statement, and it's at page 11 of the transcript, October the 19th, that you wanted to  
14 seek further -- further information from the sub-*préfet* so, therefore, arrived at the sub-*préfet's* office. So  
15 I understand you're on your way to the -- the gendarmerie. You've been convoked by written summons  
16 to show up there. You don't know why. But before going there you stop at the sub-*préfet's* office. Why  
17 is that?
- 18 A. We, first of all, went to the office of the *sous-préfet* because he is the one who works with us. He's our  
19 most immediate supervisor. Because at the time the *bourgmestre* had fled. You will, therefore,  
20 understand that, in the absence of the *bourgmestre*, we had to go to the *sous-préfet* if we had any  
21 complaints. I didn't -- I, therefore, did not go directly to the -- to Captain Girikunda (*phonetic*). We  
22 needed to meet the *sous-préfet* to know what he thought about the situation because we heard about  
23 the death of the Tutsi, Fasaho. And, as you can see, I was in company of the *conseiller* of the *secteur*.  
24 We wanted the opinion of the *sous-préfet* and the reason for which those people who were detained  
25 were released. That is what you will find in my statement.
- 26 Q. But if you don't -- if you didn't know what the meeting was all about at the gendarmerie, why bother  
27 going there before? You had no idea there was a link between the meeting at the gendarmerie and  
28 whatever you had to discuss with the *préfet*; isn't that correct?
- 29 A. I was worried. Somebody had been killed. People had been detained. And we were concerned about  
30 the fact that Captain Bilikunzira had released the suspects, and we wanted to know what the  
31 *sous-préfet* had to say about it.
- 32 Q. You mentioned that the *bourgmestre* had fled. Which *bourgmestre* had fled?
- 33 MR. JEGEDE:
- 34 At what point?
- 35 MR. MACDONALD:
- 36 I believe he said that -- (*microphones overlapping*).
- 37 MR. BÂ:

1 (No interpretation)

2 THE WITNESS:

3 The *bourgmestre* who fled was Jean-Marie Vianney Gisagara. That is the *bourgmestre* who -- who  
4 fled.

5 BY MR. MACDONALD:

6 Q. But why didn't you see Jean-Marie?

7 A. He had fled. We did not know where he was.

8 Q. Okay. So you go to the *sous-préfet's* office, and you're -- he's -- he -- you say, "He scolded us." And in  
9 your testimony you say, "He scolded us, saying, 'Up till date --' I imagine "up to date" -- 'you don't know  
10 who the enemy is?'"

11  
12 That was a question he put to you. My answer is -- my -- my -- my question is, what did you reply to  
13 that?

14 A. We answered him that we did not know our enemy.

15 Q. Very well. But I think there's a mistake in your -- your description of the events here because that --  
16 that question would have been asked not by Kayitana, the *sous-préfet*, but by Bilikunzira, according to  
17 your statement, page 3, statement of 8th of November 2000.

18  
19 Is that possible, that it's not the *sous-préfet* who asked you that question, "Don't you know who the  
20 enemy is?" It would have been Billy -- Bilikunzira, just a slight mix-up but (*unintelligible*)?

21 A. This question was put to us by the two persons.

22 Q. That's not what you say in your statement. In your statement you say that Kayitana -- the question put  
23 by Kitana was, "Why are you still protecting Tutsis?" And Bilikunzira, according to your statement, is  
24 the one that asked you whether or not you knew who the enemy was.

25  
26 But, besides that, you -- okay. So you go to that -- to see the *sous-préfet*, and that was -- I understand  
27 that was improvised. You decided that -- that was from your own doing. You weren't asked to go there;  
28 you just decided to show up at the *sous-préfet's* office; is that correct?

29 A. When my colleague came to see me in my *secteur*, we continued together, and we discussed the issue  
30 on the way, on our way to the *sous-préfet*.

31 Q. Okay. So you got there, he scolded you, asked you, according to you, that question, "You don't know  
32 who the enemy is?" You replied, "No," and while you're at the *sous-préfet's* office, the *sous-préfet* calls  
33 Bilikunzira, Captain Bilikunzira. And Mr. Jegede asked you how you knew -- page 12 of the transcript:  
34 "How did you know that it was Captain Bilikunzira he telephoned?" And you said you could hear the  
35 person's voice on the telephone. That's how you knew the *sous-préfet* was talking to Bilikunzira. You  
36 still maintain that position?

37 A. Yes, I confirm that.

1 Q. So -- I think that -- the question begs, what -- how could you hear a person talking -- how can you  
2 recognise a voice of a person who's talking on the phone to another person who's got the phone, I  
3 assume, next to his ear? How could you manage that?

4 A. The person who was with us phoned him up. And when he picked the phone, we got to know the  
5 person who was at the other end of the line. The *sous-préfet* was with us, and he was talking to the  
6 person at the other end of the line. And when the person he was speaking to answered his questions,  
7 we were able to know who it was.

8  
9 And, besides, when the person at the other end of the line picked the phone, the *sous-préfet* asked  
10 whether that was the gendarmerie station. And, you know, when you are close to somebody who is using  
11 a telephone, particularly landline telephones, which were commonly used those days, you -- you could  
12 hear the voice of the person speaking at the other end --

13 Q. I suggest, sir, you're all making this up (*microphones overlapping*).

14 A. -- particularly if it's a voice you're familiar with.

15 Q. Well, I can't. I don't know about people in this room, but I can't. When a person's talking on the phone  
16 to another person, I can't hear the voice of that person. I don't know what kind of phones you have in  
17 Rwanda, but that's not what we have in America.

18  
19 So, anyways, he talks to a -- the *sous-préfet* talks to the captain, and then you -- what happens there,  
20 you decide -- the *sous-préfet* decides to take you to the captain's -- to the gendarmerie, or what?

21 A. The captain asked the *sous-préfet* to bring us to the gendarmerie. And when we got -- we climbed into  
22 the *sous-préfet*'s vehicle, we saw the gendarmerie vehicle with ten gendarmes. So we left the  
23 *sous-préfet*'s vehicle and climbed aboard the gendarmerie vehicle, which took us to the gendarmerie.  
24 And when we got there, the *sous-préfet* found us there. So the *sous-préfet* came to the gendarmerie  
25 and found us there.

26 Q. So you got to the gendarmerie, and I'm assuming that Captain -- I have problems with his name; I don't  
27 know why -- Bilikunzira discussed the issues you had discussed with the *sous-préfet*; is that correct?

28 A. Yes, that is what happened.

29 Q. And, according to you, to your position now, you say that he even asked you the same question that the  
30 *sous-préfet* asked you, "Don't you know who the enemy is?" So my question is this: What was the  
31 purpose of that conversation before you go to the *sous-préfet*'s office? In other words, how could  
32 Captain Bilikunzira send you a written summons to show up at the gendarmerie without -- before you  
33 even went to the *sous-préfet*'s office? Because he discussed exactly the same things you discussed  
34 with the *sous-préfet*. So how's that possible?

35 A. I told you that we took the initiative to go and see the *sous-préfet*. We did not take the initiative to go  
36 and see Captain Bilikunzira, so the initiative to go and see the *sous-préfet* was ours.

37 Q. You're sidestepping the -- the question, here. You say you get a written summons to show up at the

1 gendarmerie. Obviously, that's before you go and meet with the *sous-préfet*. You don't know what  
2 purpose -- for what purpose you have to show up to the gendarmerie, but, in any event, you decide to  
3 go. But before going there, you decide to stop at the *sous-préfet's* office. You discuss certain things.  
4 He tells you -- he scolds you and -- and asks you the question, "Don't you know who the enemy is?" To  
5 that question you reply, "No."

6  
7 During that meeting, the *sous-préfet* calls the captain, and they want -- the captain, I assume, wants  
8 you to go to the gendarmerie. When you get there, they discuss -- he asks you the same question, in  
9 other words, I understand he scolds you also, but for exactly the same reasons, or, I should say, for --  
10 for -- in the context of the conversation you had with the *sous-préfet*.

11  
12 So how could he send you a summons to talk to you about things you talked with the *sous-préfet* before  
13 you went to the *sous-préfet's* office? That's impossible.

14 A. We received the invitation before going to the *sous-préfet*, and we went to the *sous-préfet* because we  
15 were worried about the fact that the captain had freed the Hutus who had freed a Tutsi (*sic*). We were  
16 wondering why the captain had freed the -- these people who had killed a person. It was an incident  
17 that was occurring for the first time in our locality, so we could not go directly and see the captain  
18 because we could see that what he did was not proper. And that is why we first went to see the  
19 *sous-préfet*, and we realised that the *sous-préfet* and Captain Bilikunzira had the same position.

20 Q. I understand that. You went to see the *sous-préfet*. You expressed your feelings to the *sous-préfet*  
21 about these people being freed. Following your -- this expression of your feelings, the *sous-préfet*  
22 scolds you and gets on the phone and calls the captain. Then the captain wants to see you.

23  
24 So the *sous-préfet* knew what your position was on the fact that these 15 people had been freed, but  
25 the captain did not until the *sous-préfet* called him. So my question, again, how could he send you a  
26 written summons, a convocation, before you even get to speak to the *sous-préfet*? I couldn't figure that  
27 out. I tried to twist that in every direction, and I can't -- I can't see how -- how that could work in your --  
28 your -- your explanation.

29 MR. PRESIDENT:

30 Well, Counsel, I think it was -- that had nothing to do with this -- the *sous-préfet's* thing. The previous  
31 day he received summons. He received summons, and with the summons, he met the person who was  
32 released. So that person told that he was -- been released by captain.

33 MR. MACDONALD:

34 Well, there's no point -- I'm not going to -- I'm not going to keep on cross-examining him if you can  
35 answer the answers, Mr. President --

36 MR. PRESIDENT:

37 (*Microphones overlapping*)...well, you said you can't understand --

1

2 MR. MACDONALD:

3 *(Microphones overlapping)*...well, I can't understand because he's going to see the captain. The reason  
4 he's going to see the captain is because he's got a written summons.

5 MR. PRESIDENT:

6 Yes.

7 MR. MACDONALD:

8 But before going to see the captain -- and he doesn't know why. But why would the captain want to see  
9 him? He hasn't expressed anything to the captain. He's expressed what he had to say to the  
10 *sous-préfet*, so how could the captain know what his feelings are? We don't know that.

11 MR. JEGEDE:

12 Your Honours, I just want to urge counsel not to be discourteous to the Bench, which they do all the  
13 time. They are disrespectful to everybody here, they abuse everybody here, and they want the witness  
14 to be respectful to that? It's not done anywhere in the world.

15 MR. MACDONALD:

16 What do you have to say, sir? We don't brief the witnesses. We don't tell them what to say. We don't  
17 do that. You understand? That's being fair. That's being honest.

18 JUDGE PARK:

19 Witness, when you went to the captain's office, were there other \*\*\*\*\* there?

20 THE WITNESS:

21 No, we did not find other\*\*\*\*\*. We were the first \*\*\*\*\* to get to the captain.

22 BY MR. MACDONALD:

23 Q. Now, my next question points Mr. Jegede directly.

24

25 Sir, the Prosecutor, when you testified, he asked you -- and I'm going to read it from the transcript --  
26 okay. It's at page 12. And Mr. Jegede just happens to ask you the question at line 9, when you speak  
27 about the gendarmes, the ten gendarmes that went to pick you up at the *sous-préfet's* office. And, very  
28 innocently, Mr. Jegede asks you, "Were they in uniform or in mufti?"

29

30 And then you replied, "They were wearing their usual uniform, but they were not wearing any berets."

31

32 All right. You remember that, that question and that answer being given to -- by -- by you?

33 A. Yes, that is the answer that I gave to that question which was put to me.

34 Q. And before answering that question, you knew that the -- the answer you had to give to the Court was  
35 to speak about the fact that they were in uniform, but without their berets. You knew that, yes or no?

36 A. Proceed. I'm following you.

37

1 I answered that question relying on what I saw them wear as uniform when they came for us. They  
2 were wearing uniforms, but they were not wearing berets.

3 Q. That's not the truth, and you know it, sir. That's not the truth because you never mentioned that  
4 anywhere to anyone at any time, from 1994 up to 2005. It's not written anywhere. You never  
5 mentioned it to anyone. So I'm putting to you that, when you answered that question, you knew that  
6 you were going to talk about the fact that they didn't have any berets. And the Prosecutor asked you to  
7 say that; isn't that correct?

8  
9 Isn't that correct, sir?

10 MR. BÂ:

11 Mr. President, this game cannot continue. And this -- this doesn't -- this doesn't show respect to the  
12 Court on the basis of what is he making this assertion --

13 MR. MACDONALD:

14 *(Microphones overlapping)*

15 MR. BÂ:

16 -- If he has not an iota of proof, he should show it. This is childish. This is -- and this is not worthy of a  
17 Court that respects itself.

18 MR. JEGEDE:

19 And, Your Honour, I just want to say that it's difficult to believe that a man would tell the truth if he knew  
20 that you would lie if they were in their place. So this man knows that he would lie if he was in the  
21 witness's place. That's why he can't believe anything that anyone says. This is the height of  
22 dishonesty, to impute such things to to -- to -- to -- to -- to a colleague, without proof.

23 MR. MACDONALD:

24 I can understand the witness, but I can't understand your behaviour, sir. That's the problem.

25 BY MR. MACDONALD:

26 Q. So why did you feel important -- why did you feel it was important in 2005 to mention they didn't have  
27 any berets? Why is that?

28 A. It was on that occasion that the question was put to me on what the gendarmes were wearing, so I  
29 answered the question. Each time a question is put to me, I answer that question.

30 Q. And my suggestion to you is that you knew that question would be put to you and knew what answer  
31 you had to give. That's my proposition, unless you just remembered 11 years after that -- at that  
32 particular incident -- that particular time they didn't have their berets. That's what you're telling us,  
33 just --

34 MR. PRESIDENT:

35 *(Microphones overlapping)*...well, Counsel, I think if you don't believe this witness and if you think that  
36 these people are coached, you put one question to him and sit down, saying that what you are saying is  
37 what has been taught to you, and sit down, finish.



1

2 MR. BÂ:

3 *(Microphones overlapping)*

4 MR. MACDONALD:

5 And --

6 MR. BÂ:

7 *(Microphones overlapping)*...Mr. President, what has the presence or absence of beret add to the  
8 testimony? What can the absence or presence of the beret add?

9 MR. MACDONALD:

10 *(Microphones overlapping)*

11 MR. BÂ:

12 If he had said that they were wearing their beret, how would they change the whole thing?

13 BY MR. MACDONALD:

14 Q. Okay. When you say they didn't have any berets, these gendarmes that went to pick you up, are you  
15 saying they didn't have the berets on their heads or they didn't have the berets at all? You didn't see it  
16 on their -- their -- their shoulders or anywhere else? Is that what you're saying?

17 A. I did not see them wearing berets, and I don't know where they had put it.

18 Q. And then Mr. Jegede asks you how the -- the -- I'll read you the question, page 12, question, line 16,  
19 "Did you see Bilikunzira on that occasion?" Answer, "Yes."

20

21 We all know who Bilikunzira was. You agree with me on that?

22 A. *(No interpretation)*

23 Q. But, still, Mr. Jegede puts the question to you, "How was he dressed?" There's a purpose to that  
24 question.

25 MR. JEGEDE:

26 Objection, Your Honours --

27 MR. MACDONALD:

28 But it's there in the transcript.

29 MR. JEGEDE:

30 How would he know the purpose of my question?

31 MR. MACDONALD:

32 Well, because you probably discussed it with him, sir.

33 MR. JEGEDE:

34 *(Microphones overlapping)*

35 MR. MACDONALD:

36 There's nothing wrong with that --

37 MR. JEGEDE:

- 1       *(Microphones overlapping)*
- 2 MR. PRESIDENT:
- 3       *(Microphones overlapping)*
- 4 MR. JEGEDE:
- 5       *(Microphones overlapping)*
- 6 MR. PRESIDENT:
- 7       *(Microphones overlapping)*...well, Counsel, he's entitled --
- 8 MR. JEGEDE:
- 9       *(Microphones overlapping)*...as the Court pleases --
- 10 MR. PRESIDENT:
- 11       *(Microphones overlapping)*...and when you bring witnesses, you are just to --
- 12 MR. JEGEDE:
- 13       *(Microphones overlapping)*...you are going to talk to them --
- 14 MR. PRESIDENT:
- 15       *(Microphones overlapping)*...so he's entitled to speak to them. Any legal system is like that. Why are
- 16       you thinking that this is happening for the first time in the world here?
- 17 MR. MACDONALD:
- 18       *(Microphones overlapping)*...it's not -- it's not -- I'm suggesting that there's more than that, just meeting
- 19       the witnesses.
- 20 MR. PRESIDENT:
- 21       *(Microphones overlapping)*...so what I think is that every question has been given to the witness and the
- 22       answer *(unintelligible)* later.
- 23 MR. MACDONALD:
- 24       Yes, sir, *(microphones overlapping)*...that's what I'm suggesting *(microphones overlapping)*.
- 25 MR. PRESIDENT:
- 26       *(Microphones overlapping)*...*(unintelligible)* I think to ask the question he has been coached.
- 27 MR. MACDONALD:
- 28       Well, why -- okay.
- 29 BY MR. MACDONALD:
- 30 Q.     So Mr. Jegede asks you how he was dressed. Do you know why he asked you that question --
- 31 MR. PRESIDENT:
- 32       *(Microphones overlapping)*...so if he has said that he was not wearing anything, he was not wearing the
- 33       dress, what *(unintelligible)* is that the answer that he's expecting. These are *(unintelligible)* you can't
- 34       say that this is the way that the question should be put. He's leading the question of the witness. He is
- 35       asking, "Did you *(unintelligible)* what was he wearing?" Isn't that the way that the witness has been
- 36       led?
- 37 MR. MACDONALD:

1 There's something with the berets that's going to come up sooner or later --

2 MR. PRESIDENT:

3 *(Microphones overlapping)*

4 MR. MACDONALD:

5 -- then we're going to know why. And then we can recall this incident and we can *(microphones*  
6 *overlapping)*...

7 MR. PRESIDENT:

8 *(Microphones overlapping)*...that it was not being used because *(unintelligible)* *(microphones*  
9 *overlapping)*... were in the office. He could have given that answer. I just --

10 MR. JEGEDE:

11 Your Honours --

12 MR. MACDONALD:

13 *(Microphones overlapping)*...no, that's not the answer he gave --

14 MR. PRESIDENT:

15 *(Microphones overlapping)*...he didn't -- he says, "He was wearing his usual official uniform, but he was  
16 not wearing a beret

17 MR. MACDONALD:

18 *(Microphones overlapping)*...okay. I'm just asking him how could he remember that 11 years later  
19 without mentioning that to no one, in no statement.

20 MR. PRESIDENT:

21 *(Microphones overlapping)*...all that depends on the very powerful --

22 MR. MACDONALD:

23 *(Microphones overlapping)*

24 MR. PRESIDENT:

25 *(Microphones overlapping)*...if you say that he was wearing -- what were you -- putting this question  
26 what do you *(unintelligible)* that he was wearing a beret.

27 MR. MACDONALD:

28 *(Microphones overlapping)*...no --

29 *(Pages 58 to 73 by Ann Burum)*

30

31

32

33

34

35

36

37



1 1630H

2 MR. PRESIDENT:

3 But that will not take you anywhere.

4 MR. MACDONALD:

5 If we put the question, we are assuming -- we are assuming that if my friend put the question to him  
6 there is a purpose for that, and the purpose is, he wants the witness to answer the question and the  
7 question -- I'm assuming he knows what answer he is going to provide, does he have no berets. That's  
8 the point. So why?

9 MR. JEGEDE:

10 Your Honours, this is very unprofessional. This man has shown us that either he has no legal training  
11 or no home training, you know. He's been abusive to everyone here; he is very rude, he's very crude. I  
12 don't know, I don't even have enough superlative to describe his actions. It is completely uncalled for,  
13 for counsel to behave -- to conduct himself in this way. If he did this before a Canadian court he will be  
14 cooling his feet in jail by now.

15 MR. MACDONALD:

16 You are the one who's going to jail, sir, not me

17 MR. PRESIDENT:

18 Yes, Counsel, I don't want crosstalk, please. If you want, you can speak to me.

19 BY MR. MACDONALD:

20 Q. Okay, so when -- when -- what was the beret, sir? Why did you feel it was important to mention that?  
21 Could you tell us that?

22 A. I described them the way I saw them. I would not have said they were wearing berets when they were  
23 not wearing berets. That would have been a lie.

24 Q. You know the words Umusirikari, U-M-U S I-R-I-K-A-R-I?

25 A. Yes, I know the words Umusirikari.

26 Q. And I assume that you --

27 A. Umusirikari, I know he is gendarme. Umusirikari, I can tell the difference between the two.

28 Q. You can tell the difference between what and what? What is your definition of Umusirikari?

29 A. I can't make the distinction between two -- when two members of different (*inaudible*) wear -- do not  
30 wear berets, that is, I will not be able to tell them apart if they were not wearing berets.

31 Q. Now the question is, you are familiar with that word, Umusirikari; I understand you use that word. You  
32 use that word throughout your statement; is that correct?

33 A. That is correct.

34 Q. Okay. Now, I'm asking you, what -- what does that mean to you, that word, when you use it? What is  
35 your definition of that word?

36 A. When I use the word, I mean anybody wearing military uniform. In short, I called him a soldier. When  
37 he is not wearing a beret, but when I know the individual, his name and the place where he works, I

1 know where to put him. But when he wears a uniform, I simply call him Umusirikari, soldier --

2 Q. So that's, that's --

3 A. -- or gendarmes.

4 MR. JEGEDE:

5 Your Honours, I have a --

6 MR. PRESIDENT:

7 Any more questions?

8

9 Mr. Taku?

10 MR. TAKU:

11 No --

12 MR. PRESIDENT:

13 Mr. Segatwa?

14 MR. TAKU:

15 I have listened to the reiteration of his confession here, and there is nothing that affects us, that touches  
16 on my client.

17 MR. PRESIDENT:

18 Are there any questions?

19 MR. JEGEDE:

20 Yes, a couple of questions, Your Honour.

21 RE-EXAMINATION

22 BY MR. JEGEDE:

23 Q. Witness, during your cross-examination, I believe it was Mr. Black, he read out some crimes attributed  
24 to you in which gendarmes did not participate. Do you remember that?

25 MR. BLACK:

26 Objection. He can't ask questions about that, Mr. President, because it's not proper reply. He has  
27 these documents, as well as I do. He could have raised them in chief. He could have gone through his  
28 judicial history in Rwanda. He decided not to do so. He can't put his case. This is nothing new. He  
29 decided not to raise this, not to lead him on it, not to explain it in-chief. He decided not to do that. He  
30 can't now ask questions about that. That wouldn't be proper

31 MR. JEGEDE:

32 Your Honours, if I had done that, it could have amounted to self-corroboration, which is not allowed.

33 You cannot corroborate your witness with a previous statement. That is completely not allowed. You  
34 can only do it in re-examination, which I'm doing now

35 MR. BLACK:

36 *(Microphones overlapping)*

37

1 MR. JEGEDE:

2 Can I talk, please?

3

4 He raised this issue, for the first time, in cross-examination, and he did it for the purpose of leaving an  
5 impression, a hanging impression, which I'm entitled to correct to Your Honours. That's why I'm putting  
6 this question. I'm entitled to ask the question because it came out --

7 MR. PRESIDENT:

8 I think he has already -- he has already answered that by saying wherever the gendarmes feature, I  
9 mention them. That is what he said, so that has been clarified

10 MR. JEGEDE:

11 Okay, then, thank you, Your Honours. Thank you very much.

12 MR. PRESIDENT:

13 You also must give us some kind of intelligence that we are not here to look (*Inaudible*) we follow  
14 everything.

15 MR. JEGEDE:

16 Thank you very much, Your Honours.

17 MR. PRESIDENT:

18 Court is adjourned till 9:00 Monday morning.

19 MR. BLACK:

20 Mr. President, one important matter before we break because we are all concerned -- we want to ask

21 Mr. Bâ, who is the next witness being called on Monday.

22 MR. BÂ:

23 Luc Lemaire is already here in Arusha. We expect witness OX this weekend. If OX comes -- since OX  
24 comes, since he is a witness that won't take long, we could have him on Monday and begin Lemaire  
25 Tuesday. Or if you think that Lemaire would take longer, we could start with Lemaire as of Monday. It's  
26 up to you

27 MR. BLACK:

28 The problem, Mr. President, is that, Luc Lemaire, even if he starts on Monday -- sorry,  
29 Mr. -- Luc Lemaire, if he starts on Monday, he will last through the next week beyond the session  
30 because he is a major witness. He is going to be like Colonel Claeys. He is going to last at least six or  
31 seven days. There is no way we can finish him

32 MR. PRESIDENT:

33 How long will you take?

34 MR. BÂ:

35 We should share up the time equally. If we take four hours, we can assume that each of you will take  
36 five or six. We will not take more than four hours.

37

1 MR. BLACK:

2 Unfortunately, it can't work that way. We all need the time we need. We all have different interests with  
3 this officer. He's talked about many things, many statements. It's going to take us at least seven days  
4 to go through this man's testimony. We suggest to bring him back in January -- start with him in  
5 January. Meanwhile, we could finish OX and finish either Wednesday or Thursday. Because,  
6 otherwise, we are not going to do it.

7 MR. PRESIDENT:

8 Well, Counsel, I think our time has to be managed. You can't get all the time under the sun to  
9 cross-examine the witness. So if they did four hours, we'll give you reasonable time, depending on how  
10 it goes --

11 MR. BLACK:

12 I think you will find that -- I speak for myself -- I don't think my questions are prolix, I think my questions  
13 are very directed. And I don't waste time as far I'm concerned, and my questions are asked because  
14 they are reasonable questions. And I will be three or four days long with this officer.

15 MR. PRESIDENT:

16 I don't know what he is going to say.

17 MR. BLACK:

18 Well, I can tell you there is a lot of things he has said, and we need to go through a lot of things of what  
19 his involvement was in Rwanda. It is going to take a lot of time, and I don't think --

20 MR. BÂ:

21 That is not even reasonable. If we take four hours, you can't take four or five days. That's completely  
22 disproportionate, unless you intend to carry out a parallel, independent examination-in-chief, and that is  
23 not why we came here.

24 MR. BLACK:

25 Arithmetical -- this is not an arithmetical process, Mr. President. This is a matter of what we need to do  
26 to defend our clients, make full answer -- full answer not partial answer to defence, and if supposedly, a  
27 person comes up and say "did you see General Ndindiliyimana kill somebody, yes, I saw him killed  
28 somebody, April 6<sup>th</sup>," and that's all they asked him, one minute. Am I allowed three minutes to cross  
29 examine? It's absurd. You can't do that an arithmetical calculation like that about how much I have to  
30 examine. I will cross-examine with the questions I think I need to ask to defend my client properly. And  
31 I don't really care about the agenda for this process and what certain Western powers want to shut this  
32 Tribunal down by a certain day. That's not my concern. My concern is to defend  
33 General Ndindiliyimana. If you've got another agenda, that's your problem, not mine.

34 MR. BÂ:

35 Yes, but it holds to be reasonable. I would understand that if we took two hours, you would take four.

36 MR. ST-LAURENT:

37 Mr. President. Mr. President --



1 MR. PRESIDENT:

2 You can go once the court adjourns. Thank you for coming.

3

4 Yes, Mr. St-Laurent.

5 MR. ST-LAURENT:

6 My learned friend says it is not reasonable. Do you think it is more reasonable on his part to put 33  
7 names into a hat and to decide to change names as we go along? We are not cross-examining robots.  
8 We cannot have our time determined based on a mathematical calculation. In this case, Mr. President,  
9 the line on the list -- if we were to rely on the 23 list that was supposed to be put in the order originally  
10 intended, well, if they are going to be changing for us the most important thing is to defend our clients  
11 and not to do acrobatics, based on the whims of Mr. Bâ. We understand this witness will take long.  
12 Whether you like that or not, this is the price for effective defencing. If Mr. Bâ wants, he should start  
13 with OX, finish OX this session.

14 MR. BÂ:

15 Wait, OX is not yet in Arusha. That's not our problem as lawyers. He is supposed to come this  
16 weekend. And if he comes during the weekend, he will start Monday. And if you see us sometimes  
17 inverting the order of the witness, there is no malice intended. I'd like to see how you will go about it  
18 when your witnesses start. The witnesses are not our property. We make estimates, but we have to  
19 deal with external factors and the availability of the witnesses. He is more available. It's not a problem  
20 of how you manage your witnesses; it's not our problem. You've had the documents for four-something.

21 MR. MACDONALD:

22 We've had a first list, I believe, of 33 or 36 witnesses. The name of Mr. Lemaire was on -- obviously, on  
23 that list. We knew he was supposed to appear at this session. Then we got a second list; they broke it  
24 down to 23 names, and we were all surprised this morning when -- when he mentioned Lemaire  
25 because he's not on the list of these 23 names. So we were taken for granted that these -- these  
26 people were going to be called in priority, and if we got through that list, then we could -- we would get  
27 to the other 12 or 13 -- or 10 other witnesses. And it's like -- its -- we're being induced scenario here  
28 because we thought they would start with these 23 witnesses and he's not on the list, so --

29 MR. PRESIDENT:

30 Well, Mr. Bâ, that witness is not on this list of 23 people that you gave them?

31 MR. BÂ:

32 Yes, he is. Yes, he is. Yes, he is there.

33 MR. ST-LAURENT:

34 Looking at the order of priority given by my learned friend, Mr. Lemaire is not on the list of 23 first  
35 witnesses not to mention the three times he has already varied the list. But every time he has at least  
36 varied the list previously, he has juggled around with the 23, first. But that's not now what he's doing  
37 now. He is in the whole of the 33. We cannot prepare for 33 witnesses in advance, and Mr. Bâ must

certainly understand that he cannot simply select, based on the availability of his witnesses. Otherwise, what use is the order of the witnesses to you and to ourselves?

MR. BÂ:

I'm not even obliged to do this. This is an effort I am undertaking to draw up a calendar. But if witnesses are not available, I have to use those available and you've had those documents for three months. You ought to have been ready.

MR. MACDONALD:

If that witness is here in Arusha, when did he arrive? Why did we just find out about this today? I don't mind working; I can work 16 hours a day, I don't mind that, but at least if I could have --

MR. BÂ:

We are now to tell you the date of arrival of witnesses? He came last Saturday, last Saturday, last Saturday; I saw him Monday, and Wednesday I informed you of the points on the indictment that he was going to speak on.

MR. TAKU:

Your Honours, with -- I've listened very carefully to the applications made by my learned colleagues. I think the interest of justice here demands, Your Honours, that the Defence be given ample opportunity to cross-examine these witnesses. I understand that we are all working under pressure to meet the completion strategy, but, Your Honours, on our own part, we've done everything whatsoever to accommodate the Prosecution and to accommodate the schedule of the Honourable Trial Chamber. And I will respectfully, Your Honour, urge Your Honours, that we have to err on the side of caution and give this (*unintelligible*) a very good opportunity to be able to cross-examine this witness.

I understand he's an important witness, Your Honour; understand that this is not a witness that will be on the stand just for two, three days only, so I'd suggest, respectfully, that this witness be rescheduled for next session. That was my humble application in support of my learned colleague's motion for this witness to be rescheduled.

MR. BÂ:

Mr. President, I am objecting to that, but I am not in charge of the Court's programme. You are the ones who decide. I have two witnesses though, OX and Lemaire. If OX was supposed to appear this session, we will close the session. If we remove Lemaire from the programme then we will end earlier, earlier than the 27th.

MR. ST-LAURENT:

Just one question, Mr. Bâ and with your leave, Mr. President: When Mr. Bâ draws up the order of appearance of his witnesses, he must be doing it by some regulation; he doesn't get this from the sky. It's not his whims. When he announces the order of appearance of the witnesses, we assume he's relying on something. So, I admire the efforts he claims to make, but there is a consequence. The consequence is that we have to prepare those witnesses. Otherwise, there is no point; he should take

1 those lists if we are not going to adhere to them. And if we cannot rely on these lists, if they are  
2 fallacious -- however, with regards to minor witnesses, it is admissible. But if it is witnesses like  
3 Witness Lemaire, who is coming almost as soon after Witness Claeys, it has considerable impact on  
4 the Defence.

5  
6 So Mr. Bâ should tell us clearly what witnesses he has to present which -- a reliable list that we can rely  
7 on, something that we can take.

8 MR. BÂ:

9 I cannot give you assurances, guarantees. The witnesses are not my property. There are three  
10 people, people I invite to appear, who can even answer in the negative. What do I do if they refuse to  
11 come or if they tell me they are ill, or if they tell me they should be removed from the schedule? They  
12 are not my property, the witnesses. I do what I can with what I have.

13 MR. DOUMBIA:

14 Mr. President -- Mr. President, purely, I had the advantage of having heard my predecessors speak.  
15 Beyond that, though, I would like us to consider a simple question. Let us try and be practical. You  
16 must have an idea of the statements by Witness Lemaire. We only have four working days a week, and  
17 there is no shadow of a doubt that this witness will be cross-examined at length, given the importance  
18 of his testimony by all of the Defence teams. Now, reasonably speaking, can such work be  
19 accomplished during this time, even if we were to leave aside another witness? I do not think this  
20 witness can be reasonably examined and cross-examined during four days alone. If only for this  
21 practical consideration, I think the best we can do, if the Prosecutor cannot postpone Mr. Lemaire's  
22 appearance, is to hear the first witness, finish with that witness, let him examine him in-chief up to the  
23 end of the session, and then have cross-examination of Lemaire at the next session.

24 MR. BÂ:

25 That cannot be done, but I -- let me tell you something. If you look at Claeys's cross-examination in  
26 Military I, under Judge Reddy, Judge Reddy was presiding under Rule 15 *bis*. The Prosecutor took one  
27 hour for Claeys's and he instructed the Defence to finish within the day. That is a -- this is a sovereign  
28 Court. It takes decisions and it is not bound to act by what is done in Chambers III and I, but I'm telling  
29 you it is done elsewhere. Such a time is given and each party has a certain time allotted to it. Now, I'm  
30 not imposing -- promising that he will come the next session, but we will close after Witness OX.

31 MR. BLACK:

32 Mr. President, first of all, it's -- that Judge Reddy applied that, it's unfair, and that does -- should set no  
33 example here. Secondly, we have to ask questions. Since this officer has been here since last  
34 Saturday, and Mr. Bâ knew he was arriving on Saturday, he could have told us Thursday last week that  
35 he was going to call him this week. He could have skipped out this satanic, crazy witness he brought in  
36 and brought him for two days and --

37

1 MR. PRESIDENT:

2 Counsel, you -- you can't refer to witnesses like that, Counsel. I don't think -- because the witness also  
3 can use the same language on you.

4 MR. BLACK:

5 This witness was really nothing, in my view. They got this officer, an important officer, here. It must  
6 have taken some time to arrange his presence here from the Belgian army. They could have called him  
7 yesterday and had two extra days; he's been sitting here all week doing nothing. Why? Why do we kill  
8 two days with this witness when he could have been brought in January?

9 MR. PRESIDENT:

10 Counsel, this is also there: Two counsels argument to each Accused is for them to get ready. So you  
11 can't say that time is given for -- and -- what Mr. Bâ has to do is to give you timely notice of a witness  
12 that he is going to bring in. Anyway, we will take your message into consideration and we will --

13 MR. BLACK:

14 This could be part of that, that's not -- yeah, they could have been here since Saturday. I agree with  
15 that, but he's been here since Saturday. They had Monday, Tuesday and Wednesday to prepare --  
16 Monday and Tuesday to prepare him for appearance on Wednesday. That's plenty enough time. I  
17 think they told us the only preparation was Claeys one day. So why didn't they call this officer  
18 yesterday and we have two days of him and fours next week? That might have been enough time  
19 instead of taking this --

20 MR. PRESIDENT:

21 Yes, but if he was called yesterday the same objection would have been taken by you.

22 MR. BLACK:

23 Well, we say -- we might say *seven days* but we would have at least six days and we dealt with Claeys  
24 in six to seven days.

25 MR. PRESIDENT:

26 Anyway we will get (*microphones overlapping*)

27 MR. BÂ:

28 For me, Mr. President, Mr. Lemaire is not more important than the witness who has just been heard.

29 MR. SEGATWA:

30 Mr. President, I think you did tell us we should ask for the floor, but when we try to ask for the floor, I'm  
31 usually asked to wait. By your leave, I would like to take some time to tell the Prosecutor that following  
32 the decision that was rendered not long ago, in September, it had been stipulated that points of the  
33 indictment on which each testimony will be heard should be disclosed.

34  
35 Now, with regard to Lemaire, I'm wondering why, and I have consulted members of the other teams,  
36 why we have not been given this document. And I think he should do this next time.

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1 MR. PRESIDENT:

2 That is --

3 THE ENGLISH INTERPRETER:

4 Mr. Bâ is speaking at the same time as the previous speaker.

5 MR. SEGATWA:

6 Secondly, Mr. President, I would like you to know -- I'd like to inform you of my frustration. That is,  
7 when we examined Colonel Claeys, you gave me -- I had said two hours; true, that is not your fault, but  
8 it appeared that I should have had a little bit more time. But I had to drop many lines of questioning,  
9 and it is frustrating, that is to mean, in order for full defence and answer, one should consider the  
10 interest of my client in full.

11 MR. PRESIDENT:

12 *(Microphones overlapping)* ... take the first chance, the Prosecutor. You too, before Mr. Macdonald and  
13 Mr. Black, you too can take the first chance and do it.

14 MR. SEGATWA:

15 That is perhaps not in the interest of our client, because, in any case, captains always come after  
16 generals. That is not the problem. The problem is -- whether he's heard first or last, that is not the  
17 problem; it is that we should have sufficient time for the Defence to express itself. I was saying,  
18 however, that two days -- thank you, Mr. President.

19 MR. PRESIDENT:

20 But effective cross-examination is not the time, it is the way that you put questions and get the answers  
21 for your -- in your favour. So the time factor comes second. *(microphones overlapping)* So we will give  
22 you time, if you can, to divide it among yourselves because you know, since you all are working  
23 together, how much time you will take because there is no point in repeating the same questions to the  
24 witness. So if you say that -- if you know the areas that you are going to cover, I think time will not be a  
25 factor. Anyway, we are just digressing we will look into this matter. You'll call OX, the next witness, on  
26 Monday.

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28 Court is adjourned till 9:00.

29 *(Court adjourned at 1702H)*

30 *(Pages 74 to 82 by Sheriffo Jammeh)*

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## C E R T I F I C A T E

We, Sheriffo Jammeh, Karen Holm, Verna Butler and Ann Burum, Official Court Reporters for the International Criminal Tribunal for Rwanda, do hereby certify that the foregoing proceedings in the above-entitled cause were taken at the time and place as stated; that it was taken in shorthand (*stenotype*) and thereafter transcribed by computer; that the foregoing pages contain a true and correct transcription of said proceedings to the best of our ability and understanding.

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

\_\_\_\_\_  
Sheriffo Jammeh

\_\_\_\_\_  
Karen Holm

\_\_\_\_\_  
Verna Butler

\_\_\_\_\_  
Ann Burum