

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

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

THE PROSECUTOR
OF THE TRIBUNAL

v.

AUGUSTIN NDINDILYIMANA
FRANÇOIS-XAVIER NZUWONEMEYE
INNOCENT SAGAHUTU
AUGUSTIN BIZIMUNGU

WEDNESDAY, 23 MARCH 2005

0910H

CONTINUED TRIAL

Before the Judges:

Joseph Asoka de Silva, Presiding
Taghrid Hikmet
Seon Ki Park

For the Registry:

Mr. Christopher Fry
Mr. Abraham Koshopa

For the Prosecution:

Mr. Ciré Aly Bâ
Mr. Alphonse Van
Ms. Ifeoma Ojemeni Okali
Mr. Segun Jegede
Mr. Moussa Sefon
Mr. Abubacarr Tambadou

For the Accused Augustin Ndindiliyimana:

Mr. Christopher Black
Ms. Tiphaine Dickson

For the Accused François-Xavier Nzuwonemeye:

Ms. Danielle Girard

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:

Ms. Ann Burum, Ms. Karen Holm, Mr. Mark Porter

I N D E XWITNESSFor the Prosecution:

WITNESS ANA

Cross-examination by Mr. Black (*continued*) 1EXTRACTS

Extract No. 1 11

Extract No. 2 32

Extract No. 3 34

Extract No. 4 35

Extract No. 5 35

PROCEEDINGS

1
2 MR. PRESIDENT:

3 Good morning, ladies and gentlemen. Sessions are on now. Both parties are represented in the same
4 way that they were represented yesterday.

5
6 Yes, Mr. Black, you may continue your cross-examination.

7 WITNESS ANA,
8 CROSS-EXAMINATION (continued)

9 BY MR. BLACK:

10 Q. Sir, when did you return to Rwanda?

11 A. I remember it was in 1997.

12 Q. I'm sorry. My machine wasn't working. What date? Did you give a date? I'm sorry.

13 A. It was in July 1997.

14 Q. All right. And would it be correct to say July 27th?

15 A. It was the 27th of July 1997 that I arrived in my *commune*.

16 Q. And when you arrived in your *commune* -- well, before that, when you were in the camp, did you meet
17 with anybody in -- in the camp you said you were in?

18 A. No. I do not recall meeting anyone in particular whom I knew.

19 Q. You didn't meet with anybody when you came back -- came home -- came back to Rwanda, nobody
20 you knew?

21 A. I started meeting people whom I'd known before once I arrived at the *communal* office in my home.

22 Q. But you met with your family, didn't you, at the camp?

23 A. Be it in the transit camp at Runda, be it in the camp at Nyange, I did not meet members of my family.

24 Q. All right. You testified in the Butare trial, right, in 2002? I'm going to read you some questions and
25 answers -- questions put to you and answers you gave in response at page 73 on October 31st. This is
26 the English version.

27

28 "Question: How were you able to contact the judicial authorities of Rwanda?

29

30 "Answer: On the 27th July 1997; that was the date. That is the day on which I returned, and that's the
31 day on which I returned to the *commune* office. I went to representative of the judiciary, that is, the
32 police inspector of the criminal investigations department of Ntyazo.

33

34 "Question: Who is this judicial authority of Ntyazo that you met?

35

36 "Answer: He is an inspector of the criminal investigations department. I cannot remember his name.
37 He was an official of the party who was sent. He was an official of the prosecutor's department who

1 was sent to this region to investigate matters, but I cannot remember his name.

2

3 "Question: Before you went to this judicial authority, did someone in the Butare town not identify you as
4 someone who had been ***** of Ntyazo?

5

6 "Answer: Apart from my family members, no one else recognized me when I was in the camps since I
7 did not stay long.

8

9 "Question: Should the Chamber understand that you are saying that on the same day that you returned
10 from exile you met members of your family? You went to the UNHCR camp and you met the judicial
11 authorities the same day, that is, 27th July?

12

13 "Answer: No, that was not the situation. There is, first of all, the day on which I came back from exile.
14 The following day I met members of my family."

15

16 Were you asked those questions and did you give those answers?

17 A. Yes, I think those questions were put to me and that I gave those answers. But the people I met in
18 Musange transit camp --

19 THE ENGLISH INTERPRETER:

20 The interpreter previously had said "Nyange," but it is "Musange."

21 THE WITNESS:

22 -- these were people -- members of my wife's family; therefore, they were not members of my own
23 family.

24 BY MR. BLACK:

25 Q. All right. And you say there, "The following day I met members of my family."

26

27 In any event, your wife's a Tutsi -- are you still married, by the way?

28 A. Yes. She was Tutsi, but she is deceased.

29 Q. So which members of the family did you meet, then? You're saying it wasn't your immediate family; it
30 was your wife's -- your in-laws, your wife's family?

31 A. I recall meeting my mother-in-law.

32 Q. No one else? Because you used the plural in your answer. You said "members of my family." There
33 was no one else?

34 A. Yes, it is my mother-in-law, who was the eldest of the people I met. But she came to see me in the
35 company of my sister-in-law, so...

36 Q. All right. And -- I'm sorry.

37 A. It was a child. She was still young then.

- 1 Q. And how did they know you were there?
- 2 A. Musange transit camp was located close to their house.
- 3 Q. Yeah, but how did they know you were there?
- 4 A. When we got to the camp, we were with neighbours of my in-laws. And since their house was not far
5 from the transit camp, they asked for leave to go to their houses. And when they went home, they
6 made it known that I was in the transit camp. They informed my in-laws about it.
- 7 Q. And when -- when you're -- these family members came to see you, did you tell them what you
8 intended to do, that you intended to go and turn yourself in?
- 9 A. No. We did not broach the subject, the fact that I was to surrender to the judicial authorities. We
10 discussed matters of interest to the family solely.
- 11 Q. Well, did you ever meet members of your family before you were arrested?
- 12 A. Please repeat your question.
- 13 Q. Did you meet members of your immediate family before you were arrested, or just your wife's family?
- 14 A. Obviously, given that my family lived in Ntyazo, that members of my family were only able to meet with
15 me after my arrest.
- 16 Q. All right. But when you met with your wife's family, you didn't tell them what you intended to do, that
17 you felt guilty about killing Tutsis, that you wanted to cleanse your conscience and turn yourself in.
18 Didn't you tell them that?
- 19 A. No.
- 20 Q. Well, why not? I mean, if you felt so guilty and that was your purpose of return and your wife was a
21 Tutsi and these family members were also Tutsi, wouldn't it be appropriate to confess to them first and
22 apologize to them and ask for forgiveness and then turn yourself in to authorities? You didn't tell them
23 anything about what you said you intended to do?
- 24 A. If my memory serves me right, we discussed matters relating to the family, family affairs. I did not tell
25 them my schedule during our conversation.
- 26 Q. Well, I suggest to you, you didn't tell them anything about going to the authorities to confess to these
27 crimes because you had no intention of going to confess to these crimes. Because if you had, you
28 know you would -- you would have known you would have been arrested and held indefinitely and
29 maybe never seen them again, so you would have told them. You didn't tell them because that was not
30 your intention when you came back to Rwanda. You hoped to come back and be free, right?
- 31 A. No, that is not true. It was a personal decision, and I had taken it even before I returned. But I was not
32 to tell the whole world. I was to discuss it with the judicial authorities, the administrative authorities as
33 well, with regard to what I had done.
- 34 Q. Yeah, but, sir, for all you know, when you come back and -- and you go, you turn yourself in, they might
35 just execute you for confessing to murders. You may never see these people again. They're your
36 family. They came to see you at the camp. You didn't say, "Look, you know what I'm going to do? I
37 don't see whether it's going to happen to me, but try and track me and see what's going on and follow

1 me and help me."

2

3 And you didn't do that, sir, because you had no intention of turning yourself in. You didn't turn yourself
4 in at all; you were picked up. Isn't that right? You came --

5 A. No, that is not true. I said it is not true because I was aware that I had committed crimes, that I had
6 participated in the crime of genocide, and I knew that I could be immediately arrested and jailed, but I
7 could not be executed without trial. I was aware that I could be given the death sentence, but that
8 would be after criminal -- a judicial process. I turned myself in to the judicial authorities. And if you
9 have any doubts about that, you can ask the judicial or administrative authorities who were present
10 when I returned home. And there are other witnesses that can confirm this.

11 Q. Well, I suggest to you, again, that you were one of those forcibly expelled from Gabon, sent back
12 thinking you were going to South Africa, and you ended up in Rwanda, right? When you were taken off
13 that plane, you were immediately arrested and some of your friends were shot at the airport. Isn't that
14 right?

15 A. No, that is not true. You're telling stories. What you are saying is something that is rumour. It cannot
16 be confirmed. We came back. We were received, went to transit camps, and then went to our
17 respective homes. I was, therefore, not forced to go back home, as you claim. And I do not know what
18 your source is.

19 Q. My source is a UN human rights commission press release dated August 12th, 1997, in which the
20 UNHCR protests the kidnapping by the Gabonese government, sending a hundred sixty-eight
21 Rwandans forcibly back to Kigali under the pretense of going to some other country, and that some of
22 those -- many of the people who got off that plane later disappeared.

23

24 You were among that group of a hundred sixty-eight, weren't you?

25 A. If I was one of those people, then I would have disappeared, would have been reported missing. But
26 those people had not followed the instructions of the UNHCR that had told them that, when you go back
27 to your country, you could be arrested and prosecuted according to the law, not -- and not undergo any
28 other bad treatment. But I was not in the group of people you refer to.

29 Q. Do you know a man named Mutaganzwa Bosco, nickname Mapeke (*phonetic*)?

30

31 That's M-U-T-A-G-A-N-Z-W-A, Bosco, Mapeke.

32 A. Where is he from, this man you are talking about?

33 Q. Well, don't ask me questions, just -- do you know him? He's from your area, Gitarama.

34 A. You know, many people have the same names, so I cannot assert that I know such a -- such a person
35 unless you give me his full address.

36 Q. You can't deny you know such a person, either.

37

1 THE ENGLISH INTERPRETER:

2 Counsel, could you repeat your question for the Kinyarwanda booth?

3 MR. BLACK:

4 Sorry.

5 BY MR. BLACK:

6 Q. But you can't deny that you know such a person.

7 A. I can also -- I cannot confirm it, either.

8 Q. Well, it's very strange because the UNHCR press release says that the people sent back were among
9 those who had trekked across the Congo, like you had; entered Brazzaville, then had fled Brazzaville
10 because of the fighting, as you described; arrived in Gabon and then were forcibly sent back. And that
11 man was on the plane. Still don't remember him?

12 A. Personally, I do not know him because I do not have his full address. Moreover, I know no one before
13 the genocide; what I mean is, I did not know anyone who had that name.

14 Q. All right. Let's suppose that you were one of those that you say voluntarily returned. I don't want to
15 belabor this too much, but you -- did you tell the UNHCR when you got on -- as you described it
16 yesterday, you got on the airplane, that you were going to turn yourself in, that you were a *génocidaire*?

17 A. I think you asked me the same question yesterday and that I answered adequately. As far as I was
18 concerned, the UNHCR was not involved in this matter, and I was not to confide in the UNHCR. I was
19 in the first contingent of refugees that went back home voluntarily, and I think you should take my word
20 for it when I tell you.

21 Q. Yeah, but my question is: Did you tell the officials of the UNHCR, "I'm going back not to go back and
22 live, I'm going back to turn myself in"? And did they then make special arrangements for you, if you
23 said that?

24 A. I will repeat my response. I came back, just like the other Rwandans who were coming back from exile.
25 I did not tell the UNHCR about my case because, in my opinion, the UNHCR was not involved in this
26 matter.

27 Q. Yeah, but you were taken to the *communal* office by a UNHCR vehicle when you arrived in Rwanda, so
28 they were involved to some extent. They drove you to the *communal* office to turn yourself in.

29 A. I can say that they played a role in helping me to go back home, just as they did for other Rwandans.
30 But to say that they were aware of my intention to confess my role in the genocide, I would say the
31 UNHCR officials did not know this. In any case, they didn't have any authority that would enable them
32 to assist me in any way.

33 Q. Yes, but it's true, though, that they -- they drove you to the *communal* office where you turned yourself
34 in, right? You went in a UNHCR vehicle.

35 A. The answer is simple. The UNHCR was in charge of the repatriation of all Rwandans who wanted to go
36 back home. They, therefore, assisted me to get home and helped me to get to my *commune*. That
37 was the role of the UNHCR.

- 1 Q. But they drove you directly to -- to the *communal* office; isn't that correct?
- 2 A. All of us were taken immediately to the *communal* office.
- 3 Q. Oh, okay. How many were aboard that vehicle when they drove to the *communal* office that day?
- 4 A. I have no recollection of that. But when we left Butare, as Rwandans coming back from exile, there
5 were natives of Mugusa, Muyaga, and Ntyazo. And when we got to the Ntyazo *communal* office, I
6 believe there were about 20 of us.
- 7 Q. And were they all going to turn themselves in like you or were they just transporting you back to the
8 locality to be -- to go home?
- 9 A. We were all coming back home from exile, and not all of us intended to turn themselves in or to confess
10 their participation in the genocide. We were taken to the *communal* office, and from the *communal*
11 office, we all went home.
- 12 Q. So you went home, then? Once you got to the *communal* office, you went home to your house?
- 13 A. No, that is not correct. The others went home, but I turned myself in to the *communal* authorities and
14 the *communal* judicial authorities.
- 15 Q. Did you still have family living in that -- in that area?
- 16 A. Yes.
- 17 Q. So why didn't you go home or go to where your family members were living and see them first? You
18 hadn't seen them for years. Why didn't you go home, see them in your last visit as a free man? You
19 just walked in and turned yourself in right away without seeing your family first, seeing how your house
20 was, and how your people -- how your family members were? I don't think anybody's going to believe
21 that.
- 22 A. No, that is easy to believe. I'm here. I'm the person involved. I told you I had a plan. That is what I
23 intended to do because my conscience was pricking me, and I decided to turn myself in to the
24 administrative and judicial authorities at the *communal* level. And that's what I did, and I was detained
25 immediately.
- 26 Q. But, sir, you must love your family. You must wanted (*sic*) to see them. They love you. You come
27 back after years of exile and you don't go and see them before you turn yourself in, maybe never see
28 them again? Doesn't make any sense.
- 29 A. No, it is clear. I took a decision, and I acted on my decision. When you commit crimes, you have to be
30 judged for your crimes. That was my motivation.
- 31 Q. Sir, I suggest to you, you never turned yourself in voluntarily. You went home, and you were later
32 arrested and you were brought in forcibly, if not arrested at the airport. And you've done nothing
33 voluntarily since you came back, including coming here.
- 34 A. Regarding the fact of turning myself in to the administrative and judicial authorities, I did that voluntarily
35 and as soon as I got back home. If you are not -- if you don't believe me, go into the field and carry out
36 your own investigations. I turned myself in to the inspector of police and the *bourgmestre*. There were
37 witnesses.

1 Now, regarding my appearance in this case as a witness, I was not forced to come and testify.

2 Q. Well, I don't understand what you -- you fled -- you fled the RPF because you believed they wanted to
3 capture you, and you were scared and that's why you fled. And then you go back and just turn -- you
4 just hand yourself over to them. It doesn't make any sense.

5 A. Counsel, I told you that I fled from the war. There was fighting between the belligerent parties. You
6 said I fled from the RPF and turned myself in to the RPF. I fled from the war, and when I came back
7 home, I turned myself in to the administrative and judicial authorities in order to confess my participation
8 in the commission of certain crimes. That is what I did.

9 Q. Yes, but you -- you fled the -- the *Inkotanyi*, the RPF. You felt they wanted to capture you. You fled,
10 and you kept fleeing for several years as they moved into the Congo. I mean, and then you just go
11 back and just hand yourself in to the very same people you've been fleeing from for years? It doesn't
12 make any sense. You fled from the *Inkotanyi*, that's what you said before, not the war. You fled from
13 them specifically. Isn't that right?

14 A. During the war there was no administrative or judicial authority, and we all had to flee to save our skin.
15 It is true that the RPF -- RPF was fighting against the former army, the former government army, but
16 don't forget the fact that, when I got back home and turned myself in to the administrative judicial
17 authorities, the RPF was not alone in power. There were other components to the government who
18 were not necessarily members of the RPF.

19 Q. Sir, on -- in the Butare trial, the 31st of October, you spoke about this matter of your flight. And at page
20 18 -- at page 17 you say you received a message from Captain Birikunzira from the *préfet*, and you say
21 at page 18, "Question: And when you saw the *préfet*, what did he say to you?

22
23 "Answer: When I saw him, he was with Colonel Muvunyi --" M-U-V-U-N-Y-I. "They criticized my
24 attitude because they said I had abandoned the population whilst I was appointed to this post in all
25 confidence. I told them that the *Inkotanyi* wanted to capture me and that is the reason why I got scared
26 and I fled."

27 A. And what's your problem --

28 Q. Well, my problem is, sir --

29 A. -- in that regard?

30 Q. My problem is, you say you just fled the war in general because -- just because there was fighting. You
31 didn't just flee the war, you fled the RPF, who you felt wanted to capture you, and you flee for three --
32 several years, and then you just walk back. You go back to Rwanda --

33 MR. SEFON:

34 Objection, Mr. President, objection. I did not hear anywhere in what counsel quoted that the witness
35 fled from the RPF because the RPF wanted to capture him. He fled the fighting, not -- he didn't flee
36 because he thought the RPF was going to capture him. So that is a deformation of what the witness
37 said in the Butare trial and what he's saying here.

1 MR. BLACK:

2 I just read it exactly from the transcript. What are you talking about? I'll read it again.

3

4 "Question: And when you saw the *préfet* --"

5

6 This is at line 9, page 18, 31st of October 2002.

7

8 "When you saw the *préfet*, what did he say to you?"

9

10 "Answer: When I saw him, he was with Colonel Muvunyi. They criticized my attitude because they said
11 I had abandoned the population while I was appointed to this post in all confidence. I told them that the
12 *Inkotanyi* wanted to capture me and that is the reason why I got scared and I fled."

13

14 That's exactly what he said.

15 BY MR. BLACK:

16 Q. And, sir, you don't want to admit that now because you don't want to say anything bad about the RPF.

17 You're scared to death to say anything about the RPF and mention them in any way. Isn't that right?

18 A. No, I don't agree with you. That is your personal opinion. That does not prevent me from speaking the
19 truth, my truth.

20 Q. Well, I mean, you -- you -- you say -- okay. You go and turn yourself in. Who -- what do you do, walk
21 into the *commune* office and you say what and to whom? The UNHCR vehicle drops you all off. Does
22 it then drive away immediately, or does it hang around for a while with those officials and they watch
23 what you do?

24 A. I think I recall exactly what happened. The UNHCR vehicle dropped us off at that place, and then the
25 vehicle left. The rest was just between us and the authorities who had just welcomed us. And I believe
26 I've given you sufficient explanation on what I did.

27

28 It was easy for me to turn myself in to the administrative and judicial authorities at the *communal* level
29 since I knew beforehand who was -- I knew the then *bourgmestre*. I told him about my situation, and he
30 understood that I was someone returning from exile and had a good intention of confessing his role in
31 the genocide in Ntyazo *commune*.

32 Q. Right. And what did they say to you when -- what did you do, just walk in and say to this official, "I
33 killed lots of people"? What do you say, actually?

34 A. As far as I'm concerned, I greeted the officials. They responded, and I told them I was returning from
35 exile with the resolve to confess my participation in the genocide and extermination, the crime of
36 extermination. They asked me if I were really resolved to confess, and I said yes. And they told me
37 that I will be heard by the inspector of judicial police, who will take my statement in the prescribed

- 1 manner, and that he was going to do it the way it is usually done because it is his -- his work.
- 2 Q. All right. And you made a written statement the next day, didn't you, a written confession the next day?
- 3 A. Yes, I believe that is what happened.
- 4 Q. And they helped you write that confession, show you how to write it, how to fill out the form, what to
5 say?
- 6 A. It was personal, and no one helped me to do anything. I did it voluntarily and in -- with a free
7 conscience.
- 8 Q. And then they put you in the *communal* prison for a couple of years, right?
- 9 A. Yes.
- 10 Q. And what kind of cell were you -- were you held in a cell? Or where were you held in the prison, in
11 what?
- 12 A. I was detained together with others.
- 13 Q. Yeah, but were you held in a -- in a -- in a *commune* cell, I mean, a cell with other men in the cell with
14 you? Were you held in the cell by yourself, or what?
- 15 A. I told you that they put me in cell together with others in detention.
- 16 Q. How big was the cell? How many meters by how many meters square?
- 17 A. That is a difficult test, but there was a big cell and a small one. And in both cells, the big as well as the
18 small one, there were people who were detained.
- 19 Q. How many people -- which cell were you in, the small one or the big one?
- 20 A. I recall that I was in the small cell.
- 21 Q. By "small," how do you mean? Is it as small as -- small -- same area as, say, where the Prosecution
22 counsel is sitting? Smaller? A bit bigger? Or as small as the area where you're sitting?
- 23 A. There were about 40 of us in the small cell, and in the big cell, there were about a hundred detainees.
24 I'm not able to say that is as small as the space in which I'm sitting. And if I were to say that the
25 dimensions of the cell where I was were the same as the space occupied by the Prosecution -- the
26 Prosecution team, then that space would have been very big.
- 27 Q. All right. So it's somewhere in between the area where the Prosecution counsel is sitting and where
28 you're sitting, something in between that.
- 29 A. Yes, but that's just an estimate.
- 30 Q. Okay. That's fine.
- 31
- 32 So you had 40 -- 40 men in that space for two years?
- 33 A. Yes. It was a small space, and there was not sufficient space for everybody. Many of us would spend
34 the night seated because the *communal* cell was small and there were people who were detained
35 there. But some people were -- were released. Some people were leaving and others were coming in,
36 so it was not always the same number of detainees.
- 37 Q. All right. And were you -- were you allowed out of that cell on a daily basis, or did you have to stay in

1 that cell most of the time?

2 A. As the other -- just as the other detainees who were normally inside the cells, it was only when we were
3 going to eat or when we were going to fetch water that we're allowed out of the cell.

4 Q. And that would just be for a few minutes each day?

5 A. Yes.

6 Q. And did you receive any visitors, or were you --

7 A. And most of us were in the cell.

8 Q. All right. Were you allowed to have visitors during those two years?

9 A. Yes.

10 Q. Did you receive any visitors --

11 A. Just like anyone else, I was receiving visitors.

12 Q. Who did you receive visitors from? Who visited you?

13 A. Members of my family as well as family members -- my wife's family members.

14 Q. Now, you're -- you're living under pretty harsh conditions, were you -- for two years. Were you ever
15 formally charged with anything? You say you walk into the office and you want to sign a confession,
16 but did you ever see any document charging you with any crime?

17 MR. SEFON:

18 Counsel said that he lived under terrible conditions for two years. Two years where? In the *communal*
19 cell or in the *****? Because as far as I'm -- to my knowledge, he didn't spend two years in the
20 *communal* cell.

21 MR. PRESIDENT:

22 Yes -- (*Speakers overlapping*) he said he was transferred to Butare cell.

23 MR. BLACK:

24 Well, I'll --

25 BY MR. BLACK:

26 Q. How long -- how long were you in that *communal* cell, sir, as you've described it? How long did you
27 stay there? I thought it was a couple of years, but maybe I'm wrong.

28 A. I have no clear memory of that, but you can do the calculation yourself. I got to that place end of July
29 1997, and middle of the year, 1998, I was transferred to the Karubanda *****in Butare.

30 Q. All right. So you were there about a year under harsh conditions.

31
32 Now, again, my question is: Were you ever formally charged with any crime? That is -- let me put it
33 this way: Have you ever seen any document charging you with any crime?

34 A. No, I did not receive any document in that regard.

35 Q. So you have no idea why you were being held? You don't even know if you've been formally charged
36 with a crime these last many years?

37 A. I knew why I was in jail. In fact, that was why I reported to the judicial authorities, to talk of my

1 participation in committing the crimes.

2 Q. Yes, but, sir, you walk in, you say you confess, and then they take your confession but they don't
3 charge you. I mean, I know you're not a lawyer, but even an ordinary man would think, "They haven't
4 charged me; I guess they're going to let me go."

5
6 You've never -- you've never asked where the charge document is to see what you're actually charged
7 with or to see if they've actually charged you at all?

8 A. I think that at one point you've touched on this question. When I drew up my confessional statement,
9 the criminal investigation officer interviewed me. And I would say that the minutes of that interview
10 made up my file.

11 Q. All right. But you're an educated man. You know something about the law. *(By order of the Court, this*
12 *portion of the evidence has been extracted and filed under seal)* So you would expect to be charged,
13 and you've never seen a charge document. Have you ever asked any official there, "Have you charged
14 me and, if so, what am I charged with? And I know I confessed to you, but have you actually charged
15 me as a result of that, or am I just sitting here cooling my heels for nothing"?

16 A. You say that I know the law. I do not agree with you, though, because I am not a lawyer.

17
18 With regards to the criminal file, when you are asked about the role you played in genocide -- in the
19 genocide and when that is recorded in the form of minutes, I think that that can be considered a criminal
20 file.

21 MR. SEFON:

22 Mr. President, I have an observation. Earlier on, my learned friend mentioned the witness's functions,
23 and I think that we should be careful.

24 MR. BLACK:

25 No, I haven't mentioned his functions at all *(Speakers overlapping)*.

26 MR. SEFON:

27 You did mention it. You did mention it in your question.

28 MR. BLACK:

29 No, I haven't. I said he was an educated man *(Speakers overlapping)*.

30 MR. PRESIDENT:

31 No, no, no, no, no.

32 MR. BLACK:

33 Oh, *bourgmestre*, yes, I'm sorry. I'm sorry about that.

34 MR. SEFON:

35 *(Speakers overlapping)* He's admitting it.

36 MR. PRESIDENT:

37 *(Microphone not activated)*

1 MR. BLACK:

2 I'm sorry about that. I don't think that's going to identify him. There are many of them in the country.

3 BY MR. BLACK:

4 Q. Sir, so up until today, you don't know if you're charged with any crime?

5 A. Your first question was with regard to my -- the period I was detained in the *communal* jail, but now I am
6 detained at the***** , and I have been informed of my criminal file. Therefore, I am aware of the
7 crimes with which I am charged.

8 Q. All right. And you now -- when you -- you're now a member -- or, the head of a prisoner committee
9 which represents those prisoners who have confessed; isn't that correct?

10 A. Correct.

11 Q. And part of your -- you were designated as a representative of this committee. Were you elected by the
12 other members -- the prisoners, or were you designated that by the prison authorities?

13 A. There were elections, and it was the detainees -- among the detainees, a committee was selected. So
14 the people who were elected were in charge of various committees within that committee.

15 Q. All right. But one of your functions is to encourage meetings in which the prisoners get together and
16 discuss their respective crimes, and you talk about what they did and what they didn't do and who else
17 was involved, and then you -- you report that to the prison authority, to the judicial authorities. You
18 send a report on those talks to them, correct?

19 A. I would rather say that I coordinate the activities with relation to sensitisation -- sensitising the detainees
20 on the events of the genocide, sensitising them to telling the truth on everything they knew -- they know.

21
22 With relation to reports, we have a rapporteur who draws up the reports and forwards them to the
23 *Gacaca* jurisdiction authorities and other competent or relevant authorities.

24 Q. They're also sent to the prosecutor, correct, these notes of these -- what the prisoners say is sent to the
25 prosecutor?

26 A. If I rely on -- or, based on the way we work in our prison, actually, we submit the reports to the deputy
27 prosecutors, and they, in turn, send these to the prosecutor.

28 Q. And are the prisoners aware that they're being informed on like that, that all the discussions are being
29 reported to the judicial authorities, the prosecutor, that you're informing on them -- or, they're being
30 informed on?

31 A. That is the detainees' affair. Even before the report is submitted to *Gacaca* authorities or other relevant
32 authorities, the detainees themselves have to be informed of it.

33 Q. Let's go back to -- General Bizimungu's been kind enough to point something out to me.

34
35 You said just now that you were in lockup in the *communal* office for one year, but I was correct. You
36 did say yesterday that you were in there for two years. Which is correct?

37

1 MR. SEFON:

2 Objection, Mr. President. I would like to know where in his examination-in-chief or cross-examination
3 did the witness say this. He should give us specifics.

4 MR. BLACK:

5 It's at page 17.

6 MR. PRESIDENT:

7 He said that he was in two years in both places. So let him explain that.

8 MR. BLACK:

9 Well, he says page 17 line 30, question's -- in French.

10

11 "Question: How long were you jailed in this *communal* jail?

12

13 "Answer: If I give an estimate, I remained in the jail for two years.

14 MR. SEFON:

15 He did say it was an estimate. He did not say it was two years.

16 MR. BLACK:

17 No, he says "two years." That's what he says. (*No interpretation*)

18 MR. PRESIDENT:

19 (*Microphone not activated*)

20 BY MR. BLACK:

21 Q. So which is correct? Is your memory -- and after being in such harsh conditions, maybe your memory's
22 not too good. But was it one year or two years you were in that local lockup?

23 A. I would like to tell you, after a long time, it is hard to remember events. But I told you that in 1997 I was
24 transferred -- no, in 1997 I was jailed in the *communal* jail and then transferred to the Butare
25 ***** in 1998. Therefore, two years did not go by between the two periods.

26 Q. Okay. Now, while you're in this -- the other prison, you were held in the Arusha wing of that prison?

27 A. No. The Arusha wing is not in the prison where I am currently held. Actually, it is in ***** where
28 at one point I was jailed. And in that prison, there are many wings, or blocks, and one of those is the
29 Arusha wing.

30 Q. And I understand that was -- I understand that was set aside for people who had confessed.

31 A. When I was in that prison, I remember that that particular wing was secured in order to protect those
32 who had confessed, given that it was difficult for people who had confessed to coexist with those who
33 had not yet confessed. And that is why that wing was set up.

34 Q. But you also were held under slightly better conditions than the other prisoners; isn't that right?

35 A. No, I cannot say as much, given that they live in the same conditions, are given the same type of food.
36 I would rather say that this wing was set up to protect these people because their safety was at stake.

37 Q. Now, as a representative of -- you say you're a representative of the prisoners who have repented or

1 confessed. But, in fact, you were really an agent of the authorities inside the prison; isn't that correct?
2 Because you said that you were there to sensitise the prisoners about pleading guilty and confessing.
3 So you were acting as an agent for the authorities, weren't you, inside the prison?

4 A. No, I do not agree with you. I am not an agent of the judicial authorities, nor am I an agent of the
5 administrative authorities. I am there to serve the detainees, that is, my fellow prisoners, with a view to
6 telling the truth about what happened.

7 Q. Yeah, but that's none of your business. I mean, whether they want to confess or not to confess, that's
8 up to each individual prisoner, to have a trial or not or confess. By you saying that your role was to
9 sensitise them -- a word we've heard a lot here, "sensitise" -- you were acting as an agent for the
10 authorities in order to get confessions, weren't you?

11 A. I do not agree because I am not paid and I have nothing to gain from this. Rather, I decided to tell the
12 truth, and I think there are others who are so minded, to tell the truth about what happened so that
13 Rwandans may be restored in their collective conscience. And I think that this effort will help all
14 Rwandans.

15 Q. But, sir, you engage in a political role, then, inside the prison; you see yourself as a political role to
16 promote some sort of understanding between people? That's your role? You're not just a prisoner; you
17 have a political role inside the prison? Is that what you're telling us?

18 A. No, I'm not -- this is not politics because politicking is not allowed in the prisons. But people get
19 together and engage in an exercise of self-analysis, feel guilty about what they did. I don't think that is
20 politics.

21 Q. What about those men in the prison who aren't guilty? Do you put pressure on them to confess no
22 matter -- whether they are guilty or not? I mean, a lot of these men must say, "I'm not guilty of
23 anything." Do you try and sensitise them too, to confess?

24 A. Normally one may confess only to the crimes one had committed. No one can assert that all the
25 detainees are guilty of genocide. Conversely, one cannot say that all detainees are innocent.
26 Therefore, in the prison there are innocent people as well as guilty people. If one feels guilty, one will
27 confess. I can, therefore, not encourage people who may be considered innocent --

28 Q. Yeah, but how do you --

29 A. -- therefore, not as you say I do.

30 Q. But how do you decide who's guilty and who's innocent; who to put pressure on, who not to put
31 pressure on; who to sensitise, who not to sensitise?

32 A. It is easy because when people gather along the lines of their native *cellule* or *secteur*, they talk of the
33 events, they discuss the victims, as well as the places where they buried the victims. In this way, one
34 can find out who are -- those who are innocent and those who are guilty. If a guilty party decides to tell
35 the truth and ask for pardon, that happens.

36
37 However, there are others who are accused by their fellow prisoners for the part they played but who

1 have not yet opted to tell the truth. And this is the group that we're trying to sensitise, for them to tell
2 the truth and admit the role they played and go on to confess.

3 Q. So you're telling us that the other prisoners denounce -- prisoners denounce other prisoners and then
4 you put pressure on those accused by the other prisoners to confess even though the denunciation
5 may be a complete lie?

6 A. This is not a denunciation. Genocide was committed in broad daylight, and it is, therefore, not a
7 denunciation, as such. When it is apparent that someone wants to make a false testimony implicating
8 someone else, it is easy to point out because we cannot take into account testimony by just one
9 individual. Given that this is done according to the *cellules*, native *cellules*, we go through the
10 testimonies of various individuals.

11 Q. So you conduct -- you conduct little trials inside the prison?

12 A. No, this is not a trial; rather, we are remembering what happened. And this will be of assistance to the
13 judicial authorities.

14 Q. And so the prisoners have discussions, and you report to the authorities what they say. And it's true,
15 isn't it, that if prisoners denounce others they get -- they get lighter sentences, they get their categories
16 shifted, they get better conditions? So there's a strong motivation to denounce -- denounce others
17 falsely. Isn't that true?

18 A. No, that is not true. For people from the same *cellule* meet and discuss and record in the form of
19 minutes the things they have said to each other. And then the report of this discussion is handed to
20 me, and I forward that report to the relevant authorities. But I assure you that there are no false
21 testimonies against anyone.

22 Q. How do you know that? How do you know what these men in the prison are saying is true or not?
23 You -- for all the incidents they may describe, you weren't there for all of them. How do you know
24 what's true and what's not true?

25 A. Those from the same *cellule* talk about events that happened. They are not making anything up.
26 Therefore, I would say that they're only telling the truth.

27 Q. In any event, do you then have regular meetings with the prosecution office reporting these meetings
28 and what was said at these meetings to the prosecutor or other authorities? When you deliver the
29 minutes to -- you deliver them to somebody. Do you have a meeting with that person and discuss it for
30 a while?

31 A. I told you that those from -- who are natives of each *cellule*, each *secteur*, each *commune*, have a
32 single representative, that is to say, each *cellule* or *secteur* representative collects the reports and
33 hands it to the relevant authority.

34 Q. But answer my question. When you hand over these minutes and report on these meetings, do you --
35 who do you meet with?

36 A. I would say that each *commune* has a deputy prosecutor, and it is the deputy prosecutor of the
37 *commune* or district who comes to collect the report so that each district deputy prosecutor comes to

1 collect the report from people who come from his district. I am not responsible for forwarding this report
2 to the prosecutor.

3 Q. Well, yeah, but you were -- you were the representative, you said, for your district, so you must be the
4 one who sends in the report for your district. You must have a meeting with the deputy prosecutor,
5 right?

6 A. No, I do not directly forward the report to the prosecutor because there are deputy prosecutors at the
7 level of the district, and it is the deputy prosecutor who comes to collect the report and forwards it to the
8 public prosecutor.

9 *(Pages 1 to by 16 Ann Burum)*

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1 1030H

2 BY MR. BLACK:

3 Q. And do you also report on the people who protest their innocence, who state they're not guilty of any
4 crime?

5 A. All that is said is recorded in the minutes, and no one is forced to say what he has to say. So that
6 everything discussed in a meeting of natives of a particular *cellule*, *secteur* or *commune* is recorded in
7 minutes.

8 Q. And do you ever tell them that when they talk in these minutes, that these records are being sent and
9 that, you know, these statements could be used against them at a possible trial, that that could
10 jeopardise their trial? Did you ever tell them that, or did the authorities ever tell them that?

11 A. They are aware of the procedure and where the reports are being sent, so there is no need to tell them.
12 They are aware of all this.

13 Q. Have any of you ever received legal advice from any lawyers in -- committed in the prison to tell you
14 that's a very bad thing to do, if you're waiting for a trial?

15 A. I did not quite understand what you're getting at, Counsel.

16 Q. Have any of these prisoners ever received legal advice to assist them which would tell them that it's a
17 very bad thing to do, to give statements to prosecution authorities which may be used against them at
18 their trial?

19 A. Sometimes I see lawyers coming to give the detainees advice on trials that are being tried before the
20 traditional jurisdictions. These are detainees who are to appear before these jurisdictions, and they are
21 assisted by the lawyers.

22 Q. Have you ever spoken to a lawyer? I mean a defence lawyer, not a prosecution lawyer.

23 A. I don't clearly understand your question, Counsel.

24 Q. Have you ever consulted with a defence lawyer about your case?

25 A. No.

26 Q. Have you asked to see a lawyer about your case?

27 A. No.

28 Q. When you say that --

29 A. It's not yet time for my trial.

30 Q. Well, you don't know when your trial is going to be. You have no date for your trial. You've been in
31 prison for almost eight years with no trial pending. You've never asked to see a lawyer to find out
32 what's going on? Or are you just going to sit there for the next 50 years, wondering whether you are
33 going to have a trial or not?

34 A. I don't know when my trial is going to start. I'm still waiting, and whenever they ask me to appear
35 before a court, I'll be ready. And it's at that time that I'll look for a lawyer.

36 Q. All right. But you signed a confession on the very first day -- or the second day, after you say you
37 turned yourself in on July 28th, 1997. Why would you need a trial? You've confessed. Shouldn't you

1 just be -- or, you know, have a court appearance to be sentenced? Have you been told what's going to
2 happen to you, that you're going to be sentenced? You've got no information whatsoever about your
3 case?

4 A. No, they didn't tell me anything.

5 Q. Have you asked, "Look, guys, I confessed. I'm a good guy, I confessed the very first day I walked in
6 here. I'm showing my good intentions. What's going to happen to me? I've been waiting eight years.
7 When are you going to sentence me? When am I going to find out my fate?" You haven't asked that?

8 A. No, I did not ask that question, because I think I've played my part and it was the turn of the office of the
9 prosecutor to play its role.

10 Q. But, obviously, it's not playing its role. You played your part: You confessed. You've done what you're
11 supposed to do. What are they doing for you now? Nothing. You're just resting in prison, rotting away.
12 I mean, don't you -- aren't you even concerned? Don't you even care what's going to happen to you?

13 A. No, I did not want to interfere in the judicial procedure. I just have to wait.

14 Q. Well, I suggest to you that's not true. Interfere -- interfere in your own life? Is that what you're saying,
15 you don't want to interfere in your own life? Nobody can believe, sir, that you're just sitting there for
16 eight years and you don't know what's going on. You must have asked, and you must have been told.
17 So what have they told you is going to happen to you?

18 A. You've just said that I've been detained for eight years without appearing before any court, but you
19 should know that there are others who have been detained for ten years.

20 Q. Well, I know that, and it's a world scandal. You're telling us that you have never asked what your fate's
21 going to be; you're just sitting there. You're an educated man. You confessed eight years ago, and you
22 still don't know what they're going to do with you. It can't be true. It can't be. You must have asked,
23 and you must know. I suggest to you it depends entirely on what you -- what you do at these trials.

24

25 You've now testified three times, right, including this one?

26 A. Regarding my testimony, I think that has to do with the ICTR and that has nothing to do with my
27 criminal case in Rwanda.

28 Q. Sir, when you were designated to sensitise the prisoners, what did the authorities tell you -- how did
29 they -- what did they tell you to do to do that? What did they say you should do to do that? Did they
30 teach you psychological techniques how to make people sensitise to confessing, or did they just tell you
31 to offer them deals? How do you sensitise the other prisoners?

32 A. I'm not the only member of the committee. There are vice-presidents, secretaries, as well as other
33 members of the committee. So, together, we try to recollect what happened during the genocide. We
34 then try to get people to understand that they need to confess their responsibility. I'm not the only
35 person to play this role. All members -- all the members of the committee that I chair play the same
36 role.

37 Q. But you have conversation was the authorities. They asked you to sensitise the prisoners. What do

1 they tell you to do on their behalf to get the prisoners sensitised?

2 A. We did not receive any specific instructions from the authorities. We collaborate with officers of the
3 prosecutor's office because it's the prosecutor's office that is in charge of that role. Now, when the
4 prosecutor's office realised that that role could be carried out more effectively by the detainees, it set up
5 this committee, and the members of the committee were requested to conduct this sensitisation. So we
6 did not receive any specific instructions. We sensitise the co-detainees on the truth.

7 Q. Sir, what you've just described is that you are an actual acting agent of the prosecution's office inside
8 the prison, sir. And as an active agent of the prosecution inside the prison, what general instructions
9 are you given to sensitise the other prisoners to confess?

10 A. I didn't tell you that I represent the prosecutor in the prison; neither did I say that I do his work for him.
11 What we are doing is that we get together on the basis of a *cellule* or *secteur* to remember what
12 happened during the genocide, what we did during the genocide, in public. That is all.

13 Q. All right. But as you say, as you collaborate with the prosecution in Rwanda, and as you described your
14 role in that, inside the prison, anybody would assume from what you've described -- or they would take
15 it that you are an agent of the prosecution -- prosecution inside the prison. So how can we trust
16 anything you say here, since you are obviously an active agent for the Rwandan judicial authorities?
17 How can we trust anything you say here about anything?

18 A. It is not true. I'm not working for the prosecutor. We talk about the killings that took place in the
19 *cellules*, *secteurs* and *communes*. The truth ought to be known. It is not the prosecutor who instructs
20 us to say this or that. And the report of the meetings held within the prisons are forwarded to the
21 prosecutor through a pre-established channel, so it is the district representatives who forward the
22 reports to the deputy prosecutor, and then he, in turn, will forward it to the prosecutor.

23 Q. All right. Have you seen your case file inside the prison?

24 A. No, I have not seen it yet.

25 Q. But you've made -- you've made several statements to the authorities in Rwanda, haven't you?

26 A. That depends on the persons you are referring to. I know that I have given statements to the office of
27 the prosecutor.

28 Q. Okay. So you must have had discussions with the prosecution officials, so you must have discussed
29 what's going to happen to you. You've had meetings with them to discuss your statements, they've
30 interviewed you, and during those interviews, you must have said, "Okay. What's going to happen to
31 me?" What have they told you?

32 A. No, that is not true. If that were the case, I would have been the boss of the office of the prosecutor,
33 whereas that is not the case.

34 Q. Are you telling me you've never had a meeting with the prosecution office, discussing your statements,
35 or giving them statements and interviews? Because I have them here, question and answer.

36 A. Yes, I met an officer from the prosecution office, and when I met him, he asked me questions, and I
37 answered. That's what I have to say.

1 Q. All right. And when you were interviewed by him, you must have asked him, "Okay, if I give you this
2 statement, what's going to happen to me? I want to know what's going to happen to me."

3 A. No, that's not how I acted. That was not part of my intention.

4 Q. All right. Did they tell you what would happen to you if you didn't make statements?

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

6 Q. So, right now, you do not know whether you're going to stay in the prison the rest of your life, do you,
7 from what you're telling us?

8 A. I can tell you the following: I'm waiting for the judicial authorities to take a decision on my case.

9 Q. But what if they never take a decision on your case? Are you just going to sit there for the next 10, 20
10 years, saying nothing? It's been eight years now with no word. Are you going to stay there another 8
11 years, 16 years, whatever?

12 MR. SEFON:

13 Mr. President, I'd like to make a comment. Counsel Black is dwelling on this issue. He is dwelling on
14 what could happen to him in prison. This has no relevance. This issue has no relevance. Let us
15 assume that this witness even asked the judicial authorities, Rwandan judicial authorities, why his case
16 has not been dealt with, why he's not been tried, and he's not given any answer. What will be the
17 effect? That will not change anything about his situation. So it has no importance for him to come back
18 so many times to this issue -- on this issue. He needs to move on. The witness has answered several
19 times to this question. Thank you, Mr. President.

20 MR. PRESIDENT:

21 Yes, Mr. Black, we are... (*Microphone not activated*)

22 MR. BLACK:

23 It's a lie.

24 BY MR. BLACK:

25 Q. Sir, you -- didn't you agree to a sentence of seven years with the authorities because you pleaded
26 guilty?

27 A. That is an information you are giving me.

28 Q. Well, that's what it says in the document given to us by the prosecution office. It says, "*Note de fin*
29 *d'instruction dans l'affaire RMPC 369/G.E./PROGECA*," with your name, dated the 7th of December,
30 2000, and signed by Alphonse Sebazungu, advocate general.

31 MR. PRESIDENT:

32 That could be the recommendation. Is there any agreement with the accused?

33 MR. BLACK:

34 It just says, "The prosecution office calls for" -- this witness -- "calls for a sentence of seven years
35 against this prisoner because he pleaded guilty."

36 BY MR. BLACK:

37 Q. Were you aware of that?

- 1 A. That is an information you are giving me. This is the first time I'm hearing that.
- 2 Q. You're telling -- that's pretty hard to believe. You're telling us that you don't know that in 2000, five
3 years ago, they requested a sentence for you of seven years, which means you'll be released in two
4 years if, actually, you were sentenced to that?
- 5 A. I don't know about that. I don't know the conclusions that the office of the prosecutor arrived at. I'm still
6 waiting for my trial. I'm not aware of what you've just said.
- 7 Q. So this was never communicated to you that they had made that request because you pleaded guilty, a
8 sentence of seven years? You don't know that that request was made?
- 9 A. As far as I'm concerned, this is the first time I'm hearing this. I know I was interviewed, and during the
10 last interview -- I was interviewed and I was told that I was classified in the second category. But what
11 you've just read is a new fact for me.
- 12 Q. All right. Well, first of all, you told us you weren't aware of anything about your case. Now you know
13 you're transferred from the first category to the second, which takes you out of the death penalty. And
14 now you know that they requested a seven-year sentence for you. Were you ever sentenced? Have
15 you been sentenced to seven years, or are you denying that?
- 16 A. I have just told you that when I was in a *communal* cell -- when I was interviewed by the judicial police, I
17 did not know anything about my case. But when I was transferred to the central prison, I was
18 interviewed and my case file was put together. But with regard to the request for sentence, I'm not
19 aware of that because I'm still waiting to be tried, to be able to know that.
- 20 Q. I suggest to you, sir, that you got such a light sentence for pleading guilty to -- or confessing to
21 genocide, even though you don't even know you've been charged, because you've made a deal to
22 come here and testify in three different trials. And in each trial you've given different testimony. That's
23 what you made a deal for --
- 24 MR. SEFON:
25 Objection, Mr. President. Objection. It is not a sentence. This is a request from the office of the
26 prosecutor.
- 27 MR. PRESIDENT:
28 Yes, Counsel, I think that has to be accepted by the judge. This is a recommendation to the judge. He
29 still doesn't know that he has not been -- you are the one who has given him this information.
- 30 MR. BLACK:
31 Excuse me. I'm sorry, Mr. President. Sorry, I missed that.
- 32 MR. PRESIDENT:
33 I said that you are the one who has given him this information, according to him.
- 34 MR. BLACK:
35 I know. I don't think anybody's believed that he doesn't know about it.
- 36 BY MR. BLACK:
37 Q. Sir, the reason that was signed by the advocate general himself is because of your former position in

1 Rwanda, because you were a person of a certain political standing, administrative standing in the
2 government. You were dealt with directly by the advocate general and, therefore, you must know about
3 that. Because people holding your administrative position in the former regime were handled directly by
4 the advocate general, not by lower-down people.

5 MR. SEFON:

6 Objection, Mr. President. On what basis is Counsel Black able to assert that, that for -- people of a
7 certain status are dealt with by the advocate general?

8 MR. BLACK:

9 I'm just stating it as an assertion, and supported by the fact this one is signed -- this document with the
10 proposed sentence is signed by the advocate general.

11 MR. PRESIDENT:

12 Counsel, he has said that he doesn't know about it. And we will go on.

13 BY MR. BLACK:

14 Q. But you haven't answered my last question, sir. My suggestion to you is that you got that deal, that light
15 sentence for committing genocide, which is almost nothing, because you've agreed to come to testify in
16 three trials here, and in each trial you've given different testimony about the same events; isn't that
17 right?

18 A. Regarding my case, I think that depends on the Rwandan judicial system. And my testimony here
19 before the ICTR regards the ICTR. I don't think these two issues have any relationship between them.

20 Q. We'll point out how that relationship exists after the break, I guess.

21 MR. BLACK:

22 Mr. President, do you want to take a break now?

23 MR. PRESIDENT:

24 Yes. We adjourn for ten minutes.

25 *(Court recessed from 1100H to 1125H)*

26 MR. PRESIDENT:

27 One second, Mr. Black. This is for the court reporters. It has been brought to my notice that on the
28 17th of March, Witness DBA, in the open session, has given his birth place. So please keep it under
29 seal, that portion. Whoever has typed it can do it.

30

31 Yes, Mr. Black, how long will you take with this witness?

32 MR. BLACK:

33 The rest of this morning and maybe a bit into tomorrow. I'll try to cut it short, but it depends on the
34 answers.

35 BY MR. BLACK:

36 Q. Sir, just going back to this not knowing about this seven-year sentence, isn't it true that people at your
37 administrative level in the old regime are represented by lawyers from *Avocats sans frontières*?

- 1 A. To my knowledge, some people are represented by members of the association *Avocats sans*
2 *frontières*. Others are represented by other lawyers who are not members of this association. It
3 depends on the individual.
- 4 Q. My information is that people at your administrative level in the old -- in the former regime are all
5 represented by lawyers from *Avocats sans frontières* and that they, in turn, deal directly with the
6 advocate general in all those cases.
- 7 A. I know nothing about the law. I'm answering you as a person who knows what is done. I am saying
8 some are represented by members of *Avocats sans frontières* and others who have the means seek
9 other counsel, other lawyers, to represent them.
- 10 Q. So we can check with *Avocats sans frontières* whether you have ever seen a lawyer or not, right? You
11 don't have a problem with that?
- 12 A. I have no problem with that.
- 13 Q. Now, you say you've come here to tell the truth, but you've made four statements to the authorities in
14 Rwanda in which you claim that you attended Nyanza stadium to hear General Ndindiliyimana give a
15 speech doesn't appear at all; isn't that right?
- 16 A. Counsel, I think you should first of all distinguish between a statement and a confessional statement. In
17 my confessional statement, I talked of my participation and my fellow perpetrators in committing
18 genocide. With regard to the statements I made, in those I did not mention those who had committed
19 the crimes together with me.
- 20 Q. And in the -- you made a statement the 24th, I think, of February 2000, 22nd October, 2000, January
21 28, 2001 and October 12th, 2001 to the ICTR. In those four statements you never mentioned once that
22 there was a speech given by General Ndindiliyimana at Nyanza stadium.
- 23 A. In the statements you have just referred to, I was answering investigators' questions. That is to say I
24 answered solely based on the questions I was asked by the investigators. The investigators did not
25 mention General Augustin Ndindiliyimana, and that is why I did not talk about him.
- 26 Q. But, sir, were you asked -- you say the investigators came to see you and they asked you if you had
27 any information to give them. And then you gave them information. So hearing General Ndindiliyimana
28 give a speech like that would have been a very, very important thing for you to remember. But you
29 didn't mention it, did you? The first four meetings with them over two years, you never mentioned him
30 at all.
- 31 A. When these statements were recorded, the investigators asked questions on specific persons, so I
32 could not go above or beyond that to talk about persons other than those the investigators were putting
33 questions to me about.
- 34 Q. But you said in the Butare trial, at page 57, you said, "Question: Is the Chamber to take it that the
35 investigators asked you to speak about everything you knew about the 19" --
- 36 THE ENGLISH INTERPRETER:
37 Could counsel please slow down? We do not have this text in the French booth.

1 BY MR. BLACK:

2 Q. "Question: Is the Chamber to take it that the investigators asked you to speak about everything you
3 knew about the 1994 event?

4
5 Answer: No. I believe you need some explanations from the way of what you are saying. These
6 people came and they wanted to meet people. They wanted people who had confessed. And since I
7 represented people who confessed, they brought me forward and put questions to me, and I answered
8 these questions. They asked me if I had information on the events of 1994, and I answered, yes,
9 indeed, I have information on those events."

10
11 So they may have asked you -- I don't know if they asked you specific questions about specific people,
12 but why didn't you mention hearing a speech by a senior general like General Ndindiliyimana?

13 A. I will give you an answer. You know, it depends on the way an investigator conducts his interview. The
14 witness does not answer in a vacuum. He answers the questions put to him. I therefore answered the
15 investigator's questions and I talked about the persons mentioned by the investigator. I did not talk
16 about Ndindiliyimana to the investigator because -- simply because the investigator did not talk about
17 him. If I had mentioned Ndindiliyimana, I would have been going beyond -- I would have gone beyond
18 the scope of the questioning.

19 Q. No, but you would have helped the ICTR a lot. If you had information about some event involving
20 General Ndindiliyimana, why didn't you tell them, whether they asked you or not? You could say, "You
21 know what? You're asking me questions about this man, but do you know what I've got information
22 about, more important than that?" Nobody is going to believe that you didn't mention it because you
23 weren't asked, sir.

24 A. With regards to what happened during the genocide, many things happened and there is much
25 information of interest and on various people. We answer the questions that are put to us. And,
26 therefore, it depends on the way the investigator conducts the questioning. I couldn't say it all. I
27 couldn't deviate from the questions that the investigators were putting. You know, I have a lot of
28 information on many other people, various people.

29 Q. Well, you made statements about Colonel Nteziryayo, N-T-E-Z-I-R-Y-A-Y-O, Colonel Simba,
30 Mr. Kanyabashi and others, but you don't mention the general. It doesn't make any sense. Why would
31 you leave out what a general did? Because these people are all just colonels and *préfets*.

32 A. It is true that I talked about the people you have mentioned because I met them on various occasions at
33 the meetings and because they gave me instructions. I mentioned them in my case file because these
34 people were invited to meetings or convened meetings and gave me directives, and they're people who
35 committed crimes with me; therefore, they are fellow perpetrators.

36

37 With regards to General Ndindiliyimana, I did not talk about the stadium incident where I saw him until a

1 question was put to me about it. I mentioned him -- I did not mention him in my confessional statement
2 or any other document on my case until a question was put to me on that. I could only have mentioned
3 him in that specific context.

4 Q. But you've met with other people. You met with Human Rights Watch. You didn't tell them anything
5 about -- and they were asking in general terms about what happened in the war. You never mentioned
6 General Ndindiliyimana, did you?

7 A. Yes, I told them, in general, about the events. I told them about the gendarmes who unleashed the
8 killings in our region, our area, but with regard to the stadium meeting, they did not ask a question on
9 that. I did not mention it in our interview -- in that interview or any other statement I made to the various
10 human rights organisations. I talked about this incident only in the context of a specific question put to
11 me.

12 Q. And you also met with a lady named Yolana, that's Y-O-L-A-N, Mukagasana, who lives in Belgium and is
13 a propagandist for the RPF in Belgium. You spoke to her in the prison. You had an interview with her,
14 too, didn't you? You didn't tell her about that either, did you?

15 A. But it depends on the questions that she put to me. It is true that I met her in the***** , but if I
16 recollect rightly, she dwelt a lot on the onset of the killings and the various perpetrators of the killings.
17 She did not put any specific question to me on any specific person.

18 Q. So why did then the investigators come back to see you in January of 2004 to get a statement from you
19 about General Ndindiliyimana, when you'd never mentioned it to them in the previous four years?

20 MR. SEFON:

21 Mr. President, he cannot answer that question.

22 MR. PRESIDENT:

23 Yes, Counsel.

24 MR. BLACK:

25 All right, I'll rephrase it.

26 BY MR. BLACK:

27 Q. When they came back to take the statement in which you allege that there was this speech given at
28 Nyanza stadium, did they tell you why they had come back to get a statement involving
29 General Ndindiliyimana from you, when you'd never mentioned him before?

30 A. Since my first meeting with the investigators of the ICTR, I've only been answering their questions and I
31 talked about persons on whom the investigators asked me questions. They came to see me, and at the
32 specific time that they came to talk about -- to put questions to me on the stadium about Ndindiliyimana,
33 I answered their questions.

34 Q. But what did they tell you about why they thought you could provide information about such an event, if
35 you'd never mentioned it before? Why would they travel all the way to Kigali, spend all that effort to get
36 into the prison to see you on pure speculation you might have something to say about Ndindiliyimana?

37

- 1 Did they tell you why?
- 2 A. The investigators come to us. We are in prison, and we wouldn't know whatever measures they've
3 taken before getting to us. It is the office of the prosecutor that directs them to us, and it is the prison
4 management who puts us into contact with them, and then we meet the investigators.
- 5 Q. You haven't answered my question. When you go into the interview room with these investigators and
6 you meet them, do they tell you, "We've come here to get information from you about Ndindiliyimana
7 because we know you know something about him"? I mean, how did they know you knew anything?
8 Why you? You've never mentioned Ndindiliyimana before. Why did they come to see you about that
9 subject? They must have told you something.
- 10 A. I was not the only one they interviewed. You probably should be asking me why I'm -- why I'm one of
11 those people who are interviewed. The office of the prosecutor knows our cases, the various
12 confessional statements that we give; they are aware of all that. So I was among those who were to be
13 interviewed, and I gave them the information I had.
- 14 Q. Sir, in none of your statements to the Rwandan authorities do you mention General Ndindiliyimana, not
15 once. So, again, when they enter that room, or when you enter that room with them, what did they tell
16 you about why they were there and why they thought you could help them about information concerning
17 General Ndindiliyimana?
- 18 A. When the investigators arrive or when they come, they go and see the prison administration. But they
19 had been informed by the office of the prosecutor, and they contact the *Gacaca* committee to find out if
20 there will be any detainees -- if there are any detainees who have information. That is how I was called,
21 together with others, and some questions were put to me. It is in that context that I spoke about
22 General Ndindiliyimana.
- 23 Q. You're not answering my question. When you went into that room, what did they say to you about why
24 they were there and why they thought you could help?
- 25 A. I did not mention Ndindiliyimana in my confessional statement, that is true. But in my various
26 statements, I did speak about the role of the gendarmerie and I made reference to the stadium,
27 particularly during the *Gacaca* proceedings which took place within the prison. I spoke about what
28 happened in the town of Nyanza and its environs, the immediate environs of that town.
- 29 Q. You, not once, mentioned a speech given by General Ndindiliyimana in Nyanza stadium, not once
30 anywhere. So, again, answer my question. Or you don't want to? When you went into that interview
31 room, what did the investigators say to you about why they were there and why they thought you could
32 help them about this specific man?
- 33 A. This happened last year, and I think I recall the occasion. The investigators had a lot of information
34 given to them by the office of the prosecutor, and they knew that I had spoken about Ndindiliyimana
35 during the *Gacaca* sessions. This was general information on how the killings started and how the
36 killings were perpetrated in our *secteur*. They, therefore, asked me specific questions on the meeting
37 that took place at the stadium. I'm not the only one who made reference to this meeting during our

1 Gacaca sessions. Other detainees made reference to it.

2 Q. But, sir, that can't be true because in 2000, 2001 you met with the investigators four times, twice in
3 each year; you don't ever mention this event. And, in fact, you give the speech which you attribute to
4 General Ndindiliyimana in one -- in statements, you say it was Colonel -- sorry -- Nteziyayo who made
5 those comments, and in the Simba case, you say it's Simba who made those comments, at your
6 swearing-in ceremony. So for each person they come to interview about, you use that story and you
7 transpose it from one man to another. And the investigators must have known that because they had
8 your previous statements, so why did they come and talk to you about Ndindiliyimana in that speech?

9 A. I answered the questions they put to me. That is what I did. And with regard to this meeting, I did not
10 make it up. I did not invent it. Nyanza is in a *commune* which is different from mine. I therefore did not
11 invent this incident. You can go and speak to the inhabitants of that locality and they will confirm what
12 I'm telling you.

13 Q. Sir, in the Butare trial, you say that -- the comments set out in your testimony in-chief, that
14 Ndindiliyimana gave a speech to 500 to a thousand people, urged youth to train in military tactics, fight
15 the enemy and the accomplices within.

16
17 In the Butare trial, you say Colonel Nteziyayo says that. In the Simba trial, you say Colonel Simba said
18 that, and now in this trial you said General Ndindiliyimana said it at a stadium, whereas before you said
19 those two men said it at your swearing-in ceremony, with that many people.

20 A. That should not surprise you. There was only one political line during the killings. There was only one
21 enemy and we knew the enemy. And there were accomplices of the enemy and we knew them. And
22 so there were those who were to be killed and we knew them. It is therefore not surprising that
23 Nteziyayo, Simba, and General Ndindiliyimana should repeat the same statement. You should rather
24 be concerned about the fact that these people said the same thing at different places. That should
25 prove to you that there was a plan, a plot, to kill, that there was connivance.

26 Q. The only plot, sir, is the connivance against my client by the investigators and you, because they knew,
27 in the previous statements, you attribute these comments to other people, and then a statement gets
28 produced in January attributing these comments to my client at a different place. And how could they
29 believe you in this version when they'd already taken statements when you gave other versions?

30 MR. SEFON:

31 Mr. President, I just want to request counsel, Counsel Black, to give us more specific reference to the
32 documents, pages, paragraphs, so we also can check, because he's just asserting that he ascribed the
33 same statement to different people, whereas we cannot check that. Did these different people -- did he
34 say that it happened at Nyanza on this specific date? So he should give a specific reference so we can
35 verify. We can check from the transcripts, for example.

36 MR. PRESIDENT:

37 Yes, Mr. Black.

1 MR. BLACK:

2 I don't need to do that. This witness has accepted what I said. He is not denying what I said –

3 MR. PRESIDENT:

4 No, he said that -- (*Speakers overlapping*)

5 MR. BLACK:

6 No, no, no, he's not denied that. He said it's quite possible, you've got to understand, people gave the
7 same speech at different locations. He has not denied what I said -- put to him. They don't need to
8 check that. I can do that, if you want. It will take us hours.

9 MR. SEFON:

10 No, we do need to check.

11 MR. BLACK:

12 No, you don't.

13 MR. PRESIDENT:

14 No, Mr. Black, when you refer to something --

15 MR. BLACK:

16 I'm not referring to anything.

17 MR. PRESIDENT:

18 Yes, you said that he gave evidence in the Butare case --

19 MR. BLACK:

20 There's -- (*Speakers overlapping*)

21 MR. PRESIDENT:

22 -- and in the Butare case.

23 MR. BLACK:

24 And he's accepted that, because --

25 MR. PRESIDENT:

26 No.

27 MR. BLACK:

28 Yes, he did.

29 MR. PRESIDENT:

30 He said that he gave evidence, but when you say -- your -- the next question was that in Simba and
31 Butare cases -- and in the Simba case at the swearing-in ceremony. So this is at a different place.

32 MR. BLACK:

33 I'm going to go into the transcripts later, but I don't need to do that now. He's agreeing with my
34 proposition. He hasn't denied he testified three times.

35 MR. PRESIDENT:

36 No, it is not for you to go into later, but for the purpose of checking –

37

1 MR. BLACK:

2 No, no, no.

3 MR. PRESIDENT:

4 So, if you are referring to it, give it to him. Otherwise, you are just -- (*Speakers overlapping*)

5 MR. BLACK:

6 No, I only need to do that if he denies what I said. Then I go to the transcript and say, "Well, yes, you
7 did; you said it here." He's accepted what I said.

8 MR. SEFON:

9 He has not admitted anything, Mr. President.

10 MR. BLACK:

11 Yes, he has. (*Speakers overlapping*)

12 MR. SEFON:

13 The impression you are giving me is that you are fabricating these facts and ascribing them to him.

14 MR. BLACK:

15 (*Speakers overlapping*) -- in Court.

16 MR. PRESIDENT:

17 Yes. Yes, Mr. Black, when you refer to it, please give us the pages.

18 MR. MACDONALD:

19 I have to agree with Mr. Black, Mr. President. This problem came up before --

20 MR. PRESIDENT:

21 I don't want any agreements. I am going to make an order -- (*Speakers overlapping*)

22 MR. MACDONALD:

23 If the witness accepts, why does the Crown (*sic*) have to get up all the time and contest whatever their
24 witness says? The witness accepted that. (*Speakers overlapping*)

25 MR. SEFON:

26 He has not admitted anything.

27 MR. MACDONALD:

28 (*Speakers overlapping*)... the Defence counsel --

29 MR. PRESIDENT:

30 There is confusion. That is why the cross-examination was necessary, because there was a -- he
31 referred to two places. That is where the confusion arose. So this is not a big thing, just to give them a
32 page where he has referred to the evidence. That's all.

33

34 Yes, Mr. Black, you may continue.

35 MR. BLACK:

36 It's just throwing dust in your eyes again, Mr. President. And we're being manipulated because they are
37 false -- they present knowingly a witness who has given other testimony contradictory to this in other

1 trials. They're aware of the statements, and they knowingly present a witness here who they know is
2 lying, and that's prosecutorial misconduct. It's unethical, completely, presenting a witness who they
3 know is going to be telling lies. And that's what they're doing here.

4 *(Pages 17 to 30 by Karen Holm)*

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1 1200H

2 MR. VAN:

3 Mr. President, if I may.

4

5 Counsel Black, it is your right --

6 MR. PRESIDENT:

7 Mr. Black, I think you are referring to the pages. Just give the pages. That is all they are requesting,
8 not -- just give the page for them to check it; that's all.

9 MR. BLACK:

10 All right. But we'll be here through tomorrow.

11 BY MR. BLACK:

12 Q. Sir --

13 MR. VAN:

14 In that case, Counsel Black should stop this line of questioning until tomorrow when he gives the
15 references, because we cannot check without the reference.

16 MR. BLACK:

17 I'm not even going to comment on the fact that they don't know their own file. That's their problem. If
18 they don't know their case, that's too bad.

19 BY MR. BLACK:

20 Q. Sir, tell us about that appointment you received. When did you receive this appointment, you say,
21 which was going to give you this administrative position?

22 A. Please repeat your question. I did not understand you.

23 Q. Before I get to the transcripts about why you're lying in different trials, when did you receive word that
24 you were going to be made -- and given this administrative position? I'm not allowed to mention the
25 position unless we go in closed session, but the job you received May 22nd, when did you hear about
26 the fact that you were going to get that job?

27 MR. SEFON:

28 *(No interpretation)*

29 THE WITNESS:

30 It was not -- it was 21st of May 1994. It was on that date that I got to know my appointment to that
31 position.

32 BY MR. BLACK:

33 Q. And how did you find out that you got that appointment?

34 A. The decision was taken, the so-called *Abatabazi* government, and the decision was carried -- was
35 announced on radio, and that's how I got to know about it.

36 Q. At what time did you find out about it? You found out about it on the day before, the 21st; is that true?

37 The 21st of May?

- 1 A. Yes.
- 2 Q. At what time did you find out about that on the radio?
- 3 A. I recall that it was during the news broadcasts of 1900 hours.
- 4 Q. All right. And the 21st was a Saturday, wasn't it?
- 5 A. I have no clear recollection of the dates.
- 6 Q. Well, I put it to you it was, and the following day was Sunday.
- 7 A. It's possible.
- 8 Q. Did you ever receive any official word from anybody that this appointment had been made, aside from
9 hearing it on the radio in passing?
- 10 A. Your question is not clear, Counsel.
- 11 Q. Were you officially notified that you had received this appointment? You hear it on the radio, but did
12 any official contact you to tell you directly, in case you hadn't heard it on the radio? Because if you
13 hadn't listened to the news that night, you would never have known.
- 14 A. I learnt it officially on the 22nd, the day after that date.
- 15 Q. Did you ever receive a document stating so, or you were just -- by word of mouth?
- 16 A. I did not receive an official letter. I received documents from the *préfet* and the *sous-préfet* during the
17 swearing-in ceremony.
- 18 Q. Okay. All right. So how is it you end up -- you went to Nyanza, you said, to get fuel for the swearing-in
19 ceremony to meet (*By order of the Court, this name has been extracted and filed under seal*) in the
20 morning, right? Is that right?
- 21 A. That is correct.
- 22 Q. Okay. Did you go -- how did you get there? Did you go from your house or did you go from *****to
23 go into town to get fuel?
- 24 A. *****.
- 25 Q. Okay. So were you at work, then, when you went into Nyanza, or did you -- were you at your house
26 and then went to Nyanza to get fuel?
- 27 A. Can you please repeat your question, Counsel?
- 28 Q. Yeah. I want to -- I'm trying to find out where did you come from. Did you come from your house or
29 from *****when you went into Nyanza to get fuel for the swearing-in ceremony? That's all.
30 I'm just trying to get a picture of what happened.
- 31 A. Your question is not clear, Counsel. It is true that I left home, but it's possible that I went through
32 ***** because *****.
- 33 Q. If you don't remember your exact route or agenda that day, that's okay, but just tell me. So you went
34 into town to get fuel. Did you use a vehicle to do that?
- 35 A. Yes.
- 36 Q. And which vehicle was that?
- 37 A. A Hiace minibus.

1 Q. A minibus. Who did that belong to?

2 A. It was an ambulance.

3 Q. You just said it was a minibus. Which was it, an ambulance or a minibus?

4 A. But a minibus can be used as an ambulance.

5 Q. No, sir. I think you're getting confused in your story. The health centre had an ambulance, didn't it?

6 A. Yes.

7 Q. So did you use the ambulance to go into town or did you use the minibus?

8 A. We did not understand each other on this point. This ambulance was a vehicle, the make was Hiace,
9 and it was a minibus.

10 Q. Well, you're confusing me because -- let me read something to you because I think you're combining
11 two vehicles into one. You said in the Butare trial, page 89, 31st October 2002 -- you were asked this
12 question: "Witness, you said you had a vehicle. My question is, was it the *communal* vehicle or was it
13 the official vehicle of the health centre you headed?" Answer: "I never used a *communal* vehicle. I
14 used the ambulance belonging to the health centre, and when this vehicle had a breakdown, I used a
15 car I borrowed from a trader known as Jean Twagirimana."

16
17 And further down the page, you're asked about that car, "What type of vehicle?" You say, "It was a
18 Toyota, white in colour, number 2200." Question: "Is that what you referred to as an ambulance?"
19 Answer: "Actually, it's not the registration number. It's the type of vehicle, Toyota Stout." "Was it a
20 minibus or was it a small car?" "Yes that was a minibus -- sorry, a pickup."

21
22 So you're confused, aren't you? You're combining the two vehicles into one.

23 A. In order to make it easier for you to understand, I will tell you: I used the ambulance of the health
24 centre.

25 Q. All right. And you went in town to get fuel for what purpose? You said for the swearing-in ceremony,
26 but what was the fuel going to be used for at the swearing-in ceremony?

27 A. I went to look for fuel because I needed to stock up on fuel for the ceremony that was to take place that
28 day. I didn't want to run short of fuel.

29 Q. Okay. What time did you -- approximately, did you go to get fuel?

30 A. It was early in the morning.

31 Q. How early?

32 A. Between 8 and 10 a.m. approximately.

33 Q. And approximately what time was the swearing-in ceremony held?

34 A. The swearing-in ceremony took place late in the afternoon.

35 Q. And so you left. And before you left to buy the fuel, you just talked to people in your house or the health
36 centre?

37

1 MR. PRESIDENT:

2 *(Microphone not activated)*

3 THE ENGLISH INTERPRETER:

4 Your Honour's microphone, please.

5 MR. PRESIDENT:

6 *(Unintelligible)*

7 MR. BLACK:

8 You'll see where I'm going.

9 MR. PRESIDENT:

10 I think you have -- you came on to a good point, and now you're just counting the wheels of the vehicle.

11 MR. BLACK:

12 No, I've got a very good point. I'm just setting it up.

13 THE WITNESS:

14 What is your question, Counsel? Because I was interrupted.

15 BY MR. BLACK:

16 Q. You get up in the morning; you've heard on the radio that you're going to be appointed; you decide to
17 go into town for the swearing-in ceremony; you leave between 7 and 10; and you get -- but you buy
18 fuel, right? Did you speak to anybody at your ***** before you left?

19 A. I cannot understand your question, Counsel.

20 Q. Did you speak -- did you have any conversation with anyone in ***** before you left?

21 A. I talked to the driver, telling him we should go and look for fuel, but I do not see what you mean, whom
22 you are referring to when you say did I speak to somebody.

23 Q. And the reason you were getting fuel, what, was for your vehicle so you could travel to the swearing-in
24 ceremony site? What was the fuel for?

25 A. I put in fuel -- I put fuel into the ambulance I had with me.

26 Q. Didn't know why you wanted fuel. So you get fuel in town; you drive into town with your driver; and you
27 go into town and you buy fuel, petrol? And then you meet the *(By order of the Court, this name has*
28 *been extracted and filed under seal)*?

29 A. Yes, that is what happened.

30 Q. He's the acting -- I guess he was the acting person -- the position you were appointed to, right? He was
31 occupying that position at that time, correct?

32 A. Yes. I think what you're saying is correct.

33 Q. So he must have told you where the swearing-in ceremony was going to take place and you were going
34 to replace him and it was all arranged?

35 A. Yes.

36 Q. And then you -- then he -- and then you go -- was it then you go to the stadium or you find him at the
37 stadium? I'm sorry. Did you meet -- I mean, where did you meet *(By order of the Court, this name has*

1 *been extracted and filed under seal)? Was it at the stadium or at his office, sir?*

2 A. But you yourself have just said I met him at the stadium. Indeed, I met him at the stadium.

3 Q. All right. So it's at -- so it's at the stadium that you find out?

4 MR. PRESIDENT:

5 Actually, Mr. Black, one second. I think in one of your questions you said that he replaced somebody.

6 MR. BLACK:

7 Yeah. I didn't mention the position.

8 MR. PRESIDENT:

9 No, but you mentioned the name of that person, *Conseiller* So-and-so. So we will keep that portion
10 under seal.

11 MR. BLACK:

12 Yeah. Sorry about that. Yeah, okay.

13 MR. PRESIDENT:

14 Please note to keep that under seal, *(By order of the Court, this name has been extracted and filed*
15 *under seal)*.

16 BY MR. BLACK:

17 Q. So, anyway, you met this fellow who was in your position, and he advises you where the meeting is
18 going to take place. So how long do you talk to him at the stadium? Just a couple of minutes or longer
19 than that?

20 A. I do not recall how long we spoke, but we spoke from the time I found him at the stadium until we
21 parted.

22 Q. And then you -- you say you heard this speech by General Ndindiliyimana, and then you leave?

23 A. Yes. I am confirming that I heard Ndindiliyimana's speech, and after this speech was made,
24 Captain Birikunzira also spoke, took the floor.

25 Q. And so that morning, you -- those are the people you met that morning, and then you -- then later on
26 you go to the swearing-in ceremony?

27 A. Clearly, after leaving the stadium, I went to Nyamure, and it was only in the afternoon that I went to the
28 swearing-in ceremony.

29 Q. All right. And you met no other people before going to the ceremony?

30 A. Would you repeat your question?

31 Q. I just want to confirm that those are all the people you met before you went to the ceremony. Then you
32 meet some other people, other officials.

33 A. Apart from the authorities I mentioned, I met other members of the public, including:

34 Nshimiyimana, Zephelin; Damascène Musoni; and Ramazani Ntuyenabo.

35 Q. That's at the stadium or elsewhere in the morning?

36 A. I met them at the stadium, the football stadium.

37 Q. So how did -- before you met the acting -- the acting administrative official you were going to replace,

1 how did you know you needed to buy fuel to get to a certain location for a swearing-in ceremony?

2 A. Obviously, I had to have fuel for my vehicle, for the vehicle I was to use for such an important
3 ceremony.

4 Q. Well, you got the story wrong, because it wasn't the acting official who you were going to replace who
5 informed you about the place of the swearing-in ceremony, sir. That's a lie, or something you said at an
6 earlier trial is a lie, because in the Butare trial, you said -- I'll read you the question and answer.

7 MR. PRESIDENT:

8 Give the date and the page.

9 MR. BLACK:

10 4th November 2002, page 19. Line 18.

11 THE ENGLISH INTERPRETER:

12 Would counsel please bear in mind that the French booth does not have this text.

13 MR. BLACK:

14 It's a very -- just one short paragraph.

15 BY MR. BLACK:

16 Q. Question: "Did you meet any government official before the -- before the -- your swearing-in ceremony
17 as" -- and I can't mention the title. Answer: "Yes, I met the *sous-préfet*, Kayitana," K-A-Y-I-T-A-N-A, "in
18 the morning of 22nd May 1994, and in the course of that meeting, he informed me that the *préfet*'s
19 delegation is moving towards Muyira," M-U-Y-I-R-A, "and that after the swearing-in of the Muyira
20 ***** , my own swearing-in will be done in the afternoon."
21

22 So you're lying either to the Judges in the Butare case or you're lying to the Judges here about what
23 you were doing that morning, who informed you about the swearing-in ceremony, and probably
24 everything else. So who are you lying to, the Judges in the Butare trial or the Judges here, sir?

25 A. I would like to tell you that I do not tell lies, because it is Nicodème Bizimana who told me the venue of
26 the function when I'd gone to look for fuel. And I met the *sous-préfet* upon my return to Nyamure, and
27 that is when I met the *sous-préfet* who was passing by on his way to the swearing-in ceremony for the
28 ***** of Muyira *commune*. He told me he was travelling to Muyira to attend the swearing-in of
29 that *commune*'s ***** and, on his way back from Muyira, he would come to preside over my own
30 swearing-in ceremony.

31 Q. Well, sir --

32 A. He therefore confirmed what Bizimana had told me.

33 Q. Sir, in your testimony before the Butare trial, 4th November, you don't mention anything about
34 Nicodème -- this other fellow I can't mention. You don't mention him at all, the acting administrative
35 official. You only mention Kayitana, the *sous-préfet*. You can't have it both ways, sir. Either the acting
36 official told you or Kayitana told you. Now you're trying to conflate the two together and say, "Oh, they
37 both told me," because your story is all messed up. So which one --

1 A. If you want, take what I say, because Bizimana, Emmanuel --

2 THE ENGLISH INTERPRETER:

3 -- says Witness --

4 THE WITNESS:

5 -- told me this. He's the person who had set up the programme. However, the *sous-préfet* told me
6 when he was on his way to Muyira to attend the swearing-in of the *****of that *commune*.

7 Otherwise, it was Nicodème Bizimana who organised the swearing-in ceremony.

8 Q. And why didn't you tell us that the first time? When I asked you who told you about where the
9 ceremony was, why didn't you mention Kayitana?

10 A. Personally, I can only take into account what I was told by *Conseiller* Bizimana because
11 ***** . With regard to *Sous-préfet* Kayitana, he told me this in passing.

12 Q. Why didn't you mention -- why didn't you tell the investigators that you'd met Kayitana and that he was
13 the one who -- according to your testimony in Butare trial, he was the only one who informed you about
14 this meeting, the swearing-in ceremony, the only one?

15 A. With regard to the investigators, we just answer the questions they put to us. So on the swearing-in
16 ceremony, you should just take what I am saying, because I have the truthful version of that episode, or
17 that ceremony.

18 Q. We don't know the truthful version, sir, because we don't know if you're telling the truth in that trial, this
19 trial or no trial. You said in your statement that it was the acting official who told you. That's what you
20 said here. He's the only official mentioned in your statement. And you say you met him at the stadium.
21 I put it to you that's the reason you don't mention Kayitana, because Kayitana doesn't put you at the
22 stadium. In your statement, the connection with the stadium is the acting official.

23 A. I never denied that Kayitana said that to me, but I am telling you that I went to the stadium because I
24 had just been told that that is where Nicodème Bizimana was to be found and that it was Bizimana who
25 had the programme for the swearing-in ceremony. But I'm not denying that I met Kayitana and that he
26 also told me details of the programme.

27 Q. And who told you that the man -- you mentioned his name already. Who told you the acting official
28 knew the agenda for the swearing-in ceremony? Who told you that? You didn't mention a third party.
29 Who is the third party that told you he knew what was going on?

30 A. Be that as it may, I had an idea of what went on at the administrative level, and I was to see the person
31 who was holding that function so that he could give me the programme of the ceremony.

32 Q. But, sir, in Butare trial, you don't mention anything about going to the stadium in Nyanza that morning.
33 You just say you have a meeting with Kayitana, he tells you your swearing-in ceremony is going to be
34 later that afternoon. You don't mention to the Judges in the Butare trial anything about going to the
35 stadium, any speech given by General Ndindiliyimana, nothing. It's not mentioned. You were
36 cross-examined at length about that day. And an important event like General Ndindiliyimana giving a
37 speech you allege he gave is not something to be just left out or forgotten, sir. So either you're lying to

- 1 the Butare trial or you're lying to the Judges here.
- 2 A. No, it's not a lie. When questions are put to us, we answer only the question that was put to us. How
3 was I able to talk about the role of the gendarmerie and distribution of weapons by the gendarmerie
4 without the question being put to me? I only answer questions that are put to me.
- 5 Q. But, sir, they asked you what your movements were that morning, and you don't mention anything
6 about going anywhere near a stadium or seeing or hearing General Ndindiliyimana, nothing. You
7 described that whole day. It's a big day for you, the swearing-in ceremony. You're going to be made
8 this high official, and you don't mention it because it never happened. That's why you don't mention it.
9 And your statement here is a lie, and your statement in this declaration is a lie.
- 10 A. For you, it's a lie. But for me, who lived through the event, it's the truth. And in any case, other persons
11 who lived through this event can confirm what I'm saying. I told you that on that day, they asked me
12 questions on the swearing-in ceremony. They did not ask me questions about events that preceded
13 that ceremony.
- 14 Q. Sir, you say in your testimony that General Ndindiliyimana urged the youth to train in military tactics in
15 order for them to be able to fight the enemy at the front and accomplices. In the Butare trial, you say
16 that Colonel Nteziryayo asked -- gave a speech at your swearing-in ceremony, saying the people must
17 fight the enemy and their accomplices. And you say he made a long -- this is page 13; he made a long
18 speech encouraging youths to join the army for military training. You, in the Butare trial, attribute this
19 speech you say Ndindiliyimana gave in the morning, you attribute that to Nteziryayo in a speech made
20 at your swearing-in ceremony that day. And for your information, in the Simba trial, you say
21 Colonel Simba made that same speech at your swearing-in ceremony.
- 22 A. I don't think that is surprising, because the political language at the time was the same. So let me
23 repeat that Simba made that statement. Nteziryayo also made that statement, because he was in
24 charge of civil defence. Apart from those two, General Ndindiliyimana also made that same statement.
25 It is therefore obvious that it was the same policy, the same plan, which was hatched to combat the
26 enemy.
- 27 Q. Sir, that's not what explains you transposing the same comments by three different men in two different
28 locations. In the Butare trial, you say this Colonel said it; you don't mention General Ndindiliyimana. In
29 the Simba trial, you said Colonel Simba said it; you don't mention General Ndindiliyimana at all in that
30 trial either. And now, in this trial, you say Ndindiliyimana said those comments at the stadium. What I
31 suggest to you, sir, is you are a witness, a professional witness, and you will say whatever you're
32 required to say against whoever they want you to say it against. Isn't that right?
- 33 A. No. I don't agree with what you're saying. I'm recounting events that I experienced. I cannot make up
34 things. My testimony is based on true events, and I'm not a professional witness who is telling lies. I
35 would, rather, say that you should ask the authorisation of the Court to go and conduct your interview
36 on this on the field. The programme for sensitisation of the youth to take -- to train in military tactics did
37 take place, and it was to fight the RPF.

- 1 Q. All right. Then you tell me what -- if you said you heard that speech, you tell me what
2 General Ndindiliyimana is supposed to have said when he -- the entire speech. What did he say?
- 3 A. Apart from -- apart from what he said to encourage the youth to train in military tactics to fight the
4 enemy and its accomplices within, I heard him say that he brought a small quantity of weapons and that
5 he was going to bring other weapons later on.
- 6 Q. And what else -- nothing else? You didn't hear him say anything else?
- 7 A. I have told you the highlights of what I heard him say.
- 8 Q. Just those highlights. No details about what else was said in between those highlights?
- 9 A. I think I told the Court that when I arrived, he was speaking, and I told you what I heard him say when I
10 arrived.
- 11 Q. Did he describe the military situation at the front? Did he describe the security situation in the country?
12 What else did he talk about?
- 13 A. I told you what I heard him say when I arrived. I don't know what other things he said.
- 14 Q. How long did you stay to hear that speech?
- 15 A. If I should estimate, I would say that I stayed at that place for less than 30 minutes.
- 16 Q. But 30 -- just less than 30 minutes is a long time, sir. What else did he say? He could have said what
17 you said he said in about two seconds. What else did he say?
- 18 A. I told you what I heard. I don't know what else you want from me.
- 19 Q. Well, the reason you can't give me any more details about that speech, sir, is it never took place.
20 That's why you can't do that.
21
- 22 You also say you met an adjutant named Biguma at the stadium.
- 23 A. Let me tell you, first of all, that you should be asking your client if he did not go to Nyanza on that date.
24 He can deny it, but there are people who can come and confirm his presence at that place.
25
- 26 Now, regarding Biguma, I did see him at that place too.
- 27 Q. Well, no, you couldn't have seen him in that place, sir, because, since the 10th of May, he had been
28 transferred to Kigali. His real name is Hategekimana, Phillipe, and he was the command -- brigade
29 commander of Nyanza, and he was transferred on the 5th of May to Kigali. He wasn't even in the area.
30 You couldn't have seen him.
- 31 A. No. I think your information is wrong, because Biguma was very active in that region during the
32 genocide, and, in fact, he arrested or caused the arrest of Aristide Nyagasaza, who was a *bourgmestre*,
33 and took him to Nyanza, where he was killed.
- 34 Q. For your information, sir, on the 22nd of May, General Ndindiliyimana was not in the area. You're
35 mistaken, and the investigators got it wrong when they tried to tell you a story about him because he
36 was in Nyanza on the 21st of May, the day before; so they got it wrong. And I put it to you that he was
37 in the area trying to recruit gendarmes to put into effect UNAMIR II, to try and calm down the situation in

- 1 the country, which the – unfortunately, the United Nations, under the influence of the American
2 government and the RPF, refused to allow to take place. And on the 22nd, he had left the area, sir.
- 3 A. I don't know your sources of information, but as far as I'm concerned, I saw them at the stadium. And I
4 know them very well, so I could not have mistaken about him. Besides, I was not the only person who
5 saw him. There are detainees, other detainees, who saw him, and other persons who are not
6 detainees and who saw him. The ceremony that took place was important. In fact, it was an important
7 occasion because there were of a lot of young men who wanted to enlist in the army, a lot of young
8 men who are still there. So they were trained and recruited into the army. They are there. They can
9 confirm what I'm saying.
- 10 Q. Well, if this was such an important speech, I'm sure you would have been aware of it. If there were 500
11 to a thousand people there, you would have been aware of it, and I'm sure you would have gone that
12 morning specifically to hear General Ndindiliyimana speak. You didn't do that. You went to buy fuel for
13 your car.
- 14 A. It is true that it was not part of my programme to go to the stadium. I went there accidentally. I saw
15 your client. I saw him addressing the young people who had been there to be recruited into the army.
16 So most -- the bulk of the people who were there were young people who wanted to be recruited into
17 the army.
- 18 Q. But General Ndindiliyimana has nothing to do with the army, sir. He's the chief of staff of the
19 gendarmerie, the police. He has nothing to do with civil defence or distributing arms, nothing. He's a
20 policeman.
- 21 A. No. Don't waste your time on that. Captain Birikunzira was in charge of the Nyabisindu *préfecture*, for
22 purposes of training and distribution of weapons. He was coordinating the training of the young men in
23 the Muyira and Ntyazo *communes*. You can therefore not deny the fact that your client was aware of
24 this programme. He knew it. He knew about it. The gendarmes did play a role in the training and
25 distribution of weapons, and therefore your client played a role, and he's aware of that.
- 26 Q. Sir, that's a complete lie. The gendarmerie had nothing to do with distributing weapons, and it was
27 Colonel Nteziyayo who was responsible for civil defence in that department, because you said so in
28 the Butare trial.
- 29 A. Yes, it is true. Nteziyayo was in charge of the civil defence. As far as I'm concerned, and as far as the
30 *conseiller* and young men who were there were concerned, they gave us weapons, and it was the
31 gendarmerie that gave us the weapons. And I used to transport these weapons and give them to the
32 young men who had just finished their military training, and I personally received a weapon from
33 Captain Birikunzira.
- 34 Q. That's new. When did you come up with that? You received a weapon? You've never mentioned a
35 weapon in your possession in any one of your statements or any of your testimony anywhere. Where
36 did that come from?
- 37 A. You can refer to my -- my case file, which is available to you. You have my confessional statement,

1 and you'll find a reference to that weapon.

2 Q. In the Simba trial -- I'll tell you why you're transposing. You say one thing against Colonel Simba, he
3 made this speech, and now you're saying it against Ndindiliyimana. Because in reference to your
4 swearing-in ceremony, you say -- I have to read this in French, so forgive my accent. This is
5 26th October 2004. In the Simba trial you were questioned, and the question is --

6 THE ENGLISH INTERPRETER:

7 For the record, the interpreters do not have the transcript.

8 BY MR. BLACK:

9 Q. "Witness, did members of the population participate in this swearing-in ceremony?" Answer: "Yes.
10 There were members of the population. There were between 500 and a thousand members of the
11 population." And you say that in Simba, and here you say there was 500 to a thousand people in the
12 stadium.

13
14 I'll continue. On page numbers -- page 80 of the same proceeding, question, line 32: "Do you recall
15 what Aloys Simba said during that swearing-in ceremony?" Answer: "When he was given the floor, he
16 greeted members of the population and confirmed to them that he was in charge of the civil defence
17 programme in the Butare *préfecture* and Gikongoro *préfecture*, as the *préfet* announced. And as the
18 *préfet*, Nteziryayo, had done before him" -- here you say "*préfet*" not "colonel" -- "he recalled that the
19 RPF was at war, the country was at war against the enemy and accomplices, and therefore it would be
20 necessary to exterminate the accomplices and the *Inkotanyi* who are still alive."

21
22 Now, to me, sir, what you've done -- again, that just demonstrates that you got a story somebody wants
23 you to give, and in the Butare trial, it's against Colonel Nteziryayo; Simba trial, it's against
24 Colonel Simba; and this trial, you've dropped them out of the picture, and now you say it was given by
25 General Ndindiliyimana at the stadium. Five hundred to a thousand people, the same words -- not
26 exactly, but pretty similar. So I want to know who put you up to that. Who told you, when you gave a
27 statement in the Butare trial, to say it was against Simba in that trial, and then switch it to
28 Ndindiliyimana in this trial? Who told you that?

29 A. Counsel, let me remind you that I am recounting facts that took place and which I witnessed -- to which
30 I was an eyewitness. I'm not making up anything, and I believe I have a good memory, even if those
31 events took place a long time ago. When I made reference to 500 persons, it's not a precise, specific
32 number. It's an estimate.

33
34 Now, with regard to the similarity of the statements, that is normal. If in Kibungo they kill using
35 machetes, well, they kill with machetes, and elsewhere in Butare, they did it, and they used firearms.
36 The programme was to sensitise people to commit genocide, to kill the Tutsi, and it is for that reason
37 that the weapons were distributed. You can go to other places: Ntyazo, Butare or elsewhere. It was

- 1 the same programme. The issue was to kill. And everywhere they were talking about killing. Don't be
2 surprised, therefore, that I'm talking about that, and that the statements made by various persons are
3 similar, the various statements -- the statements made by various persons in different places are
4 similar.
- 5 Q. All right. But you say -- this imaginary speech you heard, which never took place -- okay. Tell me
6 who -- who else -- what other officials were there, chairing or hosting that speech. If Ndindilyimana
7 was a speaker and a guest, who chaired it?
- 8 A. I have told you, and I told the Court, that when I arrived, I realised that Ndindilyimana was chairing the
9 meeting, and he was standing up. He was on his feet and speaking. I saw Captain Birikunzira and
10 W. Biguma. So I saw those people. There were some people standing and others seated.
- 11 Q. And you say there were also 500 to a thousand people at your swearing-in ceremony that afternoon,
12 the same number of people, 500 to a thousand? Because that's what you say in the Simba trial.
- 13 A. Counsel, let me remind you that that is an estimate, and everyone can make his estimate in his own
14 manner. You might make a different estimate, which is different from mine.
- 15 Q. All right. And you say that, in your opinion, if such a speech had been made, that someone
16 encouraging the population to fight the invading enemy and their accomplices, that's a bad thing?
- 17 A. During that period, when the Hutus were killing the Tutsis, the fact of inciting Hutus to continue killing,
18 the fact of training Hutus to kill, the fact of distributing weapons, was a way of continuing -- continuing
19 with the genocide. The genocide had started earlier, but we were right in the middle of the genocide.
20 So it was a way of encouraging the continuation of the perpetration of the genocide.
- 21 Q. So if he said -- if someone said that the army was battling groups bent on insecurity and their
22 collaborators and that these elements had to be fought and be defeated, what do you think about that --
23 those words?
- 24 A. I did not understand the terms you used. Can you repeat your question?
- 25 Q. All right. If someone gave another speech and said, "Look, the army is battling groups bent on causing
26 insecurity, and that their collaborators and these elements have to be fought and defeated," would you
27 have the same opinion, that that's -- about what Ndindilyimana said -- or you say he said?
- 28 A. But if such things were said, it would have calmed down the people, because it would be a way of
29 fighting the group that was causing insecurity. But with regard to what your client said, it was, rather, to
30 encourage the groups, train them, and arm them.
- 31 Q. What's the difference? You say he said, "We've got to battle the enemy." There was an enemy. You
32 agree with that, right? The RPF army invaded from Uganda. That was the enemy. They were creating
33 insecurity. They had to be fought. Don't you agree? They were attacking the state.
- 34 A. Well, your client explained that there was the enemy, the *Inkotanyi* who were fighting at the war front,
35 but that the enemy had accomplices within the population. That is clear.
- 36 Q. All right. And you would agree that it's a good thing to fight the enemy, don't you, an enemy attacking
37 the state?

1 A. During that period --

2 MR. SEFON:

3 Here, the issue is not to find out what the witness thinks. The issue is what the witness saw and heard,
4 but what he thinks is not material.

5 MR. BLACK:

6 It's about what --

7 MR. PRESIDENT:

8 *(Microphone not activated)*

9 THE ENGLISH INTERPRETER:

10 Your Honour's microphone, please.

11 MR. BLACK:

12 It's about what his impression of that speech is and what the intent of that speech is.

13 MR. PRESIDENT:

14 Yeah, because he understood his speech, and he says if it was done in a different manner, how he
15 would have understood it.

16 BY MR. BLACK:

17 Q. So let me put it to you. I don't understand why you say the speech was a bad speech, assuming this
18 fictional speech had been made. You've got him saying, "We got to fight the enemy, the *Inkotanyi*."
19 You agree that that was the enemy. What's wrong with that, so far?

20 MR. PRESIDENT:

21 Mr. Black, I think there is a specific connotation to the word "enemy." That is what he's saying.

22 MR. BLACK:

23 Well, the enemy is the enemy. He says the *Inkotanyi*. The *Inkotanyi* means the RPF, the people he
24 fled from.

25 THE WITNESS:

26 Let me say that the belligerent forces in the fight then was the former army and the RPF troops. I
27 understand that your client was a member of the army and he was part of the war. Now, how do you
28 incite people who were not part of the army to kill accomplices of the enemy? We knew who was the
29 accomplice of the enemy. Members of the population knew it. They had been incited to kill those
30 people, and these were the Tutsis.

31 MR. PRESIDENT:

32 Have you finished, Mr. Black?

33 MR. BLACK:

34 No, actually, sorry.

35 MR. PRESIDENT:

36 Have you finished?

37 MR. BLACK:

1 I -- oh, are we supposed to be breaking at 1 o'clock?

2 MR. PRESIDENT:

3 This courthouse should be given to another Court at 1:30.

4 MR. BLACK:

5 I might need another half an hour -- I mean, or an hour. I think I might be finished in an hour. I can't do
6 it in half an hour, probably.

7 MR. PRESIDENT:

8 How long will you take, Mr. MacDonald?

9 MR. MACDONALD:

10 I don't get -- sorry. I don't get to determine that, Mr. President. Whenever you tell me --

11 MR. PRESIDENT:

12 Depending on what the areas that has been covered.

13 MR. MACDONALD:

14 Whenever you tell me to sit down. I haven't decided the length of my cross-examination, so --

15 MR. PRESIDENT:

16 No. I don't think that you should cover the areas that Mr. Black has already walked through.

17 MR. MACDONALD:

18 Well, when you tell me to sit down --

19 MR. PRESIDENT:

20 Okay. No, I want to tell them to bring another witness; that is all.

21 MR. BLACK:

22 I think I might be as long as an hour. I'll try to keep it shorter, but -- so we'll see what happens.

23 MR. PRESIDENT:

24 If you bring another witness, we can have about two hours with him tomorrow.

25

26 Court is adjourned until nine.

27 *(Court adjourned at 1305H)*

28 *(Pages 31 to 44 by Mark Porter)*

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CERTIFICATE

We, Ann Burum, Karen Holm and Mark Porter, 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.

_____ Ann Burum

_____ Karen Holm

_____ Mark Porter