

1 THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

2 CASE NO. ICTR-99-52-T (Joinder) THE PROSECUTOR
3 ICTR-96-11-T OF THE TRIBUNAL
4 ICTR-97-27-T
5 ICTR-97-19-T AGAINST

6 FERDINAND NAHIMANA
7 HASSAN NGEZE
8 JEAN BOSCO BARAYAGWIZA

9 10 JULY 2002
10 0850H
11 CONTINUED TRIAL

12 Before: Judge Navanethem Pillay, Presiding
13 Judge Erik Møse
14 Judge Asoka Zoysa Gunawardana

15 For the Registry:
16 Ms. Marianne Ben Salimo
17 Mr. Edward Matemanga

18 For the Prosecution:
19 Mr. Stephen Rapp
20 Mr. Alphonse Van
21 Ms. Charity Kagwi
22 Ms. Simone Monasebian

23 For the Accused Nahimana:
24 Mr. Jean-Marie Biju-Duval
25 Ms. Diana Ellis

For the Accused Ngeze:
Mr. John Clifford Floyd III
Mr. René Martel

For the Accused Barayagwiza:
Mr. Giacomo Barletta Caldarera
Mr. Alfred Pognon

Court Reporters:
Mr. Rex Lear
Ms. Gifty Harding

Mr. Haruna Farage
Ms. Sithembiso Moyo
Ms. Verna Butler
Ms. Shannon Fleming Eboe-Osuji

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5 For the Prosecution

6 DR. MATHIAS RUZINDANA

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

2 MADAM PRESIDENT:

3 Good morning, Dr. Ruzindana.

4 THE WITNESS:

5 Good morning, Madam President.

6 MADAM PRESIDENT:

7 Where were we, Mr. Martel?

8 MR. MARTEL:

9 Thank you, Madam President, Your Honours.

10 CROSS-EXAMINATION (continued)

11 BY MR. MARTEL:

12 Q. Good morning, Witness.

13 A. Good morning, sir.

14 Q. I'm now going to refer you to Kangura

15 No. 26, page 4. Have you seen it?

16 A. Yes, I have.

17 Q. There are two articles on that page. At the
18 bottom there's an article signed by

19 Hassan Ngeze. Could you read us the heading
20 and the first paragraph of that article?

21 A. "We have -- we have now known who are
22 against -- who has pitted Minister Nzirorera
23 against the Tutsis".

24

25 The first paragraph, "In our last edition of

1 Kangura, that is the previous issue, we
2 referred to interviews that Kangura had with
3 members of the diplomatic corp based in
4 Rwanda. When members of the diplomatic corp
5 said that among other ministers in Rwanda
6 there was no one, out of the people that
7 they knew, who could explain financial
8 issues at international meetings better than
9 Minister Nzirorera".

10 Q. Now, I'll ask you a simple question.
11 Regarding the heading that you have read
12 out, is it the same heading of the front
13 cover as issue No. 26, written vertically?

14 A. Yes.

15 Q. Thank you.

16
17 In order to facilitate things for you I've
18 photocopied several pages of Kangura and you
19 can refer to them, since it's preferable to
20 refer to the original of Kangura tendered.
21 Do you have the first excerpt and that was
22 tendered under No. P115. Now, let us look
23 at Kangura issue No. 53 of December 1993.
24 Could you kindly read out to us only the
25 heading of issue 53 in December of 1993?

1 A. Which page, please?

2 Q. The front page, that is the cover. I've

3 noted that you're working with the original.

4 Yesterday I gave you a pile of photocopies

5 of Kangura. Do you still have it with you,

6 because that will make us move forward

7 faster if you use the documents that we gave

8 to you. Take this first excerpt of Kangura,

9 special edition of December 1993, Christmas

10 New Year edition. Could you read out the

11 heading, which is written just below the

12 number 53?

13 A. Habyarimana will die in March 1994.

14 Q. Now, look at the next page, which is an

15 excerpt from Kangura 55, page 8.

16 A. I'm not sure I know the document you are

17 referring to, because all I have from

18 yesterday is the list of the cartoons.

19 Q. In the list of cartoons there are lists of

20 excerpts of Kangura. Look at it

21 attentively. If you don't have a copy we

22 will provide it for you. Do you have it?

23 A. Yes.

24 Q. Very well. The second page, second excerpt

25 is from Kangura No. 55. Do you have it?

1 Could you read us the heading of that page,
2 starting with "Jean Bosco"?
3 A. "Jean Bosco Barayagwiza is going to be
4 killed by Belgian Inyenzis."
5 Q. Now, next excerpt from Kangura 56, page 2;
6 are you there?
7 A. Yes, this is issue No. 56.
8 Q. Could you read out the heading under the
9 word "editorial"?
10 A. "When the elephant fights it is the small
11 ones that get hurt. Who would survive as to
12 the fighting between supporters of
13 Twagiramungu and Habyarimana" and actually
14 it should be, "When the big people fight
15 it's the small people that get hurt."
16 Q. Now, let us go to the next excerpt, Kangura
17 NO. 57, February 1994, issue 57, I have the
18 cover page, because it would have been
19 impossible, otherwise, to identify the
20 page that I'm going to cite, which is the
21 next page. Could you read out to us the
22 heading, first line of the following page?
23 A. "The UNAIR (phonetic) RPA and RPF are
24 preparing to launch attacks against Rwanda".
25 Q. Let us now go to the next excerpt, Kangura

1 issue 57 of February 1994. Are you there?

2 A. Yes, I am.

3 Q. Could you kindly read out to us the heading

4 immediately below the cartoons?

5 A. "There is some who will experience war in

6 Kigali."

7 Q. Could you take the next excerpt of Kangura

8 No. 58 of March 1994, the front page or the

9 cover page. Are you there?

10 A. Yes.

11 Q. Could you kindly read out to us the heading

12 appearing immediately below the cartoon that

13 is at the bottom which begins with the word

14 "Vuba"?

15 A. "It is possible that in Rwanda there is some

16 -- no less than 30 UN soldiers will die".

17 Q. There's a translation problem and that is

18 "It is possible that they may die".

19

20 Now, let's go to the next excerpt, No. 59 of

21 March 1994. There is a drawing, a

22 photograph on the right. Could you read out

23 to us the heading that appears immediately

24 below the photograph?

25 A. "Twagiramungu's government is going to push

1 Rwanda into an ethnic war."

2 Q. Let us now go to the next excerpt, Kangura
3 No. 59, page 6. Could you kindly read out
4 to us the heading appearing immediately
5 under No. 59, page 6, which begins with the
6 word "Burundi"?

7 A. "If Ntaryamira slips too much then he's
8 going to be killed".

9 Q. Lastly I'm going to refer you to the next
10 excerpt, Kangura No. 59, page 2. Could you
11 read out to us the heading under the word
12 "editorial"?

13 A. "RPF is going to get ahold of it,
14 effectively".

15 Q. Now, Witness, leave aside those documents.
16 Is it not correct to say that at that time,
17 that is around 1994, there were no fewer
18 than 15 newspapers in Rwanda?

19 A. Yes, it could be true.

20 Q. Is it not correct, also, to say that all
21 those newspapers use the same language as
22 the languages by Kangura?

23 A. I disagree.

24 Q. Now, if you don't agree with this, why,
25 then, did you criticise only Kangura and no

1 other newspaper; whereas your expert report
2 does not have any comparative study? Why?
3 A. I think if you check the last pages, at
4 least the last 20 pages of our report you're
5 going to see that we quote a number of other
6 newspapers, including the Rucyaha (phonetic)
7 many times, including Raunasoca many times,
8 including Kinyamateka. So I disagree our
9 report is just only about Kangura.
10 Q. The Court will assess that. Now, I'm going
11 to refer you to Kangura No. 4, pages 18 and
12 19.
13 A. Could you repeat the page?
14 Q. Pages 18 and 19. Are we there?
15 A. Yes.
16 Q. I'm sorry, Witness, this is a rather long
17 passage, but this is the last passage I'm
18 going to request you to read. Could you
19 kindly read it out slowly so that it can be
20 translated? Please start with the second
21 article, which begins with the heading "Un
22 wan zero". Read out to us first the heading
23 and then the passage, please.
24 A. "Conclusion. Ngeze's lawyer, Mr. Anyawanda,
25 states as follows; 'Ngeze should be

1 compensated, given an award, instead of
2 being put in prison.'"
3
4 'Two. Hassan Ngeze, Accused, has been
5 brought to justice in the
6 Case No. LMPS LRMBS 139/40RB63/SCAT, the
7 state security court. In respect of
8 Case No. RMPSE290-RP63CSE in which the
9 Prosecutor -- the Court is trying Hassan
10 Ngeze and having received documents
11 summoning the parties to appear on the 14th
12 of July 1990, having taken note of the fact
13 that it was necessary to explain the Defence
14 of Hassan Ngeze, the first accused --'" No,
15 "'The Defence of Hassan Ngeze. Now, heading
16 No. 1, the main charges.
17
18 'Rwanda is a country governed by the rule of
19 law and, in law, for someone to be punished,
20 he must be found guilty before the law. The
21 Act No. 21/77 of 18th August 1977
22 instituting the penal code has set forth
23 what an offence consists of. An offence is
24 an action or an omission which manifests
25 itself as a violation of social order and

1 that is punishable by law, pursuant to
2 Article 1 of the penal code, first volume.
3 So that such acts can be qualified as an
4 offence and so that an accused can be
5 punished according to the penal code, the
6 above condition has to be met and certain
7 conditions have to be fulfilled, and this is
8 what is referred to as the constituent
9 elements of an offence. The legislators of
10 the decree, which I referred to, did not
11 refer to these elements, constituent
12 elements; however, these elements are
13 included in the definition that has been
14 provided by them.

15
16 Experts have explained these definitions and
17 have stated as follows: An act does not
18 constitute an offence that is punishable
19 if -- provided and punishable by law, that
20 is only if it's provided by and punishable
21 by law and this is what is known as the
22 legal elements, and that such an offence has
23 to be -- actually take place and at least an
24 element -- a considered element has to be
25 included. And it has to be committed by a

1 physical person who is free and who is
2 conscious of his act and that is under
3 intent. This is the definition provided by
4 Stephanie Levisure, and Bullo (phonetic)
5 contained in the general penal law, 11th
6 addition, No. 114.

7
8 We're not going to emphasise on the first
9 and second articles, however, I'd rather
10 like to dwell on Article 3, which is the
11 intent. So that such an act can be
12 qualified as an offence, the perpetrator of
13 the offence has to know that he was
14 contravening the law or that he had the
15 intention of violating the law. The
16 perpetrator has to have the intention and be
17 aware of the fact that he's violating the
18 criminal law. This is the definition given
19 by Stephanie Levisure and Bullo and this is
20 in what has been cited above, No. 2112. And
21 this is what is known as mens rea in respect
22 of criminal law; that is, the intent to
23 commit an act that has been prohibited by
24 the law and with the full knowledge and
25 conscious of the perpetrator of such an

1 unlawful act. And this is also cited in the
2 above referred to document under No. 214 and
3 under No. 215.

4
5 Now that we've just seen there the
6 conditions that have to be fulfilled so that
7 an offence can be constituted, what we have
8 to do now is to examine and to see whether
9 the charge under which -- the counts under
10 which Ngeze is charged actually meet those
11 conditions in the instance and it is only at
12 that point that we can say that actually an
13 offence has been committed.

14

15 'Heading No. 2.

16

17 'The offence -- the accusation against
18 Hassan Ngeze. Hassan Ngeze has been accused
19 of having committed, at the time when he was
20 in Gisenyi and Kigali in the Republic of
21 Rwanda in the month of May and June 1990,
22 he's been accused of having written in his
23 newspaper articles related to ethnic groups
24 and others which actually are prejudicial to
25 the Rwandan authorities and this can cause

1 trouble among the population.

2

3 'This offence is punishable under
4 Article 166 of the first volume of the penal
5 code --
6 second volume of the penal code.

7

8 'For the Accused, the Prosecutor, based on
9 its accusation on the articles that appeared
10 in Kangura, which is edited by Ngeze, in
11 issues of May and June, these articles
12 concern the issue of refugees and the issues
13 related to events that took place in Butare
14 when gendarmes shot at students of the UNR;
15 that is, the Rwandan National University.

16

17 'And there's the problem of the prison of
18 Kigali, the problems related to the Kigali
19 hospital, as well as the problem between
20 ethnic groups.

21

22 'The first issue that I'd like to raise is
23 that I would like to know whether, in those
24 articles, it emerges that Ngeze had the
25 intention of actually putting in danger

1 national security; in other words, whether
2 he had the intention of inciting the people
3 to rebel against the authorities or to
4 provoke unrest in the country.

5
6 'It has to be known that if in the articles
7 that appear in the newspaper, this element
8 -- that is intention -- can be found; and
9 here I'm referring to the intention or the
10 intent to commit an offence. The Prosecutor
11 has to prove this, and I quote, 'the onus of
12 proving intent is upon the Prosecutor', and
13 this is quoted from the general penal law
14 and under No. 215. Even if it is not up to
15 Ngeze to prove that he is innocent, it is up
16 to the Prosecutor to prove that Ngeze is
17 guilty. However, I'd like to explain to the
18 Court the following:

19
20 'One. Kangura's line, that is subjective.
21 The editorial policy of Kangura is
22 subjective. According to the founders of
23 Kangura the objective of Kangura is to
24 awaken the Rwandan people, just as is the
25 case with all other newspapers, and throw

1 out -- its objective is actually to
2 ascertain the truth and that is why whenever
3 there are (sic) news concerning Rwanda which
4 go against the truth, then Kangura
5 immediately refutes such information and
6 points out to where the truth lies in such a
7 way that the reader does not take --
8 consider false information to be the truth.
9 And if there are things that are actually in
10 existence and that Rwandans do not know
11 about such things and if such things concern
12 Rwandans, then Kangura will inform Rwandans
13 about such events or things. What I've just
14 said are things that I can confirm by giving
15 examples, by referring to articles that were
16 published in Kangura issue No. 2.

17
18 'Secondly, what Ngeze's doing is permissible
19 under the constitution of the Republic of
20 Rwanda, which provides that, and I quote,
21 "any Rwandan citizen has the right to
22 express his or her thoughts". And this is
23 under article No. 18 of the constitution.
24 End of quote."

25

1 "Moreover, the President of the Republic
2 supports this right, as he has often stated.
3 I can give examples; his speech delivered at
4 the end of 1959, in brackets, see Imvaho
5 No. 825, and in particular refer to page 3,
6 end of brackets.

7
8 'So, when the constitution provides this
9 right, and the president of the republic
10 clearly states that he supports this right,
11 and when a militant uses such rights, but is
12 thrown in prison, then one can say this
13 constitutes injustice.

14
15 'Point No. 3. All charges against Ngeze --
16 all charges against Ngeze does not imply
17 that he is the author of the incriminating
18 articles. Even if there is no offence in
19 respect of articles that appeared in Kangura
20 and even if there is no offence at all, we
21 should always say that no one should be
22 punished for a crime or an infraction
23 committed by someone else. In other words,
24 no one can be punished for crimes committed
25 by other people. This is what is known as

1 'the legal personality of penalty'.

2

3 'If it's proven that there are offences
4 committed when the articles in question
5 appeared in Kangura, then why, then, those
6 who wrote those articles should -- are not
7 brought to court, because those people are
8 known, their addresses have been given by
9 Ngeze during the investigation.

10

11 'For example, when you look at the article
12 concerning the Kigali Hospital you see that
13 it has been signed by Joseph Muhembozembi;
14 whereas the article concerning the Kigali
15 prison and the ministry of justice have been
16 signed by Hangimana. So, if there are
17 offences that have been committed in respect
18 of those articles, then the authors of those
19 articles should be prosecuted. Ngeze should
20 not be tried in their place.

21

22 'Point No. 4. What has been written is not
23 lies. What has been written is the truth.
24 I have just recalled that the president of
25 the republic has said that any person has

1 the right to tell the truth and everyone has
2 the right to express himself or herself and
3 every citizen has a right to express his or
4 her thought. But, if such a person lies,
5 then what he said should be refuted, but if
6 such a person tells the truth then he or she
7 should be left in peace.

8
9 'What has been published in Kangura does not
10 constitute lies. What has been published in
11 Kangura is the truth:

12
13 'Point A. Concerning the problem of
14 refugees who are getting ready to attack the
15 country. The President of the republic has
16 relentlessly raised and recalled the issue
17 of refugees in general and, with regard to
18 refugees who want to return by force, about
19 four years ago the MRND central committee
20 issued a statement on that problem. At that
21 time the central committee criticised those
22 people who wanted to return using arms. Now
23 that Ngeze is talking about this problem in
24 his articles, and he's talking about a
25 problem that is known by the higher

1 authorities on which such authorities
2 publicly express themselves, we wonder,
3 should Ngeze be condemned for expressing his
4 views on this problem?

5
6 'Point B. The problems concerning the
7 Kigali prison. The fact that prisoners are
8 beaten, the fact that there is not enough
9 water in the prison, the fact that there are
10 prisoners who have been in detention for a
11 long time without having been tried, all
12 these are not lies. All these are the
13 truth.

14
15 'If Rwandan prisoners are well-treated, then
16 why did the Rulima prisoners go on a strike
17 on the 19th of July 1989? And what
18 circumstances Mazimpaka and Sibumana become
19 disabled. Are the 12 water taps at the
20 Kigali prison, with a population of 4,000
21 prisoners, adequate? Are those 12 water
22 taps adequate for 4,000 prisoners?

23
24 "Now, with regard to detainees who have not
25 yet been tried:

1
2 'In the letter No. 277/05.08 in which the
3 director of the prison of Kigali wrote to
4 the Prosecutor on the 21st of May 1990, one
5 wonders whether such a letter does not
6 constitute adequate proof. And we'd like to
7 know what happened in respect to letter
8 No. 367/05.15 that the said director wrote
9 to the President of the appeals court.

10
11 "Now, again, isn't this -- doesn't this also
12 constitute proof? There are many proofs in
13 respect of the above, in this respect.

14
15 "Point C. Issues pertaining to what
16 happened at the Kigali hospital: Everyone
17 is aware of the news concerning the woman
18 who died at the hospital and who left behind
19 two children. But what the public did not
20 know is that the two children were placed in
21 an orphanage by the ministry.

22
23 "Ngeze spoke with the minister, who
24 confirmed that, indeed, what was stated had
25 so happened.

1
2 "Now, point D. The Tutsi issue. I don't
3 see who would be frightened by articles that
4 have been published, other than those people
5 whose plans have been unveiled because of
6 the publication of those articles. And
7 there is no wrong in acknowledging the fact
8 that there are three ethnic groups in Rwanda
9 and in acknowledging that there are problems
10 that could be caused by the existing
11 situation.

12
13 "On the contrary it wouldn't be a good thing
14 to deny that there are different ethnic
15 groups.

16
17 "Ngeze explained his intention when he wrote
18 articles concerning ethnic groups. He did
19 not have bad intentions.

20
21 "Now, issues relating to the préfet of
22 Butare. This is point E. Issues relating
23 to the préfet of Butare are not going to
24 dwell on this; however, measures that the
25 authorities have taken against him show that

1 Ngeze did not lie.

2

3 'Point No. 5. Ngeze was not defaming the
4 authorities Invocus (phonetic) minister of
5 justice and minister of health close
6 brackets.

7

8 "Ngeze did not write those articles;
9 however, the author of those articles had
10 good intentions. The president has stated
11 that all Rwandans have the right to speak
12 out their thought regarding authorities so
13 as to enable the authorities to work better.

14 The intention of the authors was to actually
15 call upon the ministers to deal with these
16 problems that were becoming increasingly
17 urgent and there was no intention of
18 defamation in this respect.

19

20 So, for all these aforementioned reasons I
21 pray the court, one, to admit elements in
22 Hassan Ngeze's defence and find that
23 actually they are well grounded.

24

25 'Two, to find Ngeze innocent in respect of

1 the charges against him.

2

3 'Three, and fines should be paid to the
4 state coffers". I beg your pardon. "Three,
5 costs of the case has to be borne by the
6 state. And justice will be done. Done in
7 Kigali on 13th July 1990 for Hassan Ngeze,
8 Counsel Irewanda, Jean".

9 Q. Thank you, Witness. Now, as an initial
10 fact, do you know, yes or no, whether
11 Mr. Ngeze, on that occasion, was found
12 guilty or innocent in respect of the charges
13 preferred against him?

14 A. I don't know.

15 Q. Let's stick to the facts, Mr. Witness. Do
16 you know whether Mr. Ngeze was arrested and
17 detained on several occasions?

18 A. Yes, I heard of that.

19 Q. And do you know what were the charges
20 against him?

21 A. No.

22 Q. In order to make the job easier for you, if
23 I put it to you that each time it was for
24 similar offences, as those described herein;
25 would you know that? Does that help you at

1 all?

2 A. I don't think I'm interested in that anyway,
3 I mean, whether he was arrested and why
4 is -- does not interest me. I don't think
5 I'm in a position to testify on that.

6 MADAM PRESIDENT:

7 All right. Don't tell us what you're
8 interested in, tell us what you know and
9 what you don't know. You have already said
10 that you don't know what charges were
11 brought against him.

12 THE WITNESS:

13 Yes, Madam President. But he's saying to
14 facilitate me my task and I don't see why he
15 would --

16 MADAM PRESIDENT:

17 So you still don't know of what the charges
18 are?

19 THE WITNESS:

20 Yes, that's correct, Madam President.

21 MADAM PRESIDENT:

22 That's all.

23 BY MR. MARTEL:

24 Q. As a matter of fact, is it the first time
25 that you are reading this article,

1 Mr. Witness?

2 A. I don't remember this article, in fact.

3 Q. It was tendered under Exhibit No. P115 and
4 there are four volumes and in these volumes
5 we can find all the issues of Kangura. Now,
6 before you wrote your report, did you go
7 through all -- I'm saying all of the issues
8 of Kangura? Were they available to you?

9 A. When we prepared our report the Office of
10 the Prosecutor didn't have all the Kangura
11 issues, so we mainly used the issues that we
12 could find at the university in Butare.

13 Q. I'm asking you a question of fact. You are
14 the expert. How many issues of Kangura did
15 you analyse?

16 A. I cannot remember exactly but we used many
17 -- as many as we could find and the
18 university of -- sorry -- the library of the
19 national university in Butare has, in fact,
20 most of the Kangura issues but not all of
21 them, unfortunately.

22 Q. Very well. I thank you for your frankness.
23 But can you give us some idea of the
24 numbers? Was it ten issues that you looked
25 at, 20, 30, less than 40? Can you give us

1 some idea of how many issues you looked at?
2 A. I don't have the number in mind but I could
3 say that we used most of them, though there
4 could have been maybe six or seven that we
5 couldn't find. But we used all of those
6 that we could find but, as I am explaining,
7 I cannot give the exact figure.

8 MADAM PRESIDENT:

9 Well, you have to give us an idea of the
10 number you consulted, even if it's not
11 accurate. It doesn't help out if you say
12 you didn't consult six out of all the
13 numbers. How many issues are there, 70,
14 Mr. Martel?

15
16 Mr. Martel, how many issues are there in
17 all, 70?

18 MR. MARTEL:

19 Seventy-three, but in doing so,
20 Madam President, are we not suggesting an
21 answer. This is a question, be that as it
22 may, out of if 73.

23 MADAM PRESIDENT:

24 So, you said you didn't consult six. Does
25 that mean you consulted the rest of the 73,

1 except for six?

2 THE WITNESS:

3 Yes, Madam President, but I think I prefer
4 saying "around", because I'm not precise
5 with this figure.

6 MADAM PRESIDENT:

7 All right, so that gives you some idea then.
8 You didn't consult around six.

9 BY MR. MARTEL:

10 Q. What is striking, Mr. Witness, in your
11 report, is that although in the various
12 issues of Kangura there are several articles
13 which are exculpatory, you never, ever refer
14 to them. Why is that?

15 A. I don't understand what you mean
16 "exculpatory", because what we were trying
17 to do was to illustrate the use and various
18 meanings of words. So what you are going to
19 see in our report is that we took examples
20 of articles or passages that could
21 illustrate the various meaning or meanings
22 of the words we were interested in. So if
23 you take the word, for example, "Inyenzi" we
24 didn't say that word Inyenzi just meant
25 "Tutsi" only although, this is what Kangura

1 says. We did also include articles that
2 illustrated the other meanings.

3
4 For example, Inyenzi means RPF fighter.

5 Q. Mr. Witness, the Chamber has your answer on
6 the term Inyenzi and it will make its own
7 assessment.

8
9 Let me move to another subject and I will be
10 very brief and I will close on it.

11
12 Do you recall yesterday when you set foot in
13 this Tribunal, in this Court, no question
14 was put to you and you spoke of a document
15 which is allegedly yours, and which was
16 supposed to correct mistakes, but material
17 mistakes, typographical errors, but they
18 were material errors in your report?

19 A. I'm sorry, I missed the question. Could the
20 question be repeated, please?

21 MADAM PRESIDENT:

22 Well, there isn't a question. Counsel is
23 now referring to the document you prepared
24 in which you sought to correct errors. Now
25 he's going to ask you some question about

1 that.

2 THE WITNESS:

3 Okay.

4 BY MR. MARTEL:

5 Q. First of all, Mr. Witness, isn't it correct
6 to say that yesterday you stated that this
7 document was only aimed at correcting
8 typographical errors?

9 A. Yes, essentially typographical.

10 Q. Very well.

11 A. I say that because I take that there were
12 differences in the two versions. We have
13 French and English, in some cases the words
14 are left out, so I added them. But this is
15 still typographical.

16 Q. Very well. Let me ask you to take this
17 document and also your report, your expert
18 report which has been tendered. Your report
19 is Exhibit No. P110, if I'm not mistaken.
20 Are we together?

21 A. I hope so.

22 MADAM PRESIDENT:

23 Just a minute, Mr. Floyd, I think we got to
24 the ... You may begin. We'll just share
25 this for the moment.

1 BY MR. MARTEL:

2 Q. I am referring you strictly and solely to
3 the French text. Are we agreed? Now, I'm
4 looking at your page 1, which is 28965.
5 That's the document concerning the
6 corrections.

7 MR. VAN:

8 Madam President, if you wish, I have a copy
9 here, a copy of the corrections for you, if
10 you wish.

11 MADAM PRESIDENT:

12 Well, why don't you lend it to
13 Judge Gunawardana just for the time being,
14 while his copy is coming. Yes, we have that
15 page, Mr. Martel.

16 THE WITNESS:

17 I'm sorry, my document doesn't have the same
18 pagination system.

19 MADAM PRESIDENT:

20 What are you sorry for, Doctor, this is your
21 paper?

22 THE WITNESS:

23 No, he's referring to page 2000 something,
24 my document doesn't have that.

25 MADAM PRESIDENT:

1 What does your page 2 say, right on top on
2 the right-hand corner?

3 THE WITNESS:

4 Well, actually I have my own document so
5 it's not labelled.

6 MADAM PRESIDENT:

7 We don't want you to look at anything else
8 but a copy of what you presented to the
9 Court. So put your other papers away and
10 look at what counsel is now looking at. Do
11 you have it?

12 THE WITNESS:

13 Yes, I have it.

14 MADAM PRESIDENT:

15 So, do you have 28965, which is written on
16 the top right-hand corner?

17 THE WITNESS:

18 But I'm sorry, Madam, this is my original
19 document, so it doesn't have those numbers
20 given to it. This is my own copy, so it
21 doesn't have any other system of pagination.

22 MADAM PRESIDENT:

23 Do you have another copy, Mr. Van?

24

25 Here, take this, Mr. Matemanga, and look at

1 this, because this is what you gave the
2 Court.

3
4 All right, it's coming to you.

5 THE INTERPRETER:

6 Madam President, the numbering that
7 Mr. Martel is referring to is the numbering
8 given by the Registry, which the witness
9 doesn't have.

10 MADAM PRESIDENT:

11 Well, now you have it, do you or don't you?

12 THE WITNESS:

13 Yes, I do.

14 (Pages 1 to 31 by R. Lear)

15

16

17

18

19

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22

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25

1 1000H

2 BY MR. MARTEL: (Continuing)

3 Q. Very well. On this page, 9 -- 28965, you
4 are dealing with corrections concerning
5 issues of Kangura cited in -- and you
6 mentioned the title of your report. Are we
7 together? Are we reading the same thing?

8 A. Yes, we are.

9 Q. Is this your own title?

10 A. Yes.

11 Q. Let's move on next to the nota benne, the
12 note, 1, the corrections are in bold type
13 and the word "bold" is in bold. Are we
14 together?

15 A. Yes.

16 Q. Were those your own words?

17 A. Yes.

18 Q. Now, let me take you to page 9 -- 28963 in
19 the French, and I'm asking you now to look
20 at page 44 of your report in the French, I
21 believe. Are you together with me?

22 A. I hope so.

23 Q. Are you together with me or are you not?

24 A. Well, I'm on page 44 of the notice of the
25 report and page 28961 of the corrections

1 document. But the two pages of course do
2 not match.

3 Q. I was told 28961; I want you to look at
4 28963 in the French. Do you have 963 --
5 28963 and page 44? Those are the pages I
6 want you to look at. Page 44 of your report
7 and 28961 (sic) of this document of
8 correction.

9 MADAM PRESIDENT

10 Mr. Martel, is there a K-number on your
11 French page 44 so we can locate the English?
12 Is there a K-number on the top?

13 MR. MARTEL:

14 I don't have that. But Madam President, I
15 do beg your pardon, I don't have that on my
16 text but however I'm asking you to work with
17 the French text because even there there is
18 no similarity with the English and the
19 French. Let's work strictly with the French
20 version, please.

21 BY MR. MARTEL:

22 Mr.. Witness, do you now have page 28963, in
23 other words, your corrections concerning the
24 Kangura issues mentioned, and page 44 of
25 your report in French? Do you have that?

1 A. Yes.

2 Q. Very well. I see under the title examples

3 which you have, it shows that you have, in

4 fact, corrected Kangura issue No. 29,

5 January 1992. You quoted page 4 instead of

6 page 3, and you indicated 4 -- the figure 4

7 appears in bold. Are we together?

8 A. Yes.

9 Q. You also added "pappias Rubera" (ph) in

10 bold. Is that correct?

11 A. Yes, that's correct.

12 Q. Now, I want to refer you to page 28963 and

13 the note there talks about other terms and

14 so on and so forth. Why is it the first

15 paragraph, which contains 24 words,

16 completely disappears from your page 44 and

17 that No. 2 also disappears? Can you explain

18 to us why, and why did you not mention the

19 same? I'm seeing you shuffling around with

20 your papers. Don't you have the two pages

21 which have been given you before I asked

22 you the question? Don't you have those two

23 pages in front of you?

24 A. I think that's not the issue. The issue

25 here is that the English version is

1 different. So, like I said --
2 Q. Well, there you are. One minute, please --
3 one minute. Answer my question. I told you
4 that we are only and strictly -- solely
5 using the French version. Do you understand
6 that?

7 MADAM PRESIDENT:

8 He understands that, Mr. Martel, and so do
9 we. His answer is he is harmonising the
10 English and French texts.

11 BY MR. MARTEL:

12 Q. My question is simple: Why, in your document
13 which deals with the corrections on the
14 Kangura issues cited, do you completely skip
15 paragraph 1 and the figure "2" which you
16 replaced by "NB", which is not in bold. Why
17 are you doing that?

18 A. I think what happened here is the original
19 French we have differs from the original
20 language we had. So I harmonised the two.
21 But you are quite right in saying that the
22 issues appeared in the list of the
23 corrections, but these are typing errors
24 that had occurred in the original between
25 English and French and my aim here was just

1 to harmonise. That's all.

2 Q. But we do agree that the two amendments that
3 you yourself made, in other words
4 corrections concerning issues of Kangura and
5 corrections being in bold, those two
6 indications have not been adhered to by you;
7 have they?

8 A. You are quite correct but these are minor
9 problems that had been raised, I think, by
10 the Chamber in March when I was testifying.
11 The English version and the French version
12 had appeared to be different. Very often
13 they referred to a page that would be okay
14 in the English version but not okay in the
15 French version. So the idea here was to
16 make sure that we had the same documents.

17 Q. That's not the issue, sir -- Mr. Witness,
18 and I will come back to that in a moment.
19 I'm simply trying to give a second and last
20 example, and I'm asking you now to look at
21 page 28958 and page 51 of your report --
22 your original report -- 28958 in the French
23 of the indicated corrections and page 51 of
24 the report, both versions in the French.
25 Are we together?

1 A. Yes.

2 Q. You have just spoken about minor errors.

3 Now, let's look at the second reference

4 Kangura 29, January 1992, page 4. On

5 page 28954, in fact, you do put the

6 figure "4" in bold and on page 51 of your

7 original report, it was on page 3. So we

8 have replaced page 3 by the figure 4. So we

9 are together here; isn't it?

10 A. Yes, that's correct.

11 Q. Now, in the text, you have separated the

12 first line from the other lines and you have

13 placed inverted commas around the words "les

14 complicides de Nyamata continuent à

15 provoquer des hutus". Now, those inverted

16 commas, the words are not in bold and,

17 however, they have been added, they are

18 additions. So how do you explain that; why

19 didn't you put them in bold?

20 A. Well, these small quotation marks you're

21 quite right were being bolded, but I hope

22 you'll remember that in March we checked

23 these excerpts and we discovered that, in

24 fact, this first sentence was the title. We

25 did check this passage. So you are quite

1 right. Those marks should have been bolded.

2 Q. Isn't it correct, Mr. Witness, that you

3 discovered the use of inverted commas in --

4 during your cross-examination in March?

5 A. No, that's not correct.

6 Q. Listen, I won't go into an exercise which

7 took us a whole day of court work. I'm

8 simply going to mention to you the last

9 sentence from page 51 of your expert report,

10 the original thereof after "aufrante" (sic)

11 and I will read: "These same accomplices

12 begin to stretch out their hand to the

13 authorities of Nyamata". In your text

14 about corrections on Kangura at page 28958 I

15 read: "These same accomplices started to

16 plant mines in order to kill the authorities

17 of Nyamata".

18

19 Mr. Witness, this is not a correction that

20 you are referring to in a Kangura which you

21 have quoted. Furthermore, you are

22 rephrasing the words "me" by the word "mine"

23 and the word is not in bold. Mr. Witness,

24 did you not simply wish to mislead the

25 present Chamber by undertaking this exercise

1 that you did?

2 A. No, far from it. Because if there is one
3 word that is not bolded I'm sure, that -- I
4 must have forgotten because I tried even to
5 bold small things like dots where I could,
6 but there is really no intention of
7 misleading the Chamber; far from it. You
8 will notice that where I changed a word, for
9 example, it's because the original was
10 misleading. But if you compare the English
11 and the French, you're going to see that the
12 idea is that they had to match. So I didn't
13 add any new elements that weren't either in
14 the original draft or in the English
15 version.

16 Q. The Tribunal will make its own assessment,
17 Mr. Witness. Let me move on to another
18 issue and I will close with that. Let me
19 refer you to Exhibit No. P120.

20 MADAM PRESIDENT:

21 Mr. Martel, in view of your
22 cross-examination we'll have to have this
23 addendum now as an exhibit. Otherwise, we
24 can't follow questions. You see that? So
25 we will receive these corrections as P110A.

1

2 MR. MARTEL:

3 Madam President, it's your exhibit. I don't
4 want this document to be tendered. I find
5 that the proceeding adopted by the Office of
6 the Prosecutor and the witness is purely and
7 simply dishonest, and I do not want to be at
8 the origin of the tendering of this document
9 into the case file.

10 MADAM PRESIDENT:

11 Yes, we understand, Mr. Martel. But even to
12 make a dishonest -- dishonesty finding, we
13 need to have the document before us. Do you
14 see that? So it will not be a Defence
15 exhibit, it's a Prosecution exhibit attached
16 to the report. Therefore it could be P110A.
17 It's fair.

18 (Exhibit No. P110A was admitted)

19 MR. VAN:

20 Yes, Madam President, I wish to recall what
21 I said yesterday. Therefore, the --

22 MADAM PRESIDENT:

23 We do not need to hear you. We do not need
24 to hear you.

25

1 Mr. Martel.

2 MR. VAN:

3 It's the numbering, Madam President.

4 MADAM PRESIDENT:

5 I said we do not need to hear you.

6 MR. VAN:

7 Very well.

8 MADAM PRESIDENT:

9 You can use your time during re-examination

10 if you have some comments to make on this.

11

12 Any more questions, Mr. Martel?

13 By MR. MARTEL:

14 Q. Last question. Do you have the document,

15 P120? In fact, this is Jean-Pierre

16 Chrétien's book: "Rwanda. Les Médias du

17 génocide". Do you have the book,

18 Mr. Witness?

19 A. Yes, I do.

20 Q. On the cover page -- in other words, cover

21 page 1, there is a cartoon. There is a man

22 holding a loud speaker -- a megaphone, in

23 other words -- and on that instrument are

24 written -- is written the word "Kangura".

25 Do we see the same?

1 A. Yes.

2 Q. Do you know who drew this cartoon?

3 A. I don't remember, but I know that this was
4 taken from a different newspaper other than
5 Kangura.

6 Q. If I understand your answer correctly, this
7 cartoon appeared in a newspaper which was
8 published in Rwanda at the time
9 contemporaneously; in other words, in 1994,
10 and you do not remember who is the person
11 who drew this cartoon. Is that your answer?

12 A. Well, I'm not sure it's 1994 but all I'm
13 saying is that it is from a different
14 newspaper. But I don't think it's '94; it
15 could be earlier.

16 MR. MARTEL:

17 Madam President, Your Honours, may I consult
18 my client for 30 seconds. Thank you,
19 Madam President, Your Honours.

20 THE WITNESS:

21 I think if my guess is correct, this was
22 from Kanguka -- not Kangura, Kanguka and the
23 year could be '92, not '94.

24 BY MR. MARTEL:

25 Q. Your memory is that it was Kanguka --

1 Kanguka newspaper, which apparently had this
 2 cartoon published. Is that what you are
 3 saying?

4 A. Yes, that's correct.

5 Q. Am I wrong in thinking that the person who
 6 is holding the megaphone might be
 7 Mr. Hassan Ngeze?

8 A. One can only guess. These are not pictures
 9 but I think your guess is quite close to
 10 mine.

11 Q. My last question. Let me refer you to
 12 Kangura, March 1994, and this is the last
 13 text that I'm going to refer you to in
 14 asking you questions and this will be my
 15 last question. Kangura No. 59 --
 16 Mr. Matemanga, please. Are we together?

17 A. I'm sorry, I didn't hear the page.

18 Q. Cover page 1, there is a cartoon to the
 19 bottom right-hand corner and there are three
 20 rectangular balloons or bubbles. Can you
 21 read the first one from the left which
 22 begins with "Bon voyage mon Général?"

23 A. Well, my copy is illegible.

24 MADAM PRESIDENT:

25 Is there an original, Mr. Martel? It's

1 illegible, totally illegible. Do you have
2 the original, maybe?

3 MR. MARTEL;

4 As for the original, it's the Office of the
5 Prosecutor which has them. I don't have
6 that original, but let's rather refer -- let
7 me refer the witness to Exhibit P120. This
8 is the -- so let's look at P120, at
9 page 271, page 271 and this is Jean Pierre
10 Chrétien's book: "Rwanda. Les Médias du
11 Génocide".

12
13 For the records let me stipulate that this
14 is the last issue which appeared in
15 March 1994 issue of Kangura. Now, can you
16 read to us the rectangular bubbles that can
17 be found at the bottom of page 271,
18 Mr. Witness, of document P120?

19 A. Are you referring to the first or the second
20 cartoon, please?

21 MADAM PRESIDENT:

22 The second one.

23 THE WITNESS:

24 Okay, thank you, Madam President: "Bon
25 voyage, mon Général. Bon voyage, General.

1 The whole village is now in our hands. You
2 have done a good job really".

3 BY MR. MARTEL:

4 Q. And now the second bubble, please?

5 A. "We have concluded our task".

6 MR. MARTEL:

7 I thank you, Madam President, Your Honours.

8 I have no further questions.

9 MADAM PRESIDENT:

10 Thank you, Mr. Martel.

11

12 Mr. Pognon, did you ask for an hour?

13 MR. POGNON:

14 Madam President.

15 MADAM PRESIDENT:

16 Did you wish to cross-examine the witness?

17 You did. Well, it's 25 past. Should we
18 rather take the 15-minute break now and then
19 you can have your uninterrupted hour?

20 MR. POGNON:

21 Madam President, I am afraid one hour might
22 be too short for me. I didn't adequately
23 analyse all the questions that I needed to
24 put to the witness and I think one hour
25 would be far too short for me. I think that

1 for me to deal with all my questions I would
2 need up until 1 o'clock at least.

3 MADAM PRESIDENT:

4 I'm afraid you can't have more than an hour,
5 Mr. Pognon. It's in the scheduling order,
6 you will see, and it's what you requested.
7 We can't find the extra time.

8 MR. POGNON:

9 Madam President, the problem is I couldn't
10 -- I could not tender all the documents that
11 I need to and which I do have here with me,
12 and which I have also transmitted to the
13 Court and all the parties. So I will have a
14 problem if that were to be the case. I will
15 have a problem, and I believe that the
16 timetable has been re-worked, and I believe
17 if I could be allowed, I would be able to
18 tender all the exhibits that I wish to have
19 considered by the Trial Chamber in the
20 interest of the Defence.

21
22 The problem concerning the Defence of
23 Mr. Barayagwiza is that we don't have any
24 assistance whatsoever from the Accused
25 person who has not recognised us and we are

1 sometimes having to do cartwheels in order
2 to find material and all the explanations
3 which can provide us with material to assist
4 the Court as has been requested by the
5 Tribunal. That's our problem,
6 Madam President, Your Honours.

7 MADAM PRESIDENT:

8 Firstly, we will take a 15-minute tea break
9 now. Secondly, you use the break,
10 Mr. Pognon, to see the Prosecutor about
11 these documents you wish to tender. Then
12 you can ascertain whether there would be
13 objections to you handing in those
14 documents.

15

16 Thirdly, you know the basic rule about
17 documents, that you first have to put it to
18 the witness; he has to be aware of it or
19 identify it in some way. You can't hand in
20 any documents through a witness on any
21 basis. There has to be some basis. So you
22 examine those two matters during the break.

23 (Court recessed at 1028H)

24 (Pages 32 to 47 by G. Harding)

25

1 1055H

2 MADAM PRESIDENT:

3 The registry has pointed out that we already
4 have a P110(A), because it was submitted in
5 French and English. So I will read you
6 P110 in respect of the corrections. The
7 French version will be P110C, and the
8 English version will be P110D.

9

10 (Exhibit No. P110C and P110D were admitted)

11 MADAM PRESIDENT:

12 Mr. Pognon.

13 MR. POGNON:

14 Thank you, Madam President. I gave the
15 documents that I mentioned to all the
16 parties and to the Bench. These are already
17 documents tendered.

18 CROSS-EXAMINATION

19 BY MR. POGNON:

20 Q. Good morning, Mr. Ruzindana.

21 A. Good morning, Counsel.

22 Q. Your reports heading is "Kinyarwanda
23 language, its Usage and its Impact on the
24 Various Media in the Period 1990 to 1994";
25 am I right?

1 A. Yes, that is correct.

2 Q. I will not repeat questions that have

3 already been asked in respect of this

4 report. I would like to highlight page 24

5 or, rather, let us go to page 4 of your

6 report, the first sentence. You say,

7 "Historical studies of Kinyarwanda language

8 is based on existing documents for a study

9 of coded words and the use and impact of the

10 language used in the media. We analysed

11 several editions of extremist newspapers,

12 such as" and here you give the number of the

13 newspaper, Kangura, Zirikana, Umurwanasyaka,

14 Courrier du peuple, Medaille Nyiramacibiri,

15 and you have indicated, "and so on and so

16 forth".

17

18 Now, if I refer to the heading regarding the

19 expert mission that was assigned to you,

20 where in this title is reflected the study

21 of extremist newspapers as you have

22 indicated?

23 A. That is our methodology. You have probably

24 noticed that at the end of the list of

25 newspapers, you have "and so on and so

1 forth". It is not the Office of the
2 Prosecutor that suggested to us the
3 newspapers to be used. This was our own
4 choice.

5 Q. When you talk about extremist newspapers,
6 such as -- and you mentioned names, and then
7 end by "and so on and so forth", this does
8 not mean that you are not remaining within
9 the parameters of the extremist newspapers?

10 A. What we have tried to do was not to
11 undertake a study of all publications in
12 existing medias then. What we wanted to see
13 was to look basically at documents that have
14 impact on the language and the use of
15 language during that time. We noticed, for
16 instance, regarding the introduction of new
17 words such as "Inyenzi" and "Inkotanyi" and
18 so on and so forth, those newspapers did
19 have an impact.

20 Q. I referred to page 21 of your report, third
21 paragraph, you write regarding the use of
22 code words at that time, you write as
23 follows: You say that, "During the period
24 1990-1994 most words presented in the above
25 glossary were not used -- were not used as

1 code words as defined above -- as referred
2 below. For example, when Hutu extremists
3 communicated with each other through the
4 various medias, newspapers, radio, then we
5 can assert that the objective was to
6 mobilise even the moderate Hutu who could be
7 considered as an interested party". And you
8 continue, "So the secret was envisaged, and
9 this was clear in regarding the extremists
10 and victims who were to be taken by
11 surprise. But once the external world knew
12 about it, then they could have disrupted the
13 planning of the genocide". I have to tell
14 you that I really don't understand what you
15 mean here. What do you want to say here?

16 A. In simple words, the word "code" is used --
17 code words are used within a given social
18 group. This means that members of a social
19 group can communicate between themselves
20 using code words. But in the Rwandan
21 context, it's obvious that when you read the
22 document, you read a word "not interested".
23 You said "interested". It's not -- these
24 are not interested parties. So during the
25 mobilisation -- during the mobilisation,

1 these words can be use by people who wanted
2 -- who want to mobilise other people. So
3 this passage simply says that you cannot
4 interpret code words as always being words
5 that the rest of the public cannot
6 understand. That is the meaning because, as
7 you saw in the document, there are certain
8 code words such as the word "Inyenzi", which
9 have become quite clear. So, initially,
10 they were code words, but not later, because
11 subsequently, practically everyone knew the
12 meaning of such words.

13 Q. Thank you. Now, I will move on to page 27
14 of your report. You have used an
15 introduction, the preface of the book
16 written by Jean-Pierre Chrétien titled,
17 "Les médias du génocide". Now, in the
18 orientation of your report where you are
19 asked to show the impact and the use of
20 Kinyarwanda in the various media during the
21 period 1990-1994, now this orientation given
22 in the introduction of your work, does --
23 doesn't the reference to the Les médias du
24 génocide actually imply that your report is
25 bias?

1 A. No, because we are not citing from
2 Les médias du génocide. We are citing from
3 the report written by Degni-Segui, but since
4 we don't have the document written by
5 Rene Degni-Segui, we used codes from
6 les médias du génocide. This is a common
7 practice if you don't have the original
8 document. But then the interest -- the
9 passage that interested you is quoted
10 elsewhere, then you can quote the document
11 in question and state that where your source
12 -- which source you used. So, actually, we
13 quoted Rene Degni Segui as cited in
14 les médias du génocide.

15 Q. Mr. Ruzindana, the work of an expert which
16 was commissioned to you is a work -- an
17 expert work covering a period of four years.
18 And this period has significant political
19 and sociological impact in the newspapers;
20 do you agree with me?

21 A. Yes, I agree with you.

22 Q. Now, if I put to you that that period was,
23 of course, characterised by war which began
24 on 1st of October 1990, and if I put to you
25 that this period was also characterised by

1 the democratic opening which supposes that
2 there is a certain language, and this period
3 was also characterised by the mushrooming of
4 newspapers which have all sorts of views,
5 and you are asked, actually, to reflect
6 this. So, why did you decide to select --
7 to present a report based only on some
8 newspapers and leaving aside a good number
9 of newspapers?

10 A. What interests us here is the use of
11 Kinyarwanda language and its impact on the
12 various media. My opinion is that our
13 report is based on quite a rich
14 documentation regarding use of language and
15 variation of language and so on and so
16 forth. I don't know if there are linguistic
17 aspects that we have not covered in our
18 report.

19 Q. Do you think that you have covered
20 linguistic aspects used by newspapers such
21 as La Tribune Du Peuple, Rwanda Rushya,
22 La Médaille, trace of which we don't see in
23 your report and others as well as all these
24 newspapers -- 50 newspapers which were
25 mushrooming then?

1 A. This is a report of 50 pages. We wanted to
2 limit it to 50 pages. This report has
3 50 pages. At the end of the report, we
4 tried to include many varieties of
5 quotations which illustrate the various use
6 of the various words such as "Inyenzi",
7 "Inkotanyi", and so on and so forth, maybe
8 if it had been a report of a 1,000 pages, we
9 would have obviously increased the number of
10 quotes. But in my opinion, regarding the
11 variations and the use of language, this
12 report is concise and precise, but it is
13 quite complete.

14 Q. So, Witness, you acknowledge that according
15 to what you expressed on page 4, what
16 interested you is that your orientation was
17 to present a report on the extremist media;
18 right?

19 A. Not really. If you look at Kinyamateka,
20 Kinyamateka is not classed as an extremist
21 newspaper. If you look at the
22 classification down in where Mr. Chrétien in
23 his book Les médias du génocide, you will
24 find that Kinyamateka is classified as being
25 one of the moderate newspapers and we used

1 it. We also based our study on the
2 knowledge of Kinyarwanda, we as three
3 Rwandans who speak Kinyarwanda. So, in my
4 opinion, the report which is only 50 pages
5 long is quite complete.

6 Q. Now, let us see this comprehensive character
7 of the report as you put it. You refer -- I
8 think this is on page 19 of your report at
9 the middle of the page, you referred to
10 Zirikana No. 2, October 1992, where you
11 talked about an author in this issue of
12 Zirikana, you talk about an author called
13 Marius Le Plébeien. Do you -- have you seen
14 this, this is page 19 of your report?

15 A. Yes, I have seen it. That's right.

16 Q. Your reference is one author Marius
17 Le Plébeien, this is Issue No. 2 of
18 October '92. In the newspapers to which you
19 referred at the end of your work, that is,
20 Zirikana -- Zirikana, where is the -- where
21 is mention of that article? Where is it
22 written by an author that you have not
23 mentioned by name? Where is the article in
24 the citations that you have produced?

25 A. I think that maybe you are forgetting that

1 the fact that the paragraph and the line
 2 that you've just mentioned, illustrate the
 3 fact that people used a war language -- a
 4 warrior language as used or like languages
 5 adopted such as "inkuba", that is,
 6 "lightning".

7 Q. Excuse me, Witness, you mentioned Zirikana,
 8 the author of an article whose name is
 9 Marius Le Plébeien. You refer to Marius
 10 Le Plebeien in an article of Zirikana,
 11 number -- Issue No. 2 of October 1992. What
 12 day of October 1992?

13 A. What day?

14 Q. Yes, what day, was it the 2nd, the 3rd, when
 15 did that particular edition appear?

16 A. I don't think that Zirikana is a daily
 17 newspaper. If my memory serves me well,
 18 Zirikana was a monthly. So we cannot talk
 19 about a day. Maybe you can look for what
 20 part of the month. The month is being given
 21 here is October 1992. So it was not a
 22 daily.

23 Q. I looked in the newspapers that you
 24 mentioned, but I did not see Zirikana
 25 Issue 2 of October 1992. If you took a look

1 for it, you will not find it.

2 A. I don't understand. Because everything that
3 is listed here is due to the fact that
4 everyone used titles or used names drawn
5 from war-like language. For example, we
6 talked about Marius Le Plébeien and his name
7 appears in Zirikana No. 2 of October 1992.
8 So we don't cite an article. We simply
9 illustrate the fact that people adopted
10 names drawn from a war-like language or a
11 warrior language. It is just a question of
12 citing an article.

13 Q. Now, if you refer to the development you
14 have shown and the synoptic table that
15 you've presented at the end of your work,
16 you mean we couldn't find the quotations of
17 Marius Le Plébeien in relations to the
18 articles that you mentioned concerning
19 Zirikana?

20 A. I think there is a problem here regarding
21 methodology. You have a list of -- at the
22 end of our report, and this list does not
23 constitute the entire quotations or
24 citations we have in our document. What we
25 are saying is that we give these -- we

1 mentioned these and then say there are other
 2 examples, and mentioned these examples in
 3 the document. So at the end, we said, "You
 4 know, why not draw up another list and other
 5 illustrations". So this is just another
 6 example. These are just other examples, but
 7 this does not mean that what is mentioned in
 8 the document necessarily would appear at the
 9 end of our work. This was not methodology.

10 Q. So, what article written by Marius
 11 Le Plébeien, did you read and which led you
 12 to cite him in the body of your work?

13 A. Let me repeat. We do not quote Marius
 14 Le Plébeien as an author of an article
 15 somewhere. We looked at the word
 16 "Le Plébeien". These -- this is someone who
 17 called himself Marius Le Plébeien and it's
 18 the word "Plébeien" which interest us,
 19 because we are making an association between
 20 "Pléb" and "aristocracy". So we are using
 21 this name, Marius Le Plébeien.

22 MADAM PRESIDENT:

23 Dr. Ruzindana, you keep repeating your
 24 answer. We do not understand your answer at
 25 all. Counsel is putting to you that there

1 is no issue of Zirikana for October '92.
2 And even if there is, he has looked he can't
3 find this reference to Marius Le Plébeien.
4 Do you see that? Those are his questions.
5 And you are saying here that that's a
6 nickname given to the author of an article.

7 THE WITNESS:

8 Now I understand the question. Maybe what
9 is missing at the end of the document is the
10 list of all newspapers, of all RTLM
11 broadcasts that we used. So that list is
12 not here. That is why in Zirikana, we don't
13 Zirikana No. 2 at the end of the document.
14 In other words, we did not draw up a list of
15 all issues that were used in our document.

16 THE ENGLISH INTERPRETER:

17 Microphone is off.

18 MR. POGNON:

19 I made a list of the Zirikana Issues that
20 you have listed. I think in total we have
21 16. There is Zirikana 00, page 4;
22 Zirikana 00, page 18; Zirikana of 19th of
23 October 1992, page 3; Zirikana 19th of
24 October 1992, page 2; 19th of October 1992,
25 page 3; 19th of October 1992, page 2 -- I

1 beg your pardon, page 18; Zirikana,
2 October 1992 without any specification
3 regarding date, page 8, still October 1992,
4 no specification, page 12, page 13, 19th of
5 October 1992; Zirikana. Zirikana of 20th
6 December 1992, page 27; Zirikana of December
7 1992, no specification of date, page 8;
8 Zirikana of January 1993, page 5; Zirikana
9 of 17th December 1992, no -- Zirikana of
10 December, no dates specified, page 7;
11 Zirikana 00, page 4; Zirikana December 1993,
12 page 8; Zirikana 00, page 3, 17 July 1993.
13 Where then is Zirikana 02 October 1992 that
14 you mentioned?
15 A. I explained that everything that you've just
16 listed, these are issues of Zirikana from
17 which we drew excerpts which appear in these
18 editions. In other words, Zirikana of No. 2
19 of October 1992 cannot be on that list
20 because we do not cite a passage from
21 Zirikana at that time. So you have
22 Zirikana, you have Kangura and then in
23 their respect, we have issues, number of
24 editions from which we drew the passages
25 that you see. Now, in the case of RTLM,

1 for example, and this may be clear, we
2 mentioned RTLM many times.

3 Q. I beg your pardon?

4 A. I don't know if you understand. What you
5 are trying to say here is that we did not
6 mention Zirikana No. 2 of October 1992,
7 because there are no passages drawn from
8 Zirikana No. 2 of that time in 1992.

9 Q. Okay. They are not passages, but you
10 referred to an article by Marius Le Plébeien
11 in Zirikana No. 2 in -- of October 1992.
12 Now, since you referred to an article in
13 Marius Le Plébeien which appeared in
14 Zirikana of October 1992, Issue No. 2, to
15 what was Marius Le Plébeien referring? What
16 characterises him in your opinion that
17 actually oriented your report on the
18 extremist media?

19 A. On page 19, we explained that there are
20 words that are introduced in a language in
21 that period covering 1990-1994. And these
22 words introduced in the language, and which
23 are found in newspapers, are words that I
24 can refer to as gross words.

25 Q. I beg your pardon, Witness, that is not my

1 question. My question is as follows: Now,
 2 how did they designate this author Marius
 3 Le Plébeien as being one of the authors who
 4 is mentioned in your report, on what basis?
 5 A. We do not mention articles here. We simply
 6 say in Zirikana, there is an author who
 7 adopted a name and he calls himself, Marius
 8 Le Plébeien. That is all that we are
 9 saying. We are not interested in the
 10 article.
 11 Q. Thank you. My question is as follows: Did
 12 you ever read an article by Marius
 13 Le Plébeien published in Zirikana?
 14 A. Yes, I believe I have done so.
 15 Q. What are those articles?
 16 A. I don't remember them any more. We
 17 consulted several newspapers; we read
 18 articles; we studied new words introduced in
 19 the language; we verified words that had
 20 other meanings. So we consulted several
 21 newspapers.
 22 Q. But you did not read articles, you did not
 23 read articles?
 24 A. Well, I think that's your point of view.
 25 Why shouldn't we have read articles?

1 Q. In Zirikana concerning Marius Le Plébeien,
2 you did not read articles?

3 A. Why not?

4 Q. Because reference to journals -- to
5 newspapers to date are something that you
6 yourself chose and even reference to the
7 year were chosen by you. And you actually
8 referred to the pseudonym of this author,
9 but all these do not allow you to remember
10 anything that was written by this author?
11 This is why I'm telling you you have never
12 read an article written by Marius
13 Le Plébeien.

14 A. I don't understand you, because our report
15 does not say that we analysed an article, it
16 simply says that among the names introduced
17 in the language and among the names adopted
18 by certain authors, there are names which
19 have a ring of names which have been drawn
20 from God knows where. And we mentioned the
21 example of Le Plébeien. We do not talk
22 about the article. We looked only at the
23 name of Marius Le Plébeien, and the question
24 we put to ourselves is why should someone
25 choose such a name. That is all. So, it's

1 nothing to do with the article here. It's
2 only regarding the name that was adopted by
3 the author.

4 Q. Do you think that for the Bench, for the
5 Defence and indeed for the parties, it is
6 important that all of us know what article
7 was written by this author who calls himself
8 Marius Le Plébeien and what makes you
9 classify him as being among the extremist
10 media? But if you can't answer it, I can
11 abandon this line.

12 A. No, I will give you a simple answer. We did
13 not say anywhere that Marius Le Plébeien was
14 an extremist. Please consult the report
15 again, you will see that we are talking
16 about illustrating new words, and Marius Le
17 Plébeien appears on the list. There are
18 other names Abakombozi, Hima, Inkotanyi,
19 Inyenzi, Inkuba, but we did not say that
20 these are extremist. "Inkuba" is the
21 lightning, it's the name of youth wing of
22 the MDR party, but we did not say that they
23 were extremist. Read again the introduction
24 to this paragraph and you will see that we
25 are not talking about extremism here. We

1 are listing names that were adopted by
2 groups, by youth parties, by youth wings and
3 by a certain authors. That is all. We are
4 not talking about extremism here.

5 Q. Well, if that is the case. So by mentioning
6 Marius Le Plébeien, you only read the
7 heading, you did not read the article that
8 was written by him?

9 A. I don't see the importance of that. Let me
10 tell you that the Abakombozi, the youth wing
11 of the social democratic party, were not
12 extremist; Inkuba, lightning and so on and
13 so forth. All we say here that is that
14 people adopted names. They adopted names
15 that at times we found strange and sometimes
16 bizarre. That is all. But there is no idea
17 of extremism here. We have to emphasise
18 what we want to say, but that is not -- what
19 you are saying is not what our report wanted
20 to say.

21 Q. You also mentioned in your introduction
22 among the newspapers, you mentioned Ijambo
23 of November 1993, page 10. This is on
24 page 39 of your report on the third -- in
25 the third paragraph. You quoted from Ijambo

1 Issue No. 62, and you said that "Tutsis
2 cannot kill Hutus but, on the other hand,
3 Hutus can kill Tutsis". I am going to refer
4 to -- when I find the page of the report, I
5 will come back to that.

6
7 Now, let me move to another point. You
8 mentioned newspapers such as Le Tribunal --
9 Le Tribune du Peuple. I'm talking about
10 page 4 of your report, Umurwanashyaka,
11 Le Courrier du Peuple, Le Courrie du Peuple,
12 page 4. Have you found it?

13 A. Yes.

14 Q. What edition of the Courrier du Peuple did
15 you analysed as stated by you, Courrier du
16 Peuple, extremist media, what edition of
17 that newspaper did you analyse within the
18 context of your assignment given to you by
19 the Tribunal?

20 A. I can no longer remember. All that we did
21 is that we took everything that we could
22 find as edition at the national library of
23 Rwanda, we distributed the edition among us.
24 We tried to read and pick out words and so
25 on and so forth. I do not remember exactly

1 the article from which we might have used in
2 relation to the Courrier du Peuple. The
3 report was drawn by three of us and I do
4 assume responsibility for the report,
5 although I cannot remember all the articles
6 that were read by my colleagues.

7 Q. You did not read the article that you
8 mentioned written by Marius Le Plébeien.
9 In any case, you have not drawn any
10 significant point of your choice in this
11 respect.

12 Le Courrier du Peuple that you mentioned
13 saying we analysed several issues of
14 extremist newspapers such as Le Courrier du
15 Peuple, you don't remember this at all
16 regarding article or articles that you might
17 have read in that respect, you don't
18 remember any; right?

19 A. Yes. Right now I cannot remember them.

20 Q. For you, what characterises extremism in
21 newspapers such as Le Courrier du Peuple?

22 A. In March I defined extremism in the context
23 of our report as being the fact or the
24 tendency -- let me begin again my sentence.
25 In March, I had said that newspapers that we

1 characterised as being extremist were
 2 newspapers which had an anti-Tutsi leaning.
 3 Q. So the answer that you are giving, though a
 4 generalisation, signifies or means that you
 5 did not read an article from Le Courrier du
 6 Peuple which was significant or which would
 7 characterise the extremism to which you are
 8 referring?

9 A. No, because I told you that three of us
 10 worked on the report. I was a member of the
 11 team, we read many issues of the various
 12 newspapers. So it's not surprising that
 13 four years later, one cannot remember
 14 exactly a specific article in Le Courrier du
 15 Peuple. So it's not a matter of
 16 generalisation here.

17 Q. So from that we can draw the conclusion that
 18 you cannot give any significant information
 19 regarding the extremism of this newspaper
 20 that you mentioned, as simple as that?

21 A. My conclusion is that if I were to be given
 22 four or five issues of Le Courrier du
 23 Peuple, I would be able to point out to at
 24 least one or two or even more articles which
 25 are anti-Tutsi. So let me be given three or

1 four editions of Le Courrier du Peuple and I
2 am sure I am going to find one or more
3 articles which are against the Tutsi.

4 Q. When this report was commissioned to you,
5 you are trying now to say that the Office of
6 the Prosecutor, by assigning you this
7 report, actually explicitly oriented you
8 towards newspapers which are against Tutsis.
9 Is this what you are saying? Was this your
10 mission?

11 A. No, our mandate was clear. They did not
12 talk about extremist newspapers or anything
13 like that.

14 Q. Don't you think that since it was the Office
15 of the Prosecutor that gave you this
16 assignment for its case, and that among the
17 people accused here, you have Hassan Ngeze
18 and others who are accused in this trial
19 referred to as the media trial, don't you
20 think that you know, in your own initiative,
21 unless the Prosecutor thinks otherwise, you
22 on your initiative gave a unilateral,
23 partial orientation to your report to the
24 extent it cannot provide us information
25 regarding the use of language in a real

1 political context between 1990 and 1994?

2 A. No, I don't think that was the case. There

3 were several accused. We were not told,

4 for instance, if you find articles written,

5 for instance, by Professor Nahimana or

6 Mr. Barayagwiza, do this or do that. That

7 was not our objective. What we had opted as

8 a methodological approach was to look at

9 newspapers such as Kangura, which is very

10 well-known newspaper. So we told ourselves

11 that since Kangura is a well-known newspaper

12 in Rwanda and which has a large readership,

13 its language could easily have an impact on

14 society. So, it was not because it was --

15 but not because it was written by Mr. Ngeze.

16 I have already said this before. I read

17 Kangura even before Mr. Ngeze was arrested.

18 So, this was in relation to the importance

19 which they granted to that newspapers.

20 Q. You know that the Tribunal can be quite fat

21 fussy when it comes to time management, so

22 could we conclude simply that with regard to

23 the expert mission that was assigned to you

24 by the Office of the Prosecutor, you,

25 in fact, anticipated what should be

1 considered as an accusation against
 2 newspapers, and I don't know how many
 3 newspapers here, they've chosen. Actually
 4 they've chosen just a few of them and mainly
 5 you have chosen Kangura.

6 A. For me, we are talking about the media. We
 7 are not talking about newspapers. I don't
 8 know if you have gone through the whole
 9 report, for example, we mentioned RTLM more
 10 than we cite Kangura. So, I don't see why
 11 you think that our objective was Kangura.
 12 We simply said that what components are
 13 there in the media that shaped the language
 14 during that given period. So it was not
 15 only Kangura and it's is not only RTLM.

16 Q. Do you think that you have provided to this
 17 Court the terms of the use of the
 18 Kinyarwanda language which would express the
 19 -- this political situation at that time and
 20 in respect of universal suffrage, multiparty
 21 politics at that time, and all other words
 22 which are expressive of the democratic
 23 concern which animate all the people and all
 24 the newspapers, and which characterised the
 25 end of a dictatorship?

1 A. As I explained, if you had written maybe
2 500 pages, we could have covered all the
3 possible aspects, but a report of 50 pages
4 cannot include all areas which are quite
5 large. So, we tried to be as specific as
6 possible.

7 Q. I will complete on 24, this point, by saying
8 that -- and I would now like to say that on
9 page 32 of Ijambo, we see -- this is
10 paragraph 3 of page 32, titled "Hyperbole
11 and the Exaggeration of Facts". You say,
12 "Tutsis cannot exterminate -- it is said --
13 Tutsis cannot exterminate Hutus, but Hutus
14 can exterminate all Tutsis. Ijambo 62,
15 November 1993. This is on page 10. Now, in
16 the list of newspapers that you draw up at
17 the end of your report, where do you find
18 Ijambo as being a newspaper to which you
19 refer in your work?

20 A. I understand now why we didn't understand
21 each other. If you look at page 45 of our
22 report -- if you go to page 45 of the
23 report, you will see that what we have here
24 is not a list of documents mentioned in the
25 text. It is, rather, other examples. What

1 does this mean? This means that in the
2 report we had mentioned several articles and
3 then at the end of the report, we drew up
4 another list as examples as being as other
5 examples. So at the end of the report, this
6 is not a list of all documents mentioned,
7 but, rather, it's a list of other examples;
8 that is, additional examples to those that
9 we have given in the report.

10 Q. Why Ijambo and Courrier du Peuple could not
11 have -- being supplementary to this table in
12 order to give an exhaustive vision -- view
13 of the media at that point; that is, in that
14 period covering four years?

15 A. Yes, I don't know whether Ijambo is the only
16 newspaper that is not here. Maybe if we had
17 had more time and if we had wanted to write
18 a thousand pages, we could obviously have
19 drawn up a list of all newspapers. You
20 talked about 50 newspapers. But what we did
21 is we took a sample, and realising that the
22 report would be short, 60 pages, and that is
23 why we did not mention all the 50
24 newspapers.

25 Q. So, do you agree with me that at that time

1 or, rather, that time was a time that was
 2 characterised by the -- by the blooming or,
 3 by democratic development, democratic
 4 expression, that was time of war during
 5 which newspapers and the television and
 6 radio stations expressed themselves. So,
 7 first, do we agree on this point?

8 A. Yes.

9 Q. Now, in the course of your work, did you try
 10 to see how an influence of a radio station
 11 such as Radio Muhabura, what influence could
 12 a station like Muhabura have on opinion?

13 A. We did not have documentation on that
 14 particular one, but on the basis of
 15 listening to it, because I listened to
 16 Radio Muhabura, we did not have contribution
 17 that we could have attributed to
 18 Radio Muhabura. But, on the other hand, at
 19 political level, words was such "Umwanzi",
 20 which was also used by Radio Rwanda and a
 21 word like "Rubanda Namwinshi", which was
 22 used in a political context were words which
 23 we heard, and this include such as
 24 "Le ceberian", and this, again, is in a
 25 political context. All these words are in a

1 political context.

2 Q. Witness, do you agree that a radio station
3 such as Radio Muhabura was able to influence
4 and have an impact on Kinyarwanda language,
5 and this in respect of opinion?

6 A. I am not really sure. I could even say that
7 I don't agree with you, because, firstly, it
8 was very difficult to get Radio Muhabura,
9 and secondly, at the level of language, I
10 did not notice any new contribution. In
11 other words, I do not know words,
12 expressions which might have been introduced
13 by Radio Muhabura.

14 Q. Does this mean that the difficulty of
15 getting Radio Muhabura, due to that
16 difficulty, you never actually listen to
17 Radio Muhabura?

18 A. But I told you that I used to listen to it,
19 but with some difficulties regarding
20 reception. And for some hours, I don't
21 remember what was the time since I was
22 listening to the radio, but in any case, I
23 did have the impression that there were many
24 -- there were words or many expressions that
25 were introduced by -- into Kinyarwanda by

1 Radio Muhabura.

2 MR. POGNON:

3 Madam President, I would like now to refer
4 to a document 2D35 which had already been
5 tendered previously. This is an excerpt of
6 a book written by Jean Bosco Barayagwiza, we
7 have already distributed this. We are on
8 page 95 -- page 94, 95, that is the end of
9 '94 up to '95. And let us read where it
10 says "1st of October 1990".

11 THE ENGLISH INTERPRETER:

12 The witness is requesting a copy of the
13 document.

14 MR. POGNON:

15 This document 2D35. It has already been
16 distributed, and is referring to page 94.
17 So 2D35, page 94. This is towards the end
18 of page 94 and goes up to the beginning of
19 page 95 ending with the word,
20 "International". Let us note that as of
21 this state, the only pro-governmental radio
22 that existed were Radio Rwanda, Imvaho and
23 La rélev. These were the only media.

24 BY MR. POGNON:

25 Q. Beginning of 1991, you talked about the

1 establishment of Radio Muhabura, the
2 spearhead of Tutsi and RPF propaganda. "Its
3 strategy was simple, to carry out
4 information and disinformation campaign in
5 order to defeat the enemy and to reinstalled
6 a Tutsi regime in Rwanda. To this effect,
7 its bases, its propaganda on the following
8 points: One, to demoralised the Rwandan
9 Armed Forces; to denigrate the existing
10 regime and the democratisation process in
11 order to -- which has already been started
12 in order to win the opinion to the cause of
13 the RPF; to divide the Hutus by making them
14 believe that RPF is fighting only against
15 the Hutu powers from the north. And
16 finally, to convince and encourage Tutsis to
17 support the RPF in the country and to
18 recruit many of them in its ranks. This
19 propaganda of Muhabura coupled with other
20 manoeuvres of Tutsis and RPF cost them
21 within the Rwandan society more than -- more
22 damage than had been done by Tutsi
23 newspapers in international media". What do
24 you think of this point of view made by
25 Jean Bosco Barayagwiza?

1 A. I think it is very erroneous for two
2 reasons.
3
4 Firstly, because I told you that I used to
5 listened to Radio Muhabura. Radio Muhabura
6 relates or never used words such as "Hutus"
7 and "Tutsis". It always talked about
8 Rwandans. So it is not up to me to judge
9 their intention, but all that I can say is
10 that when here, for instance, you talked
11 about to divide Hutus and that the RPF was
12 fighting only against the powers of Hutus
13 from the north, everybody who listened to
14 Muhabura would know that this statement is
15 not true. If someone has recordings of
16 Radio Muhabura, then let such a person show
17 that there is mention of Hutus from the
18 north or from the south, or there is talk
19 about Hutus and Tutsis. I am ready to
20 listen to them, but I'm convinced that this
21 is not the case.
22
23 Secondly, demoralise the Rwandan Armed
24 Forces, this is true. Radio Muhabura tried
25 to demoralised the Rwandan Armed Forces.

1 However, to convince and encourage Hutus to
2 support RPF, it's not true, because all
3 those who listened to Radio Muhabura knew
4 that the effort was aimed at encouraging
5 everybody. There was no talk of Hutus or
6 Tutsis. I used to listened to that radio
7 station, so I know what I am talking about.
8 So that radio station was encouraging many
9 people to join the RPF, but it did not talk
10 about Hutus and Tutsis. It spoke of
11 Rwandans. So this analyses, and I'm not
12 sure if it is analyses, but what we have
13 here is based on errors, but I also think
14 that the person who wrote this did not
15 listen to Radio Muhabura.

16 Q. The person does listen to Radio Muhabura
17 because you have at least said given the
18 reasons that you have given that when he
19 says that Radio Muhabura was discouraging
20 the Rwandan Armed Forces, it was telling the
21 truth.

22 A. Yes, on that point, it's true, but the rest
23 of the material is wrong.

24 Q. One moment, you are admitting that at least
25 he listened to Radio Muhabura. So, in other

1 words, you are correcting that you are no
2 longer saying that he didn't ever listen to
3 Radio Muhabura; are you?
4 A. All I'm saying is that everything that's
5 here at point 2, 3 and 4 and even the
6 introduction, all this is false.
7 Q. But let me take the third point which you've
8 admitted.
9 A. Point 4.
10 Q. Point 4, Radio Muhabura you said was
11 encouraging people to join the RPF; yes or
12 no?
13 A. Yes, that is correct.
14 Q. So this person did listened to Radio
15 Muhabura?
16 A. No, that's not what he is saying there. He
17 is saying "convince and encourage Tutsis",
18 it's not "people" in general. And I had
19 said that that wasn't true, because
20 Radio Muhabura avoided to refer to terms
21 such as "Hutu" and "Tutsi" -- "Tutsis". We
22 saw that it was deliberate; it didn't use
23 the word "Tutsi" at least in the context
24 that is used here.
25 Q. How can you be so pre-emptory in your

1 expression when you have said that, first of
2 all, Radio Muhabura was difficult to catch
3 and that you were able to listen to it from
4 time to time? Now here you are saying in
5 such pre-emptory terms that this is what
6 Radio Muhabura had tried to avoid by quoting
7 this and that. Did you ever work at
8 Radio Muhabura?

9 A. No, I told you I listened to it from time to
10 time and I also listened to it regularly.
11 That's the term I used, I believe. So, I
12 didn't work at Radio Muhabura. All I said
13 is that I listened to the radio such as I
14 did with the RTLM and Radio Rwanda also.
15 And I am affirming that Radio Muhabura did
16 not launch itself into these Tutsi
17 struggles. It was against the regime. That
18 was true about Radio Muhabura and this was
19 done by Radio Muhabura as was by the
20 opposition party radios, but Radio Muhabura
21 did not encourage Tutsis to support the RPF.

22 Q. At least you admit and agree with the fact
23 that the youths were joining the RPF and
24 they were undergoing training and,
25 therefore, they were defecting by joining

1 the RPF?

2 A. Yes, I heard mention made of that, but I'm
3 also sure that that was not said or done, or
4 encouraged by Radio Muhabura. If that was
5 ever to have been the case, it would have
6 been through other means.

7 Q. By which means, for instance?

8 A. That, I wouldn't be able to tell you, unless
9 you want me to go into speculation. All I
10 am saying now is that this point which says
11 that it was convincing Tutsis to support the
12 RPF and so on and so forth, that is not
13 true. But people who joined the RPF, if
14 that were ever to be the case, we don't know
15 how this was done. According to Kangura,
16 these youths left --

17 Q. I beg your pardon. Counsel for Kangura has
18 finished and I am not intending to defend
19 someone who was an owner of a newspaper. So
20 you agree that the youths were joining the
21 RPF. You also agree that Muhabura was
22 demoralising the armed forces. Did the
23 regime, the existing regime; in other words,
24 the Habyarimana regime, was it a regime
25 which was liked by the RPF?

1 A. I do not believe so.
2 Q. You did not believe so, or are you sure?
3 A. But it is obvious that it wasn't liked by
4 the RPF.

5 (Pages 48 to 84 by Haruna Farage)

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1 1200H

2 MR. POGNON: (continuing)

3 Q. Now, the context of being in a war situation
4 during this regime, is that an undeniable
5 given?

6 A. I don't quite understand your question. If
7 you could -- the context -- the situation of
8 a war?

9 MR. PRESIDENT:
10 Allow for the pause between questions and
11 answers.

12 MR. POGNON:
13 I do beg your pardon, Madam President.

14 THE WITNESS:
15 I am sorry, I am repeating myself. Can the
16 question be recast or reformulated.

17 MR. POGNON:
18 Yes, I will do so. Yes, I will break it up.

19 BY MR. POGNON:

20 Q. Do you agree that the RPF did not like the
21 Habyarimana regime?

22 A. Yes, that is so.

23 Q. Can we agree that its objective was to bring
24 down that government?

25 A. Yes, I believe so.

- 1 Q. Can we also then agree that if the RPF had a
- 2 media at its disposal, its technique would
- 3 be to discredit a regime which it wants to
- 4 overturn?
- 5 A. Yes, quite so.
- 6 Q. Given that, therefore, the RPF radio, Radio
- 7 Muhabura, indeed, was likely to denigrate
- 8 the existing regime; do you agree?
- 9 A. Yes, I agree.
- 10 Q. Therefore, point three, Barayagwiza did not
- 11 lie when he wrote this. He was therefore
- 12 indeed listening to Radio Muhabura; do you
- 13 agree?
- 14 A. No, not necessarily, one can have that
- 15 opinion without even listening to Radio
- 16 Muhabura.
- 17 Q. But if that is possible without listening to
- 18 Radio Muhabura, can he agree on something
- 19 which is of interest to Radio Muhabura which
- 20 you yourself said was true?
- 21 A. All I said is that, amongst the points
- 22 mentioned here, I was against particularly
- 23 the last point and the second last, in other
- 24 words, dividing the Hutus and convincing the
- 25 Tutsis. I said that that was not the case.

1 Q. Do you know the formulation of the saying
 2 "divide in order to rule" which was used by
 3 the Romans from the time -- do you know that
 4 saying?
 5 A. Yes.
 6 Q. You are an educated man.
 7 A. Yes.
 8 Q. You are aware of it, aren't you?
 9 A. Yes.
 10 Q. Do you, therefore, agree that Radio
 11 Muhabura, which is the RPF radio is a
 12 pro-Tutsi radio; do you agree?
 13 A. Yes, that is probably the case.
 14 Q. It is certainly the case. If you agree --
 15 A. No, that is not what I said. The RPF
 16 strategy at least as it was announced on the
 17 radio, I said that I listened to the radio
 18 that had absolutely nothing to do with the
 19 Tutsis. Furthermore, this policy of
 20 dividing in order to rule, the RPF wanted to
 21 draw a lot of members and I am convinced
 22 that what is written here is correct; in
 23 other words dividing the Hutus and making
 24 them believe that the Hutus were only
 25 fighting against Hutus of the north. And

1 I am saying that this is not the truth. If
2 I was saying "divide to rule", it was -- in
3 other words, to divide the people so that
4 they can rule. Is that what we are talking
5 about?

6 Q. I don't think we are talking about winning.
7 I am not talking about you.

8 MADAM PRESIDENT:

9 Mr. Pognon, your time is up. You have
10 already had 10 minutes more.

11 MR. POGNON:

12 Madam President, look at what I have. This
13 is what I have. I cannot -- I cannot -- the
14 last time I was for Alison Des Forges, I was
15 rushed in the same manner. I don't think
16 that is possible. I absolutely cannot.

17 MADAM PRESIDENT:

18 This witness has come as a linguist and your
19 last few questions had no relevance to all
20 these linguistic analysis. Secondly, you
21 asked for an hour, we have given you one
22 hour ten minutes.

23 MR. POGNON:

24 Madam President, I have a whole --
25

1 MADAM PRESIDENT:

2 Mr. Alfonse Van, do you intend to re-examine
3 this witness, and how much time would you
4 need?

5 MR. VAN:

6 Madam President, your scheduling order gave
7 me 45 minutes. I did believe that I can
8 finish before that time.

9 MADAM PRESIDENT:

10 So, can you finish in 30 minutes?

11 MR. VAN:

12 I can try, Madam President.

13 MADAM PRESIDENT:

14 All right. You have 15 minutes from the
15 Prosecution's time and maybe five minutes
16 from the judge's time.

17 MS. MONASEBIAN:

18 Madam President, if I may clarify something?

19 MADAM PRESIDENT:

20 I want other counsel to remain seated.

21

22 You have 20 minutes then, Mr. Pognon, and
23 you complete within that time.

24 MR. FLOYD:

25 If it please the Court.

1 MR. POGNON:

2 Madam President, I have eight documents to
3 tender. Those documents have questions
4 which go along with them. I cannot -- I
5 cannot, Madam President. Let me recall the
6 last I was put up against the wall in the
7 same manner. I can't just let go of my
8 documents like that. I cannot, I cannot
9 conclude within that time, Madam President.

10 MADAM PRESIDENT:

11 That will be on record that you cannot
12 conclude. You have 20 minutes, use your
13 time wisely.

14 MR. POGNON:

15 Madam President, I am here to work. I don't
16 know, there is something which isn't right.

17 MADAM PRESIDENT:

18 Unless Mr. Floyd is telling us to give you
19 more time.

20 MR. FLOYD:

21 Your Honour, may I suggest that with the
22 15 minutes that my learned colleague Mr. Van
23 has graciously agreed, can we give him
24 45 minutes. We were awarded six and a half
25 hours for the next witness. And if we can

1 take 45 minutes of our six and half hours,
2 and I will use five hours and 45 minutes,
3 Your Honours.

4 MR. VAN:

5 Madam President, I have accepted nothing
6 against what is said by Mr. Floyd. You've
7 asked me how much time, and I said that the
8 scheduling order theoretically gives me
9 45 minutes, but I can use 30. But I should
10 not like this to be used as -- in the same
11 manner by the Defence. I will not accept
12 that.

13 MR. POGNON:

14 Madam President, with all the respect that I
15 owe the Court, which I will never betray, I
16 do not wish -- Madam President, I do not
17 wish as it is said that I am a lawyer who is
18 assigned for the interest of the Court, I
19 need to work and every time -- each time I
20 am asked to speak, my time is cut short, and
21 my --

22 MADAM PRESIDENT:

23 Just a moment, Mr. Pognon. We have heard
24 you. We understood what you --

25

1 MR. POGNON:
2 Madam President --
3 MADAM PRESIDENT:
4 Mr. Floyd.
5 MR. FLOYD:
6 Yes, Your Honour.
7 MADAM PRESIDENT:
8 Will you keep quiet, Mr. Pognon.
9 MR. POGNON:
10 I am quiet.
11 MADAM PRESIDENT:
12 Mr. Floyd, if you are willing to accommodate
13 your time, we can't guarantee that you will
14 have five hours.
15 MR. FLOYD:
16 Thank you very much, Your Honour.
17 MADAM PRESIDENT:
18 What are you thanking me for?
19 MR. FLOYD:
20 Thank you for my learned colleague
21 Mr. Pognon, because I know that Mr. Pognon
22 has worked very hard with this particular
23 witness and has a lot to do, and we are
24 going to present so much evidence on our
25 time, and will make Your Honours' ears spin.

1 MADAM PRESIDENT:

2 Mr. Floyd, did you hear what I said?

3 MR. FLOYD:

4 Yes, you said that I had five hours --

5 MADAM PRESIDENT:

6 No, I did not. I said, we cannot guarantee
7 you that time. That is why I asked you why
8 you were thanking me.

9 MR. FLOYD:

10 Well, we had six and a half hours to start
11 off with, and I was suggesting that I give
12 45 minutes to my learned colleague
13 Mr. Pognon, and that would leave me with
14 five hours and 45 minutes. I thought you
15 then said, well you have five hours and so
16 you would take an hour and half away from
17 me. But certainly, I need five hours.

18 MS. ELLIS:

19 Madam President, could I just inquire of
20 the Trial Chamber, is it in any way possible
21 for us to sit slightly earlier in the
22 morning as we were doing in May or finish
23 slightly late to accommodate the extra time
24 needed?

25

1 MADAM PRESIDENT:

2 You are on your feet, Mr. Rapp?

3 MR. RAPP:

4 Your Honour, I don't want to take any more
5 time. Fundamentally, our concern is that we
6 are already four and half hours late from
7 where we started out, and I know that when
8 we get to Mr. Kambanda, there is a great
9 deal of content that will need to be
10 covered, and we will then have difficulty
11 reaching Witness FS, reaching the
12 investigator we wish to put on for five
13 minutes, and the handwriting analyst. So to
14 the extent that we go beyond 1 o'clock
15 today, with this particular witness, I
16 suggest it will be very, very difficult to
17 meet the rest of this calendar. We all know
18 that if we allow the witness go on after
19 1 o'clock, he is back for another hour in
20 the afternoon and then we will find it very
21 difficult to complete.

22 MADAM PRESIDENT:

23 It is because I am aware of these problems
24 that I am raising them. It is because
25 counsel in the past went on and on and on

1 and did not respect time that we were
 2 compelled to come up with this scheduling
 3 order. But now we are grateful to Mr. Floyd
 4 for giving up some of his time. So you can
 5 go on until one, Mr. Pognon, and one o'clock
 6 means one o'clock. Now you may begin.

7 MR. POGNON:

8 Madam President, I refute. I deny that
 9 accusation that you are making that I am
 10 always the one who delays; the Prosecution
 11 does the same. If the Court is not
 12 interested in what I want to say, I will
 13 leave it aside. I really feel that I am a
 14 subject of discrimination.

15 MADAM PRESIDENT:

16 I did not say that you are delaying.

17 MR. POGNON:

18 I can leave.

19 MADAM PRESIDENT:

20 The Court did not say that you are delaying.
 21 Now, I will give you two minutes, if you do
 22 not resume your cross-examination I am going
 23 to call an end to your cross-examination.

24 MR. POGNON:

25 You are free to do so, Madam President.

1 BY MR. POGNON:

2 Q. Exhibit D35, this is a document which has
3 already been tendered. You made reference
4 and here, I am on page 43 of your report in
5 French. At the bottom of that page, just
6 above the example, you speak of the CDR and
7 you place in brackets the majority of the
8 people. Is the CDR referred to as the
9 popular majority?

10 A. I am convinced that this part, the popular
11 majority of the Hutu is to be found in the
12 original.

13 Q. Do you read the CDR document?

14 A. No, it wasn't necessary. All I am saying is
15 that, this part is in the original. It is
16 not we (sic) who placed it there, but I did
17 not read the CDR's statutes.

18 Q. Furthermore, on page 22 of the report, still
19 speaking of the CDR, you state that it is a
20 party -- the place where you refer to the
21 CDR.

22 A. It is page 22, to assist counsel, I believe.

23 Q. It is not page 22, and you said it was a
24 party which was well-known, know as -- known
25 to be extremist.

1 THE ENGLISH INTERPRETER:

2 Could counsel please speak into the
3 microphone?

4 BY MR. POGNON:

5 Q. CDR which is a party recognised or known to
6 be an extremist party, and there you are
7 going to a list of key words?

8 A. Yes, it is on page 22 of the report.

9 Q. Yes, CDR Muziri, party known to be of Hutu
10 extremist leanings. What do you mean by
11 that?

12 A. What one can say is that people saw the
13 party as being anti-Tutsi. They based
14 themselves on the fact that during rallies
15 and within the party, there were no Tutsis.
16 The other political parties had Hutus and
17 Tutsis and so on and so forth, but the CDR
18 was considered as a Hutu party, a party for
19 Hutus. This is mentioned in Kangura, on
20 RTLM and also Rwandans were well aware of
21 it.

22 Q. Did you ever read the party's manifesto, the
23 statutes or constitution of the party more
24 specifically?

25 A. Personally, I didn't read it, but this is

1 said in the report. The party is considered
2 to be -- so, this is something which is
3 well-known.

4 Q. I am referring now to page 25 of the
5 constitution and this is a document which
6 has already been tendered and the title
7 Tulimazo and I am referring to Article 5.
8 Article 5 is on page 25 of the document,
9 Tulimazo.

10
11 Article 5: "Any person who is an adult of
12 Rwandan nationality and has enjoyed all the
13 civic and political rights, and has accepted
14 to sign the present constitution or to
15 belong to the party can be a member of the
16 CDR". Now, here comes my question. Do you
17 agree that the CDR had within its membership
18 Tutsis?

19 A. I do not know of any Tutsis who were members
20 of the CDR. All I know is that in several
21 newspapers, including Kangura, the CDR was
22 defined as being a party for Hutus, and I
23 never saw CDR protesting about that
24 definition.

25 Q. I am not going to refer -- since you do not

1 know about the CDR. It is rumours that you
2 have written in your report. I will refer
3 to a newspaper now. It is a newspaper
4 Le Courrier du peuple, the people's mail.
5 This has already been distributed. In this
6 newspaper, under the title Marius le
7 Plebien, the title doesn't really tell you
8 anything. On page 17 of Le Courrier du
9 people, issue No. 8 of 25th June to
10 9th July 1993. My time is very short.
11 There are articles therein and one which
12 begins on page 17, at the bottom of the page
13 in which the author defines what can be
14 considered to be the political doctrine of
15 the RPF -- the CDR, and I am reading; in the
16 middle of the page the following: "Does one
17 find the four elements, the elements which I
18 have just mentioned -- the points which I
19 have just mentioned in the speeches or
20 behaviour of the CDR party? The four
21 elements or points are the effective or
22 imaginary distinction made between racism
23 and its victim. The visualisation of these
24 differences to the benefit of racism and to
25 the detriment of the victim.

1 Three, generalisation of these differences
2 which are considered as definitive and
3 absolute. Four, the legitimisation of the
4 aggression against the victim and or, the
5 privilege accorded to his detriment".

6
7 Now, do those characterise the racist
8 behaviour as you claim that this was well
9 known about the CDR?

10
11 Let me read you the following text quickly.
12 The analysis of the manifesto of this party
13 and the manifesto had been tendered which is
14 at the basis of its discourse and its
15 political action makes the following points
16 appear:

17
18 "One, the CDR party exalts the gains of the
19 social revolution of 1959 which puts an end
20 to the domination of the Tutsi ethnic group
21 over the two other ethnic groups, Hutus and
22 Twa. The CDR party professes the
23 coexistence, the peaceful coexistence of the
24 three ethnic groups in a democratic society
25 based on political pluralism.

1 Three, CDR considered that the rule of the
2 majority should be left consecrated as well
3 as protected -- as the protection of the
4 interest of the minority".

5 A. Maybe, you can refer to what Mr. Barayagwiza
6 said on RTLM. I think you are misquoting.
7 You will see that, in fact, even what is
8 said in the Kangura newspaper by the CDR as
9 being a party for Hutus, and that is clear.
10 I have said this --

11 MR. FLOYD:

12 Madam President, I am going to object,
13 because Mr. Barayagwiza has never published
14 anything in Kangura. And you should not
15 allow this man to continue to sit up here
16 and tell lies. We have been here for two
17 years and that Mr. Barayagwiza has never
18 published anything.

19 MADAM PRESIDENT:

20 This is out of order. It is his response.

21
22 Mr. Pognon, do you want to put to the
23 witness that according to Le Courrier -- and
24 I see this in the last column, the members
25 of the CDR come from all three groups.

1 MR. POGNON:

2 Yes. I asked him the question as to whether
3 the CDR includes Tutsis; he said he didn't
4 know anything.

5 BY MR. POGNON:

6 Q. Now, do you know whether there were any Twas
7 in CDR?

8 A. First of all, correction. I said one can
9 refer to the interview of Mr. Barayagwiza
10 and RTLM, and also what is written in
11 Kangura. I didn't say what Barayagwiza
12 wrote in Kangura.

13 Q. Please, can you answer my question, because
14 you are making me waste my time. You are
15 wasting my time. Do you agree, do you
16 know -- do you know whether there are any
17 Twas in the CDR ?

18 A. I don't know any and I have also said I
19 didn't know of any Tutsis. I know of Hutus
20 in the CDR, but I don't know of any Twa.

21 Q. So you do not know the CDR?

22 MR. POGNON:

23 Madam President, I wish to tender this
24 document. It has already been tendered.
25 But now, before I go to that --

1 BY MR. POGNON:

2 Q. Do you now recall that Marius le Plebien
3 never wrote in Nzirikana, but he did write
4 in Le Courrier du people?

5 A. I am not convinced.

6 Q. Well, Marius le Plebien didn't ever write in
7 Nzirikana, as you claimed.

8 A. We can verify that. We can check on that
9 later.

10 MR. POGNON:

11 Le Courrier du people -- I wish to tender
12 this document, Madam President.

13 MADAM PRESIDENT:

14 What is the last exhibit number for -- 3D.

15 MR. POGNON:

16 Pognon 2D48.

17 MADAM PRESIDENT:

18 It's 2D48.

19 (Exhibit No. 2D48 was admitted)

20 BY MR. POGNON:

21 Q. I now wish, very rapidly, to illustrate the
22 political doctrine of the CDR and the
23 actions or activities of the CDR. I wish to
24 tender in that regard a certain number of
25 documents which are to start with, all the

1 denouncements that the CDR made of violence
2 of the denunciation that CDR has made of the
3 violations of the ceasefire. These are
4 documents which you will be able to read and
5 which will give you an idea of what the CDR
6 is in reality. Now, these documents, you
7 have them. Let me rapidly mention what they
8 are.

9
10 The denunciation with regard to the CDR.
11 There is already in the case file D16, which
12 is a letter of the CDR to the prime minister
13 dated 29th September 1992, where the CDR is
14 expressing itself on the constitution, the
15 legislative powers and the agreements. And
16 then there are press releases in which the
17 CDR speaks about peace negotiations and
18 expresses its own point of view, which is
19 not an extremist point of view. This is
20 2D19.

21
22 There is 2D25 in which the CDR analyses the
23 code of ethics proposed to the party and
24 explains the reasons for which there are
25 discussions and says the reason why it does

1 not adhere to them. I would like to mention
2 these documents to give you an idea of what
3 the CDR is and what its ideology is.

4
5 Secondly, I would like to refer to another
6 letter in which the CDR is denouncing the
7 violations of the ceasefire. These are also
8 documents which have already been tendered
9 in a case file, and, we are dealing with
10 2D17, where you will read the speech made by
11 the CDR. In that letter the CDR is writing
12 to Amnesty International and FIDH in order
13 to denounce the atrocities committed by the
14 RPF on the 8th of February 1993.

15
16 Another communique which is 2D22, in which
17 the executive committee of the party met in
18 order to speak and air its opinions on these
19 atrocities. In it also, mention is made of
20 the enormous number of people killed and the
21 millions of people who have been put on the
22 streets. That is the step taken by the CDR.
23 If you read these documents, you will
24 understand the scope of what this party is.

25

1 Before I move into the third important
2 document regarding CDR's doctrine, I am
3 going to refer to your document. You
4 referred to the youth wing of the party --
5 the youths of the party without giving them
6 a specific name. And in your report, at
7 page 24, at the word "Kubuhaza", you defined
8 it as cause to free or to liberate. I don't
9 know what that means. And you say at the
10 time when the political parties started
11 their activities in 1992, the word also
12 meant convince or force someone to belong to
13 a party.

14
15 Now, to illustrate your report, did you
16 become aware of some instruments of the
17 political parties -- used by political
18 parties to demonstrate this Kubuhaza?

19 A. Yes, the political parties could use, for
20 instance, what was referred to in Rwanda as
21 "le meeting", in other words, meetings held
22 by parties where one tries to convince new
23 members to join the party.

24 Q. Thank you. First of all, you stated that
25 political parties started this kind of

1 Kubuhoza at the time when they started their
 2 activities in 1992. Which part of 1992 are
 3 you referring to, to say that Kubuhoza
 4 began?

5 A. I don't know exactly. What we are
 6 interested in here is the new word which is
 7 entering the language -- being introduced
 8 into the language, and it is during that
 9 period of time when the political parties
 10 began --

11 Q. I am sorry, because you referred to the
 12 year, the year is also of interest to us.

13 A. Yes, it was 1992, but we are talking about
 14 le meeting, what is known in Rwanda as
 15 le meeting -- rallies -- when these started
 16 exactly, which party organised the first, I
 17 don't know.

18 Q. Do you mean that political parties started
 19 in Rwanda in 1992?

20 A. No, but it was in 1992 when there were many
 21 meetings of the rally type and political
 22 parties were trying to win over many people
 23 to belong to them.

24 Q. You mean that Kubuhoza is the activity, in
 25 other words, it is the meetings -- the

1 rallies which are tantamount to Kubuhoza?

2 A. No, I mentioned that as an example.

3 Q. So, who are the ones who are forcing people

4 to join, as you have written in your report?

5 A. It is well said in many newspapers, that

6 some political parties obliged people to

7 belong or join them, to join these parties,

8 and that is why we use the term to force

9 someone, forcer quelqu'un. So, if you were

10 to look at newspapers, you will find that.

11 Q. Who is it who is talking about how political

12 parties proceeded?

13 A. Well, according to the newspapers that we

14 find, there are several ways. For instance,

15 if you are living in an area which was

16 predominantly, let's say, CDR or MDR or some

17 other party but you did not want to belong

18 to that political party, people will come

19 and see you, and they will try and convince

20 you, sometimes by even threatening you. If

21 you are the director of a company and you

22 belong to MRND or MDR, they will try to

23 convince the members of your firm -- your

24 company.

25 Q. Yes, but who specifically were the people

1 doing this kind of thing?

2 A. In my view, it was all the political
3 parties, because I did not belong to a
4 political party, but that happened to me.

5 Q. Now, I need to go fast. Did this mean that
6 this method was used by specific bodies of
7 political parties?

8 A. I beg your pardon.

9 Q. Is this method used by specific bodies
10 within political parties?

11 A. No, not necessarily but individual members
12 could do so.

13 Q. So, why did you say -- under the meaning of
14 Abakombozi on page 19 of your report --
15 Abakombozi Nkuba, what did you say that term
16 meant? On page 19 of your report, in the
17 middle of that page. Abakombozi -- you said
18 the saviours, use of the social democratic
19 party Nkuba, thunder, the name of the youth
20 wing of the MDR party.

21 A. I don't quite get what your question is.

22 Q. These words which you used -- these words
23 which you are claiming to be a language used
24 by the media in Kinyarwanda, what does this
25 call for, Abakombozi Inkuba?

- 1 A. I don't know what it could be referring to.
- 2 The parties had these youth movement groups.
- 3 I don't know where the names came from, but
- 4 the names were found like that. If you want
- 5 the origin of the word Abakombozi, it comes
- 6 from the Kiswahili language and it is
- 7 said --
- 8 Q. Does that Inkuba, Abakombozi, does that come
- 9 from Kiswahili also?
- 10 A. No, Nkuba is a Kinyarwanda word which means
- 11 thunder.
- 12 Q. First to move fast. Are you trying to stop
- 13 yourself from saying that it was these
- 14 Abakombozi, these Inkuba and let me add, the
- 15 JPL, who are all youth wings of the social
- 16 democratic party, the MDR party, and the PL
- 17 party, that these are parties which were
- 18 using violence and practised Kubuhoza?
- 19 A. That is not exact, because I have already
- 20 told you that this could happen at rallies
- 21 just as it could be done at individual
- 22 level, on a one-on-one basis. All I know is
- 23 that all parties were involved in this kind
- 24 of activity, all the political parties.
- 25 Q. I am not going to -- do you know the origin

1 of the word Kubuhoza?

2 A. Yes.

3 Q. What is its origin? How did this word enter

4 the vocabulary of Kinyarwanda?

5 A. Yes, it comes from the word "kuboha",

6 K-U-B-O-H-A.

7 Q. No. No, that is not what I am referring to.

8 I want to refer to the source, in other

9 words, how did this word get introduced; who

10 used this word for the first time?

11 A. Yes, it is said, people say this, but I

12 don't have the source. But it was somebody

13 apparently from the MDR somewhere, who

14 allegedly said that they were going to

15 delink people, because people were linked,

16 in other words, someone had said that they

17 were going to delink people because they are

18 linked by the MRND.

19 Q. Anti-tie -- was it Dismas Nsengiyaremye who

20 was the prime minister of the Rwandan

21 government? He was the first person to say

22 so. He was a member of the MDR. Was he the

23 one who introduced the word Kubuhoza; would

24 I have re-established the truth in your

25 mind?

1 A. Yes, in part. In fact, after that period of
2 time, all the political parties began to do
3 that. So, maybe he is the one who
4 introduced the term, but all the political
5 parties were involved in using that
6 procedure.

7 Q. Now, to show you that the term Kubuhoza was
8 the work of the previous political parties,
9 I am going to refer you to documents which I
10 have produced and this is document 2D18 --
11 2D18, the CDR is denouncing terrorism by the
12 youth wing of the PL party, the people known
13 as JPL, and this is a letter written to the
14 prime minister on the 29th May 1992. Press
15 release 2D20 from the CDR, which also
16 denounces the violence committed or acts of
17 violence committed by the parties, the youth
18 wings of the parties -- I can't pronounce
19 the name, the MDR, PSD and PL parties. In
20 these two documents --

21
22 There is another document, a letter or a
23 press release of 2nd November 1992, in which
24 denunciation is made still by the CDR of the
25 violence acts of the PSD and the MDR.

1 Another letter still, to the prime minister,
2 2D28, where the CDR is still denouncing MDR,
3 PL and PSD parties.

4
5 The CDR expresses itself through the
6 denunciation of acts of violence. If I were
7 to put it to you that in expressing itself
8 through this denunciation of acts of
9 violence, the CDR is not the extremist party
10 that you referred to, would I have said
11 something right in your mind?

12 A. Not at all, because I don't have the
13 documents here. But if you are also to look
14 at the communiques of the parties, such as
15 the MDR, PL, they denounced acts of violence
16 committed by the youth of the CDR party,
17 MRND, you will realise that. But,
18 unfortunately, it is not less loaded with
19 meaning than what you are providing here.

20 Q. Can you provide us with that communique?

21 A. No, I have read them, but simply I wasn't
22 prepared to provide documentation.

23 Q. So, did you supply these documents to the
24 Tribunal?

25 A. I came here to explain facts. I did not

1 come here to make any argument or plea. All
2 I am referring to is press release
3 denouncing violence by the CDR, the youth of
4 the CDR. So, the youth of the CDR is not
5 this angel that you want us to believe it
6 is.

7 Q. If I were to put it to you that this youth
8 of the MDR, of the PSD and of the PL, the
9 youth wings are allied. These are youth
10 wings which are allied to the RPF; would I
11 be speaking the truth?

12 A. No, I don't agree, because amongst the
13 people who committed the genocide, there are
14 also individuals who belonged to those
15 parties. The MDR, even PL parties, so they
16 were also involved in the genocide. All I
17 can say is that the picture wouldn't be
18 complete if we are referring only to one
19 party.

20 Q. Now, if I were to put it to you that these
21 parties are federated to the RPF, would I be
22 right? Would I have said the truth?

23 A. You are asking me a political question, and
24 I haven't carried out an investigation on
25 the membership of these parties or their

1 affiliation to the RPF. I don't have that
 2 kind of information, no documentation.
 3 Q. I am now going to give you another document
 4 which demonstrates the behaviour not only
 5 its doctrine, but the behaviour of the CDR
 6 and this is Exhibit 2D32. Exhibit 2D32 --
 7 are you with me? This is a letter dated
 8 28th March 1993 from the CDR and it is
 9 written to the RPF.
 10
 11 I wish now to refer to some passages from
 12 this letter. First of all -- now to place
 13 into context the period of time we are
 14 referring to and this particular letter,
 15 this is the 28th of March 1993, in other
 16 words, one month and three weeks after the
 17 violation of the ceasefire of July 1992 by
 18 the RPF, a violation through the atrocities
 19 which were perpetrated on the 8th of
 20 February 1993. So, this is one month, three
 21 weeks after those atrocities of
 22 February 1993, and this is the language
 23 which is being used by the RPF, after having
 24 denounced that the FIDH -- the CDR, I beg
 25 your pardon, the language that the CDR is

1 using after denouncing through FIDH and
2 Amnesty International, atrocities committed
3 by the RPF on the 8th of February 1993.

4
5 What I want to read is from paragraph 4.
6 Everyone knows that the RPF is composed of
7 an overwhelming majority of Rwandans of
8 Tutsi ethnicity, the majority of whom are
9 looking for the restoration of the feudal
10 monarchy regime in Rwanda.

11
12 It is necessary to note, however, that the
13 majority of the Batutsi within, started to
14 provide evidence of that social revolution
15 of 1959, which set up the democracy under
16 republican institutions is irreversible.
17 The CDR party believes that it is necessary
18 and urgent to undertake reforms in that
19 restoring pluralist democracy based on free
20 and proper elections, but this revolution --
21 this political development towards authentic
22 democracy cannot be translated into facts
23 unless it is accompanied by a revolution in
24 the minds. In other words, it will be
25 necessary that the spirit of domination and

1 vengeance disappears as it is guiding the
2 actions of certain extremists. Everyone,
3 Hutu, Tutsi, Twa must rally himself or
4 herself with the democratic ideas in a
5 system which is truly pluralist. That is
6 why the CDR party is persuaded that
7 negotiations -- the Arusha negotiations
8 which must be included in this development
9 should not exclude any political force in
10 the organs of transition, and much less the
11 CDR party which represents a wide part -- a
12 large part of the Rwandan population.

13
14 It is therefore extremely urgent to initiate
15 a frank dialogue between the RPF and the CDR
16 party on a peaceful coexistence between
17 Rwandans and the management of the power of
18 transition. Your front has demonstrated by
19 its ideas and its actions that it represents
20 a large part of ethnic Tutsi group. The CDR
21 party has affirmed itself as a defender of
22 the interests of the popular majority. It
23 would therefore be very useful to establish
24 direct dialogue which is frank and removed
25 of all suspicion or --

1 THE ENGLISH INTERPRETER:

2 He continues up to the end of that
3 paragraph.

4 MR. POGNON:

5 The CDR party suggests that dialogue for
6 social -- this dialogue integrates a sharing
7 of power and the CDR party is ready to
8 contribute positively to a dialogue which
9 will give birth to a nation which is truly
10 democratic and living in peace. The CDR
11 party therefore invites the RPF to renounce
12 finally the war and vengeance and so on and
13 so forth.

14 THE ENGLISH INTERPRETER:

15 Counsel was reading very fast, the
16 interpreter was unable to keep up and give a
17 full and loyal rendition of the text. We
18 are sorry.

19 BY MR. POGNON:

20 Q. Nowhere is it mentioned that there were
21 victims of several acts of violence, and it
22 was never acting in revenge, even against
23 soldiers -- even when it considers people
24 who were killed. Are you aware of this
25 letter?

1 A. No. This is the first time I am seeing this
2 letter.

3 Q. Let me invite you to meditate on it?

4 A. But before we meditate on it, let us
5 underscore that this is the only party in
6 Rwanda which sees in the terms of Hutus,
7 Tutsis. The other parties, PL, MDR and
8 others, even the MRND, itself, they have
9 Hutus and Tutsis and the problem that they
10 say is, maybe the problem of the war
11 involving the RPF and so on and so forth,
12 the problem of corruption and other
13 problems.

14

15 But the CDR as a political party has this
16 particularity which always deals with the
17 Rwandan issue in terms Hutu-Tutsi as if, in
18 fact, the division of Hutu-Tutsi is still
19 something which is particular, and that is
20 its main weakness as far as I am concerned.

21 Q. Division between Hutus and Tutsis is a
22 historical fact and that no one up until
23 today can deny, and, in order to give you
24 proof thereof, I am going to invite you to
25 read the following: It is the document

1 which deals with the manifesto, the
2 discourse and the manifesto of the CDR.
3 I am looking at the front page Tulimazo, the
4 document which has been already presented
5 earlier, and please read what the Parmehutu
6 says. This is what was written on the 9th
7 of October by Mr. Logiest (ph), who was an
8 administrator in Rwanda. "The Parmehutu
9 does not nourish any intention for racial
10 hatred. The promotion of the Hutu group
11 made servants by the feudal regime has no
12 relationship with hatred or race regarding
13 our brothers. The Bahutu who will unite for
14 the liberation of their brothers are happy
15 about the possibility of collaborating
16 fraternally with the true patriots, Tutsis
17 who are aware of the oppression by the
18 Bahutu even if the Tutsis are in modest
19 conditions".
20 A. That is what you said.
21 Q. I have not finished. There is a statement
22 which was made in Nyanza in 1992 by
23 12 Tutsis and this is in Rwanda politique
24 document and it is done by Nkundabagenzi,
25 Fidel. What are these Tutsis saying? He is

1 referring to history and they are saying,
2 the Bahutu claimed that "Kanyarwanda is our
3 common father linking all the Batutsi,
4 Bahutu and Batwa families. However,
5 Kanyarwanda is the son of Gihanga, Kazi,
6 Mirano, Randa, Kobo, Giza, Kishuru, Kimanuka
7 and Kigwa. Kanyarwanda is the son of all
8 these people, this Kigwa found in the Bahutu
9 of Rwanda. So, notice please. How can we
10 Batutsis not be brothers of the Bahutu
11 through Kanyarwanda our grandfather?

12
13 History shows that Rungazu killed many
14 Bahinza and the others were kings. They
15 killed Bahinza and therefore the Bahutu are
16 the Bahinza. We find the details in the
17 Inganji Kalinga; so how can they claim that
18 they are our brothers. So, this is what is
19 being said by these Tutsis who do not want
20 to be your brothers. I believe you are a
21 Hutu.

22
23 Now let's come closer to our time, and I
24 will read the statement made in Libreville
25 in June 1991.

1 MADAM PRESIDENT:

2 You see what you have been doing. You spent
3 a lot of time reading staff into the record.
4 Put your question to the witness. What is
5 your question on this?

6 BY MR. POGNON:

7 Q. Do you know that Mr. Kagame in June 1991, in
8 an interview, said the following: "Hutus and
9 Tutsis can live together in Rwanda without
10 necessarily being friends. What links them
11 is their common interest, in other words,
12 the country?"

13 A. Yes, I am not denying what he said, but what
14 I am saying is that the document which you
15 gave me on page 19, speaks of the separation
16 of ethnic groups, and it says the following:
17 "Each person must defend his own interest,
18 and it is quite simple. In 1992 with
19 political parties, Rwanda was not
20 preaching -- did not want the separation of
21 ethnic groups, and I am saying the only
22 party -- it was only the CDR, the political
23 party which preached separation of ethnic
24 groups. Whereas the other parties --

25 Q. Mr. Witness -- Mr. Ruzindana, I don't know

1 whether we have as many documents as many
2 sociological references with the present
3 actuality that we are living in or
4 experiencing, you are able to convince the
5 Court. Anywhere, I have another document to
6 produce.

7
8 In your report, you make reference -- you
9 spoke about those barriers -- roadblocks.
10 What I simply wish to do is to ask you
11 whether you were present during the events
12 of the genocide?

13 A. Yes, I was there.

14 Q. Did you -- were you at the roadblocks?

15 A. No. But I was not at the roadblock, I
16 crossed them. Do you mean was I posted or
17 did I cross them?

18 Q. The phenomenon of roadblocks, does that seem
19 to you a normal phenomenon?

20 A. Yes, it depends on what roadblock you are
21 referring to, and it depends also on how
22 they were erected.

23 Q. At that point in time, when roads were being
24 blocked to stop the advance of the enemy and
25 that was something which ostensibly became

1 visible. Were the roadblocks justified?

2 A. I believe that in a period of war, that
3 would be normal. To the contrary, what is
4 not normal is when you stop people and you
5 kill them.

6 Q. One moment. What are the people who were
7 manning the roadblocks?

8 A. What do you mean which people?

9 Q. You were not on the roadblocks, were you?
10 What was the category of people? How were
11 the roadblocks organised?

12 A. I wouldn't be able to answer that.

13 MADAM PRESIDENT:

14 Thank you, Mr. Pognon. We will stop now and
15 when we resume --

16 MR. POGNON:

17 Madam President, as far as the roadblocks
18 are concerned, I have tendered as exhibit
19 the transcripts.

20 MADAM PRESIDENT:

21 You don't have to tender transcripts as
22 exhibits, Mr. Pognon. We have heard the
23 evidence, we all have the transcripts. And
24 if you want to refer to transcripts or other
25 exhibits in support of your defence, the

1 proper stage to do that is when you are
2 addressing the Court. I hope that is clear.
3 That would be the last word from you.

4
5 When we resume at 2:30, Mr. Van, you will
6 have your half hour, and at 3 o'clock, we
7 will begin with the next witness.

8 MR. VAN:

9 Madam President, I am not saying that I am
10 going to only need half an hour, I will
11 restrict myself to your order. Now, the
12 problem of the use of time by the Prosecutor
13 may have provided problems if the Prosecutor
14 had asked to exceed the time allocated. But
15 I have not done so, even in accordance with
16 the scheduling order. If I have to go below
17 45 minutes, I don't think I can say this
18 right now, but I will rigorously adhere to
19 your order -- your scheduling order.
20 Thank you, Madam President, Your Honours.

21 MADAM PRESIDENT:

22 We will see you again at 2:30 here,
23 Dr. Ruzindana.

24 (Court recessed at 1302H)

25 (Pages 85 to 125 by Sithembiso Moyó)

1 (Court resumed at 1435H)

2 MADAM PRESIDENT:

3 Mr. Alphonse Van.

4 MR. VAN:

5 Yes.

6 MADAM PRESIDENT:

7 Now, you know that if you don't want
8 interruptions during your re-examination,
9 then you should observe the practice of only
10 touching on matters that arose under
11 cross-examination. So don't begin to
12 introduce new material or elicit new
13 information. You may continue.

14 MR. VAN:

15 Thank you, Madam President. I am aware of
16 the practice.

17 RE-EXAMINATION

18 BY MR. VAN:

19 Q. Dr. Ruzindana, good afternoon.

20 A. Good afternoon, Counsel.

21 Q. Dr. Ruzindana, during the examination of
22 25th of March 2002, Counsel Ellis mentioned
23 a book written by one Louis Carroll whose
24 title is Through the Looking Glass; do you
25 remember this?

1 A. Yes.

2 Q. She also mentioned an idea expressed by the
3 author which I will rephrase here, "When I
4 use the word it means exactly what it means,
5 neither more nor less". Dr. Ruzindana, do
6 you remember this?

7 A. Yes, I remember that.

8 Q. Counsel Ellis applied in respect of your
9 testimony the thought of Louis Carroll. She
10 said that code words that you have explained
11 to the Court were given a meaning by you
12 which you wanted to give to them and not
13 their real meaning. Do you remember this?

14 A. Yes.

15 Q. And in order to illustrate this,
16 Counsel Ellis distributed a document --
17 excerpt from Kanguka No. 52 of
18 12 February 1992.

19 MR. VAN:

20 Now, I'm going to request Mr. Matemanga to
21 distribute this document to everyone. This
22 document has been labelled 1D84. I would
23 like everyone to have this document before
24 them because I intend to refer to it.
25 Mr. Matemanga, please. I have them here. I

1 have them here.

2 BY MR. VAN:

3 Q. Expert, do you have the document in front of

4 you?

5 A. Yes, Counsel, I have it.

6 Q. Let us go to paragraph 3 which begins by the

7 word "Inyenzi" and which is, in fact, the

8 definition of this word. Have you seen it?

9 A. Yes.

10 Q. Could you read that out; that is, the

11 definition?

12 A. "Inyenzi, a fighter of the militia

13 'ingangurarugo' whose objective is to be the

14 best".

15 Q. Dr. Ruzindana, when Counsel Ellis produced

16 this document, she said that it was

17 Mr. Aloys Ngurumbe who was the creator of

18 the word and that he himself gave the

19 definition of this word. Now, Witness, in

20 this definition, do you see in any way

21 whatsoever, the word "Tutsi"?

22 A. No.

23 Q. In this definition, do you see in any way

24 whatsoever the word "ethnic"?

25 A. No.

1 Q. Since you've analysed this -- I suppose that
2 you have analysed this document that was
3 produced by Counsel Ellis. I would like to
4 ask you whether you know the objectives of
5 the militia that Mr. Aloys Ngurumbe had
6 described as the Inyenzi?

7 A. Yes, that is explained in the following
8 paragraphs. He says that that was a way of
9 setting up a resistance, a militia which
10 would actually eradicate people who did
11 wrongful acts and this is in the paragraph
12 following the definition, and we see well
13 that he's aiming, first and foremost, at
14 Europeans because he said that at that time
15 the Europeans did not want us to get our
16 independence; they wanted to exterminate
17 people.

18 Q. Very well, Dr. Ruzindana. Well, in all that
19 you said, should we understand in any manner
20 whatsoever that the word "Inyenzi" or the
21 objective of this militia at that time was
22 aimed at restoring the monarchy?

23 A. No. This is explained at the end of this
24 paragraph where he says that they were not
25 fighting for the royalty. I think these are

1 the last two sentences of this paragraph.
 2 So, the answer is given here.
 3 Q. Very well. Dr. Ruzindana, could you tell
 4 us: when did Mr. Aloys Ngurumbe give this
 5 interview?
 6 A. He gave an interview in 1992.
 7 Q. Can you tell us in what year the word
 8 "Inyenzi" was coined by Aloys Ngurumbe?
 9 A. In 1961.
 10 Q. So, this word was created in 1961, but in
 11 1992 he discusses it, and this is 32 years
 12 later. Dr. Ruzindana, so, does this fact
 13 inspire any thought on your part?
 14 A. Yes, this means that this word "Inyenzi" had
 15 already been defined initially in 1961 and
 16 this article was published in 1992.
 17 Q. This means that the meaning of this word has
 18 been given by the author.
 19 A. Yes, but this is 1992.
 20 Q. In relation to the context, Dr. Ruzindana,
 21 don't you have any special thought?
 22 A. I tried to give several other definitions of
 23 the word "Inyenzi", and we found that from
 24 1990-1991 this word took another sense --
 25 another meaning; for example, when Professor

1 Nahimana defines this word, he tries to
2 explain this word in an interview in
3 November 1992 on RTLM. He explains that the
4 Inyenzi of 1990 are the same as those
5 in 1961 and that they have the same
6 objectives. And we see that Nahimana was
7 interviewed in November; that is, seven
8 months after the publication of that
9 article. So the person who coined the word
10 "Inyenzi" explains to us that it was not to
11 restore the monarchy, but Professor Nahimana
12 says that their aim was to restore the
13 monarchy.

14
15 So I think there is a question of
16 interpretation which poses a problem because
17 the one who coined the word "Inyenzi" said
18 it was not to restore the monarchy, but the
19 trend in 1991-92 was there. That is to say
20 that the Inyenzi there at that time were the
21 same as those in 1961 and that the objective
22 was still the name; that is, to restore the
23 feudal system.

24 Q. Please be brief, Dr. Ruzindana. Lastly, in
25 1991, 1992, 1993, they started implying the

1 Tutsi, whereas, the person who coined the
2 word did not have their notion of Tutsi. If
3 I remember well Dr. Nahimana's interview, I
4 think it was in 1993. Do you think that I
5 am right?

6 MS. ELLIS:

7 Madam President, with respect.

8 THE WITNESS:

9 You are right; I was wrong. It was actually
10 in November 1993, not in 1992.

11 MADAM PRESIDENT:

12 Yes.

13 MS. ELLIS:

14 I was about to correct the record. With
15 respect, it is not for the Prosecutor in
16 re-examination to lead the witness on
17 matters like that.

18 MADAM PRESIDENT:

19 Dr. Ruzindana, there is no need for you to
20 repeat your entire testimony. If you said
21 it already, you just say, "as I said in
22 evidence already". All right? That way you
23 can be brief.

24

25 THE WITNESS:

1 Yes, Madam President.

2 MR. VAN:

3 Thank you, Madam President.

4 BY MR. VAN:

5 Q. Dr. Ruzindana, in cross-examination of March
6 -- 25th of March, Counsel Ellis, while
7 discussing the definition of "Inyenzi",
8 acknowledged that the meaning of the word
9 had changed, had developed, implying that a
10 word can change in meaning and an example
11 was given of the word "gay", which now means
12 a homosexual. She further explained that if
13 between 1990 and '94 this word became more
14 negative, more wicked, that was because
15 there was a war going on. Do you remember
16 this, Dr. Ruzindana?

17 A. Yes.

18 MS. ELLIS:

19 Again, with respect, it does misstate the
20 evidence. I'm not going into why, but I
21 would like it on the record that is not how
22 I put the question. Thank you.

23 MR. VAN:

24 Madam President, the transcripts are there.

25 Thank you, Madam President.

1 BY MR. VAN:

2 Q. Dr. Ruzindana, at that time, in the context
3 of war, did RPF fighters use words of this
4 kind when describing the Rwandan Armed
5 Forces?

6 A. If you mean words such words as "Inyenzi",
7 to my knowledge, no.

8 Q. Or any insult which would express their
9 state of mind during the war? You used to
10 listen to Radio Muhabura.

11 A. No, I don't know similar words.

12 Q. Thank you, Dr. Ruzindana. Still concerning
13 the word "Inyenzi", Counsel Martel in his
14 cross-examination -- the beginning of his
15 cross-examination, distributed a document an
16 excerpt of Kangura No. 40.

17 MR. VAN:

18 I will request Mr. Matemanga to come. So
19 this is an excerpt from Kangura No. 40,
20 February 1993. Mr. Matemanga, kindly take
21 this document.

22 MS. ELLIS:

23 Whilst the documents are being distributed,
24 did I understand Mr. Van to say that the
25 interview with Aloys Ngurumbe was an exhibit

1 already because I thought it hadn't been
2 exhibited by the Defence, but it certainly,
3 of course, should be now as it's being used
4 by the Prosecutor.

5 MADAM PRESIDENT:

6 He said you had referred to this document.

7 MS. ELLIS:

8 Yes, I hadn't exhibited it, and in the light
9 of the fact it's now being referred to
10 extensively --

11 MADAM PRESIDENT:

12 Yes, he said 1D84.

13 MS. ELLIS:

14 Well, I am grateful for that. I hadn't
15 appreciated it was an exhibit. Thank you.

16 MADAM PRESIDENT:

17 Well, just check whether it's 1D84. That's
18 what he said.

19 MR. VAN:

20 Madam President, this has already been
21 tendered as 1D84.

22 BY MR. VAN:

23 Q. Dr. Ruzindana, do you have the new document
24 before you?

25 A. Yes, I have it.

1 Q. Still within the context of the arguments
2 regarding the word "Inyenzi" when this
3 document was distributed, I will request you
4 to read the first sentence on the first
5 page.

6 A. "Scientists in genetics tell us that
7 marriage between Tutsi exclusively justify
8 their being a minority wherever they are".

9 Q. Doctor, you are a man of science, you are an
10 intellectual, are you aware of genetic
11 scientists who supposedly explained the
12 marriage of Tutsi in this manner.

13 A. No, I don't know about such geneticists.

14 Q. Doctor, so what interpretation do you give
15 to this assertion made in Kangura?

16 A. I think that there is an error on the part
17 of the person who wrote the article. I
18 think the person wants to talk about
19 consanguinity. So, I think, this is a way
20 of denigrating Tutsi because geneticists who
21 studied Tutsi exclusively is something we
22 don't know in Rwanda. I mean, such
23 scientists were supposed to have studied
24 Tutsi marriages, and just explaining their
25 being in a minority is something that I know

1 has never been carried out in Rwanda.

2 Q. Now, Dr. Ruzindana, please move on to the

3 next -- forward. This is page 54, with the

4 registry number, 278, third paragraph,

5 fourth line. I'm going to read it out very

6 briefly. "In our language, the Tutsi is

7 referred to as cancrelats, in brackets,

8 Inyenzi because under the cover of

9 night-time he camouflages himself in order

10 to undertake his action".

11 Dr. Ruzindana, this sentence, it is from

12 Kangura? What thought does this sentence

13 inspire on your part?

14 A. There are two things that one can say

15 regarding this sentence. Firstly, when one

16 checks the Kinyarwanda dictionary, you will

17 not see the word "Tutsi" defined as

18 cancrelats. So this explains the phenomenon

19 I described in March, because there are

20 meanings of words that we do not find in the

21 dictionary, because the dictionaries don't

22 have these meanings. So when they say in

23 our language the Tutsi is referred to as the

24 cockroach, they are talking about

25 Kinyarwanda, although this meaning is not

1 included in the dictionary, but this meaning
2 did exist in the language in '92-'93.

3
4 Secondly, if there was any doubt, such doubt
5 has been removed. I have always said that
6 one of the meanings of the word "Inyenzi"
7 was Tutsi and this what is explained here;
8 that is, the Tutsi is also called cockroach,
9 and that supposed to be said in our
10 language, and it is clearly demonstrated
11 here.

12 Q. And the author continues and said the word
13 "cockroach" reminds us a terrible snake
14 will become -- who has a very poison -- a
15 very dangerous poison. Doctor, Kangura is
16 explaining to us what Kinyarwanda language
17 implies regarding this word. Now, what is
18 your opinion on this sentence?

19 A. I first time saw this sentence in
20 Kinyarwanda I asked colleagues whether in
21 that their region they had a snake that was
22 referred to as "cancrelat", but he said he
23 did not know what a cancrelat is. So, I
24 think it was simply an abuse in order to
25 insult Tutsi. There are no snakes known as

1 Inyenzi in Kinyarwanda. So, this does not
2 exist. Maybe this goes along with the first
3 paragraph we have in the paragraph (sic),
4 that the only reason why a Tutsi is referred
5 to as snake is sufficive -- and explains a
6 lot of things. So this is just a way of
7 demonstrating the wickedness attributed to
8 Tutsi.

9 THE ENGLISH INTERPRETER:

10 Microphone.

11 BY MR. VAN:

12 Q. Now, we are going to move to another word,
13 the word "work". And in this respect I
14 would like to distribute to all Exhibit P105
15 which we have already used, but this was a
16 long time ago.

17 MR. VAN:

18 So, could -- Mr. Matemanga, could you kindly
19 help us.

20 MR. MARTEL:

21 Madam President, to my knowledge, I do not
22 remember any Defence counsel asking a
23 question or questions concerning the word
24 "work" to this witness.

25 MR. VAN:

1 Madam President, Mr. Martel's comment is
2 making us waste -- lose time, because this
3 word was extensively used. In fact, it is
4 at the centre of an argument, and that's why
5 I want us to go back to it. So could I
6 request, Mr. Martel, don't stand up and
7 distract the Court.

8 MADAM PRESIDENT:

9 Just a moment.

10

11 Dr. Ruzindana, if you would look at this
12 Kangura No. 40 again where you refer to the
13 des cancelats in two places, what about the
14 sentence you left out. Can you read that,
15 "ce n'est donc pas"?

16 THE WITNESS:

17 "So it's not by mere chance that the Tutsi
18 decided to be called this".

19 MADAM PRESIDENT:

20 So that -- is that correct, Tutsi call
21 themselves that?

22 THE WITNESS:

23 Yes, one can hope that maybe Kangura was
24 trying to refer to the article written by
25 Ngurumbe, which we referred to a few moments

1 ago because the word "Inyenzi", was as we
2 saw -- initially, it was used by Ngurumbe,
3 but when you say that Tutsi decided to be
4 called that way, it's not true because once
5 again this is a generalisation. It's as if
6 one wanted to say that all Tutsi wanted to
7 be called this, but this is not correct.

8 MR. VAN:

9 Thank you, Madam President.

10 BY MR. VAN:

11 Q. Now, the documents which have just been
12 distributed to you is Exhibit P125A.

13 MR. MARTEL:

14 I do not yet have the document.

15 MR. VAN:

16 But we cannot wait for you. So this is
17 exhibit P105/1A; this is the Kinyarwanda
18 version, B is the English version, and C is
19 the French version. This is a speech
20 delivered by President Sindikubwabo on the
21 9th of April 1994 in Butare.

22 BY MR. VAN:

23 Q. Doctor, do you have the three documents
24 before you?

25 A. Yes, sir.

1 Q. Very well. Now, please look at the French
2 version. On page K687, the last three
3 letters are 687. This is on the fourth
4 paragraph. That is the last but one
5 paragraph on this page in the French
6 version, and I would like to recall that
7 Counsel Ellis had used this document in
8 particular, in relation to the words,
9 "work" and the words "to work".
10 Counsel Pognon also made comments regarding
11 the use of this word. Dr. Ruzindana, have
12 you seen this paragraph?
13 A. Yes, I have.
14 MR. POGNON:
15 I did not make comments on the word "work".
16 I did not make a comment on that word
17 "work". I'm sorry to say so.
18 MR. VAN:
19 I think that maybe Mr. Pognon should listen.
20 MADAM PRESIDENT:
21 The word in Kinyarwanda is "kubohoza", which
22 you covered, Mr. Pognon.
23 MR. POGNON:
24 Yes, that's it. Very well.
25 BY MR. VAN:

1 Q. Dr. Ruzindana, paragraph 4 of the French
2 version, fourth line, which begins by
3 "members of the government". Could you
4 kindly read out this, up to where it ends
5 with the --

6 MR. POGNON:

7 Madam President, with your leave.

8 MADAM PRESIDENT:

9 Yes, Mr. Pognon.

10 MR. POGNON:

11 He said that the word for "to work" was
12 "kubohoza". "Kubohoza" does not mean
13 "work". "Gukora" means "to work", and I did
14 not make comments regarding gukora.

15 MR. VAN:

16 I don't remember using any Kinyarwanda word.
17 I just said I am distributing this document
18 because I want to talk about words "to work"
19 and "work".

20 BY MR. VAN:

21 Q. So, I was saying that the last but one
22 paragraph which begins by "j'arrête" and you
23 go up to the fourth line and start reading
24 where it says "les membres du
25 Government", up to where it says, "pour

1 les Rwandais", seven lines further down
 2 below.

3 A. "The members of the government, the prime
 4 minister who was here present and my aides,
 5 other ministers are my every-day aides.
 6 That's why I told you earlier that
 7 government without a common philosophy has
 8 nothing do with our government, because our
 9 government is a government of the Abatabazi.
 10 We have embarked towards the same objective,
 11 all of us together with the same aim. We
 12 are pursuing the same idea and, that is, we
 13 are heading towards victory and the search
 14 for peace for Rwandans".

15 Q. Now look at English version. This is P105B,
 16 the page ends with 696 and, again, this is
 17 in the last paragraph, which is paragraph 7.
 18 Have you seen it, Dr. Ruzindana, the last
 19 but one paragraph, towards the bottom of the
 20 page, third line. Could you kindly read
 21 this paragraph up to the end of it?

22 A. "I closely work with the prime minister here
 23 present. I work with ministers all the
 24 time. This is what was I was referring to a
 25 few moments ago when I said that our

1 government has nothing to do with that
2 government characterised by intrigues. Ours
3 is a government saviours. We work together
4 and have a common objective; namely, to win
5 and to restore peace to Rwandans".

6 Q. So, Dr. Ruzindana, I'm using this document
7 because during her cross-examination
8 Counsel Ellis read out this paragraph --
9 read out the English version of that
10 paragraph, and said that the president was
11 working with his aides and officials and
12 that there was nothing wrong in that. But
13 in the French version we do not see anywhere
14 the words "to work" -- that is, "travailler"
15 -- or the word "work"; that is, "travail",
16 and that is what Counsel Pognon had referred
17 to, and this is what I'm saying. I did not
18 mean to say he made comments during his
19 cross-examination, but he raised this point.
20

21 So, Dr. Ruzindana, if you look at the
22 original Kinyarwanda version, you will find
23 that it tells exactly what was said by
24 President Sindikubwabo on that particular
25 day, in this paragraph.

1 MS. ELLIS:

2 What page, please?

3 MR. VAN:

4 I'm going to seek the advice of the expert
5 here because the page in Kinyarwanda is
6 something that I cannot give you
7 immediately, but since Dr. Ruzindana has had
8 this document since the very first time he
9 same here, maybe I can ask him if he has
10 seen where we are.

11 THE WITNESS:

12 Yes, this is on page 6 of the Kinyarwanda
13 document, K013, and ends with 68, the last
14 but one paragraph.

15 BY MR. VAN:

16 Q. So maybe you could read it out and the
17 interpreters could translate it.

18 A. It begins by what word?

19 Q. I think this is the third paragraph from the
20 top and in Kinyarwanda it begins with "est
21 les membres du Government". This phrase is
22 in French; "les membres du government". So,
23 could you kindly, Dr. Ruzindana, proceed
24 with the translation.

25 A. "Members of the government, the prime

1 minister who is here present, we all work
 2 together at all times. We work with
 3 ministers every time, at all times. What I
 4 was telling you earlier when I said that
 5 this government of intrigues has nothing to
 6 do with our government, our government is a
 7 government of saviours. We have moved
 8 forward together at the same time pursuing
 9 the same objectives and our objective is to
 10 win and to seek peace for Rwandans".
 11 Q. Have you finished, Dr. Ruzindana?
 12 A. Apparently the English version is more
 13 faithful to the original than the French
 14 version.
 15 Q. Counsel Ellis had said that if the president
 16 said he is working with his ministers and
 17 his officials, there is nothing wrong with
 18 that because that is normal.
 19
 20 Dr. Ruzindana, what interpretation do you
 21 give to this word, "travailler", that is,
 22 when they say "we are working together", in
 23 context in this paragraph?
 24
 25 MS. ELLIS:

1 I apologise for interrupting, but I heard
 2 the direct translation from Kinyarwanda into
 3 English to be not that "we work together",
 4 but "we move forward together". That was
 5 the translation that I heard from the booth
 6 and if that's right, then there's an error
 7 in the English translation that we have been
 8 given, and that should be corrected.
 9 Mr. Van should not proceed as if the
 10 translation is different from the one that's
 11 just been given in court, with respect.

12 MADAM PRESIDENT:

13 Dr. Ruzindana, what's the word for "work" in
 14 this Kinyarwanda text that you just read
 15 out?

16 THE WITNESS:

17 It is within a sentence, "turakorana", which
 18 actually means "we are working together".

19 MADAM PRESIDENT:

20 Does that come from the booth? Now I am
 21 addressing myself to the booth. Give us the
 22 translation for "turakorana".

23 THE ENGLISH INTERPRETER:

24 The translation should be "we are working
 25 together."

1 MADAM PRESIDENT:

2 All right. You have already explained what
3 work means in your evidence-in-chief,
4 haven't you?

5 THE WITNESS:

6 Yes, that is it, Madam President.

7 MADAM PRESIDENT:

8 And do you adhere to that, or do you want to
9 change your position?

10 THE WITNESS:

11 I said that in this speech the word "kora"
12 is a coded word, like in all speeches which
13 could be interpreted in several ways,
14 including "to kill".

15 MADAM PRESIDENT:

16 You have five minutes, Mr. Van.

17 THE WITNESS:

18 Maybe I could add another thing because you
19 have put the question to me. This speech,
20 according to Mr. Sylvan Nsabimana who is one
21 of the Accused in the Butare trial -- he was
22 a Butare préfet. He was interviewed
23 in 1996, and I think the transcript is here.
24 And he said that this speech was coded and
25 that it was difficult to understand. And

1 he said that only Rwandans can understand
2 this speech. This is what he said in that
3 interview. So I think the video does exist
4 here.

5 BY MR. VAN:

6 Q. Very well, Dr. Ruzindana. The next question
7 concerns the CDR. This morning,
8 Counsel Pogon produced the statutes of the
9 CDR and read out article 5 which shows no
10 conditionality regarding ethnicity is
11 required when one wants to become a member
12 of CDR.

13
14 Now, Doctor, I would like to know -- now
15 according to the constitution of 10th of the
16 June 1991, authorising a multiparty system
17 in Rwanda, does that constitution accept the
18 formation of political parties which refers
19 to ethnic groups?

20 A. No.

21 Q. So, if I understand you well, the statute --
22 or the constitution of the CDR complies with
23 the constitution.

24 A. Yes.

25 Q. So, what the CDR did when they were

1 reproached, when they were blamed for
2 violence and security and of Hutuism, how do
3 you interpret this in relation to the
4 constitution?

5 A. It should not be forgotten that what is on
6 the page is not always what is on the
7 ground. Those who were in Rwanda sowed
8 political demonstrations and events -- you
9 know very well that CDR on the ground has
10 nothing to do with the CDR which is on the
11 written constitution. The CDR on the ground
12 was violent. If you talk to Rwandans today,
13 they'll tell that you CDR represented pure
14 Hutuism.

15 Q. Last question, Madam President.

16 BY MR. VAN:

17 Q. Dr. Ruzindana, we are now going to refer to
18 the second document produced by Counsel
19 Pognon, 2D35. This is from a book by Jean
20 Bosco Barayagwiza, *Le Sang des Hutu il n'est*
21 *il Rouge*. Please look at page 95. You say
22 that -- it is said 1995 -- "Beginning
23 in 1995 the establishment of Radio Muhabura,
24 the spearhead of the Tutsi and RPF
25 propaganda". Do you have that before you,

1 Dr. Ruzindana?

2 A. Yes, I do, Prosecution Counsel.

3 Q. Now, when one reads this paragraph one has
4 the impression that Mr. Barayagwiza is
5 actually reshaping the statute of Radio
6 Muhabura by saying that it's an RPF-Tutsi
7 propaganda spearhead. But, Dr. Ruzindana,
8 you, who used to listen to Radio Muhabura,
9 in spite of the bad reception quality, did
10 you at any point hear journalists say that
11 Radio Muhabura is the spearhead of Tutsi
12 propaganda?

13 A. No, never.

14 Q. And in the letter that CDR wrote to RPF,
15 which was quoted by Counsel Pognon this
16 morning -- which was read out by him this
17 morning, two words struck me: RPF is
18 described as being actually made up of the
19 Tutsi population, and the CDR is head up of
20 the majority masses. Dr. Ruzindana, do you
21 remember this more specifically, more
22 precisely, and this is an official letter?

23 MR. POGNON:

24 Objection.

25 THE WITNESS:

1 Unfortunately, I do not have the document in
2 front of me.

3 BY MR. VAN:

4 Q. I don't have the document either, but
5 Counsel Pognon had read it out.

6 MR. POGNON:

7 Madam President.

8 MADAM PRESIDENT:

9 Mr. Pognon.

10 MR. POGNON:

11 Madam President, the Prosecutor should say
12 what was said, because what I had said in
13 the document -- I said a wide section of the
14 Tutsi population was for the RPF and I said
15 a wide section of the Hutu population was
16 for CDR, and this is what is contained in
17 the document.

18 MR. VAN:

19 In fact, that is even better. Thank you,
20 Mr. Pognon.

21 BY MR. VAN:

22 Q. Dr. Ruzindana, the RPF, did it -- as
23 officially explained, did it represent a
24 large section of the Tutsi population?

25 A. I think there's an ambiguity in the manner

1 in which you -- or, rather, the letter that
 2 we saw this morning presents this problem.
 3 When one talks about a wide section of the
 4 Tutsi population, one has the impression
 5 that there is talk here of the Rwandan Tutsi
 6 population, and this is false, because what
 7 I know, the bigger part of the Tutsi
 8 population was not a member of the RPF. So,
 9 the way in which this is presented in this
 10 letter is erroneous.

11 Q. What about the CDR which says that a wide
 12 section of the Hutu population; is this
 13 correct?

14 A. Once again, this too is false because there
 15 were many people who were members of the
 16 parties, such as PL, MDR -- in fact, there
 17 were many -- who did not belong to the CDR,
 18 so one cannot say that a wide section of the
 19 Hutu belonged to the CDR.

20 MR. POGNON:

21 Madam President.

22 MADAM PRESIDENT:

23 Yes, Mr. Pognon.

24

25 MR. POGNON:

1 Madam President, the document says the wide
2 section of the Rwandan population. I would
3 like Mr. Van to read what is written in
4 here. It talks about the Rwandan
5 population.

6 MADAM PRESIDENT:

7 Yes, we note your comment.

8

9 Yes, Mr. Martel. Why are you standing up?

10 MR. MARTEL:

11 Very briefly, Madam President, I re-read the
12 transcript of the cross-examination of
13 28th of March 2002. On two occasions in the
14 French version on page 20 and page 68,
15 regarding the front page, the witness was
16 asked to give a definition, but up to now
17 I've not received anything. Could you
18 please tell the witness to give this to
19 Mr. Van who, in turn, will give it to me.

20

21 Now, for the record I would like to assert
22 that when the witness spoke to me yesterday,
23 for the -- today for the first time, he
24 answered only in English. His answers were
25 in English only.

1 MADAM PRESIDENT:

2 And -- so, he's bilingual, Mr. Martel.

3

4 All right. I don't want any further comment
5 from you. We have finished -- I said I want
6 no more comment from you.

7

8 Judge Møse has a question.

9 JUDGE MØSE:

10 Dr. Ruzindana, do you know the expression
11 "the graves are not yet full"?

12 THE WITNESS:

13 I'm sorry; I had some trouble with the
14 channels.

15 JUDGE MØSE:

16 Have you heard the expression, "the graves
17 are not yet full"?

18 THE WITNESS:

19 It means they haven't killed enough people
20 to fill the graves.

21 JUDGE MØSE:

22 Where does that that expression come from?

23 THE WITNESS:

24 If my memory is correct, that appeared in a
25 cartoon in Kanguka in 1992.

1 JUDGE MØSE:

2 In 1992.

3 THE WITNESS:

4 Yes.

5 JUDGE MØSE:

6 Thank you.

7 MADAM PRESIDENT:

8 Dr. Ruzindana, we have come to the end of
9 your testimony. And the Chamber thanks you
10 for providing this testimony, and you are
11 now excused.

12 THE WITNESS:

13 Okay. Thank you.

14 (Witness withdrew)

15 MADAM PRESIDENT:

16 Mr. Matemanga, you can bring in the next
17 witness.

18

19 We are still in Court. Does somebody want
20 to share the joke?

21

22 Mr. Floyd, you are waiting for the witness,
23 aren't you?

24

25 MR. FLOYD:

1 I'll start without him, if it's okay.

2 MADAM PRESIDENT:

3 I thought you wanted to address us about
4 something.

5 MR. FLOYD:

6 No, we are just ready to go.

7 MADAM PRESIDENT:

8 Good afternoon, Dr. Kabanda. I remind you
9 that you have taken a sworn declaration and
10 you are still obliged to speak the truth.
11 You will now be cross-examined by counsel,
12 Mr. Floyd.

13

14 Mr. Floyd.

15

16 And remember to allow the pauses between
17 question and answer.

18 MR. FLOYD:

19 Good afternoon, Dr. Kabanda.

20 THE WITNESS:

21 Good afternoon, Madam President. Good
22 afternoon, Counsel Floyd.

23

24

25

1 DR. KABANDA

2 CROSS-EXAMINATION

3 BY MR. FLOYD:

4 Q. Now, so that we can save time -- because we
5 don't have much time; we have got a lot of
6 area to cover -- let's start off with a
7 couple of understandings. Now, you
8 understand that I believe that and the Ngeze
9 Defence believe that you are a biased
10 witness. You understand that, don't you?

11 A. Yes, I understand what you are telling me;
12 however, I do not understand why you are
13 telling me so.

14 Q. Because I want to have a clear understanding
15 so that you and I don't have any
16 misunderstandings today and tomorrow. Now
17 you understand that I think you don't know
18 what you are talking about. I mean, you
19 understand that, don't you?

20 MS. KAGWI:

21 Your Honour.

22 MADAM PRESIDENT:

23 Yes.

24 MS. KAGWI:

25 This line of question shouldn't --

1 MR. FLOYD:

2 Your Honour, will you ask her to sit down?
3 You've given us a limited amount of time. I
4 am trying to speed the process and I am
5 trying to set the parameters and this is
6 clearly -- I have a right -- this is
7 demeanour questions. I have a right to set
8 the tone, and I'm setting the tone right now
9 for the cross-examination and have every
10 right. And would Your Honour ask
11 Madam Prosecutor to sit down, please?

12 MADAM PRESIDENT:

13 Mr. Floyd, your question to the witness is:
14 does he understand what you are thinking?

15 MR. FLOYD:

16 Right, right. I want him to be clear where
17 I am coming from.

18 MADAM PRESIDENT:

19 How does he know what you are thinking?

20 MR. FLOYD:

21 Well, I'm asking him --

22 MADAM PRESIDENT:

23 Tell him what you are thinking and then ask
24 for his comment.

25

1 BY MR. FLOYD:

2 Q. We think you don't know what you are talking
3 about; do you understand that?

4 MADAM PRESIDENT:

5 You don't have to answer that question.

6 Move on to the next question.

7 BY MR. FLOYD:

8 Q. Will you get out Kangura No. 60; it's P115?

9 MADAM PRESIDENT:

10 Mr. Floyd, have you given us a note of
11 documents that you will be referring to
12 because that --

13 MR. FLOYD:

14 My trusty staff has everything and it was
15 certainly given to the Prosecutor.
16 Apparently it's -- Mr. Matemanga, we need
17 him. We have it all piled up here and,
18 frankly, I thought it had been handed out.

19 THE ENGLISH INTERPRETER:

20 Madam President, could counsel confirm
21 whether it is 60, six-zero, or 16, one-six?

22 MR. FLOYD:

23 Yes, 60; that's what it appears.

24 BY MR. FLOYD:

25 Q. Do you have it in front of you, Dr. Kabanda?

1 A. Counsel Floyd, I have the document before
 2 me. But since we are dealing with
 3 documents, I would like to say that when I
 4 was here in the month of May you had asked
 5 me whether I'd found Kangura No. 24, and I
 6 had promised to bring it with me. Since I
 7 have it with me here, could you actually
 8 give it out? And I'm talking about Kangura
 9 issue No. 24, and I said that it had the
 10 same contents as Kangura No. 25. I have the
 11 two copies. Sorry for losing your time, but
 12 this was a question that you put to me.

13 Q. We'd certainly like to see it.

14 MR. FLOYD:

15 Could someone, please, distribute these
 16 documents.

17 MADAM PRESIDENT:

18 Mr. Matemanga, will you take that from the
 19 witness.

20
 21 Mr. Floyd, maybe you can now proceed with
 22 your questions on No. 60.

23 BY MR. FLOYD:

24 Q. I'm going to ask that you look at the bottom
 25 of the page and I'm going to ask that you

1 read. We're going to read two passages, and
2 then we are not going to do a whole lot of
3 reading this afternoon. But I want you
4 to -- see down at the bottom where it says,
5 "Uko Byagenze Rero"; it's K0037390. Do you
6 see that? No, that's not it.

7
8 To save time, I am going to ask
9 Mr. Matemanga to hand you this, and it is
10 circled what we want you to read, and we
11 would like you to read.

12 MADAM PRESIDENT:

13 We need to follow. Where are you looking
14 at?

15 MR. FLOYD:

16 It's at K0037090; it's Kinyarwanda; it's
17 Kangura No. 60; it's page 6.

18 MADAM PRESIDENT:

19 You have read it, Dr. Kabanda?

20 THE WITNESS:

21 Yes.

22 MADAM PRESIDENT:

23 Question, Mr. Floyd?

24 MR. FLOYD:

25 He has not read it. This is where we were

1 getting started the last time. I'm picking
2 up. I'm trying to just finish this point,
3 and I ask that it be read.

4 MADAM PRESIDENT:

5 Did you ask him to read it aloud?

6 BY MR. FLOYD:

7 Q. Yes, would you read it aloud so it could be
8 translated?

9 MR. FLOYD:

10 And, Your Honour, we're sorry, and one of
11 the reasons this takes so much time is, as
12 the Court knows, we couldn't get things
13 translated and we have never had a
14 translator so we have to proceed this way.
15 And since the issue is Kangura, this is
16 something out of Kangura.

17 BY MR. FLOYD:

18 Q. Will you start reading, Dr. Kabanda?

19 A. "So, this is what happened. God has given
20 us the gift of knowing the future. We do
21 not use this gift only for our benefit
22 because when we know what will happen in the
23 future, we will announce them to you so that
24 you are aware of that. And we are doing
25 this within the context of our work. Up to

1 the present, we have predicted 89 events and
2 we have predicted these events and then
3 subsequently these events came to pass. And
4 this led to the accomplices, or incompetent
5 people who are part of our administration,
6 always throw me in prison.

7
8 "Indeed, up to this day, I have been
9 imprisoned on 20 occasions in prisons and 36
10 times at brigade detention cells. Since the
11 outbreak of the war in 1990, 241 telegrams
12 were drawn up, either by the Office of the
13 Prosecutor or by the general staff; however,
14 the most important are the following. After
15 Habyarimana was killed by the enemies, I
16 almost lost my life because in December 1993
17 I had written in issue 53 of Kangura that
18 Habyarimana was going to die at the end of
19 the month of March or at the beginning of
20 the month of April.

21
22 "For us, this was not surprising at all
23 because this was not the first event that we
24 had predicted was going to happen and which
25 actually happened. After the death of

1 Habyarimana, we were called accomplices. It
 2 was said, 'Why did we announce the time of
 3 his death?, and that the timing actually
 4 matched our prediction'. There were many
 5 telegrams that were sent and these telegrams
 6 said that I had to be killed, and that my
 7 gift of prophecy had a lot of things. Now,
 8 should someone really be a victim of the
 9 incompetency on the part of the authorities
 10 who are short-sighted? Rather, I should be
 11 awarded because I published information of
 12 which I have knowledge. I should be
 13 condemned in the event that I do not publish
 14 such information. Rwandans are lucky to
 15 have a prophet who provides his services
 16 free of charge".

17 Q. Now --

18 MADAM PRESIDENT:

19 Mr. Floyd.

20 MR. FLOYD:

21 Yes.

22 MADAM PRESIDENT:

23 I didn't want to interrupt, but this whole
 24 page has been read into the transcript.

25 Both of us have a note and, of course, we

1 remember the transcript. So, if you could
2 ask your --

3 MR. FLOYD:

4 It seems to me that's where we were, and I'm
5 starting where --

6 MADAM PRESIDENT:

7 Just ask your assistant to look out for
8 previous transcripts that have already been
9 interpreted in the courtroom, and it will
10 quicken the process. Go ahead now.

11 MR. FLOYD:

12 Yes.

13 BY MR. FLOYD:

14 Q. Now, one of the things that disturbs us,
15 Dr. Kabanda, about you is that you say
16 things and don't have a clue about what you
17 are talking about. You have already
18 admitted that you don't have any newspaper
19 experience and you don't know how to run one
20 or how they are financed or anything that
21 goes into making a newspaper. I am going to
22 give you some information and I'm going to
23 ask you a question.

24

25 Now, Mr. Hassan Ngeze is probably one of the

1 premier investigative reporters of probably
 2 the last 50 years. Are you aware that
 3 Mr. Ngeze was in the Untied States in 1989
 4 with a man by the name of Mr. Barahinyura --
 5 am I pronouncing it correctly? Do you know
 6 Mr. Barahinyura, the spokesman -- the former
 7 spokesman for the RPF; do you know that, do
 8 you know him?

9 A. I didn't know that Mr. Ngeze had been to the
 10 United States, but I do believe that the
 11 name which you are trying to mention -- I am
 12 wondering whether I understood it. Was that
 13 Barahinyura?

14 Q. Yes, Barahinyura, you know him to be the
 15 former spokesman for the RPF, correct? Is
 16 that correct?

17 A. Yes. I believe that it was at the beginning
 18 of the war in 1990 that Mr. Barahinyura was,
 19 indeed, the RPF spokesman, yes.

20 Q. Are you aware that at a certain point
 21 Mr. Barahinyura started and later on
 22 published many or several articles in
 23 Kangura, are you aware of that?

24 A. Yes, I am well aware of the articles
 25 published by Mr. Barahinyura in Kangura --

1 Kangura issues No. 31, 32, articles in which
2 he does, indeed, promote ideas which are
3 basically those of the CDR party.

4 Q. Now, are you also aware that
5 Mr. Hassan Ngeze worked for and with Kanguka
6 in 1989; are you aware of that?

7 A. I'm very well aware of that because we have
8 spoken about this when I was here in May.

9 Q. Are you aware that Mr. Hassan Ngeze and
10 Ravi, the publisher-editor of Kanguka, were
11 very good friends, certainly in 1989; are
12 you aware of that?

13 A. I'm aware that they worked together. Now,
14 as for them being friends, as you call them,
15 I'm not aware of that. Maybe they were
16 colleagues, but colleagues are not
17 necessarily friends. Everything depends on
18 what you mean by friends.

19 Q. Are you aware that in 1989 Ravi, Barahinyura
20 and Hassan Ngeze were all together in the
21 United States; are you aware of that?

22 A. I've told already that I didn't know that
23 Mr. Ngeze was in the United States in 1989.

24 Q. Mr. Ngeze learned from Mr. Barahinyura that
25 the RPF -- Tutsi-led RPF were planning an

1 attack on the territory of Rwanda in 1989;

2 are you aware of that?

3 A. I know that in issue No. 3 of Kangura of

4 June 1990, Kangura speaks of the attack.

5 Now, whether this was information from

6 Mr. Barahinyura is not said in that article.

7 Q. Now, let me ask you a question because you

8 are really getting to the point. What do

9 you think truly would have happened to

10 Mr. Ngeze in 1990-Rwanda if Mr. Ngeze had

11 said that he had a close source in the RPF

12 and that was the source of his information?

13 What do you think would what have happened

14 under the Habyarimana regime in 1990 if he

15 had revealed in No. 3, "Listen, the Tutsi

16 are getting ready to attack Rwanda and my

17 source is a spokesman of the RPF"? What do

18 you think would have happened?

19 MS. KAGWI:

20 That question calls for speculation.

21 MR. FLOYD:

22 Your Honour, this man is supposed to be an

23 expert on journalism and newspapers, and I

24 am asking what he thinks would have

25 happened.

1 MADAM PRESIDENT:

2 In which year?

3 MR. FLOYD:

4 In 1990 when he published it in No. 3; he's
5 right; in June of 1990. Prior to the RPF
6 attacks in October, Mr. Ngeze put something
7 in the newspaper about the Tutsi-led RPF
8 were getting ready to attack Rwandan.

9 BY MR. FLOYD:

10 Q. My question is: if he had at that point
11 revealed his source for being the spokesman
12 for the RPF, what you do you think would
13 have happened to Mr. Ngeze inside
14 Mr. Habyarimana's Rwanda at that point.
15 (Pages 126 to 171 by Verna Butler)

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1 1545H

2 THE WITNESS:

3 Yes, I'm saying that when Ngeze was writing
4 this in June 1990, he doesn't mention what
5 his source is, and asked what would happened
6 to him, it would mean that this would be
7 speculation. In fact, what happened to him,
8 after he wrote this article, he found
9 himself in prison.

10 BY MR. FLOYD:

11 Q. Yeah, but isn't it true that somebody,
12 particularly later on, if they had known
13 that they had -- and were communicating with
14 the RPF, directly with the RPF, as Mr. Ngeze
15 was, do you think that Mr. Ngeze's life
16 would have been in danger just not going to
17 jail but being killed because he had
18 communication with the RPF?

19 A. Nothing enables me to confirm neither what
20 contacts he had or what he risked or whether
21 he risked more than what he actually
22 underwent.

23 Q. I'm saying, do you know that it was --
24 particularly after October -- it was against
25 the law for you to be a member of the RPF or

1 even be conceived of being a member or
2 sympathiser inside Rwanda. Now, you do know
3 that much, right?

4 A. I think that one can't speak of a law
5 because there was no law as far as I know in
6 Rwanda inhibiting people belonging to the
7 RPF; therefore, I cannot say that there was
8 a law. There were practices, there were
9 customs, there was pressure on people who
10 were suspected of being in complicity with
11 the RPF, but there was no law as such.

12 Q. You know what bothers me is that you seem
13 not to even understand the (sic) own Rwandan
14 history. Isn't it true that Rwanda was a
15 one-party state in 1990? This was before
16 multipartism and it was against the law to
17 be a member of a multiparty; now, isn't that
18 the fact?

19 A. Yes, yes, it was a single party. That's
20 true. But to say that "I had information"
21 does not mean "that I belong to" -- and I
22 repeat, I don't know of any law prohibiting
23 membership to the RPF.

24 Q. Are you saying that you don't understand
25 that when there was a one-party state in

1 Rwanda, prior to multipartism, that it was
2 against the law for citizens to belong to
3 another party; is that what you are saying?

4 MADAM PRESIDENT:

5 We heard him say twice that there is no law
6 prohibiting. There might be practice and
7 pressure.

8 BY MR. FLOYD:

9 Q. Isn't it true, if you knew or understand
10 whatever you understand about media, that a
11 reporter has a right to protect his source?

12 A. If I understood your question all right,
13 rather this is information you are providing
14 me with. I didn't know -- personally, I
15 didn't know that Mr. Ngeze had had this
16 information from Mr. Barahinyura; I didn't
17 know that.

18 Q. And you also didn't know, and we went over
19 this, that he knew that they were going to
20 assassinate Habyarimana because he had a
21 source in Colonel Lizinde. You didn't know
22 that either, did you?

23 A. I heard this mentioned, but I also heard it
24 mentioned that in fact it was Lizinde who
25 apparently gave him that piece of

1 information. As far as I am concerned,
 2 these are things which I heard said. I
 3 don't have any evidence thereof.

4 Q. Now, do you believe in freedom of the press?

5 A. Yes, I believe in it.

6 Q. Do you think that Rwandans are somehow less
 7 human beings (sic) that other citizens of
 8 the world?

9 A. You have already asked me that question,
 10 Counsel, and I told you that since I am a
 11 Rwandan myself I do not believe that
 12 Rwandans are second-class citizens. I don't
 13 think that there's any people on this earth
 14 who are second-class citizens.

15 Q. But you come to this court and tried to
 16 criticize Mr. Ngeze and single out his
 17 newspaper, Kangura, for telling the truth
 18 and operating as an investigative reporter.
 19 Now, isn't that true?

20 A. I read Kangura and it's what's written
 21 therein that I am criticising. Now, if you
 22 wish, this kind of newspaper, which informs,
 23 which claims to provide information, and
 24 which itself claims in what you have just
 25 made me read, he doesn't call himself a

1 journalist. He says he is
2 "umuraguzi" (phonetic). Now, "umuraguzi" in
3 Kinyarwanda is not a journalist, it's not a
4 prophet, it's almost a witch doctor, and
5 that is how he is defining himself.

6 Q. Are you aware that Mr. Ngeze and his family
7 were tortured by the Habyarimana regime for
8 the things that he wrote in Kangura. Are
9 you aware of that?

10 A. I know from the Kangura newspaper -- at
11 least what I have been able to verify on
12 that newspaper -- that he was in prison
13 twice. It's only twice that I was able to
14 verify. Now, it's not only in this article
15 but in other articles too. He affirms
16 having been in prison 20 times, two-zero,
17 and being 36 times in brigade cells. Yes,
18 he does say that, but twice I confirmed that
19 he had been in prison in reference to his
20 articles.

21 Q. Now, I want -- and we're going to stay right
22 on this point, but I would like for you to
23 read what's been marked as -- it's 29 in the
24 bundle. It's Kangura No. 17, 1991, it's
25 page 16. And I'd like for you to go down to

1 the bottom.

2 THE ENGLISH INTERPRETER:

3 Microphone to counsel.

4 MR. FLOYD:

5 No. 17 page 16, KA021354. If it will save
6 time, we have an extra copy of this page.

7 THE ENGLISH INTERPRETER:

8 Could counsel please repeat the reference
9 for the benefit of the booth.

10 MR. FLOYD:

11 It's Kangura No. 17, one-seven, it's
12 page 16, it's KA021354.

13 BY MR. FLOYD:

14 Q. Would you read at the bottom of the page
15 that -- reading that "byarababaje".

16 A. "It's sad. There is an authority which has
17 ordered that the director of Kangura be
18 sought -- the editor-in-chief of Kangura be
19 sought wherever he may be. Those who are
20 responsible for arresting those who are
21 being sought have realised that they could
22 not arrest Ngeze in time. They turned on
23 Hassan Ngeze's family, they took all of its
24 members to the brigade, and all the Kangura
25 vehicles have been seized. It is this kind

1 of terrorism which is one of the causes
2 which explains why Kangura could not be
3 published in time -- or on time. These are
4 the names of the individuals who were placed
5 in prison for the simple reason that they
6 were members of Ngeze's family, who is
7 speaking for the majority people.

8
9 "The first is Juma Habimana, who was placed
10 in custody at the Nyamirambo brigade. The
11 second person is Issa Ngeze in custody at
12 the Nyamirambo brigade because it was said
13 that he was the brother of the
14 editor-in-chief of Kangura.

15
16 "This is the list of the vehicles seized: a
17 Peugeot vehicle, 504, number plate, JP2493;
18 a Toyota pickup, number plate, GB2453.

19
20 "I'm taking this opportunity to thank the
21 prosecutor general of the court of appeal,
22 activist Mukama. And the editor-in-chief
23 for Kangura was innocent".

24 Q. Now, what -- the things you've said about
25 Mr. Ngeze and Mr. Ngeze's publication and

1 the connections that you've tried to draw,
2 do you understand how much -- not only has
3 Mr. Ngeze been arrested for being a
4 journalist and publishing Kangura, but his
5 family has been arrested, he's been
6 tortured. Now, you're Rwandan. Mr. Ngeze
7 was at some point locked up with his mother
8 and placed in a cell, just the two of them
9 together, for three days. As a Rwandan,
10 what do you think, even psychologically,
11 that did to Mr. Ngeze and his mother, being
12 locked up for three days in a cell, and the
13 rest of his family, constantly?

14 MADAM PRESIDENT:

15 Why didn't you tell him? He might agree.
16 Just tell him what the psychological --

17 BY MR. FLOYD:

18 Q. Well, don't you agree that anybody who has
19 withstood this kind of torture is someone
20 who must have an abiding faith in freedom of
21 the press and democracy?

22 A. First of all, in this article, at least in
23 the one you've just made me read, there is
24 no mention of the fact that Mr. Ngeze was
25 arrested at that time. It is simply stated

1 that since they couldn't arrest him, they
2 arrested members of his family. And I don't
3 approve of that.

4
5 Secondly, for what reason? At that point in
6 time, one needs to establish the context and
7 the reasons why he was arrested. As far as
8 I know, at that time what Mr. Ngeze is
9 accused of and which could have probably
10 been at the origin of the seizure of No. 15
11 of Kangura, because we know that this issue
12 was seized and not sold -- confiscated and
13 not sold, what is causing Ngeze all these
14 troubles is that these were articles which
15 are written not on Rwanda but on Burundi and
16 that Burundi threatened to close the borders
17 with Rwanda. And it is in reaction -- it's
18 because the government in Kigali wanted to
19 repair its relationships with its neighbour,
20 Burundi, that Mr. Ngeze had problems, and
21 his newspaper was seized, and then he was
22 sought.

23
24 Now my last point is this. Imprisonment of
25 Mr. Ngeze, because this would be apparently

1 the second -- it is the second I have
2 managed to check out. Do you know that,
3 historically, Mr. Julius Streicher was in
4 prison between 1940 and --
5 Q. (Speaking over the microphone). We know
6 that you come in here as a propagandist and
7 we don't want to hear it.

8 MS. KAGWI:

9 Your Honour.

10 MADAM PRESIDENT:

11 You know what happens when two people speak
12 together.

13 MR. FLOYD:

14 Yeah, well, I asked her to sit down. It's
15 my turn.

16 MADAM PRESIDENT:

17 It means we don't receive your words either,
18 Mr. Floyd.

19 MR. FLOYD:

20 We know that this man is a propaganda (sic).
21 Nobody asked him anything about Nazi
22 Germany, but he's trying to come in here
23 with his fascist self.

24 MADAM PRESIDENT:

25 Those are reprehensible remarks. Would you

1 control this passion that you are going
2 through. Mr. Floyd, is it the Defence case
3 that Mr. Ngeze was tortured?

4 MR. FLOYD:

5 Oh, he was tortured, but his family -- we
6 wanted to talk about what they did with his
7 family, yes. That's the point that we're
8 making.

9 MADAM PRESIDENT:

10 Would you put this to the witness that
11 Mr. Ngeze suffered torture. So just for my
12 own interest I'm asking you if that is the
13 Defence case.

14 MR. FLOYD:

15 That is the point with this article -- is to
16 show not only did they go after Mr. Ngeze,
17 they went after Mr. Ngeze's family for what
18 he published in Kangura, none of whom worked
19 or supported or worked for Kangura. That's
20 the point.

21 MADAM PRESIDENT:

22 All right. Now, the witness was busy
23 explaining what he knows about this arrest,
24 but you feel the answer he has given you is
25 sufficient.

1 MR. FLOYD:

2 Yes, we can stop with that.

3 MADAM PRESIDENT:

4 All right. Next question.

5 MR. FLOYD:

6 Thank you, Your Honour.

7 THE ENGLISH INTERPRETER:

8 Microphone for counsel. Please start over.

9 BY MR. FLOYD:

10 Q. Will you go to page -- 23, October 1991,
11 it's KA021468.

12 A. Please, could you repeat the number and the
13 page for me?

14 Q. It's page number -- page 11, it's Kangura
15 No. 23, October. There's a photograph up in
16 the corner, or cartoon photograph. Page 11,
17 No. 23, October 1991, KA021468.

18 A. Yes, I'm with you now.

19 Q. Now, you see the cartoon, because the only
20 thing we're going to deal with is the
21 cartoon, what's in the -- well, it's not a
22 bubble, it's in the little square that's
23 below there. Will you please read what's in
24 the square?

25 A. "We of the PL, we like the RPF. We are

1 together, as well as with all the Tutsis.
 2 If we wanted to, the war would come to an
 3 end; accept that fact. One cannot do
 4 otherwise".
 5 Q. Do you recognise the picture of the person
 6 portrayed here?
 7 A. In the photograph?
 8 Q. Yes, in the photo.
 9 A. The photograph of a person who is bound up
 10 by a snake? Do you want the --
 11 Q. Do you know who it was? I'm just asking
 12 you.
 13 A. The photograph of everything, the person and
 14 the snake?
 15 Q. The person who is being caricatured here.
 16 A. I cannot know who this person is.
 17 Q. Okay. Will you read down below. Will you
 18 read the caption down below. Read it into
 19 the record.
 20 A. "Mugenzi of the PL says the following. 'Now
 21 that all Rwandans, especially those of the
 22 national armed forces, have just discovered
 23 that my party is that one of the Inkotanyi;
 24 now I'm going to sow confusion in the MDR by
 25 using money. And it would be seen that we

1 are going to overthrow Habyarimana without
2 much effort, and we are going to be using
3 pretexts. We are going to be as cunning as
4 the snake".

5 Q. Do you know who Mugenzi was -- is?

6 A. Mugenzi was the chairman of the Liberal
7 Party, PL.

8 Q. Do you know what he was before that?

9 A. I believe that he was a man with a varied
10 career. He was a civil servant, he has been
11 director of companies, such as STIR, the
12 société du transport.

13 Q. Are you aware of his close relationship with
14 Habyarimana, early on?

15 A. No, I didn't know of that.

16 Q. Well, you say he was a civil servant. Do
17 you know what position he held?

18 A. I know that he was director of a school and
19 that as the director of STIR, which was a
20 state company, he was a civil servant, in a
21 manner of speaking.

22 Q. Well, based on what you know about Rwanda,
23 did anyone -- was it usual for somebody who
24 was on the outs with Habyarimana back in the
25 '80s and late '80s, that they would have a

1 position if they were his avowed enemy?

2 A. I don't think, no, a declared enemy wouldn't

3 have occupied such a position.

4 Q. Exactly. But that this was clearly the

5 statement of an enemy in October of 1991,

6 wasn't it?

7 A. Which statement of the enemy?

8 Q. Well, what you read. Didn't Mugenzi and PL

9 join and link hands with the RPF and have

10 a -- that famous meeting in Europe? I mean,

11 you are aware of this -- what I'm talking

12 about. You do understand what I'm talking

13 about, don't you?

14 A. Yes, but you have just made me read

15 a -- yes, you've just made me read a text,

16 and what tells us that this is a text

17 written by Mugenzi? This text is signed by

18 Papias Rubera, it's not signed by Mugenzi.

19 The article is signed by Rubera, Papias, and

20 not by Mugenzi.

21 Q. We understand that, but you do know that

22 this was the position that PL took against

23 the Habyarimana regime and linkage with RPF,

24 don't you?

25 A. I know that in June 1991 the new

1 constitution authorises multipartism, and
 2 that amongst the parties which saw the light
 3 of day at the time there was a liberal
 4 party. So this was an opposition party,
 5 yes, I know that.

6 Q. And you also know that they had a
 7 rapprochement, actually had a meeting with
 8 the RPF, who had already attacked Rwanda.
 9 You know that much too, don't you?

10 A. I know that there was a meeting between the
 11 opposition party and the RPF, but if my
 12 memory serves me right, this meeting took
 13 place in June 1992.

14 Q. But Mugenzi was there, wasn't he?

15 A. Yes, yes, he was there, but this article --

16 Q. There was a state of war that existed both
 17 when this article was written and in 1992,
 18 now, isn't that correct?

19 A. I didn't complete my answer a moment ago. I
 20 was saying that Mugenzi was present in 1992
 21 but the article is of 1991. So were we in a
 22 state of war? To answer your second
 23 question, yes, we were in a state of war in
 24 1991.

25 Q. Here's the point: are you trying -- because

1 you've criticised articles like this and
2 photographs like this and cartoons like
3 this, are you saying that someone who
4 resorts to the classical betrayer, or the
5 symbol of betrayal, the snake, and that he,
6 because he -- Kangura makes a comment that
7 this man is a snake because he has betrayed
8 and is betraying Rwanda, are you saying that
9 there's something wrong about that?

10 A. I think you are putting words in my mouth.
11 I said that this article was published well
12 before the meeting between the political
13 parties. So treating him as a traitor at
14 the time, I don't know on what one needs to
15 base one's assumption and one's treatment of
16 him as a traitor.

17 Q. Now, one of my criticisms of your work is
18 that you have taken things and taken Kangura
19 and not considered other journals. I want
20 to show you what's been marked as No. 30,
21 Ijambo. Do you have your, um, do you have
22 your bundle? You should have been given a
23 bundle. It's No. 30, Ijambo.

24 MADAM PRESIDENT:

25 It's not in the bundle, Mr. Floyd.

1 MR. FLOYD:

2 The list of documents that should be used
3 when cross-examining Kabanda, Marcel. And
4 Ijambo was the -- actually the last one, not
5 the first one. Has the Chamber found it?

6 BY MR. FLOYD:

7 Q. First, as soon as you find it, will you --

8 MADAM PRESIDENT:

9 We marked it 30. I was looking for issue
10 number.

11 MR. FLOYD:

12 I'm sorry.

13 MADAM PRESIDENT:

14 All right. Do you have it? I actually have
15 two here.

16 BY MR. FLOYD:

17 Q. Now, I want you to look at the front page.
18 You see up in the corner where it says "give
19 me liberty or give me death" in quotes, says
20 Patrick Henry; do you see that? Do you see
21 what I am taking about?

22 A. Yes, yes, I see what you are talking about,
23 Counsel.

24 Q. Okay. Do you remember I asked you a
25 question and used that quote about that's

1 all that Rwanda patriots at the time
 2 believed they had the right to fight for
 3 their country? Recall those questions I
 4 asked you back in May?

5 A. I don't remember the questions to which I
 6 answered, but I can say this doesn't seem to
 7 me to be --

8 Q. Okay. Will you turn to the next page, and I
 9 want you to look at the first column. I
 10 want you to look at the last paragraph, the
 11 one that starts "abahanga mu byerekeye
 12 amoko", and I want you to read that whole
 13 paragraph and then the next one and then
 14 stop. "Abahanga mu byerekeye". Do you see
 15 that? And will you start reading at that
 16 point.

17 A. Do you want me to read the two paragraphs?

18 Q. Yes, yes, and also that that says "muri
 19 kaminuza".

20 MS. MONASEBIAN:

21 Your Honour, if I may, before the reading
 22 commences. The Office of the Prosecutor
 23 only has one concern about this, and it
 24 appears that this is not a whole article.
 25 At no time has the Office of the Prosecutor

1 or any Defence members submitted an excerpt
2 that did not begin with the article. And
3 for that reason we ask that that practice
4 not begin now. Nor have we had the chance
5 to inspect the page beforehand, although it
6 came from the Office of the Prosecutor. I
7 could go upstairs to my computer and print
8 it out, but I just got notice today, so I
9 think this is a completely-out-of-context
10 way to show a witness an article. And it
11 should not be done in the future.

12 MR. FLOYD:

13 Your Honour, again, this did come from the
14 Prosecutor, but we have to get things from
15 here and there and everywhere, and this is
16 all we got of this particular part. But it
17 is part of the Prosecution. And this was
18 not given to us by the Prosecutor. This was
19 actually given to us by one of the other
20 teams in one of the other trials.

21 MADAM PRESIDENT:

22 You can proceed, Mr. Floyd. You can address
23 this in re-examination.

24 MS. MONASEBIAN:

25 Thank you, Madam President. We have

1 30 minutes for our re-examination, so it
 2 becomes very difficult, but we understand.
 3 Thank you, Madam President.
 4 BY MR. FLOYD:
 5 Q. Will you commence to read, Dr. Kabanda?
 6 A. "Ethnologists who have carried out a study
 7 on the Tutsis who originally hailed from
 8 Ethiopia and who spread out throughout
 9 Africa, they realised that the latter were
 10 troublemakers. In all countries where they
 11 are to be found, one realises that there is
 12 no peace. Let's take the examples of
 13 Guinea, Senegal, Uganda, Zaire, Kenya,
 14 Burundi, Tanzania, Nigeria, Sudan and other
 15 countries. There are troubles,
 16 disturbances, and wars started by the Tutsis
 17 who want to take power. The president of
 18 Kenya, Moi, dared to state to the
 19 journalists that he had pity for Hutus of
 20 Rwanda and of other countries who are always
 21 victims of the wickedness of the descendants
 22 of Tutsis. And this is understandable,
 23 therefore, because the Tutsis who are in
 24 Kenya are terrible. At the university
 25 people are reflecting on what happened in

1 Rwanda. In fact, these are intellectuals.
2 Hutus are saddened by the fact that their
3 brothers who live close to borders are
4 killed and that they are displaced because
5 of Tutsis who are fighting for the
6 Inkotanyi. Whereas one can see that Tutsis
7 are happy that they have no problem. But
8 when there is a single Tutsi who dies in
9 Kanzenze, one realises that there are
10 problems in the country on a pretext that
11 Tutsis have been exterminated. Doesn't this
12 show that Tutsis like themselves rather than
13 liking their country, Rwanda? When a Hutu
14 dies they thank God, they thank God, they
15 eat and they drink".

16
17 This article is drawn from Ijambo, the
18 monthly, issue No. 41 of the 15th of
19 April 1992.

20 Q. Now, you said that you have read all or most
21 of Kangura. Isn't it true that you have
22 never read anything even close to what you
23 just said in Ijambo, where the Tutsis are
24 singled out and said that they are terrible
25 every place? You never read that in

1 Kangura, now, have you?

2 A. Are you talking about Hutu or Tutsis?

3 Q. No, the Tutsi; excuse me, the Tutsi. You've
4 never read anything like this in Kangura,
5 never; never published anything like this.

6 A. In Kangura, yes, I've read similar things on
7 the wickedness of the Tutsis, on the fact
8 that Tutsis want to conquer an empire which
9 comes from Ethiopia to the Drakensberg chain
10 of mountains in South Africa.

11 Q. Name an issue. Tell me what page. That's
12 okay, you can't do it, and we don't need to
13 waste our time. But isn't it true, isn't it
14 true, isn't it true, Dr. Kabanda -- we'll
15 let the Prosecutor present something when
16 she comes up to redirect. But isn't it
17 true, because I'm trying to save time --

18 MADAM PRESIDENT:

19 Do not ask a question and not wait for the
20 answer.

21 MR. FLOYD:

22 Well, he started looking and I figured it
23 was going to take us ten minutes. If he
24 knew, he would have said it.

25

1 THE WITNESS:

2 I promise to give that reference tomorrow
 3 morning. I will definitely give you the
 4 conquest of the Inhira (phonetic) empire
 5 that is in the eastern and African --
 6 eastern southern Africa. It is in Kangura.
 7 I'll give you that material tomorrow.

8 BY MR. FLOYD:

9 Q. I promise we're not going to read very much,
 10 but will you read the next paragraph, the
 11 "abahutu ntibagira ubwenge", and just that
 12 first paragraph. Same page, just right
 13 underneath there. Ijambo.

14 A. The next paragraph?

15 Q. Yes, yes, exactly.

16 A. "Hutus are not intelligent. Without any
 17 exaggeration, the problems that the Tutsis
 18 are causing at the university can be
 19 resolved if the authorities were to put
 20 themselves to the task. What is sad is that
 21 the intelligentsia at the university have
 22 almost all married Tutsi women. The deans,
 23 and their vice-deans or deputy deans, as
 24 well as the vice-rector or vice-chancellor
 25 have lost their heads because of the girls

1 of pleasure. Even some Hutus are indeed no
2 longer men. That is why one finds that a
3 Hutu does not have his rights. Marks are
4 not awarded to him and we see the reason
5 why, while Tutsi receives marks even though
6 he hasn't been working".

7 Q. Now, Dr. Kabanda, the reason that we are
8 raising this particular journal, and time
9 won't probably permit us -- isn't it true
10 that during the period 1990 to 1994 in
11 Rwanda that it was commonplace with a number
12 of journals, newspapers, articles, to have
13 articles like the two -- well, parts of the
14 two that you just read. Now, isn't that
15 true?

16 A. A large number, yes, certainly. There were
17 many newspapers which had this kind of
18 article such as Kangura, for instance.

19 MR. FLOYD:

20 Your Honour, I'd like to move in this No. 30
21 as our next exhibit in order.

22 MADAM PRESIDENT:

23 Of course you said you had just this page
24 and that's why you didn't put the entire
25 article in.

1 MR. FLOYD:

2 And if the Office of the Prosecutor has it,
3 I will tell you that if you have the whole
4 article -- the whole one, we're not trying
5 to deceive them, but the point we wanted to
6 make is that the same kinds of articles that
7 we've been criticised that -- I mean, we're
8 going to give you journal after journal. I
9 mean, this was common fare in Rwanda.

10 MADAM PRESIDENT:

11 Two pages, then, Mr. Floyd.

12 MR. FLOYD:

13 Two pages, and if the Office of the
14 Prosecutor wants to embellish, we will not
15 object to them bringing the whole -- the
16 copy of the whole thing, so Ms. Monasebian
17 can sit down.

18

19 MS. MONASEBIAN:

20 Your Honour, just one note so we don't have
21 these difficulties tomorrow. I would ask
22 for the Defence this evening to endeavour to
23 get the whole things. And the reason why I
24 say they have the whole things, be it from
25 another team or be it from this team,

1 because if Your Honours look at the very
2 first page it says K0012600, then it comes to
3 the next page, K0012614. Obviously the
4 other pages were extracted.

5 MR. FLOYD:

6 Not by us. And that's the point. And will
7 you please sit down.

8 (Counsel speaking at the same time)

9 MS. MONASEBIAN:

10 But, Madam President, I will not have the
11 Defence shouting my colleagues down at this
12 table over and over again.

13 MADAM PRESIDENT:

14 Then what are you doing?

15 MS. MONASEBIAN:

16 I'm not shouting anybody down.

17 MADAM PRESIDENT:

18 Sit down.

19

20 This Chamber will accept assurance from
21 counsel that this is all they have. Until
22 something else is produced, we accept what
23 Mr. Floyd has told us.

24

25 3D what, Mr. Floyd?

1 MR. FLOYD:

2 3D123.

3 MADAM PRESIDENT:

4 Yes.

5 (Exhibit 3D123 admitted)

6 BY MR. FLOYD:

7 Q. Dr. Kabanda, if you look this way, can you
8 see -- and there's a stack -- if you have
9 them in order, do you see Le Courrier? Do
10 you see that? Dr. Kabanda, do you have
11 Le Courrier? It's in the stack. It should
12 be on the top of your stack. Will you get
13 that. It's Le Courrier, it looks like
14 15 février -- I think that may be February,
15 I'm not sure.

16 A. Yes, I'm with you, Counsel.

17 Q. Now, you see the cartoon on the first page?

18 A. Yes.

19 Q. And is it fair to say that there are two
20 boxes. One is Habyarimana; one is the prime
21 minister, and then that with the glasses and
22 the gun in his hand, that's Kagame. Is that
23 fair to say?

24 A. Yes, probably.

25 Q. Will you turn over to the next page. I want

1 you to see -- look down at the bottom
 2 cartoon down there. Do you recognise who
 3 that is purported to be or can you look at
 4 it and determine?
 5 A. This is the minister of information at the
 6 time, Pascal Ndegejeho (phonetic).
 7 Q. Okay. You see that he's portrayed as some
 8 kind of loathsome animal, some kind of --
 9 I'm not even sure what it is, but something
 10 with a long tail; do you see that? I mean,
 11 you would agree that that's what's here in
 12 this journal, correct?
 13 A. Yes.
 14 Q. I would like for you to look just quickly up
 15 above that, in the first column, the third
 16 paragraph, you see the word "Inkotanyi".
 17 You see that?
 18 A. Third column?
 19 Q. That one, do you see that, that paragraph;
 20 do you see that? It's the first column,
 21 it's the third paragraph. You see that, you
 22 see the word "Inkotanyi". Now, this is
 23 Le Courrier du Peuple. Isn't it true that,
 24 again, that this is just a common example of
 25 what journalism was like, and it is another

1 example of another something where people
2 are caricatured as animals or snakes or
3 rodents, and the same words that you try to
4 claim are so loathsome in Kangura are the
5 same ones that everybody is using.

6 MR. FLOYD:

7 Your Honour, I ask to make this an exhibit
8 next in order.

9 MADAM PRESIDENT:

10 Well, did you put a question to the witness?

11 MR. FLOYD:

12 Um, well that was my question.

13 BY MR. FLOYD:

14 Q. Now, isn't this just, again -- isn't it just
15 caricatures of human beings as rodents or
16 some kind of loathsome animal; Inkotanyi,
17 same words that you've criticised. Isn't
18 this the same thing that you have been
19 criticising Kangura for?

20 A. To criticise Kangura, and speaking about
21 cartoons, I must say that we only didn't
22 look at the cartoons, we also read the
23 articles. I know very well that in the
24 press cartoons exist. But the
25 interpretation of the cartoon also depends,

1 and particularly, on the content of the
2 articles which go together with the cartoon.
3 We didn't say that cartoons were prohibited.
4 Q. Okay. Well, let's just go through this.
5 Will you look at page three. You see the
6 photograph of Kagamé as a snake, you see
7 that? I mean, you do recognise that being
8 Kagamé with his glasses, square glasses,
9 right, as a snake? I mean, will you
10 accept -- or you don't think that's Kagamé,
11 even though it has his name on his hat?
12 A. No, I believe -- no, I think it's indeed
13 Kagamé who is represented here in this
14 cartoon.
15 Q. And again I will repeat, isn't this just
16 standard fare? Everybody -- you know, we've
17 got over 50 newspapers, journals in Rwanda
18 and this is just one more example of one
19 more that's doing the same thing that you've
20 been criticising Kangura for, now, isn't
21 that true?
22 A. It's not the same thing. I would have to
23 read the whole article, because I've told
24 you that in order to speak about a cartoon I
25 need to know why it's there and what it

1 means. I need to read the article. Now
2 here, in particular, if it is said that
3 Tutsis are serpents and that person is
4 represented with a snake's tail, I'm saying
5 no, this is something which is in the area
6 of racism and making a group of people
7 become animals. Otherwise, cartoons are
8 used for representation.

9 Q. Okay. I'm not going to do this with every
10 one, but let's go back to page 2, back to
11 the cartoon of the man as a rodent. Look at
12 column number one, and will you read that
13 first -- in the first column read the third
14 paragraph, the one that starts with
15 "guverinoma ya Nsengiyaremye". Read that
16 paragraph. Will you read it into the
17 record.

18 A. Yes, I believe that is paragraph 4. Let me
19 read. "The government of Nsengiyaremye has
20 insisted a great deal on this betrayal
21 because the Inkotanyi have become brothers
22 and Habyarimana has become the enemy, as
23 well as those who support him. At the time
24 when Nsengiyaremye, whose term of office is
25 almost ending, whereas he was at the head of

1 the broad-based interim government, whereas
2 he's at the head of the broad-based
3 transitional government whose term of
4 reference has been extended, he became very
5 angry. He took the property belonging to
6 others, he killed, he put people in prison,
7 he gave property to other people, he took
8 other people's property away from them, and
9 he went up to the extent of considering
10 himself the most powerful.

11
12 "And when the Arusha negotiations began, he
13 said the power that I had from the street is
14 not adequate for me. I need to -- I need to
15 govern the country without any opposition.
16 Ngulinzira will support me and defend the
17 country. The MRND was surprised and the
18 MRND started to run around in the streets
19 and Ngulinzira was replaced by Gasana".

20 Q. Okay, thank you. Now, you agree that the
21 next word in the next paragraph is
22 "Inkotanyi"; you agree with that, right?

23 A. Do you want me to read that paragraph?

24 Q. No, I do not want that. But what I want to
25 point out is that we've got conversations

1 about Arusha, talking about people being
2 traitors, use of the word "Inkotanyi".
3 Everything that you have tried to criticise
4 Kangura for, doesn't it exist right here in
5 Le Courrier? That is just one example, one
6 edition. Same thing, same language. I
7 mean, what's the difference?

8 A. Why are you saying that the same thing is
9 being said? The same subject is being dealt
10 with. It's a matter of the same subject,
11 but I don't see that they are saying the
12 same thing. The journalist -- may I explain
13 what we are talking about here?

14
15 At the beginning of 1993, in other words, at
16 the end of 1992, the Arusha negotiations
17 reached an important issue. And that was
18 the amalgamation of the war or the armies
19 who are in war, the merger. And it was the
20 RPF on the one hand and the other parties on
21 the other hand. And, in fact, it was that
22 the government party to the negotiations who
23 wanted Ngulinzira, who was accused of
24 wanting to sell the country, to be replaced
25 by James Gasana, who was minister for

1 defence. And the journalist is saying,
2 well, here you are; the MDR, Ngulinzira has
3 had his power from the streets. He's
4 referring to the demonstrations which
5 preceded the government being put in place,
6 and now this reference and the merger is
7 being used to impose Gasana as the head of
8 the mission to the Arusha negotiations.

9
10 So it is the same subject which is being
11 dealt with, but not in the same manner, I
12 don't believe.

13 THE ENGLISH INTERPRETER:

14 Microphone.

15 MR. FLOYD:

16 Your Honour, I would like to move this in as
17 an exhibit in order.

18 BY MR. FLOYD:

19 Q. I'd like you to look at the next one, and
20 I'm going to try to move this quickly.

21 MADAM PRESIDENT:

22 3D122.

23 MR. FLOYD:

24 3D122 -- 124, I'm sorry, Your Honour.

25

1 MADAM PRESIDENT:

2 One twenty-four.

3 (Exhibit No. 3D124 admitted)

4 BY MR. FLOYD:

5 Q. Umurangi, do you see that?

6 A. Yes, Counsel. Is that the second document?

7 Q. Yes, Umurangi, do you see that? Now, I'd
8 like for you to look on the front page, the
9 middle column, the first word, do you see
10 the word "Inkotanyi"?

11 A. Yes, I do.

12 Q. Okay. Now turn to page 2. I want you to
13 read that first paragraph -- after the first
14 paragraph that -- just that -- just that
15 little heading there, it says "irondakoko".
16 You see that? Just read that into the
17 record. Not that paragraph, just that one
18 heading, that short little sentence there.

19 A. This is the newspaper Umurangi. It's an
20 independent monthly, 015 of
21 27th February 1993. Now, the title which is
22 at page 2, I don't know whether it's really
23 page 2 because the page number is not shown.
24 "Who promoted ethnic discrimination?"

25 Q. Now, read that paragraph. I'm sorry, I

1 think I need for you to read that paragraph
2 underneath that. "Who promoted ethnic
3 discrimination", now, will you read that.

4 A. Let me at least give the title of the
5 article. "Who is at the basis of the
6 problems of Rwanda and who is going to save
7 the country?" You've asked me to read the
8 following paragraph.

9 Q. The one that starts "mu gihe", just read
10 that paragraph.

11 A. Let me repeat. "During the MDR-PARMEHUTU
12 regime, one might wonder why whether --
13 might wonder whether it was at that time
14 ethnic discrimination was greater than what
15 you knew under Habyarimana's regime and his
16 party, the MRND. Was there any balance, be
17 it in schools, be it in employment or
18 elsewhere? Who can tell me that at the
19 university there should have been
20 such-and-such a number of students from one
21 ethnic group or other?

22
23 "After Habyarimana took power, he said, 'If
24 I had not intervened, you Tutsis, you were
25 going to perish'. But, on the other hand,

1 he stated that there should be a balance in
2 all spheres, in all fields. Beautiful
3 speeches have made it that Tutsis who were
4 concerned by this quota system, Tutsis and
5 people from Nduga region, did not notice
6 that, and some of some them praised
7 Habyarimana. He formed a small group
8 composed of some Tutsis and some people from
9 the Nduga region. This group was linked to
10 the majority bashiru to such an extent that
11 when one saw two or three Tutsis who have
12 been rich by Habyarimana and who are driving
13 around in Mercedes Benz, when people saw
14 that, they said this is the father who did
15 away with ethnic discrimination. Whereas,
16 in fact, the situation was still bad".

17 Q. Okay. Now, I want to quickly turn to the
18 next page. Do you see the cartoon down
19 there? Do you see the cartoon on the next
20 page? I'm going to ask you a question about
21 what you just read, but see the cartoon on
22 the next page? Now, isn't it true that
23 that's supposedly democracy and it has cut
24 off the head of Habyarimana and the prime
25 minister, that democracy has cut off the

1 head of Habyarimana in that? Isn't
2 that -- do you agree that's what that
3 cartoon represents?
4 A. Let's read what's written in there.
5 Q. Okay. Read what's written in the --
6 MR. FLOYD:
7 This takes time. I'm trying to move it as
8 fast as I can, Madam President.
9 BY MR. FLOYD:
10 Q. But, okay, read what's in the bubble, on the
11 left and just read all of them. What's the
12 prime minister saying?
13 A. "I am supported by a strong party, which is
14 transparent. These Interahamwe, who are
15 yours, are not going to frighten me. I
16 advise you to return to the owners the
17 property without raising any problem".
18
19 To the right at the top: "I'm going to have
20 you grow more gray hairs than Nsanzimana
21 has". And this is Habyarimana who is
22 speaking below, so the next bubble: "Be that
23 as it may, one cannot have two kings on the
24 same throne. I must choose the one who is
25 going to please those who love democracy --

1 who are for democracy".

2 Q. Okay. Will you quickly turn four pages to

3 the cartoon where you see someone with the

4 RPF and holding somebody, and CDR. See that

5 at the top of the page, "Inkotanyi", you see

6 that?

7 A. Oui.

8 Q. Would you agree that it's got, um, somebody

9 from the RPF is holding somebody from CDR

10 and they've taken a knife and they've cut

11 their eyeballs out and blood is running out.

12 Would you agree that's what that cartoon is?

13 A. Yes, I can see that.

14 Q. Okay. Now, so we don't take too much time

15 on this, isn't this true that this is one

16 more example of the political dialogue that

17 was taking place and is very typical of the

18 kind of journals that existed in Rwanda from

19 1990 to 1994?

20 A. Yes. In the press there are many cartoons

21 and sometimes they are violent, and, as I've

22 said, one must not interpret the cartoon --

23 make the cartoon say things without reading

24 the article within which the cartoon

25 appears.

1 Q. Okay. But here's my point. Obviously this
2 is anti-CDR, correct? I mean, it's obvious,
3 correct, from the cartoon?

4 A. No, that's not true.

5 Q. Oh, it's pro-CDR? They are cutting their
6 eyeballs out and blood is running down their
7 face and you're saying it's a pro-CDR
8 statement; is that what you are saying?

9 A. No, because the person who is carrying out
10 the crime, I suppose that the cartoon is
11 against the person who is perpetrating the
12 crime, and in this cartoon the criminal is
13 the RPF.

14 MR. FLOYD:

15 Your Honour, I'd like to move this as
16 another next exhibit in order.

17 MADAM PRESIDENT:

18 3D125.

19 (Exhibit No. 3D125 admitted)

20 BY MR. FLOYD:

21 Q. I'd like for you to look at -- the next in
22 order it's Isibo. At least that's what the
23 cover is.

24 MR. FLOYD:

25 Your Honour, we did it this way because

1 we're only interested in the article, we're
2 not interested in the whole thing. But we
3 put the cover on it so that you'd know where
4 it came from.

5 BY MR. FLOYD:

6 Q. Will you read the headline on the second
7 page.

8 A. This is an article from the newspaper Isibo,
9 issue No. 84 of 1st February 1993.

10 Q. Just read that "Habyarimana" down to the
11 word "amategeko". Just read that heading
12 first.

13 A. The title, "Habyarimana has contracted a
14 disease which makes him kill".

15 Q. Okay. Now, I'd like for you to go down to
16 the bottom of the page and if you see the
17 last full sentence, the one that starts with
18 "abanyarwanda nabo". You see that? It's
19 down at the bottom. You see that word?
20 Will you read just that one sentence.

21 A. "Rwandans also must mobilise themselves
22 until they topple the dictatorial regime of
23 Habyarimana which wants us to persist. This
24 is necessary because these white men who
25 are -- these white people who are eating

1 from both sides, we are going to condemn
2 them".

3 Q. Now, I understand that there may have been a
4 mistake in the translation of the title.
5 Can the -- did you agree with the
6 translation, Dr. Kabanda, when they
7 translated the title?

8 MS. MONASEBIAN:
9 He cannot hear the English, so ...

10 BY MR. FLOYD:

11 Q. Ah, well, how do we do this? Will you -- I
12 understand at least that it was
13 mistranslated. So can we just have it
14 translated again. Will you read it one more
15 time or ask the booth to translate that,
16 "Habyarimana afite", that whole thing right
17 there, again.

18 MADAM PRESIDENT:
19 Let the booth just do that instead of
20 reading it again.

21 THE KINYARWANDA INTERPRETER:
22 "Habyarimana has contracted a disease which
23 leads to kill".

24 THE ACCUSED NGEZE:
25 "Habyarimana is has contracted a disease

1 which makes him violate the law, infringe
2 the law".

3 MR. FLOYD:

4 Does the booth agree with that what
5 Mr. Ngeze says it says?

6 THE KINYARWANDA INTERPRETER:

7 Mr. Ngeze is translating. After the --

8 THE ACCUSED NGEZE:

9 Madam President, I'm sorry to intervene
10 again. You don't kill the law. You don't
11 kill. It's a violation. You don't kill.

12 MADAM PRESIDENT:

13 Well, does the booth have a comment on that?

14 (Pages 172 to 215 by S. Fleming Eboe-Osuji)

15

16

17

18

19

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25

1 1700H

2 THE ENGLISH INTERPRETER:

3 On the word -- the word amategeko comes
4 after kwica with dotted -- with dots, and
5 it's true that the illness (sic) is a
6 violation of the law. But the word is in
7 brackets and below -- after -- and it's
8 placed below and after the dotted -- after
9 the dots, the points des suspensions.

10 BY MR. FLOYD:

11 Q. Now, Dr. Kabanda, I mean, that's pretty
12 strong stuff, isn't it, asking basically for
13 the overthrow of the government right in
14 print? Isn't that pretty strong statements
15 and did you ever see anything like this in
16 Kangura?

17 MS. KAGWI:

18 Your Honour, just for clarity. We would
19 like to find out which translation has been
20 accepted.

21 MADAM PRESIDENT:

22 The booth has made clear that there's a
23 reference to the law there.

24 MS. KAGWI:

25 There is also a reference to kwica here

1 which means kill.

2 MADAM PRESIDENT:

3 Yes, to kill the law. What page is this,
4 Mr. Floyd? It's not on our copies.

5 MR. FLOYD:

6 Your Honour, again, we know it's No. 84.
7 I'm sorry, I don't know and we can't -- and
8 again, we take charity; we'll take what
9 somebody else gives us.

10 MADAM PRESIDENT:

11 All right, when you get that information put
12 it on record so we know what page this is.

13 MR. FLOYD:

14 Very well. We do see this from this issue
15 though.

16 BY MR. FLOYD:

17 Q. Now, my question is about Kangura, you -- no
18 place in the pages of Kangura do you ever
19 hear them talking about basically
20 overthrowing the president, do you? Now --

21 A. May I answer? No. Discussion on the
22 translation, I think that there is a play on
23 words on the part of the author. Kwica is
24 certainly to kill and amategeko is in a
25 smaller type and it's in brackets. I think

1 the journalist wanted both to accuse the
2 president of murder, and also violation of
3 the law. This is an article which talks
4 about overthrowing President Habyarimana.
5 No, I don't think so. Here we are dealing
6 with an article which criticises him.

7
8 Have I seen similar things in Kangura? Yes.
9 I know an issue of Kangura in which -- where
10 Kangura says that Kangura (sic) should go
11 away. So there you are.

12 Q. Now, there is one sentence I asked you to
13 read rather than read the whole article.
14 Doesn't that call for the basic overthrow of
15 Habyarimana? That was the point I asked you
16 to read it, the one that goes "Habaya
17 Rwandanebo"? I have been told by my
18 Kinyarwanda expert over here that there was
19 a problem with translation.

20 THE ACCUSED NGEZE:

21 We've got just a problem of translation.
22 Here it's not Kinyarwanda; it's from the
23 English booth. They said that Kangura
24 should go away. It's Habyarimana who should
25 go away, not Kangura because the witness

1 said that he saw an article in Kangura
2 which said that Habyarimana should go away
3 -- not Kangura, that Habyarimana should go
4 away.

5 MADAM PRESIDENT:

6 Yes, that's noted then. The last
7 translation is corrected. Thank you.

8 MR. FLOYD:

9 Your Honour, I can move -- for the second
10 time, can I move this as next in order.

11 THE ENGLISH INTERPRETER:

12 Microphone to counsel.

13 MR. FLOYD:

14 Can I move this as next in order?

15 MADAM PRESIDENT:

16 3D126.

17 (Exhibit No. 3D126 admitted)

18 BY MR. FLOYD:

19 Q. Can we skip the next one and go to Isibo,
20 the one that has Mobutu's picture on it?
21 You see which one I'm talking about? It
22 says "politikis Habyarimana, Mobutu". Let's
23 skip that also for the time. Let's go to
24 the next one, the one that -- you've got to
25 help me, Dr. Witness, there is a word, the

1 title of it is "ukwakira" -- no, that's the
 2 month, October. Do you recognise the cover
 3 of this journal and what is the name of it?
 4 A. This newspaper is called Umurwanyshaka --
 5 Umurwanyshaka.
 6 Q. Now, on the front page, now, you see the
 7 word Inkotanyi twice and I'm not going to
 8 make this point anymore. This is a point
 9 I've made that everybody uses the same
 10 language; everybody uses the same words;
 11 everybody talks about the Tutsi and the
 12 Hutu. Now, isn't that pretty much summing
 13 up what the state of the press was in
 14 1990-1994 in Rwanda?
 15 A. Umurwanyshaka, let us say is an MRND party
 16 which is President Habyarimana's party. So,
 17 these words can be found in all newspapers.
 18 Yes, indeed, they can. All the newspapers
 19 used the same words in Kinyarwanda but with
 20 the same words one actually can come up with
 21 several texts.
 22 Q. Okay. You are familiar with the Dialogue,
 23 that was one of the MIS you've identified.
 24 Then you don't deny, Doctor, Dialogue, the
 25 Catholic newspaper, that they also use

1 Inkotanyi and talk about Tutsi and Hutu.
 2 You don't deny that, do you?
 3 A. Dialogue is indeed a Catholic review, and as
 4 I have stated that these words are found in
 5 all newspapers. But, once again, with
 6 specific words you can write several
 7 articles. So -- but if you just want to
 8 know whether these words are used, I will
 9 answer you, yes, they are used.
 10 Q. Well, I want you to follow what I'm trying
 11 to say. We have agreed that the rate of
 12 literacy in Rwanda was less than 50 per cent
 13 -- I think that we at least agree on that --
 14 in 1990 to 1994. I mean, we agree that
 15 there was a low rate of literacy among
 16 adults, correct?
 17 A. Yes, the literacy rate was low.
 18 Q. Well, isn't it also true that,
 19 proportionally, that there were no more
 20 literate Tutsi than Hutu?
 21 A. I don't have statistics regarding that
 22 subject so I cannot answer that. Nothing
 23 enables me to answer it.
 24 Q. Well, didn't the Tutsi population have a
 25 longer tradition of literacy than the

1 Hutu?

2 A. Let us say that between the 1930s and 1960s,
3 it was among Tutsis that we had people who
4 first benefited from the schooling system,
5 but from 1960 or even before that, from the
6 1960s up to 1990, through the 80s, Hutus had
7 access to schools. So I don't see why they
8 should be considered as having been a
9 minority as far as literacy is concerned.

10 Q. Here's what I want you to explain to the
11 Chamber, this law: That lawyers, unlike
12 historians and other people, we deal in
13 causality, whether somebody who ran into the
14 back of somebody else's automobile caused
15 the accident, and that's what we look at.
16 We look at causality. When you have a
17 situation where you have over 50 journals,
18 you have a small literate population, you
19 have at least 50 to choose from and all of
20 them are using the same words, the same
21 language, that it is a requirement that
22 Kangura be purchased -- it's not something
23 that's been given away, you have to buy it
24 -- there were never more than 3,000 copies
25 -- and most of the time just 2,000 copies

1 were published per edition, in a population
2 that was approximately six million, why is
3 it that you try to maintain that Kangura had
4 this meteoric impact of any kind?

5 A. Because although there were 3,000 that were
6 sold -- even if we accept that 3,000 copies
7 were sold per issue -- we have to know that
8 it was published twice a month and it lasted
9 longest from 1990 up to 1996. So it had
10 resisted a lot because other -- many other
11 newspapers disappeared.

12
13 Now, the question is: Can 3,000 copies or
14 even 6,000 copies have an impact on a
15 population of six million people? This is
16 the question, but do they really have to
17 reach each of the six million people in
18 order for it -- for it to have an impact?
19 All that is needed is for it to reach a
20 certain class and that class, in turn, will
21 relate to others. Between '90 and '94, as I
22 said, the -- as I said, the issues were read
23 and they were kept and passed on to
24 neighbours. They were not thrown away. So
25 in 1992 there were people who had been

1 reading Kangura since 1990, for instance.
2 This is a habit regarding newspapers in the
3 country which is not focused necessarily on
4 current affairs of the time, and the good
5 thing -- the thing is that -- the thing is
6 that Kangura lends itself to this because it
7 does not necessarily focus only on specific
8 things at a given time but it is ongoing in
9 that -- you know, it can still discuss
10 issues which have happened a long time --
11 sometime back. So you can read in Kangura
12 in 1993 things which appeared in 1990 and
13 still feel that those matters were not out
14 dated because their objective was to explain
15 the situation. I'm sorry if I was too long
16 in my explanation.

17 Q. That's fine except that that's where we
18 always come up with how absurd that answer
19 was because -- explain to the Chamber why,
20 for example, someone would keep Kangura as
21 opposed to keeping Le Flambeau, or Dialogue
22 or Isibo, or Ijambo, or Le Messenger, or
23 Kanguka, or Kinyameteka, or -- you know,
24 any of the other 50. I mean, what is it
25 that is so unique, so compelling about

1 Kangura that folk are going to keep just
2 everything and still after it's just a mix
3 of all these 50 journals? Explain that.
4 A. What I think is that other newspapers are
5 also kept. You should not imagine that only
6 Kangura is kept. Others, too, are kept by
7 the readers. Imagine that all collections
8 that were made by the Tribunal or by other
9 researchers regarding Kangura or other
10 newspapers, how were they collected? They
11 were collected by people who, by chance,
12 became collectors. If there was not such
13 behaviour of retaining newspaper copies,
14 then the research would not have come to its
15 conclusion.
16
17 Even today in the US or in France, you can
18 go to a family -- if you go to a family
19 which read, let's say, Le Monde that
20 appeared three years ago, you will find that
21 they don't have such a copy which appeared
22 three years ago. They read it and threw it
23 away. But in Rwanda, the case was different
24 because Rwandans had become, by chance,
25 collectors. The media -- print media was

1 fascinating. So, in view of this, they
2 actually kept the edition -- the copies of
3 what they had read.

4 Q. Dr. Kabanda, I don't know -- I mean, you
5 just keep setting yourself up. But if we
6 have in this courtroom Le Flambeau and
7 Ijambo and some I haven't even mentioned --
8 Nyiramacibiri -- if we have all these
9 different things -- we've got all of them.
10 You say, "we've got Kangura", and they say,
11 "Kangura, well, we've got something of
12 everything".

13
14 So, again what separates and distinguishes
15 Kangura from the other 50-plus journals that
16 were writing the same thing; doing the same
17 cartoons; making the same statements; I
18 mean, what is it? Explain it to the
19 Chamber.

20 A. I did not say only Kangura was kept. I want
21 to make this clear. The proof is that
22 today, when one carries out a research we
23 find all these newspapers, not in
24 libraries --

25 MADAM PRESIDENT:

1 We've got that answer. We've heard you on
2 that. Now, counsel wants you to distinguish
3 between, in the contents, if they all use
4 the same words, what's the difference
5 between Kangura and the others?

6 THE WITNESS:

7 If they used the same language, they used
8 the word "Inkotanyi" -- those who talked
9 about Inkotanyi were referring solely to the
10 RPF fighters as opposed to a newspaper that
11 talks about Inkotanyi to include all the
12 Tutsis of Rwanda, then these are two
13 different cases. So, in order to know --
14 one has to know what is behind the word
15 "Inkotanyi" in a given article.

16 BY MR. FLOYD:

17 Q. Here is what the problem with that is: You
18 don't have any example or anything that you
19 can point in Kangura that says, "When we use
20 the word "Inkotanyi" that means Tutsi". You
21 don't have that, do you?

22 MADAM PRESIDENT:

23 Is there an audio version of Kangura we
24 missed?

25

1 BY MR. FLOYD:

2 Q. You don't have -- I mean, nowhere in Kangura
3 does it appear that, "We want you all to
4 know that whenever we use Inkotanyi, or
5 Inyenzi or Inkotanyi-Inyenzi, we mean Tutsi.
6 That doesn't appear any place in the Kangura
7 in that form now, does it?

8 A. I think that this has been clearly shown in
9 the report. For Kangura, there is no
10 distinction between Inkotanyi, Tutsi and
11 Inyenzi.

12 Q. Where do you get this -- I mean, I know
13 you're making it up but can't you at least
14 come up with some -- something more than
15 just a naked assertion? Tell us textually
16 where you read that. We know that you are
17 just making that up, that there is no
18 difference. Inkotanyi, in Dialogue and
19 Inkotanyi in Kanguka, and Inkotanyi in
20 Impamo, and Inkotanyi anything is Inkotanyi.
21 That's all it is. Now, isn't that true?

22 A. To tell you in the other newspapers also
23 Inyenzi meant Inkotanyi. I didn't quite get
24 to understand -- I didn't quite understand
25 your question, Counsel.

1 Q. You maintain that whenever the word
2 "Inyenzi", "Inkotanyi", "Inkotanyi-Inyenzi"
3 that appears in Kangura, that it's a code
4 word for Tutsi. Now, that's your testimony.
5 Yet, everybody else uses Inkotanyi, Inyenzi,
6 Inkotanyi-Inyenzi. And if they used it in
7 Dialogue, the Catholic -- or in Isibo, the
8 opposition, or in Kinyamateka, or
9 Kinyarwanda, or Impamo or any of the other
10 journals, the 50-odd journals which all used
11 the same language, I mean, how can you say
12 that, "Well when it appears in Kangura it
13 means Tutsi and when it appears in Dialogue
14 it doesn't"? I mean, what is it? I mean,
15 how can you make something that's so absurd
16 on its face -- how can you say that?

17 A. Each time that I make such an assertion
18 identifying Inyenzi-Inkotanyi to the Tutsis,
19 I think I also gave references whereby these
20 appear in articles, but do not ask me to
21 cite these references off my memory. But
22 there are references regarding Kangura where
23 this is done. But, once again, I'm ready to
24 provide such proof, but I would like to also
25 point out that these are in my report.

1 Now, regarding whether the other newspapers
2 make a clear distinction between Inkotanyis
3 and Tutsis, my answer is yes, because there
4 were two kinds of newspapers. In the report
5 we do not talk only of Kangura; we talk
6 about other newspapers such as Kangura (sic)
7 where they, too, may actually equate
8 Inkotanyi-Inyenzi with Tutsis. Whereas on
9 the other hand, newspapers such as Isibo you
10 have this refusal of making this equation
11 and that is why other newspapers criticised
12 Kangura. They criticise Kangura because
13 Kangura actually put forward this equation.
14 Q. Dr. Kabanda, you pay lip service to freedom
15 of the press. Isn't it true that what was
16 happening in Rwanda during the 1990s to '94
17 period we've been talking about was this
18 great polemic, this great dialectic, this
19 energy where you had point and counterpoint
20 to issues involving what was the national
21 state in Rwanda? Isn't that really what's
22 going on and all we have here -- and all
23 Kangura represents is perhaps one point of
24 view among numerous points of view and that
25 there are other people who share Kangura's

1 point of view? Now, isn't that really what
2 was going on and just no more than freedom
3 of the press?

4 A. It's obvious that beyond the freedom of
5 press, Kangura -- did Kangura have a point
6 of view regarding the Rwandan national
7 state? Obviously, yes, and it was this
8 point of view that turned out to be tragic
9 because its point of view consisted of
10 dividing the Rwandan nation into two. It
11 was its point of view that turned out to be
12 tragic.

13 Q. What is it that you can -- again, there were
14 other folks who said more and less and so on
15 and so forth, saying kind of different, more
16 different -- I mean, there was this
17 dynamism. We are talking about -- we
18 lawyers. We are not iffy-intellectuals; we
19 are lawyers. We are dealing with real
20 issues here. We are talking about causality
21 and I have to ask again: Among all the
22 dynamism that was Rwanda press, how is it
23 that you can just separate Kangura from the
24 rest?

25 A. Since you wanted to evoke the dynamism at

1 that time, during that time, we can make a
2 distinction between three themes, if I may
3 put it that way. Firstly, you had the war
4 which has to be -- to come to an end through
5 negotiations and so on and so forth.
6 Secondly, there's another dynamic which is
7 the restoration of democracy and the third
8 dimension was Kangura's dimension which
9 tends to divide the nation into two to the
10 point of -- to the extent of saying that
11 democracy and -- yes, to pluralism, yes, to
12 democracy, but after acknowledging this
13 state of affairs, that is the division. So
14 if you want to talk about dynamics there is
15 not only one dimension; there were three
16 dimensions in the nationalist council. So
17 the discussion actually was centred on three
18 dimensions -- on three dimensions.

19 Q. Let me see if I can follow your logic. So
20 what you are saying is that majority rule
21 was somehow the -- no, the concept of
22 majority rule is somehow equal to --
23 according to you -- being a racist or an
24 ethnicist. Is that what I'm hearing you
25 say, that if somebody said that they are in

1 favour of majority rule, that that
2 necessarily means that they are anti-Tutsi?
3 A. No. I did not say that. The majority -- a
4 political majority, the way I understand it,
5 is a majority of ideas. So from this point
6 of view, I don't see why, in Rwanda, in 1991
7 or even today, a Hutu or a Tutsi would not
8 share the same ideas, would not have the
9 same vision. So -- but on the other hand, in
10 the ideas -- propositions made by Kangura,
11 the concept of majority is a majority which
12 is conceived quasi-biologically -- that is,
13 it's a natural majority; and it's not a
14 political, it's an ethnic majority.
15 Q. Well, doesn't it occur to you that we just
16 had an example that took place about 1994,
17 just like in the Republic of South Africa,
18 where we had a majority that felt that they
19 had been oppressed and they came to power
20 and they came to power by way of the ballot
21 box? Now, are you suggesting that people
22 who belong to the ANC that talked about
23 majority rule; one man one vote, and that
24 necessarily meant that some other folks
25 weren't going to be in power? Are you

1 saying that it's the same thing?

2 A. No, you cannot compare the two situations.

3 And, in any case, I did not hear from the

4 ANC side at that time or even later, them

5 saying that they had to exterminate or send

6 away the white people. But, on the

7 contrary, we remember, for instance, the

8 Mugesera speech whereby it was said that

9 Tutsis have to go back to Ethiopia. But I

10 did not see such comments made in

11 South Africa.

12 MR. FLOYD:

13 Your Honours, I have a lot of these which I

14 really would -- if I could just have them

15 admitted en mass and I'll ask -- rather than

16 have to go through each one of these -- I

17 have an example, and each one of them will

18 have at least the word "Inkotanyi" in there.

19 I have Le Flambeau, Impano, Kinyarwanda,

20 Dialogue, Inyaramasibiri, Ijambo -- which is

21 already in evidence -- Intomwa, Kanguka,

22 Kinyamateka -- I have at least those, Your

23 Honour, that -- here. If I could offer all

24 of those as one exhibit, I think it would

25 save us a lot of time. And it's being

1 offered to show that there were a lot of
2 them using the same language, which is the
3 point that he has made so I don't have to
4 keep going through each and every one.

5 MS. MONASEBIAN:

6 Madam President, if I may, briefly?

7 MADAM PRESIDENT:

8 Yes, Ms. Monasebian.

9 MS. MONASEBIAN:

10 I don't accept that they were all in the
11 same language because the witness spoke of
12 context, for one. Secondly, to hand
13 something in en mass when counsel hasn't
14 even finished his examination and is not
15 going to be asking the witness questions
16 about that is not an appropriate method. So
17 counsel should show the witness the
18 document, have him comment on it and at the
19 stage of argument, counsel can make whatever
20 legal arguments he wants, but not in this
21 manner. Thank you, Madam President.

22 MR. FLOYD:

23 Your Honour, we were getting close to the
24 end of today, I presume, and I was trying to
25 just move so I can move to another area.

1 But I ask for direction from the Chamber.

2 MADAM PRESIDENT:

3 The Chamber agrees with your method. You
4 took a sample of these documents, you put
5 them to the witness and he's agreed that the
6 words you highlighted do appear in all other
7 papers but he made the point that the text
8 has to be considered.

9
10 So, in light of that you have many more
11 examples, the Chamber does not wish you to
12 put each and every one to this witness.
13 However, we would like this bundle made
14 available as exhibits because, no doubt, we
15 will hear argument from both parties on
16 words used in other journals.

17
18 Now, Mr. Floyd, we will leave this to the
19 registry to mark them and confirm them
20 tomorrow.

21 MR. FLOYD:

22 Thank you.

23 MADAM PRESIDENT:

24 Then you have to check your bundle. You
25 provided an index, but you have pulled three

1 documents out of that bundle. So if you can
2 restore that and --

3 MR. FLOYD:

4 Oh, you're saying that -- I had pulled those
5 out because he had testimony about that and
6 I was going to offer these for -- just to
7 show that they were consistent with what
8 we've already put in there. That's
9 basically what I was -- that's why I was
10 only suggesting -- just the ones that have
11 already not been admitted, if we could just
12 make one exhibit and have them marked A, B,
13 C, D, E, F -- in any order.

14 MADAM PRESIDENT:

15 We will but we would like an index prepared
16 giving the title of each, the date, so we
17 will all know how many documents are in that
18 bundle.

19 MR. FLOYD:

20 Okay, my assistant and will get with the
21 registrar and if the Prosecution wants to
22 participate that's fine too, and we'll get
23 it -- we'll agree.

24 MADAM PRESIDENT:

25 So the bundle then would be 3D127.

1 (Exhibit 3D127 admitted)

2 MR. FLOYD:

3 Yes.

4 MS. MONASEBIAN:

5 Madam President, if I may?

6 MADAM PRESIDENT:

7 Yes.

8 MS. MONASEBIAN:

9 Would it be acceptable to the Trial Chamber
10 for the witness to, this evening, look at
11 those exhibits that are left on the table so
12 that when I have to do my re-direct and when
13 he's asked further questions we don't waste
14 time. So if he can take that bundle home
15 with him this evening from the registry, I
16 think that that would be helpful to the
17 Chamber.

18 MADAM PRESIDENT:

19 Yes, that's a good suggestion. That can be
20 done.

21 MS. MONASEBIAN:

22 Thank you, Madam President.

23 MADAM PRESIDENT:

24 Mr. Matemanga, you'll arrange that.

25

1 Mr. Floyd, we can stop now?

2 MR. FLOYD:

3 Yes, Your Honour, that was the point that I
4 was reaching. We can do that, then I can
5 deal with other issues tomorrow.

6 MADAM PRESIDENT:

7 Yes, thank you.

8

9 So you know the usual cautionary provision
10 we have, Dr. Kabanda. Please do not discuss
11 your testimony with anyone. You will be
12 given these -- this bundle, this last bundle
13 of copies of other journals to look at
14 tonight and you may be asked questions about
15 that by the Prosecution later.

16

17 We will adjourn and resume tomorrow morning
18 at 8:45 a.m.

19 (Court adjourned 1734H)

20 (Pages 216 to 239 by G. Harding)

21

22

23

24

25

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

2 We, Rex Lear, Gifty Harding, Haruna
 3 Farage, Sithembiso Moyo, Verna Bulter and Shannon
 4 Fleming Eboe-Osiji, Official Court Reporters for the
 5 International Criminal Tribunal for Rwanda, do hereby
 6 certify that the foregoing proceedings in the
 7 above-entitled causes were taken at the time and place
 8 as stated; that it was taken in shorthand (stenotype)
 9 and thereafter transcribed by computer under our
 10 supervision and control; that the foregoing pages
 11 contain a true and correct transcription of said
 12 proceedings to the best of our ability and
 13 understanding.

14 We further certify that we are not of
 15 counsel nor related to any of the parties to this cause
 16 and that we are in nowise interested in the result of
 17 said cause.

18

19 _____(pages 1 to 31)
 20 Rex Lear

21

22 _____(pages 32 to 47 and 216 to 239)
 23 Gifty Harding

24

25 _____(pages 48 to 84)
 Haruna Farage

26

27 _____(pages 85 to 125)
 28 Sithembiso Moyo

29

30 _____(pages 126 to 171)
 31 Verna Butler

32

33 _____(pages 172 to 215)
 34 Shannon Fleming Eboe-Osuji

35

36