

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

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

THE PROSECUTOR
OF THE TRIBUNAL

v.

AUGUSTIN NDINDILYIMANA
FRANÇOIS-XAVIER NZUWONEMEYE
INNOCENT SAGAHUTU
AUGUSTIN BIZIMUNGU

27 JANUARY 2005
0910H
CONTINUED TRIAL

Before the Judges:

Joseph Asoka de Silva, Presiding
Taghrid Hikmet
Seon Ki Park

For the Registry:

Mr. John Kiyeyeu
Mr. Abraham Koshopa

For the Prosecution:

Mr. Ciré Aly Bâ, Ms. Ifeoma Ojemeni Okali,
Mr. Segun Jegede, Mr. Abubacarr Tambadou

For the Accused Augustin Ndindiliyimana:

Mr. Christopher Black

For the Accused François-Xavier Nzuwonemeye:

Ms. Danielle Girard

For the Accused Innocent Sagahutu:

Mr. Fabien Segatwa

For the Accused Augustin Bizimungu:

Mr. Gilles St-Laurent
Mr. Ronnie MacDonald

Court Reporters:

Ms. Judith Kapatamoyo
Mr. Petrus Chijarira
Ms. Regina Limula
Mr. Mark Porter
Ms. Donna M. Lewis

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MR. PRESIDENT:

Yes, Registrar, you may -- good morning, gentlemen and ladies. Registrar, you may commence the proceedings.

MR. KIYEYEU:

Thank you, Mr. President.

Trial Chamber II of the International Criminal Tribunal for Rwanda, composed of Judge Asoka de Silva, presiding, Judge Taghrid Hikmet and Judge Seon Ki Park, is now sitting in open session today, Thursday, the 27th of January 2005, for the continuation of the trial in the matter of the Prosecutor vs. Augustin Bizimungu, Augustin Ndindiliyimana, Francois-Xavier Nzuwonemeye and Innocent Sagahutu, Case No. ICTR-00-56-T.

Thank you, Mr. President.

MR. PRESIDENT:

Yes, I remind the parties to enter the appearances.

MR. BÂ:

Thank you, Mr. President. Good morning, Mr. President, Your Honours. The Prosecution is appearing this morning as follows: Alphonse Van, legal advisor; Madam Ifeoma Okali, trial attorney; Mr. Segun Jegede, trial attorney; Mr. Abubacarr Tambadou, legal officer; Faria Rekkas and Anne Bodley, case managers; Francois Zosongo, legal intern; and the Honourable Michelle who has just joined the team. My name is Ciré Aly Bâ, senior trial attorney. Thank you.

MR. PRESIDENT:

Yes, Defence.

MS. GIRARD:

Thank you, Mr. President, Your Honours. For Francois-Xavier Nzuwonemeye, appearing this morning Danielle Girard, counsel, and Coralie Colson, our legal assistant. Thank you.

MR. SEGATWA:

Good morning, Mr. President. Good morning, Madam, good morning, Your Honours. My name is Segatwa, Fabien, lead counsel for Innocent Sagahutu, and my assistant is Mathias Sahinkuye.

I avail myself of this opportunity to inform you that my client is not well, but he may be able to stay on until the break. He, therefore, would like to request your authorisation to see the doctor after the break this morning.

MR. PRESIDENT:

Mr. Segatwa, if he is not well, he can even go now. He can be taken to the doctor even now, if he is not feeling well.

1 MR. SEGATWA:

2 Mr. President, he has told me that he can stay until the break.

3 MR. PRESIDENT:

4 Very well.

5 MR. ST-LAURENT:

6 Have a nice day, Mr. President. Your Honours, good morning. My name is Gilles St-Laurent, lead
7 counsel for Augustin Bizimungu. And with me this morning, my co-counsel, Ronnie MacDonald
8 and our assistant Natalie LeBlanc. Thank you.

9 MR. BLACK:

10 Good morning, Mr. President, Christopher Black, for General Ndindiliyimana, with
11 Professor Claver Sindayigaya, and Cathleen Chun, from Montreal.

12 MR. PRESIDENT:

13 Yes, Mr. MacDonald, you may continue.

14 MR. MACDONALD:

15 Thank you.

16 CROSS-EXAMINATION

17 BY MR. MACDONALD:

18 Q. Witness, let us go back to the 20th of April 1994. In your testimony yesterday you mentioned that
19 Colonel Simba had arrived with machetes and *coupe-coupes*; is that correct?

20 THE ENGLISH INTERPRETER:

21 It would seem that the witness is not getting the interpretation from the Kinyarwanda booth.

22 MR. PRESIDENT:

23 Yes, you may put the question to him again.

24 MR. MACDONALD:

25 Q. Yesterday in your testimony, Witness, you said with regard to the 20th of April 1994, that the machetes
26 and the *coupe-coupes* had been delivered at the camp by Colonel Simba; do you recall having said
27 that?

28 A. Yes.

29 Q. I believe that you also talked about what a *coupe-coupe* was and what it was used for. Could you
30 please explain further, what is a *coupe-coupe*?

31 A. I would like the interpreter to speak more loudly. And I would also invite the Counsel to repeat his
32 question which I didn't quite follow.

33 MR. PRESIDENT:

34 The question is what is a *coupe-coupe*. Can you describe it?

35 THE WITNESS:

36 A *coupe-coupe* is normally used for clearing the lawn, but it can also be used in much the same
37 manner as a machete. And with a *coupe-coupe* you can still cut someone into pieces, as you would

1 use a machete, but it is longer.

2 THE ENGLISH INTERPRETER:

3 Mr. President, if Counsel could observe a pause before putting his question. We didn't get the
4 beginning of his question, Mr. President, thank you. Mr. President, the question was not interpreted
5 but we are getting an answer now from the witness, if counsel could repeat his question. Thank you,
6 sir.

7 MR. PRESIDENT:

8 Yes, you can ask the question. Have a pause and then ask the question; otherwise, interpreters will
9 fall into problems.

10 BY MR. MACDONALD:

11 Q. My question was, I put it to the witness, that a *coupe-coupe* can be used for different purposes.

12 A. It can be used in lieu and in place of a machete because it is sharpened, and it can be used in place
13 of a machete.

14 Q. Am I to understand that the machetes are not used exclusively for cutting human beings; it can be
15 used for other purposes? Can you give us other examples of the manner in which a machete can be
16 used in your culture?

17 A. A machete can be used to cut wood or grass. It can be used to perform various duties that involve
18 cutting.

19 Q. Now, Witness, how many *coupe-coupes* did you own personally on the 6th of April 1994?

20 A. At that time the cutting of human beings had not yet began.

21 MR. PRESIDENT:

22 The question is whether you owned any *coupe-coupes*. Listen to the question and then answer.

23 THE WITNESS:

24 No, I didn't own any *coupe-coupes*.

25 BY MR. MACDONALD:

26 Q. Are you telling us that prior to the 6th of April 1994, you had never used a *coupe-coupe*, yourself?

27 A. No, I had never used a *coupe-coupe*.

28 Q. But as the Prosecutor was saying yesterday, it is something that can be referred to as a traditional
29 weapon in Rwanda, in your country. Do you agree with that statement by the Prosecutor?

30 A. Yes, much the same as a machete, a *coupe-coupe* can also be used as a weapon.

31 Q. So are you telling this Court that before the 6th of April 1994, you had never used the implement
32 which is known as a *coupe-coupe*? I would like us to be very clear on that point. That prior to the
33 6th of April, you had never used a *coupe-coupe*; is that your testimony, Witness?

34 A. I have told you that I did not own a *coupe-coupe*. That was my statement.

35 Q. Please, listen to the question. I put to you -- I put another question to you, and I have put it to you
36 twice. And this is the third time I am putting the question to you. Prior to the 6th of April 1994, yes or
37 no, have you ever -- had you used a *coupe-coupe* before then?

1 A. I used a *coupe-coupe* for clearing the grass or the lawn in the areas where I worked.

2 Q. Are you going to tell us that the *coupe-coupe* you used at that time did not belong to you; it belonged
3 to the person for whom you were working or whose lawn you were clearing; is that correct?

4 A. It wasn't my property.

5 Q. Did you have any lawn in your compound, in your private home, before the 6th of April 1994?

6 A. Counsel, I have already told you that I used the *coupe-coupe* for clearing grass and the lawn at other
7 places, places other than my home. I can give you the example of a school. A school yard can be
8 cleared with a *coupe-coupe*.

9 Q. You are still dodging the question, Witness, and you are doing it consciously. The question is as
10 follows: I now invite the interpreter to put the question slowly to the witness. Prior to the
11 6th of April 1994, was there any lawn or any grass within your premises, in your home where you
12 lived?

13 A. My answer was no.

14 Q. Witness, the first time you used a machete, was it for the purpose of cutting off the head or the arm or
15 the leg of somebody?

16 MR. VAN:

17 Mr. President, is counsel talking about *coupe-coupes* or machetes?

18 MR. MACDONALD:

19 We are now talking about machetes.

20 THE WITNESS:

21 Counsel, I think you are asking questions for which you already have the answers. A machete can be
22 used for cutting off the member of a person. It can be used for cutting wood or for cutting grass. And
23 you, I believe, know fully well what machetes can be used for.

24 BY MR. MACDONALD:

25 Q. I have never cut anybody. And personally -- and so you have done more than I have done, but you
26 haven't answered the question I put to you, Witness.

27 A. When I was born, my father owned a machete.

28 MR. MACDONALD:

29 Mr. President, it is obvious that the witness is dodging the questions that are being put to him. I think,
30 Mr. President, that you should --

31 MR. PRESIDENT:

32 The question is, with the machete, whether you used a machete only to cut a hand or the limbs of
33 anybody; is that correct?

34 THE WITNESS:

35 No, I used the machete to cut wood or clear the yard. You know, when I was born, there was no war.

36 BY MR. MACDONALD:

37 Q. So before the 6th of April 1994, you had already used that implement several times; is that correct?

1 A. Counsel, I didn't quite understand what period you were referring to.

2 Q. I am referring to your life from zero years to I don't know how old you may be now.

3 A. And which implement did you refer to again, Counsel?

4 Q. Aren't you paying attention, Witness?

5 A. I am listening, Counsel. Could you please put your question?

6 MR. PRESIDENT:

7 Witness, would you answer this. Is a machete an instrument where you can --

8 THE WITNESS:

9 *(No interpretation)*

10 MR. PRESIDENT:

11 Listen first, Witness. Is a machete an instrument which normally you find in every household?

12 THE WITNESS:

13 Yes, a machete could be found in every household in Rwanda.

14 MR. PRESIDENT:

15 Yes.

16 BY MR. MACDONALD:

17 Q. How many machetes did you own yourself? And I am putting the question to you again. How many
18 machetes did you own yourself?

19 A. One machete.

20 Q. Can you explain to us how the delivery of machetes and *coupe-coupes* by Colonel Simba took place
21 on that 19th of April 1994; can you tell us what you saw?

22 A. He brought the implements in a white double-cabin pick-up, and in the morning he arrived at the
23 *gendarme* camp.

24 Q. Was Colonel Simba alone when he delivered those implements?

25 A. No, he was accompanied by some *gendarmes*.

26 Q. Did you know the names of the *gendarmes* who accompanied him?

27 A. No, I was not a member of their battalion.

28 Q. Yesterday, we referred to two or three statements you made previously, including the statement of
29 3rd December 2001. You recognised your signature on the English version of that document. I put it
30 to you that in that statement of the 3rd of December 2001, you do not in any way whatsoever mention
31 that Colonel Simba was in possession of machetes or *coupe-coupes*; do you agree with that?

32 A. No, I do not agree with that, Counsel.

33 MR. VAN:

34 Mr. President, once again, Counsel MacDonald used the word "possession" by Colonel Simba. I
35 don't know whether the witness ever said that Colonel Simba was in possession of any machetes.

36 The word possession can refer to ownership, and yesterday the witness talked about delivery of
37

1 implements. So, what does Counsel mean when he talks about possession?

2 MR. MACDONALD:

3 I would like to suggest to Counsel to probably whisper this directly to the witness rather than suggest
4 the answers that he wants the witness to give. It is not for you to answer. It is for the witness to
5 answer.

6 MR. VAN:

7 You used a word that we need to understand. Between us French-speaking people, there's a
8 distinction between possession and delivery; you can deliver that which you do not possess.

9 MR. PRESIDENT:

10 Yes, Mr. MacDonald.

11 MR. MACDONALD:

12 Mr. President, with your leave, sir. This is the usual pattern that has obtained from the beginning of
13 the trial. They jump at every opportunity and claim, for example, that the word used by the witness
14 was not exactly the same word. They avail themselves of this opportunity to raise and suggest an
15 answer to the witness. The witness is being cross-examined, and if the witness were to raise any
16 questions as to the words that I have used, it is for him to do so and not for the Prosecutor to jump at
17 any opportunity to do this. And that is a clear pattern that they are all adopting.

18 MR. VAN:

19 Mr. President, I do not take these insinuations. It is indeed my right to challenge certain questions
20 and statements by the Defence counsel, even during cross-examination, and I am entitled to do so.

21 MR. PRESIDENT:

22 I think Mr. MacDonald, counsel for the Prosecution (*sic*) because that you were putting to the witness
23 something which he didn't say as if he said it. That is, your question was on the basis that he
24 possessed -- Colonel Simba possessed these implements. And as Counsel says, the witness's
25 position was Colonel Simba brought them in a vehicle which he described the vehicles also; but as he
26 says, there is a distinction between possession, ownership and delivery also. So you have to --
27 believe the witness -- also you must not try to take advantage of our vocabulary to stump the witness.
28 So you may put the question again to him.

29 MR. MACDONALD:

30 With all due respect, my colleague opposite is completely on the other side. Well, Mr. President, I
31 don't know how you can deliver something when such a thing has not been in your possession. That
32 is, I believe, a proper legal understanding. I cannot deliver 250 machetes without having them in my
33 possession. But if that's what we want to do, I will rephrase my question.

34 BY MR. MACDONALD:

35 Q. Witness, did you see Colonel Simba in possession of machetes and *coupe-coupes* on the morning of
36 the 20th April 1994?

37 A. Yes, I saw him. I saw him with my own eyes.

1 Q. You saw him arriving in a vehicle you described before, the white picky -- pick-up truck?

2 A. No, it wasn't a picky, it wasn't a pick-up. It was a Toyota double cabin.

3 MR. MACDONALD:

4 Could we show the witness the statement of 3rd December 2001?

5
6 I think he recognised and acknowledged his signature yesterday. If you don't have it, I can provide it
7 to you.

8 BY MR. MACDONALD:

9 Q. So you have the statement before you, sir? Do you see your signature on each page of this
10 document?

11 A. Yes, Counsel.

12 Q. The first thing to which I would like to draw your attention is on page 3. I would like to read the
13 paragraph that you allegedly -- the statement you allegedly made to the ICTR investigators and you
14 will confirm that to me after I have read it.

15
16 So on page 3, I have the English version, so I am going to read it in English. It is the second
17 paragraph. "Since 1998, I am a genocide suspect. I plead guilty for participating in attacks in which
18 people were killed. I did not kill myself. My trial is not yet started."

19
20 Did you state that to the investigators on 3rd December 2001 that you did not yourself kill?

21 A. I even repeated that here yesterday. I said I was a co-perpetrator in these crimes.

22 Q. You are speaking of what? The school or your village? Because you committed several crimes at
23 different times. What are you referring to exactly?

24 A. These allegations were made by people from my *colline*, from my hill. And this is in relation to those
25 crimes committed on my home *colline*, hill.

26 Q. So, you participated in the deaths of 13 people, but you yourself never decapitated anyone. Is that
27 what you are telling the Trial Chamber?

28 A. If those people were killed in my presence, I am therefore a co-perpetrator because if the people that
29 did kill those people hadn't done so, I would have done it.

30 Q. So, you are both a killer and a liar?

31 A. Perhaps, you are claiming I killed a member of your family. I accept that I killed. I am guilty of
32 murder. You are quite right about that.

33 Q. Well, let us move on to something else. In the statement of the 3rd of December 2001, you did state
34 there to the investigators that Colonel Simba had himself personally delivered weapons, machetes
35 and *coupe-coupes* in April 1994; is that correct?

36 A. No, let me explain to you. When one has pleaded guilty, one doesn't stop doing so. Even today if
37 I am asked to plead I shall plead guilty. If I am asked to admit to the crimes that I committed on my

1 home *colline*, it doesn't mean I can't confess to crimes committed elsewhere. Each time my
2 conscience disturbs me, and I must feel the need to plead guilty to a crime I have committed, I will do
3 so.

4 Q. That was not my question exactly. I will ask it again. Where in the statement of 3rd December 2001,
5 where do you see in this statement that you mentioned to the investigators that Colonel Simba himself
6 delivered the weapons, machetes and *coupe-coupes* in April 1994? Where do you see that in this
7 statement?

8 MR. PRESIDENT:

9 Mr. MacDonald, we are aware or write French. So we only admit the signature. If it is not there,
10 there is no point in telling him that it is not there. You can tell him that it is not there but you can't ask
11 him to say as to why it is not here. Unless you suggest that you never told them, told the
12 investigators. And that is the reason why it is not there.

13 MR. MACDONALD:

14 The aim -- the exercise is to him lying, and say that he did tell it to the investigators but the
15 investigators admitted putting it in the statement. I would rather have a lie other than what I am --

16 THE ENGLISH INTERPRETER:

17 The interpreter missed that; he would rather have lied than what?

18 MR. MACDONALD:

19 I should like the statement to be -- to be tendered inasmuch as he has been cross-examined on it.

20 MR. PRESIDENT:

21 Are you going to mark it?

22 MR. MACDONALD:

23 Yes.

24 MR. PRESIDENT:

25 The Defence move to mark the statement of the witness dated 3rd December 2001 as what,
26 Mr. Registrar? --

27 MR. KIYEYEU:

28 D. 15.

29 MR. MACDONALD:

30 Thank you.

31 MR. PRESIDENT.

32 Yes, it is marked as D. 15.

33 (*Exhibit No. D. 15 admitted*)

34 MR. MACDONALD:

35 Thank you.

36 BY MR. MACDONALD:

37 Q. I will show you another statement. I will now show you another statement dated

1 2nd of October 2002. And I will ask if you recognise your signature on each of these pages. I don't
2 know if you have a copy.

3 MR. MACDONALD:

4 I don't know if this has already been tendered, Mr. President.

5 MR. PRESIDENT:

6 Mr. Van, did you mark it? This is the statement of 2/10/2002. I don't think you marked it. Please
7 show it to him, identify the signature of the witness.

8

9 Counsel, could you please ask him whether he identifies his signature on the document dated
10 2/10/2002.

11 THE WITNESS:

12 Yes, I do remember my signature.

13 BY MR. MACDONALD:

14 Q. You recognise your signature on every page?

15 A. Yes, it is my signature.

16 Q. So, I will read something too from page 4, last paragraph, two last lines. I will read it in English
17 because I have the English version. It reads as follows: "On the 20th of April 1994, Captain Sibohera
18 came to the barracks and his vehicle was followed by a blue Toyota
19 double-cabin pick-up full of brand new sickles and machetes. This vehicle was the official vehicle of
20 *Préfet* U. C. Mbaluta (*phonetic*) and was being driven by Rwamazani. xxxx and go and sharpen
21 them."

22

23 Did you state that to the investigators?

24 A. I think the investigator did not understand quite -- the blue vehicle was being driven by Rwamazani,
25 and he went to Murambi, and there were a few *coupe-coupes* and machetes. But it was in the
26 *gendarmerie* vehicle that there were many more implements, many more machetes and
27 *coupe-coupes*, and this is a mistake. The vehicle in question came in the evening and not during the
28 day.

29 Q. So, the investigator made many mistakes in taking your statement; is that the case?

30 A. Not many.

31 MR. PRESIDENT:

32 Mr. Witness, I think --

33 THE WITNESS:

34 I told him that the vehicle in question driven by Rwamazani, the *préfet's* vehicle, came in the evening
35 and not in the middle of the day. And that is the mistake made.

36 MR. PRESIDENT:

37 Mr. Witness, what counsel is trying to point out is that you whilst you were with the captain, Sibohera

1 brought machetes, and not Colonel Simba. That is what he is trying to tell you. You had told the
2 investigators that it was Captain Sibohera. What have you got to say to that?

3 THE WITNESS:

4 No, it was Simba who brought the machetes and the *coupe-coupes*, not the *préfet*.

5 BY MR. MACDONALD:

6 Q. Do we understand from what you are stating that Simba came in the morning or in the evening with
7 the *coupe-coupe* and machetes?

8 A. He arrived between 9:30 and 10:00. I am sorry, sir, the time of day is not clear, and then he came
9 back.

10 THE ENGLISH INTERPRETER:

11 I am sorry. It's not clear whether it's morning or evening, Mr. President.

12 THE WITNESS:

13 It was in the morning.

14 BY MR. MACDONALD:

15 Q. So, this is a lie again. You very clearly state here that it was Sibohera, without mentioning directly or
16 indirectly Colonel Simba.

17 A. Are you trying to say that today is the first time I have learnt the name of Simba, or are you claiming
18 that it's only been brought up now?

19 Q. Well, let us go on to something else. At the meeting of the 13th of April 1994, you say that Simba
20 took the floor. That he spoke at that meeting. Do you remember that?

21 A. Yes, that is what I said.

22 Q. Could you tell us what Simba said at that CPEP meeting?

23 A. Yes.

24 Q. So, what did he say?

25 A. He said something that the *préfet* repeated, "If you want to burn the weeds, you first have to gather
26 them together", and he said. "We have an army and the *gendarmérie* that will ensure your security.
27 Your security is guaranteed.

28 Q. Did he say anything? Did Colonel Simba say anything else?

29 A. I just told you -- I have already told you what he said and repeat it. Now it's up to you to see if it's not
30 in my statement.

31 Q. I am not saying that it's not in your statement, but once again you have lied before the Trial Chamber
32 when you testified in the Simba trial or you are lying now? This is what I wish to draw your attention
33 to, sir.

34 A. Well, if you were there, then tell the truth yourself instead of me.

35 Q. I just want to make sure of one thing. You were inside and you heard Simba speaking. Let's get quite
36 clear on that.

37 A. Yes.

- 1 Q. I would like to read an extract of your testimony on the 25th of October 2004, page 51 of the
2 transcript, the French transcript. In your testimony before Judges, Møse, Serger and Dennis, in the
3 Simba trial.
- 4 A. Yes, I remember.
- 5 Q. In an exchange with Defence counsel, you state, line 27, I will quote, "I have already explained that
6 Simba did not speak during that meeting at the CPEP"; Do you remember having said that before the
7 Trial Chamber on the 25th of October 2004?
- 8 MR. VAN:
9 Mr. President, could Mr. MacDonald give us the new reference? Which page is it?
10
11 Page 51, line 27, hearing of the 25th of October, is that correct?
- 12 MR. MACDONALD:
13 Yes.
- 14 MR. PRESIDENT:
15 Yes, Mr. Witness, answer that.
- 16 THE WITNESS:
17 Simba did not make a long speech, but what he said -- he did say what I said he said, and it was
18 addressed to the gathering.
- 19 BY MR. MACDONALD:
20 Q. Can I remind you of the sentence of -- just a sentence in your exchange? "I already explained to you
21 that Simba did not speak at the meeting held at CPEP", that's what you said.
- 22 A. Everyone who was there spoke. No one -- none of the authorities left the meeting without speaking.
- 23 Q. And I put it to you at the time of your first meeting with the investigators of ICTR, not only do you not
24 speak of Simba as being present but you don't mention *gendarmierie*; do you remember that?
- 25 A. I have already answered that question. I said that any time one can make a statement. If you want to
26 you can go to Gikongoro, to the Prosecutor's offices and look at the records. He will give you any
27 item you need.
- 28 Q. Not only Colonel Simba wasn't there, and not only were you not there, but Colonel Simba -- at the
29 time of the events narrated between the 13th and the 20th of April, Colonel Simba was retired. Did
30 you know that?
- 31 A. You are saying that he was retired? Yes, that is true, he was retired, but during the war he was part
32 of the army. He was in the army. As to saying I wasn't there, I was, and I reassert that. I cannot
33 confess a crime which I didn't commit when I would be convicted for that crime to which I do plead
34 guilty.
- 35 Q. Coming to Colonel Simba, you will agree with me that you did not know that person before the date
36 you claim to have seen him for the first time, the 13th of April 1994?
- 37 A. I did not know him.

- 1 Q. You never saw Colonel Simba before the 13th of April 1994?
- 2 A. I had never seen him. I did not have the opportunity to see him up close.
- 3 Q. You are not yourself a soldier; you have not had any military training or as a *gendarme*, you haven't
- 4 had any training. You agree with me, do you not?
- 5 A. Yes, I do agree with you.
- 6 Q. Nor are you familiar with the various ranks in an army; is that correct?
- 7 A. At the time I didn't know it very well. I heard people referred to as high ranking and those are the
- 8 ones that I saw.
- 9 Q. Do you remember having referred to -- at the time of your last statement before the Trial Chamber, in
- 10 October -- 25th of October 2004, do you remember having mentioned that; according to you,
- 11 Colonel Simba, in 1994 having said that he was the boss of the army? Do you remember him having
- 12 used that term?
- 13 A. Yes, he was the boss of the army, and not only in my region. He was the boss in general.
- 14 Q. In other words, according to you, Simba had no one above him in the hierarchy?
- 15 A. I don't know who his hierarchical superiors were. I know that he was a colonel.
- 16 Q. When did you hear that Colonel Simba was retired?
- 17 A. When I was at IJEP, when Colonel Simba was introduced to the throng, to the gathering.
- 18 Q. And that's when he presented himself, introduced himself as being a retired colonel; is that correct?
- 19 A. No, at that moment he stated that he had been reintegrated into the ranks of the interpreters, the
- 20 Rwandan armed forces.
- 21 Q. And when did he state that?
- 22 A. He said that as soon as he arrived. The *préfet* had just introduced him, and he said, "I was retired
- 23 but, as you see I have reintegrated the ranks, and now I am a colonel in the army."
- 24 Q. You are a liar of the worst breed, sir. You have never said any such thing either before the Court or in
- 25 any of your statements or in any testimony before the Courts in October 2004, or to the investigators
- 26 of the ICTR or to anyone else. You have never said any such thing. Do you agree with me?

27 MR. VAN:

28 Mr. President, I oppose this manner of characterising the witness as being a liar. If he doesn't agree

29 with what the witness is saying, he should leave it for the Court to assess the situation. I think this is

30 not acceptable, it is not professional. It is an insult, Mr. President, and it is an unacceptable.

31 MR. PRESIDENT:

32 Mr. MacDonald, I think we will decide whether he is a liar or not, but without labelling him.

33 You may proceed.

34 BY MR. MACDONALD:

35 Q. These words that you put into Colonel Simba's mouth, purportedly pronounced on the 13th of

36

37

1 April 1994, am I to understand that you are speaking from your memory, that you are remembering
2 and recalling all of that today?

3 A. No, what I am saying to you is exactly what he said in his own words, and I confirm, I assert that that
4 is what he said.

5 Q. When you say, "In his own words," are you saying that those are the exact words he used and that
6 you cannot be mistaken about one of the words or one of the statements that were made by
7 Colonel Simba?

8 A. Those were the words he said, and I have put them back to you, exactly as they were. However, you
9 may want to know that one cannot consign to memory everything that is said at the meeting or write
10 down everything that is said at the meeting. But these words which I have repeated to you are the
11 exact words used by Colonel Simba.

12 Q. Could you tell us the rest or the remaining statements or words that Colonel Simba made after he said
13 what you have just said? I mean, word for word.

14 A. He went on to say that when you want to burn weed, you gather it, and we have *gendarmes* who are
15 supposed to protect the Tutsi. Then he added that we must gather them together to provide security
16 for them. And all the various agencies of the administration have been informed accordingly. They
17 have been instructed to act in that manner. Those were his words.

18 Q. After he said that he had been called back from retirement, did he move on directly to talk about the
19 weed that must be burnt or did he talk about something else before talking about the weed when he
20 took the floor?

21 A. No, those words were not spoken immediately thereafter. He introduced himself and mentioned that
22 he had been recalled to military service and that he was a military boss.

23 JUDGE PARK:

24 Witness, during the IJEP hall meeting, what kind of clothes did Simba wear?

25 THE WITNESS:

26 He was in a military uniform.

27 JUDGE PARK:

28 Did he carry on his personal weapon?

29 THE WITNESS:

30 Yes, he was carrying a pistol.

31 JUDGE PARK:

32 Okay.

33 BY MR. MACDONALD:

34 Q. Just one more thing, Witness. Weren't you surprised to see the boss of the army, of the Rwandan
35 army, coming to the *gendarmerie* camp on the 20th of April 1994, with machetes and the
36 *coupe-coupes*, weren't you surprised to see that person, such a high-ranking officer of the army
37 performs those tasks?

1 A. Counsel, why should I have been surprised? That was a time of war. And in times of war a major can
2 even deliver weapons to the troops.

3 MR. MACDONALD:

4 Mr. President, at this juncture, I would like to produce three documents. The first one is a presidential
5 order of January 1999, 7th of January 1999, entitled, "Presidential Order No. 0702 of 7th January '99",
6 placing a Rwandan army officer on retirement for reasons of age. Reference is made to various
7 decrees, and the content of the decree speaks to the fact that Lieutenant Colonel Simba was retired
8 on the 1st of January 1989. I am sorry, if I had referred to 99 but it is '89.

9
10 I provided a copy of this document. I disclosed to my learned friends on the other side. And with
11 regard to the source of this document, I would like to say, Mr. President that these documents were
12 found at Colonel Simba's.

13 MR. PRESIDENT:

14 I don't think you will be contesting this.

15 MR. VAN:

16 No objection, Mr. President.

17 MR. PRESIDENT:

18 This is marked as D. 16. D. 16, Bizimungu.
19 (*Exhibit No. D. 16 [Bizimungu], admitted*)

20 MR. MACDONALD:

21 D. 16, Bizimungu. Thank you, Mr. President.

22
23 The second document is another official document which was found at Lieutenant Colonel Simba's
24 residence. The first paragraph, I would like to read it out to you, Mr. President. "Open government
25 decision, civilian defence organisation -- Upon decision of the government, a civilian defence
26 organisation has been set up. In that connection you have been appointed advisor in civilian defence
27 to the *préfet* of Butare, Butare *préfecture* and Gikongoro *préfecture*." Signed by the Minister of
28 Defence at the time, the then Minister Augustin Bizimana.

29
30 It's a document of 15th May 1994. I would like to produce this document as well, Mr. President.

31 MR. VAN:

32 No objection, Mr. President.

33 MR. PRESIDENT:

34 It is marked D. 16, in brackets, Augustin Bizimungu -- D. 17.
35 (*Exhibit D. 17 [Bizimungu] admitted*)

36 MR. MACDONALD:

37 And I have this last document and probably another one. This document is of 18th May '94. It's a

1 document signed by the *préfet* of Gensi (*phonetic*), Mbakuta *préfecture*, which contains the following.
2 In fact, as I have stated, it's a document of 18th May '94. And reads as follows:
3 "Colonel Simba Alloys was appointed by the Minister of Defence to the position of civilian
4 defence advisor to the *préfet* of Gikongoro *préfecture*." I would like to produce that document as well,
5 Mr. President.

6 MR. PRESIDENT:

7 This document is marked D. 18.

8

9 Yes, that is entered as D. 18 Bizimungu
10 (*Exhibit No. D. 18, (Bizimungu) admitted*)

11 MR. MACDONALD:

12 Thank you, Mr. President, I have one last document.

13

14 I don't know if the Prosecutor has received a copy of this document, but I will hand it to the registry.
15 The last document is a document or an announcement from MINADEF or a message to the general
16 staff of the national *gendarmerie* of Rwanda. It is a document which was issued between the
17 30th of April 1994 and the 4th of May 1994, apparently, because it is difficult to see the dates on the
18 document clearly.

19

20 Well, 1st of May. In fact, it is dated 1st of May 1995 -- 1994 rather. It is a request pertaining to some
21 officers, asking them to determine whether they are in shape for the partial on-going mobilisation.

22

23 Mr. President, the idea here is that those persons mentioned, including Colonel Simba, had been
24 demobilised clearly at that time, namely on the 1st of May 1994.

25 MR. VAN:

26 Mr. President, sir, I have looked at this document and I am not able to determine the exact date on
27 which it was issued. I can't see a date on this document, Mr. President. Could Counsel MacDonald
28 help us to locate the date? Has he found the date somewhere on that document? And by the way,
29 Mr. President, I would like to object to the tendering of this document which has no bearing on the
30 matter before us. It is a piece of paper which bears no date. It is apparently not signed. And may I
31 add, Mr. President, that it is not legible. And for these reasons, I object to the tendering of this
32 document.

33

34 Counsel MacDonald has already produced three documents, and we didn't object to any of them, but
35 this piece of paper is not worth much, Mr. President.

36 MR. MACDONALD:

37 Mr. President, maybe -- I would like to make a few comments with regard to the date. I had the same

1 apprehensions as my learned colleague but I have been guided into how this document must be read.
2 Someone will subsequently be called to explain all of these details to us, but for now let me explain
3 what --

4 MR. PRESIDENT:

5 If it will be subject to proof -- if you are calling somebody, then this is no problem.

6 MR. MACDONALD:

7 Very well. But just to speak to the question raised by my colleague pertaining to the date, the last
8 paragraph there's reference to 1994 and there's a date.

9 THE ENGLISH INTERPRETER:

10 Sorry, Mr. President, interpreters don't have a copy of a document and Counsel is going too fast. We
11 are not able to follow him.

12 MR. VAN:

13 What are you talking about, Counsel MacDonald?

14 MR. MACDONALD:

15 What is the date on the document which you have circulated?

16
17 I can see at the bottom left of the document, last paragraph, there's something written. There's a
18 piece of text on that telegram. Can you see below?

19 MR. VAN:

20 I can see on the last line.

21 MR. MACDONALD:

22 No, I am referring to the first line. Paragraph 12. D, then there's a series of numbers, and one of the
23 first numbers is of 131200B, and that I believe will be explained, AVR, April, and then 994 --

24 MR. VAN:

25 Counsel MacDonald, I don't think you need to presume anything from that document. This is a
26 document that bears no date. It has no author and is baseless. It is not relevant at all.

27

28 I, therefore, strongly object to the tendering of this document.

29 MR. PRESIDENT:

30 We will admit this subject to proof.

31 MR. MACDONALD:

32 Subject to further explanation. Thank you, Mr. President.

33 MR. PRESIDENT:

34 And this document is given the marking ID.

35 MR. KIYEYEU:

36 ID No. 4, in brackets, Bizimungu.

37

1 MR. PRESIDENT:

2 ID. 4, Bizimungu.

3 *(Exhibit No. ID. 4 (Bizimungu) marked)*

4 BY MR. MACDONALD:

5 Q. Finally, Witness –

6 MR. MACDONALD:

7 I am sorry, Mr. President.

8 BY MR. MACDONALD:

9 Q. Witness, yesterday when my learned colleague led you in chief, you talked about your relationship
10 with your Tutsi neighbours. You seemed to tell the Court that the relationships are better today
11 between the Hutus and their neighbours than they were before. I would like to know -- in fact, it is not
12 a question. I would like to put it to you, Witness, as follows. Would you agree with me that in your
13 area, namely in Gikongoro, prior to the meeting of 13th of April 1994, which you have talked about in
14 detail, prior to that meeting, are you saying that the relationships or relations in the neighbourhoods
15 were excellent and congenial, and that there was symbiosis between the Hutus and the Tutsis of that
16 community? Is that correct?

17 A. Yes, there were good relations obtaining at the time. Thank you.

18 MR. MACDONALD:

19 No, further questions, Mr. President.

20 MR. PRESIDENT:

21 I think the other two counsels have no questions for this witness, as they have not touched your
22 clients.

23 MR. SEGATWA:

24 Mr. President, I did not want to take the floor, but there's something that has not been addressed.

25 CROSS-EXAMINATION

26 BY MR. SEGATWA:

27 Q. Good morning, Witness.

28 A. Good morning, Counsel.

29 MR. SEGATWA:

30 I just wanted to switch channels, Mr. President, on my headset.

31 BY MR. SEGATWA:

32 Q. Witness, yesterday you stated that you went to Murambi at 23 hours, that's 11 p.m.

33 A. Yes, that's correct. That's true.

34 Q. You also said that you returned to Murambi at about 2 a.m. in the morning; is that correct?

35 A. It was 3 a.m. -- 3 a.m.

36 Q. Thank you for being that specific. Then you went back again at about 5 a.m.; is that correct?

37

1 MR. VAN:

2 Mr. President, there is something that is not clear to me. Counsel Segatwa has indicated that he will
3 cross-examine this witness, in his words, on an item that has not been addressed, but his line of
4 questioning so far seems to pertain to an area that was covered at length. So there's nothing new.

5 MR. SEGATWA:

6 Please be patient. Be patient, Counsel. Be patient. I am getting there.

7 MR. PRESIDENT:

8 Yes, Mr. Segatwa.

9 BY MR. SEGATWA:

10 Q. xxxx; was that your testimony?

11 A. Yes, that was my statement.

12 Q. Was it during the day?

13 A. Yes, it was during the day.

14 Q. Could you tell us at about what time?

15 A. It must have been between 10 a.m. and 11 a.m. I didn't pay much attention to the time, but it must
16 have been between 10:00 and 11:00.

17 Q. When did you complete sharpening the machetes; at what time?

18 A. Probably at about 17 hours; at 5 p.m. When the machetes were brought, they had already been
19 sharpened and when they were brought back, it was about 5 p.m.

20 Q. Witness, do you recognise your xxxx?

21 A. I don't recall the dates.

22 Q. However, Witness, you do remember having made a statement. The second interview -- you said that
23 was your second interview with the ICTR investigators; do you recall that statement?

24 A. Could you please read out the section or the excerpt of the statement you want to refer to, and I might
25 be able to recall that I made such a statement?

26 MR. SEGATWA:

27 For the benefit of the Prosecutor, I am referring to the statement of the 2nd of October 2002. French
28 version would be page 5. Under K, No. K0278281. Paragraph No. 1. With the registry;
29 No. 7990. I would like to read the excerpt of that statement. "We sharpened the machetes and
30 sickles using an electric sharpener. This took some hours as there was a brief power cut."

31 BY MR. SEGATWA:

32 Q. Do you remember having made that statement, Witness?

33 A. Now, let me explain what the situation was as it unfolded at the time.

34 Q. Witness, I simply want you to tell me whether that was your statement or no.

35

36 MR. VAN:

37 Well, that is what he is telling you. Let him make his answer.

1 MR. PRESIDENT:

2 Since you have asked this, he is actually entitled to explain. You first ask him if he said it, and then let
3 him explain..

4 MR. SEGATWA:

5 Thank you, Mr. President. Very well, let him continue.

6 THE WITNESS:

7 This is what I wanted to explain to you. I sharpened these machetes because I was asked to load
8 them on a vehicle. I loaded them and the machetes were taken to Samson's (*phonetic*). They were
9 sharpened and then we brought them back. Maybe you can tell me that those machetes weren't
10 sharpened in order to contradict me.

11 BY MR. SEGATWA:

12 Q. Witness, I wanted to know if this is what you stated. Are you sticking to that? Are you maintaining
13 your statement?

14 A. Yes, I confirm because in fact those machetes were sharpened.

15 Q. And you also stated the following, I quote: "As soon as we had finished sharpening the sickles and
16 machetes, *Préfet* Buchabaluta and Captain Sibohera came to the barracks and instructed us to load
17 the sickles and machetes into the *préfet's* vehicle. We set of in the direction of Murambi."

18

19 Do you confirm having stated that?

20 A. I think I have answered that question. Perhaps you weren't following my explanations.

21 I said that on the *préfet's* -- aboard the *préfet's* vehicle, some machetes were loaded. The others
22 were loaded in the *gendarmerie* vehicle. I don't know whether you didn't quite follow my
23 explanations. It's true that some were loaded aboard the *préfet's* vehicle.

24 Q. And you finished sharpening the machetes at what time approximately?

25 A. When we brought the machetes back to the *gendarmerie* it was about 5 p.m. But I wasn't wearing a
26 watch because when we brought the machetes back. We didn't load them immediately aboard the
27 vehicle. It was a bit later that they were loaded aboard the vehicle.

28 Q. But you said that as soon as you finished loading, you went to Murambi; is that correct?

29 A. The machetes were delivered to the barracks after having sharpened them. And we went to Murambi
30 later. It wasn't in the day time that we went to Murambi.

31 Q. So, we must conclude that the investigators lied because they say here that you left for Murambi?

32 A. No, the machetes were first taken to the camp, and then during the night they were then taken away
33 from the camp. It wasn't during the day.

34 Q. Where did you spend the night after having delivered the machetes to Murambi?

35 A. We spent the night in the *gendarmerie* camp. This is where I myself spent the night.

36 Q. According to his leaving at 11 o'clock, coming back at 2 a.m., is the same thing as spending a night in
37 the camp or did you -- were you constantly coming and going?

1 A. No, even if you sleep for two minutes, it is as though you had slept.

2

3 If I spent the whole time at Murambi then, I could say that I hadn't slept.

4 Q. Witness, you stated to the investigators the following: "The Tutsi tried to fight back using stones, but
5 the attackers were very many and they were mixed with *gendarmes* who were using rifles and
6 grenades."

7 MR. VAN:

8 Mr. President, what statement are we --

9 MR. SEGATWA:

10 It is the same statement.

11 MR. VAN:

12 Could you tell us exactly where you are, the page and the paragraph, and the line, then things will be
13 a bit cleared up.

14 MR. SEGATWA:

15 I think Prosecutor that -- Counsel for the Prosecution, rather than making objections, I tell you we are
16 on the same page.

17 BY MR. SEGATWA:

18 Q: Second paragraph, last sentence but one. Hear what is said, "I spent the night at the gendarmerie
19 barracks and I heard gunfire and explosions of grenades throughout the night." You are saying all
20 night, so you didn't leave the camp for the whole night.

21 A. Yes, I did

22 *(Pages 1 to 20 by Judith Kapatamoyo)*

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1 1045H

2 BY MR. SEGATWA:

3 Q. So, you didn't leave the camp for the whole night?

4 A. Yes, I did. I said that I could hear firearms while I was lying down, and I could hear the gunfire, and I
5 was lying down. And all night, we could hear the gunfire.

6 Q. Witness, if your translation is correct, you heard gunfire all night, and you were in a camp?

7 A. We could hear gunfire; to answer your question until early in the morning.

8 Q. Witness, you maintain that you were still awake at 5 a.m.?

9 A. I said that I woke up in the morning, and went to Murambi to count the machetes. But I repeat, I did
10 not, -- I was not wearing a watch and I cannot give you an exact time, but I went back to Murambi in
11 the morning.

12 Q. Witness, did you sleep deeply in the morning?

13 A. No, I didn't sleep, I went straight home.

14 Q. I am saying between 3 a.m. and the morning, do you sleep deeply?

15 A. It depends on what is on your mind. You can either sleep or not sleep. In a situation where you hear
16 gunfire, you can't sleep.

17 Q. And you needed someone to wake you up, therefore; is that correct?

18 A. Yes, someone woke me up.

19 Q. So, if someone woke you up, it means you were sleeping deeply.

20 A. No, I was not sleeping deeply. Someone can come and wake you up and ask you to go somewhere,
21 to get you out of bed. If it's someone you don't spend the night with, but someone who is in another
22 room, can come and awake you and leave together?

23 Q. I think, Witness, you are trying to make explanations so that it does go on water because you say the
24 following morning about 6 a.m., I was awakened by a gendarme. Could he have awakened you up if
25 you were awake?

26 A. He knocked on the door of my room.

27 Q. Very well, let us come back to the massacres, or the massacres of the Tutsis. Does Murambi School
28 have an enclosure?

29 A. Yes, it is walled.

30 Q. And no one can cross the enclosure?

31 A. No, you can jump over it. I can't, I couldn't say that it is impossible to breach it. It depends on
32 conditions at that point.

33 Q. Were all the Tutsis tied up?

34 A. No, they were not tied up.

35 Q. So, they could run away?

36 A. But there was no way for them to run to, they were surrounded. If someone comes and stands at this
37 door, someone stands at the other door with a gun, which way do want to go (*inaudible?*)

- 1 Q. Witness, you said it yourself that the Tutsis tried to fight back with stones, well; they could have fled if
2 they can pick up stones?
- 3 A. Do you think that someone fighting with stones against someone who has a firearm is equally
4 matched? You can't fight with stones against someone who has got a gun and hope to overcome
5 them.
- 6 Q. Witness, was the moon shining that night? Was there moonlight?
- 7 A. There was some illumination.
- 8 Q. And there were how many gendarmes or civilians were there?
- 9 A. I didn't have a computer to count all the people there, but there were more than a hundred
10 gendarmes.
- 11 Q. And you maintain that that night, there were more than ten thousand dead who could not flee; don't
12 you think that is an exaggerated number?
- 13 A. They were killed.
- 14 Q. How can you estimate the number of the dead at 10,000?
- 15 A. It's only an estimate. There might have been more than 10,000. It's just an example I put forward. It
16 could be that there were more than 10,000, and if you listen to the radio, you can be told of thousands
17 of people that were killed at that place.
- 18 Q. Witness, I am saying that you are not telling the truth, maybe there were many dead, but 10,000 for
19 people who were not tied up, it's not possible?
- 20 A. Those people were killed the very same day in Murambi.
- 21 MR. VAN:
22 If counsel for the Defence wants to testify, I will cross examine him.
- 23 JUDGE HIKMET:
24 Mr. President, I would like to ask him two questions. The first one, what qualifications did you get?
- 25 THE WITNESS:
26 I studied to up to the fourth year in primary school. And I in fact, didn't finish the fourth year.
- 27 JUDGE HIKMET:
28 Thank you. You said that you were familiar to the high ranking officers like Simba, Sibohera. Do you
29 know Bizimungu?
- 30 THE WITNESS: No, I did not know him. I am speaking of the officers I saw in Gikongoro.
31 Bizimungu, I did not see him there.
- 32 JUDGE HIKMET:
33 You did not hear his name, Augustin Bizimungu, Vincent Bizimungu? Do you hear these names?
- 34 THE WITNESS:
35 No, I did not know anyone called Vincent Bizimungu.
- 36 THE ENGLISH INTERPRETER:
37 But the witness also did say that he heard of a high-ranking officer called Bizimungu, and adds that

1 many people bear the name Bizimungu. But I cannot explain to you what the role of that Bizimungu
2 and moreover at home we have people called "Bizimungu".

3 MR. PRESIDENT:

4 As far as you are concerned, who was the officer in charge at the gendarmerie camp where you
5 were?

6 THE WITNESS:

7 Captain Sibohera.

8 MR. PRESIDENT:

9 Then you say that Colonel Simba came there?

10 THE WITNESS:

11 When you say that Colonel Simba.

12 MR. PRESIDENT:

13 Came to the camp, who did he meet?

14 THE WITNESS:

15 He met Captain Sibohera

16 MR. PRESIDENT:

17 Before this meeting you had never seen Colonel Simba?

18 THE WITNESS:

19 No, I had never seen him.

20 MR. PRESIDENT:

21 Yes, Mister. Any questions in re-examination?

22 MR. VAN:

23 Yes, Mr. President.

24 MR. PRESIDENT:

25 So, how long will you take?

26 MR. VAN:

27 About 20 minutes and it might overlap with the break. I have some clarification to seek.

28 MR. PRESIDENT:

29 We will take the break; we will resume after the break at 1115H

30 *(Court adjourned from 1055H to 1120)*

31 MR. PRESIDENT:

32 Yes Mister, Counsel, you commence the re-examination.

33 MR. VAN:

34 Thank you, Mr. President.

35 RE-EXAMINATION

36 BY MR. VAN:

37 Q. Good afternoon, Witness.

1 A. Good afternoon, Counsel.

2 Q. I would like to seek some clarification from you on some of the items we talked about yesterday
3 particularly as we touch on your cross-examination as well.

4

5 Yesterday, Counsel Black referred to transcripts from the Simba Trial of 26 October 2004, and he said
6 that you had lied to the effect that you did not belong to any political party. Do you remember that?

7 A. Yes, I do.

8 Q. Would you agree with him that you have never belonged to any political party?

9 A. No, I do not agree with him. I have already stated my position.

10 Q. Now, with regard to your position, this is what you said in the Simba Trial and that would be drawn
11 from the transcripts of the 26 October 2004, page 42, line 28, and this is what you said, "I will provide
12 explanations on this point. You cannot belong to two political parties. The PSD is a political party to
13 which my brothers and sisters belonged. In fact, some of them were officials within that party. I was,
14 therefore, obliged to follow the party line adopted by my brothers and sisters."

15

16 Do you remember having testified to that effect, Witness?

17 A. Yes, that was my testimony.

18 Q. Does that mean that you were not a member of the PSD?

19 MR. MACDONALD:

20 Mr. President, this is doing a cross-examination and he is being suggestive, Mr. President.

21 MR. PRESIDENT:

22 Yeah.

23 MR. VAN:

24 I will rephrase the question, Mr. President.

25 BY MR. VAN:

26 Q. Witness, when you say that you were obliged to follow the party line adopted by your brothers and
27 sisters, what did that mean?

28 A. What I meant was that I was supposed to become a member of the political party to which my
29 brothers and sisters belonged.

30 Q. Did you indeed become a member of the political party to which your brothers and sisters belonged?

31 A. Yes, I did become a member of that party.

32 Q. Still drawing from the transcript and still on page 42, line 33, Counsel Alao, counsel for the Defence of
33 Colonel Simba made the following closing statement. He said, "Thank you, Mr. President. I would
34 like it to be noted that in a third statement, the witness indicated that he had been a member of the
35 PSD over a short period. It is, therefore, in three different statements that he talked about his political
36 leanings. It would be for the Court to determine."

37

1 Did you hear Counsel Alao make that statement on the 26th of October 2004?

2 A. Yes, I recall that statement by Counsel Alao.

3 Q. Did you agree with him, with that Counsel Alao, that you had stated in three statements that you were
4 a member of the PSD?

5 A. No, I did not agree with him because he didn't refer to MDR political party, but what he said with
6 regard to the PSD was correct because I had been a member of that party.

7 Q. Thank you, Witness. Let us move on to another issue. Yesterday, Counsel Black put the *pro justitia*
8 statement of 17th 2001 at the Gikongoro Prosecutor's office. He put the question of that statement to
9 you for consideration. Do you remember that?

10 A. Yes, I do.

11 MR. PRESIDENT:

12 Date.

13 BY MR. VAN:

14 Q. The *pro justitiu* statement of 17th of August 2001. Counsel Black wanted to underscore the fact that
15 you were not present at the Gikongoro Gendarmerie, and that you had never referred to gendarmes in
16 your discussions with the prosecutors there; do you remember that?

17 A. Yes, I do remember.

18 Q. Now then, Witness, the Deputy Prosecutor, Théoneste Kananiye who conducted the interview, did, in
19 fact, conduct that interview, I would like to know from you who asked the questions during that
20 interview?

21 A. Are you asking about the person who asked questions on behalf of the Judges or on my behalf?

22 Q. At the Gikongoro Prosecutor's office, you were interviewed by a deputy prosecutor on
23 the 17th of August 2001. Who was asking the questions during that interview? Who was asking the
24 questions during that interview?

25 A. It was Kananiye who was asking the questions.

26 Q. Now, who chose the questions that were being put to you by Kananiye?

27 A. He selected the questions himself, and he is the one who took down the answers I provided.

28 Q. Let me read out one or two of the questions: He asked you whether you knew Laurent Bucyibarula,
29 and your answer was as follows, "I know him. He was the *Préfet* of Gikongoro up to 1994.
30 Another question: "Can you tell us, tell me about his behaviour during the genocide?"

31 A. Your answer: "He incited the *bourgmestres* and *consellers* to kill Tutsi.

32 Q. During that interview did the deputy prosecutor ask you any questions about the gendarmes and the
33 gendarmerie?

34 A. He did ask me questions about the *préfet*, but any questions pertaining to the gendarmes were only
35 put to me at another occasion, at another time.

36 Q. (*By order of the Court, this question of counsel has been extracted and filed under seal*).

37

1 THE ENGLISH INTERPRETER:

2 Sorry we didn't get counsel's comments, Mr. President.

3 MR. PRESIDENT:

4 That question will be withdrawn.

5 BY MR. VAN:

6 Q. If I did understand you well, during that interview of 17th August 2001, the deputy prosecutor did not
7 ask you any questions about gendarmes and the gendarmerie?

8 A. He didn't ask me any answer on the gendarmes and the gendarmerie.

9 Q. Thank you, Witness.

10 MR. VAN:

11 Mr. President, I will now tackle another issue which does not directly bear on the witness.

12

13 Yesterday, Counsel Black produced the purported visa of Bikindi. He also tendered documents which
14 unfortunately are illegible. I have taken the time to look through my files and I found a copy of the
15 document he produced under K-number 0073636. The document shows a visa given to Bikindi
16 issued to Bikindi by the British Embassy in Brussels and the visa says the following: "Entry certificate
17 visa, single visit valid for presentation at a United Kingdom port until 6 October 1994, provided this
18 passport remains valid".

19

20 The visa says that Bikindi was allowed to visit the UK until the 6th of October 1994. He was in
21 Brussels. Now, the question is when did he get to Brussels? The Belgian Embassy, the Bruxelles
22 Embassy as it was called in those days, gave him a visa, issued him a visa on the -- I think as of the
23 20th or 22nd of April 1994, 20th of April 1994 and the visa was valid from the 22nd of April 1994 until
24 28th of May 1994.

25

26 Yesterday, the discussion was as to Bikindi's presence on the 13th of April 1994. Witness, yesterday,
27 Counsel Black said that you had not stated the truth pertaining to the presence?

28 MR. BLACK:

29 Your Honour I must state that if he wants to frame this type of questions to the witness, he better put
30 all the facts which include the passport stamps at Heathrow Airport and Brussels Airport, indicates
31 that Mr. Bikindi could not have been in the country at the time. As a matter of the visa is a partial
32 stamp from immigration offices when he entered or when he exited those countries.

33 MR. VAN:

34 No, I don't think that is necessary. I should merely like the witness to tell us whether he confirms or
35 not what he stated yesterday.

36 Thank you, Mr. President.

37

1 BY MR. VAN:

2 Q. Yesterday, Witness, Mr. Black said you had not told the truth pertaining to Bikindi's presence at the
3 secret meeting on 13th of April 1994, do you remember that?

4 A. Yes, I remember, but I did tell the truth. What I said was true, was correct, and was the precise truth.

5 Q. What was the precise truth?

6 A. I was telling him that Bikindi was present at that meeting, and I was also present at that meeting.

7 Q. Thank you, Witness.

8 MR. VAN:

9 So, Mr. President, I should like to tender a more legible version of the document Mr. Black brought
10 yesterday. I should like to tender it as a Prosecution exhibit.

11 MR. BLACK:

12 I object to that. Mr. President. We already have that document before you, and we can get the
13 details of that document confirmed. It is quite legible to me, I can read the stamps - - the stamps on
14 that passport pages and indicate exactly what I said. And if he wants to file two, then I want to see his
15 copy to compare the two before it is filed. unless this is going to be a waste of time. Anyway, we are
16 going to have two documents of the same document. It just clutters up the record. I don't see any
17 need for that.

18 MR. PRESIDENT:

19 If there are clearer copies he is tendering, we will accept that if it is the same document you are
20 tendering so there is no problem. So I will put it on record that at this stage, Mr. Counsel for the
21 Prosecution produces the document because a clearer copy of the document because it was marked
22 either by the Defence as ID3 and counsel also to mark this – counsel has mark this document as
23 a Prosecution Document bearing number --

24 MR. VAN:

25 P11, I think, Mr. President.

26 MR. KIYEYEU:

27 That would be correct, My Lord.

28 MR. PRESIDENT:

29 Yeah, P11

30 MR. BLACK:

31 That is okay, Mr. President, if we get to see that before we would like to compare if it is the exact
32 document.

33 MR. PRESIDENT:

34 Yes, if you have two copies, give one to them.

35 MR. BLACK:

36 Before it is filed, if it is exactly the same, Mr. President, I have no objections.

37

1 MR. PRESIDENT:

2 Yes, yes, beautiful.

3 (*Exhibit No. P. 11, admitted*)

4 MR. VAN:

5 Yes, only one unfortunately, but we can make more copies.

6 MR. PRESIDENT;

7 No, no, cut down the time as we can.

8 MR. VAN:

9 May I continue Mr. President?

10 MR. BLACK:

11 We have no objections; for this appears to be exactly the same document as the entries are of
12 19th of April.

13 MR. PRESIDENT:

14 Mr. Black examines the documents. Thank you very much.

15 MR. BLACK:

16 I thank my friend for confirming that Mr. Bikindi was not there.

17

18 Thank you.

19 MR. PRESIDENT:

20 Yes.

21 BY THE ENGLISH INTERPRETER:

22 Your microphone is on (*inaudible*)

23 MR. VAN:

24 I don't accept your thanks because I didn't say that Bikindi wasn't there

25 MR. BLACK:

26 The document says that he was in London between the 19th and 13th sir.

27 MR. VAN:

28 Thank you, Mr. President.

29 BY MR. VAN:

30 Q. Witness, regarding your presence in Murambi, Counsel Black vigorously denied it, challenged it, and I
31 read in the transcripts of yesterday's hearing, page 70, paragraph 13, lines 13 to 16, he is said to
32 have said as follows: "I wish to put it to you sir that I find it hardly probable that someone exercising
33 your profession could be invited into accompanying a *préfet*, of a captain, *bourgmestre*, a colonel for
34 any reason at all it didn't happen at all because you were not with them and them it stops". It was cut
35 off

36

37 Witness, do you remember that suggestion by Mr. Black?

1 A. I remember.

2 Q. And what did you answer?

3 A. I answered that that I did indeed go to that place and I was therefore present and if you wish to
4 contradict me, you should explain to the Judges whether you were there or not, and I maintain that I
5 was present even to this day that I was present at that place.

6 Q. Witness, I do not know whether that escaped me, but do you remember that Counsel Black said to
7 you that gendarmes and Captain Sibura were not in Murambi, do you remember something like that?

8 MR. BLACK:

9 I never said that. I said he was a major-.

10 MR. VAN:

11 Therefore the gendarmes were around. This is what I thought. Thank you learned friend.

12 BY MR. VAN:

13 Q. He denied the presence of the gendarmes and Captain Sibohera at Murambi. He said the gendarmes
14 and Captain Sibura were fighting the *Inkotanyi*?

15 A. Yes, we've already heard that question.

16 MR. BLACK:

17 I don't understand that exchange. Is that what I was supposed to say? That never took place. My
18 only question to this man I suggested to this man he was never at Murambi. That's all I ever
19 suggested.

20 THE ENGLISH INTERPRETER:

21 Microphone, Mr. President.

22 MR. PRESIDENT:

23 He never said that Captain Sibohera was never at not there. He never said that

24 MR. VAN:

25 *(By order of the Court, this portion of the evidence has been extracted and filed under seal)*

26 MR. BLACK:

27 Counsel you should stop there.

28 MR. PRESIDENT:

29 Otherwise you read this from there. You can refer from the document then-

30

31 MR. VAN:

32 Okay, I withdraw, I withdraw but, he should have read the whole document, he only read the first
33 paragraph.

34 MR. PRESIDENT:

35 Since that document that has been admitted, at the conclusion stage, you can comment on these
36 documents, but I don't want to comment now.

37

1 MR. VAN:

2 Agreed. Thank you, Mr. President. I have no further questions.

3 MR. MACDONALD:

4 That is unloyal and dishonest what he has just said. He should, he could at least have pretended to
5 ask a question. It was a pleading while in re-direct and not, I think everything should from the last part
6 of that re-direct as it was not redirect.

7 MR. PRESIDENT:

8 The last question or the statement of the counsel to be taken off the record.

9

10 Yes, thank you, Mr. Witness for coming and testifying. You are free to go now.

11 THE WITNESS:

12 I will also wish to thank you to express my gratitude to you, Mr. President.

13 MR. PRESIDENT:

14 Mr. Tambadou, you are the one, you are leading this? Do you think that in half an hour you can come
15 to a particular point? If you want we can adjourn now and start around two.

16 MR. TAMBADOU:

17 My Lord, I think that would be most appropriate. That is what I wanted to take the floor of the
18 evidence. As Your Lordship please.

19 MR. PRESIDENT:

20 Mr. Black we will take the break now and resume at two so that he can have the rest of the afternoon.

21

22 These proceedings can are adjourned until two, two o'clock.

23

24 At the same time I want to remind you that from the 31st, we will be sitting in the other court in the
25 fourth floor because this court will be occupied by some other case, from the 31st,
26 Court Number 3 that is on the other side.

27 MR. SEGATWA:

28 I didn't understand what time. It is half past two, I heard 2. p.m.

29 MR. PRESIDENT:

30 We resume at 2. Yes, Mr. Segatwa it will be the usual time, but today since we are adjourning earlier,
31 we will come back at 2.

32 *(Court recessed from 1150H to 1400H)*

33 MR. PRESIDENT:

34 Yes, Mr. Registrar, you may commence the proceedings and swear the witness.

35 MR. KIYEYEU:

36 Witness, could you please stand up please. You raise up your right hand and say after me:

37 *(Declaration made by Witness GFU in Kinyarwanda).*

1 MR. KIYEYEU:

2 Thank you, Witness. You may be seated.

3 MR. PRESIDENT:

4 Yes, Mr. Counsel.

5 MR. TAMBADOU:

6 May it please, Your Lordships. My Lord, My name is Abubacarr Tambadou for the purposes of the
7 record.

8 MR. SEGATWA:

9 Mr. President, there is a preliminary issue. This morning, documents were given to us regarding this
10 case. These documents are in English. We do not have it in its French version. It is even possible
11 that some of these documents are in Kinyarwanda and we shall check on that. Would the Prosecutor
12 agree that the cross-examination be done in Kinyarwanda relying on the document that he handed to
13 us?

14 MR. BÂ:

15 Mr. President, Kinyarwanda is not a working language of the Tribunal. All the other counsel
16 understand English, obviously the Canadians. I believe that even Mr. Segatwa is just hiding behind a
17 Rule. But I don't think that my English better than his. As far as Kinyarwanda is concerned, I know
18 that he doesn't have any problem. He understands all the documents. And then it should be
19 understood that we are not translators. This issue was resolved yesterday by you.

20 MR. SEGATWA:

21 Prosecutor, I think we do agree that the working languages are English and French and I understand
22 clearly that you don't want to be a translator and indeed you are not translators because there is a
23 translation section attached to the Office of the Prosecutor. My problem, however, is as follows: If I
24 translate into French, would that be an official translation? Would I be able to confront the witness
25 with my translation? Obviously, no, there is a problem that raises a problem because you are not
26 going to check to see if my translation is correct or not correct. That is why I wanted it to be agreed, I
27 wanted us to agree that for us to act properly, with the documents that you have served on us that I
28 should be able to confront the witness with the documents that you served on us in Kinyarwanda and
29 we read them in Kinyarwanda, let that be agreed.

30 MR. BÂ:

31 If the Chamber is -- if the Chamber has no got objection to that, we have no problem to that. We were
32 ordered by the Chamber to forward non-official translations. There is a portion of that work which has
33 been entrusted to the registry. The rest does not depend on us. And let me correct this notion that
34 there is no translation section attached to the Office of the Prosecutor. We are at equity distance with
35 the translation section just as you are.

36 MR. KIYEYEU:

37 The registry would like to inform the Honourable Chamber that yesterday when this issue was raised,

1 the registry believed or was made to understand that the Prosecutor had sent the document for
2 translation at the language section.

3
4 Apparently, when I made close a follow up, I realised that the Prosecutors did not sent the documents
5 to the language section for translation. The Prosecutor used his staff to produce an unofficial
6 translation as he had informed the Chamber yesterday, but I thought that was a way of speeding up
7 the matter pending the translation which was, you know, with the language section. I only came to
8 know that it was the Defence which took the initiative to send the document for translation. And they
9 received most of the document, in fact, almost all except two. So, from that point of view, the registry
10 took action from that point of view to follow up for the two documents so that we could receive them
11 either today or tomorrow at the latest. That is what we took. It is the documents sent by the Defence.
12 So, if it is agreeable then we can say that we can take the documents from the Defence, make copies
13 for the parties and then distribute the copies. That is the only way we could do.

14
15 That is all, My Lord.

16 MR. PRESIDENT:

17 Mr. Segatwa, I think if the Prosecution has given to you copies in English that is what they expected to
18 do either English or French. So I cannot direct them to give you in both languages and at the same
19 time, the registry says that out of the documents that you have given them for translation except for
20 two, they are, they have been given to you and those two will be given to you by tomorrow.

21 So I think --

22 MR. SEGATWA:

23 Thank you, Mr. President. Even the first batch which is said to have been translated has not been
24 served on us. So we only have the English versions of those copies.

25 MR. BÂ:

26 Then let your colleagues of the Defence Bench give you, give them to you. We should all contribute
27 in this Tribunal. We cannot sit each one on his corner and expect things to be done. They say they
28 have them. Let them give them to you.

29 MR. MACDONALD:

30 Mr. President, I think you are in control of this Chamber, and I believe that some words should be
31 avoided. We are not in a public gallery where we should be throwing in insult at each other. We
32 require mutual respect and I request that the one who is serving the documents should either pass
33 through it to the registry and since the Prosecutor is now even going through the registrar to have
34 them translated, he should at least be able to give us the documents.

35 MR. PRESIDENT:

36 *(Microphone not activated)* – has the copies now. So now what is the big *(inaudible)* it is a question of
37 getting copies getting photocopied Mister, and can you get photocopies done now and there? I think

1 Mr. Segatwa says that he does not have a copy and the others have.

2 MR. KIYEYEU:

3 No, My Lord, I think the others don't have. It is only the Defence of Bizimungu which took the
4 initiative. So it is with the Defence of Bizimungu. Even the Registrar does not have those documents.
5 So that is what I am saying. My Lord with your permission if the Defence of Bizimungu would be kind
6 enough to or to bring to give us those documents so that we can make photocopies for the others. I
7 don't know whether they have annotated those documents.

8 MR. PRESIDENT:

9 Mr. MacDonald, if you have received them give to them to make documents.

10 MR. MACDONALD:

11 Kindness is my nature, Mr. President.

12 MR. PRESIDENT:

13 Thank you, Mr. Segatwa.

14

15 Yes, Mr. Tambadou.

16 MR. TAMBADOU:

17 May it please, My Lords. My Lords, my name is Ababucarr Tambadou for the purpose of the record
18 and I will be leading the witness, GFU through his evidence today.

19

20 My Lord, I wish to apply for a closed session of this part of the proceedings pursuant to the Rule 79 of
21 the Rules of Procedure.

22 MR. PRESIDENT:

23 How long will you be?

24 MR. TAMBADOU:

25 I will not be more than seven, eight minutes, My Lord, nothing more.

26 MR. PRESIDENT:

27 Okay. Since the witness will have to be introduced, I direct that this session will be closed. We will
28 have closed session until it will be opened later.

29 *(At this point in the proceedings, a portion of the transcript [pages 34 to 36] was extracted and sealed*
30 *under separate cover as the session was heard in camera)*

31 *(Pages 21 to 33 by Petrus Chijarira)*

32

33

34

35

36

37

1 MR. PRESIDENT:

2 *(inaudible)*, now, yes, now, I pick it up.

3 MR. TAMBADOU:

4 My Lord, may I proceed?

5 MR. PRESIDENT:

6 Yes.

7 MR. TAMBADOU:

8 Thank you, My Lord

9 .BY MR. TAMBADOU:

10 Q. Now, Witness have you ever met investigators from in the ICTR?

11 A. Yes, I have.

12 Q. How many times did you meet with the investigators, from the ICTR?

13 A. Five times.

14 Q. What or who did you speak to them about?

15 A. At the beginning, I made a statement; I gave a statement on Colonel Ntibitura. My second statement
16 was on Colonel Setako. The third one was about Colonel Bivugabagabo and the fourth one was
17 about Nzirorera. The 5th one was concerned General Augustin Bizimungu.

18 MR. TAMBADOU:

19 My Lords, if I may point out the names he has just mentioned on the spelling list, it's number one,
20 number 12.

21 MR. PRESIDENT:

22 May we get the spellings also?

23 MR. TAMBADOU:

24 Yes, My Lord. My Lord, number one, I obviously cannot recall the order in which he has given the
25 names, but number one is Augustin Bizimungu, A-U-G-U-S-T-I-N, B-I-Z-I-M-U-N-G-U,
26 Augustin Bizimungu, the second name I recall is number three on the list is Bivu Gabagabo
27 B-I-V-U-G-A-B-A-G-A-B-O. The third name I recall is number 12 on the list Ntibitura,
28 N-T-I-B-I-T-U-R-A. The fourth name I recall is number 14 on the list Nzirorera, N-Z-I-R-O-R-E-R-A,
29 and the fifth name number 17 on the list is Setako, S-E-T-A-K-O.

30 MR. PRESIDENT:

31 Yes.

32 BY MR. TAMBADOU:

33 Q. Do you remember the year you spoke to the investigators on each of these persons you have
34 mentioned?

35 A. I gave the first statement in 2000, and the last one was in 2003, but I cannot recall the exact dates.
36 *(Page 37 by Petrus Chijarira)*

37

1 1430H

2 BY MR. TAMBADOU:

3 Q. Now you said that you spoke to investigators of the ICTR about Augustin Bizimungu. Have you ever
4 seen Augustin Bizimungu before?

5 A. Yes, I had seen him before meeting the investigators.

6 Q. How many times had you seen Augustin Bizimungu before meeting the investigators?

7 A. I had met him -- I had seen him on several occasions.

8 Q. Have you ever met him personally?

9 A. Yes, we met. He saw me and I saw him, but we did not speak to each other for him to be able to
10 identify me. But I saw him -- I met him.

11 Q. During what period do you recall seeing Augustin Bizimungu?

12 A. The first time I saw him was in 1990 and I saw him on various occasions through to 1994.

13 Q. When you saw him the first time in 1990, did you know his functions -- what work he did at that time?

14 A. When I saw him in 1990, I did not know what his functions were, but I noticed that he was a soldier.
15 So I met him and I took him as any other soldier.

16 Q. When you met him for the first time in 1990, did he strike you as junior soldier or as a senior soldier?

17 A. I thought he was a high-ranking officer.

18 Q. When was the last time you saw Augustin Bizimungu?

19 A. The last time I saw him was in 1994.

20 Q. From your recollection of the last time you saw Augustine Bizimungu, would you be able to identify
21 him if you were to see him again?

22 A. I would be able to.

23 Q. Can you take a look around this courtroom --

24 MR. BLACK:

25 Objection. Let's first properly ask the witness to describe General Bizimungu, because, otherwise,
26 just looking around the courtroom is irrelevant, not of any use to us whatsoever. He has to describe
27 him from memory, and then we can check that against who he picks out, otherwise, just picking a
28 body in the courtroom, which does not mean anything.

29 MR. TAMBADOU:

30 My Lord, to start with, when I started, I saw my learned friends shaking their heads. I think they were
31 basically protesting the fact that I am leading on none-contentious issues and that I was wasting the
32 Court's time. Now, I have decided not to do that and then he jumps out of his seat, and My Lord, I do
33 not agree with his submissions, My Lord. I believe I have led a proper foundation for this. Witness
34 has said that he had seen him several times, and the last time he saw him was in 1994. My Lord --

35 MR. PRESIDENT:

36 Then you lead him through the motions as he says.

37

1 MR. TAMBADOU:

2 As the Lordship pleases, as the Lordship pleases.

3 BY MR. TAMBADOU:

4 Q. Witness, can you describe to this Court what Bizimungu looked like the last time you saw him?

5 A. When I saw him the last time he was a high-ranking military officer, he was in the company of his
6 colleagues, and he had been promoted, he was made General and then became chief of staff. So, he
7 was promoted.

8 Q. Can you describe him physically, the last time that you saw him?

9 A. When I saw him he was quite imposing, a senior officer who was flanked by guards, many soldiers to
10 his left and to his right. So, he was somebody very important.

11 Q. Can you describe his height when you saw him?

12 A. He is fat, but short -- but not too short.

13 Q. Can you describe his complexion?

14 A. He was dark in complexion, but not too dark.

15 Q. Was he darker than you or lighter than you?

16 A. No, he was rather dark. I am rather light in complexion, so if he had been like me, then he would
17 have been light, because I am light. So he was dark in complexion -- or black.

18 Q. Now, Witness, can you take a look around this Court and see whether --

19 MR. PRESIDENT:

20 No, you will ask him whether he has a picture in his mind of Bizimungu.

21 MR. TAMBADOU:

22 As Your Lordship pleases.

23 THE WITNESS:

24 Thank you, Mr. President. Even from my seat, I am able to see him because I know him very well.

25 BY MR. TAMBADOU:

26 Q. Well, can you, if you say you know him very well; can you point him out in this courtroom?

27 THE WITNESS:

28 Thank you, Mr. President, Your Honours. I am referring to the man in the corner wearing a suit and a
29 white shirt. Next to him there is something white.

30 MR. TAMBADOU:

31 My Lords, I would like the records to reflect that the witness has conducted a positive ID on --

32 MR. MACDONALD:

33 I don't agree, Mr. President. I don't think that was a positive identification. I can't see to who he is
34 pointing out. Why does he not do the same exercise we did with the other witness -- I forget who it
35 was -- DA?

36 MR. PRESIDENT:

37 He never spoke about any of these people to identify.

1 MR. MACDONALD:

2 I understand, but I don't see how this exercise could constitute a positive identification. He is talking
3 about somebody in a corner sitting next to something white.

4 MR. PRESIDENT:

5 Yes, but we can ask him now if the Bizimungu he is referring to is in Court.

6 MR. MACDONALD:

7 Yes, but that is in cross-examination.

8 MR. PRESIDENT:

9 No, we can ask him now.

10 MR. MACDONALD:

11 Oh yeah, we can ask him now.

12 MR. PRESIDENT:

13 Mr. Witness, can you point out the person who you referred to as Bizimungu in Court? You can get
14 up and go and point to the person, if you like.

15 MR. TAMBADOU:

16 Very well, My Lord.

17

18 If My Lord. If My Lords will allow the witness to come down the witness stand and to go and touch the
19 Accused.

20 MR. PRESIDENT:

21 I said he can go and touch.

22 MR. TAMADOU:

23 As The Lordship pleases.

24 MR. PRESIDENT:

25 Yes, Witness, you may proceed now.

26 MR. TAMBADOU:

27 My Lord, I would like the record to reflect emphatically that the witness has positively identified the
28 first Accused, General Augustin Bizimungu.

29 MR. PRESIDENT:

30 I will put it that he walked up to Bizimungu and pointed him out.

31 MR. TAMBADOU:

32 As The Lordship pleases. It is good enough for the Prosecutor.

33 MR. PRESIDENT:

34 Please proceed.

35 MR. TAMBADOU:

36 As The Lordship pleases.

37

1 BY MR. TAMBADOU:

2 Q. Now, Witness, between 1990 and 1992, were you aware of any unusual incidence that
3 General Augustin Bizimungu was involved in Ruhengeri *préfecture*?

4 MR. MACDONALD:

5 Mr. President, as my learned friend well knows, the indictment covers the year 1994. If the exercise
6 he wants to do now is to establish some means of bad reputation for my client, I object. I don't know
7 where he is going with that. I perceive the evidence and I know that in the evidence they have certain
8 elements that we are going to contest on the ground that it cannot constitute bad behaviour and if the
9 sole purpose is to try to establish some kind of a previous position of my client. So, I am going to
10 protest and I would like my learned friend to tell us where he is going with that.

11 MR. PRESIDENT:

12 Yes, Mr. Abubacarr(*sic*) what is the purpose of asking about 1993?

13 MR. TAMBADOU:

14 My Lord -- yes, between 1990 and 1993. If my Lord will bear with me, I will be of assistance to this
15 Court and to my learned friend on the other side.

16

17 My Lord, what I am trying to establish is not the propensity of the Accused to commit the crimes that
18 he is accused of in the indictment, My Lord. What I am getting at, My Lord, is a consistent pattern of
19 behaviour of conduct on the part of the Accused even before the events that have been covered by
20 the indictment. And, My Lord, the jurisprudence of this Tribunal allows me to do so. But, My Lord,
21 before I give My Lords the jurisprudence, I would like to refer My Lords to our indictment, the
22 indictment against the Accused person here, My Lords, under count one under the general heading of
23 "concise statements of facts."

24

25 My Lord, this is what paragraph 25 states in our indictment: "In late 1990, after the massive attack
26 launched inside Rwandan territory by the Rwandan Patriotic Front, (*RPF*), a political military
27 movement which recruited its members essentially from the Tutsi of the diaspora, government officials
28 from the MRND, and a number of Hutu military officers in positions of authority in the four army
29 Rwandese had conceived an idea that the neutralisation, indeed, even the extermination of the Tutsi
30 population of Rwanda would be the best approach in order to defeat the invaders and by the same
31 stroke prevent the sharing of power which seemed increasingly inevitable given the configuration of
32 the forces at the time. My Lord, our indictment refers both to the officials of the MRND and senior
33 army officers. But I don't stop there; if the registry could kindly collect these for distribution, My Lord.

34 MR. PRESIDENT:

35 Yes, Mr. MacDonald, it refers to conspiracy also in the indictment.

36 MR. MACDONALD:

37 I will speak in French, if you don't mind, Mr. President.

1
2 I do not know what case my learned friend is trying to produce, but I think it's the Bagosora decision
3 that he wants to display for the Court. But when you look at the decision, it's that these allegations
4 feature in the indictment that should be brought into evidence. The fact of the allegation does not
5 directly lead to evidence, and that does not imply that the Tribunal should admit it, if that is the
6 decision he is referring to.

7 MR. BÂ:

8 Mr. President, I have a very short observation to make and to show that the Defence counsel is wrong
9 in raising this objection. When you look at the first indictment, there were some motions raising
10 objections. These were raised by Mr. Segatwa and other counsel. One of their grievances was the
11 fact that the indictment referred to a period preceding 1994. That motion was rejected by a decision
12 of Trial Chamber II; that was Judges Sekule, Maqutu and Ramaroson. And this was approved by the
13 Trial Chamber. Mr. Bizimungu's counsel had introduced an objection, and one of his grievances was
14 the temporal incompetence that he referred to, and the argument of the judges was that when a count
15 features in the indictment, it is a continued process and that one can refer to periods that precede the
16 commission of actual genocide. That is the piece of jurisprudence that they are well acquainted with.

17 MR. TAMBADOU:

18 My Lord, if I may add, I had distributed my cases, My Lord, and if I may refer Your Lordship to the
19 *Prosecutor v. Nsabimana* and others, the media case, My Lord, and I will just read the excerpt from
20 the separate opinion of Judge Shahabuddeen, My Lord, a well renowned judge, and this is what he
21 had to say: We concurred with the Appeals Chamber, suggesting more specially that evidence dating
22 into a time prior to 1st January 1994 provide the basis from which to draw inferences, for example,
23 with regard to intent or all the required elements of the crimes committed within the limits of the
24 temporal jurisdiction of the Tribunal. Moreover, evidence of prior crimes can be relied on to establish
25 a pattern, design or systematic course of conduct by the Accused." My Lord, this is the decision of
26 the Appeals Chamber of the ICTR in an interlocutory matter. And with all due respect, My Lord, and I
27 humbly submit this that My Lords have no discretion. My Lords are bound by the doctrine of *stare*
28 *decisis* to follow this decision and I urge my Lords to respectfully do so and disregard the objections of
29 my learned friend. I respectfully submit.

30

31 As the Lordship pleases.

32 MR. BLACK:

33 Mr. President, I support Mr. MacDonald in this and my friend is completely wrong about this decision.
34 It does not say that at all. If you read the decision, the last page, it states what the common law is.
35 First of all, what he is trying to do is bring in bad character evidence, which he cannot do unless he
36 place the character in question which he has not done. Secondly, this is not similar fact evidence.
37 Similar fact evidence has to be a pattern of conduct which is so precise that it amounts to a signature

1 and it depends on having established the crime having been committed in the past. There is no
2 evidence whatsoever that General Bizimungu was convicted of a similar crime in 1990, 1991, 1992 or
3 1993. There is no evidence to that whatsoever. So it is not a fact. It's only an allegation the witness
4 is bringing. And, my last point, sir, is that in the decision, the Judges said it is a matter of prejudice:
5 "Any probative value --" paragraph 28 "-- that the evidence might have is outweighed by serious
6 prejudicial effect. The Accused must be found guilty on the basis of the evidence of the crimes
7 charged, not from the basis of the evidence that he committed the offence on prior occasions, and,
8 therefore, increase the propensity to commit them again. So if the decision goes exactly against what
9 my friend is saying, it does not allow you to admit similar fact evidence or bad character evidence
10 unless the usual common law principle is satisfied.

11 MR. PRESIDENT:

12 Yes, Mr. Black, I will make a ruling on that, but I will make this observation, that the Prosecution is
13 entitled to introduce evidence to elicit the facts (*inaudible*) -- and at the same time even if the
14 character to prove pro-motive, that is permitted under common law, I think.

15 MR. TAMBADOU:

16 My Lord, if I may just add -- My learned friend, I am on my feet. Thank you. My Lord, if I may add
17 that the extract my learned friend, Counsel Black has just referred to here is the spirit of the common
18 law. But even in the common law, there are exceptions to similar fact evidence where the evidence is
19 strikingly similar, *et cetera, et cetera*. My Lords have a duty to, first of all, look at the Rules of
20 Procedure and Evidence and the jurisprudence of this Tribunal, where it is not provided for, and then
21 My Lords can have recourse to the general principles of the world. My Lord, we are not dealing with
22 common law here, we are dealing with the jurisprudence of this Tribunal and this was a decision of an
23 Appeal Chamber and I urge My Lords, to disregard the objections of my learned friend and to allow
24 counsel to proceed with his evidence.

25
26 As the Lordship pleases.

27 MR. PRESIDENT:

28 Yes, I think that --

29 MR. MACDONALD:

30 Mr. President, I do not have the dates of the decision referred to by my learned friend. I would like to
31 get that reference. The decision referred to by the counsel, the Appeals Chamber decision.

32 MR. BÂ:

33 But we do not have to go as far as the Appeals Chamber. These objections are raised from the rules
34 of Procedure and Evidence. So, this -- Mr. Croiser had made an objection, and he had made an
35 objection on this issue which was rejected. Now, you want this to be rejected by the Trial Chamber
36 when it was already debated by the Appeals Chamber. Please look at Rule 72.

37

1 MR. MACDONALD:

2 We are now a trial, Mr. President, and before we introduce or admit any evidence, you have to make
3 a ruling on this matter. I want to refer you to the Bagosora decision. I don't know whether this was
4 provided to you by my learned friend. There is a specific portion of this decision and may be that
5 would facilitate your decision. Page 7 -- and what we can see from this decision, I will refer you to
6 much more pertinent portion on page 11, Your Honour, and this Bagosora decision was a decision by
7 this Court, and the Trial Chamber decision in 2003, in the Bagosora case which reads as follows, this
8 is a free translation: "The Accused should --"

9 THE ENGLISH INTERPRETER:

10 Counsel is reading a text which we do not have in the interpreters' booth, so if he could read as slowly
11 as possible.

12 MR. MACDONALD:

13 -- the crimes and previous occasions, and consequently --

14 MR. TAMBADOU:

15 I am not following. I am not sure where my learned friend is reading from. I want to follow where he
16 is reading from, if he could be more precise.

17 MR. PRESIDENT:

18 He is reading from Bagosora.

19 MR. MACDONALD:

20 From the Bagosora case, that is what I said. I have just said that.

21 MR. TAMBADOU:

22 Because we don't have that. He has not served us.

23 MR. PRESIDENT:

24 He is reading, you can listen to him.

25 MR. MACDONALD:

26 I can start again? I am sorry, Mr. Interpreters.

27 THE ENGLISH INTERPRETER:

28 Can Counsel read slowly, please? We don't have that document. The standard practice is that we
29 should have the document if he is going to read. If he is going to read, let him read slowly.

30

31 Your Honour, can counsel start again?

32 MR. PRESIDENT:

33 For their benefit you have to go slowly. And at the same time if you want to get a correct translation
34 also you give them time.

35 MR. MACDONALD:

36 I am sorry, I am sorry. I really am: "The Accused should plead guilty on the basis of the evidence, the
37 evidence in relation to the crimes charged, and not on the basis of evidence which will tend to

1 demonstrate that he committed a crime on occasions previous to and that therefore he has the
2 propensity to commit those crimes again.

3
4 Obviously, Chambers composed of professional judges would less likely than the juries, always tend
5 to pay their attention or to cause prejudice by admitting evidence which is not relevant or which may
6 be prejudicial. But the hearing of examination-in-chief or a cross-examination -- detailed
7 cross-examination or examination-in-chief on the evidence at issue risks to divert the attention of the
8 Chamber from what should be the very basis of the trial i.e., the acts charged in the indictment, and to
9 extend the trial."

10
11 Specifically, in this case, consequently, the evidence which falls under category 1, which involves
12 orders to kill civilians and to destroy property given by Ntabakuze in October 1990 and January 1991,
13 as well as arrests and killings of civilians ordered by Ntabakuze and Bagosora on 5th October, 1990,
14 are not admissible as evidence to the existence of a continuous crime."

15
16 What I intend to do, Mr. President, we have a decision in French. I don't know if it exists in English.
17 Possibly during the break, I will look for it, but this decision is on the point on this issue and it is for
18 you to take this decision. It is not because there are allegations in the indictment that those elements
19 -- those acts are necessarily acceptable -- admissible.

20 MR PRESIDENT:

21 What is the date on that, please?

22 MR. MACDONALD:

23 It is the 18th of September 2003, it is the case of the *Prosecutor v. Bagosora*, it is basically *Military 1*,
24 and it's an ongoing case. So I think it is very important for the Bench to -- for the Court to take
25 recognisance of this decision.

26 MR. BÂ:

27 I fully agree that the Chamber should take recognisance of this, but this is something different. It is
28 not because it was not articulated in a specific and clear manner in *Military 1*. For example, we
29 submitted these preliminary motions through a motion in reliance on Rule 59 of the rules after the
30 Chamber had granted leave to amend the indictment and you are referring to the indictment at a
31 period prior to 2005. This Chamber is not an Appeals Court, you cannot decide or review what has
32 been decided upon by a Trial Chamber and at the break I will produce the decision of Trial Chamber II
33 on motion presented by Counsel Crosier, Counsel for Augustin Bizimungu.

34
35 You want to turn this trial -- this Chamber into an Appeals Chamber?

36 MR. PRESIDENT:

37 I will make a ruling. Upon counsel for the Prosecution -- who is to lead evidence with regard to events

1 that occurred from 1990 to 1993 in order to sustain the charge in the indictment, counsel for the
2 Defence, counsel, Mr. Black and Mr. MacDonald object to this on the basis that it might turn to lead
3 character evidence and that in any case, there will be prejudicial evidence led later in this case.
4 Counsel for the Prosecution relied on the case of the *Prosecutor v. Nahimana* and tendered a copy of
5 that decision to this Court. The Defence relied on the decision of Bagosora case, dated 18th
6 September 2003. However, the Prosecutor, prior to the notice of this Court that at the time of
7 amending the indictment, the point that was taken up by the Defence now has been pressed out and
8 decision given by the previous court – by this Court. In these circumstances, I overrule the objection
9 and permit the Prosecutor to carry on.

10 MR TAMBADOU:

11 As Your Lordship pleases. My Lord, I am not sure if it is not rather late in the day, but My Lord has
12 not mentioned that decision that counsel for the Prosecutor had referred to was an Appeals Chamber
13 decision.

14 MR. PRESIDENT:

15 Counsel for the Prosecution further state that since the decision that he referred to namely, the
16 *Prosecutor v. Ferdinand Nahimana* is written from the Appeals Chamber that we are bound to follow
17 the decision.

18 MR. TAMBADOU:

19 As Your Lordship pleases.

20 MR. PRESIDENT:

21 Yes, senior counsel.

22 MR. TAMBADOU:

23 My Lords, I think I need to put the question again to the witness.

24 BY MR. MACDONALD:

25 Q. Now, Witness, between 1990 and 1993 --

26 MR. MACDONALD:

27 Just one thing, Mr. President. I would strongly suggest -- I would ask you -- I would ask this Court to
28 read this Bagosora decision. From the information I have, this decision was confirmed by the Appeals
29 Court -- the Appeal Tribunal. It is a very important matter.

30 MR. PRESIDENT:

31 So in that case you can decide -- you can make an interim appeal there. You can make -- on this
32 order you are free to make an interim appeal and get us the order from there.

33 MR. BÂ:

34 Mr. President, they can no longer do that. They should refer to Rule 72. They cannot make an
35 appeal. This is a decision that has been judged already.

36 MR MACDONALD:

37 No, I don't think, Mr. President, there is a possibility for an interim appeal.

1 MR. PRESIDENT:

2 Yes, it has to be sanctioned by this Court, so in the circumstances since we have given -- I think there
3 are prejudicial matters as you state and the Bagosora decision is in your favour, I think you are free to
4 bring a motion.

5 MR. MACDONALD:

6 A motion for an interim appeal?

7 MR. PRESIDENT:

8 For certification.

9 MR. MACDONALD:

10 For certification?

11 MR. PRESIDENT:

12 For certification and if certification is not given then you have to take further step.

13 MR. BÂ:

14 But there is a time limit. This decision was rendered in May 2004, there is a time limit and they are
15 out time to make an appeal.

16 MR. MACDONALD:

17 I think you have to read this decision. We have to take the time to make the proper representation
18 and we cannot unring the bell on a case like this. Once you hear this evidence it is in your heads,
19 I mean, I understand that you are judges, and there is a distinction between judges and juries, but
20 even in this decision that I have read to you it is important that judges concentrate on the main facts.
21 This is not the main facts, and I am telling you that from this decision that was -- according to the
22 information that I have, that was confirmed in the Appeal, there is no way --

23 MR. PRESIDENT:

24 So the decision was available at the time you took the indictment in 2005.

25 MR. TAMBADOU:

26 I am not sure when it was certified, Mr. President.

27 MR. MACDONALD:

28 Apparently it was confirmed in the Appeal in December 2003.

29 MR. PRESIDENT:

30 Yes. So, if it is 2003, which will mean that it was confirmed subsequently -- so, this was available.

31 MR. TAMBADOU:

32 My Lord, I believe My Lords have overruled the objection already. My Lord, we cannot go backwards.
33 We need to make progress in the case.

34 MR. PRESIDENT:

35 No, no, if they are not satisfied with the ruling, you may make a motion for us to certify your leave.

36 MR. TAMBADOU:

37 The Appeals Chamber was an interlocutory appeal, in fact, My Lord, they can simply seek leave from

1 this Court.

2 MR. PRESIDENT:

3 No, no, I say that even if leave is not granted by us, still they can take further steps than that.

4 MR. TAMBADOU:

5 As Your Lordship pleases.

6 MR. BLACK:

7 We are just going to be flogging a dead horse, Mr. President I can tell you, if I can intercede. I don't
8 see the connection of the matter of Michel Crosier to a motion about the indictment; it has nothing to
9 do with the admission of the evidence. That is a totally different issue -- what could be contained in
10 the indictment. Now you are dealing with the admission of the evidence on that is a totally different
11 issue and the solution you offer, making an appeal, would mean that -- if you should certify that
12 appeal, then the entrance of this evidence into the testimony today would have to be delayed until that
13 was dealt with because if you tackle it now --

14 MR. PRESIDENT:

15 That is if the Appeals Chamber rules that in your favour, this evidence can be expunged from the
16 record.

17 MR. BÂ:

18 Mr. President, the admission of evidence can be raised on the basis that the facts -- the acts are not
19 charged in the indictment that Bizimungu is accused of having meetings with Nzirorera in 1993, 1991,
20 1992, they have raised this. They criticise this in their indictment when the amendment was
21 requested and on the basis of Rule 71, you know that we made motions for formal defects. And on
22 another occasion it might be an amendment based on Rule 54. You cannot file motions for former
23 defects. It's not possible and the Chamber has taken a decision. There is a procedure for making
24 motions that has not been done. It becomes an issue that has been decided. This Chamber is not an
25 Appeals Chamber to review something that has already been decided upon by a Trial Chamber.

26 MR. MACDONALD:

27 This exact argument that is given to you by my friend from over there had been raised in the decision
28 that they are pleading, and let me just read a passage of the Bagosora pleadings --

29 MR. PRESIDENT:

30 I have already made an order.

31 MR. TAMBADOU:

32 My Lord, I object to my learned friend going back to that reading

33 MR. PRESIDENT:

34 I have already made an order

35 MR. TAMBADOU:

36 As Your Lordship pleases.

37

1 MR. ST-LAURENT:

2 Just a moment, Mr. President, if I may. I don't want to go back to the decision that you rendered, but I
3 want to raise a number of issues. First of all I submit, respectfully, that the basis of the mandate of
4 this Chamber, in spite of the claims of the Prosecutor and the supporting documents of the mandate
5 of this Chamber of the Tribunal in general, is to ensure that the crimes charged in 1994 are tried and
6 the perpetrators punished. Anything that could require evidence from 1992 to 1994 should be in
7 conformity with what had been given as a mandate to the Tribunal. It's not enough to say that it is in
8 the indictment and, therefore, bring any prior evidence. I am sure you are convinced that your
9 decision respects the Rules and that evidence in that aspect may be admitted and this as part of the
10 mandate that has been given to this Tribunal.

11 MR. PRESIDENT:

12 From the little that I know, evidence can be led to explain the facts in issue and at the same time,
13 even motive are generally disregarded. But the character evidence can be led even to establish the
14 motive. That is what we said. So in view of what I have -- I think the Prosecutor is permitted to render
15 this evidence to this Court, and I have made this order.

16

17 Yes, Mr. Prosecutor, please proceed.

18 MR. TAMBADOU:

19 As the Lordship pleases.

20 BY MR. TAMBADOU:

21 Q. Now, witness, between 1990 and 1993, were you aware of any unusual incidence that
22 General Bizimungu was involved in Ruhengeri *Prefecture*?

23 A. Yes, I am aware of an event which occurred and which involved General Bizimungu in Ruhengeri
24 *Prefecture*.

25 Q. Can you tell this Court what you know about this unusual incident?

26 A. Between 1990 and 1991, around a place called Buzuri, a certain man called Safari was arrested and
27 he was taken to a roadblock which was at the SGP. He was accused of being an *Inyenzi*. We ran
28 there to witness the incident, and Bizimungu passed by. He was aboard a vehicle. The man called
29 Safari was presented to him. He was told that he was a gendarme, and he ordered this man to be
30 killed. He was in his vehicle and then he left subsequent to that. After the order given by Bizimungu
31 for him to be killed, he left soon after this man was killed. That is the first incident. The second
32 incident, between 1990 and 1991, concerns a man called Fupi. The RPF *Inkotanyi* launched an
33 attack during which attack the Ruhengeri central prison was attacked and prisoners released, and this
34 man called Fupi was arrested because he was accused of being an accomplice of *Inkotanyi*. He was
35 arrested and taken to the *communal* office. Other persons as well were arrested who had been
36 accused of being accomplices. xxx. Fupi was taken to the *commune* office, and General Bizimungu
37 was with one Sukiranya. He ordered that Fupi be killed. These are the two incidents in which

1 General Bizimungu was involved in the course of those years.

2 MR. PRESIDENT:

3 Witness, how do you know? Were you present at this place?

4 THE WITNESS:

5 I did not understand the question.

6 MR. PRESIDENT:

7 You are speaking about the incident. Were you there when these things – incidents happened or you
8 just picked this up from somewhere?

9 THE WITNESS:

10 Thank you, Mr. President, Your Honours. I witnessed the two incidents.

11 BY MR. TAMBADOU:

12 Q. Witness, can you tell this Court the circumstances -- we will take one after the other -- can you tell
13 this Court, the circumstances which led you to witness the first incident?

14 A. Mr. Safari was killed in front of our house, and where I was washing cars is close to the roadblock
15 where Safari was taken. When Safari was arrested at the roadblock erected at the gendarmerie
16 complex, I had said that this is close to our house. He was taken to the roadside, and my house is
17 uphill from the road, and we came down to see this man who had been referred to as *Inkotanyi* -- I am
18 talking about Safari. He was arrested by the gendarme, including one called Silas. Bizimungu came,
19 he was in a jeep, and ordered that this man called Safari be killed. I witnessed this incident because
20 the incident took place very close to my residence, and that is how come I witnessed the incident.

21 Q. Can you tell this Court the circumstances which led you to witness the second incident that you
22 mentioned?

23 A. With regard to the second incident, the RPF had attacked the Ruhengeri prison and released all the
24 prisoners. Some prisoners -- some of the prisoners with the RPF *Inkotanyi* and some of them who
25 were within the country were requested to go to the *commune* office, but the purpose of this exercise
26 was to ensure that they are sent back to prison. So, xxxx, and that is how come this man called Fupi,
27 who was being accused of being an RPF accomplice, was brought.

28

29 Bizimungu came along and was ordered that the man called Fupi be killed, and this is how I
30 witnessed this incident, and after Fupi was killed I went back home.

31 MR. TAMBADOU:

32 My Lord, let me refer to the names on our spelling list. Fupi is No. 7 on the list, it is F-U-P-I; Safari is
33 No. 16 on the list, S-A-F-A-R-I.

34

35 My Lords, I believe the words *Inyenzi* and *Inkotanyi* are not on the spelling list, but I would endeavour
36 to spell them as I see them being spelt. *Inyenzi* is I-N-Y-E-N-Z-I and I-N-K-O-T-A-N-Y-I.

37 BY MR. TAMBADOU:

1 Q. Witness, you have referred to these names, *Inyenzi*, *Inkotanyi*; can you tell this Court what these
2 names mean?

3 A. *Inyenzi Inkotanyi* at the time, that is, in 1994, meant those persons who attacked the country. So the
4 *Inyenzi Inkotanyi* are Tutsis as well as their accomplices who were within the country who attacked
5 the country. And that also includes Hutus who were considered as accomplices of the attackers.

6
7 I believe my explanation will be sufficient for you.

8 Q. Very well, Witness. Let's move on. In the night of 6th April 1994, where were you?

9 A. I was at home.

10 Q. You were at home. Now, how did you hear about the death of President Habyarimana?

11 A. The news was on radio and I listened to -- I heard it on radio, and I was at home.

12 Q. What did you do after you heard of the death of the President?

13 A. We became sad and when I say "we" I am referring to the people who were with me.

14 Q. Yes, Witness. Did you do anything after you heard of the death of the president?

15 A. After I heard the news, we were taken to the Ruhengeri stadium to participate in training sessions.

16 Q. I will come back to that, Witness. On the day that President Habyarimana died on 6th April 1994,
17 were you a member of any political organisation or association?

18 A. Yes, I was a member of a political party, that is, the CDR.

19 Q. What was your status in the party?

20 A. I was a member of the youth wing of CDR called *Impuzamugambi*. We were in charge of fighting and
21 to confront other parties particularly during rallies -- political rallies.

22 MR. TAMBADOU:

23 My Lord, I may I refer Your Lordships to the name *Impuzamugambi* on our spelling list, it is No. 8 on
24 the groups and places heading, and it is spelt, I-M-P-U-Z-A-M-U-G-A-M-B-I, *Impuzamugambi*.

25 BY MR. TAMBADOU:

26 Q. As a member of the youth wing of the CDR party, did you perform any particular task in the party
27 before 6th April 1994?

28 A. Are you referring to the 6th? I did not understand your question.

29 Q. Now, before the death of President Habyarimana on 6th April 1994, did you perform any particular
30 tasks for the CDR party -- for the youth wing of the CDR party?

31 A. Yes, since from 1993 to 1994, we were active members of our party until when we were taken to the
32 stadium for training.

33 MR. TAMBADOU:

34 My Lord, if I may repeat the question, I believe the witness did not understand the question or the
35 translation is not getting through to him.

36 BY MR. TAMBADOU:

37 Q. Before the death of President Habyarimana on 6th April 1994, did you perform any particular tasks for

- 1 the youth wing of your party?
- 2 A. Are you referring to any specific task that I may have accomplished? Yes, I did for my party.
- 3 Q. And could you tell this Court what you did for your party by the 6th of April 1994?
- 4 A. Before the death of President Habyarimana, I was a member of the *Impuzamugambi* and we used to
5 fight members of other political parties and until 1994, after the death of President Habyarimana.
- 6 Q. Now, during this time up to the death of President Habyarimana on the 6th April 1994, was
7 membership of the youth wing of your party open to all Rwandans in your area?
- 8 A. No, this was a political party exclusively for Hutus. Tutsis were not accepted into the party. In any
9 case, the Tutsis were afraid of that party, because they believe that party was created to fight them.
- 10 Q. To the best of your recollection, how many political parties conducted activities in your area in 1994?
- 11 A. There was the MRND, CDR; MDR was not very influential in that area. So the two parties that were
12 more influential are those two parties. The MDR was fought off in our region, and therefore they were
13 not influential.
- 14 Q. Now, before the death of President Habyarimana on 6th April 1994, do you recall the party that was in
15 power in Rwanda?
- 16 A. MRND was in power at the time.
- 17 Q. Now, these tasks that you claim to have done for your party before the death of
18 President Habyarimana on the 6th April 1994, did you receive any form of training to carry out those
19 tasks?
- 20 A. We were trained before President Habyarimana died. We were given martial arts training, especially
21 karate, because we were to confront members of other political parties and within the CDR, we were
22 given this training, and in particular, in our region, we would carry out these activities during rallies --
23 the rallies that were held.
- 24 Q. Did you personally receive this training?
- 25 A. Yes.
- 26 Q. To the best of your recollection, how many members of your CDR youth wing received such training?
- 27 A. We were 27 persons, and we were manning the roadblock at the SGP, so all of us in that group were
28 given this training.
- 29 Q. As a member of the youth wing of the CDR party, did you receive any training after the death of the
30 President on 6th April 1994?
- 31 A. Yes, we were trained military techniques, and this took place at the stadium.
- 32 Q. Can you elaborate -- can you tell this Court what this training involved?
- 33 A. After Habyarimana's death, we were gathered, that is, the youth who were members of the
34 *Interahamwe* and *Impuzamugambi* in the Kigombe *commune*, Kinigi, Nyakinama, Cyabingo
35 *commune*, we were gathered at Ruhengeri stadium and we underwent training which consisted --
36 included weapon handling. We had both guns as well as traditional weapons, and this lasted for three
37 days, day and night and the -- our family members would bring us food at the stadium and after the

1 three days training stint, we were provided with weapons and ammunition, and having received this
2 equipment, General Bizimungu and his deputies came to attend the closing ceremony of this training
3 session and General Bizimungu addressed us and briefed us on our training, and said that now that
4 we had completed training, we were to be assigned to roadblocks to track down *Inyenzi Inkotanyis*
5 and their accomplices as we had been doing previously as we were told that it was the *Inkotanyi* RPF
6 as well their Tutsi accomplices who had attacked. So we were deployed at roadblocks. I was
7 assigned to SGP roadblock where many people were killed.

8 MR. TAMBADOU:

9 My lord, the witness has mentioned *Interahamwe*. It's No. 9, on the spelling list of groups and places,
10 it is spelt, I-N-T-E-R-A-H-A-M-W-E, *Interahamwe*.

11 BY MR. TAMBADOU:

12 Q. Did anyone in particular advise you to go get this particular form of training after the death of
13 President Habyarimana?

14 A. No, no one made such a suggestion to me, but it was something that was provided for in our political
15 party manifesto. The youths were gathered within the *communes* because it was found that these
16 young men should be brought together to take part in this emergency training. They knew our
17 whereabouts and it was therefore easy to assemble us and also there was a selection process for
18 MRND and CDR youths.

19 Q. Do you remember who specifically asked you to come and do the training?

20 MR. BLACK:

21 Your Honour, he just said that no one suggested to him to go, so my friend is now cross-examining by
22 that question.

23 MR. PRESIDENT:

24 Yes.

25 MR. TAMBADOU:

26 My Lord, he said we were collected. "We were told -- we were collected." And I wanted to know who
27 collected him personally. That was his evidence, with due respect to my learned friend on the other
28 side. But not to worry, My Lord, I will move on.

29 MR. PRESIDENT:

30 *(Microphone not activated)*

31 MR TAMBADOU:

32 That was exactly my question, My Lord, who asked you to go and get this particular form of training?

33 THE WITNESS:

34 Thank you for your question, Mr. Prosecutor. We had a leader -- the youth leader in the CDR, and we
35 used to call him "Lieutenant", and we also had one Garunde who came to tell this "lieutenant" whose
36 name was Pierre, that we should gather at the stadium. Pierre then came to summon us and told us
37 that the military and civilian authorities had launched an appeal and that we should all go to the

1 stadium to begin training.

2

3 So it was xxxx.

4 MR. PRESIDENT:

5 Why do you call him "Lieutenant"? Was a person from the army?

6 THE WITNESS:

7 No, Mr. President, he was not a military man, but he was a member of the political party and within
8 this party structure, we had superiors – leaders, and we used to give them military rankings.

9 MR. PRESIDENT:

10 So "lieutenant" was his nickname?

11 THE WITNESS:

12 Yes, Mr. President.

13 BY MR. TAMBADOU:

14 Q. Witness, I would like to advise you to speak slowly so that the interpreters can catch what you are
15 saying. Do you understand?

16 A. Yes. I have understood.

17 Q. Did you go to the stadium to receive this military training after xxxx.

18 A. I went straight to the stadium.

19 Q. Were you alone when receiving this training or were you with others at the stadium?

20 A. I was with other persons. I have already told you that there were youths coming from four *communes*.

21 Q. Do you recall the *communes* that these youths came from?

22 A. Yes, I remember these *communes*. I said our *commune* was first, Kigombe; second, Nyakinama;
23 third *commune* I mentioned was Kinigi, and the fourth is Cyabingo *commune*.

24 MR. TAMBADOU:

25 My Lords, if I may refer to the spelling list of these names. I will go in the order that I recall them in my
26 memory. Cyabingo is N0. 6, under the names of groups and places, C-Y-A-B-I-N-G-O; Kigombe is
27 No. 13, K-I-G-O-M-B-E. I don't remember the other two *communes* that the witness had stated.

28 BY MR. TAMBADOU:

29 Q. Can the witness please repeat the four *communes*, please?

30 A. I said Kigombe *commune*; the second was Nyakinama *commune*; third was Kinigi and the fourth is
31 Cyabingo.

32 MR. TAMBADOU:

33 My Lord, I believe I left out No. 14 on the list, Kinigi, it is K-I-N-I-G I and No 18 on the list Nyiakinama,
34 N-Y-I-A-K-I-N-A-M-A.

35 MR. MR. TAMBADOU:

36 Q. Now, which stadium did you undergo this military training?

37 A. The stadium had no particular name, but it was Ruhengeri *préfecture* stadium, but there was no

1 particular name. But it was Ruhengeri *préfecture* stadium.

2 (*Pages 38 to 55 by Regina Limula*)

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1 1545H

2 BY MR. TAMBADOU:

3 Q. How long after the death of President Habyarimana did this training take place?

4 A. Based on my reckoning, the training began three days after President Habyarimana's death.

5 Q. Who conducted this training for you?

6 A. When we arrived at the stadium, we saw a number of vehicles arrive, and the -- there were sergeant
7 majors in those vehicles who were coming from Muhoza camp. I was not able to find out their names,
8 but as soon as they arrived, they split us into groups and we started our training, which was a
9 weapons-handling, dismantling of weapons, firearms, and we were also taught military techniques,
10 how to lie prostrate on the ground and how to climb -- crawl, rather.

11 Q. How did you know these soldiers were from Camp Muhoza?

12 A. Someone in the stadium can see somebody leaving Muhoza camp, so we actually viewed them as
13 they left Muhoza camp, and when they left the stadium, we saw them going back to Muhoza camp.
14 And when they came, they told us that they were coming from Muhoza military camp.

15 Q. Could you give an estimate of the distance between Camp Muhoza and the Ruhengeri stadium that
16 you referred to?

17 A. There is about 50 metres between them. You've got the stadium, which is downhill, and from the
18 stadium, can therefore see the entry or the gate to Camp Muhoza.

19 Q. From your positions at the stadium, downhill, you could see the entrance to Camp Muhoza? Did I get
20 you correctly?

21 A. Yes. That is what I said.

22 Q. This may be obvious, but with my learned friends on the other side, My Lords, you never know: In
23 which *préfecture* is Camp Muhoza located in?

24 MR. BLACK:

25 My friend is right, it's obvious, but I fail to follow the line of questioning, why it's relevant to the
26 charges. The fact that the government set up civil defence training to repel RPF attacks is hardly a
27 crime.

28 MR. TAMBADOU:

29 My Lord, I object for him -- is my friend giving evidence? Really.

30 MR. BLACK:

31 Well, how is this line of questioning related to the charges? I don't understand this line of questioning
32 at all.

33 MR. PRESIDENT:

34 Yeah, yeah, you continue.

35 MR. TAMBADOU:

36 As Your Lordship pleases.

37

1 BY MR. TAMBADOU:

2 Q. In which *préfecture* is Camp Muhoza located?

3 A. It is in our *préfecture*, Ruhengeri *préfecture*.

4 Q. At the time that this training was being provided by soldiers from Camp Muhoza, did you know who
5 the camp commander was?

6 A. I do not know who was the commander of Muhoza camp at that time.

7 Q. During the same time, did you know who the operational sector commander of Ruhengeri was?

8 A. Yes.

9 Q. Who was the operational sector commander of Ruhengeri *préfecture* at the time?

10 A. It was General Bizimungu.

11 Q. Now, you were not a member of the armed forces. How did you know that General Augustin
12 Bizimungu was the operational sector commander of Ruhengeri *préfecture*?

13 A. As you said, I was a civilian. I was not a soldier. But this was a piece of information that was
14 broadcast on the radio. It was said that the chief of staff, defence forces chief of staff, was General
15 Bizimungu. When he was promoted, everybody heard this news, and that is how I'm explaining who
16 was the operational -- operational sector commander, and that he was actually the commander of
17 Ruhengeri operational zone and that his powers were not just limited to that zone and because he
18 was a national defence chief.

19 Q. Now, Witness, I believe you are confusing the two. Listen to my questions very carefully. You stated
20 that General Augustin Bizimungu was the operational sector commander of Ruhengeri *préfecture*.
21 Now, my question to you was: You were not a member of the armed forces. Can you tell us how you
22 knew that General Augustin Bizimungu was the operational sector commander of Ruhengeri
23 *préfecture*?

24 A. Thank you for that question, Mr. Prosecutor. I found out that he was the operational sector
25 commander for Ruhengeri because I was from Ruhengeri myself, and throughout the period that he
26 was commander of that sector, he was a colonel, and the members of the public in Ruhengeri were all
27 aware of this. We could even distinguish between him and other officers, just by looking at his
28 epaulettes, and we were able to distinguish between a colonel and a major and a lieutenant and a
29 second lieutenant. So, as a native of Ruhengeri, I was required to know who was the army
30 commander in the area I resided in. I believe that I have given ample explanation and if you want
31 supplementary explanations, I am prepared to give you.

32 MR. PRESIDENT:

33 How long will you take, Mr. Tambadou?

34 MR. TAMBADOU:

35 My Lord, I think I'll take the whole day.

36 MR. PRESIDENT:

37 Then we will take a break now.

1 MR. TAMBADOU:

2 As Your Lordships please.

3 MR. PRESIDENT:

4 We will resume at 4:10.

5 *(Court recessed from 1554H to 1615H).*

6 MR. PRESIDENT:

7 Yes, Mr. Counsel, you may continue.

8 MR. TAMBADOU:

9 As Your Lordship pleases.

10 BY MR. TAMBADOU:

11 Q. Now, Witness, is the name Cyabararika forest familiar to you?

12 A. Yes, I'm familiar with this name.

13 MR. PRESIDENT:

14 How do you spell that?

15 MR. TAMBADOU:

16 Cyabararika is number 5 on the list of groups and places, and it's spelt C-Y-A-B-A-R-A-R-I-K-A,

17 Cyabararika.

18 BY MR. TAMBADOU:

19 Q. Now, did you -- did you, at any point in time in 1994, have anything to do with this forest?

20 A. In 1994, Colonel Setako came to inform our training instructor that we needed to go for training in
21 handling grenades because the training that we underwent was for handling guns. So we needed to
22 go to the Cyabararika forests to train in handling grenades.

23 Q. Who was your military instructor to whom Colonel Setako spoke?

24 A. He told the person who was in charge of our group, xxxx. Soldiers came aboard a military jeep.
25 There were four of them -- or there must have been between four and six. And they started showing
26 us grenades, how to remove the pins and how to throw them, and then the precautions one had to
27 take so as to avoid injury. And Colonel Setako came at that time. He spoke to us and told us that the
28 purpose of the training was to prepare us to fight the *Inkotanyi* and their accomplices, and as a result,
29 we needed to continue with the training. At the end of the training, we were sent to roadblocks, and
30 we had grenades attached to our belts.

31 Q. Did you personally take part in the training in the use of grenades at Cyabararika forests?

32 A. Yes. I took part in that training.

33 Q. Were you alone in that training or did you take part with others?

34 A. I was part of the group xxxx, and this was a group that was made up of youths, about 20 of us, who
35 were deployed at the roadblock located at the -- at SGP. It is from there that we were taken to
36 participate in the training that took place in the Cyabararika forests.

37 Q. You had stated earlier, if I recall very well, that after your training at the stadium, you were dispersed

- 1 -- you were armed and dispersed at the roadblocks. Do you remember saying that early on?
- 2 A. Yes. That was my testimony.
- 3 Q. Now, what roadblock were you personally posted at -- posted to?
- 4 A. I was personally sent to the roadblock at the SGP petrol station.
- 5 Q. Now, can you tell this Court where exactly the SGP petrol station was located?
- 6 A. The SGP station is located at the entrance of the Ruhengeri town, coming from Kigali, and when you
7 get out of Ruhengeri town, to get to Kigali, the SGP station is located in the Mubona *secteur*, and it's
8 on the tarred road which continues all the way to Kigali.
- 9 Q. On what part of this location was the roadblock that you were posted at erected?
- 10 A. The roadblock was erected across the road, and the first building close to that roadblock was the SGP
11 petrol station, and the roadblock was erected there to control movement between Ruhengeri and
12 Kigali.
- 13 Q. Was this the only road from Kigali into Ruhengeri?
- 14 A. Yes. In that region, it's the road -- the only road linking Ruhengeri and Kigali, that I know of.
- 15 Q. If I understand you very well, are you saying that exit and entry into Ruhengeri from Kigali will have to
16 be through that roadblock there?
- 17 A. That is correct.
- 18 Q. How many of you were posted to that roadblock?
- 19 A. Between 26 and 27 persons.
- 20 Q. Were you all at this roadblock all day, every day?
- 21 A. We split into two -- or, rather, three groups. There was one group that worked during the day, and
22 another one which would take over during the night, and a third group which would come the following
23 morning.
- 24 Q. During the period that you were posted to this roadblock, how many other roadblocks were you aware
25 of in your area?
- 26 A. There were several other roadblocks. There were at least eight, and they had been erected on roads
27 leading into the rural areas of the Ruhengeri *préfecture*.
- 28 Q. Did you personally carry arms when you were posted at this roadblock?
- 29 A. We had firearms which we received at the end of our training at the stadium. We also had grenades
30 which we received at the end of our training in the Cyabararika forests, and we would pass on these
31 weapons to the groups which take over.
- 32 Q. Witness, I'll put my question again. Did you personally bear arms while you were posted at the
33 roadblock?
- 34 A. Yes.
- 35 Q. What --
- 36 A. I used to carry weapons when I was at that roadblock.
- 37 Q. What sort of weapon did you personally carry when you were at the roadblock?

- 1 A. I had an R-4 rifle and a grenade which I carried on my belt.
- 2 Q. Who provided these weapons to you?
- 3 A. We received the first set of weapons from the soldiers at the end of our training at the stadium, and
4 each group was given two or three rifles. That was the instruction they received, that they had to
5 distribute weapons at the end of the training session. Subsequent to that, we received other guns in
6 the *commune*, and in total we had seven guns which were being used at that roadblock.
- 7 Q. At the time that you personally bore arms at the roadblock, did you know how to use those weapons?
- 8 A. With regard to the guns, yes, I knew how to use them because, as I told you, we learnt at the stadium
9 how to dismantle and assemble rifles and how to shoot with these guns.
- 10 Q. Now, whilst at the roadblock, can you tell this Court your activities at the roadblock?
- 11 A. The purpose of this roadblock is to seek *Inyenzis* and their accomplices; that is to say, members of
12 the RPF and Tutsis who were sympathisers of the RPF. Our duty at that roadblock was to seek out
13 those people.
- 14 Q. How were you performing your duty to seek out the RPF and their accomplices?
- 15 A. We did that work at the roadblock. When a vehicle was coming from Kigali, we would stop it, we
16 would check the identity documents of the passengers, and then we would give their identity
17 documents back to them and they go back in their -- they go on in their vehicle, and we would ask
18 passengers where they were coming from and where they were going. If we had any doubts or if they
19 were hesitant in their answers, we could go as far as killing them.
- 20 Q. What were you looking for in those identity cards?
- 21 A. The identity cards issued in Rwanda indicated one's ethnicity. Their ethnic group was mentioned on
22 their card; that is, Hutu, Tutsi and Twa. We had three ethnic groups in Rwanda, and the ethnic group
23 that was being sought out, because it was being said that that is the ethnic -- that the ethnic group
24 that attacked the country, was the Tutsi. When a person was going through the roadblock and he
25 carried an ID card indicating he was a Tutsi, he was kept at the roadblock.
- 26 Q. And what happened to persons whose identity cards indicated that they were Hutu or Twa?
- 27 A. That category of persons were not being sought out. We considered them as our kinsmen. We let
28 them go back into their vehicle and move on.
- 29 Q. And those whose identity cards indicated that they were Tutsi and were kept, what happened to
30 them?
- 31 A. We would ask them questions. We asked them where they were coming from, where they were
32 going, and they would give us answers, and our leader that I mentioned to you, xxxx, would take --
33 would ultimately take a decision. If the person had to be killed, we would take him next door and kill
34 them. The lucky ones, who were very few, xxxx, but most of the people we arrested were killed at
35 that roadblock.
- 36 Q. Did you personally take part in the killings?
- 37 A. Yes.

1 MR. PRESIDENT:

2 The people who were killed were *Inkotanyi* or just what, ordinary --

3 THE WITNESS:

4 They were ordinary Tutsis, but at that time, they were considered as accomplices of the *Inkotanyi*, and
5 that was why we were seeking them out. The *Inkotanyi*, the real *Inkotanyis*, could not be found. They
6 were in the forests and they were fighting. Those persons that we arrested at the roadblocks were
7 farmers, ordinary Tutsis, who had fled their regions because they were being chased out in their own
8 regions.

9 BY MR. TAMBADOU:

10 Q. Did these ordinary Tutsis include women and children?

11 A. Yes. There were women and children, but normally, they were young girls and men.

12 Q. Can you explain what you mean by, "normally they were young girls and men"?

13 A. By that, I meant that the young girls and the men outnumbered -- were more numerous in the group.
14 You know when there is a war -- when there -- in situations of war, it is men and young girls who have
15 the physical strength to run, but a woman with a baby does not have sufficient strength to run and go
16 further, as would men and young girls.

17 Q. Did the persons, ordinary Tutsis, who were killed at this roadblock include older men?

18 A. No. At that roadblock, there was no elderly Tutsi man who was killed.

19 Q. Those who were killed at this roadblock, whom you described as ordinary Tutsis, were they armed?

20 A. No. These were ordinary inhabitants, and they didn't have weapons.

21 Q. During the times that you spent at this roadblock, did any recognisable government authority pass
22 through your roadblock during your stop-and-check activities?

23 A. Regarding government officials who went through the roadblock, there weren't many, apart from those
24 coming from one *préfecture* on their way to another *préfecture*. The person I saw most often going
25 through that roadblock, coming to Ruhengeri, coming from other *préfectures*, is Nzirerera.

26 Q. Do you remember seeing any other civilian or military authorities passing through that roadblock
27 whilst you were there?

28 A. With regard to military and civilian authorities, most of them who are natives of that region went
29 through that roadblock.

30 Q. Did you know the functions of Nzirerera at the time that he passed through your roadblock?

31 A. I knew Nzirerera because he used to come and went around the various *préfectures* before the war
32 when he was running his campaign to become a parliamentarian. But before then, he had other
33 functions, and on those occasions before the war, he will introduce himself to the population, and that
34 was when I got to know him.

35 Q. At the time that you were posted at the roadblock, when Nzirerera passed through, did you know what
36 his function was?

37 A. At the time he went through the roadblock, I knew his functions.

- 1 Q. To the best of your knowledge, what was his functions?
- 2 A. At the time, he was the speaker of the national assembly.
- 3 Q. At that same time, did you know what political party he belonged to?
- 4 A. Yes. I knew it because he had come on campaign in our region, and during rallies of the MRND, and
5 during such rallies, the influential members of MRND were introduced, and it was during those rallies
6 that I got to know that he was a member of the MRND.
- 7 Q. Now, at the times that Nzirorera passed through your roadblock, has he ever spoken to you or any of
8 your colleagues who were manning this roadblock?
- 9 A. Yes, Prosecutor. Nzirorera spoke to us.
- 10 Q. Do you remember some of the things he spoke to you about?
- 11 A. Yes, I do, Prosecutor.
- 12 Q. Can you please tell this Court some of the things Nzirorera spoke to you about?
- 13 A. He came to our roadblock, greeted us, and then told -- asked us if they had given us the plan about
14 the refugees who were at the appeals court. We told -- we answered yes. He then told us that, "I'm
15 going, and you'll find me at Mukingo." He went aboard his vehicle. Then we left the roadblock to go
16 to Mukingo.
- 17 Q. What happened after you left the roadblock to go to Mukingo?
- 18 A. We went aboard the vehicle, and from Ruhengeri town we went to Mukingo. When we got there, we
19 met *Interahamwes* of Mukingo who were -- *Interahamwes* who were natives of Mukingo. They had to
20 -- they came along with us, aboard our vehicle, and we came to the appeals court.
- 21 Q. Do you remember the date that this occurred?
- 22 A. No. I have no recollection of the date.
- 23 Q. On the day before you went to the Ruhengeri court of appeal, did anything unusual happen?
- 24 A. Yes, something unusual happened. A meeting was held at the *préfecture*, and the *préfets*, the
25 *sous-préfets*, *bourgmestres*, as well as Bizimungu were in attendance, and it was in that meeting that
26 the plan to attack the appeals court was discussed.
- 27 Q. I think I heard the interpreter say Bizimungu. Which Bizimungu are you referring to?
- 28 A. I'm referring to General Augustin Bizimungu.
- 29 Q. Again, this is obvious, but I will not take my chances with my learned friends. Was it the same
30 Bizimungu that you positively identified in this courtroom?
- 31 A. Yes. It is that person that I pointed out to you in this courtroom.
- 32 Q. Now, what was discussed at this meeting?
- 33 A. At the meeting which was held at the place that I referred to, it was decided that Tutsis who had taken
34 refuge from Busengo in the appeals court constituted dirt which had to be removed, and when they
35 were referring to removal of the dirt, they meant killing the Tutsis.
- 36 Q. Do you remember the speakers at that meeting?
- 37 A. Prosecutor, as far as speakers are concerned, I do remember some of them.

1 Q. Did General Augustin Bizimungu speak at this meeting?

2 A. Yes, he did.

3 Q. Do you remember what he said at the meeting?

4 A. Yes.

5 Q. Can you tell this Court some of the things Bizimungu said at the meeting?

6 A. During that meeting, he said that -- "I heard that there is filth made up of refugees at the appeals
7 chamber -- appeals court, and I've requested that this filth or this dirt be removed within a few days."
8 That was his address. And it was the end of the meeting. The plan had been agreed upon. We had
9 to go for members of the CDR from Mukingo, to go and remove the dirt that he was referring to.

10 Q. How many of you attended this meeting?

11 A. Prosecutor, I do not understand the category of participants that you are referring to, since there were
12 various categories of participants.

13 Q. Sorry, Witness. How many of your colleagues from the CDR youth wing were present at this
14 meeting?

15 A. There was xxxx; so there were two of us. But there was another influential member within the
16 *préfecture* who was a member of the CDR and his name was Gahunde. So, as far xxxx at the
17 meeting.

18 *(Pages 56 to 63 by Mark Porter)*

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1 1650H

2 BY MR. TAMBADOU:

3 Q. Did you say xxxx?

4 A. Yes.

5 Q. Do I understand this to mean a personal bodyguard?

6 A. Yes, that meant that xxxx.

7 Q. Does this mean that you followed him wherever he went whenever you could?

8 A. That was the case, Prosecutor.

9 Q. Now you have said, if my memory serves me right, that at the meeting which you attended that
10 General Bizimungu stated that you "Go and remove the dirt for the court of appeal". What was your
11 understanding of that statement?

12 A. I immediately understood that we had to kill the Tutsis who were at the appeals court, because, as far
13 as I am concerned, a human being is not dirt.

14 Q. Was this understanding unique to you alone or was it a common understanding amongst you and
15 your colleagues?

16 A. Thank you, Counsel, for asking me to speak. Reference was made to filth or dirt at the time that
17 some people were being chased and went to Busengo and were transported to this place, the appeals
18 court that I referred to. Now, when he took the floor and said, "We should remove the dirt from that
19 place" at the time that they had started killing people, well I understood, I understood immediately.
20 And if you were in my position, you would have understood. I understood that these people had to be
21 killed, given the fact that they had already started seeking out these people.

22 Q. Now, let's go back to the day after this meeting, when you came back from Mukingo and went to the
23 court of appeals. What time of the day did you get to the court of appeals?

24 A. I believe we got to the appeal court in the afternoon.

25 Q. Early afternoon or late afternoon?

26 A. It was early afternoon.

27 Q. Now, when you got to the court of appeal, what did you see?

28 A. When we got to the court of appeal, I observed the presence of gendarmes who had encircled the
29 building.

30 Q. To the best of your recollection could you give an estimate of the number of gendarmes you saw who
31 had encircled the court of appeal building?

32 A. There were between 15 and 20; but this is just an estimate.

33 Q. And then what happened after that?

34 A. Suddenly we saw the soldiers put their rifles to their shoulder and lift, and then we in our turn
35 immediately encircled the building.

36 Q. Now, I believe I heard "soldiers." Did you say soldiers or are you referring to the gendarmes you met
37 who encircled the building?

- 1 A. No, these are gendarmes; there were no soldiers. At the time, whenever we referred to gendarme,
2 they are the equivalent of today's policeman.
- 3 Q. Thank you for that clarification. Now, did you see anything in the court of appeal building, inside the
4 building?
- 5 A. Yes, Counsel, I did see something.
- 6 Q. What did you see inside of the court of appeal building?
- 7 A. I saw the Tutsis that I referred to who had sought refuge there, there were many of them. And among
8 them there were women, children, elderly men and they were inside that building and the doors to the
9 building were closed.
- 10 Q. During the time that you encircled the court of appeal building, did you at any point during that time
11 see General Augustin Bizimungu anywhere?
- 12 A. After we encircled the court of appeal, General Bizimungu arrived in the area, to be specific, in
13 Muhabura, the Muhabura hotel.
- 14 Q. How did you know that General Bizimungu had arrived at the Muhabura hotel?
- 15 A. We had surrounded the building, and as I said, xxxx. And our bosses went straight to the Muhabura
16 hotel where general -- the general had just arrived in his vehicle.
- 17 Q. Did xxxx when he went to see -- when he went to the hotel Muhabura?
- 18 A. Yes, Mr. Prosecutor, I escorted him.
- 19 Q. Where did you find Bizimungu xxxx?
- 20 A. He was seated with other -- with others on the hotel terrace in front of the hotel's entrance door.
- 21 Q. What was the height of the terrace? Was it at a ground floor or at an elevated level?
- 22 A. I do not understand your question, Mr. Prosecutor.
- 23 Q. Was the terrace at that time ground level or was it at an elevated level?
- 24 A. To get to the terrace one has to go up a staircase so -- in fact, it is built on an elevated level from the
25 ground.
- 26 Q. In what part of the hotel Muhabura is this terrace situated?
- 27 A. The hotel terrace is at the entrance of the hotel, actually before the building, that is the way you use to
28 enter the hotel.
- 29 Q. Was the hotel fenced at the time xxxx? Was there fencing at the hotel?
- 30 A. No, there was no wall, but instead of a wall some cypress trees had been planted but they were not
31 yet tall enough, these trees.
- 32 Q. To the best of your recollection, how tall were these trees?
- 33 A. The cypress trees were not very tall. I would say that they were between one metre and 1.3 metres
34 tall, or between 1 and 1.5 metres tall.
- 35 Q. Were these trees of the same height with the elevated terrace, or were they taller or shorter?
- 36 A. Thank you, Mr. Prosecutor. I need to try and recall this. The cypress trees were not yet one and a
37 half metres tall. And when standing on the Muhabura hotel terrace it was possible to see the court of

- 1 appeal downhill, as if it was in a kind of a valley. So when standing on the terrace, one can see down
2 the road the court of appeal, which is in a kind of valley.
- 3 Q. How was the court of appeals situated vis-à-vis Muhabura?
- 4 A. The court of appeal is opposite the Muhabura hotel, but downhill from the hotel.
- 5 Q. Was there anything between the court of appeal building and hotel Muhabura, since they were
6 opposite?
- 7 A. No, there is no other building between the two. Between the court of appeal and the Muhabura hotel,
8 there is no other building. The court of appeal is downhill from the road, and the Muhabura hotel is
9 uphill on the road. So that between the two buildings, the only thing separating them is the road.
- 10 Q. What sort of road was this?
- 11 A. It is a paved road which goes to Gisenyi -- or from Gisenyi to Ruhengeri.
- 12 Q. To the best of your recollection, can you provide an estimate of the distance between the court of
13 appeal and hotel Muhabura?
- 14 A. The distance between the hotel Muhabura and the court of appeal is less than 50 metres, that is to
15 say between 20 and 25 metres; of course, that is an estimate.
- 16 Q. Was the distance longer than the distance from that end of the courtroom to this end?
- 17 A. I would say it is the same distance, however it is slightly more.
- 18 Q. So if one were to stand at the court of appeal building and shout at you whilst standing on the terrace
19 of hotel Muhabura, would you hear them?
- 20 A. Thank you, Mr. Prosecutor. Given that the terrace of the Muhabura hotel is elevated, somebody who
21 is there can call out to somebody in the court of appeal since the court of appeal is downhill, but you'd
22 have to raise your voice. The court of appeal also has a verandah, and there is a place where the flag
23 stands; so if you are at that place in relation -- from the court of appeal, and if you speak loudly, you
24 can be heard by somebody who is at the Muhabura hotel.
- 25 Q. Was the court of appeal premises fenced at the time?
- 26 A. No, Mr. Prosecutor. At the time there was no wall around the court of appeal building.
- 27 Q. xxxx to the hotel Muhabura and you found Bizimungu on the terrace, did you find him alone or was he
28 with other people?
- 29 A. He was with other people.
- 30 Q. Do you remember who these other people were?
- 31 A. I remember that they included Bivugabagabo, Setako; yes, actually those are the two people who I
32 recall. There were other persons, but I do not remember them any more.
- 33 Q. Did you know what the occupation of Bivugabagabo was at the time?
- 34 A. He was a member of the armed forces.
- 35 Q. Do you know -- do you know what the occupation of Setako was at the time?
- 36 A. He too was a member of the armed forces.
- 37 Q. Now, xxxx , you found Bizimungu and Bivugabagabo and Setako on the terrace, what were they

- 1 doing? What did you find them doing?
- 2 A. They were seated at the terrace.
- 3 Q. When you found them sitting at the terrace, what happened?
- 4 A. We found them there, and then our leaders approached them. They spoke and they told them that if
- 5 they wished, they could begin. We were given the green light and, hence, allowed to start firing
- 6 because our leaders had given us the green light. And when they did so, after they gave us the green
- 7 light we went back to the court of appeal where we began shooting.
- 8 Q. Who gave the green light for you to begin the attack on the court of appeal?
- 9 A. It was General Bizimungu.
- 10 Q. Do you remember the words he used to give the green light for the attack to begin?
- 11 A. When we arrived, we were told that the young people -- he said, "Now, right now, start working." And
- 12 since this had been agreed in the meeting that we were to rid ourselves of the dirt, and since he said
- 13 we could start working, we went back to the site and began firing.
- 14
- 15 I think, Mr. Prosecutor, I have made myself clear.
- 16 Q. So he told you to start working. When you went back to the court of appeal and started firing, what
- 17 sort of weapons were you using?
- 18 A. We had R4 rifles, and the people from Mukingo had Kalashnikovs, and we also had grenades.
- 19 Q. The refugees, the Tutsi refugees who were at the court of appeal, were they armed?
- 20 A. No.
- 21 Q. When you started shooting and bombing them, what did they do?
- 22 A. They couldn't do a thing; all they could do was cry for help. You will understand that they were
- 23 helpless. They were in the building, a building -- a concrete building. And they had nothing to defend
- 24 themselves with. All they could do was hail stones. All they could do was cry for help.
- 25 Q. Were they crying out loud?
- 26 A. Yes, they were making lots of noise because there were many of them.
- 27 Q. Again, were there women and children amongst those refugees?
- 28 A. There were elderly persons, women and young girls, as well as old women. These people had come
- 29 from the countryside, from Busengo region, so they were people from various walks of life.
- 30 Q. Did you personally take part in the killings at the court of appeal?
- 31 A. Yes, Mr. Prosecutor, I took part in these killing.
- 32 Q. Did your other colleagues in the Impuzamugambi take part in these killings?
- 33 A. Absolutely, they also took part in this massacre.
- 34 Q. Where did you get the guns and the grenades that you used in the killing at the court of appeal?
- 35 A. Mr. Prosecutor, as I told you we received the first batch of rifles after training at the stadium; and the
- 36 second batch came from Mukingo, and the grenades we used had been distributed at Cyabararika
- 37 after the training. Then the officials gave us enough guns, although -- so that when we were now

1 fleeing, each of us had a weapon, and the civil defence group, given that there were more
2 *Interahamwe* and youths taking part in the killing, this civil defence group received other weapons.

3 Q. Throughout the duration of the attack on the court of appeal, do you know where General Augustin
4 Bizimungu was?

5 A. Mr. Prosecutor, I explained that he was seated on the Muhabura hotel terrace.

6 Q. To the best of your recollection, could you give an estimate of the number of people who were
7 seeking refuge in the court of appeal?

8 A. I would say there were roughly 200 to 250 people seeking refuge at the court of appeal.

9 Q. How long did the attack last?

10 A. I did not look at my watch to tell when the attack began and when it ended, but I would say it did not
11 last more than an hour.

12 Q. To the best of your recollection, how many of you, with the youth wing from the CDR and the
13 *Interahamwe* from Mukingo *commune* and the others from the civil defence, how many of you took
14 part in that attack?

15 A. I would estimate that we were between 50 and 60 people.

16 Q. Were there any survivors after the attack?

17 A. No, there were no survivors.

18 Q. Would you have stopped the attack if Bizimungu had ordered you?

19 MR. MACDONALD:

20 I object to this question, it is speculative. Thank you.

21 MR. TAMBADOU:

22 My Lords, I'm not talking about the other groups, I'm talking about the witness himself, what he would
23 have done, him. My question is about him, now, not the rest of the group, what would he have done.

24 MR. PRESIDENT:

25 Your question was, who ordered?

26 MR. TAMBADOU:

27 Yes -- no, no, my question wasn't who ordered. I already asked who gave the green light and he said
28 "Bizimungu." Now I said, if Bizimungu was the one who gave the green light, would he have stopped
29 if Bizimungu had asked him to? That was my question, My Lord, would he have stopped the attack if
30 Bizimungu had asked him to since he was the one who gave the green light.

31 MR. PRESIDENT:

32 That is if he was not asked to -- what you are asking is if he were not asked to shoot at them or --

33 MR. TAMBADOU:

34 No, no. The question was, I earlier put the question to the witness, "Who gave the green light?" And
35 he said, "General Augustin Bizimungu. Now this question, I said to the witness, would you have
36 stopped if Bizimungu had asked you to.

37

1 MR. MACDONALD:

2 Do we really have --

3 MR. PRESIDENT:

4 He would have stopped, you must say whether he would have refrained from --

5 MR. TAMBADOU:

6 As Your Lordship please, I will put it that way, as Your Lordship please.

7 MR. PRESIDENT:

8 Yes, if he was asked not to shoot them.

9 MR. TAMBADOU:

10 As Your Lordship pleases, I will put it that way. My learned friend is on his feet.

11 MR. MACDONALD:

12 I am contesting that question all the way from A to Z. Now, if you are allowing the part of it, I would
13 like to know what the ruling is on this, because any court in this world would not allow a question like
14 this. It is purely speculative. There is no reason to grant it.

15 MR. TAMBADOU:

16 My Lordship, I will withdraw that question, as Your Lordship please.

17 MR. PRESIDENT:

18 Yes.

19 MR. TAMBADOU:

20 My learned friend's second nature is kindness, but he has not been very kind to me today.

21 BY MR. TAMBADOU:

22 Q. Witness, I would just like to take you back to the roadblock, when you were manning it and when the
23 Tutsi refugees were fleeing, who had been killed. Now, what weapon were you using, you and your
24 other colleagues, to kill the refugees at the roadblock?

25 A. We were using rifles that had been distributed to us and as well as bullets that had been given to us.

26 MR. PRESIDENT:

27 He answered the question several times.

28 MR. TAMBADOU:

29 As Your Lordship please.

30 BY MR. TAMBADOU:

31 Q. Now, did any military or civilian authority come to the court of appeals while the killing was going on?

32 A. Mr. Prosecutor, I told you the military officials were present, represented by General Bizimungu and
33 Bivugabagabo and the others, so military authorities were present during this massacre.

34 Q. Did any military or civilian authorities visit the court of appeal after you had finished, or after you had
35 ended the attack?

36 A. After we fired and threw grenades we left, and a civilian official came to the court of appeal.

37 Q. Do you know who this civilian official was?

1 A. Yes, Mr. Prosecutor.

2 Q. Can you tell us who this civilian official was?

3 A. Remember, Mr. Prosecutor, that earlier on I told you that Nzirorera had come by and had gone up to
4 the court of appeal. After we finished our work at the court of appeal, we went back to the roadblock.
5 And on his way back from Mukingo, Nzirorera came to verify if the work had been completed. He
6 came to take note -- or take stock of what had happened at the court of appeal. He found some
7 people had not yet died; they were having -- in the death throes. And he made us come back from
8 the roadblock and asked us, why we had allowed these people to survive.

9
10 And he took a club and hit a person who was in front of him. And he said, "This person is still alive."

11 And that is when we finished off all of those who were still alive, and then Nzirorera left.

12 MR. TAMBADOU:

13 My Lords, this is all for this witness, as Your Lordship please.

14 JUDGE PARK:

15 Witness, how wide was the hotel terrace?

16 THE WITNESS:

17 It was a terrace that was slightly elevated so that those sitting on it could view the road downhill. And
18 it was about 70 or 80 centimetres high, so that the patrons of the terrace could have a view of the
19 paved road and see what was going on.

20 JUDGE PARK:

21 I'm asking the space of that terrace, not the height.

22 THE WITNESS:

23 You want to know the surface area of the space between the hotel and the court of appeals or do you
24 want to know the area of the terrace?

25 JUDGE PARK:

26 The space of the terrace where General Bizimungu was.

27 THE WITNESS:

28 It was a terrace that was not very big, one could set up about five or six clients at a time. But it was
29 round in shape, you had some parasols set up and clients could come and take a drink there; there
30 were no more than three parasols at the time.

31 JUDGE PARK:

32 Second, did Bivugabagabo and Setako sit with General Bizimungu?

33 THE WITNESS:

34 Yes, they were there next to General Bizimungu.

35 JUDGE PARK:

36 Sit or stand?

37

1 THE WITNESS:

2 They came to this place in their respective vehicles and when they arrived they took a seat under one
3 parasol. And when I got to the place they were seated, not standing, they were seated and in
4 conversation.

5 MR. PRESIDENT:

6 After what you've described, after the massacre, what did you do?

7 THE WITNESS:

8 Thank you, Mr. President. After this attack, we went back to our respective roadblocks to pursue our
9 normal duties.

10 MR. PRESIDENT:

11 Yes, we can start the cross-examination on Monday.

12

13 Proceedings are adjourned until 9:00.

14 MR. KIYEYEU:

15 I'm sorry, Mr. President. The registry would like to report to the Chamber that your order of this
16 morning has been complied with.

17 MR. PRESIDENT:

18 Thank you.

19 MR. KIYEYEU:

20 We took the document from Mr. MacDonald and we made copies and we supplied the copies to all of
21 the parties and also to the interpreters.

22 MR. PRESIDENT:

23 Thank you.

24 MR. KIYEYEU:

25 Thank you, My Lord.

26 MR. PRESIDENT:

27 We will be sitting on Monday but not at this place, maybe on the other side, Courtroom Number 3.

28

29 The proceedings are adjourned until 9 on Monday.

30 *(Court adjourned at 1737H)*

31 *(Pages 64 to 71 by Donna M. Lewis)*

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CERTIFICATE

We, Judith Kapatamoyo, Petrus Chijarira, Regina Limula, Mark Porter and Donna M. Lewis, Official Court Reporters for the International Criminal Tribunal for Rwanda, do hereby certify that the foregoing proceedings in the above-entitled cause were taken at the time and place as stated; that it was taken in shorthand (*stenotype*) and thereafter transcribed by computer; that the foregoing pages contain a true and correct transcription of said proceedings to the best of our ability and understanding.

We further certify that we are not of counsel nor related to any of the parties to this cause and that we are in nowise interested in the result of said cause.

_____ Judith Kapatamoyo

_____ Petrus Chijarira

_____ Regina Limula

_____ Mark Porter

_____ Donna M. Lewis