

1 THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA
2 CASE NO.: ICTR-99-52-T (Joinder) THE PROSECUTOR
3 ICTR-96-11-T OF THE TRIBUNAL
4 ICTR-97-27-T
5 ICTR-97-19-T
6
7 AGAINST
8 FERDINAND NAHIMANA
9 HASSAN NGEZE
10 JEAN BOSCO BARAYAGWIZA
11
12 24 SEPTEMBER 2002
13 0905H
14 CONTINUED TRIAL
15
16 Before:
17 Judge Navanethem Pillay, Presiding
18 Judge Erik Møse
19 Judge Asoka de Zoysa Gunawardana
20
21 For the Registry:
22 Ms. Marianne Ben Salimo
23 Mr. Edward Matemanga
24
25 For the Prosecution:
Mr. Stephen Rapp
Mr. William Egbe
Ms. Simone Monasebian
Ms. Charity Kagwi
For the Accused Nahimana:
Mr. Jean-Marie Biju-Duval
Ms. Diana Ellis
For the Accused Ngeze:
Mr. John Clifford Floyd III
Mr. René Martel
For the Accused Barayagwiza:
Mr. Giacomo Barletta Caldarera
Mr. Alfred Pognon
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I N D E X

WITNESS

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

2 MADAM PRESIDENT: Mr. Biju-Duval.

3 MR. BIJU-DUVAL: Thank you, Madam President. Yesterday,
4 Mr. Nahimana raised an issue unknown to the Defence
5 concerning an issue of the journal Isibo, and he also
6 raised the possibility of dealing with that issue today.
7 I do not know what the situation is with Mr. Nahimana
8 today but we might perhaps want to start off with that
9 point, to clear it.

10 MADAM PRESIDENT: Mr. Nahimana, you made a reference to
11 something that is on the CD-ROM furnished to you by the
12 Prosecutor. Is that what you wish to raise this
13 morning?

14 THE ACCUSED NAHIMANA: Yes. Good morning, Madam President.
15 Good morning, Your Honours. Yesterday, I did indeed
16 talk about the Isibo issue which mentioned the list of
17 mentions of Akazu in October 1991 and, as I promised, I
18 printed the pages concerning what I said yesterday and I
19 produced 22 copies, which I have with me here. And if
20 the Chamber wants to verify what I said concerning the
21 introduction of the article, I highlighted a number of
22 small passages which the interpreters could be asked to
23 read. With your permission, I would like to hand these
24 over to the registry.

25 MADAM PRESIDENT: Mr. Nahimana, I'd like your counsel to make
26 that decision for you.

27

28 So, Mr. Matemanga, will you take that stack to
29 Mr. Biju-Duval first, and if you wish to proceed with
30 that, then we will distribute it, Mr. Biju-Duval.

1 MR. BIJU-DUVAL: Thank you, Madam President.

2

3 Madam President, as you understood, this document comes
4 from the CD-ROM which was disclosed to the Defence at a
5 point when the Defence could not communicate with
6 Mr. Nahimana. It's a text in Kinyarwanda, and I
7 personally cannot understand the text, but I do not see
8 anything wrong with the passages being highlighted to be
9 translated so that we can all understand what is written
10 in the text. So, for the manifestation of the truth, I
11 think it is proper for the passages that have been
12 highlighted or others, for that matter, to be translated
13 by the interpreters.

14 MADAM PRESIDENT: Well, it's your decision, Mr. Biju-Duval,
15 because right now you don't know what's in there and
16 you're prepared to have all that disclosed.

17

18 Mr. Rapp, any comment or objection?

19 MR. RAPP: Well, we have provided these Isibo copies and we
20 have confidence that these are the documents that they
21 are represented to be, so if the Defence wishes to have
22 them read out, we have no objection.

23 MADAM PRESIDENT: Mr. Biju-Duval, can you just indicate how
24 many paragraphs and how much material we are talking
25 about?

26 MR. BIJU-DUVAL: I have in front of me an extract from the
27 Isibo journal, issue No. 28 of October 21. It contains
28 a very short article. I think there would be two
29 paragraphs highlighted by Mr. Nahimana himself and a
30 list of names which I believe does not require any

1 translation. I think all the interpreters have to do is
2 to translate the passage, which would make us understand
3 what the list of names is there for.

4 MADAM PRESIDENT: Mr. Matemanga, you can distribute that and
5 begin by giving the Kinyarwanda booth their copy.

6 MR. BIJU-DUVAL: Do the interpreters have the document where
7 passages have been highlighted by Mr. Nahimana? Do the
8 interpreters have the document?

9 THE ENGLISH INTERPRETER: From the booth, yes, the Kinyarwanda
10 booth has the document, but they just received it.
11 Could they be allowed a few minutes to look through it,
12 please?

13 MADAM PRESIDENT: Mr. Nahimana, why don't you, in the
14 meantime, tell us the issue number and the date of this
15 journal Isibo?

16 THE ACCUSED NAHIMANA: Very well, Madam President. I gave the
17 cover. It is issue No. 28 of Isibo, and in the inside
18 page, it is written that it was No. 28 from the 21st to
19 the 28th of October 1991 -- 27th of October 1999, sorry.

20 MADAM PRESIDENT: 1991.

21 THE ENGLISH INTERPRETER: 1991, thank you, Madam President.

22 THE ACCUSED NAHIMANA: 1991, Madam President. And if you
23 allow me, Madam President, I could enlighten the Chamber
24 because effectively, as my counsel was saying, I
25 underlined the title, which is on the second page, which
26 is page 7 in the journal, so I underlined the title and
27 then the first and third paragraphs, and a subtitle
28 which appears between nos. 27 and 28. These are short
29 passages which would make it possible -- or which
30 introduced the list.

1 MR. BIJU-DUVAL: Could the interpreters start off by
2 translating the title of the article, please?

3 THE ENGLISH INTERPRETER: The Akazu K'Abashiru.

4 MR. BIJU-DUVAL: Could you go into the first paragraph
5 underlined by Mr. Nahimana, please?

6 THE KINYARWANDA INTERPRETER: "There's no party rally which
7 ends without mention being made of the Akazu. Private
8 newspapers in Rwanda talk of the Akazu all of the time,
9 but up 'til this point in time, the reader is still
10 wondering what the Akazu is."

11 MR. BIJU-DUVAL: Could you translate the second paragraph
12 highlighted by Mr. Nahimana?

13 THE KINYARWANDA INTERPRETER: "The Akazu, of which so much is
14 being said lately, is the link between those who have
15 ties with the family from which the president of the
16 republic, Juvénal Habyarimana, comes. It is a large
17 family which keeps growing and which is powerful. They
18 are people who claim to come from that family, but there
19 are also people who are, indeed, members of the family.
20 We asked members of the MDR party what they mean by
21 members of the Akazu, and hereunder is the list that
22 they provided us with."

23 MR. BIJU-DUVAL: Could you also translate the subtitle which
24 appears between nos. 27 and 28 of the list?

25 THE KINYARWANDA INTERPRETER: "Close collaborators."

26 MR. BIJU-DUVAL: Thank you. Madam President, I would like
27 this to be tendered as an exhibit, Exhibit No. 1D157.

28 MR. FLOYD: If it please the Court.

29 MADAM PRESIDENT: Yes, Mr. Floyd.

30 MR. FLOYD: I would like to know if there's a meaning for the

1 word "Abashiru" because they say "Akazu" and "Abashiru".
2 Does "Abashiru" have a meaning?
3 THE KINYARWANDA INTERPRETER: "Abashiru" are people who hail
4 from the region Bashiru.
5 THE ACCUSED NAHIMANA: Madam President, to be brief and to
6 assist the understanding, what the interpreter is saying
7 is correct, but I would like to add that the Abashiru
8 come from Bashiru and Bashiru is a region which
9 comprises -- which includes the commune the president of
10 the republic hails from, and the region also includes
11 Karago and Giciye communes, basically, and the list that
12 is included refers to those who come from those regions
13 and also the people who became members of the Akazu. To
14 provide the spelling of Karago commune is K-A-R-A-G-O;
15 Giciye, the second commune, which is part of Bashiru, is
16 G-I-C-I-Y-E. Madam President, thank you.
17 MADAM PRESIDENT: Mr. Nahimana, did you see this list when it
18 was published in October 1991 in Isibo?
19 THE ACCUSED NAHIMANA: At the time, since I was director of
20 ORINFOR, I read virtually everything. I did not retain
21 everything, but I read everything and, yes, I did read
22 the list and a lot was said about it within Kigali.
23 MADAM PRESIDENT: But to your knowledge, are these people
24 members of Akazu, or can't you say?
25 THE ACCUSED NAHIMANA: As I said yesterday and besides, even
26 looking at what is written in the introduction, there
27 are indeed members of the family of the president as
28 part of the Rwandan lineage. That is the first part of
29 the list. There are others who, according to the
30 opinion of the time, were supposed to be part of that

1 lineage, but I cannot say yes, such-and-such a person
2 had to be considered as a member of the family. So I
3 would say that was the opinion of the journalist, plus
4 the opinion of members of the MDR party, and, as I said,
5 the members of the MDR party were strongly against the
6 Akazu and perhaps that is what made them know who. If I
7 could be as close to Akazu as they were, politically
8 speaking, then I might have been in a position to
9 provide more information.

10 MADAM PRESIDENT: This list doesn't have the name of the wife
11 of Juvénal Habyarimana, does it?

12 THE ACCUSED NAHIMANA: You're absolutely right. Yesterday, in
13 my introduction to the question relating to Akazu, I
14 said that at the beginning it was rather the brothers of
15 Madam Habyarimana who were mentioned. I do not have the
16 list but I do not even think that Mr. Habyarimana is
17 cited in the list, and it starts with number 1. One is
18 Protazi, and Protazi is the brother of
19 Madam Habyarimana, the older brother of Madam
20 Habyarimana. That's number 1. The same applies to
21 number 3, and so on.

22 MADAM PRESIDENT: Thank you. Mr. Bijou-Duval.

23 MR. BIJU-DUVAL: Thank you, Madam President. Before I move to
24 another point, I would like this to be tendered as an
25 exhibit, Exhibit No. 1D150.

26 MADAM PRESIDENT: 1D150, Mr. Bijou-Duval.

27 (Exhibit No. 1D150 admitted)

28 MR. BIJU-DUVAL: Thank you, Madam President.

29

30

- 1 EXAMINATION-IN-CHIEF (continued)
- 2 BY MR. BIJU-DUVAL:
- 3 Q. Mr. Nahimana, did you participate in a public conference
4 organised in Kigali in March 1994 concerning
5 journalists?
- 6 A. Yes, I participated in the lecture and conference which
7 were organised in Kigali. If I remember, it must have
8 been the 15th or the 17th of March, 1994. The
9 conference brought together a number of journalists,
10 including Mrs. Braekman, other journalists from Europe,
11 Mr. Guichaoua, Gaspard Gahigi, and so on.
- 12 Q. How were you informed of the holding of that conference?
- 13 A. It was announced on the airwaves of Radio Rwanda and I
14 think also on RTLM.
- 15 Q. In what capacity were you attending it? Were you one of
16 those invited as a guest or were you just one of the
17 spectators?
- 18 A. I would like to make one thing clear from the outset.
19 What I am talking about is the lecture conference where
20 I went as a spectator. I was not an invited guest. I
21 was just a participant. I was sitting among those who
22 just attended because that lecture was either followed
23 or preceded by a seminar involving the same journalist,
24 a seminar concerning professionals of information. I
25 did not take part in that seminar. If I referred to the
26 statement of Mrs. Colette Braekman and dialogue -- it
27 took about three days -- I was concerned with the
28 lecture which I learnt about on the radio.
- 29 Q. Did you take the floor at one point in time?
- 30 A. Yes, I did, as did many others, and I was discussing in

1 particular freedom of expression and possible excesses
2 in a budding press. I talked about RTLM. I talked
3 about the print media. I talked like others but,
4 Madam President, Your Honours, I cannot here give you in
5 detail what exactly I said, but I did take the floor.
6 And I was talking about freedom of expression and the
7 exercise of that freedom in the media.

8 Q. Now, did you at any point introduce yourself or get
9 introduced as the director of RTLM or as one of the
10 officials of RTLM?

11 A. This event took place in March 1994. As I said
12 yesterday, the management or those -- the person in
13 power at RTLM was unequivocal, and I did not remember
14 how I was introduced. That was Miss Braekman who said
15 that. But let me make it clear. In Rwanda, nobody
16 called me director of RTLM at the time I was there.
17 Only witnesses here referred to me as such, even when I
18 was director of ORINFOR, unless or except in very few
19 circumstances. Most people referred to me as professor.
20 No, on that occasion, nobody introduced me or referred
21 to me as director of RTLM.

22 Q. During the period preceding the 6th of April 1994, where
23 did the comité d'initiative meetings take place?

24 A. Since the RTLM company rented the premises where the
25 company and its branches had to be, all the meetings of
26 the company were held inside that building, that is, in
27 Kigali opposite the president of the republic.

28 Q. Within the premises, was there a specific room where
29 those meetings took place?

30 A. Meetings of the comité d'initiative were held -- were

1 always held in a big office of the director of the
2 company, Mr. Phocas Habimana. So a table was put in,
3 with a number of chairs, and it was in that office that
4 our comité d'initiative meetings were held. And when
5 the issue to be discussed did not require the presence
6 of Mr. Phocas, as I said, the meetings were held after
7 5 p.m. Phocas was not present. But most of the time
8 the comité d'initiative held its meetings in the
9 presence of Mr. Phocas.

10 Q. Now, you personally, did you have a personal office
11 within RTLM?

12 A. No.

13 Q. At any point in time?

14 A. No.

15 Q. Did you, Ferdinand Nahimana, hold meetings with
16 Mr. Phocas Habimana and/or Mr. Gaspard Gahigi concerning
17 the editorial policy of the RTLM?

18 A. No. I had occasion to express myself about that
19 yesterday. My answer is no.

20 Q. Now, did you at any time happen to give Phocas Habimana
21 or Gaspard Gahigi instructions or directly to the
22 journalists themselves?

23 A. No. As far as their duties went, I could not give them
24 any instructions or orders. If that had been necessary,
25 I would have gone through the comité d'initiative.
26 Contrary to what was said, I did not have any powers
27 over Mr. -- over the journalists. I didn't have any
28 direct control as somebody over Mr. Phocas Habimana, no.

29 Q. Before April 6, 1994, in your opinion, who was the
30 person or, rather, what organ of RTLM would have had the

1 power to give instructions to Phocas Habimana or
2 Gaspard Gahigi?
3 A. Yesterday, when I was presenting the structure of RTLM
4 company, I said that the organs which effectively
5 functioned or the organ which effectively functioned was
6 the comité d'initiative. And it was that comité
7 d'initiative, chaired by Mr. Kabuga, who could -- who
8 had the authority to give instructions to Mr. Phocas.
9 And as it happens in any other private undertaking, such
10 instructions were given after consultation and with the
11 blessing of the chairperson of the comité d'initiative
12 in the person of Mr. Kabuga. He was the link with
13 Mr. Phocas Habimana. So as the comité d'initiative, we
14 took decisions and it is our chairperson who gave
15 instructions to Mr. Phocas, who, in turn, gave the
16 instructions to his staff, in particular,
17 Mr. Gaspard Gahigi.

18
19 There was hierarchy in the RTLM company, and from the
20 very outset we respected the hierarchy. That, in spite
21 of the fact that those organs were still provisional. I
22 am referring particularly to the comité d'initiative and
23 the committees.

24 Q. After the 6th of April 1994, did the comité d'initiative
25 of RTLM meet?

26 A. No, not at all. Never.

27 JUDGE GUNAWARDANA: Can you recall an instance when the comité
28 d'initiative gave instructions to Gaspard Gahigi and
29 Phocas Habimana?

30 THE ACCUSED NAHIMANA: Yes, Your Honour. I gave examples in

1 particular when new members of staff had to be
2 recruited. Within the comité d'initiative, we accepted
3 the proposal made by Mr. Habimana and we gave him
4 instructions for him to proceed with recruitment. And,
5 at the end, when we examined the list of persons who had
6 been successful in the test, we gave instructions for
7 those people to be hired, one. That is the first part.
8 And yesterday I gave information regarding a programme
9 which shocked a number of members of the comité
10 d'initiative. We asked for Mr. Gaspard Gahigi and his
11 boss, Phocas Habimana, to report and we asked them to
12 respond to the person that we deemed had been slighted,
13 and that was done.

14

15 There are a number of examples but, Your Honour, by way
16 of illustration, I will stop at those two.

17 JUDGE GUNAWARDANA: Did you have occasion to give any
18 directions to Phocas Habimana or Gaspard Gahigi?

19 THE ACCUSED NAHIMANA: Are you talking to me? Are you talking
20 about me as a person or the comité d'initiative?

21 JUDGE GUNAWARDANA: As a person who worked in the RTLM, did
22 you have occasion to give directions by yourself?

23 THE ACCUSED NAHIMANA: No. As an individual, as
24 Ferdinand Nahimana, I never gave any instructions either
25 to Phocas or to Gaspard Gahigi.

26 JUDGE GUNAWARDANA: Thank you.

27 BY MR. BIJU-DUVAL:

28 Q. With the exception of your interview of the 20th of
29 November 1993, did you at any point in time go on the
30 air to speak on RTLM?

1 A. No, only on that 20th of November, 1993.

2 Q. Mr. Nahimana, where were you and how did you learn of
3 the president's plane crash?

4 A. It was on the 6th of April 1994. I was at home in my
5 house in Kigali on Kacyiru hill -- Kacyiru is spelled
6 K-A-C-Y-I-R-U -- in the evening. I was already in bed,
7 as I had occasion to tell you earlier. And in the
8 period preceding that date, I was sick, and it's my wife
9 who came and told me that she had just heard on RTLM
10 that the president's plane was on fire at the -- had
11 just been -- no, was on fire at the airport, at the
12 Kanombe airport in Kigali. Kanombe is spelled
13 K-A-N-O-M-B-E.

14 Q. At the time did you have any telephones?

15 A. No, not at all.

16 Q. What did you do on the 7th of April 1994?

17 A. On the 7th of April 1994 -- well, throughout the night,
18 we were very afraid, and very early in the morning of
19 the 7th of April, already we could hear gunfire
20 throughout the town, the city, and at 6 o'clock, I heard
21 on Radio Rwanda the communication from the ministry of
22 national defence. And this communique read out the list
23 of persons who had been victims of the attack on the
24 presidential plane. So I began to realise the whole
25 scope of the situation, so much so that I therefore
26 decided to flee to the French embassy. I've said this
27 on several occasions. I stayed at the embassy of France
28 from the 7th to the 12th of April, 1994.

29 Q. Why did you decide to seek refuge at the embassy, the
30 French embassy?

- 1 A. I have many reasons. Firstly, the very fact that I
2 studied in France naturally made me inclined to go in
3 that direction. That's one.
4
5 Secondly, during my career, my career of lecturer, I had
6 always worked together with this French embassy in
7 Kigali.
8
9 Number three, at that point in time at the French
10 embassy, my former colleague had been hired as a
11 cultural attaché, and the name is -- his name was
12 O-E-U-X, and he was a dean and I was his vice-dean, and
13 he was the one that I replaced at the head of that
14 faculty. I knew him very well, and as I've also had the
15 opportunity to say this, it was through the cultural
16 mission of the French embassy that the French ministry
17 of cooperation had accepted to publish my book, Rwanda,
18 émergence d'un État. So there are many factors which
19 made me go to the French embassy because there I
20 believed I would find welcome and understanding.
- 21 Q. Why were you seeking refuge? What were you afraid of
22 and who were you afraid of?
- 23 A. A moment ago I said that not only the fact of hearing
24 that the president had been assassinated but also the
25 fact that, as of the morning of 7th April, there was
26 gunfire everywhere, and then the fact of learning that
27 even the chief of general staff of the army, even the
28 head of presidential security had been assassinated, I
29 felt that this was a serious situation. And to this was
30 added the fact that since the month of February, we had

1 realised that the atmosphere of war was evident and was
2 felt. It was palpable.

3

4 Now, I myself, as someone who had been appointed to the
5 government, although that government had not actually
6 been set up, I felt that I may be risking my life if I
7 were to remain at home, where I didn't even have a
8 phone.

9

10 Thirdly, I got inspiration from what happened in Burundi
11 and this is what made me determine to leave, I would
12 say, over and above what I've already said. In Burundi,
13 dignitaries of Mr. Ndandaye's entourage, they are the
14 ones who fled very early to consular and diplomatic
15 premises.

16

17 Furthermore, I was saying to myself that if war was to
18 be resumed, and that morning I felt that this was the
19 case because I was hearing gunfire, I could easily be a
20 target of the RPF and other bandits because, my word,
21 when there's a war, there are those who are fighting and
22 there are those who exploit the occasion in order to
23 commit crimes, although they are not really combatants.
24 An RFI journalist asked me a question: "When were you
25 afraid?" And I said I was afraid right from the morning
26 of 7th of April and I was afraid at the time when I left
27 the embassy of France, when I was going to the airport.
28 Those were the main times when I felt afraid.

29

30 My fear diminished somewhat when I was welcomed in the

1 premises of the French embassy and, secondly, my fear
2 diminished when we were actually airborne and going
3 towards Burundi, in other words, when we had left Rwanda
4 in good health and alive.

5 Q. When you got to the French embassy on the 7th of April,
6 who did you find there? Were there refugees there
7 already?

8 A. Yes, when I got to the French embassy, I found some
9 families there already and around those families, I
10 don't know whether it will be necessary to find -- to
11 mention those names, but I'll say yes, I already found
12 families who had already sought refuge in the premises
13 of the embassy.

14 Q. Until what date did you remain at the French embassy?

15 A. I remained at the French embassy up until the morning of
16 the 12th April 1994, the date on which all those who had
17 received refuge at the embassy and the French
18 expatriates, diplomatic staff, were evacuated by the
19 soldiers towards Bujumbura.

20 Q. Can you tell us exactly with whom you went to the French
21 embassy; with whom did you leave your house to go to the
22 French embassy?

23 A. I fled together with my wife and my children, together
24 with my wife's brother, but at the French embassy
25 itself, only the immediate family was admitted, in other
26 words, myself, my wife and my children. My
27 brother-in-law was not allowed in, and I asked him to
28 try and seek refuge with a nephew who was a soldier in
29 the Kigali military camp. Later on, in June, it was the
30 end of June, I came to know that indeed he had been

1 received by my nephew at the Kigali military camp.

2 Q. Did it happen that you ever left the French embassy
3 between the 7th and the 12th April 1994?

4 A. Madam President, Your Honours, yes, I did leave the
5 French embassy on one occasion. That was on the 8th of
6 April. I was taking my wife to her shop on the morning
7 of the -- in the morning of the 8th, towards the end of
8 the morning, the ambassador came to see us and told us,
9 "We don't have any reserves, children are beginning to
10 cry", and so on and so forth. "If there are people who
11 can find something on the Kigali plateau, not very far
12 from there, go and try. We shall ensure the safety, the
13 security of the situation. We will indicate to you how
14 far you cannot go, but go and try and look for something
15 to eat". My wife, I have told you she was a business
16 woman. She had her shop which was not far from the
17 central post office in Kigali and not far from the
18 presidency, and she came out because the area had been
19 described as safe. So we were authorised by the embassy
20 to leave, and I took my wife right up to her shop.

21 Q. After having taken her to her shop, what did you do?

22 A. I don't want to describe Kigali at the time but at the
23 shopping area, it was quite calm. There were roadblocks
24 everywhere, obviously, and these roadblocks were manned
25 by soldiers. From the embassy up to that location there
26 had been several roadblocks which we crossed and they
27 were roadblocks manned by soldiers, as I have said. And
28 when I dropped her at the shop, I went into the shop
29 together with her. We gathered things, mostly for the
30 children, and I used that opportunity; I asked the

1 soldiers who were at the roadblock whether it was
2 possible for me to go beyond the presidency and go to
3 the RTLM. He told me there's no problem. He even gave
4 me a soldier who accompanied me right up to the gates of
5 the RTLM.

6
7 I went in and I met Mr. Phocas, who was there, and
8 journalists such as Ruggiu. I didn't see Mr. Kantano.
9 I didn't see Mrs. Bemereki. But as for the others, I
10 saw them, we discussed, and the subject matter was how
11 we were going to come out of this situation, where there
12 wasn't even any institution; what was going to -- who
13 was going to become the president and who was going to
14 be the general chief of staff. And I stayed there for
15 about 15 to 20 minutes, the time merely to discuss this
16 and then go back to my wife's shop.

17
18 I must say immediately, in order to be clear and
19 precise, that already Phocas told me that they had
20 decided to observe what was known as the "radio
21 mourning" and the communique from the ministry of the
22 defence was on air, he told me, and also classical
23 music. Journalists and the directors were waiting.

24 Q. How far is the RTLM from your wife's shop?

25 A. It's about 200 metres. It would be between 200 metres
26 and 250 metres, something like that, in an L-shape.

27 Q. Why did you decide to go to the RTLM?

28 A. Madam President, Your Honours, the times that we were
29 going through were difficult times. Personally, I knew
30 the people who were working there; I knew Mr. Phocas. I

1 wanted to know what was happening there. I didn't even
2 know at that time that there was this "radio mourning",
3 as it were. I was a member of the comité d'initiative;
4 I passed by there.

5
6 I would like to say here and now that I didn't even
7 think for 10 or 20 times about why I was going there,
8 no. I simply went there. I didn't have any other
9 person with whom I could speak and I believed that it
10 was still calm and quiet, so why not just go there and
11 see what was happening while my wife was gathering what
12 she had come to fetch from the shop, something which I
13 couldn't do because I didn't know what selection of
14 goods she was going to make. So this was maybe a
15 sentimental attitude but I didn't have any other reason
16 which made me go there. I wanted simply to find out
17 what had happened to the staff, what had happened to the
18 RTLM, full stop.

19 Q. During that visit that you made to the RTLM, do you
20 remember whether there was a board on which there were
21 names of personalities?

22 A. No. I know that Mr. Ruggiu spoke about this here, but I
23 didn't meet the staff together with the director in an
24 office. I met them at the first floor level. Before I
25 went into the director's office or into the accounts
26 office and in the editorial, there is a corridor, a kind
27 of lobby area, and that's where we met. I cannot really
28 see any board mounted in that corridor. I knew that
29 there was a board when I read Mr. Ruggiu's testimony in
30 transcript form and also when I heard him and Witness X,

1 but on the 8th, towards the end of the morning of that
2 day, I didn't see that board and I don't even remember
3 whether he was asked here when this board was put up,
4 but I have absolutely no recall of all that.

5 Q. During this visit, did you give any instructions to
6 those who were present?

7 A. Well, what kind of instructions would I have given? No.
8 We spoke, as I have said, basically about the matter
9 concerning the present situation. Well, it is true that
10 when I left I said good-bye and I said "have courage",
11 obviously. What instructions could I have given? No, I
12 gave absolutely no instructions.

13 Q. When you left the RTLM premises, what did you do?

14 A. I went back to the shop. I found that there was a young
15 soldier who had helped my wife put the things in the
16 car, and we went back to the embassy.

17 Q. Did you come out again apart from that one time?

18 A. No, never. And I must stress one thing: as time went
19 by, as days went by, the security situation became
20 precarious, so much so that the embassy wouldn't have
21 accepted that. There were people who left the embassy
22 but these people were escorted, and if my memory serves
23 me right, those people who left the embassy did so on
24 the 9th, and there was a Rwandan and French military
25 escort which escorted those who were announced to have
26 been part of Mr. Kambanda's government, as had been
27 announced. And there was a French and Rwandan military
28 escort which took these people to the Hôtel des
29 Diplomates because it was in that location that the
30 investiture of the new government took place. Apart

1 from that, apart from those who had escorts, in fact,
2 beyond the ministers, I don't see anyone else who left
3 the embassy.

4 Q. What minister are you referring to?

5 A. I am referring to the ministers.

6 Q. Of which government?

7 A. I want to refer -- I'm referring, I think I have said
8 this already quite clearly, when I said ministers who
9 had been announced on the 8th as being part of
10 Mr. Kambanda's government, I'm speaking about those
11 ministers.

12 Q. You, Mr. Nahimana, did you at any point in time go to
13 the Hôtel des Diplomates between the 7th and the 12th of
14 April 1994?

15 A. No, never.

16 Q. When you were at the embassy between the 7th and the
17 12th of April 1994, did you listen to the RTLM radio?

18 A. I didn't have a radio set. When I fled I didn't have a
19 radio, but as people came, yes, it did occur that I
20 listened not only to the RTLM -- not only RTLM but also
21 Radio Rwanda and foreign radio stations, yes.

22 Q. What happened on the 1st of April 1994?

23 A. The day before, on the 11th, around 10 p.m., an officer
24 of the French embassy came by the location where we were
25 to inform us that we needed to get ready to leave and
26 that we were going to be evacuated. He didn't say how,
27 but he was asking us to take the minimum possible with
28 us. Now, very early on the morning of the 12th, between
29 4:00 and 5:00, we -- they came to gather us together.
30 We weren't even sleeping. And we were made to board

1 French military trucks and we left right up to the
2 Kigali airport, where we boarded French military
3 aircraft. And we left from Kigali for Bujumbura.

4 Q. When did you get to Bujumbura? What I mean is, do you
5 remember what time you got there, the time and day?

6 A. Yes. It was between 10:00 and 11:00, at least before
7 noon.

8 Q. Which day?

9 A. I no longer remember what day it was, but it was the
10 12th.

11 Q. Yes, the 12th. Where did you land and what was the
12 organisation in place in Bujumbura?

13 A. When we got to Bujumbura, we came out of the plane and,
14 surprisingly, the Rwandans were directed to a hangar
15 which served as an aerodrome, and the foreigners,
16 foreign nationals, persons other than Rwandans, were
17 directed to a waiting room at the Bujumbura airport.
18 And now, in the older airport, we remained there, only
19 Rwandans, right up until the 17th.

20

21 Already on the 12th, when we saw that we were being
22 separated from the expatriates, if I might call them
23 that, we began to wonder what was happening and we asked
24 about this, and we asked where were the French going to
25 take us. And they answered us by saying that the French
26 embassy in Bujumbura was going -- together with the
27 government of Burundi and humanitarian organisations,
28 were going to deal with our situation, but whatever the
29 case, we needed to feel safe. So we stayed in that old
30 airport up until the 17th. We were taken care of. We

1 were given bread, water, which was brought by the UNHCR
2 and the Red Cross.

3 Q. Was there any possibility for you to communicate with
4 the outside world?

5 A. Not at all. There was absolutely no means. There was
6 no telephone. Well, the outside world I could refer to
7 is just that when the Rwandan embassy got to know that
8 we were there, the ambassador and his staff came to see
9 us, to greet us, and it's in fact thanks to them that
10 these humanitarian organisations began to take care of
11 us, and also our position was understood. We were about
12 180 or 200, and that we were not going to remain in
13 Burundi. And it's thanks to the ambassador of Rwanda in
14 Bujumbura and his staff that we got to know that the
15 UNHCR was negotiating with two or three countries to
16 receive us. This was Zaire, presently known as Congo,
17 Cameroon and the Central African Republic. So it was
18 only through the contact with the embassy staff that I
19 can say we had contact with the outside world, but it's
20 only because those people came from the outside world
21 and came to us, but we didn't have any telephone; we
22 didn't have anything.

23 Q. Do you remember the embassy officials?

24 A. Yes, I do. There was Ambassador Sylvestre Uwibajije.
25 Uwibajije is spelt U-W-I-B-A-J-I-J-E. There was
26 Alphonse Bizigira, his counsellor. Bizigira is spelt
27 B-I-Z-I-G-I-R-A. Basically, they were the persons who
28 came to see us.

29 Q. During the period that you are at this old airport of
30 Bujumbura, did you listen to RTLM?

1 A. No. RTLM could not be reached from Bujumbura. No, it
2 was impossible. RTLM transmitted in frequency
3 modulation, in other words, FM, and it could not reach
4 the capital of Bujumbura. I didn't listen to RTLM
5 during that period of time.

6 MR. BIJU-DUVAL: Madam President, at this point in time I wish
7 to produce the document appearing as No. 22 of the list
8 of new documents to be tendered. This is an extract
9 from the book by Professor Guichaoua, L'Afrique de
10 Grands Lacs en crise, Africa of the Great Lakes in
11 Crisis. This is an extract to support the observations
12 and comments of the author himself, and there is also --
13 there are also lists of persons who were evacuated by
14 the French embassy on the 12th of April to Bujumbura.
15 For us to be in the clear about this document, it calls
16 for some comments.

17
18 This document is an extract from Professor Guichaoua's
19 book and it reproduces the lists of names of evacuees.
20 But when one looks at these names, we see that there are
21 some comments which are made by the author of the book
22 himself and, obviously, these comments were made after
23 July 1994. And since we are dealing with Mr. Nahimana,
24 I would like to draw the attention of the Chamber to the
25 page bearing the number 698. It's the second sheet.
26 Mr. Ferdinand Nahimana's name appears there, and when
27 you look at his name, we see "former official of the
28 Radio Rwanda, a member of the CDR". The other names and
29 observations make it clearly obvious that these comments
30 were made by the author of the book well after

1 July 1994, as can be seen from the information against
2 the Kabuga, Félicien family. Opposite that name appears
3 the comment "major businessman from Kigali and principal
4 shareholder of RTLM, a refugee in Switzerland, and will
5 be expelled in September". This is a list of people who
6 were evacuated on the 12th, indeed, but there are also
7 comments by the author of the book at the time the book
8 itself was written.

9
10 Madam President, Your Honour, I wish to produce this
11 document as is an exhibit, whose number we submit should
12 be 1D151, and shows that Mr. Nahimana was one of the
13 evacuees on the 12th of April 1994, and this is a
14 document -- this is a document which is taken from a
15 public document which -- and should be easily
16 admissible.

17
18 My last remark, in order to make things clear for this
19 Chamber, you will see that on the fourth sheet of this
20 document, page number 700, this page bears a list of
21 names, still the same list, a continuation of the list,
22 and Mr. Nahimana's name appears next to that of his
23 wife, and this time around there is the comment against
24 this minister designate and university professor, which
25 in fact corresponds to Mr. Nahimana's position at the
26 time and what obviously must have appeared on the
27 original list of evacuees. Those are the observations I
28 wish to make on this document, Madam President, Your
29 Honours, obviously, in view of having it admitted as an
30 exhibit.

1 (Pages 1 to 25 by Karen Holm)
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1 1020H

2 MADAM PRESIDENT: Any objection from the Prosecution?

3 Mr. Nahimana? Does the preface indicate where

4 Mr. Guichaoua obtained this list?

5 THE ACCUSED NAHIMANA: Madam President, he speaks about

6 Rwandan personalities evacuated from the French embassy

7 and he speaks about a fascimile, a telex ,as indicated

8 on the first page of the document we have in hand. I do

9 not see where he drew this information from, but what I

10 could probably say is that indeed, the persons on these

11 lists were part of the individuals in the group

12 evacuated, and what I can add is, when I arrived in

13 Cameroon I went to see the representative of the UNHCR

14 and I found him with a full list of persons who had been

15 evacuated from Kigali to Bujumbura and then onward to

16 Bukavu. It was almost the same list.

17 MR. BIJU-DUVAL: Madam President, my assistant has just

18 informed me of a photocopying problem. It would seem

19 that page 699 is not included. I believe I did disclose

20 this document. This is a technical problem, and I shall

21 naturally remedy that situation as soon as possible.

22 MR. FLOYD: If it pleases the Court.

23 MADAM PRESIDENT: Yes, Mr. Floyd.

24 MR. FLOYD: Your Honour, I reluctantly rise to point out that

25 page 697 and the typeface of the names, not only are

26 there numbers on page 697 that precede that and don't

27 precede the other numbers, but the typeface itself is

28 different.

29

30 If the Court will look at just the first name Charles

1 and look at the M, if you look at that M and if you
2 compare it to the M on the next page it is what we would
3 call roman type on the second page, and it's linear type
4 on the first page, and I am just wondering myself about
5 where this comes from and why the typefaces of names
6 seem to be inconsistent, and I have no real explanation
7 for it.

8
9 I am just pointing that out that if the witness who
10 produced this was on the stand, I probably would ask
11 them those kinds of questions, and want to point that
12 out to the Chamber.

13 MADAM PRESIDENT: Mr. Bijou-Duval, we are prepared to receive
14 that excerpt as Exhibit 1D151, but you are asked to
15 include the cover page, to include page 699, and to
16 provide any Counsel who wishes access to the original
17 from which you made these photocopies.

18 MR. BIJU-DUVAL: Yes, Madam President. For us to be quite
19 clear, I don't know whether I misunderstood your
20 observation, I do not have the original per se of this
21 list. We only have the book itself. And unless I am
22 wrong, this would be 1D152.

23 MADAM PRESIDENT: 1D152.

24 (Exhibit No. 1D151 admitted)

25 MR. FLOYD: Your Honour, can we get this exhibit straight,
26 because --

27 MADAM PRESIDENT: Mr. Bijou-Duval, the registry informs me that
28 it was correct originally in naming it 151, and that is
29 what it will now be.

30 MR. BIJU-DUVAL: Yes. I do apologize, Madam President. You

1 are right.

2 BY MR. BIJU-DUVAL:

3 Q. Mr. Nahimana, at any point in time during the day of the
4 12th of April or around the date of the 12th April 1994,
5 did you attend any meetings in Gatonde commune?

6 A. Madam President, Your Honours, you will understand that
7 I could not both at one and the same time be in two
8 different places. I couldn't be in Bujumbura on the
9 12th, and at the same time be in Gatonde on the 12th of
10 April 1994, that same 12th April 1994. No, I didn't
11 attend any meeting on that day in my commune of origin
12 of Gatonde. You can't be in two places at the same
13 time.

14 Q. And what happened on the days preceding the 12th of
15 April and on the days following the 12th of April?

16 A. If I understand your question well, between the 7th and
17 the 12th of April I did not leave Kigali in order to go
18 to Gatonde, and after the 12th of April up to the
19 present I did not return to the Gatonde commune.

20 Q. Generally speaking, could you tell the Court what was
21 the length of time necessary in order to go from Kigali
22 to Gatonde?

23 A. By a four-wheel vehicle, because there is a long part of
24 the road which is not in good condition. From Kigali to
25 Gatonde, one would need about between one and a half
26 hours and two hours.

27 Q. Where did you arrive on the 17th of April 1994 and what
28 happened?

29 A. On the 17th of April 1994, we were once again evacuated
30 by French military aircraft from Bujumbura to Bukavu at

1 the Bukavu airport, which is situated about 20 to 30
2 kilometres from Bukavu town, and in Bukavu, UNHCR looked
3 after us and we were also looked after by the Red Cross
4 and Zairian authorities. We were taken to the city
5 centre where we were divided and went to the various
6 hotels in town.

7 Q. Could you specify the time of day of the 17th of April
8 when you arrived in Bukavu town?

9 A. If my memory serves me well, since we had used an
10 aircraft, I had arrived in the first batch. I arrived
11 there at about three in the afternoon, and I arrived at
12 the city centre between five and seven in the evening.

13 Q. Where were you lodged in Bukavu, you and your family?

14 A. My family, including myself of course, were lodged at
15 the Riviera Hotel in Bukavu.

16 Q. For how long did you stay in Bukavu?

17 A. I and my family, as well as several other people, stayed
18 on in Bukavu up to the 23rd of April 1994, and on that
19 day we crossed the border between Bukavu and the Rwandan
20 town of Cyangugu. It was on the understanding between
21 the Zairian government, the UNHCR, the Red Cross and the
22 Rwandan authorities of Cyangugu that this was done.

23 Q. Why did you opt to go back to Cyangugu?

24 A. Madam President, Your Honours, there was no choice. We
25 could have been taken from Bujumbura to Paris or
26 Bujumbura to Yaounde, but we did not have a choice.
27 UNHCR asked several countries to receive us. The first
28 country which responded was Zaïre. When we got to
29 Bukavu, the authorities of the Cyangugu préfecture, who
30 obviously represented the Rwandan government, got into

1 contact with the Zairian authorities and the UNHCR.

2

3 The UNHCR had problems. They were saying that, We
4 cannot consider you as refugees, because there is a part
5 of Rwanda, préfecture of Cyangugu préfecture of Gisenyi,
6 which are not in a war situation. So you can return to
7 your country if the Rwandan government is not against
8 it.

9

10 So there were negotiations between the Rwandan
11 authorities and with the UNHCR, as well as with the
12 Zairian authorities. They communicated to us the
13 results of the talks but we did not have a choice
14 regarding our return.

15

16 I can simply say that once again we boarded transport
17 means in order to be taken to Cyangugu. I personally --
18 we accepted. Nobody forced me. I could have decided to
19 remain where I was, if I had wanted to remain in Bukavu.
20 Nobody would have forced me to leave, but the
21 explanation that was given by the authorities of Bukavu
22 and the UNHCR seemed to me to be right, in that,
23 Cyangugu was calm, and I did not want to be a refugee.
24 I did not even think that the war would go on up to
25 creating thousands of Rwandans exiles.

26 Q. Do you remember the date on which you arrived in
27 Cyangugu?

28 A. I, with my family and several other people, got to
29 Cyangugu on the 23rd of April 1994 in the afternoon.

30 Q. Where did you stay in Cyangugu town?

- 1 A. The préfectoral authorities and the UNHCR which
2 accompanied us up to Cyangugu from Bukavu lodged us, in
3 any case my family, in a hotel known as the Hotel du
4 Lac. Other families were lodged in home, that is a
5 boarding centre run by the religious order of St.
6 Francis in Cyangugu. The establishment run by the
7 religious order was opposite the Hotel du Lac.
- 8 Q. Up to when did you stay in Cyangugu?
- 9 A. I stayed in Cyangugu with my family up to towards the
10 end of the month of May, on or about the 29th, 30th when
11 I left Cyangugu in order to go to Gisenyi.
- 12 Q. During that time, did you leave Cyangugu town at any
13 point?
- 14 A. Madam President, Your Honours, before I left for Gisenyi
15 I once left Cyangugu town and I went to Gitarama on the
16 25th or the 26th, or 26th of May 1994, or upon the
17 request of Mr. Théodore Sindikubwabo, who was the
18 interim President of the Republic of Rwanda.
19 Sindikubwabo is spelled S-I-N-D-I-K-U-B-W-A-B-O.
- 20 Q. Between the trip to Gitarama on the 25th or 26th of May
21 and your arrival in Cyangugu, did you at any point in
22 time have another opportunity to leave Cyangugu town?
- 23 A. No. I left the hotel on several occasions in order to
24 go to the Cyangugu market or to go to the préfecture of
25 Cyangugu, but I never left the town of Cyangugu. That
26 was the only time that I left Cyangugu town. That is,
27 on either the 25th or the 26th, but I think that it must
28 have been on the 25th of May 1994.
- 29 Q. Witness BU alleged that he was reportedly told that you
30 had participated in a meeting in Butare in May 1994, to

1 be more specific, on the 20th May. What is your
2 position in respect of this allegation?

3 A. No. As I have just said before the 25th or 26th May, I
4 did not leave Cyangugu. Secondly, the allegation to the
5 fact that I had participated in a meeting allegedly
6 bringing together lecturers of the Butare campus of the
7 National University of Rwanda, is baseless, because if
8 it was a meeting of the Butare section of APARU, this
9 would be ridiculous, because I was on Ruhengeri campus
10 and I was a member of the Ruhengeri section.

11
12 So on the one hand, I did not leave Cyangugu in order to
13 go to Butare, and on the other hand, I was not a member
14 of the Butare chapter of APARU, and finally, I remember
15 about this document which was drawn from a notebook and
16 which was produced here, and I think that the Trial
17 Chamber and I are used to seeing my name featuring
18 somewhere outside the main body of what was presented.

19
20 And once again, if as a historian and someone who
21 studied the authenticity of the document, if I were to
22 make a criticism of that document I would say that there
23 is no base, there are no grounds for that document's
24 reliability. And I would like to reiterate that I did
25 not participate, I did not attend any meeting of
26 lecturers of anyone else between my return to Rwanda,
27 that is on the 23rd of April 1994, and up to June 1994,
28 between that period. The only meeting that I attended
29 was the meeting which I attended when I was in Tunisia.

30 Q. Witness AG claims that in the wake of the 20th of April

1 1994, saw you in Gitarama with a journalist, Jean
2 Baptiste Bwamanga. What is your position regarding this
3 allegation?

4 A. Once again concerning the month of April, I did not
5 leave Cyangugu, I did not see Mr. Bwamanga again after
6 the 28th or after the 20th of March 1994. I if I had
7 seen Bwamanga, then it should have been in the period
8 ending in March 1994, because from March up to today I
9 have not seen Mr. Bwamanga again.

10 Q. During that period that you situate as being between the
11 23rd of April 1994 and 25th or 26th of May 1994, what
12 activities did you undertake in Cyangugu?

13 A. I did not have specific activities. We were idle,
14 personally, between 10 and 11. Sometimes I would deal
15 with the children, because we had many children with us.
16 I was an instructor of a primary school. I was a
17 guardian. We played with children. There were some who
18 did traditional dancing.

19

20 So the thing that actually made me happy was being with
21 these children. Otherwise it would happen that I would
22 accompany -- in a vehicle of sisters of the St. Francis
23 order, I would accompany spouses to the Cyangugu market
24 with the sisters. Otherwise, I did not have -- we did
25 not have activities. We were idle. We were just there.

26 Q. During that period, did you try to establish contact
27 with the governmental and administrative authorities who
28 were in Gitarama?

29 A. No, not at all, not at all. The authorities since after
30 the day after I arrived in Cyangugu, as was the case

1 with other people, I spoke of Radio Rwanda. I was
2 interviewed by a journalist of the regional centre of
3 information in Cyangugu and this is obviously how the
4 Rwandan authorities knew that I had returned to Rwanda.
5 The first contact I had with the authorities was just
6 verbal message, oral message from Mr. Sindikubwabo. The
7 message was brought to me by Mr. Fidèle Ntuyenabo, who
8 was the president of the Auditor General's order.
9 "Ntuyenabo" is written N-T-U-Y-E-N-A-B-O.

10

11 It was on or around the 20th or the 25th, and be that as
12 it may, after receiving the message from the president,
13 which expressed the desire that I should meet him, I
14 went to Gitarama as I said, on the 25th or on the 26th
15 of May 1994.

16 Q. During that period, did you try to establish contact
17 with RTLM?

18 A. No, not at all.

19 Q. Did you send a letter to Mr. Georges Ruggiu, whether
20 during that period or at any point in time before or
21 after that period?

22 A. Madam President, Your Honours, I have to categorically
23 say here that during my entire life, I have never
24 written any letter or note to Mr. George Ruggiu, and
25 specifically with regard to the period in question I did
26 not send any written word to Mr. Georges Ruggiu. My one
27 and only contact that I had with Mr. Ruggiu, and on this
28 point I agree with his testimony, was that on the 8th of
29 April 1994 when, as I said earlier, I went to the RTLM.
30 That was the only time that I saw Mr. Ruggiu in this

1 regard. This second time was here, after that day in
2 April, was here in prison in Arusha.

3 Q. You told us that you were interviewed on the day after
4 your arrival in Cyangugu. Why were you interviewed?

5 A. Madam President, Your Honours, it is true that the
6 Prosecution has its ways of doing things, and it uses
7 numerous -- among the documents it uses many documents,
8 and I granted that interview to a journalist of Radio
9 Rwanda in Cyangugu, but I was not the only person to be
10 interviewed.

11
12 You will understand that, for people who had left Kigali
13 and transited to Bujumbura and via Bukavu and came back
14 to Rwanda, was something for journalists, which was an
15 event. It was information which was interesting to the
16 journalists. So indeed, the journalists of Radio Rwanda
17 and ORINFOR contacted us in the morning. I remember
18 that it was on a Sunday, but I should check this out,
19 but the 24th should have been on a Sunday.

20
21 So on that Sunday I was interviewed. Women and children
22 were interviewed. So I placed this contact within the
23 context of the journalist's work which journalists were
24 looking for information, and on my part I was describing
25 the trip that I undertook. And within the context of
26 the war, I did not have the intention of discouraging
27 anyone whatsoever.

28
29 I said yes, we have just written to Rwanda. We are
30 going to participate in the war effort against the

1 enemy, who I have defined during my life between 1994.
2 I took precautions, because I was aware of what the word
3 "enemy" could -- I was aware that the word "enemy" could
4 be interpreted in a way that it could have significant
5 consequences.

6

7 So with the leave of the Trial Chamber, I would like to
8 say something about the interview.

9

10 Madam President, Your Honours, you must have noticed
11 that the interviews record was exhibited as an exhibit,
12 and I have to say that this exhibit record was forged or
13 doctored, and as I have always said, I said things, but
14 I always remember the things that I said. I did not
15 repeat the same words, but I know what I said.

16

17 After speaking about RTLM, about Radio Rwanda, which
18 talked about the war and which made us understand that
19 the population was fighting against the enemy, I said,
20 and as I was used to saying, I said, people should not
21 confuse the enemy with their neighbours who were from a
22 different ethnic group, different political parties or a
23 different region.

24

25 This part which shows my constant position with regard
26 to the issue of the enemy, the RPF, with regard to
27 how -- against whom the Rwandan population should act in
28 a united manner, was cut up from the interview. In the
29 same manner, you see the end of the testimony of the
30 Prosecution regarding my interview in Cameroon, and this

1 is something that really amazed me before I started
2 testifying here.

3

4 Your Honours, I noted that the Prosecutor gave us the
5 transcript of my interview in Cameroon which was
6 doctored and edited, and the parts which concerned my
7 position in matters at hand at this Tribunal were
8 omitted, and I said, do they want only the truth or are
9 they just seeking a conviction against me? And this
10 saddens me and I am telling you, Madam President, I am
11 telling you, Your Honour, this saddens me.

12 MR. BIJU-DUVAL: Madam President, I would like to ask some
13 questions to Mr. Nahimana with regard to the content of
14 the interview which is on P-105 2A and 2B, and I would
15 like to request that this document should be given to
16 Mr. Ferdinand Nahimana so that he can confirm, or
17 otherwise, some of the comments which are on the
18 document.

19 BY MR. BIJU-DUVAL:

20 Q. Mr. Nahimana, do you have, in particular, the
21 Kinyarwanda document?

22 A. Yes, I have it.

23 Q. I would like to request you to read out the last
24 sentence of the Kinyarwanda version where the transcript
25 ends, so that the interpreter could translate it for us.
26 It's not long.

27 A. Do you have the page, Counsel, in order to save time?

28 Q. Do you have the Kinyarwanda version? This is the page
29 28.

30 A. Yes.

1 Q. The last sentence which starts with the word "innocent" and
2 so on and so forth?

3 MR. RAPP: Madam President.

4 MADAM PRESIDENT: Mr. Rap?

5 MR. RAPP: My concern with this process is that, many times we
6 have had informal translations or untranslated materials
7 and those we have had translated informally, sight
8 translations in the booth. In this particular case we
9 have the work of the language section based on
10 proofreading and based upon their work that gave us
11 official translations. And I know that the language
12 section is always concerned about being put in a
13 position of having to do sight translations when they
14 haven't had a chance to take a look at the entire
15 context. The best evidence of the views, the expertise
16 of the language section, as far as any particular
17 language, is the official translation. In those
18 circumstances have a sight translation is to offer
19 inferior evidence, certainly by their representations to
20 me, and I would urge that that not be permitted. If the
21 witness wishes to criticize any particular language he
22 can do that, but spending time on translations when we
23 have official ones, I submit is a violation of the best
24 evidence rule and a waste of time.

25 MADAM PRESIDENT: There is 2/A; 2A is the French. Is that not
26 so?

27 MR. RAPP: Yes.

28 MADAM PRESIDENT: Well, give the French version to
29 Mr. Nahimana and we are looking at it.

30

1 Mr. Nahimana, do you have the French?

2 THE ACCUSED NAHIMANA: Madam President, Your Honours, I have

3 the Kinyarwanda and English versions. Maybe

4 Mr. Matamanga could kindly help me.

5 MADAM PRESIDENT: Is there a French, Mr. Rap?

6 MR. RAPP: The French should be in as P-105/2(C).

7 MADAM PRESIDENT: Do you have it before you, Mr. Biju-Duval?

8 MR. BIJU-DUVAL: Only the English version. Maybe Mr. Nahimana

9 could read out the French version and tell us whether

10 the French translation seems to him to match the

11 Kinyarwanda version.

12 THE ACCUSED NAHIMANA: Madam President --

13 MADAM PRESIDENT: He doesn't have the French in front of him.

14 THE ACCUSED NAHIMANA: Madam President, with your leave, I do

15 not have any problem regarding translation, be it

16 Kinyarwanda, French, translation. I have the document

17 in my prison cell, be it Kinyarwanda into English. I

18 have no problem with the translation.

19

20 But what I would like to emphasize here is simply the

21 omission which was made in respect of my interview in

22 which I had expressed my position about the events, and

23 Mr. Biju-Duval was asking me to read out in Kinyarwanda

24 so that the language booth could interpret this, and he

25 asked me to read out only the last sentence, which is in

26 this Kinyarwanda document.

27 MADAM PRESIDENT: Yes. Do that now since nobody could produce

28 a French translation here, Mr. Rap, including you. So

29 read the last sentence in Kinyarwanda. We all have

30 English translation. Does the booth have the English

1 translation?

2 THE INTERPRETER: Yes, Madam President.

3 THE ACCUSED NAHIMANA: Upon the request of Counsel Biju-Duval,
4 he asked me to read out the last line which starts with
5 "inyo" and I will read this out:

6

7 "Therefore, with regard to this issue, what I can tell
8 you is what I have said on several occasions."

9

10 And this is where the document ends.

11 BY MR. BIJU-DUVAL:

12 Q. Mr. Nahimana, just before that last sentence, you said
13 that you were satisfied with the two radio stations in
14 Rwanda, that is, Radio Rwanda and RTLM. Now my question
15 is: How, on that date, could you express satisfaction
16 and commend those radio stations, and in particular
17 RTLM?

18 A. Madam President, Your Honours, there are, indeed, three
19 paragraphs which include the line that I have just read
20 out, which clearly says that I heard and followed the
21 programs. I did not say -- although I didn't say
22 "several" but the reality is that I listened to several
23 programs over Radio Rwanda and RTLM, especially since we
24 were in Bukavu, because in Bukavu we could hear RTLM
25 programs and I, coming from outside at least up to the
26 23rd, and knowing the editorial policy and the political
27 option of the RTLM, that is, fight against the enemy, I
28 meant -- and on this point I agree with Mr. Jean-Pierre
29 Chrétien, because they were talking about the enemy.

30

1 So I said these radio stations, be it Radio Rwanda or
2 RTLM, were calling on the population to fight against
3 the enemy, and this is what made me later on to express
4 my appreciation, because to me the enemy was the person
5 who took up arms, but not your neighbour of different
6 ethnic groups, and so on and so forth.

7
8 So on the 23rd of April, or rather, on the 24th of April
9 1994, I told myself in a country at war, the journalists
10 broadcasting official press releases from among others
11 the Minister of Defence, and in the evenings we would
12 hear press releases which were from the Ministry of the
13 Interior regarding the attacks from the aggressors from
14 the RPF, and so on and so forth, and this is what I am
15 emphasizing. I was not talking about anything else.

16
17 I would like to emphasize the fact that yes, these radio
18 stations were actually mobilizing the people against the
19 enemy, and calling upon the population to be behind the
20 Rwandan Armed Forces in order to repel the aggressors
21 who had resumed the war. So I am saying this is how I
22 saw things on the 24th of April when I returned to
23 Rwanda from abroad.

24
25 I would say that I was not in the thick of the events
26 that were actually occurring on the ground. I only
27 heard and only analysed what I heard on Radio Rwanda and
28 Radio RTLM at that point in time.

29 Q. You were talking about the 24th, the program dated 25th.
30 What do you have to say about this difference?

1 A. While my interview, like the other interviews which
2 concerned refugees returning to Cyangugu were not live
3 interviews, they were interviews that were recorded and
4 broadcast later. The journalist recorded our
5 interviews, and as far as I am concerned he recorded my
6 interview and it was aired on the 25th, the day
7 following the interview. That is normal practice in the
8 journalist's work.

9 Q. On that 24th April 1994, what was your knowledge of the
10 events that had taken place in Rwanda since the 6th of
11 April?

12 A. Now, while I was still in Kigali before April 12th, I
13 knew that there was fighting, that there had been
14 killings, but up till the 12th we were told about
15 killings of political personalities, assassinations, and
16 I remember that on the 11th of April the people who got
17 into the embassy from outside and who were received at
18 the embassy talked, and this was the first time I was
19 hearing this, of killings by the RPF in the zone
20 referred to as Remera, also a part of Kacikiro, these
21 are neighbours of Kigali.

22

23 "Remera" is spelled R-E-M-E-R-A, and "Kacikiro" is
24 spelled K-A-C-I-K-I-R-O.

25

26 And when I was out, particularly in Bukavu, my only
27 knowledge of what was happening in Rwanda came from what
28 was aired by Radio Rwanda RTLM and foreign radios as
29 Radio France International, Voice of America and Deutch
30 Welle. So what I knew at the time was limited to what I

1 heard from those stations .

2 MADAM PRESIDENT: We passed the break time, Mr. Biju Duval.

3 You have more questions on this document?

4 MR. BIJU-DUVAL: One other question.

5 BY MR. BIJU-DUVAL:

6 Q. Mr. Nahimana, at the beginning of that interview, you

7 were mentioning a meeting in Bujumbura with

8 Mr. Ntejureye, N-T-E --

9

10 Could you tell us who that person is?

11 THE INTERPRETER: The spelling is N-T-E-J-U-R-E-Y-E.

12 A. Madam President, Your Honours, I mentioned this

13 gentleman yesterday, that was the former ambassador of

14 Burundi in Kigali and when he learned that we had

15 arrived in Bujumbura, he came. I knew him very well,

16 and I said that it was at the end of the release on his

17 meeting with the prime minister that a pretext was found

18 for me to be dismissed from ORINFOR, and when he knew

19 that he was there, we were there, he came, he found me

20 at the airport in Bujumbura and arrogantly told me,

21 "Ferdinand Nahimana, I hope that you are not coming here

22 with your famous radio station, RTLM."

23

24 I was annoyed and knowing who he was -- and I should

25 immediately point out that Marc Nteturuye for me, to use

26 what is fashionable today, is one of those extremists

27 who were found in Bujumbura, and at the time I

28 considered him as somebody who had not accepted the

29 advent of democracy and the victory of Mr. Melchior

30 Ndadaye.

1 So I told him I understand that RTLM bothers you, that
2 you are afraid of RTLM. I am happy and satisfied with
3 RTLM. I was telling him at the time, because it
4 expresses the opinion of a certain majority. That was
5 our exchange, and anybody who saw me under the
6 circumstances on exile and was able to speak like that,
7 reminded me of that person's extremist point or
8 standpoint. Those are the words that I used in
9 response.

10 MR. BIJU-DUVAL: Madam President, I thank you. I have no
11 other questions regarding this document.

12 MADAM PRESIDENT: We will take a 15-minute break now.

13 (Court recessed from 1120H to 1140H)

14 MADAM PRESIDENT: Mr. Biju-Duval?

15 MR. BIJU-DUVAL: Thank you, Madam President, I would like to
16 point out to the Chamber that I gave the registrar a
17 complete version of the extract of Mr. Guichaoua's book,
18 which should replace the previous copy, as an exhibit.

19 BY MR. BIJU-DUVAL:

20 Q. Mr. Nahimana, on this period from the 17th of April 1994
21 to the end of July 1994, or should I say mid-July 1994,
22 what was your knowledge of programs aired on RTLM?

23 A. As from the 24th of April 1994 right up to about July
24 4th 1994, I listened to RTLM programs, particularly I
25 should point out here that the place where Hotel du Lac
26 is in Cyangugu had poor reception, or no reception at
27 all, of Radio RTLM. But I listened to RTLM
28 sporadically, and I should even point out that I did not
29 have a radio set.

30 (Pages 26 to 44 by Karlene Ruddock)

1 1140H

2 THE WITNESS: Also, I was aware of some of these programmes
3 because some of those who had listened to the programmes
4 came up to me and made comments about them. And what
5 I'm saying here concerns, specifically, Cyangugu, that
6 is late May 1994. After May, when I got to Gisenyi,
7 there I could have a better reception of some of the
8 programmes of RTLM. Once again, I had no radio set but
9 in cars, in vehicles, I was able to listen to those
10 programmes and I must emphasise, since you gave me the
11 period to mid-July, I should emphasise that I was,
12 again, absent from Rwanda between June 9 and the 20th of
13 June. If I remember well, I returned on the 17th or the
14 18th of June. At the time between the 9th and the 18th,
15 if not the 20th of June 1994, I was abroad. I had gone
16 to participate in the OAU, Organisation of African Unity
17 -- Summit, rather, which was taking place in Tunis. So
18 during that period I did not, at all, listen to programs
19 of RTLM.

20 BY MR. BIJU-DUVAL:

21 Q. At the time, during the period you have talked to us
22 about, what was your assessment of the content of the
23 programmes you listened to?

24 A. I should say immediately and seriously that, as from the
25 24th, the 25th, in fact as from the time I could listen
26 to RTLM more often and know what was happening, I
27 realised that there was a mixture of what was happening.
28 I could not recognise the RTLM that I had listened to
29 before April 6. To incite the population to fight
30 against the enemy, talk about the war, even the enemy

1 had become, for some journalists, something that was
2 used to make people believe that the radio had ceased to
3 be the radio with the mission it was given, that is to
4 respect the type of programmes, the options that we had
5 assigned to the radio station when it was created,
6 because there was no discussion anymore. And when there
7 were discussions, the discussions -- these might not
8 have been all of the time, but most of the time, and at
9 least some of the discussions I heard created a certain
10 ambiguity that, through repetition, people could
11 understand when the journalists spoke about enemy, when
12 the journalists broadcast releases from the armed
13 forces, because that is what the journalists said,
14 sometimes, that would say you should seek out the enemy
15 from this place or that place. Indeed, some people
16 could directly think of a certain category of the
17 population, in particular those who are referred to as
18 accomplices, ibyitso, Tutsi; generally speaking, I would
19 say it. And, as far as I am concerned, that was
20 unacceptable.

21

22 But, Madam President, Your Honours, what I learned,
23 which was terrible, was, for a journalist, I did not
24 spend a lot of time listening to them, to hear a
25 journalist say, "We are coming to get the puffs of
26 Indian hemp". And I was saying, this could not be a
27 journalist speaking because this is a drug, which means
28 that people no longer have mastery over what they are
29 doing. And I am not ready to say that RTLM, which I
30 listened to, probably not from morning 'til night, but

1 after the 25th of April, with the exception of messages
2 like the President's speeches, speeches from the prime
3 minister or ministers which were well-structured, but
4 when journalists had to come on the air and speak for
5 themselves, I did not recognise RTLM. There was
6 something wrong, which was unacceptable. That is my
7 assessment of the programmes of RTLM. In addition, and
8 once again I would like to apologise to the Office of
9 the Prosecutor, I'm not accusing the Office of the
10 Prosecutor, that is not my mission, but I want to say
11 the situation is deplorable.

12

13 Madam President, Your Honours, I was in Cyangugu and
14 people came and saw me, those who were listening on the
15 radio, and they reported to me that on the waves of RTLM
16 a journalist, Kantano, Habimana, the person who talked
17 to me about it said it was one or the other, that when
18 in Kigali they were producing the cards, referred to as
19 cards of those who were resisting. They said, listen,
20 when the war will be over, people who do not have that
21 card will not have easy access to the town and that even
22 Ferdinand, who was thought to be somebody serious,
23 turned out not to be so. And a few weeks earlier I had
24 spent or I had been interviewed over Radio Rwanda and
25 the journalist knew very well that I was in Rwanda. But
26 I did not go to Kigali and I did not make any statement
27 and I fear -- and I'll conclude with that, because I
28 heard comments from Cyangugu when I had the interview in
29 Radio Rwanda, and I made the differential distinction
30 between enemy, which, at the time, I considered RPF to

1 be, those who were taking up arms.

2

3 When I made the distinction between enemy and a
4 neighbour, you do not attack somebody because the person
5 is Tutsi or of a different party or belongs to a
6 different region. That manner of seeing things did not
7 please too many people. Would it be because of that
8 that the journalist said it? Unfortunately, a programme
9 like that, I have never heard anything about.

10

11 So, Madam President, Your Honours, this is in line with
12 what I said in January 1995 on one of the French radio
13 stations in answer to a question. We said that we're
14 calling for murder. I said it is not possible. A
15 person who thinks normally cannot go on the air to ask
16 people to kill. So, if programmes are brought to me and
17 I am shown what programmes we will analyse and we'll see
18 what journalists ask people to kill and we'll try to see
19 what motivated that journalist to do so. And then that
20 journalist would have to be punished. But, as long as I
21 do not have access to those programmes, I would say, no,
22 I do not believe RTLM systematically called for people
23 to be murdered. I had the opportunity here, just like
24 you, along with you, and perhaps before you, a number of
25 programmes, and we are all looking for the truth. And I
26 agreed with
27 Mr. Jean-Pierre Chrétien on this specific issue. It's
28 unfortunate that the Office of the Prosecutor did not do
29 so immediately. I was shocked to hear that a journalist
30 said that anybody who was thin, with a nose like this,

1 do not hesitate, the person is one of those. But the
2 person who hears that, if you do not have any -- take
3 any precaution you see somebody who is passing through
4 the roadblock and who fits that description and you kill
5 the person, or, in any case, the person is going to be
6 manhandled. I am sure if I had to pass through those
7 roadblocks I would have been taken. Nobody would have
8 asked me for my card. A description like that fits me.
9 My nose might not have been quite as the one described.
10 So that is my way of looking at things and analysing
11 things.

12

13 Madam President, Your Honours, I find that, as far as I
14 am concerned, the radio station was no longer
15 functioning normally and I think that our -- a branch of
16 our company, RTLM, had been appropriated by radicals and
17 I should use that term, "the extremists", whose way of
18 saying things and going about things I do not share.

19 Q. Mr. Nahimana, did you, at any point, as from -- or let
20 me say after the 8th of April 1994, did you, at any
21 point, attempt to re-establish contact with those who
22 were in the RTLM studios at the time?

23 A. Madam President, Your Honours, I would like to plead
24 that you should understand me and understand my way of
25 answering that question. First of all, I would like you
26 to imagine that in Rwanda at the time, April to July
27 1994, it was not Arusha during peace time. There was
28 war in Rwanda. There were roadblocks in Rwanda. There
29 were killings in Rwanda. Fortunately, when I travelled
30 towards the end of May, perhaps the killings continued

1 but at least on the road it was becoming possible to go
2 through the roadblocks. But a journalist, as I just
3 described, Kantano, for example, who talks about taking
4 drugs, Indian hemp, Nahimana, I believe that we have
5 lost hold of the society. I am not going to say that
6 was the list of my concerns, but I will go as far as
7 saying I was very concerned with the fate of my family,
8 with my own fate, and I would have been afraid of
9 re-establishing contact with people who had lost reason.
10 Let's just imagine that I contacted Mr. Kantano, for
11 example, and he said, oh, you know, a member of the
12 comite d'initiative Ferdinand Nahimana has just stopped
13 here and he was trying to stop us from saying that in
14 this or that bush there are Inkotanyi. He's driving
15 around in a car with license plate this so-and-so. The
16 transcripts of the programmes exist. If I had done
17 that, would the fate that befell other Rwandans not be
18 following me, because they are talking about the death
19 of other Tutsis, according to the Prosecution. But
20 there were many Hutus who died, not Hutus of the
21 opposition, moderate Hutus. No, if a Hutu who matched
22 the description passed a roadblock, would they not have
23 been killed?

24

25 I should say I never tried to get in contact with the
26 journalists, with the studios of RTLM. I never did. I
27 had a lot of fears, but, in addition, there was war and
28 there was concern with my fate, the fate of my family
29 and my children.

30 Q. Did you, at any point in time in the period April, May,

1 June, meet journalist Georges Ruggiu in Gitarama?

2 A. Madam President, Your Honours, I said it earlier. The
3 last time I met Mr. Georges Ruggiu in Rwanda was on the
4 8th of April in the RTLM building. I did not see
5 Mr. Ruggiu anymore before he got to the UNDF, the UN
6 detention facility here in Arusha.

7 Q. From the 12th of April, did you, at any point, that is
8 April 1994, did you travel to Kigali?

9 A. Not at all, never.

10 Q. Did you, at any point in time, in the month of April,
11 May, June, July, meet Mr. Phocas Habimana or Gérard
12 Gahigi?

13 A. No.

14 Q. Fortunately the interpreters are there. I meant
15 Gaspar Gahigi and not Girard.

16 A. And, Madam President, let me correct my answer to the
17 last question. I remember that in July, after the
18 Kigali debacle, I met Mr. Phocas, I met him in Gisenyi,
19 yes, that was after the 8th of July.

20 Q. Could you tell us where that was, specifically, and, if
21 possible, the date?

22 A. As I said, I met Phocas Habimana after the 8th of July,
23 in any case, before the 10th. I can remember the date
24 because on that day I saw a number of people from my
25 family in law. But it was at the banque de Kigali in
26 Gisenyi. I had come to withdraw money and so had he.
27 We came out together in the courtyard. We conversed and
28 he told me that he had a number of problems, he was
29 trying to produce programmes, and I was saying, how
30 could you do that and we went our separate ways.

1 Q. You told us that you left Cyangugu around the 25th or
2 26th of May, after receiving a verbal message brought by
3 Mr. Fidel Ntenyabol (phonetic). What was the content of
4 that message?

5 A. Fidel Ntenyabol did not provide details, but he told me
6 that the head of state wanted to see me and he wanted me
7 to accompany him right to Tunis, and that he wanted me
8 to meet him in Gitarama before the 30th of the month of
9 May. So I left on the 25th or 26th to Gitarama.

10 Q. How did you travel to Gitarama?

11 A. I went by car with Mr. Telesphore Bizimungu. Bizimungu
12 is spelled B-I-Z-I-M-U-N-G-U, and the return trip to
13 Cyangugu was also with him.

14 MR. FLOYD: If it please the Court, can we have a first name?

15 There are so many Bizimungus running around in this
16 case, can we have a first name on that Bizimungu?

17 THE ACCUSED NAHIMANA: Madam President, Your Honours, I gave
18 the two names, Telesphore; Telesphore is spelled
19 T-E-L-E-S-P-H-O-R-E.

20 BY MR. BIJU-DUVAL:

21 Q. At what time of the day did you get to Gitarama?

22 A. I arrived at Gitarama in the course of the afternoon on
23 the 25th or 26th of May 1994, around 3, 4 p.m.

24 Q. Did you meet President Sindikubwabo?

25 A. My presence was announced and I got a reply from the
26 secretary that he was not in his office, that I had to
27 wait. And I remembered at the time the government was
28 at an information centre, there were offices, there were
29 houses of traders and there were rooms for seminar
30 participants or trainees. So, realising that I was

1 going to spend the night there, I asked
2 Mr. Sindikubwabo's secretariat if it were possible for
3 me to have a room in that place, in that school. That
4 was what happened. I did, indeed, have a room there and
5 I was received by the president of the republic in the
6 evening, and he asked me to accompany him and he told me
7 why. He told me, I am taking you because of your
8 knowledge of the historical development of our country,
9 the sociopolitical development of our country. I want
10 you to accompany me as an expert. Our delegation would
11 like to convince African heads of state, present in
12 Tunis, so that we can have a cease-fire with the RPF.
13 And he went on to tell me that my presence would be
14 useful to him because it will make it possible for them
15 to explain how things got to that point, so, to have the
16 proper sociopolitical context of what was going on.
17 Since I was told about that determination, the
18 willingness to negotiate for peace, I should say that I
19 hesitated for a moment and I said to myself, if the
20 delegation could achieve this ceasefire, for Rwanda to
21 start negotiations with the RPF, all the better, because
22 I had been informed that ceasefire attempts had been
23 made, but that they had been abortive; so I accepted.

24 Q. Mr. Nahimana, here we are at the end of May 1994, at the
25 time when genocide, especially government authorities
26 were accused of genocide. How come you accepted to be
27 on the same side with President Sindikubwabo?

28 A. Yes, it is true that that accusation was made on foreign
29 radios, but at the time I was not aware that
30 Mr. Sindikubwabo was being accused as being responsible

1 for the massacres referred to by the journalists at the
2 time as genocide, crimes against humanity and so on. I
3 should point out that, before I left the embassy of
4 France, I heard a speech which was exhibited here, the
5 speech by President Sindikubwabo, which was calling on
6 the population to ensure that there was no violence
7 against neighbours. And it is true that in May an
8 atrocious war was waging in Rwanda.

9
10 You are asking me the question, how could you have
11 accepted to travel with Mr. Sindikubwabo. Sindikubwabo
12 was somebody I knew very well. He was a very modest,
13 elderly person, if I use the word which is fashionable,
14 he was a moderate, and I have that picture of a doctor
15 or chairman of the development counsel who was an
16 exemplary person. In any case, he was reproached with
17 nothing. And I said if, at that point, the government
18 wanted to convince the international community, starting
19 with the OAU, convince the international community that
20 it was time, if not past time for Rwanda to be at peace,
21 for the war to come to an end, I would have been
22 behaving as a non-patriot. If I had not accepted to
23 participate in this effort for peace, and I should say
24 here, Madam President, Your Honours, that I do not share
25 the analysis of some experts or some people who say, How
26 could you join those people? One would think that as
27 from the point when RPF started the wars, scored the
28 first goal, everybody had to leave Rwanda. Nobody could
29 make an effort for Rwanda to be brought back to the
30 rails.

1 I joined the experts, those who were working in Rwanda
2 at the time, and with the sole objective of getting
3 Rwanda bringing back peace, or restoring peace to
4 Rwanda. I would say that is my reason. Because at the
5 OAU summit, and I would like to conclude with that, the
6 Rwandan delegation convinced heads of states of the OAU
7 to organise a mini-summit on the situation in Rwanda.
8 President Mandela, who had just started his term of
9 office, but he was a wise person. Ben Ali Zine was the
10 president in Tunisia who was hosting the summit. The
11 president of Uganda, the president of Zaire, the
12 president of Burundi, President Moi and the president of
13 Tanzania and the President of Rwanda and the RPF
14 delegation, which was led by Pasteur Bizimungu, and at
15 the end of that mini-summit the two warring parties, the
16 RPF and the government of Rwanda, accepted a cease-fire.
17 And I remember that radios around the world --
18 journalists were happy about that. But, unfortunately,
19 the RPF did not accept.

20

21 So, as far as I am concerned,
22 Madam President, Your Honours, those were the reasons
23 which motivated me to join them. I was being patriotic
24 and, as far as that was concerned, I would like to say
25 that I am constant in this, peace, unity. Without
26 unity, without peace, there was no democracy. I was
27 fighting for peace and that is what took me to Tunis.

28 Q. Mr. Nahimana, could you, as a matter of fact, and very
29 briefly, tell us your movements as from that meeting you
30 had with President Sindikubwabo right through to the end

1 of the OAU summit? Give us a concise account of your
2 movements.

3 A. On the 26th of May I returned to Cyangugu. I discussed
4 with my wife. We agreed that we would move from
5 Cyangugu to Gisenyi. We arrived there around the 1st of
6 June. In any case, Gitarama was attacked, I think, on
7 the 2nd, and I learned that while I was in Gisenyi on
8 the 9th of June. Along with President Sindikubwabo and
9 the other members of the delegation we crossed the
10 border of Rwanda towards Goma, G-O-M-A in the then
11 Republic of Zaire, which is the Republic of Congo, and
12 we took a plane from Ngoma to Kinshasa, that is the
13 night of the 10th. We spent the night there and left
14 Kinshasa for Geneva on the 10th of June, still in 1994.
15 We spent the night in Geneva and, on the 11th of June,
16 we left for Tunis where we remained until the 15th of
17 June. On the 15th of June we returned, we spent the
18 night in Geneva, and the following day we took the plane
19 for Kinshasa. I believe that was the 15th. We spent a
20 night or two, in any case, on the 18th of June -- awhile
21 ago I was hesitant, but after going through the account,
22 I realised that we returned to Rwanda on the 18th of
23 June 1994. So I remained in Rwanda until the 14th of
24 July. That was the general debacle in the northern
25 region.

26

27 I crossed the border with my entire family. I sought
28 and took refuge in Ngoma, where I spent two to three
29 days and around the 21st of July, I was in Kinshasa. I
30 stayed in Kinshasa for about a week. I crossed the

1 river Congo for Brazzaville, but I did not spend a night
2 there. I was headed for Bangui and I got to Bangui and
3 remained there until the end of August 1994. I'll put
4 that around the 28th or the 30th that my family and I
5 went to Cameroon, where we lived until the date of my
6 arrest. That is the account of a refugee on exile or an
7 exiled accused person.

8 MR. BIJU-DUVAL: Madam President, at this point I would like
9 Mr. Nahimana to be given what appears under 24 of the
10 new documents, a copy of Mr. Ferdinand Nahimana's
11 passport. I would like to point out to the Chamber that
12 that passport is in the custody of the authorities of
13 the detention centre and they produced a certified true
14 copy, which I believe was forwarded to the registry.

15 BY MR. BIJU-DUVAL:

16 Q. Mr. Nahimana, do you recognise that document as being a
17 copy of your passport?

18 A. Madam President, Your Honours, yes, it is a photocopy of
19 my passport.

20 Q. I would, therefore, like this document to be accepted as
21 an exhibit, Exhibit 1D152.

22 MR. PRESIDENT: 1D152.

23 (Exhibit No. 1D152 admitted)

24 BY MR. BIJU-DUVAL:

25 Q. Mr. Nahimana, very briefly, why did you settle your
26 family in Gisenyi at the end of May, beginning of
27 June 1994?

28 A. First of all, after I accepted to take part in the OAU
29 summit and I'm aware that entering and living in Rwanda
30 had become problematic, it was better for me to leave my

1 family where I would find it upon my return.

2

3 Secondly, contrary to my opinion, at the beginning when
4 I got to Cyangugu, when I thought that it would be easy
5 for me to return to my native region, with the war, it
6 was difficult to settle in Ruhengeri, but I was trying
7 to set up in a place which was intact but which was not
8 too far from my birth place so that at one point in time
9 I would be able to find out the fate of my family
10 members. And I should point out that my family members
11 and the family members of my wife are in Ruhengeri, so
12 it goes to the place where those families were, so that
13 I'll be able to have news about the families. That is,
14 basically, why I set up in Gisenyi.

15 Q. Now, during your stopover in Geneva on the outward trip
16 to Tunis, do you meet Mr. Ndyianden?

17 A. Yes, when we were going to Tunis and even when we were
18 returning I met Mr. Ndyianden, that's true.

19 MADAM PRESIDENT: Is that the Prosecution witness who
20 testified here? That's a yes.

21 MR. BIJU-DUVAL: Yes.

22 MADAM PRESIDENT: Well, I have to ask because you didn't give
23 the full name, Mr. Biju-Duval.

24 THE ACCUSED NAHIMANA: Yes, Madam President, we are talking
25 about Phillip Ndyianden, a jurist and a person whom I
26 knew since 1991. I met him in one of the hotels in
27 Geneva. The hotel is called Noga Hilton in Geneva.

28 Q. On what occasion did you meet him on your outward trip
29 and on your return trip?

30 A. When we were on our way to Tunis the Rwandan Ambassador

1 to Switzerland, who was informed that the president was
2 stopping over, came with Mr. Ndayinden, and
3 Mr. Ndyianden wanted to meet Mr. Sindikubwabo. And the
4 protocol officer informed the ambassador that the
5 president was not available. The ambassador and
6 Mr. Ndyianden were fully aware that I was there and I
7 knew Mr. Ndyianden very well, I had had the opportunity
8 to see him on several occasions. So, I spoke with
9 Mr. Ndyianden for more than one hour at the hotel where
10 we were. He spoke to me about his project of setting up
11 Radio Hironde. That is how I met Mr. Ndyianden.

12 Q. During this your trip to Tunis, were you in contact with
13 Mr. Jean Bosco Barayagwiza?

14 A. No. Mr. Jean Bosco Barayagwiza was part of the
15 ministerial delegation. You know how the heads of state
16 summits in the OAU are arranged, you have the experts
17 meeting, then the meeting of plenary potentialists or
18 ministers of foreign affairs, then lastly the state
19 summit.

20

21 Mr. Barayagwiza had gone ahead, first of all, as an
22 expert and then he took part as a member of the
23 delegation of the Minister of Foreign Affairs in the
24 meeting of ministers of foreign affairs preparing the
25 meeting. So I was not with him on his outward trip to
26 Tunis. I found him in Tunis, I believe, on the 11th of
27 June 1994.

28 Q. During your outward trip, you said you met
29 Mr. Ndyianden. What was the occasion and what was the
30 content of your discussions?

1 A. On the return journey I spoke with him a little bit
2 longer and at that time Jean Bosco Barayagwiza was with
3 me and another member of the delegation, who remained
4 there a brief moment. This was head of protocol,
5 Mrs. Jan Ndaboniye, N-D-A-B-O-N-I-Y-E. She did not stay
6 very long time; obviously, she was busy elsewhere and
7 she went to the presidential suite. So, on our return
8 Mr. Ndyianden, once again, sought to see the president
9 and once again he was accompanied by the ambassador or
10 he was in the company of the ambassador and, again,
11 President Sindikubwabo did not wish to see him. And
12 Mr. Ndyianden got to know this from the head of
13 protocol, Mrs. Ndaboniye, and she came to find us at the
14 lobby, which also has a bar of the hotel, the Nauga
15 Hilton in Geneva. After having announced to him that
16 the president wasn't going to receive him, we took a
17 drink and we discussed and it was at that time, and this
18 is, indeed, said by the witness in question, we
19 discussed RTLM. We discussed it and I reproached him,
20 because in Tunis I was informed of the fact that he had
21 introduced me as the director of RTLM, the Achilles
22 heel, and so on and so forth. And
23 Mrs. Monique Mujawamariya and Alphonse Nkubito , the
24 latter, Alphonse Nkubito, had fled at the same time as
25 myself, had been evacuated the same time as myself by
26 the French army and the French embassy in Kigali. That
27 Mrs. Mujawamariya was running from the newspapers was
28 someone who had also left Rwanda, also around that same
29 date. That these people were unable to tell him that I
30 was the director of the linchpin during this period of

1 the killings. Yes, he said, it's unfortunate, I've been
2 informed of that and I didn't even know that it was
3 Alphonse Nkubito.

4 THE INTERPRETER: The spelling is being made, it was two
5 names, Nkubito and Mujawamariya.

6 THE ACCUSED NAHIMANA: I didn't know that these people had
7 left at the same time as yourself from Rwanda.

8 Mr. Ndyianden is someone who I have had good relations
9 with from since we knew one another, we talked, and
10 Mr. Barayagwiza spoke about the CDR together with
11 Mr. Ndyianden, and there you are. I saw, quite simply,
12 that Mr. Ndyianden's preoccupation or concern was
13 setting up a radio station between Rwanda and Zaire and
14 he told me that that was the reason why he wanted to
15 meet the head of state, in order to obtain authorisation
16 from the Rwandan government. The spelling for
17 Mujawamariya is M-U-J-A-W-A-M-A-R-I-A and Nkubito is
18 N-K-U-B-I-T-O.

19 BY MR. BIJU-DUVAL:

20 Q. When you came back to Rwanda on the 18th of July 1994,
21 where did you settle with your family?

22 A. I wasn't settling anywhere, I was joining my family who
23 had already been settled in Gisenyi. We had rented a
24 small house from one Jean Bizimana, B-I-Z-I-M-A-N-A,
25 former manager of the Bank de Kigali and a member of the
26 MDR party, a man who is currently in Rwanda and he is a
27 civil servant.

28 Q. When you returned, where was President Sindikubwabo?

29 A. The President was in maison du passage, generally known
30 as a maison du passage, a guest house, which was his

1 official secondary home, the Rwandan President in
2 Gisenyi.

3 Q. Where was the interim government set up?

4 A. The interim government was sheltered in the premises of
5 the Izuba Meridien Hotel in Gisenyi. Izuba is spelled
6 I-Z-U-B-A. Some ministers had rooms there, they had
7 offices there. Others, who were high-ranking officials
8 of the Rwandan government, also had rooms there.

9 Q. Witness X claimed that he met you at the Meridien Hotel
10 in the company of Gaspard Gahigi and Valeri Bemeriki.
11 What do you say about that?

12 A. I said a moment ago that one person whom I met after the
13 7th or let's say the 1st of July, around the 8th of July
14 was someone from RTLM and that was Mr. Phocas. I met
15 him at the Bank de Kigali in Gisenyi and I did not meet
16 these other individuals. It's possible that they saw
17 me, because we were walking about on the streets. It's
18 possible, but I didn't meet them. I didn't see them
19 myself and I didn't speak with them neither.

20 Q. Did you occupy any specific functions or position when
21 you returned to Gisenyi?

22 A. Madam President, Your Honours, in Tunis, already, even
23 within the framework of the ceasefire, the Rwandan
24 delegation -- and I refer to it as we -- were able to
25 meet the representative of France who was in Tunis, and
26 there was mention of an international force, which was
27 to come to Rwanda in order to put the massacres to an
28 end and to intervene. And we were informed that France
29 had accepted to send to Rwanda a military contingent
30 which was known as Operation Turquoise, and when we got

1 back to Rwanda and President Sindikubwabo received in
2 that residence I referred to a moment ago, members of
3 the delegation who were returning from Tunis, that was
4 the next day, we had come back on an evening, and the
5 next day the minister of foreign affairs was most
6 specific and said, in a few days, on the 20th to the
7 22nd of June, the first contingent of the Operation
8 Turquoise was going to arrive in Goma and that already
9 France had appointed the administrator of that
10 contingent, someone known as Eanique Gerard.
11 Mr. Sindikubwabo said to me, well, Ferdinand, you are
12 one little French man in Rwanda. I want you to help me.
13 I want you also to be my ambassador with the Operation
14 Turquoise contingent. You are going to be my emissary
15 and you can speak with them and so on and so forth.
16 There was the Minister of Foreign Affairs, who, on
17 behalf of government, would also speak on behalf of the
18 president, but the President said, for you, You will be
19 my personal advisor in matters dealing with the
20 Operation Turquoise. I said, well, no problem.
21
22 And, indeed, from that point on, when the President
23 needed to send a message to Eanique, Gerard I was
24 contacted. The soldiers of his corps took me from my
25 place and took me to him, and I was usually with the
26 Minister for Foreign Affairs. My role between my return
27 to Rwanda and the 14th of July was limited to these
28 sporadic messages, which I was transmitting on behalf of
29 Mr. Sindikubwabo to the Operation Turquoise contingent.
30

1 By leave of the Chamber, I wish to further stipulate
2 that I was never appointed in any official manner by the
3 president of the republic, less so, and I'm categorical
4 about this, I was never in contact with Mr. Kambanda
5 during that time. I had no assignments from
6 Mr. Kambanda or from any of the ministers of the
7 Kambanda government. I acted only together with
8 Mr. Sindikubwabo and that within the framework of the
9 activities which I referred to as being sporadic and
10 falling under the Operation Turquoise contingent
11 matters.

12 Q. At any point in time, within the framework of these
13 contacts you established, were you asked to put an end
14 to the RTLM broadcasts against the UNAMIR?

15 A. Madam President, Your Honours, I was assailed by a
16 certain number of journalists after the President of the
17 republic received, at his residence, the representative
18 of France, in other words Eanique, Gérard and we
19 discussed -- and I was there, I was present at that
20 meeting. And you need to understand that I had three
21 meetings with the Operation Turquoise. The first time I
22 was sent and I went with the Minister for Foreign
23 Affairs, Mr. Jerome Bicomumpaka, and I met the
24 ambassador Eanique, Gérard, to invite him to come and to
25 meet President Sindikubwabo and it was after that
26 invitation that Mr. Eanique, Gérard came to Rwanda, in
27 other words to the border at the residence of the
28 President. Now, during the meeting -- that's where I
29 was getting to before talking about the background --
30 during that meeting we discussed the French intervention

1 within the framework of Operation Turquoise. I
2 personally as I had done in Tunis, because often I would
3 accompany the president of the republic when he was
4 meeting his peers. As I had done, the president of the
5 republic told me to go into the background and I did so.
6 After that, I said that it would be interesting to have
7 the Operation Turquoise covering all the regions which
8 had not been touched by the war until then. The
9 directeur du cabinet, Daniel Nbangura, which is spelled
10 N-B-A-N-G-U-R-A, Daniel Nbangura, the directeur du
11 cabinet and obviously the Minister of Foreign Affairs.
12 Now, the ambassador, Eanique, Gérard, said no way. I
13 remember this quite clearly. He said this was not
14 possible, that the Operation Turquoise zone of action go
15 beyond Kibuye préfecture and part of Gikongoro, at least
16 it will not extend to Ruhengeri and Gisenyi, which was
17 the stronghold of President Habyarimana. But I must
18 repeat that we were shocked, we were flabbergasted. For
19 us Ruhengeri had five or six communes which were not
20 affected by the war, including mine; Gisenyi was intact
21 in its totality; Butare was intact, partially; the same
22 applies to Gitarama and parts of Kigali préfecture. So
23 we were shocked, at least I was, personally, to hear it
24 said that France had decided -- I was learning this
25 through this ambassador -- that France had decided that
26 Kibuye and Cyangugu -- part of Cyangugu, were going to
27 be the object of the French intervention. And I recall
28 that President Sindikubwabo said, well, if that's the
29 case it was pointless in contacting us because you've
30 already made up your mind.

1 Now, on that note the meeting came to an end and people
2 went their ways. Now, after the departure of
3 Mr. Eanique, Gérard, on the following day, even while I
4 was still at home, I received and I saw several young
5 journalists. And if you had heard mention made of
6 Monique Showl I wouldn't be able to tell you if she was
7 brought here, that Monique Showl was seen by myself.

8 Q. Mr. Nahimana, you mean Ann Showl?

9 A. Yes, Ann Showl. I wouldn't be able to say I saw Ann
10 Showl, there were several journalists who intercepted me
11 at my home and even at the Meridien Hotel, because I
12 went there, as a good number of people did, and, yes, I
13 think I must have met Ann Showl at the Meridian Hotel.
14 But in any case, the exhibit which was presented here,
15 it was written by me. And maybe some people may say,
16 yes, why did you write conseiller, advisor. And I said,
17 yes, I did so. Even a moment ago I confirmed this.
18 This not only allowed me to have audience with the
19 French and, basically, it was for that purpose, but I
20 wasn't suppose to be an advisor in the accepted
21 administrative meaning of the word. Several other
22 journalists came and funnily enough, during the meeting
23 with Mr. Eanique, Gérard and the President and also
24 during the interviews or conversations that I had with
25 several journalists, no one spoke to me of the RTLM.
26 But, I did see in some dispatches mention made of the
27 RTLM. But Madam President, Your Honours, we did not
28 mention the matter of the RTLM at any point in time,
29 whatsoever.

30 Q. When did you leave Gisenyi, on what dates did you leave

1 Gisenyi together with your family?

2 A. I left Gisenyi on the 14th of July 1994.

3 Q. You have already described your journey, your itinerary.
4 Could you please tell the Chamber what was the itinerary
5 of President Sikubwabo and his own entourage, as well as
6 his government?

7 A. Madam President, Your Honours, I said a moment ago,
8 President Sindikubwabo, when he needed me to have
9 contact with Operation Turquoise, he would call upon me
10 and he would send me one of his bodyguards to take me to
11 him. Now, on the 14th of July I didn't see
12 Mr. Sindikubwabo; I fled like everybody else did. I
13 wasn't an official of the presidency, so I didn't even
14 bother to go and see the president. I fled towards
15 Ngoma. What I learned later on was that the government,
16 including Sindikubwabo, took aeroplanes, helicopters or
17 vehicles to go towards the Turquoise -- Operation
18 Turquoise zone, mainly Cyangugu and onward to Bukavu,
19 where they continued to maintain the government in
20 exile.

21

22 I would say that in my case, from the 14th of July, a
23 few days earlier, up until now, I would say, I have not
24 had any contact with the government.

25 Q. When you were in exile in Cameroon, did you correspond
26 with Professor Reytgens?

27 A. Yes, absolutely, he was one of the individuals whom I
28 mentioned as being my long-term friend, especially when
29 I began to see mention made of Ferdinand Nahimana in the
30 newspapers.

1 I wrote to him and I asked him if it was possible for
2 him to be my lawyer. And later on, after I wrote my
3 small book, The Hutu Accused, I believe I think I gave
4 of my best concerning my position since 1990 and, in
5 particular, during the events of April to July. Up
6 until giving the itinerary that I followed, I sent him
7 all this information. First of all, I asked him if it
8 was possible for him to be my counsel. But I also asked
9 him to get in touch with Luc de Temmerman and to hand
10 over to the Prosecutor of the International Criminal
11 Tribunal for Rwanda, Mr. Goldstone, and especially my
12 book The Hutu Elite, L' Elite Hutu because I was reading
13 in newspapers and I was saying that the Tribunal and the
14 Prosecutor should not waste their time. I was going to
15 present my version of events as I saw them; if they
16 wish, they can contact me. So I addressed the Tribunal,
17 in fact, through Mr. Reyngens from 1994.

18 MR. BIJU-DUVAL: Madam President, Your Honours, the document
19 which appears as document 26, which are the letters
20 written by Mr. Nahimana to Professor Reyngens, I wish
21 these documents be shown to the witness.

22 THE ACCUSED NAHIMANA:

23 Madam President, all these letters are by me, written by
24 me, this is my handwriting and, however, I wish to say
25 that the last page of this document is not completely
26 legible, the end doesn't appear. Otherwise these are,
27 indeed, my letters.

28 MR. BIJU-DUVAL: Madam President, I wish these to be tendered
29 as document Exhibit 1D153.

30 MADAM PRESIDENT: Exhibit 1D153. And if you can have proper

1 copies made of 208bis and 2067bis because the last lines
2 do not appear in the photocopy.

3 MR. BIJU-DUVAL: I'll do my best, Madam President, but we also
4 only have copies disclosed to us by the Office of the
5 Prosecutor, but I'll do my best.

6 (Exhibit No. 1D153 admitted)

7 BY MR. BIJU-DUVAL:

8 Q. Mr. Nahimana, were you ever interviewed in Yaounde in
9 June 1995?

10 A. Yes, Madam President, Your Honours, I had two
11 journalists -- I received two French journalists on two
12 different occasions: One was Steven Smith of the
13 newspaper La libération, a French newspaper, and then
14 TF1 French television team which was led by one Bulo and
15 this was in 1995.

16 MR. BIJU-DUVAL: Madam President, we have already tendered a
17 videocassette which contains the complete version of the
18 interview directed by Mr. Bulo and the OTP through
19 Exhibit P72 -- P172, a transcript of the same interview,
20 but it would seem, unless I am mistaken, that this
21 transcript is not complete. In other words, the end of
22 the interview is missing, as it appears on the
23 videocassette. So, I wish, today, to produce a new
24 transcript from this videocassette, which this time
25 around is complete. I also wish to have Mr. Nahimana
26 shown a document dated 18th March 1995, which is a small
27 letter, a short letter written, to him by Mr. Gil Bulo,
28 so that he can identify this letter and we can have it
29 disclosed.

30 MADAM MONASEBIEN: Madam President, if I may?

1 MADAM PRESIDENT: Ms. Monasebien.

2 MADAM MONASEBIEN: Mr. Biju-Duval is, in fact, correct that
3 P172 was a transcript that the Office of the Prosecutor
4 tendered on 9 July 2002 of 1D21, which was the entire
5 videotape of the interview done in Cameroon, and 1D21
6 was tendered in February 2001.

7

8 Now, the difference between the Office of the
9 Prosecutor's transcript, I believe, because Mr. Nahimana
10 seems to believe this is some pattern of fraud along
11 with the April 25 interview. Let's be very clear what
12 happened over here; quite simple, the P172 is 35 pages
13 and it's double spaced, in French.

14

15 Now, the document that Mr. Biju-Duval has is document
16 No. 25, it's 26 pages single-spaced. What's the
17 difference between the two documents? What we tendered,
18 if you look at the first page of P172, it says KV00-0012
19 to KV00-0013, tape one of two. If, when you look at
20 that transcript of P172 it makes it clear that it's just
21 a transcript of tape one of two; however, we were
22 informed that was the whole transcript. And if Your
23 Honours recall, I tried to during Dr. Des Forges'
24 testimony put in the actual video on CDR ROM form and
25 Ms. Ellis was kind enough to advise the Office of the
26 Prosecutor it was already put in as 1D21. So when I
27 came to court in July with this transcript and the
28 videotape -- I'm sorry, the CD-ROM, I came with all of
29 it, the whole thing, 0012 to 0013, and so, of course,
30 there was no effort on behalf of the Prosecutors to hide

1 any of that transcript. We get what we get from the
2 language section, not an OTP transcription, and we
3 handed to them what we have, pages 1 through 18 of what
4 Mr. Bijou-Duval has.

5
6 So pages 19 through 26 of what Mr. Bijou-Duval has is
7 something new, something that Mr. Bijou-Duval is giving
8 to this Court because the Office of the Prosecutor did
9 not have it. Thank you, Madam President.

10 MADAM PRESIDENT: Thank you. 1D21 is which tape?

11 MADAM MONASEBIEN: 1D21 is the videotape of this transcript
12 that Mr. Bijou-Duval now seeks to enter in the complete
13 form.

14 MADAM PRESIDENT: And P172 is the audiotape.

15 MADAM MONASEBIEN: P172 is the transcript by the language
16 section that the Office of the Prosecutor delivered,
17 which happens to be the first 18 pages of
18 Mr. Bijou-Duval's transcript.

19 MADAM PRESIDENT: Yes, you can --

20 MADAM MONASEBIEN: Just so we are also clear 1D21 was, in
21 fact, disclosed to Mr. Bijou-Duval, by the Office of the
22 Prosecutor, in full; so they were always given the whole
23 thing not just the portion. Thank you, Madam President.

24 MADAM PRESIDENT: Mr. Nahimana, Mr. Bijou Duval would like you
25 to look at this handwritten document. Do you have it in
26 front of you?

27 THE ACCUSED NAHIMANA: No. I still don't have it as yet, but
28 by leave of the Chamber I'll say one word, only. When I
29 made the or offered the interview in Yaounde, I made
30 this in front of the cameras and the whole interview was

1 given to us. Later on I realised that the transcripts,
2 contrary to what has just been said by the Office of the
3 Prosecutor, the language section apparently referred to
4 an audiocassette, which, to me, seems a bit odd, because
5 I wasn't on radio, I was being filmed on camera and I
6 realised. Now, I don't want a misinterpretation of
7 Mr. Bijou Duval's words, where he says the end is
8 missing. About eight pages are missing, so it's not a
9 sentence which is missing, it's several pages, at least
10 more than five.

11 MR. BIJU-DUVAL: Madam President.

12 MADAM PRESIDENT: Mr. Bijou-Duval, we really don't wish to
13 waste any more time on this. We're not interested in
14 those explanations. We are interested in receiving the
15 complete translation. So thank you now for attempting
16 to submit that and get Mr. Nahimana to respond to your
17 question with regard to this handwritten document by the
18 journalist.

19 MR. BIJU-DUVAL: Thank you, Madam President. This time was
20 actually -- a lot of time has been wasted by the Office
21 of the Prosecutor on this.

22 BY MR. BIJU-DUVAL:

23 Q. Mr. Nahimana, can you look at the short note which was
24 written to you?

25 A. I still don't have it.

26

27 Quite so, this is a letter which I received from
28 Mr. Bullo, yes.

29 MR. BIJU-DUVAL: Madam President, I wish to tender these two
30 documents, in other words the transcript, the full

1 transcript of the videocassette which was tendered by
2 the Defence, as well as Mr. Bullo's letter and under
3 Exhibit Number 1D154.

4 MADAM PRESIDENT: 1D154, and it is a transcript of 1D21.

5 MR. BIJU-DUVAL: Thank you, Madam President.

6 (Exhibit No. 1D154 admitted)

7 MR. FLOYD: I'm just a little confused. I thought 1D21 was
8 not a complete transcript and this is a complete
9 transcript. Do I misunderstand that?

10 MADAM PRESIDENT: You do.

11 MR. FLOYD: So 1D21, 1D50, 154 is the same thing, is that what
12 I am being told, other than the covering letter?

13 MADAM PRESIDENT: What you ought to have heard is 1D21, is the
14 videotape.

15 MR. FLOYD: Transcript, I mean this is not the tape so this is
16 the transcript.

17 MADAM PRESIDENT: 1D21 is the videotape.

18 MR. FLOYD: Well, I just have a question. I also have
19 something 1D21 which looks like a transcript; this is
20 not a tape either. I have 1D21 and I have some other
21 pages. Now, it's my understanding this is not a
22 complete transcript, so should we now disregard that and
23 1D21 will only be the tape itself and 1D154 is the
24 transcript of 1D21?

25 MADAM PRESIDENT: We now have received the complete
26 translation, transcript of the videotape so you can look
27 at the other bits and pieces if you wish, but according
28 to Defence we now have a full transcript.

29

30 Well, we were expecting you to complete by 1,

1 Mr. Biju-Duval. You said early morning, but we were
2 following the evidence. And so now what is your
3 position with regard to completing?

4 MR. BIJU-DUVAL: Madam President, I would have already
5 finished if Mrs. Monasebian didn't occupy a lot of our
6 time by objections, which appeared to us to be
7 completely pointless.

8 MADAM PRESIDENT: Well, we didn't hear many objections from
9 Mrs. Monasebian, and her last intervention was very
10 useful to us. Do you have any further questions?

11 MR. BIJU-DUVAL: Yes, I do, Madam President.

12 BY MR. BIJU-DUVAL:

13 Q. Mr. Nahimana, in April 1995 you published a book
14 entitled Rwanda L'élite Hutu Accuse, Rwanda the Hutu
15 Elite Accused.

16

17 My first question is this: Today do you confirm the
18 content of what you are advancing in this book?

19 A. Madam President, Your Honours, I'll be very brief.
20 Today, more than ever before, and because of the
21 information that I have had in the meantime, which I
22 didn't have at the time, I am confirming what I wrote
23 and I wish to add, furthermore, that if I were to write
24 the book again, I would be more specific and precise
25 than I was. I must say, for instance, that with regard
26 to the massacres that took place in Rwanda since 1990 to
27 1994, I can categorically say that the war is at the
28 foundation of all these problems and that thousands and
29 not millions of Hutus and Tutsis were killed. In a
30 particular manner today, with regard to the period from

1 April to July 1994, I must say that I am revolted, and
2 if I were to write again I would ensure that my pen
3 reflects that revulsion. My revulsion comes from the
4 fact that during this period of time, thousands,
5 hundreds of thousands of people of Tutsi origin were
6 killed because they were Tutsis, and this is really
7 revolting that someone is killed because of his or her
8 ethnic group, more so that this happened in the zone
9 which was under the control of the transitional
10 government.

11
12 Furthermore, although we were talking about interethnic
13 massacres; however, thousands of people controlled by
14 the RPF in the east, to the east of Kigali, were killed.
15 Entire families were wiped out because they belonged to
16 the Hutu ethnic group. Members of the RPF killed these
17 people only because of their ethnicity, and this is a
18 revulsion to my conscience, to the conscience of all
19 humanity and in 1995 -- I'll conclude on that note -- I
20 believe on page 9 or 10 of my book, now I know my book
21 almost by heart -- I described these massacres, without
22 any precision, and in the pages of 40 to 45 or 40 to 50,
23 I refer to the Judges of the ICTR. As for what
24 description to give to these massacres? I was writing;
25 I'm a historian, but I would say that this book is not
26 written as a historian; I was writing as a victim, an
27 exiled person, a person who was targeted. I said that
28 the matter of genocide is a matter which is in fashion,
29 but now I'm asking the Judges what descriptions are we
30 going to use to talk about these killings. Obviously

1 people are going to laugh at me if I were going to take
2 the place of Judges in front of whom I am present, now.
3 But, be that as it may, today, outside this Court, if I
4 were to write, I would write an in-depth story to make
5 it understood that actions which are close to or which
6 are -- well, I'm a historian I'm not really able to
7 describe this, but as which seems to me to come from the
8 genocidal type of action. When I am the one who is
9 speaking at this point in time, I'm speaking from the
10 very bottom of my heart. I am seeing people who, from
11 the oldest to the youngest, are killed because they
12 belong to one ethnic group or that they belong to a
13 religion or something like that. It's very revolting
14 and I would write it in that manner and I, myself, such
15 behaviour, which was openly visible -- I wasn't there,
16 thank God, but I got to learn about this. I find this
17 very revolting and it is bestial behaviour, I was going
18 to say. But I'm going to say that it is indescribable
19 inhuman behaviour. This is what I would add to my book,
20 because now I have in my possession several documents
21 which I didn't have at the time, when I wrote the book,
22 initially.

23 MR. BIJU-DUVAL: I have no further questions, Madam President,
24 Your Honours.

25 MADAM PRESIDENT: Well, thank you, Mr. Biju-Duval and thank
26 you, Mr. Nahimana.

27

28 Mr. Rapp, are you in a position to indicate how long
29 your cross-examination is expected to take?

30 MADAM MONASEBIEN: Madam President, Your Honours, that is a

1 very difficult thing to do and obviously it depends on
2 the length of the answers of the Accused, which
3 sometimes are quite lengthy during direct examination.
4 I can imagine mine taking two full days, and
5 Ms. Monasebian is taking care of several parts of this
6 issue, as well, and hers may take that long. But I
7 certainly will have a better idea after the end of the
8 first day, which probably, as I understand, would not
9 begin until tomorrow, how quickly things will go.
10 Thank you.

11

12 Then you will begin this afternoon, Mr. Floyd.

13 MR. FLOYD: Yes.

14 MADAM PRESIDENT: We will break now and resume at 3 o'clock.

15 So, that is a new time but we just need this extra time
16 for some meetings, then. So we will see you again at
17 3 o'clock then, Mr. Nahimana.

18 (Court recessed at 1315H)

19 (Pages 45 to 77 by R. Lear)

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1 1507H

2 MADAM PRESIDENT: Mr. Floyd.

3 MR. FLOYD: If it please the Court.

4 CROSS-EXAMINATION

5 BY MR. FLOYD:

6 Q. Good afternoon, Mr. Nahimana.

7 A. Good afternoon, Counsel.

8 Q. You understand that when -- I'm about to cross-examine
9 you and that when I do that, I'm doing it in the
10 interest of this man right here, Hassan Ngeze, that this
11 man right here is my client and this man here is whose
12 interest I'm protecting. You understand that, don't
13 you?

14 A. Yes, I understand that very well, and I know that.

15 Q. Now, Mr. Nahimana, you've, for the last three or four
16 days, been testifying about the Prosecution case against
17 you, that you have consistently come into this Chamber
18 and given what you have said is the absolute truth, the
19 whole truth and nothing but the truth. That is correct,
20 isn't it?

21 A. That is correct, I have respected the solemn declaration
22 that I made at the beginning of my testimony.

23 Q. Now, I don't mean to either make light or to make fun,
24 but I need, and I want, the Chamber to understand all
25 the parameters of where we are on this case. Your
26 defence, basically, is -- the way I'm going to
27 characterise it -- and I don't mean to demean it -- is
28 what I call the Dr. Frankenstein defence, that like
29 Dr. Frankenstein, that you were involved with creating
30 the RTLM, and like Dr. Frankenstein, you had the best of

1 intentions, as he did. He wanted to cure disease and
2 prolong life; that you wanted to have a vehicle for
3 democracy in Rwanda. Is that correct?

4 A. Yes, the establishment of the RTLM limited liability
5 company, which gave birth to Radio RTLM, comes within
6 the context of bringing back democracy to Rwanda, and we
7 did this. We established the company. And I was
8 involved in the establishment of the company, with the
9 objective of strengthening pluralism and free
10 expression, as well as strengthening democracy in
11 Rwanda.

12 Q. As I understand your --

13 MADAM PRESIDENT: Mr. Floyd, just a word of caution here when
14 you ask multiple questions, because the witness answered
15 the latter part of your question which, quite rightly,
16 is what the Chamber wished to hear and not all your
17 reference to whether it was a Frankenstein creation.

18 MR. FLOYD: Your Honour, I'm trying to make a point. I'm not
19 trying to be clever or that. I'm trying to make a point
20 and I'm going on to my point.

21 BY MR. FLOYD:

22 Q. Now, like Dr. Frankenstein, according to your testimony
23 this morning, you believed that what you helped create
24 at a certain time was turned into a monster. Is that
25 what I understand your testimony to be?

26 A. What I realised during the period of April to July 1994
27 was that RTLM radio station was kidnapped by people who
28 did not have the same objectives that we had when we
29 established the radio station, and they transformed it
30 into a tool, a tool for killing.

1 Q. You testified that on the 8th of April 1994, that you
2 left the French embassy and you went back briefly to
3 RTLM. Do you recall that testimony?

4 A. That is correct.

5 Q. Isn't it true that when you went back to RTLM on the
6 8th of April, that it was the Rwanda military who were
7 in control of the station?

8 A. I did not get that impression. What I noticed, and this
9 is something that I said this morning, what I said is
10 that everywhere there were roadblocks manned by
11 soldiers, but I did not see inside the radio station
12 building the presence of soldiers. That's something
13 that I did not see. And as I said, once again, on the
14 8th it was the end of the morning when I passed at RTLM.
15 RTLM was not broadcasting programmes, but I did not go
16 into the studios. But all the journalists and
17 technicians were there and those -- they were present,
18 and Mr. Phocas told me that they were observing a "radio
19 mourning" and only classical music was being aired, as
20 the press releases, communique from the ministry of
21 defence, especially the one recalling the death of
22 President Habyarimana and the Burundi president,
23 Mr. Cyprien Ntaryamira were aired, but they were
24 pre-recorded tapes.

25

26 And when I went to Radio RTLM I did not see soldiers
27 inside the building, so I cannot tell you that on that
28 day I can assert that the radio station had been taken
29 over by soldiers. It's possible. Maybe the soldiers
30 had already taken it and maybe told about it to Phocas

1 and other journalists, but I was not told about it. In
2 any case, we did not discuss that. We talked about
3 institutions which were going to replace
4 President Habyarimana, who was going to replace the
5 chief of staff of the army, what was going to happen.
6 And we talked about these things very briefly and very
7 rapidly.

8 Q. One of the themes that we will pursue on behalf of the
9 defence of Hassan Ngeze is that everything or most
10 everything that happened was as a result of the RPF and
11 what you have described as the Tutsi league. Now,
12 that's the theme, and I want to start off. You
13 testified about a man by the name of André Kameya having
14 a journal called Impuruza. Do you recall that?
15 Kimenyi.

16 A. Madam President, Your Honours, to my knowledge,
17 Mr. André Kamaya was neither the proprietor nor the
18 editor in chief of the Impuruza newspaper. That paper
19 was in the hands of Alexander Kimenyi, so are you
20 talking about the Mr. Kimenyi?

21 Q. I am talking about Alexander Kimenyi. I just
22 mispronounced the name. That is who I'm talking about;
23 that he was the editor, correct, and publisher, correct?

24 A. Which newspaper are you talking about because sometimes
25 you are talking about Kimenyi, sometimes you are talking
26 about someone else?

27 Q. I'm talking about the paper spelled I-M-P-U-R-U-Z-A;
28 that's what I'm talking about. Impuruza.

29 A. Yes.

30 Q. And the person I'm talking about, the last name is

1 spelled K-I-M-E-N-Y-I. So do you know who I'm talking
2 about now?

3 A. Madam President, Your Honours, I'm very confused. I'm
4 confused because Kameya was not the owner or the
5 editor-in-chief of the newspaper Impuruza. He was a
6 proprietor and journalist for a newspaper called
7 Rwanda Rushyu, and here I'm talking about Mr. Kameya.
8 And, Madam President, in order not to waste time,
9 Mr. Floyd is sitting next to his client, so maybe his
10 client could tell him to what person -- he's talking
11 about what particular person.

12 MR. FLOYD: Your Honour, I'm talking about the same person but
13 I'm going to have my client pronounce the name, so maybe
14 he'll understand it when my client says it.

15 THE ACCUSED NGEZE: Kimenyi, Alexander; Kimenyi, Alexander.

16 THE ACCUSED NAHIMANA: Well, you've got it.

17 BY MR. FLOYD:

18 Q. Excuse my American, southern American accent. I do the
19 best I can. Now, that gentleman was one of the people
20 who you had described as being part of the Tutsi league;
21 is that correct?

22 A. Madam President, Your Honours, referring to several
23 articles written in Impuruza by Alexander Kimenyi, who
24 was the founder and owner of, as well as the editor in
25 chief, and I'm talking about articles dating to 1992,
26 1993 -- 1982, from 1982 to 1983, '82 to '83. And, once
27 again, I would like to confirm that he was the real
28 ideologue of this vehicle's ideology that came up in the
29 '90s, from 1990 to 1994.

30

1 And it was -- in fact, even the name Impuruza, as I had
2 said, "impuruza" is one of the royal drums of ancient
3 Rwanda and "impuruza" refers to the drum used to rally
4 warriors in order for them to be mobilised to go to the
5 battlefield, to go to war. And in that newspaper, which
6 at times had some good articles, but in a general
7 manner, the newspaper -- in that newspaper, Mr. Kimenyi
8 and the authors wrote in that newspaper, they often
9 called people belonging to the Tutsi community in exile
10 to uprising in order to attack Rwanda and overthrow the
11 regime, and so on and so forth.

12
13 So this was Impuruza. Impuruza was not of the Tutsi
14 league to which I referred last week.

15 Q. Mr. Nahimana, I want you to listen to my questions very
16 carefully because, frankly, you just answered the
17 question I asked in the last sentence and a lot of that
18 I didn't need. I simply asked: wasn't this the person
19 that you talked about when you talked about the Tutsi
20 league and Impuruza being a mouthpiece? So if you'll
21 just keep your answers so we can get through this, keep
22 them short and answer the questions I ask.

23
24 Now, is it fair to say that what you refer to as a Tutsi
25 league, other people refer to as the Tutsi diaspora?

26 A. Let us be careful here. The Tutsi diaspora refers to
27 the community of Tutsis who are outside Rwanda, whereas
28 the Tutsi league refers to an umbrella of small groups,
29 or groups that arose from the diaspora. So we should
30 not take the league to mean the Tutsi diaspora because

1 the diaspora was made up, basically, of Tutsi refugees.
2 And if I follow you, I'll be tempted to wrongly talk
3 about a Tutsi community in exile, but this wouldn't be
4 correct.

5 Q. Now, you testified that in 1982 this Impuruza published
6 articles saying that the Tutsi should return to Rwanda
7 by force of arms. That is correct, isn't it?

8 A. I would like to make this clear. The article to which I
9 referred was an article published in Impuruza No. 16,
10 basically. Of course, there were other articles
11 referring to that, in other words, referring to the
12 league, referring to a movement, but the article to
13 which I referred in depth was the article that was
14 published in edition No. 16 of June 1990. However,
15 there were other articles which, during my testimony, I
16 did not analyse or discuss here before the Court.

17 Q. Now, are you aware of the 1988 Washington, DC meeting of
18 the people involved with the Tutsi diaspora? Are you
19 aware of that meeting?

20 A. Madam President, Your Honours, yes, I'm aware of that,
21 and Impuruza first published articles which invited and
22 justified the meeting, and at the end of the meeting
23 there were also articles which were published, giving a
24 report of the deliberations of that meeting. Yes, I'm
25 aware.

26 Q. And you're also aware that the conclusion or thrust of
27 that meeting in Washington, DC in 1988 was that Rwanda
28 was to be attacked again by force of arms and that would
29 resolve the Tutsi diaspora? Are you aware of that?

30 A. I believe that I must have come across words in relation

1 to what you are just saying. When I said towards the
2 end, especially talking about 1990, basically, I agree
3 with you when you are trying to give dates to the
4 beginning of the process, the march of the movement,
5 which had to be transformed into an attack, an armed
6 attack against Rwanda. So when you're trying to give a
7 concrete date going back to 1988, I understand that.
8 But what I said is that the various groups at that
9 congress, rather than bringing together the Tutsi
10 Rwandan diaspora outside the country, it brought
11 together, I would say, groups of Tutsis who were outside
12 the country and who claimed to represent -- according to
13 Impuruza -- who claimed to represent the community of
14 Tutsi refugees outside the country.

15

16 So I concluded, and I want this to be very clear for you
17 and for others as well -- I concluded that that movement
18 which came out in a concrete manner from that congress,
19 took the place or encapsulated other movements in order
20 for it to remain an Inkotanyi movement or to allow the
21 Inkotanyi movement to be thrust to the fore. And
22 Impuruza was the voice of the Inkotanyi. And Inkotanyi
23 visibly, clearly attacked Rwanda on the 1st of October
24 1990.

25 Q. Now, Impuruza is published in the United States,
26 specifically, in Sacramento, California; isn't that
27 correct?

28 A. That is correct.

29 Q. And in the United States we have complete freedom of
30 press and we don't have an office like ORINFOR or

1 anything else that governs our press, so that Impuruza
2 had absolutely no restrictions on it. Do you understand
3 that?

4 A. I know that when Americans want the freedom of speech to
5 be exercised, they do that, but when they do not want
6 freedom of expression to be used -- to be exercised,
7 they also prevent it. I would like to say that, even
8 within the United States, there is freedom of
9 expression, but when it comes to exercising that freedom
10 abroad, then the United States can intervene to prevent
11 it.

12 Q. Now, had Impuruza been published in Rwanda, Rwanda would
13 have had some controls over what was published; isn't
14 that correct?

15 A. Indeed. I have to say that I emphasise that the Rwanda
16 before June 1991 was a one-party state and several
17 articles by Impuruza would not have been published under
18 that political dispensation.

19 Q. Well, even after 1991, in fact, ORINFOR would have had
20 something to say had Impuruza been published; isn't that
21 correct?

22 A. That is correct.

23 Q. Now, Radio Muhabura, Radio Muhabura, they didn't come
24 under the control of ORINFOR, did they?

25 A. No, not at all.

26 Q. And Radio Muhabura said all kinds of things that would
27 have been sanctioned had they been under the control of
28 ORINFOR; isn't that correct?

29 A. That is correct.

30 Q. I want to give you another theme that we're working for

1 or that the Ngeze Defence supports, and that is that
2 Hassan Ngeze, more than any other individual we can
3 find, understood completely what was at stake and what
4 was going on in Rwanda, and I'm going to support this
5 proposition, ask you some questions. Are you aware that
6 Hassan Ngeze wrote for Kanguka?

7 A. At the time he was working for Kanguka, I have to say
8 that I did not know him. I learned about it later. I
9 did not know about it when he was working there.

10 Q. Okay. Are you familiar with Ravi, the editor of
11 Kanguka?

12 A. I met him for the first time in January 1991 during the
13 meeting that I held in my capacity as the director of
14 ORINFOR, with the public and private media.

15 Q. Are you aware that Hassan Ngeze was in Sacramento,
16 California in 1989 and met with Mr. Kimenyi, the editor
17 of Impuruza, along with Ravi and also a man that we'll
18 talk about later who ended up being the spokesman for
19 the RPF?

20 A. Madam President, Your Honours, I would like to apologise
21 regarding the answer relating to my meeting with
22 Mr. Ravi Rwabukwisi. I put that answer when talking
23 about all the journalists that I met in January, but I
24 do not remember very well so I have some reservation.
25 But now with regard to the question put to me by
26 Mr. Floyd now, I learnt -- and this was thanks to the
27 questions that you put here -- that Mr. Ngeze had been
28 to the United States in Sacramento, but prior to that, I
29 did not know about it.

30 Q. Now, would it surprise you that the people in the Tutsi

1 league talked openly, notoriously, and boastful in 1989
2 about the fact that they were going to attack Rwanda?

3 MS. MONASEBIAN: Madam President, we haven't been objecting to
4 any questions, not Mr. Biju-Duval's questions, but these
5 questions are so vague. Who are these Tutsi league
6 people, what people, when? And beyond the scope of
7 anything even remotely coming from the direct
8 examination, that I won't make this objection again but
9 I just bring it to Your Honour's attention that it's
10 troubling.

11 MR. FLOYD: Well, Your Honour, I would simply suggest that it
12 was brought out about the Tutsi league. He was given
13 the name. This came out of his testimony about Kamenyi.
14 He brought out about Impuruza, and I'm talking about
15 these same folks and I'm putting things in context.

16 MADAM PRESIDENT: Well, let's see how it's answered.

17 THE ACCUSED NAHIMANA: Madam President, could I request
18 Mr. Floyd to repeat the question because I did not quite
19 get it.

20 BY MR. FLOYD:

21 Q. Well, let me go to another area and I'll tie the two
22 together. Now, we have a saying. You like sayings, so
23 here's an American saying: Let's put out the oats out
24 where the goats can get to them. I'm going to ask you
25 some direct questions. Did you conspire with
26 Hassan Ngeze to commit genocide in Rwanda; yes or no?

27 A. Never. I never had such an agreement with Mr. Ngeze. I
28 described here what was my relationship with Mr. Ngeze
29 and how many times I met Mr. Ngeze. The first time that
30 I spoke to Ngeze for about five minutes is when I

1 started this trial. Even when I was here in prison, I
2 did not have the opportunity to talk to Mr. Ngeze before
3 October 2000, so it was at the beginning of trial when I
4 had the first opportunity to talk with Mr. Ngeze for
5 about five minutes. So how could I have actually
6 conspired with Mr. Ngeze to commit that abominable
7 crime?

8 Q. Did you conspire with Jean Bosco Barayagwiza to commit
9 genocide in Rwanda; yes or no?

10 A. No, not at all and, once again, I told you in what
11 context I worked with Mr. Barayagwiza; only within the
12 context of establishing RTLM limited liability company
13 and in the function or in the running of that company.

14 Q. Now, when did you first meet Jean Bosco Barayagwiza?

15 A. I saw Jean Bosco Barayagwiza for the first time, I had
16 just finished my doctorate in France. In any case, it
17 was after 1986.

18 Q. And in relationship to your ages, what is the
19 relationship; how old are you in relationship to Jean
20 Bosco Barayagwiza?

21 A. Both of us were born in 1950.

22 Q. And isn't it true that both of you are approximately ten
23 years older than Hassan Ngeze and of a different
24 generation?

25 A. That is correct; you are right.

26 Q. And isn't it true that Jean Bosco Barayagwiza, like
27 yourself, is a very learned, educated man?

28 A. I believe so.

29 Q. What was the context in which you first met
30 Jean Bosco Barayagwiza?

1 A. I was not able to remember the exact context but, once
2 again, since I had the opportunity of saying, the
3 university had a strong relationship with the ministry
4 of foreign affairs. You will remember that in answering
5 that question concerning Barayagwiza at foreign affairs,
6 I was not specific. I cannot be more specific now with
7 respect to my first meeting with
8 Mr. Jean Bosco Barayagwiza.

9 Q. Well, did you and Jean -- let me put it this way: in the
10 1980s, were you and Jean Bosco Barayagwiza personal
11 friends?

12 A. No, not at all.

13 Q. Did he ever come over to your house for dinner or a
14 drink?

15 A. No. Practically up to the establishment of the RTLM
16 company, I had never been to Barayagwiza's and
17 Mr. Barayagwiza had never been to my house.

18 Q. Now, had you and Mr. Barayagwiza ever had a discussion
19 about Rwanda or politics prior to 1990?

20 A. No.

21 Q. Had you and Mr. Barayagwiza ever had a conversation
22 about politics prior to the time in -- I guess it was
23 1992 that he became the lawyer for RTLM limited company?

24 A. When I was at ORINFOR, yes, I discussed, with
25 Mr. Barayagwiza, politics.

26 Q. Is it fair to say that when you were at ORINFOR, that
27 you and Mr. Barayagwiza were not in the same ministry?
28 Correct?

29 A. We were not in the same ministry, and you interrupted me
30 when I was answering your previous question. I was

1 saying that when I was ORINFOR's director, I had several
2 opportunities where I met Mr. Barayagwiza within the
3 context of his function and me within the context of my
4 function, and when we talked -- when I talked -- we
5 talked about politics and social, political situation in
6 the country.

7

8 Concerning the second question, it's obvious that he was
9 at Foreign Affairs and I was in ORINFOR and these are
10 two different things.

11 Q. Now, isn't it true that Jean Bosco Barayagwiza has more
12 of a Marxian analysis of politics than you do?

13 A. I did not try to compare his system of analysis with my
14 system of analysis. The opportunity did not arise. You
15 should not misunderstand what I've said. Rather, I
16 analysed the ideology of his party and I could compare
17 it with the ideology of my party.

18

19 Now, with regard to Mr. Barayagwiza's faults and with my
20 faults, these are things that I did not compare and say,
21 "This is a Marxist system or not". No, I did not
22 undertake such analysis.

23 Q. Is it fair to say, since you were in one party and he
24 was in another party, that the two of you had
25 differences when it came to your analysis of the Rwanda
26 situation?

27 A. That is correct, you are right. Our different political
28 leanings could influence our ways of analysing the
29 Rwandan situation.

30 (Pages 78 to 91 by Karen Holm)

1 1630H

2 THE ACCUSED NAHIMANA: I remember very well that I said -- and
3 if I didn't say so I'm saying so now -- that I believe
4 that it was Mr. Seregendo, who was his friend, who was
5 close to him, must have spoken to him about this idea
6 and who may have invited him to participate in the very
7 initial meeting, bringing about some twenty or so
8 individuals, Mr. Joseph Serugendo.

9 BY MR. FLOYD:

10 Q. Now, Mr. Barayagwiza's role, as you've described it, is,
11 basically, that of the lawyer for the group, is that
12 correct?

13 A. No, that wasn't his only role. When you enter into a
14 company it's not only the role that you are assigned,
15 because already being a shareholder is already a role.
16 The role which was assigned to him by the group was,
17 indeed, the role of a jurist for the company or lawyer
18 for the company.

19 Q. That was the question I asked. That was his principal
20 role was that he was to be the lawyer for the group;
21 that is correct?

22 A. That is true. That's the role that he played until
23 April 1994 in his capacity as the chairman of the legal
24 committee of the Comite d'initiative.

25 Q. You've testified that you had no role, whatsoever, in
26 the editorial policy of the radio station RTLM. My
27 question is, did Mr. Barayagwiza have any role in the
28 editorial policy of RTLM?

29 A. Not at all. Barayagwiza was not editor-in-chief or the
30 manager or director of the RTLM Radio. Barayagwiza's

1 role -- his activities were limited to those activities
2 within the comite d'initative, namely that Comite
3 d'initative drew up the policy pertaining to programmes,
4 but did not establish the editorial policy for the
5 radio.

6 Q. One of the things that I've been taught as a lawyer is
7 what we call "follow the money". Where did the money
8 come from for RTLM?

9 A. RTLM company was a shareholding company and the money
10 came from the shares which were bought from that
11 company, and the articles of the association of the
12 company were clear on that.

13 Q. Before you could sell shares, you had to get organised.
14 Who was it that financed the organisation prior to the
15 selling of the shares?

16 A. I have testified that the idea and the organisation or
17 implementation of that idea didn't require money. It
18 would have required money if it was necessary to rent
19 meeting rooms. I have testified before this Chamber
20 that our meetings, up until when we -- or when the
21 company rented a building, the meetings took place in
22 the meeting room of Félicien Kabuga's establishment. So
23 I would say that up until about the 8th of April, 1994,
24 I do not see any specific expenditure made. However,
25 yes, I am thinking about expenditures which were
26 incurred and here I also believe that I explained about
27 this. For instance, the trip which I made with
28 Mr. Serugendo in order to investigate the market and the
29 selection of suppliers and equipment, this is what took
30 myself and Mr. Seregendo to France and to Germany and

1 Belgium. That was money from shares which were to be
2 bought and once -- all the expenditure which Mr. Kabuga
3 had made, once we had the authorisation for signing on
4 behalf of the company, once the money was converted to
5 actions -- I mean shares, which were to be sold by the
6 company.

7 MR. FLOYD: Your Honour, I have to believe that that didn't
8 get completely translated, but I need to ask the
9 translator. The translator said that he said before
10 April 8, 1994. I suspect it was 1993, but I want to be
11 sure that that's what he actually said, 1993, not 1994.
12 Now I'm asking the interpreter.

13 THE ACCUSED NAHIMANA: It's possible that I made a slip of the
14 tongue, but I had meant to say 8th April 1993. If I did
15 say April 1994, that was a slip of the tongue. I do
16 apologise.

17 BY MR. FLOYD:

18 Q. Perhaps, Mr. Nahimana, I missed it, but I'm still
19 unclear. You, for example, admit that you and
20 Mr. Seregendo went to Europe -- Germany, I believe it
21 was, to look for equipment. Who actually went and
22 bought the ticket and from what revenue source did that
23 come from?

24 A. Let's be clear. Together, with Mr. Serugendo, we went
25 to Europe on behalf of the RTLM in the month of November
26 1992 and we were looking for information, and this was
27 after the meeting of April, when we had already
28 constituted --

29 MADAM PRESIDENT: Mr. Nahimana, try and avoid repeating your
30 evidence in the answer. The question is merely how was

1 this money obtained to purchase the tickets for the
2 trip, where it came from and who bought the ticket.

3 THE ACCUSED NAHIMANA: Thank you, Madam President, but I
4 believe I answered this question very well and I thought
5 that he was looking for details, and I have testified
6 that the shareholders, those who had accepted to
7 establish the company, they came together and they
8 brought the money. And this is the money that we used
9 in order to buy tickets and to take care of our stay in
10 Europe. This money was converted into shares, which
11 were bought within the company of RTLM. It's not
12 necessary for me to mention the names, but that was the
13 procedure that was followed.

14 BY MR. FLOYD:

15 Q. Do I understand your testimony to be that the twenty
16 members of the committee initiative, each ponied up a
17 specific amount for operating funds to do some of the
18 early work on RTLM limited? Is that what I'm hearing
19 you say?

20 A. Quite so. Understand it that way because even
21 personally I see that the number of shares that you find
22 in RTLM correspond to the amount of money that I spent
23 in view of that trip.

24 Q. At that point, when you went to Germany, did you
25 actually have a legal entity formed? Were you
26 recognised as a legal entity in Rwanda?

27 A. Not yet, because we were still establishing the company.
28 We didn't have any account. The company didn't exist,
29 as such. So we were exploring, we were trying to set up
30 the company and put together the necessary information.

1 Q. I'm not trying to make this more difficult than it needs
2 to be. I'm simply trying to understand how the initial
3 money -- did you then pass the hat and each person --
4 you used cash to buy the ticket; is that what you're
5 saying?

6 A. I have told you and during my testimony I testified
7 before the Chamber that after the meeting of the twenty,
8 that each one of us, each committee did its job and the
9 job done was discussed by the Comite d'initiative and the
10 needs of the company were discussed at that level of the
11 Comite d'initiative. At a given point in time, as for
12 the technical and programming committee, the need arose
13 for undertaking the trip to Europe, for instance. The
14 need was felt for the purchase of paper and at the level
15 of the Comite d'initiative we took steps, basically, by
16 asking those who espoused the idea to advance funds.
17 Specifically we were saying that this money would not be
18 reimbursable, but would be converted into shares. This
19 is how we were able to operate. While the RTLM account
20 had not been opened and while there were no signatories
21 of those accounts.

22 Q. So that we're clear about this: Presuming a ticket cost
23 a thousand dollars, you put a thousand dollars towards a
24 ticket and your expenses and, when shares were
25 distributed, you got the equivalent of a thousand
26 dollars worth of shares; is that correct?

27 A. Yes, quite so.

28 Q. And it was the same with Mr. Seregado, that he financed
29 himself, as well?

30 A. I don't know how much he advanced, but he contributed to

1 the funding as others did. If the ticket cost a
2 thousand dollars, I don't think I'm the one who paid the
3 one thousand dollars, but, nonetheless, the amount was
4 converted into shares. Mr. Seregendo did the same
5 thing, the amount used was converted into shares later
6 on. That's how it happened.

7 Q. When you were forming RTLM, it was formed as a private
8 moneymaking venture; isn't that correct?

9 A. Absolutely, it was a moneymaking venture.

10 Q. Did the committee initiative ever establish any type of
11 policy for advertisement -- paid advertisement on the
12 radio station?

13 A. I don't quite understand what you mean to say. I am not
14 understanding your question properly.

15 Q. Did the committee initiative establish any rules for who
16 could advertise on the radio station?

17 A. Yes, absolutely. If you recall, a document which was
18 discussed here during my testimony, there were types of
19 programmes, the advertising scope over this period was
20 to generate money. But even other programmes, which
21 were suppose to draw the people to the radio, that was
22 also a policy of people in the press, you needed to
23 produce good programmes so that the listeners like your
24 station, so that those who want to advertise on it can
25 come in large numbers. The more they are in number,
26 those who are interested in advertising, obviously the
27 radio station or television station would generate more
28 money. Yes, indeed, the Comite d'initative members did
29 think about that aspect.

30 Q. If someone would have come in with some pornography for

1 your radio station, could they have bought space and
2 time for your radio station?

3 A. I don't know how pornographic images could have gone
4 through airwaves, because we didn't have television at
5 the time.

6 Q. Well, I'm trying to make a point. I mean, I'm sure
7 there are plenty of dirty stories, but I don't want to
8 go into any examples. So if you will just tell me
9 something people would consider pornographic could go
10 out over the radio waves was there a policy toward that,
11 if people had the money to buy the time?

12 A. This would have depended on the assessment of the
13 editor-in-chief, because the radio station developed
14 within a social context -- a social-cultural context as
15 well. If, at the time, the editor-in-chief determined
16 that those kinds of broadcasts, be they dearly paid for
17 but do not respond to the cultural exigencies of the
18 time in Rwanda, I'm sure that the editor-in-chief would
19 have hesitated, if not refused such programmes. A radio
20 station cannot bring money -- and this doesn't apply
21 only to radio stations -- even if you have millions,
22 it's not just anyhow that your idea's going to be
23 accepted, no, it will be accepted if all of what you're
24 proposing falls in line with existing policy. And for
25 radio it's the political -- the cultural policies, the
26 way in which Rwandans perceive themselves and the which
27 they are perceived, and this is the job of the
28 editor-in-chief.

29 MADAM PRESIDENT: Avoid these speculative questions.

30 MR. FLOYD: Your Honour, this was not speculative, this --

1 MADAM PRESIDENT: Well, are you aware of any instance where a
2 pornographic material was produced for advertisement on
3 RTLM?

4 MR. FLOYD: Your Honour, if it please the Court, that really
5 -- my first question was just about did they have a
6 policy. And I didn't get a good answer to that so now I
7 was trying to push him to answer and finally I got an
8 answer: Apparently, there was some kind of
9 editor/director who made a decision. Now I want to get
10 right to where I want to go with my question.

11 BY MR. FLOYD:

12 Q. And my question is, were you aware that Mr. Ngeze and
13 Kangura advertised on Radio Rwanda, that you say was
14 controlled by the MDR party?

15 A. Madam President, Your Honours, I believe Counsel Floyd
16 hasn't understood me. We, at RTLM, we had a policy
17 which is enshrined in the ten points that we sent to the
18 ministry. Now, the implementation of that policy was up
19 to the editor-in-chief. As for Hassan Ngeze, maybe the
20 members of the Chamber and the interpreters have
21 understood. I never claimed that Kangura newspaper was
22 under the control of the MDR? That's what I've just
23 heard from my headphones. No, I never said that.

24 Q. No, you said Radio Rwanda, after you left, was under the
25 control of the MDR and that, in fact, Hassan Ngeze
26 advertised Kangura on what you say was controlled by the
27 MDR. That's the point I was making. Do you understand
28 that?

29 A. With regard to Radio Rwanda, I agree with you. But
30 where are you getting the assertion, according where I

- 1 said that Kangura was under the control of the MDR,
- 2 that's what I don't understand. I don't get that.
- 3 Q. Maybe there's a problem in translation. I'm not saying
- 4 Kangura was under MDR, I'm saying RTLM was under MDR.
- 5 You said Radio Rwanda was under MDR.
- 6 A. Yes, that's what I confirmed a moment ago, but what
- 7 about Kangura which you referred to?
- 8 Q. Well, Kangura, according to you, they advertised on
- 9 Radio Rwanda. And I was asking you, were you aware that
- 10 they advertised on Radio Rwanda?
- 11 A. Before my arrival, while I was there, and afterwards,
- 12 Kangura did have advertising on Radio Rwanda, carried on
- 13 Radio Rwanda, yes. That notwithstanding, this was a
- 14 time when some advertising from some issues of Kangura
- 15 were refused or rejected.
- 16 Q. Are you aware at the same time there were advertisements
- 17 on Radio Rwanda for issues, there also was advertisement
- 18 on RTLM for the same issue?
- 19 A. Yes, quite so. I'm aware of that and even on Radio
- 20 Burundi.
- 21 Q. That's correct, that Kangura also advertised on Radio
- 22 Burundi, that is absolutely correct. The allegation has
- 23 been made that somehow RTLM, who carried paid
- 24 advertisement by Kangura, that that, in and of itself,
- 25 meant that, in and of itself, meant that there was some
- 26 type of close collaboration. And my question is: For
- 27 someone to have advertised on RTLM, did that necessarily
- 28 mean there had to be close collaboration with RTLM?
- 29 A. No, not at all. That's an analysis which is totally
- 30 false, because the person who received the advertising

1 would do so following a given policy already laid out.
2 And once the material for advertising is bought, once
3 payment is made, the material would be broadcast. No,
4 there is no need to make a link of collaboration
5 between, only on the basis of material which came on
6 air, advertising which was carried on the radio. No, we
7 are aware that many people who advertised on RTLM and
8 they were not even shareholders and they weren't even
9 Rwandans for that matter. No, no, there's no need for
10 you to make that kind of connection or analysis. That's
11 quite wrong.

12 Q. The Prosecution has made an issue of Kangura advertising
13 for a game that was broadcast over RTLM. Other than
14 Kangura paying the money, was there anything that you're
15 aware of that meant necessarily that the editor-in-chief
16 of RTLM had to somehow collaborate in order for Kangura
17 to have bought the space to advertise its contest?

18 A. I must say that that question never got to the table on
19 the comite d'initiative and I have to say that that kind
20 of competition existed in RTLM, it existed on Radio
21 Rwanda, and it exists on any radio station or television
22 station in the world. Just look, for instance, just
23 watch for instance TV-5 and you will see the same kind
24 of competition. So, I know about the proposition by the
25 Prosecution, but this was not our point of view. If
26 they are looking for a link of collaboration then they
27 should look elsewhere, but not in this matter. In any
28 event, there was no link between the RTLM and Kangura.
29 And this example they tried to dump on me does not
30 deserve to be treated as a tangible example, no, because

1 such kind of competitions exist everywhere. In any
2 case, even when I worked at ORINFOR and before I knew
3 about this thing, and these kinds of things existed even
4 before I was there.

5 Q. Now, George Ruggiu said that Hassan Ngeze was barred
6 from the inner sanctum of RTLM studios. Were you aware,
7 at the time you were a member of the comite d'initative,
8 that Mr. Ngeze had been barred from the inner sanctum of
9 RTLM?

10 A. Let us say that at the level of the comite d'initative I
11 never heard of such a thing, but the way I know
12 Mr. Phocas Habimana and the way I know noises that can
13 be made by Mr. Ngeze, I can understand and believe that
14 Mr. Phocas could have barred him from the RTLM, but I am
15 not aware of those things. But Mr. Phocas Habimana was
16 a very demanding person, so if Mr. Ngeze would have come
17 once, let's say, to the studio and, in effect, making
18 noise everywhere and Phocas would see him then I
19 wouldn't be surprised if Phocas told him to leave.

20 MR. FLOYD: Your Honour, I'm about to go to another area. It
21 looks like this is a place, or do you want me to take my
22 other area?

23 MR. PRESIDENT: No, we will stop now.

24 MR. FLOYD: Thank you.

25 MS. MONASEBIAN: Madam President, just so we can note to
26 prepare some of our documents, how much longer does
27 Mr. Floyd have, if he could give an estimate?

28 MR. FLOYD: That's rather difficult because this has taken a
29 lot longer than I thought it was going to take, but I'm
30 sure I won't go beyond tomorrow, and I'll try to finish

1 it as soon as I possibly can. If the Chamber could
2 remind Mr. Nahimana just to answer my questions, we
3 could get through this. I would be a lot further on. I
4 need a lot of stuff, just yes or no to it, but I can't
5 control that. I don't know what to say.

6 MADAM PRESIDENT: Mr. Floyd, you estimated two hours.

7 MR. FLOYD: Your Honour, that was before I started testifying
8 into areas that I did not know we were going to get
9 into. Then I started taking notes and I don't even take
10 that many notes. I got six or seven pages of notes
11 about issues that have been raised with Mr. Nahimana.
12 Also, there is something that has occurred to me and I
13 want to be honest about it. Mr. Barayagwiza is not in
14 this trial, won't testify in this trial, and while I
15 frankly feel that we have a clear picture of the
16 relationship or lack thereof between Mr. Ngeze and
17 Mr. Nahimana, it's not so clear that we have made as
18 good a record with Mr. Barayagwiza. And it occurred to
19 me that I thought I had to ask some Barayagwiza
20 questions because Mr. Barayagwiza will never testify to
21 deny that he had a relationship with Mr. Ngeze, so I'm
22 trying to also plumb that field, if you will, while we
23 are here. So that is also something I had not
24 anticipated until I really started listening to the
25 testimony of Mr. Nahimana. But I'll move it as fast as
26 I can. I have no interest in delaying anything.

27 MADAM PRESIDENT: Ms. Ellis.

28 MS. ELLIS: Madam President, we are obviously concerned about
29 the question of timing, simply because if Professor
30 Nahimana doesn't complete his testimony in this session,

1 and we are unable to speak to him about any of these
2 matters relating to witnesses, until we return
3 mid-October, I don't know whether there is any
4 possibility that if we were to sit slightly longer
5 hours, as we have done before, we would be able to
6 complete it by Friday, but that obviously depends on how
7 long the Prosecutor intends to take. But that is a
8 suggestion that we certainly wanted to put before the
9 Trial Chamber at this stage or whether Friday afternoon
10 is any way a possibility as well.

11 MADAM PRESIDENT: It's apparent that none of that will help
12 because there are two counsel for Prosecution who will
13 be conducting cross-examination and we have some
14 indication from Mr. Rapp alone that he would -- well,
15 you first said you were unable to estimate but you may
16 yourself need two to three days; did you say so?

17 MR. RAPP: I indicated that I could use up to two days.
18 Obviously at the end of the first day, I'll have a
19 better idea, knowing how rapidly it is going. Obviously
20 we want to move it along, it's four and a half days of
21 direct. Naturally, you would think that
22 cross-examination would take as long or almost as long.
23 And just in terms of the one thing we do feel strongly
24 about is if we do break, because it's in the midst of
25 cross-examination, I'm sure Ms. Ellis believes in this
26 as well, that it would then be inappropriate for there
27 to be contact between counsel and witness.

28 MADAM PRESIDENT: Mr. Nahimana, in your evidence-in-chief we
29 were very interested in your responses, and even though
30 some of your answers were very long, it's something that

1 we felt you were entitled to have, and that is time to
2 explain your position. But under cross-examination, we
3 would require you just to answer the question and not go
4 into all the explanation of detail. So do you think you
5 could try and do that tomorrow?

6 THE ACCUSED NAHIMANA: Indeed, but if I come across questions
7 such as the questions asked by Mr. Floyd, then,
8 Madam President, you will understand that I cannot do
9 otherwise. You told Mr. Floyd not to ask compound or
10 complex questions. If he asks direct questions, then my
11 answer will be direct, but I'll do everything possible
12 in order to comply with the instructions,
13 Madam President.

14 MADAM PRESIDENT: Thank you. Then we will control Mr. Floyd
15 and you tomorrow. Chamber will resume at 9 a.m.
16 tomorrow.

17 (Court recessed 1708H)

18 (Pages 92 to 105 by R. Lear)

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C E R T I F I C A T E

We, Karen Holm, Karlene Ruddock and Rex Lear, Official Court Reporters for the International Criminal Tribunal for Rwanda, do hereby certify that the foregoing proceedings in the above-entitled causes were taken at the time and place as stated; that it was taken in shorthand (stenotype)

and thereafter transcribed by computer under our supervision and control; 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.

_____(pages 1 to 25 and 78 to 91)
Karen Holm

_____(pages 26 to 44)
Karlene Ruddock

_____(pages 45 to 77 and 92 to 105)
Rex Lear