

1 THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

2

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

AGAINST

6

FERDINAND NAHIMANA
HASSAN NGEZE
7 JEAN BOSCO BARAYAGWIZA

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8

11 DECEMBER 2002

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0905H

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CONTINUED TRIAL

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Before:

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Judge Navanethem Pillay, Presiding

13

Judge Erik M se

Judge Asoka de Zoysa Gunawardana

14

For the Registry:

Ms. Marianne Ben Salimo

Mr. Edward Matemanga

15

16

For the Prosecution:

Mr. Stephen Rapp

Mr. William Egbe

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Ms. Simone Monasebian

Ms. Charity Kagwi

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For the Accused Nahimana:

Mr. Jean-Marie Biju-Duval

Ms. Diana Ellis

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For the Accused Ngeze:

Mr. John Clifford Floyd III

Mr. Ren Martel

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For the Accused Barayagwiza:

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Ms. Diane Hermann

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I N D E X

WITNESS

For the Accused Nahimana:

WITNESS F2

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

2 MADAM PRESIDENT: Court is in session. Mr. Rapp?

3 MR. RAPP: Madam President, Your Honours, just briefly, I did
4 want to make -- take an opportunity this morning to make
5 an introduction of a new member of our team. At my, at
6 my left is Fatou Bensouda, who is a legal advisor with
7 the Office of the Prosecutor in Kigali, has been working
8 there since May. We're in the process of transferring
9 her here to Arusha where she'll be joining our trial
10 team and also be joining the work on new and additional
11 cases. She's a former Attorney General and minister of
12 justice in the government of The Gambia, and we're very
13 happy to have her joining our team.

14 MADAM PRESIDENT: Well, we welcome the addition to your team.
15 I hope that doesn't mean you are leaving, Mr. Rapp.

16 MR. RAPP: It does not mean that. She is a legal advisor.
17 That does not supplant a senior trial attorney. Thank
18 you.

19 MADAM PRESIDENT: Good morning, Witness F2.

20 THE WITNESS: Good morning, Madam President.

21 MADAM PRESIDENT: Well, we'll have more questioning this
22 morning.

23
24 Ms. Kagwi, you were in the midst of your
25 cross-examination.

26 MS. KAGWI: Thank you, Madam President.

27

28 WITNESS F2

29 CROSS-EXAMINATION (continued)

30

1 BY MS. KAGWI:

2 Q. Good morning, Witness.

3 A. Good morning.

4 Q. Yesterday you were not able to venture an opinion on the
5 faculty of arts, but are you able to state that the
6 department of history was one of the smallest in the
7 university?

8 A. The department of history?

9 Q. Yes.

10 A. In relation to the whole university or just in relation
11 to the Ruhengeri campus?

12 Q. In relation to the whole university.

13 A. I don't have enough data to be able to answer that
14 question regarding the staff strength of the other
15 departments. I don't have such data in my mind.

16 Q. How about in relation to the Ruhengeri university, can
17 you answer that?

18 A. (By order of the Court this portion of the evidence
19 [page 2] has been extracted, and filed under seal), but
20 I did not know the staff strength of other departments,
21 particularly the department of English, the LLF and LLA
22 departments, so I'm not in a position to answer that
23 question.

24 MADAM PRESIDENT: A portion of the answer relating to the
25 witness's relation to the department will be placed
26 under seal.

27

28 Witness F2, can I ask you to be more careful in your
29 responses.

30 BY MS. KAGWI:

1 Q. Now, are you able to venture -- are you able to state
2 whether it is true that the department of history had
3 the highest number of Tutsis in the Ruhengeri campus?

4 A. In my batch, I would say that were -- the number was
5 almost equal.

6 Q. Are you saying this was equal to all other departments
7 in Ruhengeri campus? You have statistics on that? As
8 you stated before, you could not venture an opinion.
9 You could venture one on that one.

10 A. I think that when I'm saying that the proportion could
11 have been the same, I'm referring to the lecturers as
12 well as to the students.

13 Q. It is also true that a professor, based on your long
14 association with the Ruhengeri campus, you can state
15 that a professor cannot fail a large number of his
16 students who are doing well in other subjects since it
17 might raise questions with the board. Isn't that true?

18 A. Could you please repeat the question?

19 Q. It's true, isn't it, that a professor cannot fail a
20 large number of his students who are doing well in other
21 subjects because it might raise a number of questions
22 with the board regarding his conduct? That's true,
23 isn't it?

24 MR. BIJU-DUVAL: The question in French is not comprehensible,
25 Madam President.

26 THE WITNESS: Could you kindly reword your question, because I
27 cannot understand your question.

28 BY MS. KAGWI:

29 Q. Okay, try and understand this: If a professor was to
30 fail a large number of his students who are doing well

1 in other subjects, it is likely to raise a number of
2 questions with the board in a campus? That's the
3 position, isn't it?

4 A. That did not happen, and that did not happen because if
5 a lecturer failed a big number of students, then -- and,
6 rather, if those students considered that they did not
7 deserve the marks they have been given, there was a
8 committee of recourse which was made up -- which was
9 formed by the faculty dean, and to my knowledge, there
10 was no formation of a recourse committee in order to
11 deal with such an issue.

12 Q. And if students were doing well in other subjects and
13 they were to fail in one particular subject, it might
14 raise questions concerning that particular professor.
15 That's true, isn't it?

16 A. It was up to the committee, the deliberation committee
17 to rule on such cases.

18 Q. Now, based on the -- on your long association with the
19 university and on the evidence that you gave in direct
20 examination, it's true, isn't it, that the Tutsi
21 students were doing well, not just in Nahimana's class
22 but in all other classes?

23 A. Marks were given according to the competence of each
24 student. When lecturers prepared examinations and
25 students -- a student passed the exam, then he or she
26 would be given the appropriate marks. So to my
27 knowledge, be it in my department or any other
28 department, I never heard of any case where a student
29 was a victim based on ethnic or regional consideration.

30 Q. Now, I'm asking you a specific question regarding the

- 1 Tutsi students that you showed, that you showed the
2 Court their records in -- that you, that you brought
3 their records to court. Now, these particular students
4 were doing well in other subjects, not just in
5 Nahimana's subjects. That's the position, isn't it?
- 6 A. They had good marks, and they had good marks because
7 they were competent students.
- 8 Q. Okay. Now, based on your long association with the
9 university, do you know how many Tutsi assistant
10 lecturers were employed during the time you were there?
- 11 A. For my department, yes, but with regard to other
12 departments, no.
- 13 Q. In your department, how many were?
- 14 A. Newly hired staff members?
- 15 Q. Assistant lecturers.
- 16 A. There were three of us.
- 17 Q. I'm asking Tutsi assistant lecturers.
- 18 A. There were none.
- 19 Q. So in a class where the majority of the students were
20 Tutsi, there were none that were chosen to be assistant
21 lecturers at the same time that you had your association
22 with the university; that's the position?
- 23 A. What I'm saying, and this is something I also said
24 yesterday, is hiring followed a number of criteria which
25 I set out yesterday.
- 26 Q. So none of the Tutsis met that criteria; is that your
27 position?
- 28 A. That's something I don't know.
- 29 Q. You would agree with me that ethnicism or racism is a
30 very subtle -- could have very subtle undertones; isn't

1 that correct?

2 A. I cannot answer that question because I do not see in
3 what case ethnicism was applied.

4 Q. My question to you is that ethnicism and racism could
5 have very subtle undertones, true or false?

6 MADAM PRESIDENT: He said he can't answer that question.

7 BY MS. KAGWI:

8 Q. Now, as a Hutu and as a person from the region that you
9 have stated in this court, it is true that you would not
10 be able to feel any subtle undertones of ethnicism or
11 regionalism? Isn't that the case?

12 MR. BIJU-DUVAL: Madam President, once again, in French the
13 question is totally incomprehensible.

14 MS. KAGWI: Your Honour, I believe the question -- the witness
15 can answer for himself or state that he did not
16 comprehend. We do not need Mr. --

17 MADAM PRESIDENT: It's a problem with interpretation of your
18 question, so ask your question again.

19 MS. KAGWI: Okay.

20 BY MS. KAGWI:

21 Q. Now, Witness, as a Hutu and as a person from your
22 particular region, it is true, isn't it, that you would
23 not be able to feel any subtle undertones of ethnicism
24 and regionalism, either at the university or at ORINFOR?

25 A. I cannot answer that question because whether it was at
26 the university or at ORINFOR, there were no
27 considerations, or rather, I did not notice any such
28 consideration based on ethnicism or on regionalism. And
29 in order to illustrate my answer, I would like to refer
30 you to what I said yesterday, particularly with regard

1 to the composition of the administrative staff at
2 ORINFOR or at the university.

3 Q. Now, you are the same witness who comes to the court and
4 gives us names of Tutsis in your class, even the ones
5 with a Tutsi mother; you are the same person who comes
6 to court and gives us names of people who are Tutsi who
7 are either, as you state, promoted by Nahimana or not;
8 and yet you're the same person who comes and says that
9 there was no consideration of ethnicism or regionalism.
10 How can that be correct?

11 A. Saying that someone is a Hutu, Tutsi or Twa does not
12 constitute ethnicism, as far as I'm concerned.
13 Yesterday I said that the reason why we could know each
14 other is that we lived together for quite some time, we
15 made friends, and we knew each other.

16
17 So in my opinion, when I say that such and such person
18 is a Hutu, a Tutsi or a Twa, I don't see any ethnicism
19 in such a statement.

20 Q. And this is despite the fact that only -- that none of
21 the Tutsis were hired to be assistant lecturers?

22 MS. ELLIS: Madam President, again, does the Prosecutor have
23 evidence that Tutsi who have been referred to from the
24 documents made applications and were refused? Because
25 if not, it's a question which shouldn't be repeatedly
26 put as if there is evidence. We haven't seen anything.

27 MS. KAGWI: Your Honour, again, I would ask the Court to
28 caution Counsel Ellis for giving the witness answers.
29 It is quite clear, if she would know, that people were
30 not making applications. And as the witness said, they

1 were recommended to take these particular positions.

2 MS. ELLIS: Madam President, that does not reflect what the
3 witness said.

4 MADAM PRESIDENT: Witness F2, the Prosecution wishes to know
5 whether the fact that there were no Tutsi assistant
6 lecturers hired is not, in fact, an act of
7 discrimination on ethnic grounds.

8 THE WITNESS: Thank you, Madam President. I think that in
9 that regard, I answered a question yesterday saying that
10 in order to join the university, there were hiring
11 criteria, and I said that -- I explained how in my case
12 those criteria were applied.

13

14 Another thing that maybe should be considered here is to
15 show whether there were applications at the department
16 made by Tutsis and which were turned down, and I think
17 this is where the problem lies.

18 MADAM PRESIDENT: What were the hiring criteria, just in
19 relation to ethnicism and regionalism?

20 THE WITNESS: That was not applicable, and here I'm referring
21 to ethnicism and regionalism. What was relevant, as I
22 said yesterday, was how the student performed at the
23 university. That is the first criterion. The second
24 criterion was the marks obtained by a specific student,
25 and the third criterion was particularly the marks which
26 were given to research work, because it is conceded that
27 an assistant was hired at the university was also hired
28 in the field of research. So these criteria actually
29 had a lot of weight when considering hiring someone.

30 MADAM PRESIDENT: Ms. Kagwi.

1

2 BY MS. KAGWI:

3 Q. Witness, did you make an application or were you
4 recommended?

5 MS. KAGWI: Your Honour, I withdraw that question. I withdraw
6 that question for obvious reasons, and I will come back
7 to it later. I'll come back to it in a different way
8 later.

9 BY MS. KAGWI:

10 Q. Now, based on your long association with the university,
11 you would state that -- you would be able to state that
12 in writing a thesis, the student made the choice of what
13 they wanted to write on, and then the student may
14 approach the lecturer who had expertise in that
15 particular area, and that lecturer would not refuse
16 unless he was overburdened. That was the position,
17 isn't it?

18 A. Yes.

19 Q. So yesterday in closed session you gave us, you gave us
20 a student who was supervised by Nahimana. Let's not
21 mention the name of the student, but it is true that
22 this student chose a topic that fell under Nahimana's --
23 that fell under Nahimana's expertise, and he was the
24 only person who could have supervised her; isn't that
25 true?

26 A. Which student failed (sic)?

27 Q. Please don't mention the name of the student because
28 this was said under closed session, but a student who
29 was supervised and given very high marks by Nahimana.
30 Now, this student selected an area that fell under the

1 expertise of Nahimana; isn't that true?

2 A. I do not understand the question.

3 MS. KAGWI: Please give the witness ID86 -- 1D86, I'm sorry --

4 186, 1D186.

5 BY MS. KAGWI:

6 Q. You see the name of that particular student?

7 A. Yes.

8 Q. It's true --

9 A. Yes.

10 Q. It's true that she gave -- she chose an area that fell
11 under the expertise of Nahimana, that's true, isn't it,
12 to write her dissertation?

13 A. This student worked on the social/political evolution.
14 She worked on a monography related to an historic
15 region, and he or she -- she selected a lecturer from
16 the university of -- from the department of history in
17 order to supervise her dissertation, but she did not
18 choose Nahimana in order for him to supervise her work.

19 Q. But her work fell right under the expertise of Nahimana;
20 isn't that true?

21 A. To my knowledge, Ferdinand Nahimana specialised in
22 lineage and family field, that is the first thing.
23 Those were his specialities. The second thing is that I
24 was with that student, and that student, as I said
25 yesterday -- as I said yesterday, Ferdinand Nahimana
26 already had to supervise three dissertations.

27 Q. Now, it was not common for a supervisor to refuse a
28 student, to turn a student down, when he'd been assigned
29 a student to supervise. That's the case, isn't it?

30 A. To refuse a request, this is something, this is

1 something I never experienced. And I don't know whether
2 that student actually went to Nahimana in order to
3 request him to supervise her work and that Ferdinand
4 Nahimana refused to supervise her work.

5 Q. I'm not stating he refused. That's not what I was
6 stating. So, now, it's true, isn't it, that -- there's
7 no question. I have not put any question to you yet,
8 okay?

9
10 It's true, isn't it, that the situation in Ruhengeri
11 campus changed after the 1990 attack, RPF attack, and
12 with the advent of, with the advent of multipartyism in
13 Rwanda, isn't it?

14 A. During the RPF attack in 1990, I was not at the campus,
15 so I cannot answer that question.

16 Q. But you were present in the university between the years
17 of -- from -- maybe not in 1990, but after 1990 to 1994.
18 Now, the situation in the campus was different, wasn't
19 it, with regard to regionalism and ethnicism after the
20 attack and with the advent of multipartyism? Isn't that
21 true?

22 A. Maybe I have to once again make clear something. I
23 returned to the university about ...--

24 Q. Witness, please do not give dates. Remember that we are
25 very careful about your identity, so be careful. We
26 know that you were there after 1990, so try and not give
27 dates and keep your identity covered, okay? Now, go on.

28 A. When I returned to the university, indeed there was a
29 change in respect of the board, of -- in respect of the
30 lecturers, students, because of the war and because of

1 multipartyism.

2 Q. So the situation was that some lecturers had joined
3 other parties and others had not. Some were quite
4 vocal. Some were quite vocal members of other parties;
5 isn't that true?

6 A. Yes, some professors were in political parties; however,
7 what is to be emphasised here is that to my knowledge,
8 the fact of belonging to a political party did not
9 influence, for instance, the -- it did not influence the
10 students.

11 Q. But it did influence some of the lecturers. The advent
12 of multipartyism and the RPF attack did influence what
13 happened to some lecturers, isn't that true, with regard
14 to even the way they were dealt with by the regime?

15 A. With regard to the conduct related to private life, in
16 inverted commas, when a professor was to give his
17 lectures, assess his students, he did not take into
18 consideration the political affiliation to a party or,
19 you know, coming from a specific region.

20 Q. Witness, my question was that the way in which the
21 professors were treated by the regime changed with the
22 advent of multipartyism and after the RPF attack.

23 Now --

24 MS. ELLIS: Madam President.

25 MS. KAGWI: I have not finished my question. Could I be
26 allowed to finish my question, then she can object.

27 BY MS. KAGWI:

28 Q. Now, it is true, isn't it, that one professor was
29 arrested after the 1990 attack as an accomplice of the
30 Inkotanyi? Wasn't that true?

1 MS. ELLIS: Madam President, can I now make the comment I wish
2 to make, which is that the Prosecutor repeatedly links
3 two entirely separate events, and it might make --

4 MADAM PRESIDENT: Don't provide answers.

5 MS. ELLIS: I'm not providing answers, I am simply pointing
6 out that there are two separate --

7 MS. KAGWI: Your Honour, this is not a correct thing to do. I
8 am allowed -- I should be leading my -- going through my
9 cross-examination, and it is not for counsel to be
10 telling me how to do it and what to do.

11 MS. ELLIS: Madam President --

12 MADAM PRESIDENT: Complete what you were saying, Ms. Ellis.

13 MS. ELLIS: -- I'm perfectly entitled to object to a question
14 which is in a form which makes it difficult to be
15 answered. If Ms. Kagwi were to separate it and firstly
16 ask about the attack and if that had an effect and if
17 the witness can comment, and then multipartyism, it
18 might be easier to proceed than the way she's proceeding
19 at the moment. That's all I'm saying. It's the more
20 correct way. It's compound and therefore difficult to
21 answer.

22 MADAM PRESIDENT: The question is allowed as framed. And now
23 I suppose we'll have to have the whole question repeated
24 because it was being interpreted in French when we had
25 this intervention.

26

27 This is cross-examination, Ms. Ellis, and we are going
28 to allow Ms. Kagwi to phrase her questions, and it's for
29 the witness to tell us whether he can answer it and
30 whether it's not clear to him.

1

2 Okay, Witness F2, would you like the question again?

3 THE WITNESS: Yes, please.

4 MADAM PRESIDENT: Well, the Prosecutor's question relates to
5 the government's reaction to lecturers after the advent
6 of multipartyism, and that there was one professor who
7 was singled out in some way.

8

9 Does that complete your question, Ms. Kagwi?

10 MS. KAGWI: Yes. Yes, it does.

11 BY MS. KAGWI:

12 Q. Witness, is it clear to you?

13 A. The question is clear. First, I have to say that when
14 the RPF attacked the country I was not on the campus,
15 but what I heard is that indeed -- and this is something
16 I heard people say -- I heard that there was a lecturer
17 who was arrested and that lecturer was arrested within
18 the context of the search for RPF accomplices, and the
19 RPF had attacked Rwanda on the 1st of October, 1990.

20 Q. Now, you are aware also, based on your knowledge of
21 Nahimana, that he belonged to a football team and was
22 actually the president of the football team when he was
23 in Ruhengeri. You're aware of that, isn't it?

24 A. I did not say that, and that is something I am not aware
25 of.

26 Q. So despite your knowledge of Nahimana, you did not know
27 that he belonged -- he was the president of a -- one of
28 perhaps the largest football teams in Ruhengeri when he
29 was on the campus?

30 A. I don't know about that.

1 Q. Did you know of his association with Zigiranyirazo, the
2 brother-in-law of the president, who was the pr fet of
3 Ruhengeri at the time?

4 A. That is something that I do not know.

5 Q. Did you know that Nahimana was in charge of the
6 commission that moved the faculty of arts from Butare to
7 Ruhengeri?

8 A. That is something I heard about.

9 Q. Did you also know that for this move to be accomplished,
10 he had to work closely with Zigiranyirazo, the
11 brother-in-law of the president, who was also the pr fet
12 of Ruhengeri?

13 A. That is something that I do not know.

14 Q. It is true, isn't it, that Nahimana has had close
15 friends during the time he was in Ruhengeri before he
16 was appointed as director of ORINFOR, he had close
17 friends in the regime of Habyarimana? Would you know
18 that or not?

19 A. That is something that I do not know because friendly
20 relationships are personal relationships.

21 Q. Are you or have you ever been a personal friend of
22 Ferdinand Nahimana, a close friend, apart from a
23 co-worker and -- apart from a co-worker?

24 A. (No translation).

25 Q. At any time.

26 A. (By order of the Court this portion of the evidence
27 [page 15] has been extracted, and filed under seal).

28 Q. When did you last speak to his wife, the wife of your
29 close friend? Have you been in contact with her?

30 A. Around mid-November, mid-November.

1 MR. BIJU-DUVAL: Madam President, I would like what the
2 witness has said about the relationship between him and
3 the Nahimana family to be placed under seal.

4 MADAM PRESIDENT: Why?

5 MR. BIJU-DUVAL: Madam President, he just said that one of the
6 children was a godchild to Nahimana. That is a specific
7 relationship. And in fact, he also provided the date of
8 the event.

9 MS. KAGWI: Your Honour, I believe he did not provide the
10 date, but we have no objection to having that part put
11 in under seal.

12 MADAM PRESIDENT: He did provide the date. The reference to
13 godparent is placed under seal.

14 BY MS. KAGWI:

15 Q. So in what context was your last conversation with --
16 did you discuss this case with the wife of your good
17 friend when you last talked to her?

18 A. I think on that occasion I asked her if she had any news
19 about Ferdinand, and she said that everything was okay.

20 Q. Okay. Now, so do you still state that as his close
21 friend, you did not know that he was closely linked to
22 Habyarimana; I mean, he was a close supporter of
23 Habyarimana and an admirer of Habyarimana, and he was
24 closely linked to important figures in the Habyarimana
25 regime?

26 A. How would I know that if he did not tell me that?

27 Q. As a close friend, you would not know?

28 A. I did not know it because he did not tell me.

29 Q. Okay. Now, you stated that Nahimana was a contributor
30 to the work of the group of -- called LATO, Laboratory

1 of Oral Tradition. When was that group -- when was this
2 group formed; do you know?

3 A. I am not sure of the date, but that organisation was set
4 up in the early '80s, but I cannot give you the exact
5 date.

6 Q. And it was led by different professors over the years;
7 isn't that the case?

8 A. Correct.

9 Q. And it was a professional association, and all the
10 professors who were involved in any form with oral
11 tradition contributed to the work of this organisation,
12 is that -- isn't that true?

13 A. Yes.

14 JUDGE GUNAWARDANA: Witness, what do you understand by the
15 term oral tradition?

16 THE WITNESS: Oral tradition was a source to write the history
17 of Rwanda. So the university professors went to the
18 hills, asked the old people about a situation which
19 existed at the time, asked them about what they saw and
20 witnessed. That was recorded, and after the recording
21 there was a transcription. And since for the most part
22 the interviews were held in Kinyarwanda, they were
23 translated into French, and the historians or
24 researchers, analysts, could therefore get data from
25 that laboratory to enable them to do their research.

26 JUDGE GUNAWARDANA: Was that research conducted on a set plan
27 or a certain -- just certain subjects like the ethnic,
28 ethnic -- the history of the ethnic communities, or was
29 it from the language of the persons, or was it done on
30 the culture of the persons?

1 THE WITNESS: No. For example, a specific subject would be
2 taken, and let us take an example. In the history of
3 Rwanda, for example, it is said that the king,
4 Rwabugiri, is a king who reigned at the end of the
5 18th -- 19th century, and he had a residence in Kageyo.
6 This is a piece of information which has been written
7 down. From that information, therefore, it was possible
8 to go to the field, bring together old people who were
9 living at the time, and these old people could be from
10 different ethnic groups or different regions, and they
11 were asked what they knew about the event, about the
12 residence of Rwabugiri in the region.

13 JUDGE GUNAWARDANA: So does that mean that there was no
14 recorded history prior to this being undertaken? I
15 mean, there was no recorded historical document, that's
16 what it means? People went into the field and collected
17 the information.

18 THE WITNESS: No, they were written documents. For example, I
19 just gave the example of the King Rwabugiri who had a
20 residence in Kageyo. That event can't (sic) be found in
21 written documents. But then, any researcher worth his
22 salt does not get this information from only one source.
23 Now, if you find in the written work that the king had a
24 residence in Kageyo, we find that in documents that were
25 written about the war. But for more information, for a
26 reason of comparison of sources, because he cannot rely
27 on one source to write the history, you need several
28 sources.

29 JUDGE GUNAWARDANA: Those are written according -- they go
30 back to what century? The 19th century, 18th century,

1 or the furthest that the written records are available?

2 THE WITNESS: Records as written documents started in the 20th
3 century with the arrival of missionaries, because before
4 then it was oral.

5 JUDGE GUNAWARDANA: Did that recorded history reflect the
6 division of two ethnic groups known as Hutu and Tutsi?

7 THE WITNESS: Could you please repeat the question?

8 JUDGE GUNAWARDANA: Did the recorded history reflect the fact
9 there was a division of two ethnic groups called Hutu
10 and Tutsi?

11 THE WITNESS: Yes, the history recognised those groups.

12 JUDGE GUNAWARDANA: Did they go back to the original of that
13 division?

14 THE WITNESS: That was the objective, in fact, of the
15 laboratory, to go as far back in history as possible.
16 But as you know, since it's an oral source, memory is
17 lost and things happen that are not recorded, so much so
18 that it was difficult to get to the origin of those
19 ethnic groups.

20 JUDGE GUNAWARDANA: So, so far as the known is concerned,
21 there was a division of Tutsi and Hutu, the two groups?

22 THE WITNESS: These divisions are mentioned in recitations or
23 reciters or narratives that exist. And when the
24 laboratory was set up around the '80s -- but the
25 divisions are found in the narratives that were
26 collected by Andr Coupez Kamanzi. The book is entitled
27 Recits populaires du Rwanda, which is the historical
28 narratives of Rwanda. And if you take the situation
29 before the arrival of Europeans, that is what existed.

30 JUDGE GUNAWARDANA: (Previous translation continued) ...oral

1 tradition applied only to the historical facts or to
2 other happenings as well?

3 THE WITNESS: The historical narratives dealt with events and
4 the daily lives or what happened in the daily lives of
5 the people.

6 JUDGE GUNAWARDANA: What do you say the status of oral
7 tradition in present society of Rwanda?

8 THE WITNESS: The role of oral tradition, to be able to
9 explain that role, the area has to be defined, and the
10 area I am familiar with is the scientific field, and
11 that is history. And the situation is that the oral
12 tradition makes it possible to situate or analyse an
13 historical fact in a specific context in the past where
14 the informant can get to.

15
16 And here it should be noted -- in fact, I did say so
17 earlier -- this tradition, the oral tradition, is not an
18 exclusive source. It is one of the sources, and to be
19 used to the best -- in the best way possible, it has to
20 be compared with other sources.

21 JUDGE GUNAWARDANA: What I want to know is, what is the status
22 of oral tradition in the present society of Rwanda as it
23 is relevant now? It is still prevalent or it is dying
24 down or it is totally different?

25 THE WITNESS: In the field of history?

26 JUDGE GUNAWARDANA: Generally. You said it applies to all
27 matters, not only historical fact but their daily lives
28 as well. What is the status of oral tradition in the
29 present-day society of Rwanda?

30 THE WITNESS: As concerns the present status, I should first

1 of all say that I have been away from the country for
2 eight years, which means that I cannot know.

3 JUDGE GUNAWARDANA: You were in the country during 1994.

4 Before 1994, what was the status of oral tradition in
5 Rwandan society?

6 THE WITNESS: During that period, oral tradition played a
7 major role, especially in the field of historical
8 research.

9 JUDGE GUNAWARDANA: Were there any intrusions into the
10 historical tradition by any of these modern developments
11 in communication?

12 THE WITNESS: As intrusion, we could talk about the radio, for
13 example.

14 JUDGE GUNAWARDANA: So the radio definitely affected the
15 effectiveness of oral tradition in Rwandan society as at
16 1994?

17 THE WITNESS: Let us say that the radio had an important role,
18 all the more so because if you look at the Rwandan
19 population, the majority of the people are illiterate,
20 so they listen.

21 JUDGE GUNAWARDANA: So is it a distinct advantage of
22 manipulating public opinion more than any other sources
23 of media?

24 THE WITNESS: For example, the speeches of politicians.

25 JUDGE GUNAWARDANA: (Previous translation continues) ...

26 THE WITNESS: It could also be done during rallies.

27 JUDGE GUNAWARDANA: Yeah, but that would be a limited number
28 of persons attending a rally. Didn't the radio have a
29 bigger audience? Do you deny the fact?

30 THE WITNESS: It all depends on how the rallies are spaced out

1 and how big the party is in an area.

2 JUDGE GUNAWARDANA: So are you saying that the radio had a
3 lesser audience than a rally for the purpose of
4 disseminating ideas?

5 THE WITNESS: No, I'm not saying that the radio replaced
6 rallies because there were --

7 JUDGE GUNAWARDANA: (Previous translation continues) ...
8 replacing. I'm talking on the spectrum of the audience.
9 A rally may be attended by 2,000 persons or 5,000
10 persons, but the radio had a quite wider audience; isn't
11 that so?

12 THE WITNESS: That is true.

13 JUDGE GUNAWARDANA: Thank you.

14 BY MS. KAGWI:

15 Q. Now, Witness, you are aware of a criticism written by
16 Christophe Mfizi of the regime of a time before he was
17 removed from his position as director of ORINFOR, aren't
18 you? Allow me to refresh your memory. It's called
19 R seau Z ro.

20

21 Okay. I withdraw R seau Z ro, just that he did write a
22 criticism of the regime before he was removed from his
23 position as director of ORINFOR. You're aware of that?

24 A. That I got to learn, and I even got to know the title of
25 the document you just referred to.

26 Q. And it's true that one of the persons who was seriously
27 criticised by Christophe Mfizi was Zigiranyirazo, the
28 president's brother-in-law. That's correct, isn't it?

29 A. That I am unaware of.

30 Q. Now, it's true, isn't it, that during Habyarimana's time

1 it was possible for people to be nominated to positions
2 without the required professional background, isn't it?

3 A. That I am aware of.

4 Q. And I'm sure you are also aware of the fact that
5 Nahimana had no prior experience with journalism, no
6 expertise with mass communication, and that quite a
7 number of people, both at the university and all over
8 Rwanda, were quite surprised when he was appointed
9 director of ORINFOR. It's true, isn't it?

10 A. That I do not know. What I can say is that the person
11 who appointed him as director of ORINFOR had his own
12 criteria.

13 Q. Now, could -- you also worked with Jean Marie Higiroy.
14 Now, he had the criteria that he had a PhD in
15 communications, an MS in radio and television from
16 Syracuse university, an MA and a BA in history, and he
17 had worked with ORINFOR since 1977, had also worked as a
18 media consultant with NGOs from 1989. Wasn't this the
19 most qualified -- wouldn't you say that this was the
20 most qualified person to take over a position of
21 director of ORINFOR in Rwanda at the time?

22 MS. ELLIS: Madam President, I object to the question being
23 put like that. How can this witness --

24 MADAM PRESIDENT: Let me just stop you and allow the
25 translation to go through. You have -- you packed many
26 things into your questions, and that's a problem.

27 MS. KAGWI: Okay, I can break it down.

28 MS. ELLIS: Madam President, before it's broken down,
29 surely --

30 MS. KAGWI: Your Honour, may I ask the question first, and

1 then counsel can object if she finds this objectionable
2 afterwards?

3 MS. ELLIS: No, Madam President. Once again --

4 MADAM PRESIDENT: Yes, go ahead, Ms. Ellis.

5 MS. ELLIS: -- I ask not to be interrupted.

6

7 This witness needs to first be asked if he has any basis
8 on which he can answer questions as to the way in which
9 people were recruited to be directors in ORINFOR. It's
10 ridiculous to put to a witness that somebody is very
11 well qualified so they could have been appointed.

12 MS. KAGWI: Your Honour, I think it's quite ridiculous of
13 counsel to be making such suggestions at this point.
14 Clearly, I have, I have established with the witness
15 that people without qualifications were being put in
16 positions in Rwanda at the time. This is a follow-up
17 question, perfectly legitimate.

18 MADAM PRESIDENT: We will allow the question since you've laid
19 some basis, and he has answered that he is aware of
20 appointments made by President Habyarimana. Now, break
21 up your question, Ms. Kagwi.

22 BY MS. KAGWI:

23 Q. So, Witness, at one point or another, you did work with
24 Jean-Marie Higiuro, right? And please don't give dates
25 because we want to be very careful about your identity.

26 A. Not within the same service.

27 Q. But within the same organisation, right?

28 A. Yes.

29 Q. You are aware of the fact that he had a PhD in
30 communications, aren't you?

1 MS. ELLIS: Madam President, that is not a way to put a
2 question, "you are aware". Ms. Kagwi doesn't know what
3 this witness knows. The proper way to ask it is, what
4 qualifications did he have, not tell him what he knows.

5 MS. KAGWI: Your Honour, this is cross-examination.

6 MADAM PRESIDENT: Answer the question, Witness.

7

8 And we will keep control of the questions. We don't
9 need your assistance here, Ms. Ellis.

10 MS. ELLIS: Well, Madam President, for Ms. Kagwi to say this
11 is cross-examination doesn't excuse any format for any
12 question. She should --

13 MADAM PRESIDENT: We are allowing the question. We don't wish
14 to hear you further on this matter.

15

16 Are you aware or not whether this man had a PhD in
17 communications?

18 THE WITNESS: I did not know that.

19 BY MS. KAGWI:

20 Q. Wasn't it public knowledge of this man's qualifications
21 in the field of communication, the man who later on
22 became director of ORINFOR? It was public knowledge,
23 wasn't it? You did not acquaint yourself with it?

24 A. I was never aware of his qualifications. What I know
25 about this gentleman was that he was working and he was
26 responsible for the planning service, that's it.

27 Q. You do know that he had a long -- he had worked for a
28 long time, long before you got there, with ORINFOR.
29 That you know, don't you?

30 A. That I got to know.

1 Q. And it was also public knowledge that he had left
2 several times to study in the field of communications,
3 gone abroad. It was public knowledge in Rwanda that --
4 people know what happened, so it was public knowledge,
5 wasn't it?

6 A. Now, when you say it is public knowledge that everybody
7 knew, the fact that I'm saying that I did not know shows
8 that it wasn't everybody who knew.

9 Q. So you knew about people who were hired and fired, but
10 you did not know about people's qualifications. So you
11 had selective knowledge of things that happened at
12 ORINFOR; isn't that true?

13 A. Who was recruited, who was fired from the service where
14 I was working.

15 Q. You also talked about people who were recruited in the
16 CRIs, so you did know information about the people who
17 were not in your service. That's true, isn't it?

18 A. I believe that yesterday I explained what the Regional
19 Information Centre was, that it worked with both the
20 radio and the print media.

21 Q. I was not asking for an explanation, but I'm going to
22 move on.

23

24 Now, you do know that Nahimana did not have a PhD in
25 communications. That you know.

26 A. Yes, I know that he did not have a PhD.

27 Q. In communications. In fact, he had no experience with
28 mass communication?

29 A. But I think that the fact that one does not have a
30 doctorate degree in communications does not mean that

1 one doesn't know anything in that area.

2 Q. Now, it's true, isn't it, that when Nahimana was
3 appointed director, the government had already decided
4 to liberalise the audio-visual section before he
5 arrived? Isn't that true?

6 A. That I cannot say.

7 Q. You cannot say even with your knowledge of ORINFOR and
8 its workings at the time?

9 A. I said where I was working, and I do not have many
10 details about the audio-visual sector, so I would not
11 like to dare into an area where I would be expressing my
12 doubt.

13 Q. But you would know, then, that when Nahimana was
14 appointed as director, the opposition parties had
15 already demanded access to the state-controlled radio.
16 You would know that, wouldn't you?

17 A. That I am unaware of.

18 Q. Now, you did state that during Nahimana's time, a few
19 minutes were given to opposition parties, but it is true
20 that opposition parties had very little air time, and
21 the radio still spent most of its time praising
22 President Habyarimana. That's correct, isn't it?

23 A. Point of clarification: I said that the fact that 12
24 minutes were given to the legalised political parties in
25 Rwanda was a decision that the director of ORINFOR made
26 after a meeting with the leaders of those political
27 parties in August 1991. So that was a decision made by
28 the director and leaders of political parties, so it was
29 not a decision that was only taken by the director of
30 ORINFOR. I believe I made that clear yesterday.

1 Q. And it's true, isn't it, that these political parties
2 put a lot of pressure on the ministry of information and
3 the director of ORINFOR to have access to the
4 state-controlled media? They had to put a lot of
5 pressure on them, isn't it?

6 A. That I am unaware of.

7 Q. But you are still aware that -- you are aware, though,
8 that the radio still spent most of its time praising
9 President Habyarimana during the time that Nahimana was
10 director of ORINFOR?

11 A. I think what I noticed -- let me say what I noticed
12 personally. These praises for Habyarimana, President
13 Habyarimana, rather changed. That is what I noticed.

14 Q. Changed in what manner?

15 A. In the way in which the programmes were conceived.

16 Q. But it is true that the radio still spent most of its
17 time praising President Habyarimana?

18 A. Yeah. At the time of the single-party system, I think
19 that those praises or the fact that there was an
20 editorial when the news had to come on air was normal.
21 I did not see anything wrong with that.

22 Q. Okay. Now, you do know, because you worked with a
23 parastatal at some point or another, you do know that
24 according to the law of Rwanda, the law creating
25 parastatals, the director assumes responsibility for the
26 daily operations of the company. That's true, isn't it?

27 MS. ELLIS: Madam President --

28 BY MS. KAGWI:

29 Q. Please answer the question, Witness. The director
30 takes -- assumes responsibility for the daily operations

1 of the company according to the law creating parastatals
2 in Rwanda?

3 MS. ELLIS: Madam President, this is a legal matter. This
4 witness is not a lawyer, and he therefore cannot be put
5 in a position to answer a question. It has no
6 relevance, whatever he says. He has no expertise to
7 answer a question like that. Directorships are matters
8 of company law.

9 MADAM PRESIDENT: Objection is overruled. Answer the
10 question, Witness.

11 BY MS. KAGWI:

12 Q. You have the question, Witness. According to what
13 happens in Rwanda, you familiarised yourself with the
14 law that worked with the parastatals, I'm sure.

15 A. Yes, yes. The director was responsible for the
16 management of the institution, but here when we talk
17 about the director, he was not alone. He was with his
18 service heads.

19 Q. Now, you would agree with me, based on your knowledge of
20 Rwanda and your knowledge of journalism, that it is
21 completely irresponsible and criminal to air unverified
22 information on a national radio station that is likely
23 to cause ethnic tension; isn't that true?

24 A. I think that any unverified information should not be
25 put on the air.

26 Q. Now, we'll get back to that. Now, you stated that
27 Emmanuel Nsabimana was, was appointed by Nahimana to
28 become head of the CRI in Gikongoro. Are you aware that
29 also during that time, he was recalled to become a
30 simple journalist and did not keep the post?

- 1 A. That I did not know.
- 2 Q. You also stated that Fraterne Kabanza was promoted to be
3 head of the CRI in Kibuye. You said that his mother was
4 a Tutsi, but isn't it true that according to Rwandan
5 ethnic -- the way in which ethnicism is viewed in
6 Rwanda, if your father is a Hutu, you are viewed as a
7 Hutu? Isn't that the case?
- 8 A. That I am aware of, and that is all the more so -- but
9 that is all the more reason why I make that clear.
- 10 Q. So it's true that everybody would view Fraterne Kabanza
11 as a Hutu and would not be as promoting a Tutsi?
- 12 A. Yes, of course.
- 13 Q. Now, do you know the name of Fraterne Kabanza's mother?
14 No?
- 15 A. No, no.
- 16 Q. Do you know that she was the daughter of Rwamakuba,
17 former member of parliament and regional leader of MDR
18 under Kayibanda's regime?
- 19 A. That I did not know.
- 20 Q. Well, do you know that his mother was actually a Hutu
21 from the south and not a Tutsi?
- 22 A. What -- in fact, I might perhaps repeat what I said. I
23 said that the fact that one worked with a colleague made
24 us friends and we got to know each other gradually. We
25 did live together with Fraterne, and it is he who told
26 us that.
- 27 Q. Okay. Now, let's go back to you stating that unverified
28 information should not be aired. You are aware that
29 Nahimana left ORINFOR under a cloud of having allowed --
30 having allowed unverified information to be aired on

1 Radio Rwanda that was said to have caused the Bugesera
2 massacres. You are aware of that, aren't you?

3 A. I heard that as a rumour.

4 Q. You did not hear it from all the NGOs that were
5 militating against what Nahimana had done in Kigali and
6 from international NGO, both national and international
7 NGOs? It was more than a rumour, wasn't it?

8 A. As far as I am concerned, I read no document signed by
9 an NGO stating that, right up till this date. What I am
10 saying and what I can confirm is that I heard that being
11 said by people.

12 Q. You did not hear it over the national radio? You did
13 not read it on any papers, any of the private press?

14 A. I must state that private press has never been my choice
15 source of information, so I did not read that in the
16 private press. I heard that said by people.

17

18 (Pages 1 to 31 by Diane Hermann)

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1 1028H

2 BY MS. KAGWI:

3 Q. Okay. Now, you state that during the time that you were
4 at ORINFOR, you never heard of Nahimana being accused of
5 discrimination on an ethnic ground by workers in
6 ORINFOR; is that the case?

7 A. I reconfirm that.

8 Q. Would you consider it discrimination to deprive a
9 well-known and well-loved journalist of a position in
10 her radio program and send her to the documentation
11 center to sit with interns with no work to do? Would
12 you consider that fair treatment of a qualify ORINFOR
13 worker?

14 A. To this extent, that it is as a result of something
15 provided for in the regulations to the extent that it is
16 borne in mind that a position cannot be held
17 indefinitely, I do not think that that is discrimination
18 because that could happen to anybody.

19 Q. Now, I will show you -- I will tell you something,
20 perhaps bring something that you must know up that
21 happened to a person who was born in Butare, Ruhengeri,
22 who you must well know, Jean Baptiste Bamwanga, it is
23 also true that this man during Nahimana's time was found
24 fit for great promotion retroactive from 1st October
25 1992 -- 1991, are you aware of that? He was promoted
26 retroactively from 1st October 1991, are you aware of
27 that?

28 A. That, I am unaware of. What I know is that Bamwanga was
29 recruited by Mfizi and because of his voice he was sent
30 to the Spoken Press in the Kinyarwanda section. That is

1 what I know about Bamwanga.

2 Q. So you do know about other so-called Tutsis who were
3 promoted to the CRIs, but you do not know about the
4 promotion of Jean Baptiste Bamwanga who was also from a
5 region you are familiar with, that was retroactive from
6 1st October 1991?

7 A. I keep coming back to the idea that the Regional
8 Information Center deals with all of the services of
9 ORINFOR, but then Bamwanga was working with the radio.

10 Q. Now, are you aware that the next person who took over
11 after Nahimana suspended Bamwanga for showing lack of
12 impartiality in his work? Are you aware of that?

13 A. That is something I do not know because I had already
14 left ORINFOR.

15 Q. Now, you stated that Kantano Habimana was a qualified
16 and professional worker of ORINFOR. Now, are you also
17 aware that he was twice reprimanded by other directors?
18 He was reprimanded for improper behavior by other
19 directors; are you aware of that?

20

21 Let me rephrase my question. On several occasions
22 Kantano Habimana was reprimanded by his supervisors, are
23 you aware of that?

24 A. I did not know that. I've never been aware of such
25 reprimand.

26 Q. Okay. Now, you stated that when Nahimana moved back on
27 the university, there were just around four or five
28 lecturers that were against his moving back to the
29 university. Could you give us their names?

30

1 You don't have to write it down, it is okay because --
2 unless it reveals your identify. If you believe that it
3 will reveal your identity, then you can write it down on
4 a piece of paper.

5 A. I would like to write them down.

6 Q. Now, that group of people that you just wrote down, it
7 is right for me to conclude that they were mainly from
8 the opposition parties? They were mainly vocal in the
9 opposition parties, wouldn't you agree with that?

10 A. Yes. However, the group of people whose names are on
11 the piece of paper, with regard to those people, I said
12 that they were against the reinstatement of Ferdinand
13 Nahimana in view of the reasons which they put forth at
14 the meetings which I attended.

15

16 In any event, they did not mention their belonging to
17 specific political parties.

18 Q. Is it your sworn testimony that they did not mention his
19 involvement in the false comminiqu that led to the
20 Bugesera massacres?

21 A. To my knowledge, they raised other reasons.

22 Q. And it is true that at least two of those professors
23 were senior to Nahimana, had been working as professors
24 for longer than him, and had the good reputation in the
25 area of specialty. That is true, isn't it?

26 A. I do not understand that question.

27 Q. Your Honours, I will wait until that paper comes back so
28 that we can go through it with him. But meanwhile, I
29 would like the witness to be given the document that he
30 went to look at last night.

1

2 Do you have the document in front of you? Have you had
3 time to look at it?

4 A. Yes, I have the document before me.

5 Q. Now, you said that you were going to point out to the
6 Court where you talked about massacres of Tutsis after
7 the 1959 revolution. Can you point it out?

8 A. Yes.

9 Q. The word Tutsi, this is the word Tutsi?

10 A. Page 10, second paragraph, the last seven lines.

11 Q. Can you read it out loud for the Court so that it could
12 be translated?

13 MS. ELLIS: No, because it would be identified --

14 MS. KAGWI: I agree with what Counsel Ellis has stated.

15 MADAM PRESIDENT: Ms. Kagwi, do you need English translation
16 before you proceed?

17 MS. KAGWI: No. No, I will work with my colleague on this.

18 MADAM PRESIDENT: Yes. Otherwise, we will have the booth
19 produce a handwritten translation of the last seven
20 lines of paragraph 2, page 10.

21 MS. KAGWI: Your Honour, I do not need a translation. I can
22 proceed.

23 MADAM PRESIDENT: Yes, but with the Chamber giving the
24 direction to the booth to do it as soon as possible.
25 You can proceed with your question.

26 BY MS. KAGWI:

27 Q. Okay, are you talking --

28 MADAM PRESIDENT: Are you withdraw --

29 MS. KAGWI: I withdraw what I just stated about the author of
30 the paper.

1 BY MS. KAGWI:

2 Q. In the last seven lines of the paragraph that you
3 pointed out to us, you talk about one particular -- not
4 you, the author talks about one particular house where
5 Tutsis were attacked or threatened -- not -- threatened,
6 it does not talk about any massacres. That is true,
7 isn't it?

8 A. Maybe I could read these lines. When you look at the
9 last but one line, what do you see there? I think that
10 what you see there is that there are people who are
11 massacred there with clubs and machetes.

12 Q. Now I will come back to that, but can you go back to the
13 next -- can you go to page 11, paragraph 4, where the
14 author is talking about the atrocities of the Inyenzi.
15 Would you say that the author is being intellectually
16 honest by failing to mention the state-sponsored
17 massacre of thousands of Tutsi civilians after the
18 Inyenzi attacked?

19 A. Yes, that is there.

20 Q. Does it mention state-sponsored massacres of thousands
21 of Tutsi civilians after the Inyenzi attacked?

22 A. Read the fifth line.

23 Q. It talks about inter-ethnic killings, right?

24 A. Here the author is talking about the inter-ethnic
25 conflicts because those inter-ethnic conflicts caused
26 the death of innocent civilians. That is what is
27 written here and thus is clear.

28 Q. I was asking you if the author is being intellectually
29 honest by failing to mention the state-sponsored
30 massacres of thousands of Tutsi civilians every time the

1 Inyenzi attacked?

2 A. This is what is said by the author in his book, and I'm
3 saying that what cannot be understood is that the author
4 does not mention that Hutus were killed. And for me,
5 this is a problem. And the problem with this document
6 is that it -- actually, this document omits some things
7 -- or rather, the author omits some things in this
8 document.

9 Q. Now, the author of the book that is being critiqued in
10 this article, that is what you mean, right? Now, I'm
11 talking about the critique that fails to mention that
12 the Inyenzi attacked only the Butare and Cyangugu
13 region, but that the attacks on the Tutsi civilians were
14 throughout the country and that they were so serious as
15 to lead to the fleeing of thousands of Tutsi civilian
16 from Rwanda?

17 A. You have to ask the author why did he omit that.

18 Q. I'm talking about the critique that has been given on
19 the book. I'm talking about the person who appears at
20 the end of the document, of this particular document
21 that I have given you. Do you remember we are
22 proceeding in this manner because I do not want to
23 reveal identity? Do you understand?

24 A. Yes, I understand you.

25 Q. So, I'm talking about the critique that is written by
26 the person who appears on page 24. Do you see the
27 person that I'm talking about? Now, I'm saying that
28 this critique fails to mention that the attacks of the
29 Inyenzi was only in the Butare and Cyangugu region, but
30 the attacks on Tutsi civilians were throughout the

1 country, and that the massacres were so serious that
2 they led to the fleeing of thousands of Tutsi civilians
3 from Rwanda following Inyenzi attacks?

4 A. I think that we have to place this document in its
5 context. This document is a reflection based on another
6 document, so, this means that this document is very
7 specific. And in its introduction, the objectives of
8 the document are clearly elucidated, and it does mention
9 about points that were voluntarily or involuntarily
10 omitted by the author of what is being criticized.

11

12 But, no, coming to -- the author's name is on page 23,
13 comes to the inter-ethnic conflict following the 1959
14 revolution, you will find that this document which is a
15 critique, its author says that that first author said
16 this, but he omitted saying this, but always within the
17 context of what is the purpose of this particular paper.

18

19 If Cyangugu Byumba attacks are not mentioned here, if in
20 the original those attacks are not mentioned, I don't
21 see how this particular author here, whose name is here,
22 should mention them, because this particular document is
23 limited. It concerns only points contained in the
24 document which is being looked at, analyzed by the
25 author whose name is on page 24 of this document.

26 Q. This document is highly critical of -- this article is
27 highly critical of the book in which -- it is highly
28 critical of the position taken by the author of the book
29 that is being criticized, right?

30 A. Yes.

1 Q. Now, isn't it true that -- now, I will get back to that
2 so that I can avoid to have -- I want to avoid
3 identification, but I want to move for this document to
4 be made P210.

5 A. I would request that it be placed under seal.

6 Q. The last name can be placed -- okay, the whole document
7 can be placed under seal. We have no problem with that.

8

9 Now, do you have a copy of the piece of paper that you
10 wrote for me?

11 MADAM PRESIDENT: Are you done with this document?

12 MS. KAGWI: I will come -- I might come back to it, but I will
13 just put it aside for the time being.

14 MADAM PRESIDENT: Did you apply for it to be an exhibit, not
15 yet?

16 MS. KAGWI: I did, yes.

17 MADAM PRESIDENT: All right. I missed that. What is the last
18 number?

19 MS. KAGWI: It should be P210.

20 MADAM PRESIDENT: P210, under seal.

21

22 (Exhibit No. P210 admitted)

23 BY MS. KAGWI:

24 Q. Do you have a piece of the paper that you wrote? Okay,
25 Number one on that piece of paper, it's true that this
26 person had attained the post of professor long before
27 Nahimana did, right?

28 A. I'm not in a position to say that because I do not know
29 the date on which he was recruited.

30 Q. Is it true that he was more senior in rank than

1 Nahimana?

2 A. I said that I cannot answer that question because I did
3 not know the date on which he was hired.

4 Q. Now, you stated that this person had written a work in
5 collaboration with Nahimana some time back. Do you know
6 when this was? When was it?

7 A. The date of the writing of that work?

8 Q. Yes.

9 A. Yes. They prepared together a document on the Batwa,
10 that is the marginalized group, and that was in 1988, if
11 my memory serves me right.

12 Q. So, between the period of starting from 1989 to 1994,
13 there was no collaboration of works with this particular
14 person, and in fact, he was a great critic of Nahimana;
15 that is true, isn't it?

16 A. I want -- I'm not in a position to say that because
17 according to the document that we were given yesterday
18 where -- which contained my identification information,
19 you will see the date when I joined the university.

20 Q. I'm stating between the years of 1989 to 1994, that this
21 person and Nahimana did not collaborate in any work, and
22 in fact, he was a great critic of Nahimana?

23 A. I do not know because I have never seen a document which
24 contained criticisms by this person against Ferdinand
25 Nahimana.

26 Q. And number three on the list, what party did he belong
27 to?

28 A. Hum?

29 Q. What political party did he belong to?

30 A. MDR.

1 Q. This was also another person who was highly critical of
2 Nahimana's activities at ORINFOR, and his political
3 activities and his activities at ORINFOR; that is
4 correct, isn't it?

5 A. I'm not aware of such criticisms.

6 Q. Are you aware that he was critical of Nahimana from the
7 time of his involvement in the relocation of the campus
8 from Ruhengeri?

9 A. That is something that he has said even when he was
10 introducing his objection during the meeting which I
11 referred to.

12 MS. KAGWI: Your Honours, I move to have this exhibit
13 exhibited as P --

14 MADAM PRESIDENT: P211 is the next one.

15

16 (Exhibit No. P211 admitted)

17 BY MS. KAGWI:

18 Q. Now, during your whole time of your association at the
19 university, is it your position that you never heard any
20 criticisms of Nahimana on the basis of ethnicism and
21 regionalism from any source, private press or not?

22 A. I did not hear anything regarding such criticisms.

23 Q. You did not bother to look at the private press as a
24 journalist who must have, I'm sure, welcomed the freedom
25 of the press that began in Rwanda from 1991 and onward,
26 1990, 1991 and onwards? You did not bother to find out
27 the other points of view, did you?

28 A. I think that I've already said that the private media
29 were not my main source of information.

30 Q. But you never looked at it. Even if it wasn't your main

1 source of information, it was a source of information.

2 A. On my part, the information in the private media -- or
3 rather, when I had the opportunity to briefly skim
4 through a newspaper in the private media, I used to
5 notice that there was non-verified information and there
6 was even different information, and I'm insisting here
7 that I said when I had the opportunity of skimming
8 through such newspapers. And I'm repeating that the
9 private media were not my main source of information.

10 Q. Now, my last question, Valens Kajeguhakwa is a Tutsi
11 refugee, isn't that correct, at this particular point?

12 A. When?

13 Q. At this point he is a refugee, isn't he, today at this
14 date?

15 A. I read that somewhere.

16 Q. He is not associated with your refugee organization?
17 Does he fall under your refugee organization?

18 A. That is right. Yesterday I said that the association of
19 refugees which I referred to is an open association. If
20 he applies to join that organization, he will be well
21 received.

22 Q. It is true, isn't it, that your organization has been
23 critical of Tutsi refugees who are refugees from the
24 regime right now, isn't it?

25 A. I'm not aware of such criticism.

26 MS. KAGWI: Your Honours, I have no further questions.

27 MADAM PRESIDENT: Thank you, Ms. Kagwi.

28 MR. FLOYD: If it please the Court?

29 MADAM PRESIDENT: Yes.

30 MR. FLOYD: Your Honour, I am endeavoring to get a lot of

1 things done, and we are not in the courtroom that often,
2 but we would like to know if we are going to have a
3 status hearing, when we are going to have the status
4 hearing so Mr. Rapp certainly can be aware of it, I can
5 be aware of it, and I would also want my assistant aware
6 of it. I have requested a status hearing, and I presume
7 that we would have one this session, if no more than to
8 talk about the planning for the next session and perhaps
9 the next two sessions.

10

11 So I would, if the Court -- and I won't be back. I have
12 meetings starting right now and I won't be back, so I
13 kind of wanted to know when we might have a status
14 hearing.

15 MADAM PRESIDENT: When we've completed this witness and if
16 there are no further available witnesses for the rest of
17 today and tomorrow.

18 MR. FLOYD: Could I -- does the Court have some indices (sic)
19 of when this witness is going to be -- again, I'm just
20 trying to get an idea so that I will know to be back and
21 be available and tell my assistant, and also I wanted to
22 let Mr. Rapp know.

23 MADAM PRESIDENT: We don't know, Mr. Floyd. We will inform
24 Mr. Martel.

25

26 Mr. Martel, will you be in a position to begin your
27 cross examination when we resume after a short break.

28 MR. MARTEL: Please give me 30 extra minutes, so let us say at
29 11:45 probably I will certainly be ready.

30 MS. MONASEBIAN: Madam President, if I may?

1 MADAM PRESIDENT: Very briefly, yes.

2 MS. MONASEBIAN: At the end of the examination, if the Office
3 of the Prosecutor could have two moments for something
4 that needs to be dealt with before a status conference
5 would ever take place. Thank you, Madam President.

6 MADAM PRESIDENT: We will take a short break now and resume
7 at 11:45.

8 (Court recessed from 1103H to 1223H)

9 MADAM PRESIDENT: Mr. Martel.

10 MR. MARTEL: Thank you, Madam President. Thank you, Your
11 Honours.

12

13

CROSS-EXAMINATION

14 BY MR. MARTEL:

15 Q. Witness, good afternoon.

16 A. Good afternoon, Counsel.

17 MR. MARTEL: For the record, I have prepared a list of
18 documents that should be used during the
19 cross-examination. I have distributed that document
20 along with other documents which I am going to refer to
21 during this witness's cross-examination.

22 BY MR. MARTEL:

23 Q. First of all, Witness, do you know Mr. Hassan Ngeze?

24 A. Mr. Ngeze, I know him. I knew him as from the early
25 '90's.

26 Q. Do you know if Mr. Hassan Ngeze was imprisoned on one or
27 more occasions?

28 A. That I learned at one point, at one point in time.

29 Q. Do you know on how many occasions he was arrested and
30 why?

1 A. That, I do not know.

2 Q. Your answer "I do not know" applies to the two parts of
3 the question?

4 A. I do not know as concerns the entire question.

5 Q. Did you read Kangura?

6 A. As I said this morning, Kangura was a newspaper of the
7 private press, and I said that the private press was not
8 my main source of information.

9 MADAM PRESIDENT: Yes, but the question is, did you read
10 Kangura or not?

11 THE WITNESS: I did not read Kangura.

12 BY MR. MARTEL:

13 Q. I refer you to Kangura on the 8 of January, 1991, page
14 19, number eight. Number 8, January '91, page 19. And I
15 read under the title "Humor": "Silence, we are
16 starting.

17 The President: Accused, get up.

18 The Registrar: Sir, you are accused of having disturbed
19 the entire country by giving the impression that a
20 widespread attack was imminent, an offense which is
21 punishable under article 10 of the law.

22 Presiding Magistrate: Accused person, do you have
23 anything to say in your defense?

24 The Accused: Deo graciosus.

25 Advisor: Is that all?

26 The Accused: Amina.

27 The President: I would now give the floor to the
28 prosecution.

29 The Prosecution: Honourable judges, the person you have
30 before you is an ill for this society. I will even go

1 further, he is a cancer. His crimes are numerous. All
2 you have to do is read the file. But the most serious
3 offense is of having tried to provoke civil war. In
4 fact, he dared to attack the region traitors by accusing
5 them of having attempted to try to bring back the system
6 that had been abolished by article 2 of the
7 constitution. I would say even more, had I not stopped
8 it in time, he was going to publish the list of people
9 who are assisting an opposition movement that is based
10 abroad. All of this, honourable judges, should not
11 mislead anybody. This highway criminal had the
12 intention of blemishing honest people and distracting
13 humble citizens to urge them to begin a civil war.
14 Fortunately, I am vigilant and foresighted, so much so
15 that I put him in prison at the appropriate time, or
16 else the country would have been put on fire and there
17 would have been bloodshed because of this individual.
18 As a result of this crime, I am asking the court to give
19 him an exemplary sentence and justice would have been
20 done.

21 The Presiding Magistrate: Accused person, do you have
22 anything to add in response to what the prosecution has
23 said?

24 Accused person: Allah akbar.

25 The Advisor (whispering): I realize that a lot of
26 evidence is lacking in this case.

27 The Presiding Judge: Indeed, so do I. I realize that
28 the accused person was arrested a bit early, and turning
29 to the prosecution, does the prosecution have anything
30 to add?"

1 MADAM PRESIDENT: Mr. Martel, let me be clear: Before you
2 read any document, kindly get the Chamber's approval
3 first. That's been our practice. Secondly, we've heard
4 this witness say he has not read any Kangura. We would
5 like you to explain to the Chamber on what basis you
6 think you can put excerpts of Kangura to this witness,
7 bearing in mind that he is not an expert witness.

8

9 (Pages 32 to 47 by Donna Lewis)

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1 1230H

2 MR. MARTEL:

3 I was going to ask him if this text reminded him,
4 amongst other things, of the fact that Ngeze was
5 imprisoned, because he said that the 1990 war was going
6 to take place and this article treats that fact
7 humouristically, and as a journalist, I believe he is
8 aware that several of his colleagues, not only
9 Mr. Ngeze, were arrested and locked up without any
10 warrant, because they wrote truths in their newspaper.

11 MADAM PRESIDENT:

12 Let me direct you then, Mr. Martel, instead of reading
13 portions of the text which this case happens to be in
14 French any way, which the witness can read, you go
15 straight to your question to the witness. He has
16 already told us he doesn't know why Mr. Ngeze was placed
17 in custody, and you can now put your question whether
18 this jogs his memory and whether he now knows the
19 reason.

20 BY MR. MARTEL:

21 Q. Did you read the last paragraph, Witness?

22 A. Yes, I have Issue No. 8 on page 8, not page 19.

23 Q. Now as a journalist, were you aware that colleague s
24 were arrested for what they published in their
25 newspaper?

26 A. As a journalist, generally speaking, before the press
27 law came out to diversify newspapers, we were living
28 within a single party system, and it was possible.

29 Q. And when would you say that was?

30 A. Before the beginning of the '90s, so before

1 multipartyism and press freedom were recognized.

2 Q. And even thereafter, is it not correct that several
3 journalists were arrested?

4 A. What do you mean when you say "thereafter"?

5 Q. At 1991.

6 A. After 1991, to my knowledge, I do not see any
7 journalists who were manhandled. But I should point out
8 here that when I say I do not see, it does not mean that
9 it did not take place. It is simply because I cannot
10 say who was concerned, since I personally am not aware
11 of a name that I can put forward and mention that that
12 person was arrested.

13 Q. But you told me a while earlier that you knew that
14 Mr. Hassan Ngeze was arrested at least once?

15 A. Yes, I learned that.

16 Q. And when was that and why?

17 A. I said that I learned that and I therefore cannot give
18 you the exact date. I do not know if it was at the
19 advent of press liberalization or if it was before.

20 Q. Please try to observe a pause between my question and
21 your answer, because there is need for translation.

22

23 Now, do you know why this arrest, which you got to learn
24 about, took place?

25 A. After what you just read, I am now aware. But there
26 again, you read a long text, a text which I had not read
27 previously, and a text which I cannot in fact, very
28 rapidly see the reasons behind, and the reasons which
29 are given for that arrest.

30 Q. Put very simply, your answer is that you do not know why

1 he was arrested at that time?

2 A. I am saying that I just learned it from what you read.

3 MR. MARTEL:

4 Madam President, Your Honours, I would like to use
5 Exhibit P-211. I would like to have directions as to
6 what to do. I would like to read extracts from that. I
7 do not know how to proceed, and I would not like to do
8 something in the Chamber that I am not supposed to do.

9 MADAM PRESIDENT:

10 P-211 happens to be the names of the four persons for
11 academics. Is that the exhibit?

12 MR. MARTEL:

13 The reference I gave you is not correct. I am going to
14 use another document, a 17-paged document. I did not
15 want to mention it, but for the purpose.

16 MADAM PRESIDENT:

17 P-210?

18 MR. MARTEL:

19 If you say so, Madam President.

20 MADAM PRESIDENT:

21 I don't say so. Hold up your document, maybe I could
22 assist you. Yes. That's P-210.

23

24 Mr. Martel, before you move on, let me -- I just wish to
25 direct you in respect of Kanguras. The Chamber is very
26 well aware that your instructions from Mr. Ngeze is that
27 you put excerpts of whole series of articles in Kangura
28 to witness es, and we have made it clear to Mr. Ngeze
29 that that is an area he should cover when he gives
30 testimony, and I ask you to exercise your professional

1 judgment, in spite of your instructions about the
2 Kanguras.

3

4 And Counsel, you are very clear on the purposes of
5 cross-examination and how cross-examination should be
6 conducted, and putting in excerpts of Kangura to a
7 witness who has never read this journal is not a proper
8 avenue for cross-examination.

9

10 Now I will just take a moment.

11

12 Now you may proceed with P-210 Mr. Martel, and remember
13 about all the protections in place.

14 MR. MARTEL:

15 Thank you, Madam President.

16 BY MR. MARTEL:

17 Q. Witness, do you have that document before you?

18 A. Not yet.

19 Q. For the purpose of your testimony, we are going to call
20 this document Valense's second book.

21 MADAM PRESIDENT:

22 Mr. Martel, you understood the difficulty that Ms. Ellis
23 raised, not to have portions read out on record. You
24 see that, so you have to direct him to page, paragraph,
25 the line; let's see how you proceed. If you have
26 difficulties, let us know.

27 MR. MARTEL:

28 Madam President, but this document is not translated.

29 And since two out of the three judges are

30 English-speaking, I wonder how we can proceed. We might

1 perhaps have to do it in closed session, but I don't
2 know if it is appropriate to hold a media trial in
3 closed session, unless we say that we are going to have
4 the document translated. That is what I was trying to
5 express to you.

6

7 Now what I could do is take on another subject. We have
8 15 minutes to go, and we could take this up later when
9 we resume in the afternoon. Would you be okay with
10 that?

11 MADAM PRESIDENT:

12 Mr. Martel, what you could do is highlight the lines
13 which you wish to quote to the witness, and we can ask
14 the booth to provide a translation of those lines.

15

16 That will be one way of proceeding and to avoid a closed
17 session. So work with the booth in that regard, and you
18 could come to that area in the afternoon.

19 MR. MARTEL:

20 Very well. I am in agreement with that procedure.

21 BY MR. MARTEL:

22 Q. I will ask the question again, but this time I will put
23 it very precisely. Are you testifying that you never
24 read any edition of Kangura?

25 A. I repeat what I said. The private press was not my main
26 source of information. I could read it from time to
27 time, but it was not my principal source of information,
28 and that holds true for Kangura and for all the
29 newspapers of the private press, and I believe I also
30 gave the reasons for that.

1 Q. Are you familiar with the text called the Hutu Ten
2 commandments?

3 A. At one point in time I learned that that document had
4 been published in Kangura, but personally, I never held
5 that issue of Kangura in my hands, the issue which had
6 these ten commandments.

7 Q. Do you know who wrote the text?

8 A. I cannot know, because I am saying that I learned. So I
9 did not actually hold a copy of the issue in which those
10 ten commandments were published.

11 Q. Are you familiar with a book called Belgian Justice
12 System in the Face of Rwandan Justice, written by a
13 certain Vincent Ntezimana?

14 A. I am not familiar with that book; in fact, this is the
15 first time I am hearing the title.

16 Q. Do you know a gentleman whose name is Anastase Makuza?

17 A. Anastase Makuza?

18 Q. Are you thinking?

19 A. I am trying to see, because there is a Makuza who was an
20 ambassador in Germany. Would it be that one?

21 Q. Do you know a president of the national assembly in
22 1991 -- or sorry. The date is 1964. He was president
23 -- the speaker of the national assembly in 1964?

24 A. I know it, because I read that in books.

25 Q. Have you ever read a statement which was entitled
26 "Denial of his excellency Anastase Makuza, speaker of
27 the national assembly, concerning refugees. Paris, 3rd
28 of March 1975" -- "1964", I beg your pardon. Does that
29 remind you of anything?

30 A. At this point in time, it doesn't remind me of much.

1 Q. Are you familiar with a book called President Kayibanda
2 Addresses You?

3 A. At a certain point I heard the title, but I have not yet
4 read it to be aware of its contents.

5 Q. Do you know that that gentleman was a journalist?

6 A. Who are you referring to as that gentleman?

7 Q. Mr. Kayibanda.

8 A. Kayibanda. Can you tell me what his other name is?

9 Q. Gregoire Kayibanda.

10 A. Gregoire Kayibanda, I will also say that initially he
11 was a journalist and he was writing for the newspaper
12 called Kinyamateka, if my memory serves me correctly.

13 Q. Do you know a gentleman whose name is Th odore
14 Sindikubwabo? Let me spell it:

15 S-I-N-D-I-K-U-B-W-A-B-O?

16 A. I know him.

17 Q. Who is that person?

18 A. I know that in the socio-political history of Rwanda, at
19 one point in time he was speaker of the assembly. I
20 believe it was at CND at the time, and that as from
21 April 1994 he was the president of the republic after
22 President Habyarimana was assassinated.

23 Q. Now, if I tell you that he was Minister of Public Works
24 in 1961, would that refresh your memory?

25 A. You are informing me? Do you mean you did not know?

26 Q. You say he was president in 1994?

27 A. That I said, yes.

28 Q. Could the witness be given Exhibit No. 3D-107, please.

29

30 I would ask you to please turn to page 134.

1

2 I would like to seek leave to read the second paragraph.

3 MADAM PRESIDENT:

4 We don't have it in front of us, Mr. Martel, because you
5 didn't indicate that you would be using this exhibit.

6 It's on this list?

7 MR. MARTEL:

8 Yes, Madam President.

9 MADAM PRESIDENT:

10 How big is this paragraph?

11 MR. MARTEL:

12 Seven lines, Madam President.

13 MADAM PRESIDENT:

14 Go ahead, Mr. Martel. Can you just give me the page
15 again, please.

16 MR. MARTEL:

17 134. It is a collection of speeches by the president.

18 MADAM PRESIDENT:

19 Yes, go ahead.

20 BY MR. MARTEL:

21 Q. "The revolution became violent, because of the leaders
22 of that time in November 1959. Your group was
23 conquered. The referendum took place and was witnessed
24 by UN observers. Your political group was conquered
25 while my government was showing proof of tolerance
26 towards the wing of opposition that was in the country.
27 You worked with the army on each occasion you were
28 beaten, and you caused several human lives to be lost."

29

30 Do you agree with what is said in that paragraph?

1 A. Let me, first of all, say that I cannot say anything
2 about a paragraph of a text which I have not read
3 completely.

4 Q. Let me take you now to pages 132 and 133. I will ask
5 you to read those two pages, and while you are doing so
6 I would, Madam President, request that we kindly adjourn
7 for the lunch break.

8 MADAM PRESIDENT:

9 Well, if you have any other pages you wish the witness
10 to read over the break, indicate the pages to him, or is
11 this the only portion?

12 MR. MARTEL:

13 Those are the only pages, Madam President.

14 MADAM PRESIDENT:

15 All right, thank you. Witness F2, you may take the
16 document with you. Mr. Matemanga, is that an original
17 exhibit? Mr. Matemanga, will you make a photocopy of
18 those two pages, 132 and 133, and let Witness F2 have
19 that during the break.

20

21 We will now take the adjournment and resume at 2:30 p.m.

22

23 (Court recessed at 1300H)

24

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26

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28

29

30

1 1430H

2 MADAM PRESIDENT:

3 Mr. Martel?

4 MR. MARTEL:

5 Thank you, Madam President, Your Honours.

6 BY MR. MARTEL:

7 Q. When we separated, Mr. Witness, I asked you to read
8 through pages 132 to 133; that is, of Document ID-177.
9 Have you read it?

10 A. I thought it was a matter of reading the paragraph, but
11 then to see how that fits in to what appears on page 132
12 to 135.

13

14 Now the paragraph that starts with "The revolution" was
15 the one that you read out, and you asked me my opinion
16 if this was acceptable to me, or if I agreed with it.
17 So I read the document or the paragraph before and the
18 one after, and I noticed that, as far as I was
19 concerned, there were sections which were unnecessary,
20 superfluous, one would say.

21 MADAM PRESIDENT:

22 Witness F2, you have to wait till you are asked the
23 question. Now, did the registry give you photocopies of
24 pages 132 and 133?

25 THE WITNESS:

26 They gave me two pages, 132 to 135.

27 MADAM PRESIDENT:

28 All right. Now let's see what question Mr. Martel has
29 for you.

30 BY MR. MARTEL:

1 Q. Was that the first time you were seeing that document or
2 you were reading it?

3 A. It was very first time, and that is what I said at the
4 beginning.

5 Q. So what do you think of the ideas that appear on those
6 pages?

7 A. As I had started saying, there were sections which, in
8 my personal view, which were in my personal view
9 unnecessary. I am talking about the second line of that
10 paragraph.

11 Q. You are on page 134?

12 A. Yes, 134 where they state "your group was defeated," and
13 I am saying that that section is unnecessary because it
14 lacks precision. It talks about "your group." Which
15 group? Is it a political group? An ethnic group?
16 Therefore, I find that section superfluous, unnecessary.

17

18 There is also line 6. They say "on each occasion you
19 were defeated." I thought that terminology meant in
20 reference to defeated, inappropriate.

21

22 As for the other ideas that appear in this section, by
23 my own reckoning they are in order, and in that regard I
24 am referring to the document of Ren Hubert, the book by
25 Ren Hubert. I am also referring to the book by Rumiya
26 Jean Golberg which talks about interethnic relations.
27 It also refers to the revolutions and its causes.

28 Q. Very well. Let me move on to some other matter. Do you
29 know an organization by the name L'oeil du peuple or,
30 literal translation, "the eye of the people"?

1 A. That organization I know through the writings or
2 publications.

3 Q. Could you tell us what that organization is?

4 A. It is, according to what I have been able to read -- can
5 I tell you the leader of the organization?

6 Q. Yes, if you know him.

7 A. Now based on my own readings, I read that organization
8 is lead by Valens Kajeguhakwa, and he is the one who
9 says so in his own book that that organization worked
10 hand in glove with the Rwandan Patriotic Army in order
11 to push back the infiltrators during the 1995/1996
12 period, if I do remember clearly. And let me repeat,
13 these ideas are drawn from Valens Kajeguhakwa.

14 Q. When you say they pushed back the infiltrators, do you
15 mean in so saying, killed them?

16 A. I think push them back or kill them are two different
17 words in French.

18 Q. Now, let me put the question more directly. In your
19 opinion, L'oeil de peuple was responsible or a
20 perpetrator or involved in the murders?

21 A. There, I can answer that question by referring to the
22 reports made by human rights organizations, which
23 reports had been published; however, there is a record
24 which was published by Amnesty International. I do not
25 recall the names of those reports, but it did make
26 reference to instances of the massacre of the
27 populations in north and northwest areas of the country
28 at the time when the leader of that organization himself
29 did say that his organization was working in tandem with
30 the army.

- 1 Q. Now, in that report prepared by the Amnesty
2 International they talk about thousands of civilians,
3 defenceless civilians who were killed?
- 4 A. Now, I don't remember the contents of that report, but
5 it was along those lines.
- 6 Q. Do you know an organization by the name "Ibuka"?
- 7 A. Ibuka?
- 8 Q. I-B-U-K-A.
- 9 A. L'Ibuka.
- 10 Q. I-B-U-K-A?
- 11 A. So it is "L'Ibuka".
- 12 Q. Well, it is L apostrophe I, Ibuka organization?
- 13 A. That's right. What I know is that that organization was
14 formed at the time when I was not in the country. I am
15 aware that it exists, but I have no further information
16 on it.
- 17 Q. Let me put just one question on it. Is there a link
18 between L'oeil de peuple and Ibuka as far as you know?
- 19 A. As I said, when you compare the objectives or the organs
20 that constitute these organizations, these are not well
21 known. But when you listen to the grapevine, to the
22 rumours, it is said that these are two organizations
23 that are extremists bodies. But as I said these are
24 rumours, and I have not cross-checked the veracity of
25 those rumours.
- 26 Q. When you say extremists, in what respect?
- 27 A. Extremist in that they do not advocate, they do not work
28 for reconciliation among the people of Rwanda. Even the
29 name Ibuka, in Kinyarwanda, if you remember, brings what
30 to the mind? I don't know.

1 Q. I have no further questions. Thank you.

2 BY MS. KAGWI:

3 Q. Your Honour, just for the record, could the Kinyarwanda
4 booth translate the name "Ibuka"?

5 MADAM PRESIDENT:

6 Witness F2, you gave us the name of the leader of this
7 organization Eye of the People. Can you spell that name
8 for us, please.

9 THE WITNESS:

10 It is K -- or, it is spelled K-A-J-E-G-U-H-A-K-W-A.

11 MADAM PRESIDENT:

12 Is that whom you referred to as Valens Kajeguhakwa? Is
13 that the person?

14 THE WITNESS:

15 Same person. And may I repeat, the information is drawn
16 from his book entitled Rwanda, de la terre de paix la
17 terre du sang; that is, From the Land of Peace to a Land
18 of Blood, literal translation.

19 MR. MARTEL:

20 3D-99, Madam President.

21 MADAM PRESIDENT:

22 Thank you, Mr. Martel.

23 THE ACCUSED NGEZE:

24 Madam President, I want to be heard for just a minute.

25 MADAM PRESIDENT:

26 We just heard your counsel.

27 THE ACCUSED NGEZE:

28 I have a disagreement with Counsel Martel. I just want
29 to put that disagreement before the bench, then you to
30 decide.

1

2 Yes, Madam President. You told me that whenever I see
3 that I am not well defended that to bring the matter
4 before the bench. That is what I am doing, Madam
5 President.

6

7 It will take less than two minutes, Madam President,
8 then you would decide.

9 MR. FLOYD:

10 Madam President, we would ask that you not be -- Mr.
11 Ngeze not be heard, and this is extraordinary because
12 what happened was that Mr. Ngeze wanted Mr. Martel to
13 handle this witness. I was going to handle this
14 witness, but we acceded to Mr. Ngeze's wishes and I
15 would like that to be the end of the discussion about
16 it.

17 THE ACCUSED NGEZE:

18 No, Madam President, let me address the Chamber then you
19 decide. Let me address the Chamber then you decide.
20 Hear me then you decide, Madam president.

21 MADAM PRESIDENT:

22 Mr. Ngeze, sit down. We are right in the middle of
23 proceedings now, and we don't wish to hear you. And
24 Mr. Martel has conducted the cross-examination under the
25 direction of the Chamber, and remember that.

26 THE ACCUSED NGEZE:

27 Give me less than a minute. Give me a less than a
28 minute to address, to address my judges. I am
29 addressing to my judges, I am addressing to my judges,
30 not to the counsel. My judges in front of me, the

1 Judges whom I expect to get a fair trial, Madam
2 President. Hear me for less than a minute, Madam
3 President.

4 MADAM PRESIDENT:

5 Yes, what is it?

6

7 (By order of the Court this portion has been extracted
8 and filed under seal)

9

10 MADAM PRESIDENT:

11 Remarks made so far will be placed under seal, and you
12 can sit down now.

13 THE ACCUSED NGEZE:

14 Me?

15 MADAM PRESIDENT:

16 You can sit down now.

17 THE ACCUSED NGEZE:

18 Thank you, Madam President.

19 MADAM PRESIDENT:

20 Well, the Chamber has take and moment to deliberate over
21 your intervention, Mr. Ngeze. In our view, nothing you
22 have said influence s us to take a view other than that
23 you brought this 3 D-104 and the book to the attention
24 of your counsel and they exercised professional judgment
25 in the questions that they know they are allowed to put
26 under cross-examination.

27

28 Who would re-examine first? Mr. Biju-Duval or Ms.

29 Kagwi, do you have questions?

30 MS. KAGWI:

1 No questions arising at this point, but I would like to
2 repeat my request that the last word that he stated in
3 Kinyarwanda should be translated, for the record.

4 MADAM PRESIDENT:

5 Ibuka?

6 MS. KAGWI:

7 Yes. He did state the meaning of the word which he
8 wanted the Court to draw an inference, the meaning of
9 that word. I don't believe it has been translated so
10 far in the Court.

11 MADAM PRESIDENT:

12 Did you give an answer in Kinyarwanda, Witness F2 in
13 relation to Ibuka?

14 THE WITNESS:

15 An answer in Kinyarwanda? No, not in Kinyarwanda. I
16 gave a translation in French and I said Ibuka could be
17 translated as "remind yourself." That's what I said.

18 MADAM PRESIDENT:

19 That's what we heard, Ms. Kagwi. Now you heard it
20 twice. Mr. Biju-Duval, any re-examination?

21 MR. BIJU-DUVAL:

22 Yes, yes. Very brief, and I would like to start with
23 two or three very short questions in camera, in closed
24 session that refers to the family situation and to his
25 professional career, these two matters having been
26 raised during cross-examination by Ms. Kagwi, and I
27 cannot deal with those two points outside a closed
28 session because it deals with the family situation of
29 the witness and a specific incident that occurred as
30 part of his professional career.

1

2 So it will be a very brief closed session. I would like
3 to start my further cross with that brief closed
4 session.

5 MADAM PRESIDENT:

6 Begin with your other questions, Mr. Biju-Duval, if
7 that's possible. I like one counsel to be standing at
8 one time please and I am now addressing myself to Mr.
9 Biju-Duval.

10

11 Mr. Biju-Duval, is it possible for you to ask your other
12 questions first, and then we could end with the closed
13 session because that will bring us to the close of this
14 witness. All right, you can do that?

15

16 Ms. Ellis, you were asking for the floor?

17 MR. BIJU-DUVAL:

18 That's an agreed. Let me just make a comment regarding
19 the point or comments made by Mr. Ngeze who clearly
20 referred to the department in which the witness worked,
21 and I would like that that part of his comments be
22 placed under seal.

23 MADAM PRESIDENT:

24 I have directed that already, Mr. Biju-Duval.

25 MR. BIJU-DUVAL:

26 Thank you, Madam President. I start my questions.

27

28

RE-EXAMINATION

29 BY MR. BIJU-DUVAL:

30 Q. Witness, in your answer to a question put to you by the

1 Prosecutor, you talked about the reaction of a number of
2 Tutsis or a group of Tutsis following the offensive or
3 the attack that was launched on the 1st of October 1990.
4 Right?

5 A. Yes.

6 Q. I would like to show the witness a document drawn from
7 ID-160 -- 165, sorry. And it comes from a book entitled
8 "ORINFOR, War and Multipartyism."

9
10 The entire document was admitted as exhibit and as of
11 today, therefore, it forms part of the records, and I
12 would like to submit an extract from that document that
13 has been admitted as an exhibit. I have made available
14 a number of copies to the registry, and Mr. Matemanga,
15 could you please show a part of that document an extract
16 that is ID-167, which is part of that list that I had
17 circulated.

18

19 Witness --

20 MADAM PRESIDENT:

21 You have extra copies for all of us?

22 MR. BIJU-DUVAL:

23 I think copies were circulated, distributed including
24 to the Judges. It is an article that is contained in La
25 Rel ve paper, that is, a copy of 16 to 22 November 1990,
26 is entitled "A group of Tutsis pronounce themselves on
27 the pseudo or so-called ethnic problem." It is ID-167,
28 Exhibit 1D-167.

29 MADAM PRESIDENT:

30 All right. So now we have it. It's 1D-167 now, Mr.

1 Biju-Duval.

2 BY MR. BIJU-DUVAL:

3 Q. Witness, could you tell us if this is the article, if
4 this is the article you referred to in the course of the
5 cross-examination or it is something totally different?

6 A. It is indeed the article I referred to. And this
7 article bears the following title, a group of Rwandan
8 Tutsis talk about the so-called ethnic problem, the
9 false ethnic problem.

10

11 Now this article was published in La Rel ve No. 148 of
12 16 to 22 November 1990.

13 Q. Witness, could you --

14 MADAM PRESIDENT:

15 Yes, Ms. Kagwi?

16 MS. KAGWI:

17 I wanted to object to the first question which I
18 considered leading, but the witness had already
19 answered, so I withdraw. But we ask that the Court
20 would caution Biju-Duval from future leading questions.

21 BY MR. BIJU-DUVAL:

22 Q. Witness, can I take you to the last paragraph of that
23 article just before the date and the names of the
24 signatories, and to ask you to read out the sentence
25 that starts with, "soyons" and ends with "the enemy",
26 could you read it out, please?

27 THE WITNESS:

28 "Let us stay above this crisis of October 1990. Let us
29 strengthen our unity, which is the most appropriate
30 weapon to overcome the enemy. The signatories of this

1 document support the President of the Republic of Rwanda
2 and the Rwandan Army."

3 Q. Witness, in your opinion how would one interpret that
4 concept; namely, that of enemy? To whom are the
5 signatories of this document referring, to which group?

6 A. I think I had given a few indications as to an answer to
7 this question. "Enemy" here refers to RPF Inkotanyi,
8 which at the time were engaged in attacking Rwanda from
9 Uganda.

10 MR. BIJU-DUVAL:

11 Madam President, maybe to make your work easier, maybe
12 this copy should be attached to the document which
13 bears, or the exhibit which bears the number 1D-167 so
14 that each and every one can peruse the document without
15 needing to go through the entire document. It could be
16 numbered 1D-167 (D) because we already have (A), (B) and
17 (C) that have been already assigned.

18 MADAM PRESIDENT:

19 This page is part of an already existing exhibit, isn't
20 it?

21 MR. BIJU-DUVAL:

22 Question, Madam President. Just for convenience' sake,
23 for purposes of ease of consultation.

24 MADAM PRESIDENT:

25 Mr. Biju-Duval, we keep your page for convenience, but
26 there is no need to enter it as an exhibit.

27 BY MR. BIJU-DUVAL:

28 Q. I would like that P-200, P-200 be shown to the witness.

29 MS. KAGWI:

30 Your Honour, before Counsel shows the witness P-200, he

1 should lay the basis for giving this witness this
2 particular document. That is the procedure.

3 BY MR. BIJU-DUVAL:

4 Q. Witness --

5 MS. KAGWI:

6 Your Honour, I believe he has not laid any basis.

7 MADAM PRESIDENT:

8 We heard you the first time.

9 BY MR. BIJU-DUVAL:

10 Q. Do you have Exhibit P-200? Let me ask the question, a
11 preliminary question --

12 MADAM PRESIDENT:

13 Is this a book, is it?

14 MR. BIJU-DUVAL:

15 No. It is a set of documents, the first page bears the
16 title "Rwandan Forum" and attached to it is a number of
17 separate documents.

18 MADAM PRESIDENT:

19 Tell the Chamber what question you intend to ask, before
20 you put the document to the witness.

21 MR. BIJU-DUVAL:

22 I would like to ask the witness in the case of the RDR,
23 on which Prosecutor cross-examined the witness at
24 length. So I want to find out if the witness is aware
25 of the decisions taken by that organization during its
26 Fourth Ordinary Congress.

27 MADAM PRESIDENT:

28 Yes. Go ahead, Mr. Biju-Duval.

29 BY MR. BIJU-DUVAL:

30 Q. So I would like the witness to answer that question, of

1 course without providing information that might disclose
2 his identity.

3 A. Yes. I am aware of the content of those proceedings.

4 Q. Witness, during the Fourth Congress -- for it not to be
5 a leading question, could you tell us the main items on
6 the agenda?

7 A. The main items on the agenda were the adoption of a type
8 of society. They included an amendment to the Statutes,
9 and if my memory does not fail me there was also, or it
10 was an opportunity to elect a new group of officers.

11 Q. What happened with respect to the amendment to the
12 Statutes?

13 A. The issue here was to adapt the Statutes to the new name
14 that had to be given to the organization.

15 Q. And what was to be that new name?

16 A. It was to be Rassemblement republican pour la d mocratie
17 au Rwanda. Literal translation, "Republican Rally for
18 Democracy in Rwanda."

19 Q. During that congress were any decisions taken regarding
20 relations between the organization and bodies outside
21 the organization; so as not to put a leading question?

22 A. Now, regarding those relations, the wish was expressed,
23 or the decision was taken that the organization be able
24 to work with other institutions which were or which
25 advocated the restoration of multiparty politics and
26 peace in Rwanda, in particular, and in the Great Lakes
27 sub-region in general.

28 MADAM PRESIDENT:

29 Witness F2, were you present at this Congress?

30 THE WITNESS:

1 Yes, I was present.

2 MADAM PRESIDENT:

3 Mr. Biju-Duval?

4 BY MR. BIJU-DUVAL:

5 Q. Among the organizations, of the bodies outside the -- or
6 let me reword my question.

7

8 These foreign organizations who seek to restore
9 democracy in Rwanda, were these organizations
10 exclusively made up of Hutus, or did they bring together
11 people of different ethnic groups?

12 A. They brought together different ethnic groups. In this
13 case, I could make mention of Imbaga Inyabutatu statue.
14 It is an organization known, in quotes, or they usually
15 say that those are supporters of the monarchy; in other
16 words, those who would want the king to return to
17 Rwanda. That was their own goal, their own objective.
18 That is what they sought and so that is why they were
19 characterised as the monarchist. And so RDR would want
20 to incorporate and does collaborate currently with that
21 organization.

22 Q. Could you please spell that name Inyabutatu?

23 A. I-N-Y-A-B-U-T-A-T-U, Inyabutatu.

24 Q. Could you repeat the name, the full name of that
25 organization?

26 A. It is Imbaga Inyabutatu, Imbaga is I M-B-A-G-A, Imbaga,
27 then I-N-Y-A-B-U-T-A-T-U.

28 Q. These organizations, are they isolated structures or do
29 they operate within a structure?

30 A. They are together operating within a structure. There

1 is, therefore --

2 Q. Could you mention the name of that structure?

3 A. RDR is within what is now known as UFDR. Imbaga,
4 Inyabutatu is in another structure known as Isangano
5 spelled I-S-A-N-G-A-N-O, Isangano, and these structures
6 recently set up a framework, a permanent framework for
7 consultations and exchange of views among the democratic
8 opposition of Rwanda. In fact, they set up that
9 framework last week.

10 Q. To your knowledge, is Mr. Valens Kajeguhakwa involved in
11 one way or the other in this general framework?

12 A. If my memory serves me right, at a certain point in time
13 he was the go-between in relations between the
14 opposition.

15 Q. The last part of your question is not very clear. A
16 go-between, between who?

17 A. Between opposition parties.

18 Q. What do you mean by "opposition parties"?

19 A. I mean the parties that were of a Tutsi allegiance, and
20 I pointed it out partly earlier on, and parties that
21 owed allegiance to Hutu.

22 Q. Witness, during the Prosecution's cross-examination you
23 referred to a document by Christophe Mfizi in which he
24 criticized President Habyarimana, didn't you?

25 A. I said that I heard of the existence of this document,
26 but that I had not yet read it.

27 Q. Do you remember what you heard regarding the contents of
28 that document?

29 A. The title was told me, and I also heard that it was
30 indeed a document that was critical of the Habyarimana

1 regime.

2 Q. Do you know what functions were occupied by Mr. Mfizi
3 after he left ORINFOR?

4 A. After he left ORINFOR, what I know is that, and it is
5 something I also remember very well, is that he was
6 appointed by the RPF as Rwandan ambassador to Paris.

7 Q. When Mr. Mfizi was director of ORINFOR, what was the
8 editorial policy of the government media with regards to
9 the person of the head of state?

10 A. I very well remember that it was rather a personality
11 cult that was rather excessive, and I remember -- I can
12 remember a very concrete example of this. And if my
13 memory serves me right it was around the end of the
14 1980s when a journalist who used to write in Kinyarwaka
15 (ph) ù I can't remember the name ù he wrote articles
16 criticizing the regime, and the director of ORINFOR at
17 the time responded by reproaching the journalist and
18 saying that he praised the head of states excessively.
19 This is a concrete example to illustrate the editorial
20 policy of ORINFOR at the time when Christophe Mfizi was
21 the director.

22 Q. After the appointment of Ferdinand Nahimana to head
23 ORINFOR, was this excessive personality cult, to use
24 your own words, continued, or there was some change?

25 A. I believe I have had the opportunity to answer this
26 question, and I said that following the appointment of
27 Ferdinand Nahimana as director of ORINFOR, we witnessed
28 the fact that -- or rather that radio -- the official
29 press was concerned particularly with the people.
30 Journalists went down on the ground to interview the

1 people.

2 Q. You have just mentioned an aspect of the work of a
3 journalist. I would like you to answer this question.
4 To use your own words, was the excessive personality
5 cult vis- -vis the head of state sustained?

6 A. It was not sustained.

7 Q. Witness, I will proceed to another point. Do you know
8 whether Mr. Laurent Inkuzi served in an official
9 capacity -- or rather, let me repeat my question.

10

11 Do you know whether Mr. Laurent Inkuzi held official
12 posts after just 1994?

13 A. After July 1994, yes. I know that at the moment he is
14 minister.

15 Q. What minister of?

16 A. Minister of Lands, if my memory serves me right.

17 Q. I will put the same question to you as regards
18 Mr. Joseph Nsengimana?

19 A. Joseph Nsengimana was Minister of Higher Education and
20 Scientific Research under the RPF regime, and if my
21 recollection doesn't fail me he is currently special
22 advisor to the President of the Republic, the current
23 president.

24 MADAM PRESIDENT:

25 Witness F2, these two names you have just been asked
26 about in respect of whom you have given the answers, are
27 two of the names you declined to give in evidence even
28 though the Prosecutor asked you to do so, and you wrote
29 it down in writing.

30 MR. BIJU-DUVAL:

1 Madam President, I was concerned about avoiding
2 establishing a link between the two names and the
3 personal itinerary of the client, and to avoid
4 establishing that link was the reason why I did not want
5 to put the question in open court.

6 MADAM PRESIDENT:

7 The Chamber wishes to know why the witness was reluctant
8 to state these names, and yet now he is freely answering
9 your questions in re-examination? Do you have any
10 explanation for us, Witness?

11 THE WITNESS:

12 The explanations I have are that, in looking at the way
13 the questioning started it was not appropriate to
14 establish a link between the persons I named and myself.

15 MADAM PRESIDENT:

16 Yes, thank you. Do you have any further questions in
17 respect of those individuals, Mr. Biju-Duval?

18 MR. BIJU-DUVAL:

19 No, Madam President.

20 BY MR. BIJU-DUVAL:

21 Q. With regard to Mr. Christophe Mfizi, are you aware of
22 any degrees, if any, he had of his level of university
23 education when he was director of ORINFOR?

24 A. With regard to this, I don't have a concrete answer to
25 this question, or I don't have a correct answer to this
26 question. I can only -- or rather, accurate answer to
27 this question. I can only tell you what people were
28 saying, and that is that he wanted to do a doctorate in
29 philosophy but he did not pursue it right to the end.

30 Q. Did he have any certificates in communication?

1 A. No, I am sure of that.

2 MR. BIJU-DUVAL:

3 Madam President, I would like to put a few questions to
4 Witness in closed session very briefly.

5 MR. FLOYD:

6 If it please the Court.

7

8 (Pages 48 to 76 by Karlene Ruddock)

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1 1530H

2 MADAM PRESIDENT: Mr. Floyd.

3 MR. FLOYD: Your Honour, if it please the Court, if we go into
4 closed session -- and I know the status is in closed
5 session, would we be down for the rest of the time? If
6 we are, I'd like to put something, while we are still --
7 the Office of the Prosecutor and Ngeze Defence has
8 reached a stipulation on something. I just wanted to
9 put it on the record beforehand and if we are going to
10 go back into open session that's fine but, if not, I'd
11 like to read it in before we go into closed session.

12 MADAM PRESIDENT: The Judges will put the questions in open
13 session.

14 MR. FLOYD: And that will be afterwards then, thank you.

15 MADAM PRESIDENT: We can allow you a moment then go into
16 closed session to enable Mr. Biju-Duval to complete his
17 re-examination.

18 JUDGE M SE: Mr. Witness, did you ever discuss politics with
19 Professor Nahimana?

20 THE WITNESS: Not really.

21 JUDGE M SE: You have known him for a number of years but in
22 your numerous conversations you never entered the
23 political field?

24 THE WITNESS: (Extracted from the transcript by order of the
25 Court.)

26 MR. BIJU-DUVAL: I crave your indulgence. I didn't want to
27 interrupt the witness, but his answer contains data that
28 could enable people to identify him and I would like all
29 that to be placed under seal.

30 MADAM PRESIDENT: The witness's last response will be placed

1 under seal.

2 JUDGE M SE: The next question, Witness, is if you ever
3 discussed RTLM with Professor Nahimana.

4 THE WITNESS: There again I would say not really because RTLM
5 started broadcasting around mid-1993 and around that
6 time, mid-1993, the university was in Butare and he was
7 resident in Kigali, such that where we were living, that
8 is in Butare, we were dispersed in the town. And when
9 he came to the campus or when I was on campus we did not
10 have the opportunity of meeting often. And let me point
11 out that from that time onwards, since I went for
12 further studies, I was more preoccupied with the
13 research project I was working on, my doctorate, I was
14 more concerned with that than with RTLM and politics.

15 JUDGE M SE: Did you listen to RTLM from April to July 94?

16 THE WITNESS: April?

17 JUDGE M SE: To July 1994.

18 THE WITNESS: No, I wasn't in Rwanda.

19 JUDGE M SE: Were you surprised when Professor Nahimana was
20 appointed chief of ORINFOR, you personally?

21 THE WITNESS: I was not surprised, no.

22 JUDGE M SE: Why not?

23 THE WITNESS: Because at the time the president of the
24 republic made changes, he was appointing people for
25 missions abroad; he was appointing officials head of
26 state corporations, so I wasn't surprised.

27 JUDGE M SE: But it was quite a change, wasn't it, from a
28 university career to becoming the head of ORINFOR?

29 THE WITNESS: It wasn't a big change because -- I would say
30 that it wasn't very regular that usually when the

1 president had to appoint somebody he went to the
2 university; the professors were appointed directors,
3 others were appointed advisers. For example in MRND we
4 have Anastase Gasana -- all this to say that the
5 president of the republic appointed scholars to these
6 kinds of positions and there was nothing surprising in
7 that.

8 JUDGE M SE: Would you consider the post of ORINFOR being a
9 political post?

10 THE WITNESS: It depended on who held the post, political,
11 because at least prior to the advent of multiparty
12 politics the creation of the Ministry of Information,
13 the director of ORINFOR had to sit in cabinet meetings.
14 He was practically the de rapporteur of the government.
15 If we look at things from that angle, we would say that
16 it was political, but, as I said earlier, it depended on
17 how the person holding the post conducted himself. When
18 I look at a director who is a simple journalist, an
19 ordinary journalist -- is called to the presidency or to
20 a ministry, and the journalist notices that he doesn't
21 have a vehicle to use to cover the event and the
22 journalist goes to the director, and the director
23 accepts to give his official vehicle to the journalist
24 to go and cover the event, I find that this approach to
25 work with journalists, to reach out to journalists and
26 work in collaboration with them, is another facet which
27 takes off the political colouration of the post.

28 JUDGE M SE: But one thing is how you perform during the post
29 and that the is up to the one holding the post. Now,
30 I'm interested in the decision to appoint someone to the

1 post and you drew attention to the fact that there were
2 certain political aspects there, particularly with
3 respect to the cabinet. Now, looking at it in that
4 perspective, why are you saying that it was not
5 surprising in the context of Rwanda that a university
6 professor in history was moved to such a post? Why was
7 that not unusual, if you could shed some more light on
8 that? This is my last question to you.

9 THE WITNESS: I haven't quite understood the question.

10 JUDGE M SE: This is the same question as I asked you
11 previously. The question was whether you were surprised
12 that Professor Nahimana was appointed director of
13 ORINFOR. You said no. And when I asked you to explain
14 why, you said that in the general context and, in view
15 of the fact that the president made his decisions and
16 took from the intelligentsia, it wasn't so surprising.
17 That was, in brief, your answer. Now, we have moved on
18 and we have agreed that this was, to some extent, a
19 political post and I want you to elaborate why it was
20 not surprising that a professor in history was appointed
21 to this ORINFOR post in the Rwandan context. Please
22 elaborate on that.

23 THE WITNESS: Well, to appoint somebody to a post, at least,
24 as you have pointed out within the context of the
25 Habyarimana regime it wasn't surprising because the
26 president could appoint executive officers to posts of
27 responsibility and he had to take into account the
28 certificates they had. I believe there was certainly
29 other criteria and these criteria can only be explained
30 by the person who was making those choices.

1 JUDGE M SE: That's your answer?

2 THE WITNESS: That is my answer.

3 MADAM PRESIDENT: Witness F2, in the course of your answers
4 you said that you did not read any of the private press
5 and, in fact, in the course of your answers you referred
6 to rumours that you had heard. Can you tell me what are
7 the newspapers that you read?

8 THE WITNESS: Madam President, I might perhaps make a point of
9 clarification. I said that the private press was not my
10 principal source of information. That is what I said.
11 Now, given that, I understand that if that was not my
12 principal source of information what it means is that I
13 could, but not often, if I went to the library for
14 example, and I found Isibo I could leaf through it, but
15 that was not my main source of information and my main
16 concern. That is what I said.

17 MADAM PRESIDENT: So, the question is, did you, when you had
18 occasion, read the private press or not?

19 THE WITNESS: Not often. That opportunity did not occur
20 often.

21 MADAM PRESIDENT: And you've told us that you have not ever
22 read the Kangura.

23 THE WITNESS: The use of the private press, I placed that in
24 the perspective of what I said. To say that I did not
25 read Kangura or that I never read Kangura, that I cannot
26 say, because I'm placing myself within a certain
27 perspective. It was not my principale source of
28 information. But that did not stop me from reading it
29 when I found an occasion and these occasions did not
30 arise often or if, for example, you looked at the

1 document which we dealt with concerning the book by
2 Valence, the document that we dealt with, if you look at
3 that, for example, you will see that I refer to the
4 Kanguka newspaper with the story about the Inyenzi, the
5 origin of that term. So if you take that document you
6 will find that reference. Kanguka is a private
7 newspaper, so I used it and I referred to the newspaper
8 because, for example, somebody sent a photocopy to me.
9 But the fact that I quoted from that newspaper did not
10 mean that I actually held the newspaper in my hands and
11 read it. I used a copy of the newspaper. So that is
12 the context in which my position or my reading of the
13 private press should be placed.

14 MADAM PRESIDENT: You said in answer to a question, which I
15 think was repeated by Mr. Martel, that you did not read
16 Kangura newspaper. Are you saying now, that you did
17 read it?

18 THE WITNESS: What I am now saying is that since Kangura was a
19 private newspaper, my stand, vis-a-vis that newspaper,
20 is in line with the perspective with what I felt about
21 the private press; that is, that the private press was
22 not my main source of information.

23 MR. FLOYD: Point of order, Your Honour. Point of order. Your
24 Honour, it got translated as Kanguka when he was making
25 responses and Your Honour has been asking about Kangura
26 and I would just ask for clarification. His comments --
27 again it was being translated as Kanguka and I want to
28 be sure that we are talking about the same thing.

29 MADAM PRESIDENT: You do understand that my questions relate
30 to Kangura?

1 THE WITNESS: Madam President, your question was, indeed,
2 about Kangura.

3 MADAM PRESIDENT: You were answering about Kangura, were you?

4 THE WITNESS: It was on Kangura but to better illustrate my
5 situation or how I could use the private press I gave an
6 example referring to the Kanguka newspaper.

7 MADAM PRESIDENT: Why did you make this choice of distancing
8 yourself from the private press and where you chose to
9 make the official press your principal source of
10 information?

11 THE WITNESS: In fact, the reason is that I realised, and this
12 is a personal observation -- I realised that at a given
13 point in time private press was characterised by
14 defamatory articles which virtually departed from the
15 publication of actually verified information. That is
16 the first reason, which explains why I decided not to
17 take the private press as my principal source of
18 information. That is the first explanation.

19 MADAM PRESIDENT: Before you go on to your other explanation,
20 at what point in time did you make that decision?

21 THE WITNESS: Practically at the beginning, just after the
22 liberalisation, beginning of 1990s when the newspapers
23 began to appear.

24 MADAM PRESIDENT: So you read them for a time in 1990 and then
25 you stopped reading them because you didn't like the
26 content?

27 THE WITNESS: No. To say that I started reading them would be
28 saying too much. If you take a newspaper, any
29 newspaper, and you look at the cover page, you look at
30 the second page, you peruse it, already from the

1 headlines you can see that even what is written in the
2 headlines does not correspond to reality, so there's no
3 reason to go ahead. And that was what the general case
4 was.

5
6 And now to my second reason, the second explanation for
7 my stand, vis-a-vis the private press, is that when
8 multiparty politics was accepted it was observed that
9 journalists became a reflection of the ideas of parties
10 they belonged to or the movement which they supported.

11 MADAM PRESIDENT: So, what are the newspapers that you did
12 read on a regular basis?

13 THE WITNESS: Frankly, I read La Releve and Imvaho. I read
14 foreign newspapers like Jeune Afrique, Le Monde
15 Diplomatique, Le Monde and so on.

16 MADAM PRESIDENT: And in your view journalistS working for
17 La Releve and Imvaho didn't reflect any party political
18 position?

19 THE WITNESS: Well, in those newspapers, at least, there were
20 articles which were written on the basis of information
21 that had been verified and documented. There were
22 articles of that type.

23 MADAM PRESIDENT: Did you read in La Releve and or Imvaho any
24 articles which covered the events at the national
25 University of Rwanda, Ruhengeri campus, relating to
26 ethnicism and regionalism among the lecturers?

27 THE WITNESS: Madam President, it's a long time since I read
28 those newspapers, so much so I think that was in 1993.
29 We are now in 2002 -- just to tell you that that was a
30 long time ago for me to remember the content of articles

1 that I read.

2 MADAM PRESIDENT: So, if you relied on rumour or your memory
3 when you gave an account of these situations earlier
4 today that would also be unreliable, would you say?

5 THE WITNESS: No, I wouldn't say so because when I had to
6 provide information I was sure of, I did so. And when I
7 had to say that the piece of information I was not sure
8 of, I said that. And I think that if I remember
9 correctly, when I said that I heard rumours, the
10 occasions were few, as far as I remember.

11 MADAM PRESIDENT: Now, in respect of your testimony relating
12 to the departure of Professor Nahimana from ORINFOR, you
13 were asked by the Prosecution whether the reason was his
14 handling of the report on Bugesera and you answered that
15 you had heard a rumour to that effect. Did you read any
16 report in La Releve or Imvaho relating to the departure
17 of Ferdinand Nahimana and this Bugesera report?

18 THE WITNESS: I think I just answered that question. I said
19 that I read those articles or that they were published
20 around 1993. We are now in the year 2000 and I said
21 that I no longer remembered the content of those
22 articles.

23 MADAM PRESIDENT: Yes, thank you.

24

25 Mr. Floyd, the witness, in his answer to me, has
26 indicated that he does read Imvaho and Mr. Ngeze raised
27 with us particularly a question he had asked Mr. Martel
28 to put in respect to 3D104 and I now invite you to
29 consider if you wish to consider pursuing that. I am
30 looking at 3D104 but it's in Kinyarwanda so I don't know

- 1 what question Mr. Ngeze wants to put.
- 2 MR. FLOYD: Your Honour, Mr. Martel was handling that so he'll
- 3 have to deal with this.
- 4 THE ACCUSED NGEZE: May I ask the question, Madam President?
- 5 It will take less than five minutes.
- 6 MADAM PRESIDENT: Mr. Martel. Whatever you wish, Mr. Martel.
- 7 Mr. Ngeze we're not reading the whole page.
- 8 THE ACCUSED NGEZE: Yes, I understand, Madam President.
- 9 MADAM PRESIDENT: Inform Mr. Martel with respects to what your
- 10 question is in respect to this newspaper article.
- 11 THE ACCUSED NGEZE: It will take more time to discuss it,
- 12 Madam President. It will take just less than 2 minutes,
- 13 Madam President.
- 14 MADAM PRESIDENT: We are inclined to give your client that
- 15 opportunity. It will be quicker, Mr. Martel, is that
- 16 all right with you, to let him put his questions in
- 17 Kinyarwanda?
- 18 MR. MARTEL: That is correct, all the more so, as I do not
- 19 even have the document anymore so I think your stand is
- 20 correct.
- 21 THE ACCUSED NGEZE: Good afternoon, Witness.
- 22 THE WITNESS: I would perhaps want to ask a question. May I?
- 23 I am addressing myself to the President.
- 24 MADAM PRESIDENT: Yes, Witness.
- 25 THE WITNESS: I wonder whether it is normal or customary for
- 26 an accused person to ask a witness a question, because,
- 27 Madam President, the context in which I am before you
- 28 here is well-known. I would like to have your stand on
- 29 that. Thank you.
- 30 MADAM PRESIDENT: Witness F2, it's Mr. Ngeze who is standing

1 trial here and his counsel have agreed to him asking a
2 question in respect of A Kinyarwanda excerpt from Imvaho
3 and we are allowing the question because we now learn
4 that you have been reading this newspaper. Now, let's
5 hear your question, Mr. Ngeze; address it to the bench.

6 THE ACCUSED NGEZE: I want him to be given this document
7 first, Madam President, just to be given this document.

8 MADAM PRESIDENT: 3D104; in the meantime address your question
9 to us.

10 THE ACCUSED NGEZE: Yes, Madam President, okay. Now, I am
11 addressing the Bench, Madam President. I want the
12 witness to look at the document, Madam President, and
13 ask the witness -- if he does know this organisation.
14 When I say organisation, the owner of the paper for the
15 protection of the witness. If he does know the
16 organisation, if at the time this paper has been
17 published if he knows that organisation.

18 MADAM PRESIDENT: By "organisation", you are referring to at
19 the bottom?

20 THE ACCUSED NGEZE: Yes, when I say organisation, just in
21 order to protect the witness. The organisation is the
22 owner of this newspaper. That's for the protection --
23 I didn't want just to mention the owner of this
24 newspaper. Then I would ask the witness if -- before I
25 ask to look at the date just here on the bottom, the
26 date, that is different that he was with that
27 organisation -- then I'll ask the witness to read the
28 title here, here. Then I ask the witness just to read
29 this first paragraph. Then my question will come. Just
30 one or two questions,

1 Madam President. I understand the protection, I am
2 going to protect him, Madam President.

3 MADAM PRESIDENT: Witness F2, do you know the organisation
4 that owns this publication?

5 THE WITNESS: But this is ORINFOR or am I mistaken?

6 THE ACCUSED NGEZE: Is the owner of the newspaper.

7 MR. BIJU-DUVAL: Madam President, I object to the way this
8 questioning is going on. I do not see the major problem
9 with Mr. Ngeze asking the witness questions. But I
10 insist that a Judge, an intermediary, be it a Judge or a
11 counsel, as it ought to be, should act between the
12 accused, Mr. Ngeze, and the witness, or else we will end
13 up in a situation which will not help the clarity of the
14 debate or the protection of this witness. If Mr. Ngeze
15 wants, he can let the Judges know what questions he
16 wants to ask and the Judges will put the questions to
17 the witness.

18 MADAM PRESIDENT: We have allowed the questions to be put to,
19 Mr. Biju-Duval.

20

21 Mr. Ngeze, we have the answer to that one. We know the
22 answer thereafter because it's in the protected
23 information. Now, if you will please read the --

24 THE ACCUSED NGEZE: The title first.

25 MADAM PRESIDENT: -- the title and the first paragraph to
26 yourself and then we'll have the question.

27 THE ACCUSED NGEZE: You do want me to read, Madam President?

28 MADAM PRESIDENT: No.

29 THE ACCUSED NGEZE: The witness, okay, thank you.

30 MADAM PRESIDENT: Let's have your question now, Mr. Ngeze.

1 THE ACCUSED NGEZE: Yes. Mr. Witness, you told this Court you
2 did not read the private newspaper because they are not
3 reliable. So this newspaper was reliable, according to
4 you? That's my first question.

5 MADAM PRESIDENT: That question is disallowed. Now, what is
6 your question in relation to this paragraph?

7 THE ACCUSED NGEZE: Oh, yes, Madam President, because I am
8 going to ask the witness if the contents of this article
9 was true, because this is a newspaper which seems to be
10 reliable to him because he does not believe the private
11 newspaper but he believe on this newspaper, Madam
12 President. So I want to ask the witness to tell us
13 exactly if he believe the contents of this article was
14 true. That's my question, Madam President.

15

16 Diane, what's wrong with you?

17 MS. ELLIS: Madam President, we are concerned that the
18 document is being held up where it can be seen.
19 Mr. Ngeze doesn't need to keep on hanging it in front of
20 the cameras as he deals with the question. That's one
21 of the reasons where counsel can safeguard a witness.

22 THE ACCUSED NGEZE: Back to the first question then will come
23 the next question.

24 MADAM PRESIDENT: No, we will only allow you one question.

25 THE ACCUSED NGEZE: The most important question is the last
26 one, Madam President. So let me put the last question.

27 MADAM PRESIDENT: Yes, that makes sense.

28 THE ACUSED NGEZE: Okay, Witness, which was the source of this
29 newspaper? Where did this newspaper get information
30 which allows the newspaper to publish such kind of

1 information -- this organisation, we know is
2 responsible?

3 THE WITNESS: Now, I believe that that question did not have
4 to be put to me. Why? Because when I said that I read
5 Imvaho and La Releve, if you followed me closely, I said
6 that all the information, and that is what an
7 intellectual would do, should -- an intellectual should
8 undertake a sort of criticism and that is normal. Now,
9 to ask me if the information is correct, I believe that
10 you are not dealing with the right person. You should
11 find the person who wrote it and ask that person if the
12 information contained therein is correct. Now, as
13 concerns myself, I read what is written and I look at it
14 critically.

15 THE ACCUSED NGEZE: It says here on the bottom you worked for
16 that organisation, Mr. Witness, ...
17 ...

18 THE WITNESS: But the fact that ...
19 organisation, does that mean that I had to read all the
20 articles?

21 THE ACCUSED NGEZE: (Microphone not on)

22 THE WITNESS: I cannot answer that question.

23 MADAM PRESIDENT: Thank you, Mr. Ngeze.

24
25 So, let me return to my question, then, where you said
26 that you left off looking at the private media because
27 it did not reflect the reality. So, in your view, are
28 La Releve and Imvaho reliable sources of information?

29 THE WITNESS: Madam president, I think that is what I just
30 said. I said that when you read a book or an article,

1 as an intellectual you should criticise, you should say
2 why or why something is correct and why something is not
3 correct. And it is on the basis of that analysis of the
4 comparison of those ideas that you take a decision
5 either to carry out research or to take the information
6 from that source.

7 MADAM PRESIDENT: Mr. Witness, we have now come to the end of
8 your testimony, apart from a few questions, which, in
9 the interest of your protection, will be asked by
10 Mr. Biju-Duval in a closed session. So, while we are
11 still in the open session, I'd like to thank you on
12 behalf of the Chamber for coming forward as a witness to
13 the Tribunal and to wish you a safe journey back to your
14 home.

15 THE WITNESS: Thank you, Madam President. On my part I would
16 like to thank the Chamber for having given me this
17 opportunity to make my small contribution so that the
18 truth on the Rwandan situation should be brought to
19 light. I thank you.

20 MADAM PRESIDENT: All right, just bear with us a little while.
21 We have a small matter to be done in open session then
22 we will go into closed session.

23

24 Mr. Floyd.

25 MR. FLOYD: This is a stipulation of the parties with regard
26 to the signature of Gregory Gordon. The parties having
27 considered the record of the case as a whole and wishing
28 to streamline --

29 THE INTERPRETER: Could Counsel slow down, please?

30 MR. FLOYD: The parties, having considered the record of the

1 case as a whole and wishing to streamline the trial
2 testimony agree that Gregory Gordon, whose purported
3 signature appears on cover sheets for Exhibit P107/29,
4 see annex A, and a similar signature on cover sheets for
5 exhibits P107/3, P107/4, P107/5, P107/6, P107/7, P107/8,
6 P107/9, P107/15, P107/17, P107/18, P107/19B P107/23 and
7 P107/31 -- see annex B, will be allowed to see those
8 documents in question and file an affidavit of admission
9 or denial of his signature and, if necessary, the
10 circumstances of the signature of those exhibit cover
11 sheets which will be bringing on both parties as an
12 admitted fact. Signed by myself and Stephen Rapp.
13 That's the end of the stipulation.

14
15 There is also a document that will be circulating for a
16 proposed stipulation of Denise Miner and the testimony
17 of Crystal Nix Hinds. The problem with that is
18 Ms. Ellis may have an objection and so I thought that,
19 out of an abundance of caution, I filed with the Chamber
20 those proposed stipulation and both the Office of the
21 Prosecutor and Diane Ellis and my colleague,
22 Mr. Caldarera, if they have comments before we enter
23 into a stipulation on that matter. I thought that was
24 the best way to proceed. And thank you very much, Your
25 Honour.

26 MADAM PRESIDENT: Thank you, Mr. Floyd and Mr. Rapp.

27

28 We will now go into closed session and, Mr. Matemanga,
29 if you will, please, clear the Court.

30 (At this point in the proceedings, a portion of the

1 transcript (pages 94 to 95) was extracted and sealed
2 under separate cover as the session was heard in camera)

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4 (Pages 77 to 93 by R. Lear)

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C E R T I F I C A T E

We, Diane Hermann, Donna Lewis, Rex Lear and Karlene Ruddock, Official Court Reporters for the International Criminal Tribunal for Rwanda, do hereby certify that the foregoing proceedings in the above-entitled cause were taken at the time and place as stated; that it was taken in shorthand (stenotype) and thereafter transcribed by computer 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.

Diane Hermann (pages 1 to 31)

Donna Lewis (pages 32 to 47)

Karlene Ruddock (pages 48 to 76)

Rex Lear (pages 77 to 93)

ACCUSED

DATE

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