

1 THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA
2 CASE NO. ICTR-99-52-T (Joinder) THE PROSECUTOR
3 ICTR-96-11-T OF THE TRIBUNAL
4 ICTR-97-27-T
5 ICTR-97-19-T AGAINST
6
7 FERDINAND NAHIMANA
8 HASSAN NGEZE
9 JEAN BOSCO BARAYAGWIZA
10
11 25 SEPTEMBER 2002
12 0910H
13 CONTINUED TRIAL
14
15 Before: Judge Navanethem Pillay, Presiding
16 Judge Erik Møse
17 Judge Asoka Zoysa Gunawardana
18
19 For the Registry:
20 Ms. Marianne Ben Salimo
21 Mr. Edward Matemanga
22
23 For the Prosecution:
24 Mr. Stephen Rapp
25 Mr. William Egbe
Ms. Charity Kagwi
Ms. Simone Monasebian
For the Accused Nahimana:
Mr. Jean-Marie Biju-Duval
Ms. Diana Ellis
For the Accused Ngeze:
Mr. John Clifford Floyd III
Mr. René Martel
For the Accused Barayagwiza:
Mr. Giacomo Barletta Caldarera
Mr. Alfred Pognon
Court Reporters:
Mr. Rex Lear
Ms. Karen Holm
Ms. Karlene Ruddock

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I N D E X

WITNESS

For the Prosecution:

ACCUSED FERDINAND NAHIMANA

Cross-Examination by Mr. FLoyd 4

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

2 MS. MONASEBIAN: Madam President, if we may, just one brief
3 housekeeping matter.

4 MADAM PRESIDENT: Good morning, Mr. Nahim

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FERDINAND NAHIMANA
HASSAN NGEZ motion

regarding breaches of the Accused

13 rights to a fair trial, we have an update for Defence
14 counsel and Your Honours. And that is that the 28,000
15 pages of documents that were in the U.S. State
16 Department have already been part of OTP system for
17 quite a long time and have all been reviewed for
18 purposes of Rule 66, Rule 67 and Rule 68 and disclosed,
19 so that's no longer an issue. OTP has had all of that,
20 we've verified that is, in fact, the case and it has
21 been disclosed under all three Rules, Madam President.

22 MADAM PRESIDENT: Disclosed when?

23 MS. MONASEBIAN: In the -- mostly February 2000 in the course
24 of the Media Case disclosures and thereafter or they
25 have been --

26 MADAM PRESIDENT: Hard copies?

27 MS. MONASEBIAN: Hard copies, Madam President, yeah, under
28 Rule 66, Rule 67, and 68, if it was exculpatory, if it
29 was material to the preparation of the Defence, if it
30 was something that they requested disclosure of, all

1 those materials have been given to the Defence in hard
2 copy form through disclosure and inspection.

3 MADAM PRESIDENT: That's helpful. Because now we have the
4 microfiche material brought to us by the deputy
5 ambassador for the war crimes tribunals, but no reader
6 to read the microfiche material.

7 MS. ELLIS: Madam President, I don't know whether you think
8 this is the best time to deal with this matter, but if
9 you want to hear me I certainly want to address the
10 Trial Chamber about it. I don't know whether you want
11 to deal with that now.

12 MADAM PRESIDENT: No, we didn't want to deal with it now.
13 This is information that is being furnished. Will you,
14 then, look into it and see whether it's the material you
15 are looking for.

16 MS. ELLIS: Well, Madam President, as you put it like that, I
17 then renew my request to see the microfiche and I
18 already have permission to go to Washington to do that.
19 I wasn't able to use that in August, because we hadn't
20 had a response from the ambassador of the war crimes
21 office, but we certainly don't accept the information
22 that is being given today on face value simply because
23 it is contrary to what has been said in this Trial
24 Chamber and contrary to the information contained in
25 documents I've received from the Prosecutor. But
26 perhaps we'll take it up in the status conference at the
27 end of this week and allow the cross-examination to
28 continue now.

29 MADAM PRESIDENT: Thank you.

30

1 Mr. Floyd.

2 MR. FLOYD: If it please the Court, a couple of housekeeping
3 matters. Number 1, I would ask the Chamber if we can
4 take a break at 10:45 this morning. There is a meeting
5 that some of us would like to attend that is scheduled
6 for 10:45 and that's my first request.

7

8 My second one has to do with the testimony of
9 Mr. Nahimana. That I was told after Court yesterday,
10 from two different sources, that the French translations
11 of the questions to Mr. Nahimana were woefully not a
12 reflection of what I was saying or the questions I was
13 asking. In addition to that, apparently even
14 Mr. Biju-Duval, who was listening in French, did not
15 understand and the questions didn't make any sense to
16 him, so that I got from two sources there was a problem
17 with translation.

18

19 Today I'm going to try to ask as short a question as I
20 can, but that necessarily may mean that it may take a
21 little longer and I wanted to bring that to the
22 attention of Court. Since this is an important witness,
23 I do consider the areas I'm covering important areas and
24 I just, again, wanted to make mention of that. And
25 there's nothing I can do about being an American and
26 speaking American English; that's just who I am and
27 that's the way I ask questions.

28 MADAM PRESIDENT: Just a minute. Give the floor to

29 Mr. Biju-Duval.

30 MR. BIJU-DUVAL: Madam President, I never told Mr. Floyd that

1 the French interpretation did not tally with what he
2 said for the simple reason that I am absolutely
3 incapable of verifying what he is saying. I do not
4 understand why my colleague is blaming the interpreters.
5 In any case I am not concerned with that.

6 MADAM PRESIDENT: Mr. Floyd, I understood that you took
7 responsibility for the fact that your questions were not
8 being translated as accurately as you would wish.

9 MR. FLOYD: That's correct and I said that --

10 MADAM PRESIDENT: And you are going to take some remedial
11 steps. You've been asked many times to do so. So if
12 you can spare the story, the interesting anecdotes from
13 the U.S., for instance, and just get right to the
14 question. And the Judges have found it very useful when
15 we ask questions to split the question into parts.

16 MR. FLOYD: Yes, Your Honour.

17 CROSS-EXAMINATION (continued)

18 BY MR. FLOYD:

19 Q. Good morning, Mr. Nahimana.

20 A. Good morning, Counsel.

21 Q. Do you recall when --

22 MR. FLOYD: And so to save time I would ask that the editions
23 of Kangura be put in front of Mr. Nahimana and I would
24 like him to look at No. 23. Now, while that is being
25 done I can ask him preliminary questions.

26 BY MR. FLOYD:

27 Q. Do you recall when Mr. Serashago testified?

28 A. Yes, I do.

29 Q. Do you recall him testifying about the existence of
30 something that he referred to as a "death squad"?

1 A. Yes, I do.

2 Q. Do you recall him testifying that a colonel -- and I'm
3 going to have to spell the name; I'm going to try to
4 pronounce it and spell it -- it's spelled
5 R-W-E-N-D-E-Y-E, Rwendeye?

6 A. Yes, I do remember.

7 Q. Will you look at the back page of that Kangura, the very
8 last page?

9 A. What edition of Kangura are you referring to?

10 Q. I'm referring to edition No. 23. I asked that that be
11 placed in front of you. It's already an exhibit.

12 A. Yes, I have it.

13 Q. Will you look at the very last page?

14 A. I'm on the last page.

15 Q. Looking at it, do you see the picture of a soldier?

16 A. Yes, I do.

17 Q. Now, of your own information, can you verify that that
18 soldier, that Mr. Serashago alleges introduced him into
19 something called the death squad, died in 1990?

20 A. If I remember properly, Mr. Serashago said that he died
21 later, but from information I have, what it says here he
22 died on the 18th of November 1990.

23 Q. Thank you. Now, when Mr. Serashago testified, did you
24 find that you -- I'll withdraw the question. I won't
25 ask that question.

26

27 Now, as director of ORINFOR, you indicated that at a
28 certain point you were involved with the sanctioning of
29 three newspapers, Isibo and Kangura being two of them.
30 Do you recall your testimony on that point?

- 1 A. I remember the censuring of these newspapers, but I said
2 that to express a point of view of the government. But
3 I did not censure those newspapers, but I know that the
4 newspapers were censured.
- 5 Q. Well, did it occur on your watch, so to speak?
- 6 A. No, the censuring was not done with my blessing. I
7 reacted after the censure.
- 8 Q. Well, who was it in the ORINFOR structure who was
9 responsible for censuring newspapers?
- 10 A. ORINFOR had no responsibility regarding the censuring of
11 newspapers, none.
- 12 Q. Well, who was it who censured the newspapers?
- 13 A. I said that it must have been the security services. At
14 the time I remember it was the intelligence services of
15 the presidency of the republic.
- 16 Q. To the best of your knowledge, can you verify that
17 before any copy of any newspaper under the aegis of
18 ORINFOR was censored prior to the time that it was
19 distributed to the public?
- 20 A. That goes without saying as concerns newspapers
21 published by ORINFOR and, as happened with any editing
22 service, there is censoring but the censoring concerns
23 only newspapers belonging to ORINFOR.
- 24 Q. Would you agree with the proposition that from 1990
25 through to July 1994 that all RPF publications and radio
26 broadcasts were not censored?
- 27 A. Accepted.
- 28 Q. Would you agree that much of what has been testified to,
29 about the give and take between proponents of the RPF
30 and opponents of the RPF, were caused by the inciting

- 1 language of the pro-RPF publications and radio
2 broadcasts?
- 3 A. Yes, I agree.
- 4 Q. Would you further agree that the catalyst that caused
5 everything that happened in Rwanda from 1990 until July
6 1994 was, again, caused by the RPF?
- 7 A. I am deeply convinced of that.
- 8 Q. Now, Mr. Nahimana, you were selected among the MRND
9 candidates, to represent the party in the transition
10 party as a minister; is that correct?
- 11 A. Correct.
- 12 Q. Were you aware, at the time it was happening that
13 Mr. Hassan Ngeze had written in Kangura that there was a
14 plot afoot to assassinate President Habyarimana?
- 15 A. Yes, towards the end of 1993. I was aware of that
16 article.
- 17 Q. Mr. Nahimana, do you have Kangura 54 in front of you?
18 Can you take a look at it and I want to point your
19 attention to the front page.
- 20 A. I have it before me.
- 21 Q. Do you see the cartoon on the front page?
- 22 A. Yes, I do.
- 23 Q. Do you see that there's a naked Hassan Ngeze being
24 portrayed with the RPF with guns trained on him? Do you
25 see that?
- 26 A. Yes, I do.
- 27 Q. Are you aware that the RPF said that they were having a
28 press conference and enticed Mr. Ngeze to attend the
29 press conference where he was then taken into custody by
30 the RPF?

- 1 A. Madam President, Your Honours, that I know. There is
2 even a letter which was read on Radio RTLM which was
3 disclosed by the Prosecutor; 25 Tutsis signed and said
4 that RPF did not have a right to treat Mr. Ngeze in that
5 manner, claiming that the RPF represented the Tutsis and
6 that Hassan Ngeze was talking ill of the Tutsis. They
7 were going to punish him on behalf of the Tutsis. So
8 these 25 Tutsis were saying absolutely not, we do not
9 agree with the RPF. That is to prove that I am, indeed,
10 aware of that. That was in January; I think it was
11 around the 5th of January 1994.
- 12 Q. Do you also know that the only reason that the RPF, who
13 had Hassan Ngeze in custody in early January 1994, did
14 not kill Mr. Ngeze is because UNAMIR troops came and
15 freed him?
- 16 A. I am unaware of how Mr. Ngeze was freed from the CND
17 where the RPF battalion was.
- 18 Q. Now, you're familiar with the Arusha Accords; correct?
- 19 A. Yes, I am.
- 20 Q. Wasn't the taking into custody of Mr. Ngeze, a
21 recognised journalist, a breach of the Arusha Accords?
- 22 A. Yes, the Arusha Accords accepted the state under the
23 rule of law and freedom of expression, so if he was
24 taken in custody as a journalist it was definitely a
25 violation.
- 26 Q. Now, have you had an opportunity to read
27 Mr. Kajagrafya's book, which is in evidence?
- 28 A. I read all of it.
- 29 Q. Now, you've heard RTLM being criticised for saying that
30 the RPF had more soldiers than the Arusha Accords

- 1 allowed them to have in the city of Kigali. You do
2 remember people testifying about that, don't you?
- 3 A. Yes, I heard that criticism.
- 4 Q. In *Mr. Kajagrafya's book did you read that he agrees
5 with what RTLM said, that there were substantially more
6 RPF troops in the city of Kigali prior to April 6, 1994?
- 7 A. Yes, he was not alone; Mr. Rutimera said before the 6th
8 of April there were at least 3,500 brigades around
9 Kigali and in that book the author himself admits that
10 he was the first person to set up RPF brigades in Rwanda
11 before the 1st of October 1990.
- 12 Q. Well, yeah, you mentioned 1990, but I'm also talking
13 about the period after the Arusha Accords was signed and
14 before April 6, 1994; you do agree that Mr. Kajagrafya
15 and others including Pierre Mugabe have said that there
16 were substantially more troops than those allowed by the
17 Arusha Accords?
- 18 A. Absolutely, they say so.
- 19 Q. Now, there was, in your testimony, a reference to
20 Mulindi. Before we go to the specifics of that
21 conversation, will you explain what the reference to
22 Mulindi means?
- 23 A. In a word, Mulindi was the headquarters within Rwanda of
24 the RPF.
- 25 Q. And isn't it true that the RPF maintained several
26 battalions at Mulindi?
- 27 A. That is what I learned, yes.
- 28 Q. Isn't it true that the RPF was to maintain its troops at
29 Mulindi?
- 30 A. That is what I learned.

1 Q. Isn't it true that the RPF, prior to the 6th of April
2 1994, began to move its troops in a southerly direction
3 along -- in Rwanda, but along the Tanzanian border?

4 A. Yes, I received information regarding that.

5 MR. FLOYD: There was a distraction in the courtroom. I want
6 to be sure that the Chamber heard his last response
7 answer to my last question, which I consider to be a
8 critical piece of testimony. Did the Chamber hear it?
9 There is a distraction going on.

10 MADAM PRESIDENT: But the translation --

11 MS. ELLIS: Madam President, could I just ask that we pause
12 for a minute? There is some water that has been knocked
13 over. We have to deal with it because it may damage
14 papers and the electronics, just one minute.

15

16 Thank you very much.

17 MR. FLOYD: So that the record is correct, I'm just going
18 to --

19 BY MR. FLOYD:

20 Q. You did answer in the affirmative that you were aware
21 that prior to April 6 that troops of the RPF had moved
22 from Mulindi and moved in a southerly direction down the
23 Tanzanian border in violation of the Arusha Accords?

24 A. That information reached me.

25 Q. Now, isn't it true that the reason that
26 President Habyarimana and the chief of staff of the army
27 had gone to Tanzania on the 6th of April is because they
28 were concerned that the RPF had committed so many
29 violations of the Arusha Accords and appeared to be
30 mobilising for an offensive?

- 1 A. From all that information, it is possible to deduce
2 their trip to Dar es Salaam. For as far as I was
3 concerned, I was not aware of what was discussed here in
4 Tanzania, in Dar es Salaam on the 6th of April 1994,
5 among the Rwandan, Burundian, Tanzanian and Ugandan
6 heads of state.
- 7 Q. Would you look at -- be given Kangura No. 26.
- 8 A. I have it.
- 9 Q. Will you look at the back page first, the back page?
- 10 A. Yes, I have that page before me.
- 11 Q. Do you recognise that as being a picture of
12 President Habyarimana dressed up as a bishop of the
13 Catholic Church?
- 14 A. Yes, the face is that of President Habyarimana and he is
15 dressed as a bishop; that's correct.
- 16 Q. Do you see what appears or looks like a Bible that he's
17 holding in his hand; do you see that?
- 18 A. I see what looks like a Bible and on it is written
19 Ubumway, which means unity.
- 20 Q. Isn't it true that from a very early stage, after
21 October 1st, 1990, that President Habyarimana
22 consistently tried to sue for peace with the RPF?
- 23 A. Very true.
- 24 Q. Isn't it true that every breach of the peace, commencing
25 with October 1, 1990, to April 1994 was always initiated
26 by the RPF?
- 27 A. That coincides with what I know, yes.
- 28 Q. Will you turn to that same issue and look at the front
29 page?
- 30 A. I have it before me.

1 Q. Now, you've been aware that there have been a lot of
2 testimony about this front page of Kangura, correct?

3 A. I recall, yes.

4 Q. Looking at the whole page, everything that is on there,
5 doesn't this page, when you look at the whole page and
6 all the words that are written, doesn't this represent a
7 call for there to be a peace?

8 A. When I consider that page in its entirety, I find a
9 number of titles which should be developed inside the
10 edition. I find some pictures, which, from my point of
11 view, do not call for peace, but show that, quite on the
12 contrary, the country is facing a number of difficulties
13 as a result of the presence of different kinds of
14 weapons. But then I see a phrase, which is in black and
15 near the President, which is what weapons are we going
16 to use to definitively overcome the Inyenzi. So it is
17 only when I look at that sentence that I see that there
18 is a question calling for peace at the end of the war.

19 Q. I may have misstated my question, and I guess what I
20 really wanted to say about this page is, isn't this
21 really a call for the preservation of the republic?

22 MADAM PRESIDENT: Mr. Floyd, direct him to what you are
23 looking at on this page that corresponds with your
24 question.

25 BY MR. FLOYD:

26 Q. Isn't it true, if you look at this, that there is an RAF
27 soldier, that is a Rwandan soldier, and there is an RPF
28 soldier and there is a reference to the 1959 revolution,
29 and what the totality of this page is calling for is how
30 are they going to maintain the republic?

- 1 A. Yes, that I understand. Indeed, when I look at this
2 page, I say to myself, the country is at war, we have to
3 stop the war. How are we going to do so; are we going
4 to do so using different kinds of weapons? Are we going
5 to do so by coming back to the 1959 revolution? Or are
6 we going to do so by setting up and consolidating
7 democracy? And when I talk about democracy, I see
8 Mr. Kayibanda, who is at the centre of the page. Yes, I
9 agree with your analysis.
- 10 Q. Now, the prediction that Mr. Ngeze made about the death
11 of President Habyarimana, we've already talked about the
12 RPF seizing him and trying to find out the source of his
13 information. But, do you have information that, in
14 fact, after President Habyarimana was assassinated that
15 there were people, particularly within the Rwandan
16 military, who wanted to find out how Mr. Ngeze knew that
17 President Habyarimana was going to be assassinated?
- 18 A. First of all, I told you that on the 7th I fled to the
19 embassy of France; I stayed there until the 12th. What
20 I know, and it is after my return to Rwanda within the
21 Gisenyi region, I learned that Mr. Ngeze was arrested on
22 several occasions by soldiers, and the reaction you are
23 describing would not surprise me because as soon as the
24 president was assassinated, the intelligence services or
25 security services went immediately to anybody who,
26 before his assassination, had talked about the possible
27 death of the president, the possible assassination of
28 the president. It would not surprise me that Mr. Ngeze
29 was picked up and even arrested by security services
30 because of his article.

1 Q. Is it fair to characterise Hassan Ngeze, from the period
2 that you first knew of him, in early 1990 through July
3 of 1994, as a person that everyone seemed to have a lot
4 of questions about?

5 A. I myself asked myself many questions about Mr. Ngeze; in
6 fact, I still continue to ask myself questions about
7 Mr. Ngeze.

8
9 I would say that the articles Mr. Ngeze published often
10 mentioned facts which could only come from intelligence
11 services, Rwandan security services, RPF security
12 services, so much so that I told you yesterday, I told
13 the Chamber yesterday that when I met Ngeze I told him
14 "what is happening with your friends", because I was
15 deeply convinced, and particularly since I had been in
16 Gisenyi in June, I heard Ngeze -- or I heard people
17 saying that Ngeze was in contact with the people of
18 Mulindi and very spontaneously, and that is a weak point
19 I had, I said, "Mr. Ngeze, what is the situation with
20 your friends?" So Ngeze has always been considered as
21 somebody who could work with the RPF or, in fact, was
22 working with the RPF.

23
24 Madam President, Your Honours, personally I do not see
25 Mr. Ngeze in the month of June being left alone by the
26 security services. They had to be behind him because he
27 was also suspected to be collaborating with the RPF.

28 Q. The opinion you shared that Mr. Ngeze was Inyenzi, that
29 was an opinion shared by many, many people; isn't that
30 correct?

- 1 A. I did not understand the question properly. Counsel,
2 could you please repeat the question?
- 3 Q. I'll rephrase it. The opinion that Mr. Ngeze was
4 actually an Inyenzi involved with the RPF was an opinion
5 that not only you believed but that many people in
6 Rwanda believed at the time; isn't that true?
- 7 A. That was an opinion, but I believe, especially in
8 June, and I believe that many Rwandans thought the same
9 about Mr. Ngeze.
- 10 Q. Now, as the director of ORINFOR you must have spent
11 sometime thinking about what the profession of
12 journalism was really about; am I correct, that you did
13 do some thinking about the field of journalism?
- 14 A. Yes, it was a great learning process for me.
- 15 Q. Now, based on your interfacing with journalism and
16 journalists, isn't it a fact that Mr. Ngeze was able to
17 get information from both sides in a war makes him a
18 good journalist?
- 19 A. If you want my opinion, I took information from
20 Mr. Ngeze seriously. When I saw that he was talking
21 about the RPF, I understood that those were elements --
22 I mean a few elements, because I do not believe that
23 when the security person speaks the person sees
24 everything -- I took it seriously that it concerned the
25 RPF. And when he spoke about the government, I took
26 what he said seriously too. Because when I was director
27 of ORINFOR, I was convinced, even thereafter, that Ngeze
28 was a person who had succeeded in having his way into
29 the various parties at war; indeed, that was my
30 conviction at the time and even afterwards.

1 Q. Being at ORINFOR and interfacing with journalists, was
2 there anything wrong with Mr. Ngeze having sources
3 inside of the military, inside of the police
4 gendarmerie, inside the RPF, inside the various
5 political parties? Is there anything wrong with that?

6 A. Why, to the contrary, I was encouraging my own
7 journalists to work and obtain information of that sort
8 from both sides. It is rather praise-worthy for a
9 journalist who goes looking for information.

10 MR. FLOYD: Mr. Matemanga, can you come forward, please? I
11 have something that I want to exhibit. I'm asking that
12 a photograph, of which I've made from some rather poor
13 copies, I wanted to eventually publish to the Chamber,
14 the photograph, but I want Mr. Nahimana to look at it.
15 But I wanted the Chamber also to look at it.

16 BY MR. FLOYD:

17 Q. Looking at what you've been shown, do you recognise that
18 as being the gasoline station in Gisenyi where you and
19 Mr. Ngeze had your brief conversation?

20 A. Yes, it is, indeed, the petrol station at Gisenyi.

21 MR. FLOYD: Your Honour, I would like to ask that be marked
22 next exhibit in order and ask that the original photo be
23 published to the Chamber, which is of much better
24 quality. I've already shown it to the Prosecutor.

25 MADAM PRESIDENT: What is the exhibit number, Mr. Floyd?

26 MR. FLOYD: PD129.

27 MADAM PRESIDENT: PD129.

28 (Exhibit No. PD129 admitted)

29 BY MR. FLOYD:

30 Q. Now, before we leave this Edition 26, isn't it true that

1 President Kayibanda represented to the Rwandan people
2 the notion of democracy?

3 A. Absolutely, he was the father of democracy in Rwanda,
4 and whether this was during the second republic, or
5 during the period of multipartyism, he was the one who
6 was referred to, yes, he was the father of democracy and
7 of the republic, also.

8 Q. The machete, isn't it true that the machete, basically,
9 represents the peasant or the peasantry, the peasant
10 revolution of 1959?

11 A. I didn't have that interpretation because the machete,
12 first and foremost, is an agricultural working implement
13 and each Rwandan household possesses one. To have
14 machetes and a sickle was necessary, it wasn't
15 considered as a weapon. But even a hoe can become a
16 weapon which kills. It is true that during the genocide
17 the machete was used, it is also true that during the
18 war from 1990 up to 1994 the machete was used, even in
19 the zones conquered by the RPF, contrary to what people
20 wished to believe. I agree with your -- I do not agree
21 with your interpretation that the machete represents
22 their revolution, no, it was one of the weapons which
23 was used during that period of crisis.

24 Q. Again, Mr. Nahimana, I'm not sure whether it was a
25 translation problem, but I did not ask that question. I
26 said that didn't the machete represent the peasants or
27 the agricultural community, that that's what it
28 represented, not a weapon but the peasants themselves?

29 A. Oui.

30 Q. The words that are between President Kayibanda and the

1 machete, would you, basically, say what those words are,
2 what they mean?

3 THE INTERPRETER:

4 The witness's answer to the preface question was "no"
5 (sic).

6 THE ACCUSED NAHIMANA: I translated this sentence a moment
7 ago. The first meaning of these words was what are in
8 the plural, "what are the weapons which will enable us,
9 which will be used to definitively conquer the Inyenzi",
10 and this sentence is written in white over a black
11 background and it refers to all the weapons which are
12 here. We see the machete. We see the soldier with a
13 gun. We see something which looks like a tank. All of
14 these weapons are being used, and that's my
15 interpretation of the thing. And also
16 President Kayibanda, who is representing a weapon,
17 democracy.

18 MR. FLOYD: I am not convinced for the way which they are
19 giving this of Kangura. It is a matter of language.
20 Let me explain to the Court.

21 MADAM PRESIDENT: Sit down now.

22 BY MR. FLOYD:

23 Q. Now, do you know a man by the name of Habibu Musa,
24 H-A-B-I-B-U, and the second word is M-U-S-A?

25 A. Absolutely, this was my friend. He was the owner of a
26 bakery in Gisenyi, and if you look at the photograph
27 which you have just given me, it was behind the petrol
28 station. Yes, I do know the person well.

29 Q. Did you see that person when you were in Gisenyi in
30 June-July of 1994?

1 A. Yes, I met him and right from early June 1994. This is
2 before I left for Tunis and even before the 7th of
3 June 1994 I saw him. He was the one who gave me the
4 chairs and tables, lent those objects to me, which I
5 placed in the house that I had rented when I settled in
6 Gisenyi. He was the one who assisted me in that manner.

7 MADAM PRESIDENT: Just a moment, Mr. Floyd. I just want to
8 place on record that, in fact, Mr. Nahimana's answer to
9 your question relating to whether the machete was a
10 farming implement was "yes". We had a correction from
11 the booth saying his answer was "no". So his answer
12 was, in fact, yes.

13 MR. FLOYD: Thank you.

14 BY MR. FLOYD:

15 Q. Did you, during that period that you were in Gisenyi,
16 have a conversation with Mr. Habibu Musa about
17 Hassan Ngeze?

18 A. Yes, he spoke to me about Ngeze. And I must say that
19 today I'm rather disturbed by having to remember this,
20 because on the 7th I said that I met Hassan Ngeze on the
21 7th of June 1994. Behind the petrol station I had gone
22 to see Mr. Habibu Musa, I was buying bread from his
23 bakery, and I discussed with him -- he took me -- he
24 lived behind-- his house was behind the bakery, so he
25 took me to his living quarters into his sitting room,
26 precisely. And he said that he was upset, he was sorry
27 that Mr. Ngeze -- I didn't even know that he was his
28 friend -- had been attacked over the night, during the
29 fact that his children, whom I knew very well, had been
30 taken by Mr. Ngeze to Gisenyi and that, according to

1 Mr. Musa, it had been thought that Ngeze had transported
2 Tutsi women and children, and that during that attack a
3 relative of Ngeze's, he didn't give me the name, nor the
4 sex of the person, he said the "umatias".

5 THE INTERPRETER: Which is being spelt by the witness.

6 THE ACCUSED NAHIMANA: Which means relative, was killed -- a
7 parent was killed in that attack.

8
9 I met Mr. Ngeze at the petrol station and he turned
10 around without saying a word to me. So I said to
11 Mr. Musa that I was sorry and that about what he had
12 told me about Mr. Ngeze. Later on in July, some few
13 days before I fled, I asked him where his wife and
14 children were, because his wife was Tutsi. In fact, let
15 me say that this Habibu Musa is a Rwandan, but of Omani
16 origin: His father came from Oman. His mother is
17 Rwandan. So his wife was Tutsi and Mr. Habibu Musa told
18 me, before I fled on the 14th of July, that these people
19 had been taken to Zaire, thanks to Mr. Ngeze, who
20 transported them in a lorry full of people.

21
22 And in my own room, as a student, one of the children
23 stayed there for a year when he was doing his Masters in
24 economics in Paris. So, this is where our friendship
25 came from.

26 Q. The day that you saw Hassan Ngeze at the gasoline
27 station, was he dressed in a military uniform?

28 A. No, I didn't see him in military uniform, but I can't
29 tell you, sincerely speaking, what he was wearing.
30 Nonetheless, he was in civilian.

1 Q. When you saw Mr. Ngeze at the gasoline station did you
2 notice if Mr. Ngeze was carrying any type of arms,
3 either a long barrelled weapon or a pistol?

4 A. No, not at all. When he approached me he didn't have
5 anything in his hands, or at least I didn't notice
6 anything in relation to the Ngeze I had seen a year
7 earlier, if not more.

8 MR. FLOYD: Court's indulgence.

9 BY MR. FLOYD:

10 Q. Now, do you know Joseph Nzirorera?

11 THE INTERPRETER: Can Counsel Floyd spell out that name?

12 MR. FLOYD: N-Z-I-R-O-R-E-R-A.

13 THE ACCUSED NAHIMANA: Yes, I do.

14 BY MR. FLOYD:

15 Q. Do you know if Mr. Nzirorera was in Rwanda during the
16 period of April to July 1994?

17 A. I didn't follow Mr. Nzirorera's movements. It's
18 possible, but during that period of time I did not meet
19 Mr. Nzirorera.

20 Q. You said that you had information that Mr. Ngeze had
21 been locked up several times during the period from
22 July -- excuse me -- April 6 to the period that you were
23 in Gisenyi. Can you recall who, if any, told you, A,
24 well, I'll just ask (A), that he had been incarcerated?

25 A. Let me mention three people: First of which whom I have
26 already spoken about is Habibu Musa; the second person
27 is the owner of the house I rented known as
28 Jean Bizimana, spelt B-I-Z-I-M-A-N-A, Jean Bizimana.
29 And the third person, whom I should mention first, was
30 one Augustin Uzabumwana, spelled U-Z-A-B-U-M-W-A-N-A,

1 Uzabumwana. I'm saying that I should have mentioned him
2 first because when I left Cyangugu to go to Gisenyi I
3 lived for almost one week in his house, which was rented
4 by a friend. But this Uzabumwana was the owner of that
5 house and he would come, he himself, to see who had
6 entered his property. And the following days we
7 discussed together, he was the one who gave me the
8 information about the situation prevailing in Gisenyi.
9 And during those conversations, which gave me this
10 background, he talked about the imprisonment, the
11 killings, and so on and so forth, that he mentioned
12 Ngeze the journalist. That's it. And, at that time, he
13 was saying that Mr. Ngeze is being suspected of being in
14 cahoots with the Inyenzi. So I got to learn this as
15 soon as I got to Gisenyi at the beginning of June in
16 1994.

17 Q. Do you recall the testimony of Mr. Ndyianden?

18 A. About what? Of course I remember that Ndyianden
19 testified here.

20 Q. Do you recall there being questions answered and him
21 answering that there seemed to be a lot of drinking and
22 drug usage? Do you recall that testimony?

23 A. Yes.

24 Q. The times that you were in Rwanda from April 6 to when
25 you finally left in July, including the time that you
26 were in Gisenyi, did you notice that there was or
27 appeared to be a lot of drinking of alcohol and usage of
28 drugs?

29 A. As for alcohol, I noticed this when I went across the
30 roadblock. Now, as for whether people were using

1 alcohol or drugs, I am not conversant with these things.
2 I said, I think, the day before yesterday, that I had
3 heard about drugs on Radio Rwanda and I learned of this
4 through, I believe, Mr. Kantano, who spoke about drugs.
5 And that enables me to answer in the affirmative that
6 people did use drugs during that period of war.

7 Q. The times that you heard RTLM and the reference you made
8 to them espousing drug usage, did it appear to you that
9 the on-air personalities may have been influenced by
10 alcohol or drugs themselves at the time?

11 MADAM PRESIDENT: Mr. Nahimana, did you see any of these
12 persons under influence of drugs or alcohol?

13 THE ACCUSED NAHIMANA: Madam President, I did not see any
14 intoxicated persons, but I did see drunken persons
15 manning roadblocks, especially between Gitarama and
16 Gisenyi. But as for drugs, I wouldn't know whether they
17 were drunk from drugs or whatever. But I did see them
18 in a state of drunkenness.

19 BY MR. FLOYD:

20 Q. You had heard RTLM, prior to April 6, 1994; correct?

21 A. Absolutely, yes, I did say so.

22 Q. And you testified that you felt that certain people took
23 over the airwaves of RTLM after April 6, correct?

24 A. Yes, I said so.

25 Q. And you've already talked about the difference in
26 content, as you perceived it, from what took place prior
27 to April 6 and after April 6. My question is, did it
28 sound like the people who were on the air themselves
29 espousing drug use, perhaps their behaviour was
30 different than what their behaviour had been prior to

1 April 6?

2 MS. MONASEBIAN: Your Honours, if I may, is he not seeking
3 more expert testimony from Mr. Nahimana? This is
4 just --

5 MR. FLOYD: This isn't even expert testimony. People can give
6 perceptions; that's not even an exception to the hearsay
7 rule, and I truly wonder where you went to law school.

8 MADAM PRESIDENT: This is a long shot, Mr. Floyd. You want
9 this witness to speculate.

10 MR. FLOYD: No, it's not speculation. One thing that human
11 beings can do is to talk about how tall somebody is, or
12 how their voice sounded, of what their perception is.
13 That is not hearsay, that is sense testimony that you --
14 that is common sense testimony that anyone can give. If
15 you hear somebody one time and next time you hear it
16 sounds like they been drinking -- maybe he doesn't know,
17 maybe the answer will be he didn't notice anything
18 different between them. But he also may say, yeah, it
19 did sound like they might have been kind of fired up and
20 that's what they were espousing. And I do think that is
21 an issue in this trial, and I think that he was someone
22 who heard it before and heard it afterwards, and now I'm
23 asking. So I didn't just pick the question out of the
24 sky. We do have evidence in this Court, in this trial,
25 that there was alcohol and drug usage and so I'm just
26 trying to ask him if he thought that some of the things
27 that might have been said might have been attributed to
28 drugs, at least that's where I'm trying to go, but first
29 I want to ask him if he noticed someone -- that there
30 may have been a difference between the two.

1 MS. MONASEBIAN: Madam President, if I may --

2 MADAM PRESIDENT: I believe, Mr. Floyd -- I know it's very
3 hard for you to do, do you think you could lower your
4 voice because it comes crashing into our ears.

5
6 Now, this witness has not said that he saw any of the
7 RTLM journalists under the influence of alcohol.

8 MR. FLOYD: No, I'm not asking if he saw them, I'm asking if
9 -- you can tell if somebody has been drinking or smoking
10 or they are slurring their words or talking different
11 than they usually talk if they are under the influence
12 of a narcotic or alcoholic beverage. Most people can,
13 that's just a common sense experience. I'm just --

14 MADAM PRESIDENT: We're not interested in most people. Ask
15 Mr. Nahimana whether he observed slurred speech or
16 drunkenness amongst the journalists.

17 BY MR. FLOYD:

18 Q. When you heard journalists after April 6 say some of the
19 things that you've already criticised, did you detect
20 that they may have been under some influence of alcohol
21 or drugs?

22 MS. MONASEBIAN: Madam President, if I may, I'm going to
23 object to this question as well. The only question that
24 this, Mr. Floyd can ask this witness in a competent
25 manner is, Do you know whether any of these journalists
26 used drugs in your presence? Do you know whether any of
27 these six journalist said they used drugs or do you know
28 whether these journalists had slurred speech? If
29 Mr. Biju-Duval were to ask the question like this, it
30 would be leading and Mr. Biju-Duval would not ask a

1 question like this.

2

3 Mr. Floyd cannot use this witness if bring forth
4 questions for Mr. Nahimana that his own counsel couldn't
5 ask to establish a position that RTLTM did all this
6 because they were under the influence of drugs.

7

8 Now, what Mr. Floyd can only ask is what does this
9 witness know or hear? Did this witness see people using
10 drugs? You didn't hear people using drugs unless they
11 themselves say they are using drugs.

12

13 The question should simply be, Mr. Nahimana did they say
14 they were using drugs? Did they have slurred speech?
15 Those are the only two things that he can ask this
16 witness.

17 MR. FLOYD: That's so absurd I'm not even comment. Your
18 Honour, I would ask that the question as posed or if you
19 would like me to rephrase it ask it again.

20 MADAM PRESIDENT: Mr. Nahimana will probably need your
21 question repeated.

22 BY MR. FLOYD:

23 Q. Yes, Mr. Nahimana, did it sound to you that the people
24 the on-air personalities at RTLTM after the 6th of April,
25 that some of them may have been under the influence of
26 drugs or alcohol?

27 MS. MONASEBIAN: Madam President, if I may object, I don't
28 understand how somebody could take sounds --

29 MADAM PRESIDENT: Objection is noted and please do not
30 interrupt. We have to keep repeating these questions.

1 We are interested in whether you observed any of these
2 RTLM journalists under the influence of alcohol or
3 drugs, whether you observed that; and, secondly,
4 Mr. Floyd's question, from your listening to the RTLM
5 radio station, could you make out whether any of them
6 were under the influence of alcohol or drugs.

7 THE ACCUSED NAHIMANA: First of all journalists, at least Mr.
8 Kantano himself, said journalists, and the OTP disclosed
9 many cassettes containing Mr. Kantano's statements. He
10 said he had just taken drugs: That's one thing. And
11 that enables me to specify what I said yesterday. I
12 said that after the 6th of April until July, these were
13 not journalists like the ones I had known before;
14 Kantano, Gahigi, all of them, before the 6th of April,
15 they were normal journalists.

16
17 Now, what happened after the 6th of April, in fact, I am
18 able to deduce that their behaviour, the way they acted,
19 was because of the state of war, amongst other things,
20 the use of drugs and alcohol, which was exaggerated.
21 And then another element, I'll try and be brief,
22 something which I hadn't underscored, which I found that
23 maybe exacerbated the behaviour of these journalists, on
24 the 17th of April 1994, when a bomb fell on the RTLM
25 building and journalist Hitimana was hit and his leg had
26 to be amputated. I know I'm a teacher. I'm an
27 educator. I am trying to imagine myself what the cause
28 was. And so I said to myself that from the 17th of
29 April these journalists were unnerved and they were
30 being attacked indiscriminately, and what they were

1 referring to as the enemy in this attack, they went over
2 the imaginable limits and it's beyond these acceptable
3 limits. This is where I blame the journalists, I
4 condemn them.

5
6 I also blame them for their behaviour, we were, of
7 course, during desperate times. Taking alcohol and
8 taking drugs and going on air is not acceptable. That is
9 what I would say.

10
11 Otherwise, I don't want to give the impression that
12 before the 6th of April these journalists were not good
13 journalists. They were among the cream of journalists
14 before the 6th of April 1994.

15 Q. Do you know ultimately what happened to Noël Hitimana
16 after he lost his leg?

17 A. Mr. Ndyianden also spoke about this, about having met
18 him at the Red Cross hospital. I said that he had his
19 leg amputated. I didn't personally see Mr. Hitimana, but
20 I got to know this through documents.

21
22 Yes, we also have a videocassette from the Prosecution
23 which shows Noel Hitimana in prison and he was walking
24 on crutches on one leg.

25 MR. FLOYD: I'd ask that P103257 be shown to -- we have
26 copies, which should save time. Everyone should have
27 it, so, if Mr. Matemanga would, to save time.

28 THE ACCUSED NAHIMANA: Yes, I have the document.

29 BY MR. FLOYD:

30 Q. I know it's in English so I'll just read something and

1 ask you a question. And I'm looking at the first
2 paragraph, for those that are following. Starting with
3 the second sentence. "What I would like to emphasise is
4 that the RPF trick has to be unveiled. We should set up
5 some sort of team to analyse them. Once unveiled, these
6 tricks could be explained to the population so that the
7 people would not kill one another on the roadblock."

8 THE INTERPRETER: Could counsel please repeat that? The
9 Interpreters didn't have the text previously, and at a
10 slower pace, please.

11 MR. FLOYD: Do the interpreters have it now?

12 THE INTERPRETER: Yes, we do.

13 BY MR. FLOYD:

14 Q. I'm starting at the second sentence of the first
15 paragraph.

16 MADAM PRESIDENT: There's no need to read it again. Please
17 concentrate on the word "what" and ending at
18 "roadblock".

19 MR. FLOYD: Are they finished?

20 MADAM PRESIDENT: Yes.

21 MR. FLOYD:

22 Q. Now, my question, this seems to be a plea for restraint
23 of the population. Would you agree with that much?

24 A. Yes, that's what it would seem, given these sentences.

25 Q. Isn't it true that when -- the time you were in Rwanda,
26 between April 6 and July when you left, that there was
27 general chaos and disorganisation?

28 A. Absolutely.

29 Q. Did it appear to you, from what you could see, that
30 there was a central coordination of the country -- well,

1 I'll just ask that question. Let me repeat the question
2 because I can see the perplexed look on your face. Did
3 it appear to you that what you saw in Rwanda, after the
4 assassination of the president and the chief of the
5 army, that there was general coordination of whatever
6 took place in Rwanda when you were there?

7 A. First of all, I have told you that I did not personally
8 witness any massacres, whatsoever, but I did get to know
9 that people were killed, but I don't believe in any kind
10 of coordination which may have engendered those
11 killings.

12
13 As you said a moment ago, it was a really chaotic
14 situation. Up until today -- and yesterday I told you
15 that it was through the disclosure from the Prosecution
16 that I have a good number of documents, but,
17 Madam President, Your Honours, nothing up until today
18 enables me to say that these killings, be they to
19 assassinate in nature or killings of individuals carried
20 out by individuals, I referred to this yesterday and I
21 want to go back to it, I don't believe that these
22 killings took place within a framework which was of a
23 situation that was planned and coordinated, no, nothing
24 gives me reason to say that and I don't believe it
25 either.

26 Q. I'm going to read something else. This is from the
27 second paragraph, it's basically -- I'm going to skip
28 the first part and I'm just going to put a quote from
29 the prime minister. "We know the enemy we are fighting
30 with. The fact that it is the RPF Inkotanyi does not

1 mean that, even leaving aside those people who have
2 physical traits, it does not mean that all Tutsi should
3 be targeted just because they were Tutsi. Instead, we
4 are fighting against the RPF people, those who work for
5 the RPF. Nobody should be condemned on the basis of his
6 ethnicity. I think I can confirm that I have just said
7 a person should be condemned based on his actions rather
8 than his ethnicity." Now, given the circumstances in
9 Rwanda during the time that you were there between
10 April 6 and July, someone saying this on the radio,
11 isn't that a very moderate position?

12 A. It's not only a moderate position, I find it
13 extraordinary. It's very good for someone to be able to
14 clearly say what enemy they are referring to; in other
15 words, the RPF, and to stop people from attacking others
16 because of ethnicity, that is extraordinary, it's very
17 good. It's unfortunate that this, indeed, happened,
18 that people were killed because they belonged to ethnic
19 groups which was different or were different to those of
20 the killers. Yes, I think its a good thing. The
21 speaker is Gahigi, he, at least, was lucid or had
22 avoided drinking and the use of drugs. But whatever the
23 speaker may be, anyone who speaks such words I would
24 consider laudable, because they were courageous enough
25 to speak like this in the period of April to July 1994.
26 If everybody had behaved in this manner, things wouldn't
27 have happened the way they did.

28 Q. Looking at the reverse side of the paper, the second
29 paragraph, I'm only going to read one sentence. "I
30 think we can stop this debate here concerning other

1 political matters, Mr. Ngeze. I shall invite you,
2 either tomorrow or the day after tomorrow, so that we
3 can have a debate on the matter now that you are here in
4 Kigali." In fact, the words that are spoken, you
5 realise those were words that Hassan Ngeze spoke on
6 Radio RTLM during the period April 6 through July, it
7 was Hassan Ngeze who spoke those words, not Gahigi.

8 MADAM PRESIDENT: Is that your evidence, Mr. Floyd?

9 MR. FLOYD: Your Honour, I asked him if he realised there is a
10 reference at the top, "speaker Gahigi", but, in fact,
11 Hassan Ngeze is the one who said those words.

12 MS. MONASEBIAN: Your Honour, would the Court like
13 clarification or should I just deal with this in
14 cross-examination, because this is completely --
15 Mr. Floyd is mistaken about something. It's not even an
16 exhibit, by the way.

17 MADAM PRESIDENT: Mrs. Monasebian, did I allow you to speak?

18 MS. MONASEBIAN: Very well, I'll wait, Your Honour.

19 MR. FLOYD: I'm real confused. I have this down as P103 their
20 Exhibit /257. Now maybe we do need to clear up because
21 I'll make this an exhibit if it's not. That's why I'm
22 asking.

23 MADAM PRESIDENT: Mr. Nahimana, are you looking at the extract
24 that we are looking at about; it says "speaker
25 Mr. Gahigi". Mr. Floyd is now putting to you that in
26 fact the words were spoken by Mr. Ngeze. Now, are you
27 in a position to know who spoke or are you not?

28 THE ACCUSED NAHIMANA: Madam President, Your Honours, I'm
29 aware of transcripts which came from the Office of the
30 Prosecutor. Often they do not indicate who is speaking.

1 For me, when I saw this document, I could not say that
2 it was Ngeze, but I see, at the beginning, that there is
3 mention of the speaker being Gahigi. The best evidence
4 would be the cassette, the audiocassette from which this
5 transcript was made.

6 MADAM PRESIDENT: Next question, Mr. Floyd.

7 MR. FLOYD: My only question I have is, is this not an
8 exhibit? I have it down as an exhibit and I just said
9 which number it was. Is the Prosecutor now saying it is
10 not their exhibit? Can I get clarification from the
11 Chamber as to whether 103/257 is in evidence?

12 MADAM PRESIDENT: You are in charge of these questions. You
13 produced this document.

14 MR. FLOYD: I did. I produced it. And my records indicate
15 it's Prosecution Exhibit 103/257. Ms. Monasebian got up
16 and said it wasn't an exhibit, so I'm now confounded. I
17 presume they should know what are their exhibits. We
18 have in our records that it is an exhibit.

19 MADAM PRESIDENT: Well, why do you want clarification? This
20 is what you are saying.

21 MR. FLOYD: Well, I would make it an exhibit if it were not
22 already an exhibit. That was my point.

23 BY MR. FLOYD:

24 Q. Yesterday, Mr. Nahimana, I was asking you questions
25 about Mr. Barayagwiza and I'm going to be very, very
26 brief about this point. During the time that
27 Mr. Barayagwiza first started acting as the lawyer for
28 RTLM to April or -- excuse me, to July 1994, did you
29 ever hear Mr. Barayagwiza try to foist or force a
30 certain point of view on RTLM?

1 MADAM PRESIDENT: Yes, Mr. Pognon.

2 MR. POGNON: I think the question needs to be reformulated.

3 Mr. Jean Barayagwiza never worked as a lawyer for the
4 RTLM but he drew up the articles of association for the
5 RTLM in his capacity as a lawyer.

6 MADAM PRESIDENT: Yes, we understood all that. Do you have
7 the question? Can you just answer Mr. Floyd's question?

8 THE ACCUSED NAHIMANA: Mr. Barayagwiza never tried to impose
9 his point of view on the RTLM. I met him within the
10 framework of the comité d'initiative and the decisions
11 for that committee were also taken on the basis of a
12 consensus; therefore I cannot here now say that Mr.
13 Barayagwiza employed his own opinion and that such
14 opinion was transmitted through the comité d'initiative,
15 no, he was a member of the comité d'initiative just as
16 anyone else was.

17 MADAM PRESIDENT: You requested a break now, Mr. Floyd.

18 MR. FLOYD: Oh, yes, Your Honour, thank you.

19 MADAM PRESIDENT: We'll take a 15 minutes break.

20 MR. FLOYD: Just before -- housekeeping -- I'm going to move
21 that Exhibit PD130 be made the next exhibit for the
22 Defence, since I can't get clarification, out of an
23 abundance of caution. I hate to do it but I don't know
24 what else to do. I want it in this Court and in this
25 trial.

26 MADAM PRESIDENT: No, before we receive -- now you've changed
27 the representation. You have placed on record that this
28 is an excerpt from P103/257.

29 MR. FLOYD: That was mine. I was just confounded when
30 Madam Prosecutor got up and said it wasn't.

1 MADAM PRESIDENT: If you want any exhibit, you have to explain
2 the document and motivate it. I suggest you take the
3 break to check where you got this document from.

4 MR. FLOYD: Very well, Your Honour. Thank you.

5 (Court recessed at 1045H)

6 (Pages 1 to 35 by R. Lear)

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1 1120H

2 MR. FLOYD: If it please the Court.

3 MADAM PRESIDENT: Mr. Floyd.

4 MR. FLOYD: Your Honour, first thank you for allowing me and
5 several of my colleagues to attend a meeting, and I do
6 appreciate that. With regard to what we were trying to
7 put forward on this P103/257, as I understand it, that
8 P103/257 is the Kinyarwanda, and that they also have
9 translations of this, and that it's my understanding
10 that the Prosecution might not mind this excerpt that we
11 used going in as "D", if -- that's my understanding;
12 what's I've been told, if that's correct, if I can get
13 some confirmation; and that they will accept it as
14 P103/257, "D" as in David.

15 MADAM PRESIDENT: Yes. So "B" and "C" are other excerpts,
16 aren't they?

17 MR. FLOYD: Yes.

18 MADAM PRESIDENT: Yes, so this would go in as "D".

19 MR. FLOYD: That's correct.

20 MADAM PRESIDENT: The full translation is available,
21 Ms. Monasebian.

22 MS. MONASEBIAN: What is available, Madam President, is
23 P103/257A, which is the Kinyarwanda transcript in full.
24 B and C are excerpts of -- on pages --

25 MADAM PRESIDENT: Yes, I know. I know all that.

26 MS. MONASEBIAN: But we don't haven't full translation of
27 anything.

28 MADAM PRESIDENT: Yes. Yes, all right. So this will be "D"
29 then. Whose translation is this, Mr. Floyd?

30 MR. FLOYD: I think it came from the Office of the Prosecutor,

1 if I'm not mistaken. I think they're the ones who
2 translated it.

3 MS. MONASEBIAN: That's correct.

4 MADAM PRESIDENT: That's why I asked if you have a complete
5 translation of the Kinyarwanda text. So will you look
6 then, Ms. Monasebian?

7 MS. MONASEBIAN: No, I've already looked and it doesn't exist.
8 We're working on that. Thank you.

9 MADAM PRESIDENT: All right. So this will be added to
10 Exhibit P103 and will be marked /257D.

11 MR. FLOYD: Your Honour, may I ask that Mr. Matemanga come
12 forward.

13 MADAM PRESIDENT: Mr. Floyd, what did you request, that it
14 become part of P103?

15 MR. FLOYD: Yes, that's correct, and just be made 127D,
16 whatever it was.

17 MADAM PRESIDENT: 257D.
18 (Exhibit No. P103/257D admitted)

19 MR. FLOYD: "D". Your Honour, for the sake of brevity, and
20 I'm trying to move through this so I don't have to take
21 a lot of time.

22 BY MR. FLOYD:

23 Q. Mr. Nahimana, have you read the book La Nuit Rwandaise?

24 THE ENGLISH INTERPRETER: Could counsel please repeat the
25 title of the book.

26 MR. FLOYD: Maybe you ought to pronounce it, but N-U-I-T
27 Rwandaise.

28 THE ENGLISH INTERPRETER: La Nuit Rwandaise.

29 THE ACCUSED NAHIMANA: Yes, I have read the whole book. This
30 book has been published recently, and I got it from my

1 counsel.

2 BY MR. FLOYD:

3 Q. Have you read *Aucun témoin ne doit survivre le génocide*
4 *au Rwanda*?

5 A. Yes, I've also read that book.

6 Q. Have you read *Leave None to Tell the Story*? Well, have
7 you read the English -- well, I guess you haven't read
8 the English version. Have you read *Rwanda: Les médias*
9 *du génocide*?

10 A. Yes, I've read it.

11 Q. Now, other than the last one -- the first one, excuse
12 me, all of these books have been made exhibits in this
13 trial. Now, my question is: isn't it true -- I'm
14 getting a look. Other than -- I was correct. Other
15 than the one that has recently been published, all of
16 them have been made excerpts in this trial. You're
17 aware -- you've been present when that happened,
18 correct?

19 A. That is correct.

20 Q. Now, isn't it true that when you look at all three of
21 the books, including the one book that's both in French
22 and English and the new book, that the picture of
23 Kambanda, along with the machete, appears in all three
24 of them or four of them, if you will?

25 A. Madam President, Your Honours, I believe this question
26 has been discussed at length here, but what I can say
27 about it now, in particular, in the light of my reading
28 of the book *La Nuit Rwandaise* of Jean-Paul Gouteux,
29 published in the first quarter of 2002, is that the
30 mistake committed or, rather, the choice -- because

1 Mr. Jean-Pierre Chrétien talked about choice -- and the
2 choice that was contested or challenged by the Defence
3 here is something which I can talk about. And with
4 regard thereto I can say that there is a propaganda,
5 negative propaganda, which wants to associate the father
6 of the republic, father of democracy,
7 Grégoire Kayibanda, with the machete, as if he carried
8 out that revolution and instituted democracy in the
9 republic due to the power of the machete.

10

11 Kayibanda fought and struggled mainly using ideology and
12 politics, and it was his policies that led Rwanda to a
13 change of regime, from a monarchical feudal system to a
14 democratic and republican regime. So, contrary to what
15 Madam Des Forges said when she referred to
16 Jean-Pierre Chrétien by saying, oh, it's not me; if
17 there's a mistake, it's not my intention, it's
18 Jean-Pierre Chrétien. Jean-Pierre Chrétien said, no,
19 it's a choice. But here Jean-Paul Gouteux again comes
20 up with this because there is a negative propaganda
21 against a republican democracy in Rwanda. I, as a
22 writer and historian, I do not accept this kind of --
23 this way of doing things, this way of presenting Rwandan
24 history, and to caricature someone who played an
25 important role in the history of Rwanda.

26 MR. FLOYD: With the Court's indulgence.

27 BY MR. FLOYD:

28 Q. Are you familiar with the name Fred Rwegema?

29 A. Yes, I'm familiar with the name. Fred Rwegema was the
30 chairman of RPF and he led RPF troops when they attacked

1 Rwanda on the 1st of October 1990.

2 Q. And are you familiar with Museveni?

3 A. Yes.

4 Q. And are you familiar with Paul Kagamé?

5 A. Yes.

6 Q. Now, were you aware that all three of those gentlemen
7 attended Dar es Salaam University when Tanzania was a
8 socialist country?

9 A. I knew this in relation to Museveni but I did not know
10 about it in respect of the two other people whose name
11 you just mentioned.

12 Q. The books that --

13 MR. FLOYD: Your Honour, I would asked that it be made -- that
14 what we handed out be made the next exhibit in order.
15 The exhibit is from the book. It has not been made an
16 exhibit; the others have, but again it's just to show
17 that the big lie continues.

18 MS. MONASEBIAN: Madam President, if I may.

19 MADAM PRESIDENT: Ms. Monasebian.

20 MS. MONASEBIAN: We have no objection to this being admitted
21 as long as we have the opportunity to inspect the entire
22 book before we begin our cross-examination.

23 MR. FLOYD: No problem. That's no problem.

24 MS. MONASEBIAN: Thank you.

25 MADAM PRESIDENT: 3D130.

26 MR. FLOYD: Yes, Your Honour.

27 (Exhibit No. 3D130 admitted)

28 BY MR. FLOYD:

29 Q. Now, is there any doubt in your mind that had democracy
30 and free elections taken place, that the RPF would not

1 be in power in Rwanda today?

2 A. At what time frame are you referring when you talk about
3 if elections had taken place?

4 Q. At any time from 1959 to 2002, is there any doubt in
5 your mind that the RPF, as long as they existed, could
6 not have won free and fair elections?

7 A. I had the opportunity of expressing on that issue if the
8 RPF had agreed to come back to Rwanda and to play the
9 political game, just like the other political parties
10 did, it would have been -- it would have contested the
11 elections, but I cannot say whether they would have won
12 or lost the elections. That would have been subject to
13 its way -- manner of convincing the population,
14 especially using its policy.

15 Q. Wasn't the only way that the RPF could assure that they
16 would control Rwanda is that they win it militarily?

17 A. When I make my analysis, and this is something I've
18 written many times, I've noticed that RPF as Umuryango
19 was afraid of the ballot, and this fear of elections led
20 RPF up to its launching the war in 1994, at that time
21 when the Arusha Accords granted it a significant part in
22 its participation in the national institutions. What I
23 say is that RPF wanted all the power alone or to share
24 it with those people it wanted to share power with,
25 whereas if they'd accepted the ballot, then they would
26 have their rightful place.

27

28 For me, the RPF and Kagamé and his lieutenants must be
29 afraid of elections, and that's why they resorted to
30 war. That is why I'm saying that I do not accept the

1 RPF's ideology, which intends to seize power through the
2 bullet. That is why I'm saying that I'm opposed to the
3 RPF, notwithstanding all the atrocities that it has
4 committed since the 1st of October 1990 up to this very
5 day that I'm speaking here.

6 Q. Do you recall the questions that I asked of
7 Dr. Des Forges about Marxists and Marxism and Marxist
8 ideology?

9 MADAM PRESIDENT: Why don't you just put your question? This
10 is like five days testimony you want him to recall.

11 MR. FLOYD: Well, Madam President, I said I should cut to the
12 chase, so let me do it.

13 MADAM PRESIDENT: Well, then say: "This is the question I put
14 to Des Forges, and this was the answer", and then
15 whatever.

16 BY MR. FLOYD:

17 Q. Isn't what the RPF has accomplished consistent with a
18 Marxist operation that can be seen all over the world,
19 how they took power?

20 A. I know Marxists who did not necessarily use arms in
21 order to take power.

22 Q. Well, isn't it true that Castro, basically, used the
23 same formula, that Ho Chi Minh used the same formula?

24 MADAM PRESIDENT: Establish relevance now for us.

25 MR. FLOYD: Your Honour, I'm trying to show that the RPF --
26 and, I mean, this is consistent -- that they had to --
27 the things that happened in Rwanda were the cause of the
28 RPF. That's always, from day one, that's always been
29 our theory of the case: it was RPF that assassinated the
30 president; it was the RPF that started the war; it was

1 RPF that broke the Arusha Accords; it was the RPF who
2 did most of the assassinations; it was the RPF --

3 MADAM PRESIDENT: Those questions, you can put to the witness.

4 We understand the relevance of that. So, we're not
5 convinced about tying it into ideology which will
6 engender debate.

7 MR. FLOYD: The reason I asked Professor Nahimana, and this is
8 just for a direction of the Chamber, about whether he
9 was conversant enough in Marxism, this is, frankly, just
10 right out of Lenin's handbook of how to take over, but
11 if he's not, then I can't ask him the question. I was
12 going to ask him about Rwegema and Kagamé but he didn't
13 know, so I had to change direction. That's the reason I
14 really wanted to know if he thought he was conversant
15 enough with just basic Marxian principles. And Your
16 Honour did not allow that question so I couldn't get to
17 where I wanted to go.

18 MADAM PRESIDENT: Did you ask him that?

19 MR. FLOYD: I'll ask him now.

20 BY MR. FLOYD:

21 Q. Did you feel that you had just a working familiarity
22 with Marxists and Marxism?

23 A. You spoke about Lenin, but I will also mention
24 Rosa Luxemburg, who was also a prominent Marxist, and
25 I've read work written by Ms. Luxemburg as a
26 contemporary historian, yes.

27 Q. And doesn't it seem, as you said here, in 2002, that the
28 way the RPF took power in Rwanda was along the route
29 that has been trumpeted by Marxists for the last
30 century?

1 A. That is it. That's a facade of Marxism. There is a
2 philosophy of Marxism concerning the management of
3 society, but then there's also the Marxist conduct
4 regarding how to take power, in order to make a
5 difference here. Now, with regards specifically to the
6 seizure of power by the RPF, Mr. Kagamé and others
7 actually opted for the path of rebellion, of using
8 weapons, and they avoided the ballot; they avoided being
9 taken into the country. And the voice of the people is
10 expressed through the ballot. So they tried to bypass
11 this process.

12
13 So, in summary, there is a Marxist philosophy which is a
14 good society in the leadership of society, which cannot
15 be applied in the leadership of society. But then there
16 is this aspect of the seizure of power which is
17 associated with Marxism, and this is what the current
18 government used. And this is a path that I'm fighting
19 against; I do not accept it because, in Rwanda, this is
20 a bloody path as far as Rwanda is concerned.

21 Q. I understand completely your answer, Professor Nahimana,
22 but would you feel more comfortable if I use the term
23 "totalitarianism" rather than "Marxism" to describe the
24 RPF?

25 MADAM PRESIDENT: You are now suggesting an answer to him.

26 MR. FLOYD: Oh, I can lead him. I'm cross-examining him and I
27 can lead him, and if that was a leading question, then I
28 plead guilty.

29 MADAM PRESIDENT: Don't ask him whether he would be
30 comfortable with it; put the question in.

1 BY MR. FLOYD:

2 Q. Well, you have said that you felt that what the RPF had
3 done was part of Marxism. My question is: does the word
4 "totalitarianism" more accurately describe your view of
5 what the RPF had done and is doing?

6 A. The current regime in Rwanda is a regime that I consider
7 a dictatorial and totalitarian regime, of course.

8 Q. Now, you were born in 1950 in Rwanda, correct?

9 A. Yes.

10 Q. Now, when you were born in 1950, you were born into a
11 caste system that placed you at a lower caste; isn't
12 that correct?

13 A. Let's say that when I was born, I was not aware of that.
14 However, much later, I knew that I was in the lower
15 classes, as we say -- as we call it in history, and
16 maybe to use a more accessible term, I would say that
17 this was a class which was of toilers.

18 Q. Now, as an historian, you have learned that if things
19 had not changed in 1959 through the revolution, that you
20 would have been condemned to a life of toil; isn't that
21 correct?

22 A. I don't quite get the translation, interpretation of the
23 question.

24 Q. Okay, let me rephrase the question. The fact that you
25 were born a Hutu in 1950, you were born into a de jure
26 discriminatory system in Rwanda; isn't that correct?

27 A. That is correct.

28 Q. You never could have become the man of letters that you
29 are now, a doctor in history, had not the 1959
30 revolution changed Rwanda; isn't that correct?

1 A. Madam President, Your Honours, let us be clear because
2 such a question does not enable me to answer in a manner
3 maybe which Mr. Floyd expects. For me, my position is
4 that there were Tutsis who went to school and studied
5 and obtained higher education. For example, there was
6 Kayibanda, who studied philosophy up to the fourth year,
7 at least, at a major seminary, but I know that before
8 the 1959 revolution, there were other Hutus, although
9 they were very few, who even went to university or even
10 attended university before the revolution and who
11 completed the university much later. So I attended -- I
12 joined primary school during the monarchical time.

13
14 My older brother, to whom I referred, also attended
15 school and did a teacher training course, and finished a
16 teacher training course during the monarchical regime.
17 So I doesn't know whether, if the monarchical regime had
18 continued, I wouldn't have been -- I wouldn't have my
19 doctorate. So, as an academic, I wouldn't subscribe to
20 that proposition.

21
22 But what I can agree with is maybe, and I insist maybe,
23 if the monarchical regime had stayed as it was up to '59
24 without any changes, because there are politicians --
25 there were Hutu politicians who wanted the monarchy to
26 become a constitutional monarchy. For me, the monarchy
27 does not bother me. There are several countries in the
28 world which have monarchies but which have democracy,
29 education, structures, and so on and so forth. But what
30 bothers me when I look at Rwanda's history is the

1 monarchical regime, which was a totalitarian regime,
2 which practiced exclusion. So I do not accept the
3 analysis according to which, without the republic, there
4 wouldn't have been a positive change in the country.

5
6 Since you led me to this, I will say that if the Rwandan
7 monarchy had been transformed into a constitutional
8 monarchy, what would have prevented Rwanda from
9 developing positively?

10 Q. So that we understand each other, Mr. Nahimana, I'm
11 going to personalise my next question. I was born into
12 a society where there was de jure segregation, that
13 there was legal apartheid in my country when I was born.
14 Do you understand that?

15 A. I understand that.

16 Q. Do you understand that even though in 1964 legislation
17 was passed to end the de jure segregation of me because
18 of my race, that there still persists until 2002
19 vestiges of that period when I lived under legal
20 apartheid? Do you understand that?

21 A. As an historian, I understand that. What characterises
22 a system is not linked to a ballet movement.

23 MADAM PRESIDENT: Mr. Nahimana, just wait for the question.

24 Will you get to the question now, Mr. Floyd?

25 BY MR. FLOYD:

26 Q. My question is, isn't it true that even after 1959,
27 there still were vestiges of discrimination against
28 Hutu?

29 A. The discrimination against Hutu by whom?

30 Q. Remember that you were asked a question or you -- during

1 the testimony, your lawyer asked you a question about
2 you being on a board of historians, of which you were
3 the only Hutu and everyone else was Tutsi. Do you
4 recall that? That's just a "yes" or "no".

5 A. Yes, I remember that.

6 Q. Isn't it true that the number of highranking academics
7 who are Hutu versus those that are Tutsi were out of
8 proportion in Rwanda?

9 A. It is true that there are many academics who are Tutsis
10 in the Rwandan educational system. Yes, that's true.

11 Q. In my country, we had, and have, a programme called
12 affirmative action; that is, that a certain number of
13 blacks, Latinos, and other people who have been
14 discriminated against are just given preferential
15 treatment so that their generations can catch up with
16 other generations. Do you understand that concept?

17 A. I understand it.

18 Q. Isn't it true that President Habyarimana tried to
19 implement programmes to bring the Hutu up to the same
20 level as the Tutsi?

21 A. I have to say that it was not President Habyarimana who
22 did that. What President Grégoire Kayibanda did was to
23 popularise or democratise education, notably by creating
24 several -- many schools, primary and secondary schools.
25 And, as I said, in 1964, within the framework of
26 democratising education up to the high level, he
27 established -- in spite of the fact that Rwanda was a
28 poor country, he established the university, so that
29 many Rwandans could have access to a higher education
30 because higher education abroad was expensive and, as a

1 result, many Rwandans did not have access to a higher
2 education. And when he and his government established a
3 broader and more accessible system of education, he did
4 not talk about Hutus and Tutsis because the educational
5 establishments were open to everybody.

6
7 Much later -- maybe this is what you want to say -- with
8 the coming to power of Mr. Habyarimana, there was what
9 was known as the quota. There was an ethnic quota which
10 would allow giving access to children of various ethnic
11 groups access to primary and secondary education,
12 mainly. And this quota concerned mainly ethnic groups
13 and regions. Let us say that this policy of quota, its
14 conception as such was received, and positively
15 received. However, it was its implementation much later
16 in the 1980s -- after 1980, in the 1980s, with a
17 minister whose name was Aloys Nsikalije,
18 N-S-I-K-A-L-I-J-E. It's only later, when he was the
19 minister, that this system, this policy of quota, was
20 badly implemented.

21
22 Otherwise, indeed, for President Habyarimana -- and I'm
23 saying that Kayibanda did not implement such policy. It
24 was President Habyarimana because, for Habyarimana,
25 there were regions which had been forgotten, such as
26 Kibuye and Kibungu regions, where there were not many
27 people who had education. Moreover, and this has to be
28 repeated, under Kayibanda, although he democratised or
29 popularised education, Tutsi children did not have
30 access to secondary and higher education. For

1 Habyarimana, he only designed this policy. One of the
2 reasons was to give access to education of Tutsis. So
3 -- but this was in proportions which would correspond to
4 the number of Tutsis who were counted in census during
5 that time. So, in my analysis, in its conception, this
6 policy was positive but it was in negative in its
7 implementation.

8 Q. There have been allegations that the regime of
9 Habyarimana favoured people from the north. You're
10 aware of that; correct?

11 A. Yes, I'm aware of this.

12 Q. There is an analysis that says that those people, Hutu,
13 who lived in the north of Rwanda prior to 1959 and
14 directly thereafter had an opportunity to get an
15 education superior to other Hutu because they could go
16 into French-controlled Congo and receive education from
17 the French, who did not discriminate. Have you heard
18 that before?

19 A. Yes.

20 Q. If -- when President Habyarimana started to try to run
21 his government, doesn't it therefore stand to reason
22 that if the most trained and educated people come from
23 the north, that simply based on what was the available
24 talent pool, that he would necessarily pick more people
25 from the north?

26 A. Your understanding of the Rwandan problem is not
27 correct, at least in that regard. The Habyarimana
28 government could have, in Ruhengeri and Gisenyi, maybe
29 four out of twenty ministers, four or five ministers out
30 of 20 ministers. But I would say that, after 1988, or

1 throughout his regime, he tried to have ministers from
2 all préfectures. It is true that there were préfectures
3 which would have only one minister out of twenty
4 ministers, but in the Habyarimana government, there were
5 always ministers from the various préfectures. And this
6 came under his policy which he referred to as regional
7 and ethnic balance policy.

8
9 But what I noticed when I was making my analysis is that
10 at one point, and specifically after 1987 -- let us say
11 from 1985 to 1990, we noticed that, not in the
12 government but, for instance, in parastatal state
13 enterprises which were semi-private, one could see
14 people who were from the north, but this doesn't mean
15 that they were more educated than the others. It so
16 happened, and this was the case when you asked the
17 question about Nsanzuwera. Although Nsanzuwera was not
18 from Ruhengeri or Gisenyi, he completed his education as
19 a lawyer at the same time as others, maybe a batch of 20
20 other people. But how come that he became the
21 Prosecutor? In Ruhengeri or Gisenyi, there were people
22 who completed their education with other people, but
23 since they had come from those areas, they were rapidly
24 promoted, full stop.

25 Q. As I understand your answer, then you disagree with
26 Alison Des Forges when she says that Habyarimana
27 favoured people from the north. Do I understand your
28 response correctly?

29 A. I do not agree with her, but what I believe is just what
30 I've said: there is an element which maybe you and

1 Des Forges have not highlighted and this has created a
2 confusion, and this is how Mr. Habyarimana carried out
3 his coup d'etat with mostly soldiers who were from
4 Gisenyi and Ruhengeri, and they had been recruited by
5 Mr. Kayibanda. The majority of officers from the rank
6 of major upwards came from Ruhengeri and Gisenyi. And
7 it was with these officers that he carried out his coup
8 d'etat. And his coup d'etat overthrew Kayibanda's
9 regime. Kayibanda's stronghold was in the south central
10 part of the country, and Habyarimana thought that he was
11 going to correct the problem that there was, which I've
12 described in my book, and which was regionalism under
13 Kayibanda. He said, "We'll do away with regionalism".

14
15 But in the implementation of his policy, with all these
16 soldiers who came from the north and held important
17 positions and who were sponsored or were godfathers to
18 people close to them, what happened under Habyarimana?
19 What happened is that under this system of having
20 godfathers brought about an imbalance in the Habyarimana
21 regime. There were people who held important posts in
22 Habyarimana's government who came from the north, but
23 there were also many people, a significant proportion of
24 people, from the south and the centre. So the analysis
25 of the system cannot be actually carried out in a
26 vacuum, I think -- in isolation.

27
28 I think that Madam Des Forges and you yourself are
29 committing an error of analysis when you're not
30 highlighting this element of coup d'etat and who carried

- 1 out the coup d'etat. You are not putting it in
2 perspective.
- 3 Q. Let me give you another theses about what we're looking
4 at when we look at this whole 1994 phenomena. You used
5 the word "coup d'etat". Isn't it true that there was a
6 coup d'etat or an attempted coup d'etat in 1980?
- 7 A. There was.
- 8 Q. Isn't it true that Lizinde and some other senior army
9 officers were involved in an attempted coup d'etat
10 against Habyarimana?
- 11 A. Correct.
- 12 Q. Isn't it true that Kagamé's parents had been driven from
13 Rwanda during the 1959 revolution?
- 14 A. That is what I learnt.
- 15 Q. If you look at the forces arrayed against Habyarimana
16 regime and with the RPF, don't we find the name of
17 people who either were thrown out by a previous coup
18 d'etat or thrown out when they didn't succeed with their
19 attempted coup d'etat?
- 20 A. Correct.
- 21 Q. Isn't it true that the chairman of the RPF was one of
22 the soldiers who fled to Tanzania and came back as head
23 of the RPF? Isn't that true?
- 24 A. True.
- 25 Q. Isn't it true that Lizinde, who didn't make it to the
26 Tanzanian border and was caught and imprisoned, came
27 back as one of the top military leaders of the RPF in
28 1994?
- 29 A. True.
- 30 Q. Isn't it true that, according to Jean-Pierre Mugabe,

1 that it was Lizinde, a Hutu, in a conspiracy with
2 Kagamé, that actually planned and carried out the
3 assassination of Habyarimana on the 6th of April 1994?

4 A. Yes, I read what Mugabe wrote; he talked about it and
5 that seems to be his view of things.

6 Q. You understand that the Office of the Prosecutor's
7 theory of the case is that there was a prearranged
8 conspiracy of folks, including yourself, that caused the
9 killing of large numbers of people in 1994? You
10 understand what their theory is; correct?

11 A. I understand the Prosecution's theory, but I say that if
12 the Prosecutor was doing her work well, you would go
13 find the leaders of RPF, and read Impuruza. They would
14 not go looking for a scheme in Ferdinand Nahimana's
15 writings or looking at Ngeze or Barayagwiza, by saying
16 that Ferdinand Nahimana conspired with Ngeze and
17 Barayagwiza to carry out massacres.

18
19 The massacres, I repeat, started off as a result of RPF
20 actions. I wrote it and that is why I referred to it
21 yesterday; I referred to the book yesterday. As long as
22 investigation is not carried out against the RPF, I
23 challenge this Tribunal, the root causes of what
24 happened in Rwanda will never, never be known. As far
25 as I'm concerned, the planners of the massacres, whether
26 they call them génocidaire or not, as far as I'm
27 concerned, it is the RPF.

28 Q. You anticipated my next question, but just briefly this
29 time: isn't there more evidence that what happened in
30 1994 was just a settling of old scores from 1959 to

1 1962, to 1973, to 1980? That what it was was not a
2 planned operation, as the Prosecutor has suggested, but
3 the consequence of numerous coup d'etat and attempted
4 coup d'etats?

5 A. What I say, in fact, what bothers me personally, Madam
6 President, Your Honours, what I revolt against is the
7 death of such a large number of people. I find that
8 revolting. When I speak about it, I feel that in my
9 conscience it is unacceptable that that should happen,
10 whatever the reasons that could be advanced therefore.
11 Unfortunately, those causes existed and they sparked off
12 the consequences we are aware of, which we deplore. I
13 find that revolting as a human being and it is revolting
14 to the conscience of humanity, and that is why this
15 Tribunal has been set up by the international community
16 to deal with it.

17
18 But what I realise is that, as an historian, I cannot
19 take exclusively April to July and isolate it from the
20 historical context of my country. I will not even go as
21 far -- only back as far back as '59. I will go even
22 further. But it is true that if what happened in 1959
23 did not take place, if those refugees did not exist, the
24 war would not have taken place. So there is a whole
25 series of linked events which have to be studied with a
26 cool head so that the truth can finally be brought out.

27
28 To say Ferdinand Nahimana wrote the Emergence of a
29 State, that's the theory of genocide, I believe that is
30 absolutely superficial because that would not be found.

- 1 It does not exist.
- 2 Q. Well, can Mr. Nahimana be shown Kangura No. 31? When
- 3 you find it, will you look at the front page?
- 4 A. I have issue No. 31 of Kangura.
- 5 Q. You see the picture of the person on the front cover?
- 6 A. I do.
- 7 Q. Now, you recognise that person being Barahinyura?
- 8 A. Yes.
- 9 Q. And you know that Barahinyura was the spokesman for the
- 10 RPF? You know that; correct?
- 11 A. I know him. I met him when he was operating in that
- 12 capacity.
- 13 Q. Will you turn to -- and we've got to use the numbers of
- 14 the Prosecutor at the top -- 003487 within this issue.
- 15 It's the --
- 16 A. What did you say?
- 17 Q. Look at the top. You see it says 003487. At least, it
- 18 should. Those are the Prosecutor's numbers. It's the
- 19 ninth page, considering the cover being the first page.
- 20 A. Yes, I found it.
- 21 Q. Do you see where there is, in the middle of the page, in
- 22 the third column, an article signed by Barahinyura? Do
- 23 you see that?
- 24 A. Yes, I do.
- 25 Q. Now, were you aware that, along with Ravi and
- 26 Hassan Ngeze, that Barahinyura and Mr. Alexander Kimenyi
- 27 met in 1989 in Sacramento, California?
- 28 A. You are telling me that today.
- 29 Q. Doesn't it logically follow that if the spokesman for
- 30 the RPF has his picture on the cover of Kangura, has a

- 1 signed article in Kangura, it would necessarily mean
2 that the editor of Kangura knew this person very well?
3 Or at least knew him; I won't say very -- just knew him.
- 4 A. That cannot be challenged, and it is all the more for
5 the reason that Mr. Ngeze has always been considered as
6 a double agent, and I would say that when -- when
7 certain articles were being written, it was said that
8 the RPF was behind, that it wanted to destabilise, and
9 when an article like this is published for public
10 opinion, it is signed, that Mr. Ngeze is in contact with
11 the RPF. Yes, Mr. Ngeze knew -- from what you have just
12 told me and from what this article shows, he had to know
13 Mr. Barahinyura. They are from the same region, Bugoye,
14 B-U-G-O-Y-E. They are from the same region.
- 15 Q. So that you understand, unlike the experts who have come
16 and testified here against you and against Mr. Ngeze,
17 you were there during the time of this publication,
18 isn't that correct, 1992?
- 19 A. In 1992, I was in Rwanda, that's true.
- 20 Q. Mr. Ngeze was tried and convicted in 1990 for having
21 published, among other things, that Rwanda was going to
22 be attacked by the Tutsis. Now, are you aware of that?
- 23 A. Yes, I am.
- 24 Q. Now, given that it is obvious that he knows
25 Mr. Barahinyura and that he published prior to
26 October 1st, 1990, that, in fact, an attack was
27 imminent, doesn't it seem logical, based on what you
28 know about Rwanda, that Mr. Ngeze was not someone who
29 was trying to advocate some extreme political position
30 but, rather, he was someone who published the truth?

1 A. What I could say is that, in any case, he tried to warn
2 the country about this imminent attack but,
3 unfortunately, the powers that be, those who were
4 responsible for security, instead of following the signs
5 given and investigate further, preferred to put him in
6 jail.

7 Q. Are you aware that the judge that sentenced Mr. Ngeze to
8 the 20 years is Théoneste Bagosora?

9 A. I know that Mr. Ngeze was tried in a state security
10 court and Mr. Théoneste Bagosora was amongst the judges
11 who sentenced Mr. Ngeze to 20 years imprisonment. Yes,
12 that I know.

13 Q. Wasn't it an extraordinarily brave, patriotic thing for
14 Mr. Ngeze to do, by publishing what he knew to be an
15 accurate RPF plot against the government of Rwanda?

16 A. Madam President, Your Honours, there are three types of
17 articles which made Ngeze popular in Rwanda. I knew him
18 even before I met him. And amongst others, it is the
19 article which warned of the attack. Contrary to what he
20 said about the ten commandments, the ten commandments
21 were circulated everywhere on the street. But the other
22 type of article that made Mr. Ngeze popular was the fact
23 that he wrote articles on change of government and,
24 indeed, shortly afterwards people were sent away from
25 the government or, if you like, there was a ministerial
26 shake-up. And thirdly, it is this announcement or
27 warning of the assassination of the president. Had
28 President Habyarimana not have been assassinated,
29 perhaps Mr. Ngeze would not have been so popular, at
30 least in Rwanda.

1
2 But as concerns the attack of the 1st October 1990 and
3 that article concerning the assassination of
4 President Habyarimana, which came out towards the end of
5 1993, he could be referred to as somebody who is
6 audacious, but those are also signs which point to the
7 fact -- or which make people say that Mr. Ngeze should
8 be working with the RPF.

9
10 Madam President, Your Honours, I am not a judge, but
11 knowing the situation in Rwanda, I do not see Mr. Ngeze
12 working with soldiers in Rwanda in 1994, for example.
13 All those articles made it possible for the -- those in
14 charge of security to be against Mr. Ngeze. But I do
15 agree it was audacious of him to publish such articles.

16 Q. You anticipate where I'm going, Mr. Nahimana. I'd like
17 you to go to No. 43, Kangura No. 43.

18 A. Yes, I found it.

19 Q. I want you to look at the cartoon down in the right-hand
20 corner, the one with Mr. Ngeze holding the dog. Do you
21 see that one?

22 A. Yes, I can see the cartoon.

23 Q. And you see that there's a man's head on it, correct?

24 A. Correct.

25 Q. Now, can you also determine from the text underneath it
26 that that is a highranking soldier by the name of
27 Bizimana, who it's -- it's his head on the dog?

28 A. I do not know Bizimana. I never met him. What I know
29 is that there was a Bizimana who was in charge of the
30 gendarmerie in Gisenyi in the years '92-'93, but if I

1 look at the text in black and white, I would say the
2 person standing is pulling a dog with the head of that
3 gentleman.

4 Q. Now, there have been testimonies that Mr. Ngeze was
5 working for the military. Can you imagine Mr. Ngeze, if
6 he were working for the military, publishing a cartoon
7 like this in June of 1993, where he has the head of the
8 military, basically, the gendarmerie in Gisenyi, has a
9 drawing like this?

10 MS. MONASEBIAN: Madam President, if I may, I don't see how
11 this could assist the Trial Chamber. It calls for
12 speculation, imagining, and I don't see what the purpose
13 of this is.

14 MADAM PRESIDENT: Well, we've been listening to a lot of
15 invited speculations from the witness so far.

16 MR. FLOYD: Well, the problem is --

17 MADAM PRESIDENT: So much of this should be your argument to
18 us, and this is not an expert witness whose opinions you
19 should be inviting.

20 MR. FLOYD: Your Honour, if it please the Court and I --

21 MADAM PRESIDENT: It is something for the Court to decide.

22 MR. FLOYD: That's correct; everything's for the Court
23 ultimately to decide. However, we have heard from
24 witnesses who were not in Rwanda during the time,
25 certainly don't have the sensibilities or the education
26 or the experience that Mr. Nahimana has, not only by
27 education but by job and his political acumen, and I
28 think that it's only fair that we be allowed to ask
29 this. I'm not going to belabour this. It's probably
30 the only question that I have on this whole document,

1 but I want to -- there have been the allegations that --

2 MADAM PRESIDENT: Just answer the question, Mr. Nahimana.

3 We've indicated what we think is the value of such a
4 question.

5 MR. FLOYD: Thank you, Your Honour.

6 THE ACCUSED NAHIMANA: I simply say that once this newspaper
7 is published and the gendarme reads it, the gendarme
8 will be angry and you will not be able to work with him.
9 That is impossible. But I have always expressed my
10 reservation about Mr. Ngeze. At one point he is
11 attacking the government; at another point he's
12 attacking the RPF. But if I look at this cartoon, I say
13 it is impossible for the gendarme to work with
14 Mr. Ngeze.

15 BY MR. FLOYD:

16 Q. When you were at ORINFOR, and based on your experience,
17 isn't Mr. Ngeze's activities in Rwanda through Kangura
18 consistent with him just being a hardnosed, hardhitting
19 journalist?

20 A. Yes. Yes, he was a hardhitting journalist who attacked
21 the persons, organisations, that he targeted or that he
22 was asked to target. That is something to take into
23 account, too. At one point in time, I was convinced,
24 especially when he started writing about me, too, I was
25 convinced that he had been asked to write that kind of
26 article.

27 MR. FLOYD: Your Honour, I would ask Mr. Matemanga to come
28 forward.

29 BY MR. FLOYD:

30 Q. Did you hear the testimony of various witnesses who said

1 that the problem with Mr. Ngeze is that he was very
2 irreverent to -- and I remember a specific example of
3 the Prime Minister. Did you hear that testimony?

4 A. Yes, I do recall.

5 Q. When you were director of ORINFOR, looking at the
6 newspapers in circulation in Rwanda, looking at this
7 first cartoon, someone basically in, I guess, a monkey's
8 body with a long blade, isn't that just basically what
9 the level of the journalism was in Rwanda at that
10 particular time?

11 A. I would like to say cartoons are a way of expressing
12 articles in journals, so there is nothing wrong with
13 Rwandan journalists using cartoons.

14 Q. If you look at the second one, the one with the man with
15 his -- appears to have no clothes on. Again, isn't that
16 just consistent with people -- we've had one of
17 Mr. Ngeze making himself naked on the front cover.
18 Isn't that just consistent with the way journalism is?

19 A. There is no difference.

20 MR. FLOYD: With the Court's permission, so I don't take a lot
21 of time, can I just ask that these be marked an exhibit
22 for the Defence as just an example of cartoons from --
23 political cartoons from other areas. These are from The
24 Nation, which is in Kenya, but we want to make the point
25 that -- we want to make the point so that I don't waste
26 any more -- spend any more time going through each one
27 of these cartoons. And they would be -- I think it's
28 3D131.

29 MADAM PRESIDENT: All right. So you've handed us copies of
30 cartoons from other newspapers?

1 MR. FLOYD: That's right, in Africa.

2 MADAM PRESIDENT: In Africa. To make some argument at some
3 point?

4 MR. FLOYD: That's correct.

5 MADAM PRESIDENT: 3D131.

6 (Exhibit No. 3D131 admitted)

7 MR. FLOYD: Can Mr. Nahimana be shown No. 44?

8 THE ACCUSED NAHIMANA: Yes, I have issue No. 44 of Kangura.

9 BY MR. FLOYD:

10 Q. Will you please -- by the way, the -- you see the
11 cartoons on the front page, and they are consistent with
12 the exhibit we just showed. But I want you to turn to
13 page 7.

14 MR. FLOYD: Do the Kinyarwanda translators have it, page 7?

15 THE KINYARWANDA INTERPRETER: Yes.

16 MR. FLOYD: I would ask that the title and the first paragraph
17 that starts, "Ngo Commandant Bizimana" and ends with the
18 word "coup Gisenyi", if you'll read that,
19 Mr. Ferdinand Nahimana.

20 MADAM PRESIDENT: Well, let's just have the French translation
21 from the booth instead of having Kinyarwanda read into
22 the record.

23 MR. FLOYD: Well, the Kinyarwanda translator will have to
24 translate it.

25 MADAM PRESIDENT: Yes.

26 THE KINYARWANDA INTERPRETER: Title: "It's urgent." "It would
27 appear that Commander Bizimana has put together a group
28 of people responsible for shooting Hassan Ngeze. It
29 would appear that that group comprises four persons
30 whose names we do not yet know. All we know is that,

1 amongst them, there is somebody called Faustin
2 Twizeyimana, who is usually Bizimana's accomplice. It
3 would appear that he has been given an additional gun to
4 carry out this job. We will announce the other members
5 of this group as soon as we know their names, but the
6 following question may arise: Has Bizimana found out
7 that if Hassan Ngeze is shot at, that would be the way
8 of hiding the death of Sekidende that he killed in
9 Gisenyi?" End of text.

10 BY MR. FLOYD:

11 Q. Now, you've said that you were reading Kangura,
12 particularly when you were director of ORINFOR. Isn't
13 it true that as you read Kangura, that there were
14 numerous criticisms of the Habyarimana regime, different
15 individuals -- well, let's first say the Habyarimana
16 regime itself.

17 A. There was, yes.

18 Q. And there were criticisms of the RPF, correct?

19 A. Correct.

20 Q. And there were criticisms of the MDR, correct?

21 A. Correct.

22 Q. And there were criticisms of Kanguka, correct?

23 A. I know that there were criticisms against other
24 journalists, but I dare not talk about Kanguka because I
25 do not remember all the articles which came out. But,
26 generally speaking, yes, they criticised other
27 newspapers and other journalists.

28 Q. And there were criticisms against the army, correct?

29 A. Absolutely. The article we just show is evidence of
30 that.

- 1 Q. And there were criticisms of lower bourgmestres and
2 other lower-ranking officials, correct?
- 3 A. Correct.
- 4 Q. Based on your reading of Kangura and what you know about
5 the way Kangura was received in Rwanda during this
6 period, can't Kangura be considered a crusading journal
7 that calls it like it sees it?
- 8 A. I agree with you.
- 9 Q. Isn't it true that Kangura sometimes criticised Hutus?
- 10 A. I told you what I thought. If you look at it from an
11 ethnic point of view, I am a Hutu, and he criticised me.
- 12 Q. Sometimes he criticised Tutsis?
- 13 A. Correct.
- 14 Q. Isn't Kangura the embodiment of democratic principles as
15 far as a newspaper press is concerned?
- 16 MR. RAPP: Madam President, Your Honours, we've obviously had
17 leading questions go on for quite a period of time, but
18 now finally we're really crossing the area into
19 expertise and opinion to which this witness hasn't been
20 qualified, and to legal argument.
- 21 MR. FLOYD: Your Honour, this man was the director of ORINFOR,
22 charged with overseeing the newspaper. He said he read
23 the newspaper. We've had opinions of people who weren't
24 even in there, couldn't even read the language. I've
25 got somebody who can read the language in its original,
26 lived there at the time; and I think that we're trying
27 to help this Chamber understand somebody who was there,
28 who was charged with overseeing the newspaper at the
29 time.
- 30 MADAM PRESIDENT: Answer the question, Mr. Nahimana.

1 THE ACCUSED NAHIMANA: Madam President, I haven't understood
2 the question. I said that Kangura advocates many
3 different ideas which I advocated, too. I would rather
4 stop here in response to that question.

5 BY MR. FLOYD:

6 Q. Now, are you aware of the allegation that somehow
7 Colonel Anatole Nsengiyumva was somehow involved in a
8 positive way with Hassan Ngeze?

9 A. I am unaware of that.

10 Q. Have you heard the testimony that supposedly it was
11 Nsengiyumva who somehow was the one who started Kangura?
12 Have you heard that?

13 A. If my memory serves me correctly, we all heard that
14 here, or there might be some confusion in my mind. In
15 any case, there were documents which were handed to us
16 by the Prosecution in which we read that
17 Colonel Nsengiyumva allegedly participated in the
18 creation of the Kangura newspaper. Yes, I learned that
19 from these documents provided by the Prosecution.

20 MR. FLOYD: Can the witness be shown 3D80I? And H while
21 you're at it, H and I.

22 MADAM PRESIDENT: Does the booth have a copy?

23 THE ENGLISH INTERPRETER: I'm afraid not, Madam President.

24 MADAM PRESIDENT: Your question, Mr. Floyd? These documents
25 are in English.

26 MR. FLOYD: Yes, they are in English.

27 MADAM PRESIDENT: Ask your question.

28 MR. FLOYD: Does Mr. Nahimana have them?

29 BY MR. FLOYD:

30 Q. Now, you are aware that Colonel Nsengiyumva was the head

1 of secteur operations in Gisenyi, aren't you?

2 A. I know that for the end of '93-'94, yes.

3 Q. And you know that this is the same Anatole Nsengiyumva
4 that allegedly was the person who started or was behind
5 Kangura, correct?

6 A. If I go by the name, yes.

7 Q. If you look at -- and I'll read it in English. The
8 title of this is, "The Going-on Plan of Killing Me", and
9 without getting into too much detail, isn't it true,
10 based on what you know by your presence in Gisenyi and
11 by your presence in Rwanda, that the military detested
12 Hassan Ngeze, including Anatole Nsengiyumva?

13 A. If, like everybody else, I go by what has been written,
14 what we have been seeing all morning, I cannot answer no
15 to that question. But, earlier on, I said that the
16 house of Mr. Ngeze was attacked at the beginning of
17 June 1994, and I told you on the 7th of June, and I told
18 you why I remember that date. And then I told you that
19 I could not go beyond, that those I cited who talked
20 about the situation in Gisenyi said that Ngeze was
21 continuously followed by security services. That is all
22 I can say.

23 Q. Do you have any reason to believe that Mr. Ngeze was not
24 followed by security services every place he went in
25 Gisenyi even before April 6th, 1994?

26 MADAM PRESIDENT: You've just told us that you heard this,
27 that Ngeze was being followed by security. You don't
28 know that of your own accord, do you?

29 THE ACCUSED NAHIMANA: No, Madam President, Your Honours. I
30 told you that when I got to Gisenyi, it is those who

1 received me who told me when they were giving me an
2 information of the overall situation in Gisenyi.

3 MADAM PRESIDENT: And you believe that that was quite
4 possible, that he was being followed?

5 THE ACCUSED NAHIMANA: If I were to go by the tumultuous
6 relationships that I can garner from these articles, I
7 would say that it is possible. I wouldn't have any
8 reason not believing it as it is.

9 MR. FLOYD: The Court's indulgence. I may have asked my last
10 question, but Court's indulgence.

11
12 Thank you very much, Your Honour. I've asked my last
13 question. And thank you very much for your indulgence.

14 MADAM PRESIDENT: Thank you, Mr. Floyd. We will stop now then
15 and resume at 2:30, when we will hear you, Mr. Rapp.

16 MR. FLOYD: Court's indulgence, I believe that the Barayagwiza
17 team wants to question. I think they only had an hour;
18 I'm speaking for them now. They had a short cross.

19 MADAM PRESIDENT: Well, I don't know why you believe that. We
20 have no information in this courtroom.

21
22 As an exceptional measure, Mr. Caldarera, we allowed
23 Mr. Floyd to complete his cross-examination because he
24 has to be away next week or when we resume in October.
25 We have no such request from you. Do you wish to make
26 it now?

27 MR. BARLETTA CALDARERA: Thank you, Madam President. There is
28 a clarification I would like to make. It is correct
29 that I had intended to cross-examine Mr. Nahimana.
30 However, in the view of the Defence, he has covered all

1 the areas which would have been of interest to us. We
2 decided not to cross-examine him. It is true that we
3 may wish to talk about the CDR, the Hutu and the Tutsis,
4 because each one looks at these matters differently, but
5 this had been covered. But if -- but this should not be
6 seen as part of a cross-examination because the evidence
7 is already presented: there is the constitution of the
8 CDR; there are copies of Mr. Barayagwiza's
9 pronouncements; and there are the minutes of the
10 meetings which he attended together with others -- or
11 broadcasts thereof on radio. And with regard to
12 Mr. Barayagwiza, we are renouncing our option to
13 cross-examine the witness. I thank you,
14 Madam President, Your Honours.

15 MADAM PRESIDENT: Thank you, Mr. Caldarera. Then we will
16 adjourn now and resume at 2:30.

17 (Court recessed at 1252H)

18 (Pages 36 to 69 by Karen Holm)

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1 1430H

2 MADAM PRESIDENT: Mr. Rapp?

3 MR. RAPP: Good afternoon, Madam President, Your Honours.

4 BY MR. RAPP:

5 Q. Mr. Nahimana, good afternoon.

6 A. Good afternoon, Mr. Prosecutor.

7 Q. I would like to begin by talking about your interview,
8 the one that aired on Radio Rwanda on the 25th of April
9 1994 that is exhibited under the heading P-105/2. On
10 direct examination, you were asked about your report in
11 that interview and a conversation that you had with the
12 former Burundian ambassador to Rwanda, Bujumbura
13 airport, a man with a given name of Marc. In the
14 interview you said that you were very happy, you said to
15 him that you were very happy "because I have understood
16 that RTLM has been instrumental in awakening the
17 majority people."

18
19 In saying that to him, and in repeating it to the radio
20 listeners on Radio Rwanda, were you saying that you were
21 proud of your creation of RTLM?

22 A. Madam President, I first of all wish to make a
23 correction, because the expression "peuple majoritaire"
24 has been used, and you are well aware for a long time
25 that this translation of rubanda nyamwinshi, or bantu
26 benshi is not correct. I have always insisted that one
27 cannot speak of peuple majoritaire, majority people, in
28 the context of the Rwandan people. We have a minority;
29 we have a majority. So there I do not agree with the
30 translation.

1 What I would wish to have is the original text in
2 Kinyarwanda so that I can answer appropriately the
3 question put to me by the Prosecutor.

4 Q. Well, I will be happy to show you the original text in
5 Kinyarwanda in just a moment, but yesterday you
6 discussed this with your counsel and on examination and
7 before all of us in this courtroom, and I know that
8 these unofficial transcripts we get, we can't cite in
9 writing, but they are an aid to our recollection.

10

11 And in that particular transcript yesterday and in the
12 exchange that occurred on page 18, really of the 12th
13 page in the stack, because the pages, of course, relate
14 to the court reporter, it was an exchange that occurred
15 just prior to the morning break, and you said
16 specifically there in your answer yesterday as
17 translated here:

18

19 "I am happy and satisfied with RTL. I was telling him
20 at the time, because it expresses the opinion of a
21 certain majority."

22

23 So even yesterday you yourself were using the term
24 "majority" and I think if we listen to the transcript we
25 would hear "majority" in français, would we not?

26 A. Yes, quite so. Now I am with you. Indeed, Madam
27 President, Your Honours, I said that I was proud about
28 the establishment of RTL as a company and its radio
29 station. I am happy to say that this establishment took
30 place. And then I did indeed use the term "la majorité"

1 "the majority." And if the Prosecutor recalls, I
2 explained that the ambassador Marc Nteturuye seemed to
3 me as a representative of a minority, an extremist
4 minority in Burundi and that's what I said yesterday, a
5 minority which had not accepted the arrival of
6 democracy, and in particular the election to the highest
7 position in the land of President Melchior Ndadaye.

8
9 But now to say that I, who was in exile, who was in
10 flight, used his way to remind me that you are not
11 bringing your Radio RTLM here, I answered him
12 immediately by saying that well, listen, at least this
13 radio station speaks for a majority which is not
14 something common, because there are majorities which can
15 be extremist in other countries.

16
17 Now, as to Mr. Nteturuye, it was a speech about the
18 refugees in Burundi, and that was the context within
19 which I place my conversation or my dialogue which was
20 quite strong, and the dialogue that I had with
21 Mr. Nteturuye.

22 Q. Mr. Nahimana, I call you Dr. Nahimana under the
23 circumstances, because this is an interesting point, an
24 historical point. You use the expression "awakening the
25 majority people." That term "awakening" reminds us of
26 Kangura. Isn't that the same message the Kangura and
27 other press of the Hutu movement across Rwanda that to
28 wake up the Hutu majority so that people would unite
29 across regional lines and unite across political lines,
30 and that that was something that was happening, that it

1 happened in Rwanda beginning the previous October with
2 the Hutu power rally? Wasn't that what you were
3 referring to?

4 A. Madam President, Your Honours, when I use the term
5 "awakening the majority," here I am not making any
6 distinction and this applies to my writings and in my
7 testimony. I have never made any distinction between
8 the Hutus and the Tutsi, because in that majority there
9 are Hutu and Tutsis included. I underscored this
10 several times.

11
12 There seems to be a confusion in people's minds, because
13 when you speak about the majority in reference to the
14 people of Rwanda, if I say the Rwandan majority I am not
15 only referring to Hutus, I cannot speak about -- I did
16 not speak about a majority ethnic group.

17
18 Once again I am saying, if I were to take, for example,
19 the position which was held prior to the arrival of the
20 RPF, there was a Rwandan majority which was opposed to
21 the RPF, and that majority, in my view, and for other
22 Rwandans, rightly thinking Rwandans, are Hutus, Tutsi
23 and Twa. There is a minority, which accepted to belong
24 or to espouse this war, and it's in this majority that
25 you can also find Hutus and Tutsis.

26
27 Therefore, Madam President, Your Honours, I wish it to
28 be understood that I, when I refer to the Rwandan
29 majority, the majority of the people, and I have never
30 made any distinction and I will never ever do that, only

1 to the Hutus. No, never.

2 Q. Well, Mr. Nahimana, if you were referring -- well, let
3 me just strike that.

4

5 But just state that during the course of your testimony
6 over the last few days, you have quite often carefully
7 gone back and talked about unity and peace as the great
8 motivating clauses in your life, and why, on this
9 occasion, in April of 1994, if you were including Tutsis
10 with this group of people, why didn't you say that RTLM
11 had unified the people inside Rwanda against the enemy
12 instead of talking about a majority which so clearly, in
13 all the rhetoric, has suggested the Hutu majority?

14 A. Madam President, Your Honours, this would have been very
15 pretentious on my part to say that radio station or even
16 to say that a head of state or someone else who
17 expresses his or her own opinion rallied the whole of
18 the population behind him or her. No, that would be a
19 pretension on my part.

20

21 I know, first of all, that broadcast, and this is
22 something which I know very well. It's not rhetoric. I
23 know that the broadcast of the RTLM before the 6th of
24 April 1994 did not rally the support of everyone. They
25 were not accepted in their totality by everyone, by one
26 and all, and, therefore, I am quite right in saying, in
27 my assessment at least, a majority of listeners who
28 appreciated radio broadcast by RTLM, how could I in
29 reference to this majority which accepts broadcast of
30 the RTLM, that I would be referring only to Hutus?

- 1
- 2 This morning once again, in reply to a question put to
- 3 me by Counsel Floyd, I gave the example of Tutsis who
- 4 signed as Tutsis, 25 Tutsis who signed a letter which
- 5 was read on Radio RTLM, because Radio Rwanda had refused
- 6 to do so. Now these Tutsis, were they not to be
- 7 included in that majority of listeners? So it's not
- 8 rhetoric. I know what I am saying when I speak.
- 9 Q. Let me just go a little further into this interview just
- 10 in regard to the number of details. You said that when
- 11 you left Rwanda on the 12th of April with the French,
- 12 you didn't know where you were going, and that you
- 13 thought you could have been taken to Cyangugu or Gisenyi
- 14 because there was no fighting in those préfectures. Is
- 15 that correct?
- 16 A. Quite so, Mr. Prosecutor.
- 17 Q. Now let's -- you have raised the question about the
- 18 doctoring of the transcript, particularly I think your
- 19 reference to the end of the transcript. And if I might
- 20 have the assistance of the control booth, I do have this
- 21 transcript in Kinyarwanda before us and the audio. So
- 22 at this point if the control booth, if I am able to, I
- 23 would like to put this on the screen.
- 24
- 25 How are we doing? There we are.
- 26
- 27 Okay. Professor, can you see the heading in front of
- 28 you on the screen showing AV 93325494, 60 minutes,
- 29 quality good, RR. Can you see that?
- 30 A. Yes, I can see that.

1 Q. Now let's go further into the interview or into this
2 broadcast, and as I believe you will see your interview
3 does not begin until page 24, if you look on this number
4 on top?

5 A. Yes, I can see that.

6 Q. And now let's bring it finally to page 28 to the fin de
7 -- and ask you first of all, to look at that answer
8 there, and is that what you recall seeing yesterday when
9 we were looking at this for the purpose of translating I
10 think the last sentence or two?

11 A. Yes, I can see the passage. This was indeed the one.

12 Q. Now let's attempt the audio here, and take this all the
13 way up here to -- we are looking at 59.

14

15 (Audio played)

16

17 now, Professor, you see there the counter is running off
18 to a minute and two -- an hour and two minutes at the
19 end of this tape. The thing that I want to be clear on,
20 because obviously -- it's obviously interrupted at the
21 word "kinkwe" (ph) at the end, and presumably you said
22 something afterwards.

23

24 But what I want to be absolutely clear on is that you
25 are not saying that what occurs earlier in that
26 particular passage is something that you didn't say.
27 Did you say what was in that passage before the word
28 "kinkwe" (ph) appears?

29 A. Madam President, Your Honours, I wish the text to be
30 left on the screen, by leave of the Chamber, at least

1 with the sentence which ends with "kinkwe" which is not,
2 by the way, the end of the sentence.

3

4 When I say ibyorero (ph), maybe the interpreters can
5 help us, but if the Chamber allows me, this means in
6 regard to that "ibyorero" is in reference to what I have
7 just said directly concerning the struggle or the fight
8 against the enemy.

9

10 What I can say about that is what I have often said.
11 What I have often said is what? And I said this, I
12 think yesterday or the day before yesterday, it was that
13 in this fight against the enemy, and this is what I said
14 when I was in Cyangugu, in this fight against the enemy,
15 we need not take the enemy as someone who is your
16 neighbour who is not your same ethnic group, who is not
17 from your region and who does not belong to your party.

18

19 Madam President, Your Honours when I say "comenchi",
20 when I say "ibyorero", this is in reference exactly to
21 what I had just said regarding the enemy and I wish to
22 specify, because once again I am happy that at least I
23 have been careful, I didn't know that I would be called
24 upon here one day to explain all this.

25 Q. Well, the question that I put to you was specifically
26 whether you said the words before "comenchi" and I take
27 it you didn't dispute that, and the answer is "yes"?

28 A. I don't quite understand the question. I do apologize.

29 Q. It's a very simple question which is, did you say the
30 words that appear there? Is this an accurate recording

1 and transcription of your words, but for the fact that
2 the tape ran out?

3 A. Quite so. The transcript is faithful to what I said.

4 Q. Now to deal with it in translation form, and,
5 unfortunately, we thought we had a French translation,
6 that Dr. Ruzindana indicated there was one, but
7 apparently there wasn't one offered, so we are dealing
8 here with the English. But you have the Kinyarwanda
9 available to you.

10

11 Among other things, you said in this paragraph that when
12 you were in Bukavu you could listen to Radio Rwanda and
13 RTLM Radio and you were satisfied with both radio
14 stations.

15

16 Now, the question that I have is, you were listening to
17 the radio in Bukavu during the time you were there from
18 April 17th to April 23rd, were you not?

19 A. Yes, Madam President, Your Honours. I wish to specify
20 that indeed I listened to the two radio stations, and
21 including Radio RTLM from the 17th of April, but as I
22 have said, I did not listen to Radio RTLM all the time.
23 But I would listen to some of its programs, that is
24 true.

25 Q. But this was at a time when you were in Bukavu. You
26 indicated later in Cyangugu at the Hotel du Lac you had
27 reception problems. I take it that was not a problem in
28 Bukavu or you would have identified it in the interview,
29 would you not?

30 A. Quite right.

1 Q. Now earlier this morning you told us that on April 17th
2 with the bombing of the RTLM studio, the announcers
3 became, I think it was yesterday, in fact, became
4 unnerved and began to do their programs in a way that
5 you didn't like. How was this consistent with your
6 statement that, having heard those broadcasts for that
7 week you were satisfied with them?

8 A. Madam President, Your Honours, I believe the Prosecutor
9 must have misunderstood what I said this morning, and
10 from the outset let me say that I got to know that the
11 RTLM studios had been bombed, and that was quite late in
12 relation to the date of the 24th of April.

13
14 What I said this morning was that I disapproved of the
15 conduct of the journalists, and I said that as a
16 teaching professor, as a lecturer, I tried to explain to
17 myself what could have lead the journalists to behave in
18 that way and that is when I gave the example.

19
20 I gave the example of the year which was taken in
21 excess. I took the example of drugs, and I said that we
22 should recall that the RTLM had been bombed and the fact
23 that one of the journalists was wounded and that the
24 wound lead to an amputation of his leg. This could have
25 been a contributing factor to the conduct of the
26 journalists, a thing which made them behave in that way.
27 But I did not say that I personally heard the broadcast
28 on the 17th April, according to which the RTLM had been
29 bombed, no.

30 Q. But weren't you telling us that, because of the bombing

1 on the 17th April and the fact that one of the
2 colleagues there was injured and had to lose a leg that
3 that was a reason why the station changed and thereafter
4 did all these things that you called during the course
5 of your testimony unacceptable and revolting. You
6 didn't hear any evidence of that?

7 MR. BIJU-DUVAL: Madam President?

8 MADAM PRESIDENT: Yes, Mr. Biju-Duval?

9 MR. BIJU-DUVAL: Mr. Rapp, if I can depend on the
10 interpretation I am hearing, which I believe is
11 faithful, it is distorting what Mr. Nahimana said.
12 Mr. Nahimana never said that the bombing of the RTLM was
13 the cause of the change in the behaviour of the
14 journalists. He indicated that it could be, and he used
15 the conditional tense: one of the factors which may have
16 contributed. These are nuances in the language which is
17 important, and it is not acceptable that Mr. Nahimana's
18 testimony be distorted.

19 MADAM PRESIDENT: Mr. Nahimana, will you answer the question
20 which we have heard, that you said the broadcasts at
21 that point were unacceptable and revolting and yet in
22 the interview you said you were satisfied with the
23 station.

24 THE ACCUSED NAHIMANA: I said quite clearly during the
25 interview that I was satisfied, and I explained, Madam
26 President, Your Honours, why I answered in that manner.

27
28 I don't know whether it's necessary for me to repeat
29 what I had said, but I had said that with regard to the
30 information that I had in my possession; in other words,

1 that Radio Rwanda and Radio RTLM, that information
2 enabled me to understand that the Rwandan people had
3 risen up against the enemy, which was the RPF, and since
4 Rwanda was in war, was in danger, this manner of doing
5 things was satisfactory to me.

6
7 This morning when I was speaking about the fact that the
8 bombing of the RTLM and the serious wounds that one of
9 the journalists of the RTLM received may have led to,
10 and I am using the same terms as I did a moment ago,
11 journalists went to the extreme. I said this this
12 morning. And this was one of the possibilities that led
13 to that as is the use of drugs, which could have also
14 been another possibility to explain the strange
15 behaviour of the journalists, which I did not know them
16 to have previously.

17 BY MR. RAPP:

18 Q. Let's go on to something you just said, repeating what
19 you had said in this interview, that you were satisfied
20 that RTLM and Radio Rwanda had -- well, I suspect they
21 had (indecipherable) the population from all corners of
22 the country that stood up and worked together with other
23 armed forces, the armed forces with the view to halting
24 the enemy, and just now you said that was, of course,
25 the RPF that you were referring to.

26
27 I have a question based upon another aspect of this
28 interview we just discussed a moment ago. You told us
29 that you knew there was no fighting in Cyangugu,
30 Cyangugu préfecture, which is the southwest préfecture,

1 the southwest corner of Rwanda, and you told us you knew
2 there was no fighting in Gisenyi, the northwest
3 préfecture of Rwanda. That's why you wondered why the
4 French hadn't taken you there, another two corners of
5 the country. Who were the people standing up against?
6 Who were they rising up against if it's not against the
7 civilian population?

8 A. Madam President, Your Honours, I am surprised that
9 Mr. Rapp, who is American, can ask me the question he
10 has in such a way, after the 13th -- no the 11th of
11 September. His president said that he was against
12 terrorism.

13 THE INTERPRETER: Madam President, the interpreters are
14 sorry, could the witness be asked to begin his answer
15 again. We lost a part of it.

16 MADAM PRESIDENT: Mr. Nahimana, begin again, because of
17 translation. But can you just answer the question
18 without Mr. Rapp being American and September 11. Just
19 answer the question that he asked in relation to Rwanda.

20 THE ACCUSED NAHIMANA: Yes. You stopped me at a time when I
21 was beginning to answer the specific question concerning
22 Rwanda.

23

24 He is speaking about Cyangugu and Gisenyi which were not
25 directly affected by the shooting. But the Rwandan
26 people is a single population, a single people. Now
27 their participation in the war effort was not required.
28 Only of the part of the population which was affected by
29 the shooting, although even if it was only one commune
30 which was affected, if it was all of Rwanda which had

1 been concerned.

2

3 So here I think it is a misinterpretation of what I am
4 saying by saying that, when I say that the people who
5 arise against the enemy, which I stipulate is the RPF,
6 that I am saying it is a people who is arising in the
7 framework of a civil war. No, that is not true. I am
8 looking at the whole of Rwanda which is suffering from
9 the resumption of war, and the Rwandan to conclude
10 thereon, the Rwandan had just lost his head of state.
11 The Rwandan in whatever part of country he was lost the
12 chief of general staff. The Rwandan is attacked at the
13 capital. So how can you draw or subtract the suffering
14 of the peoples of Ruhengeri, Cyangugu and Gisenyi, and
15 on the pretext that there was no war? No; when I am
16 speaking about the population, I am speaking about the
17 people as a whole.

18 Q. Well, let us talk about something you admitted yesterday
19 in regard to what occurred in Rwanda from April to July
20 1994. You recall earlier in your testimony you talked
21 sort of bloodlessly about the events of April to July.
22 But yesterday, if I might quote the unofficial
23 transcript, you spoke of your revulsion that came from
24 the fact, and I am referring here, by the way, to page
25 30 of the transcript, just before the noon break
26 yesterday, just before the conclusion of direct
27 examination by Mr. Biju-Duval.

28

29 "My revulsion comes from the fact that during this
30 period of time thousands, hundreds of thousands of

1 people of Tutsi origin were killed, because they were
2 Tutsis, and this is really revolting, that someone is
3 killed because of his or her ethnic group; moreover,
4 that this happened in the zone which was under the
5 control of the transitional government."

6

7 And then later on, in addressing the judges:

8

9 "I am an historian, and I am not really able to describe
10 this but as which seems to come from the genocidal type
11 of action."

12

13 Now, let's be clear here. Obviously you talk about a
14 genocidal type of action and the killing of people
15 hundreds of thousands based upon their ethnicity. Let's
16 just ask, not in regard to yourself or question the
17 judges have to determine as to you, but was there a
18 genocide of the Tutsi people in Rwanda in 1994?

19 A. Madam President, Your Honours, I would like to recall
20 what I said, and I do not want to usurp the powers of
21 the judges who are – and that's my understanding, given
22 their training and competence – able to assess better
23 than myself the events which took place in Rwanda
24 between April and July 1994.

25

26 However, I would wish that things are clear, that my
27 position on this specific issue be clear. I do agree
28 that there were killings which I myself, as an analyst,
29 believe must be the result of a genocidal kind of act,
30 and I explained what I understood by that action: to

1 kill somebody because he is from such and such an ethnic
2 group, especially one which is not yours.

3
4 I do admit, and I reaffirm it once again today, that
5 thousands of Tutsis were killed because of their
6 ethnicity by individuals who killed them because they
7 had been determined to be Tutsis. I am saying that
8 there were Hutus who suffered the same fate under the
9 same conditions.

10
11 Now, let's come to the term "Tutsi genocide" genocide in
12 the singular. This word, I am not using it yet, and why
13 is that? Because it seems to me to be simplistic.
14 Simplistic in the sense that it refuses to consider the
15 various different situations which existed or which were
16 noticed during that period of time.

17
18 I will go back to the people who were killed. There
19 were Tutsis -- let's take the Tutsis, because you have
20 talked about the Tutsi genocide. There were Tutsis who
21 were killed because they were combatants of the RPF, and
22 no one can deny that fact. They were fighting, there
23 were Tutsis who were killed because they were combatants
24 of the RPF. Now, on the other hand, the second
25 situation, there were Tutsis who were killed because,
26 rightly or wrongly so, they were considered as
27 accomplices of the RPF. That's the second case. Now
28 the third situation is that, there were Tutsis, as I
29 have described a moment ago, who were indeed killed
30 because they were considered as Tutsis, full stop.

1
2 Madam President, Your Honours, are these not situations
3 which have to be considered, which need to be put on the
4 table to analyse before concluding on the existence of a
5 genocide, in the singular? Another reason which makes
6 me refuse to speak about genocide in the singular, and
7 once again I do not want to usurp the powers of the
8 judges, because this term genocide in the singular, and
9 the Prosecutor has used the word, requires that this
10 genocide applies only to the Tutsis as if the three
11 situations which I have just described did not also
12 concern thousands of Hutus. There were Hutus who were
13 killed, also, because they were fighters within the RPF.
14 That's one thing. Hutus who were killed by Hutus.
15 Often this fact is forgotten, but there were Hutus who
16 were killed by people belonging to the RPF, or by
17 Tutsis. You understand? There are areas where there
18 were Tutsis who killed Hutus, and that is why the
19 expression "inter-ethnic massacres" is more my kind of
20 assessment.

21
22 Now, this term "genocide" in the singular, Madam
23 President, Your Honours, voluntarily conceals what
24 happened to these Hutus who died in this horrible
25 situation, under these horrible circumstances.

26
27 Finally, and I have had the opportunity to say this
28 before when I was writing my book "L'Elite Hutu", at
29 that time I was in flight and I didn't have enough
30 documentation. But the documents which have been

1 provided to us by the Prosecutor and those collected by
2 my Defence Counsel, the information that I have there
3 from today does not allow me to say, when we are talking
4 about genocide in the singular, to say that these
5 killings, these inter-ethnic killings, these murders
6 came about because of a plan which was thought about
7 well before the events occurred.

8
9 And I do realize that rather instead of using the term
10 "the genocide of the Tutsis", the Tutsi genocide becomes
11 a political use of the term. It would seem that there
12 are people who have the political will to use the
13 expression "Tutsi genocide" or to qualify what happened
14 in Rwanda as a genocide of the Tutsis in order to, with
15 regard to the RPF, to build themselves kingdoms. As for
16 RPF, this is the same for the RPF and those who are
17 outside the country, and this is not proper.

18
19 Instead of looking at what brought about these evils,
20 rather than using this term as is said by some
21 journalists, a bargaining chip, and I do not accept that
22 term, Madam President, Your Honours, this is my view of
23 things.

24 Q. Well, Mr. Nahimana, I hope the answers in the future can
25 be a little shorter, and not I am not here to talk about
26 bargaining chip. I want to talk about what happened and
27 what you were talking about on April 25th, and
28 specifically I know yesterday, and frankly,
29 refreshingly, you said something that Alison Des Forges
30 would agree with, which was, hundreds of thousands of

1 people of Tutsi origin were killed because they were
2 Tutsis, and then you said thousands of people controlled
3 in areas by the RPF were killed, were killed, because
4 they were of the Hutu ethnic group.

5
6 That's what you said at that time, and I want to know,
7 do you also agree that, as Alison Des Forges said, that
8 the first three weeks after the President's plane was
9 shot down was a period of the most rapid and bloodiest
10 slaughters. Based upon your review of the documents and
11 your study, is that something you can agree with as
12 well?

13 A. Madam President, Your Honours, I have other information
14 also, and I am sure you do too, of the former prime
15 minister Twagiramungu said that, up until the 13th of
16 April the killings which took place in Rwanda were
17 basically political killings. So that was one week
18 after the death of President Habyarimana.

19
20 The following week there were also other persons who say
21 that between the 13th and the 25th of April there were
22 also many killings following the movement of peoples,
23 people were coming from the area east of Kigali, went
24 westward and continued up to Gitarama, and people
25 started talking about the RPF atrocities, which incited
26 people to kill the Tutsis because the RPF was said to be
27 wanting to eliminate the Hutus.

28
29 So its undeniable that during this period of time, if
30 one were to refer to documents, this is a period of time

1 when there were many killings, yes, I do agree.

2 Q. Well, let's just deal with it a step at a time. You
3 have acknowledged that before the 13th of April there
4 were these political assassinations. Earlier, I think
5 you refused to use the term "plan" but let us just ask
6 about those.

7
8 Assassination of people like Agathe Uwilingiyimana, the
9 assassination of Mr. Rutagoza (ph) who you sat across
10 the table from on February 10th who was killed with his
11 entire family, the assassination of Lando, the head of
12 PL party, all of those people whom Mr. Ruggiu talks
13 about being on-board at RTLM. Were those assassinations
14 planned and carried out by military officials?

15 A. Madam President, Your Honours, first of all, I wish to
16 correct what Mr. Rapp said at the beginning of his
17 question.

18
19 I was referring to Prime Minister Faustin Twagiramungu.
20 He was the one who said that, during the period from the
21 6th, the evening of the 6th, the killings were more of
22 the political nature. Now, as for whether these
23 killings were planned or not, I wouldn't be in a
24 position to know that.

25
26 Only those who would know would be the ones who killed
27 those people. I am not a soldier, and even in the event
28 that it were to be proven, and I am speaking in
29 reference to some documents, there are several documents
30 -- Des Forges, Chrétien, Reyntjens have written books,

1 they have many documents which say that the Presidential
2 Guard went about the killing of political opponents.

3

4 Did this Presidential Guard act, supposing that it is
5 true that it was the Presidential Guard responsible for
6 the killings, did the Presidential Guard act according
7 to a pre-conceived plan? You know that there is a
8 question. If the Presidential Guard had acted according
9 to that plan, did the Presidential Guard plan up to and
10 including the assassination of the President?

11

12 The second thing is this: if one were to speak of a plan
13 with regard to these killings, I cannot give you any
14 tangible answer because I would be only entertaining
15 supposition. So since I do not have documents to enable
16 me to say that yes, they followed a plan, they were
17 acting according to a plan, Madam President, Your
18 Honours, I cannot say yes, they followed a plan.

19

20 But by leave of the Chamber, I can also go on and say,
21 and this is once again supposition, that it is possible
22 that they reacted following the assassination of their
23 boss, the head of state, the head -- their own boss, the
24 head of the presidential security, and the head of the
25 army. And why not? If you want to analyse the
26 situation in its depth, that would have been rendering a
27 balance in the situation.

28 Q. Let's leave behind the question of these assassinations.
29 You brought that up in your quote from Faustin
30 Twagiramungu and talk about the things that you did

1 discuss in your direct testimony, the killing of Tutsis,
2 the hundreds of thousands that were killed because they
3 were Tutsis, and specifically the killings that then
4 occurred in April. Based upon your review now of these
5 documents that have caused you to have a greater
6 awareness than you did back in 1995, and leaving aside
7 the issue of planning, and I know you don't want to say
8 anything about plan, but was the killing organized?

9 A. I thought that when I spoke about a planning, I also in
10 effect - I will go somewhat into this now - I also spoke
11 about, or rather, I dealt with the issues relating to
12 organization. This morning in an answer to a question
13 to the effect that between April and July was Rwanda an
14 organized country or was it a country in chaos? And I
15 said that Rwanda was a country in chaos.

16
17 And once again, Madam President, Your Honours, there is
18 nothing, nothing that allows me to say that there was an
19 organization of those massacres by the lawful
20 authorities, and I would like the Trial Chamber to
21 understand that I am not here trying not to acknowledge
22 things. But when one talks about planning and one wants
23 to have a conclusion that there was a genocide of
24 Tutsis, in the singular, when I look at the parameter of
25 planning there is this talk about organization here.
26 But I am saying that there is no element that has been
27 displayed which would allow me to say yes, there was a
28 proper organization on the part of the lawful
29 authorities. I don't see any element to that effect.

30

1 What I do acknowledge is that thousands of people were
2 killed, and I would not like to repeat what I have said.
3 But with regard to organization, I do not see any
4 organization in all this.

5 Q. Well, you mentioned specifically government officials,
6 you say they weren't involved in organizing it. What
7 about the militias? The Interahamwe, the Impuzamugambi,
8 the youth wings of the power parts of the other
9 political parties? Were they involved in leading and
10 doing the killing?

11 A. Madam President, Your Honours, speaking about the
12 militias, the Impuzamugambi, the Interahamwe, the
13 Prosecutor agrees with me there was chaos, the lack of
14 organization. I suppose that the Prosecutor of the ICTR
15 in the Semanza case when speaking about the Interahamwe,
16 and I am here I am quoting from memory, the Prosecutor
17 said that the Interahamwes were all Hutus who were
18 fighting. For him there was no Impuzamugambi there were
19 no abakombezi, there was no youth wing of the Liberal
20 Party, all these groups were put under Interahamwe.

21
22 Now, Madam President, Your Honours, you already know my
23 position regarding the Interahamwes before the 6th of
24 April. Now from the 6th of April it was no longer the
25 Interahamwe in the sense of the Prosecutor that the
26 Interahamwes were of MRND. But rather, of all Hutus
27 whether they were MDR, MRND and this is where the cause
28 lies. So where is the organization here?

29 Q. Well, let me first of all say to you, Professor, that we
30 are not -- I am not here making admissions. I am asking

1 you questions. I am trying to determine what you
2 specifically admit in light of what you said yesterday
3 about the killing of hundreds of thousands of Tutsis.

4
5 But I am taking it from you, what you are telling us now
6 is that you are a believer that these hundreds of
7 thousands of people died spontaneously over a course of
8 a hundred days at a rate of thousands a day, that this
9 was all spontaneous? That's your view as far as what
10 happened in Rwanda?

11 A. Madam President, Your Honours, I do not agree with the
12 conclusion of the Prosecutor. The killings that took
13 place and the events which happened -- bloody events
14 which happened in Rwanda between April and July, should
15 not be taken lightly and lead to such a light
16 conclusion. No, that is not it.

17
18 I am saying that the behaviour of people which was
19 observed could be seen through the inter-ethnic
20 massacres which took a long time, which lasted for a
21 long time. So if you conclude that these thousands of
22 people died in a spontaneous manner I would not agree
23 with you, because that is not my opinion.

24 Q. So if it's not spontaneous and it wasn't organized, who
25 intended this killing and carried it out?

26 A. I would like to make clear my thoughts and I will repeat
27 my thoughts. I would accept that there was organization
28 if I have information which would lead me to agree with
29 that, to the effect that there were lawful organizations
30 which actually made people kill their fellow citizens.

1
2 Now, if, as you have said, the Interahamwe, the
3 Impuzamugambi, the abakombezi militia and so on and so
4 forth, if among those militia, militias, there were
5 people who were killers or behaved as killers, who
6 galvanized the crowd and hordes of killers, then those
7 people would be the organizers of the killings, and that
8 is why I did not at all agree with your conclusion.

9
10 Yes, let us look for those people who actually made
11 other people kill other people during those three
12 months. Why, earlier I was amazed by your conclusions.
13 It's like saying that you see a mushroom springing from
14 the ground in the morning. No, that is not the case.
15 There was a behaviour on the part of killers which made
16 other people kill, and those other people that the
17 abakombezi, Interahamwe militiamen are what you
18 generally categorize as Interahamwes, as just one group.
19 These are not the killers and they were followed by
20 other killers.

21
22 But do not talk to me about the organization by the
23 authorities. But I don't want to be misinterpreted.
24 That is something that could be done if someone could be
25 in a responsible position and have the behaviour of a
26 killer. But if he doesn't have that behaviour and he
27 galvanizes people around him to kill, then you have to
28 look for that person and say, This is the organizer of
29 these killings. You shouldn't individualize it.

30

1 And that would be able to really explain these
2 horrendous occurrences, tragedy.

3 Q. Well, let's go to the place that you were on April 24th
4 when you spoke into the microphone for this interview,
5 and where you remained until late May, the corner of the
6 country known as Cyangugu préfecture.

7
8 First of all, when you were there staying at the Hotel
9 du Lac or when you were conferring with préfectoral
10 officials in Bukavu before coming over, did you have an
11 opportunity to meet with the préfet, Mr. Bagambiki?

12 A. Yes, I understood you Madam President, Your Honours.
13 Yes indeed I met on several occasions, when I was in
14 Cyangugu, Mr. Bagambiki, who passed us there regularly
15 to see us where we were at the Hotel du Lac.

16 Q. Did you also meet with the minister who was in the
17 government, in the interim government from that area,
18 who had also been, I believe, originally in the French
19 embassy with you, the Minister of Transport and
20 Communications, I believe, André Ntagerura?

21 A. Mr. André Ntagerura was with his family at the embassy
22 of France in Kigali. When we were evacuated
23 Mr. Ntagerura did not come with us. Only his wife and
24 children were evacuated with me and with others in
25 Cyangugu. I was with his children and with his wife. I
26 did see Mr. Ntagerura in Cyangugu while I was there.
27 Moreover, he was not the only minister whose family was
28 with us. There were other ministers such as Muganamezi
29 (ph) who I did not see. But what I know is that
30 Mr. Ntagerura was travelling a lot. In any event, with

- 1 regard to Cyangugu, I did not see Mr. Ntagerura there.
- 2 Q. Were there massacres of Tutsis in Cyangugu when you were
3 there?
- 4 A. What I have to tell you is that, yes, I heard and I know
5 that there were massacres during the month of April, and
6 certainly during the month of May people told us about
7 them in the préfecture of Cyangugu. But when I was in
8 the town of Cyangugu -- because I told you that I did
9 not go out and when I did go out it was on the way to
10 Gitarama, but when I was in the town of Gitarama I did
11 not see massacres and I did not hear about massacres.
12
- 13 However, before I got to Cyangugu, I had already heard
14 that there were people who had been killed before the
15 24th, or rather, the 23rd of April, before I got to
16 Cyangugu. This is something I heard.
- 17 Q. You indicated that while in Cyangugu you worked with
18 some sisters, I believe Franciscan Sisters. Did you
19 talk with them at all about the massacre that might have
20 taken place at Catholic parishes in the préfecture?
- 21 A. I think that maybe you misunderstood me. I said that I
22 was staying at the Hotel du Lac and there were some
23 families who were accommodated at an institution of the
24 Franciscan Sisters, and sometimes I would go to the
25 Cyangugu market in a vehicle of the religious order, but
26 I did not work with them. I did not really have that
27 kind of conversation with the members of that religious
28 order.
- 29 Q. Well, did you hear that in a number of Catholic parishes
30 across the préfecture there had been murders of

1 thousands and thousands of Tutsis that had sought refuge
2 there during the month of April?

3 A. What I learned is that people were talking about that
4 there had been a lot of the Tutsis who had been killed
5 in Cyangugu, but I do not remember specifically about
6 people talking about the parishes. I learned about that
7 later from a document regarding the fact that many
8 Tutsis were killed in parishes, and so on and so forth.

9 Q. Well, let's talk about something that would have been
10 hard to miss at the Hotel du Lac beginning on April 25th
11 and on into May.

12
13 Were you aware of the fact that thousands of people were
14 being kept as refugees, some of whom had been moved from
15 the cathedral forcibly, were being kept at Kamarampaka
16 Stadium in Kamembe, Cyangugu?

17 A. Yes, I knew about it, because that was talked about
18 almost every evening, and I have to say that the Red
19 Cross which had accompanied us was led by someone,
20 someone with whom I often spoke. That person often came
21 to pay visit to the people who were at the stadium, and
22 when he was on his way back he would stop at Hotel du
23 Lac and he would tell us about the state in which those
24 people were.

25 Q. Did he tell you that they were in the stadium with no
26 sanitary facilities, that they had one faucet, no power,
27 no telephone connection and that every day lists were
28 read out of people who would be removed and killed?

29 A. He told us about it. We used to talk about those
30 things, that is why we used to talk about ...

1 Q. Do you recall three or four days after you arrived when
2 thousands of people attempted to escape from that
3 stadium and went through Kamembe?

4 MS. ELLIS: Madam President, could I just object to the line
5 of questioning. It should not be the Prosecutor giving
6 evidence. We haven't heard any evidence that I recall
7 about this. It's perfectly correct to put a question,
8 but Mr. Rapp is not here to give evidence. Thank you.

9 MR. RAPP: Your Honour, this witness has indicated that he had
10 knowledge of what occurred in Cyangugu. The level of
11 that knowledge is consistent with his knowledge of what
12 was going on, and official involvement something that he
13 has explicitly denied, and I submit that I am entitled
14 to put this to him, because he is, frankly, giving us
15 information about it and I can follow it up.

16 MADAM PRESIDENT: You may proceed. Did you complete your
17 question?

18 MR. RAPP: No, I hadn't. Let me just begin again, Your
19 Honour.

20 BY MR. RAPP:

21 Q. Are you familiar -- were you aware of the effort of
22 thousands of these people that were being kept at the
23 stadium to escape and to go to the préfectoral office,
24 an event that occurred late in April 1994, some time
25 around the 28th?

26 A. Their effort to escape from the stadium?

27 THE INTERPRETER: And Madam President, for the record, the
28 previous answer ended with "We talked about the horrible
29 conditions" and that was -- apparently the microphone
30 was off when that was said.

1 BY MR. RAPP:

2 Q. I asked you specifically, when you were aware that
3 thousands of these people left the stadium attempted to
4 escape and came into the central part of Kamembe to the
5 préfectoral office on about April 28th very close to the
6 Hotel du Lac?

7 A. I am not aware of that, and another thing is that the
8 Hotel du Lac is not near the préfectoral office, no, not
9 at all. I am not aware at all of that and here I am
10 referring to that specific fact.

11 Q. You are not aware of them being forcibly turned back by
12 the préfet, and hundreds of them being killed and raped
13 outside of the stadium? That is not something that your
14 friend from the Red Cross told you about?

15 A. You know how those Red Cross people work; there are some
16 details in their work which they do not reveal to
17 anybody. He would pass there in order to greet us, to
18 see us and to see how we were keeping and so to speak.
19 He in a way felt that he was responsible for our state.

20
21 Now, with regard to the incident that you are referring
22 to, I am not aware whether they made any effort to leave
23 and whether they, on their way back, they were
24 mistreated. This is not something that I am aware of,
25 Madam President, Your Honours.

26 Q. Well, you accepted that there were thousands of people
27 being kept in horrible conditions at the stadium. Why
28 weren't those individuals allowed to leave? Why weren't
29 they allowed to proceed to Zaïre?

30 A. Madam President, Your Honours, I think this question

1 which is being put to me will not have an answer on my
2 part, at least not a satisfactory answer. The
3 satisfactory answer to that question can be found on the
4 part of the leaders of the préfecture of Cyangugu. I
5 was not an official of that préfecture. If those people
6 had asked to leave to what was then Zaire, that is Congo
7 today, and that they were not authorized to do so, that
8 is a pity and I deplore that. But the satisfactory
9 answer can only be given by the local authorities, the
10 local officials.

11 Q. And you indicated you had spoken to local officials. So
12 the head local official, the préfet, Mr. Bagambiki, you
13 never discussed with him why those people were in that
14 horrible condition and not being permitted to leave?

15 A. Madam President, Your Honours, I didn't even know that
16 those people had asked for such authorization. How
17 could I have spoken with the préfet about that issue?
18 No, I did not speak with him about it and Mr. Bagambiki
19 is a very discreet person, and if that came under his
20 function, I don't think that it would have been
21 appropriate or easy to talk about it with us who are
22 from the other préfectures.

23 Q. Well, let's pass from Cyangugu to something else you
24 talked about in your direct examination.

25
26 You had indicated that when you made the decision to go
27 to work with President Sindikubwabo, you recalled that
28 when you were in the French embassy back before -- on or
29 before April 12th, you had actually heard a broadcast or
30 had seen a speech that he had given that you viewed as a

1 good speech. Do you recall that testimony?

2 MR. BIJU-DUVAL: Madam President, there is a problem regarding
3 the content of the question. The question as I heard
4 it, they are placed in Nahimana's mouth the following
5 words: President Sindikubwabo had called him when he was
6 at the embassy of France. Mr. Nahimana never said that.

7

8 Could Mr. Rapp kindly repeat his question.

9 BY MR. RAPP:

10 Q. Please understand I didn't want to suggest that did
11 occur in April. But you in your answer had spoken of
12 both events, really in the same paragraph. You said
13 one, you had received this call from President
14 Sindikubwabo in May, and in dealing with whether you
15 would work with him, you recall a speech that he had
16 given back in April, and that people you had access to
17 at the French embassy. Do you remember that answer and
18 is that essentially correct?

19 A. Yes, what you are saying is correct. I gave that
20 answer.

21 Q. And I am not sure whether your counsel re-exhibited it.
22 There was an exhibit that was marked, tentatively marked
23 as 23 that is in fact P-103/65, the English being
24 P-103/65(A) that contains that speech. And just one
25 thing curious about it. It was a broadcast of the 14th
26 of April 1994 and you left the embassy on the 12th,
27 according to your testimony, and were out of reach of
28 RTLM or Radio Rwanda on the 14th. How is it that you
29 became familiar with this particular speech?

30 A. Madam President, Your Honours, the Prosecutor is wrong.

1 The speech which I referred in my answer is the speech
2 delivered on the 10th of April, and if my memory serves
3 me well that speech was tendered as an exhibit here, and
4 in that speech President Sindikubwabo actually called on
5 the population to do everything possible so that peace
6 is restored in the minds and in the environment of each
7 and every citizen, because he said that every citizen
8 should be his neighbour's gendarme. This was a speech
9 delivered on the 10th of April in 1994. I was still in
10 the embassy of France in Kigali.

11 Q. Well, Mr. Nahimana, I am not sure that it's a
12 significant issue, but if you are familiar with your own
13 counsel's list of proposed exhibits number 23 as the
14 discord of President Sindikubwabo of 14 avril, and does
15 that particular exhibit, albeit with the date of 14th
16 April, then reflect what the President said on the 10th
17 that somehow you heard through some other source?

18 MADAM PRESIDENT: Mr. Biju-Duval?

19 MR. BIJU-DUVAL: Madam President, I had on the list of
20 documents that could be used a transcript of the
21 broadcast of the 14th of April 1994, where there is a
22 speech by President Sindikubwabo. We did not use this
23 document, because in particular we did not have enough
24 time. So I think that this is the source of confusion
25 that is currently being pursued by Mr. Rapp.

26
27 And Mr. Nahimana in his answer clearly referred to a
28 speech, not of the 14th of April, which up to this point
29 has not been referred to in this hearing, but rather he
30 referred to a speech of the 10th of April.

1 BY MR. RAPP:

2 Q. I don't want to belabour this, but is the text of the
3 speech the same as the text that is in the April 14th
4 broadcast? We are looking specifically at number 23,
5 the potential exhibit that your counsel could have
6 proposed to admit, but wouldn't have been admitted
7 because it's already in as P-103/65. Is that the
8 speech?

9 A. Madam President, you see, I am here without documents.
10 So I cannot know whether these documents tally. But I
11 cannot make reference to a speech of the 14th of April
12 which was delivered on the 14th of April when I was not
13 in Rwanda, but I did refer to a speech delivered on the
14 10th of April.

15

16 Madam President, Your Honours, I remember that during a
17 cross-examination by Counsel Ellis we tendered into
18 evidence speeches of President Sindikubwabo which we
19 have in our possession as a defence, and Ms. Ellis
20 concluded by saying that if there was any other speech
21 then we would also tender it. But as Counsel Biju-Duval
22 is saying, I did not talk about this speech during my
23 testimony here when I was led in evidence by my lead
24 counsel.

25 MS. ELLIS: Madam President, could I just clarify that,
26 because Professor Nahimana is quite correct. 1D-85 (B)
27 is the speech of Dr. Sindikubwabo which was delivered on
28 Radio Rwanda on the 10th of April of 1994 and was
29 produced through Mr. Ruzindana, who I cross-examined.
30 Thank you.

1 BY MR. RAPP:

2 Q. Well, just to move along, because I think we may be
3 talking about the same speech. It's basically your
4 position that this is a people that called for peace and
5 the end of killings. Was it not?

6 A. Madam President, Your Honours, let us be clear here.
7 When the Prosecutor talks to us in inverted commas about
8 maybe the same speech, I would say that I am talking
9 about the speech of the 10th April. But it seems he is
10 still talking about the speech of the 14th of April
11 1994.

12
13 Madam President, Your Honours, I would like you to help
14 me so that I know on what do we agree, and when he says
15 that when are talking maybe of the same speech. This is
16 something that I do not understand.

17 Q. Well, could Mr. Matemanga, could you please put
18 P-103/65(A) before the witness.

19
20 Perhaps if I could ask the booth to put me on overhead,
21 I would be happy to exhibit.

22
23 Do you need something from me? Do I need to hit...

24
25 If I could invite your attention, Mr. Nahimana, to page
26 15 ?

27 A. Yes, I am there.

28 Q. You see the orator, Sindikubwabo, or President of the
29 Republic, is that the speech that we are talking about
30 or is that a different speech?

- 1 A. Do you want to separate the speech to which I referred
2 when I was answering your question put to me by Counsel
3 Biju-Duval?
- 4 Q. Yes.
- 5 A. No, this is the speech delivered on the 14th. By the
6 look of the cover, this speech was delivered on the 14th
7 of April 1994. The speech to which I referred to was
8 delivered on the 10th of April 1994.
- 9 Q. But accepting that Radio Rwanda might be playing tapes
10 of earlier speeches, is the content of this the same as
11 April 10th or is it a different content?
- 12 A. Madam President, Your Honours, I think the best way to
13 answer this question would be to have the speech of the
14 10th of April and to compare it with the paper that I
15 have in front of me. I could not do otherwise. When I
16 was a lecturer, this is what I used to do. So I can't
17 do otherwise.
- 18 MR. BIJU-DUVAL: Madam President, the operation is very
19 simple. All we have to do is to have Exhibit 1D-85, so
20 I don't see any need for complication here.
- 21 MR. RAPP: Could 1D-85 be put before the witness.
- 22 A. Yes, I have the document 1D-85, and I am looking at
23 1D-85(A) because (A) is Kinyarwanda.
- 24 Q. Is that the same speech?
- 25 A. (No interpretation) -- and really all we wish to do is
26 to compare where it says Rwandese and look where the
27 speech actually starts. So this is not the same speech.
28 These are not the same speeches, they are different
29 speeches.
- 30 Q. Well, let's pass by that one. I was asking you about

1 that one because it had been included among your
2 counsel's list of potential exhibits. But let's go to
3 another speech, then, and that's the speech given by
4 President Sindikubwabo at Butare, in the middle of April
5 1994. That's been admitted in evidence under the
6 numbers P-1051(A) for Kinyarwanda (B) for English, and
7 (C) for French.

8

9 Are you familiar with that speech by President
10 Sindikubwabo in Butare?

11 A. There is part of the set of the documents that was
12 disclosed to me by the Prosecutor, Madam President, Your
13 Honours.

14 Q. So you are familiar with that speech, are you not?

15 A. Madam President, Your Honours, a lot of discussion has
16 gone on about that speech, whether we are talking about
17 factual witnesses or expert witnesses, and I think that
18 even Dr. Ruzindana and Madam Des Forges dealt with it.

19 Q. So I take it your answer is that you are familiar with
20 it? What I would like to ask you is, you had indicated
21 that you were impressed by that April 10th speech, and
22 Dr. Sindikubwabo's good intentions about peace and
23 ending killing, and I want to ask you, is this a speech
24 to encourage pacification in the Butare préfecture?

25 A. Madam President, Your Honours, I know what has been said
26 about that speech, and once again, when that speech is
27 analysed very often people take sides, and the main
28 factor which people -- some people took was the word
29 "Gukora." I remember very well what people said about
30 the paragraph containing the word "gukora," and I should

1 state here that my personal analysis does not allow me,
2 and the Defence has proven this so several occasions in
3 cross-examination, does not allow me to say that this
4 speech incited the Butare population to kill. I would
5 like my entire nuance to be understood, because when I
6 read that speech for the first time, and I would tell
7 you when, when I was here in prison, that was the first
8 time I read that speech.

9
10 I knew about its existence when I had discussions with
11 Rwandan refugees in Cameroon, when they said that
12 Mr. Sindikubwabo is accused of having incited people to
13 kill in Butare préfecture.

14
15 And even myself, when I read that speech, the paragraph
16 in which the word "gukora" occurs follows paragraphs
17 which say that there is not yet war in Butare
18 préfecture, and that people should work, go to their
19 offices and so on, and until I heard the experts talk
20 about gukora, that is, kill, according to them I would
21 not -- I could not take that word gukora and give it the
22 meaning of "kill." That is the first thing.

23
24 Secondly, and there the Prosecutor disclosed documents
25 to us showing that that speech which was made on the
26 19th of April 1994 in Butare, in fact before that date
27 killings had started in Butare in Nkeze commune, for
28 example, and I find it surprising that people are saying
29 that, because of the content of that paragraph, which
30 people are construing in their own fashion, that is to

1 say, that that is the speech that sparked off killing in
2 Butare, killings had been going on there.

3
4 You disclosed to us yourself a speech from President
5 Sindikubwabo from Gikongoro which was condemning
6 killings in Gikongoro and Butare. So that speech did
7 come in time before other speeches by Mr. Sindikubwabo
8 in that region, and it cannot be considered as having
9 sparked off massacres in Butare.

10
11 That is the difference between your analysis and mine,
12 or the analysis of your experts and my analysis.

13 Q. Well, you mentioned the Akuzi, and so does President
14 Sindikubwabo in the beginning of his speech, and
15 described the fact that he had in fact, visited Nkeze
16 commune before he came to Butare, people of Butare town
17 to the préfectoral office. You are aware of that,
18 aren't you?

19 A. I learned of that while I was here in prison, when I
20 read the documents disclosed to me by the Office of the
21 Prosecutor. But before then, before that, I did not
22 know.

23 Q. And you indicated this morning that you had read in
24 French Alison Des Forges' book "Aucun témoin ne doit
25 survivre" you have done that as well, and you read about
26 the events in Nkeze which she devotes an entire chapter
27 to, did you not?

28 A. Not at all. It is rather in the form of an
29 audiocassette that you disclosed that, or the book of
30 the International Federation for Human Rights. I do not

1 attribute that to Mrs. Des Forges. Once again, at an
2 intellectual and at the university level it is not
3 acceptable that somebody should appropriate or claim
4 ownership of a book that does not belong to her. This
5 book belongs to the federation. She only contributed to
6 it. But I read that book very recently when one of my
7 counsel brought it. I read it in its entirety and I
8 realized that it does indeed mention Nkeze too.

9 Q. Well, in that regard, because you said that President
10 Sindikubwabo and his travels couldn't have precipitated
11 the genocide in Butare because it had started before in
12 Nkeze, is it not true that President Sindikubwabo came
13 there, spoke to the residents about continuing the 1959
14 revolution, ordered 12 gendarmes to assist the local
15 killing squads, and at the end of that period ten to
16 fifteen thousand people were murdered that had sought
17 refuge in the church, including a little girl, the last
18 to die, who was buried alive?

19 A. Madam President, Your Honours, I am sorry to have to
20 say, the Prosecutor seems to start off from the
21 president's speeches. I do not see the speech, and from
22 that he concludes with the little girl who was killed,
23 or buried alive. I do not know how to undergo -- what
24 to do with the situation.

25 Q. Well, let's go back to the speech, if you -- I don't
26 know if it's easy to -- Mr. Matemanga, I have a copy of
27 105 1(C) in French to assist the witness.

28

29 I believe you may have in front of you now the
30 P-105-1(C) the French translation, and directing you to

1 side A, and after the journalist's introduction you see
2 the speaker is President Sindikubwabo. Do you have that
3 part of the document? This is on 133694, K-number in
4 the English.

5 A. I have the speech, side A, the answer 684.

6 THE INTERPRETER: I guess he meant "694."

7 A. I have that text.

8 Q. Well, just to make it clear from the record here, and
9 not going to Dr. Des Forges, is it clear from the second
10 paragraph of the speech that President Sindikubwabo had
11 gone to Nkeze and that he had spoken to the population
12 who reported on the issue of refugees to be in the
13 Nayumba parish?

14 MR. BIJU-DUVAL: Madam President, I am surprised by this line
15 of questioning. Mr. Nahimana has clearly stated that he
16 only knew of the existence of that speech while he was
17 in Cameroon, and he was told by certain refugees, and
18 that he only got to know the content of that speech
19 within the context of this trial.

20
21 I do not see how the Prosecution can here transform
22 Mr. Nahimana into an expert in text analysis, who will
23 immediately tell us the meaning of a text that he did
24 not write. I believe we are moving away from what
25 Mr. Nahimana can't actually testify to.

26 MADAM PRESIDENT: Will you indicate what would have been your
27 follow-up question to this.

28 MR. RAPP: Well obviously the question deals with his denial
29 that President Sindikubwabo was responsible through his
30 speeches for precipitating massacres, and, what I was

1 speaking specifically is admission that as to Nkeze
2 which is a place that he said President Sindikubwabo
3 couldn't have been responsible for, because that was
4 before the speech, that he had in fact spoken to the
5 residents of that commune, and that's all I am seeking,
6 and then I wanted to proceed to ask him about that key
7 paragraph of the speech as well.

8 MADAM PRESIDENT: All right we have his evidence that he just
9 saw this document much later, he didn't hear -- do you
10 want him to interpret something in this document?

11 MR. RAPP: No. Basically, I am asking, is it true that
12 President Sindikubwabo was in Nkeze before they gave the
13 speech in Butare.

14 MADAM PRESIDENT: Would you know that, Mr. Nahimana?

15 THE ACCUSED NAHIMANA: As I said in response to the question
16 which was put to me, I know that the President went to
17 that commune, thanks to the disclosure of the
18 Prosecutor. That is what I said, and that is what I
19 should repeat here.

20 BY MR. RAPP:

21 Q. Well, then, let me just move to what you discussed
22 generally and that is the key paragraph of this speech
23 that I don't have the French in front of me, but I have
24 it marked on one of the later pages that begins with
25 "Dear Butare fellows" in English, and I want to ask you,
26 because you had earlier characterized a speech to the
27 President as being one that was for peace and for ending
28 violence, whether you would characterize this paragraph
29 specifically as one that was for peace and ending
30 violence, and let me read it to you very slowly and then

1 ask for help, what your conclusion to it would be.

2

3 "Dear Butare fellows, I have to beg your pardon since I
4 do not usually talk with such vigour in my voice, but
5 these days I have no choice. I do not want you to take
6 other messages, speeches and lessons as if they were
7 mere words spoken in the air. They are important
8 messages since we are in a period of war.

9

10 "What this means is that those who are responsible
11 should be identified and brought out into the open, they
12 should step aside, stay away from us while we work.
13 Those who feel that they are not concerned, who are
14 afraid should step aside. Those who are persons
15 responsible for ridding us of such persons should do
16 this quickly. There is no shortage of good workers who
17 are willing to serve their country."

18

19 Is that a pacification speech?

20 A. Madam President, Your Honours, this is an unequivocal
21 paragraph, as far as I am concerned. The president does
22 not talk about peace, neither does he talk about
23 massacres. But let us take the end. "There is no
24 shortage of good workers who are willing to serve their
25 country."

26

27 In answer to the Prosecutor's question, I said awhile
28 ago that there was no war going on in Butare yet, and
29 that the president, from what I remember, was asking
30 people to go back to work, and this paragraph is clear

1 on that.

2

3 I would like to apologize to the president, because I am
4 going to give the example of Palestine. I see bombings
5 every day on television, but I believe that in spite of
6 that people continue working because they need to feed
7 themselves, and it's not because there is war in one
8 part of the country that the part which has no war
9 should not go on with its activities. That is the way I
10 construe this paragraph.

11

12 The Prosecutor should not ask me to say if he is calling
13 people to peace or unity. He is asking people to go to
14 work, and that is what I can understand from this
15 paragraph.

16 (Pages 70 to 113 by Karlene Ruddock)

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1 1630H

2 MR. RAPP: (Continued) You indicated just now that the war
3 hadn't come to Butare and earlier, when asked about the
4 massacres you said, well, there were massacres in the
5 Akuze commune, but isn't it true that as of the date of
6 this speech, the massacres had not begun in Butare town?

7 MR. BIJU-DUVAL: Madam President.

8 MADAM PRESIDENT: Yes.

9 MR. BIJU-DUVAL: We are here to listen to a witness and the
10 witness can only testify to what he personally saw and
11 heard. To the best of my knowledge, the Office of the
12 Prosecutor does not, for a moment, suppose that
13 Mr. Nahimana was present in Butare at that time. There
14 is no evidence provided to that effect, so, in this line
15 of questioning I find a clear departure from what a
16 testimony should be.

17 MADAM PRESIDENT: Yes, it is allowed. Did you complete the
18 question?

19 MR. RAPP: Yes, I did.

20 THE ACCUSED NAHIMANA: Madam President, Your Honours, I am not
21 aware of the fact, on the day of this speech in Butare
22 town, there were massacres. I am unaware of that.
23 Nobody told me that. You are telling me that now.

24 BY MR. RAPP:

25 Q. Just to be clear, because we have heard witness
26 testimony in this trial, I believe Witness X, who
27 arrived in Butare in the middle of April, amazed to see
28 how quiet it was and how peaceful it was. Are you
29 saying that the massacres began in Butare at the same
30 time they began in other places, or is it true that they

1 began later?

2 A. Madam President, Your Honours, whether it is in Butare,
3 or elsewhere in the country, I cannot claim that the
4 massacres started at the same time throughout the
5 country. Neither can I talk about the date on which the
6 massacres started in Butare. The 19th, perhaps; the
7 25th of April, perhaps; later perhaps. I can't know for
8 sure.

9 Q. But sitting in Cyangugu and having the people come
10 through there who were travelling and dealing with the
11 families of various people that were in the government,
12 were you not aware that the préfet of Butare
13 Jean-Baptiste Habyarimana, I believe is his name, the
14 only Tutsi préfet in Rwanda, was replaced during this
15 visit by President Sindikubwabo and the interim
16 government?

17 A. Madam President, Your Honours, I learned, belatedly,
18 that Mr. Habyarimana had been dismissed from his duties.
19 I should say even Mr. Sylvain Nsabimana's appointment,
20 who seemed to have replaced Mr. Habyarimana, only got to
21 me much later. In fact, I am asking myself if it was
22 not when I was in Gitarama on the 25th or 26th of
23 May 1994. But I do not remember clearly that in
24 Cyangugu somebody talked to me about the changes that
25 had taken place in Butare Préfecture.

26 Q. Well, I'm going to leave these questions in a moment but
27 I'm just curious about something, Professor, and that is
28 that you are a historian, you are a person who wrote
29 about the Rwandan event in your book, "The Hutu Elite,
30 Accused", and you never, before you arrived in this

1 Tribunal, never made any sort of historical analysis of
2 how the massacres began in the different parts of the
3 country, how they began in Rwanda and Butare in April of
4 1994, specifically?

5 A. No, I never made that analysis.

6 Q. Well, let's talk about what you saw. You went from
7 Cyangugu up to Gitarama in May, at least -- I can't
8 remember, did you go once from Gitarama and back to
9 Cyangugu and back to Gitarama at that time?

10 A. My itinerary was as follows: I left Cyangugu, got to
11 Gitarama in the afternoon, as I said to the Chamber,
12 either on the 25th or the 26th, on one of those two
13 dates, and the following day I left Cyangugu in the
14 afternoon for -- I left Gitarama, I beg your pardon, in
15 the afternoon for Cyangugu.

16 Q. And in that travel between Gitarama and Cyangugu were
17 you stopped at roadblocks?

18 A. Absolutely. We were stopped on several occasions on our
19 trip to and fro at roadblocks.

20 Q. And I take it during this visit, since you had been
21 summoned by the president of the republic, you did have
22 escorts to assist you in this travel or military guards
23 or people that were accompanying you?

24 A. Madam President, Your Honours, I said how I received the
25 message through a civilian and from Cyangugu to Gitarama
26 I went to the civilian, I gave his name, Telesphore
27 Bizimungu, B-I-Z-I-M-U-N-G-U, in his personal car and
28 what we could obtain, first of all, was the laissez
29 passer, administrative documents issued by the préfet.
30 So I went to the préfecture of Cyangugu to the préfet's

1 secretariat where I obtained a document. I cannot
2 remember the exact title, but, in any case, it was a
3 paper which showed that I came from somewhere, I
4 travelled regularly, and that I was recognised by the
5 administrative authorities of a specific area in Rwanda.
6 And it is that document that I showed, along with my
7 colleague, Telesphore, at all the roadblocks we came
8 through. We were not at all accompanied by a soldier.

9 Q. Now, the fact that you had this laissez passer, did
10 that, basically, avoid the necessity of your showing an
11 ethnic identity card when you went through the
12 roadblock?

13 A. Madam President, Your Honours, at some roadblocks, when
14 we showed that document, we were allowed to pass or
15 proceed without any discussion. But at other roadblocks
16 we were, indeed, asked to present an identity card. At
17 one point in time I was even asked my professional card,
18 which I obviously did not have on me. But, after some
19 discussion, I was allowed to proceed.

20 Q. Did you see other people stop at the roadblocks and
21 checked for their identity cards when you passed by
22 these barriers?

23 A. The documents of everybody who passed were checked. I
24 saw other people who were showing their documents.

25 Q. Did you see any people being detained or harassed?

26 A. During my testimony I told the Chamber that at the time
27 I was going through that part of Rwanda it was more or
28 less easier to go through the roads. If I compare that
29 to what had been told earlier, it was much easier to go
30 through the roadblocks. I did not see any gatherings at

1 the roadblocks. I saw five or six people who seemed to
2 me to be those responsible for the roadblocks, but I did
3 not see any passengers who had alighted from a vehicle
4 and who were detained there. I did not witness any such
5 thing.

6 Q. Just in terms of your route, did you travel through
7 Butare on your way to Gitarama?

8 A. To go to Gitarama from Cyangugu, you absolutely have to
9 pass through Butare.

10 Q. Well, then, when you were in Butare, did you find out
11 anything about the massacres, particularly those that
12 had occurred that had killed so many students and
13 faculty at the university where you had received a
14 degree?

15 A. Madam President, Your Honours, I was with a state
16 employee who had his own schedule; besides, it was not
17 our intention to get into Butare town. I should say
18 that we did not stop there. First, you should
19 understand that these were difficult times. Why would
20 it be possible to get into Butare to attract people's
21 attention? No. What I'm trying to say is that we never
22 had the intention to stop at Butare. Our itinerary was
23 that we were going from Cyangugu to Gitarama. The place
24 where we stopped was at the section leading toward
25 Butare, where there's a road going to Gitarama. There
26 is a service station quite close to the National Museum
27 of Rwanda. We took fuel and we continued. I did not
28 get into the town, both on the outwards and return
29 trips.

30 Q. You weren't interested, at all, in making contact with

1 friends and colleagues at the university to find out how
2 they were doing in these very troubled times?

3 A. It would matter would it have been possible to find them
4 in one place? That's one thing. Secondly, why would I
5 go through the situation I was experiencing and others
6 not? And then, thirdly, it is not the same situation as
7 in Ruhengeri where the lecturers live together. In
8 Butare, lecturers are scattered about in Butare town.
9 It would have been a dangerous adventure to go from
10 house to house in Butare. I had left the place in
11 December, 1990.

12 Q. Let me just deal with one more place that you were in
13 that you've acknowledged in your testimony during 1994,
14 and that was in Gisenyi, and you spoke about your
15 contact with the baker, an Omani gentleman, and you
16 indicated to us that there was -- you talked about a
17 particular family being aided in crossing the border, a
18 Tutsi family, particularly one of the children had
19 studied in Paris, and do you recall that particular
20 testimony?

21 A. Madam President, Your Honours, I did not talk about a
22 particular family in relation to the baker's family. I
23 was referring to the family of the owner of the bakery.
24 His niece, his children, were whom I mentioned, and his
25 wife. Those are the people I referred to this morning,
26 I believe.

27 Q. Well, thank you for that clarification. Now, these
28 individuals were ethnically Tutsi, other than the baker,
29 who was Omani?

30 A. The baker's wife was a Tutsi. I hope she is still

1 alive. And the children born of this Tutsi woman and
2 this Omani man, I do not know where to place them. I
3 would not attribute an ethnic group to them. But people
4 labelled them as Tutsis, from what the persons tell me,
5 that my children were risking their lives. Luckily,
6 Mr. Hassan Ngeze brought us from Kigali to this place.
7 That is why he is being pursued. But, personally, I
8 said that I was very friendly with this family to the
9 extent that we lived in the same house in Paris for one
10 year with his son, the son of Habibu, M-E-D-H-I, and I
11 never bothered about their ethnic origin. In fact, what
12 ethnic group would I have thought about? So I would say
13 only the mother was Tutsi. But as to the children,
14 people could -- in fact, if you looked at their physical
15 appearance, you could consider them as Tutsi, but I did
16 not consider them as Tutsi.

17 Q. Well, but you indicated that people may have thought
18 they were Tutsi. And the essence of my question is, did
19 not all of that make you aware that there in Gisenyi
20 people who were thought to be Tutsis were in danger of
21 being killed and that if someone attempted to aid them,
22 they could be pursued by officials for aiding those
23 individuals?

24 A. Madam President, Your Honours, that is precisely what I
25 said this morning. Mr. Habibu -- and I understand the
26 fear -- Mr. Habibu was scared that Mr. Ngeze, who had
27 brought these children from Kigali, since two of his
28 children -- in fact, one of them was working at ORINFOR,
29 two of his children had been considered by certain
30 persons in Gisenyi or on the way as Tutsis. And, from

1 what Mr. Habibu Musa told me, Mr. Ngeze was bothered for
2 having travelled with them. On that score I agree.

3 MADAM PRESIDENT: Now, so there's no need to repeat all that
4 evidence. I believe the question was, do you think that
5 happened generally or just to the Habibu family?

6 THE ACCUSED NAHIMANA: The only case I know, Madam President,
7 is that case reported to me concerning Gisenyi.

8 BY MR. RAPP:

9 Q. Let's go back to another place that you were in Rwanda
10 after April 6 and that's Kigali itself. When you went
11 out in Kigali on April 7th to go to the French embassy
12 and when you went to your wife's shop and to RTLM on
13 April 8, did you see the effects of massacres on the
14 street?

15 A. Madam President, Your Honours, it so happens that the
16 area where the embassy is, right to my wife's store and
17 RTLM, is an area which is occupied mainly by consular
18 and diplomatic residents, senior civilian and military
19 officials. There, in any intersection, there were
20 roadblocks manned by soldiers. What I realised, from
21 the embassy, right to my wife's store, were roadblocks
22 manned by soldiers. I did not see anything that would
23 make me talk about massacres, no incident. I saw
24 soldiers, only soldiers. And naturally I stopped at
25 every roadblock. I was asked to introduce myself, who
26 are you? I was never asked a card. I gave my name and
27 I said that I was accompanied by my wife in the vehicle.
28 That's it, and I was allowed to proceed.

29 Q. Well, now, during the time that you were at the French
30 embassy, you indicated that at some point you had

1 reports of RPF killings in the eastern part of Kigali.

2 Did you also receive reports of killings of Tutsis in
3 and around Kigali, as well?

4 A. Yes, reports from people who came into the embassy
5 talked about all those theories. They did not make any
6 distinction between Hutus and Tutsis. We were told
7 such-and-such a person had been killed and, yes, Hutus
8 and Tutsis were mentioned at the embassy of France.

9 Q. Now, in the testimony of Witness X, he describes a
10 pacification tour during the course of these days when
11 the bodies were piled so deep and so intruded on the
12 roads that one had difficulty passing down the roads in
13 Kigali. Were people telling you that same story about
14 what it was like out on those streets?

15 MS. ELLIS: Madam President, I recall from the testimony of
16 Witness X that he was dealing with a somewhat later
17 period than the 8th of April. Could Mr. Rapp put the
18 date more clearly, please?

19 MR. RAPP: I was referring to the time that Mr. Nahimana was
20 at the French embassy up through the 12th of April and
21 what he heard from those who came to the embassy who had
22 travelled outside the embassy.

23 THE ACCUSED NAHIMANA: Sorry, what we were told or what was
24 told us was the names of people who had died, where
25 people had been killed, where the RPF had attacked,
26 where militia had attacked, things of that sort. But at
27 no point in time, as far as I remember, were we told
28 about what you have just stated regarding Witness X's
29 testimony.

30 BY MR. RAPP:

1 Q. Let me, before we go on to talk further about what you
2 saw on the way to the airport, one of --

3 MADAM PRESIDENT: Are you entering a new area?

4 MR. RAPP: Yes, I think you could call it that,
5 Madam President.

6 MADAM PRESIDENT: Then we will stop now. And we will resume
7 at 9 a.m. tomorrow.

8 (Court adjourned at 1658H)

9 (Pages 114 to 123 by R. Lear)

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C E R T I F I C A T E

Tribunal

We, Rex Lear, Karen Holm and Karlene Ruddock,
Official Court Reporters for the International Criminal

for Rwanda, do hereby certify that the foregoing proceedings in
the above-entitled causes were taken at the time and place as
stated; that it was taken in shorthand (stenotype) and
thereafter transcribed by computer under our supervision and
control; that the foregoing pages contain a true and correct
transcription of said proceedings to the best of our ability
and understanding.

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

Rex Lear (pages 1 to 35)
(pages 114 to 123)

Karen Holm (pages 36 to 69)

Karlene Ruddock (pages 70 to 113)