

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

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

THE PROSECUTOR
OF THE TRIBUNAL

v.

AUGUSTIN NDINDILYIMANA
FRANÇOIS-XAVIER NZUWONEMEYE
INNOCENT SAGAHUTU
AUGUSTIN BIZIMUNGU

WEDNESDAY, 19 OCTOBER 2005

0908H

CONTINUED TRIAL

Before the Judges:

Joseph Asoka de Silva, Presiding
Taghrid Hikmet
Seon Ki Park

For the Registry:

Mr. Roger Kouambo
Mr. Abraham Koshopa

For the Prosecution:

Mr. Ciré Aly Bâ
Mr. Alphonse Van
Mr. Moussa Sefon
Mr. Segun Jegede
Mr. Abubacarr Tambadou

For the Accused Augustin Ndindiliyimana:

Mr. Christopher Black

For the Accused François-Xavier Nzuwonemeye:

Mr. Charles Taku

For the Accused Innocent Sagahutu:

Mr. Fabien Segatwa
Mr. Seydou Doumbia

For the Accused Augustin Bizimungu:

Mr. Gilles St-Laurent
Mr. Ronnie MacDonald

Court Reporters:

Ms. Ann Burum
Mr. Sheriffo Jammeh
Ms. Karen Holm
Ms. Verna Butler

I N D E XWITNESSESFor the Prosecution:

FRANK CLAEYS

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1

2 MR. PRESIDENT:

3 Morning, ladies and gentlemen. Sessions are on. Appearances as before.

4

5 Please, Mr. Segatwa, you can have one hour.

6 MR. SEGATWA:

7 Thank you, Mr. President. Although it is a bet, I will try to respect it and finish in an hour.

8

FRANK CLAEYS,

9

CROSS-EXAMINATION (continued)

10 BY MR. SEGATWA:

11 Q. Good morning, Colonel.

12

13 Can you hear me, Colonel?

14 A. Yes, I can. I said good morning to you, and I said good morning in turn (sic).

15 Q. I didn't hear.

16

17 Yesterday when we adjourned, we were talking of the issue of positions occupied by UNAMIR. I
18 showed you a map to confirm Luc Marchal's book, and there were many UNAMIR positions on it.
19 Yesterday I also put it to you that Ghanaian contingent, which was based in the Byumba demilitarised
20 zone, had to return to Kigali on the 10th of April. And this is what transpires in Luc Marchal's book.

21

22 I do not want you to repeat your answer, but I just want to make one proposition to you. Did you learn,
23 while you were -- either while you were at the airport as part of the Silverback operation or afterwards,
24 that immediately after the withdrawal of UNAMIR all the positions that were occupied by UNAMIR were
25 occupied by the RPF? Did you hear about that?

26 A. No.

27 Q. Up till that?

28 A. No.

29 Q. Up till that?

30 A. No.

31 Q. Colonel, in what is referred to as the overall situation of UNAMIR, it is stated that as of the 10th some of
32 UNAMIR's positions, such as Rwandex, had been abandoned and were occupied by the RPF. What is
33 peculiar is the fact that on the 8th, while the KIBAT headquarters had been evacuated, there was still
34 insignia floating -- or, flags floating on the buildings. What I mean is UNAMIR colours, or flags.

35 A. Many things can be said on that subject. First of all, Rwandex was a logistical base. I would be
36 surprised if the battalion abandoned its logistics at that location. If they emptied the premises, and that
37 is only a supposition, I would confirm that they may have taken all they had to.

1 Secondly, the KIBAT base was a villa, as the KIBAT headquarters was a villa. If the staff withdrew with
2 their means of communication, it remains a villa. To my knowledge, it was not a position that was
3 reinforced -- combat position that was reinforced with a strategic nor tactical value.

4
5 But, I repeat, at no time, and certainly not to my knowledge, before the departure of the evacuation
6 mission -- that is, Silverback, which you referred to -- the positions I knew to have been occupied by
7 UNAMIR were abandoned.

8
9 What happened subsequently regarding any orders that may have been given are not things I am
10 aware of.

11 Q. Thank you, Colonel.

12
13 Colonel, let us return to the question which the Prosecutor put to you in examination-in-chief and which
14 he called a crucial question.

15
16 But before I put that question to you, I would ask my assistant to give you some documents, which will
17 form a basis for a series of questions I will put to you, would focus on some excerpts of the Belgian
18 senate commission's report, that is, the ad hoc Belgian commission's report.

19 MR. BÂ:

20 Is it just one document or several documents that have been handed out?

21 MR. SEGATWA:

22 Mr. Prosecutor, I have given you the transcript of his hearing before the senate commission, and now I
23 am giving you some extracts from the commission's report. And I have referred to them as A, B, C, D,
24 E, and F. So you have two series of documents, two different series.

25 THE WITNESS:

26 I do not have document F.

27 MR. SEGATWA:

28 Do you have it now, Colonel?

29 THE WITNESS:

30 I have a second batch of documents, and I suppose F is in it, but I can't see it.

31 MR. SEGATWA:

32 Can the registrar assist us with photocopying the document?

33

34 I believe we should, nevertheless, continue in order to gain time.

35 BY MR. SEGATWA:

36 Q. Colonel, you confirmed on several occasions that on the 10th of January 1994 you had a meeting with
37 an informant called Jean-Pierre; is that correct?

1 A. Quite correct.

2 Q. Do you absolutely confirm that Jean-Pierre's family name was Turatsinze?

3 A. Yes.

4 Q. Colonel, are you still convinced that Jean-Pierre's real name was Jean-Pierre Turatsinze, in light of the
5 documents?

6 A. That was the first name that was given to us. It was the first name on his identity card, and the family
7 name on his identity card was Turatsinze.

8 Q. Thank you, Colonel.

9
10 As a layman, I would imagine that the intelligence service in a military structure is very important in an
11 army, particularly in a crisis situation, and that information received has to be cross-checked in order
12 that decisions that are disproportionate in relation to the objective are not taken. Am I right in saying
13 so?

14 A. If I interpret what you are saying, you would be right.

15 Q. Thank you.

16
17 Yesterday, in answer to a question put to you by my colleague, Taku, you said that information only
18 becomes intelligence when it is corroborated by other sources. Did I understand you correctly?

19 A. You are right.

20 Q. In this case, Colonel, did you classify the information received from Jean-Pierre as ordinary, unverified
21 information or as intelligence?

22 A. Unless I am mistaken, I never asserted here that we corroborated that information. So it was never
23 treated as intelligence information. I other -- I also stated that all the reports that we submitted were a
24 reflection of the notes taken during a meeting with an informant. So it was only information.

25 Q. Colonel, if I remember correctly, you said that before going to Rwanda as part of a fact-finding mission,
26 you were an intelligence officer in the Belgian paracommando battalion and that you were an officer in
27 charge of military intelligence. Is that what you said?

28 A. Yes, that is what I said.

29 Q. Colonel, did you use the same methods as general intelligence services in the manner in which you
30 pass on the information?

31
32 Let me explain what I'm saying. From what I was able to gather from the ad hoc commission report,
33 that is, the ad hoc commission of the Belgian senate, the information received from the CGR includes a
34 letter that is qualified and numbered. The letter indicates the degree of reliability of the source, and the
35 figure indicates the degree of reliability of information. And only information of a high degree of
36 reliability is reproduced; that is to say, information rated A or B or 1 or 2, in terms of numbers, would be
37 considered reliable. Is that how the intelligence service in which you worked at the paracommando

1 brigade functioned?

2 A. I have three answers to give in response to that beautiful theory. An intelligence service is different
3 from the intelligence officer in a tactical unit.

4
5 Secondly, it is the intelligence service which uses methods for classification of information received
6 from informants.

7
8 Third answer, it -- it has to do with part of your theory, which is not correct, and it is that all information
9 treated in the intelligence service -- how information is treated in the intelligence service. And it is only
10 after five cases of cross-checking that information -- the information is classified. But information was
11 already in the report, and for other people to take cognizance of that information, they have to look for
12 necessary links.

13
14 So, to conclude, my role in UNAMIR, my duty in UNAMIR, that is, the role of military information officer,
15 that was the role I occupied, so we did not use the methods used in intelligence services.

16 Q. Thank you for your clarifications, Colonel.

17
18 Let me move to another question. Do you recall having been questioned by the ad hoc commission?

19 A. Yes.

20 Q. The information recorded by members of that commission, is it accurate and did it come from you?
21 Here I am referring to one of the documents I handed to you on page 478, 13 May 1997 edition.

22 MR. BÂ:

23 On what page, Counsel?

24 MR. SEGATWA:

25 Pages 478 and following. The K-number is 0 -- K0318436.

26
27 Do you have it?

28 MR. BÂ:

29 Thank you.

30 BY MR. SEGATWA:

31 Q. Have you found the document, Colonel, or you need another document?

32 A. No, I have all the documents.

33 Q. May I repeat the question, Colonel?

34 A. You asked me if the statement was from me. I said I have the document, and it was indeed from me.

35 Q. I'm sorry. I did not hear your answer.

36
37 Colonel, when we read page 481, the Prosecutor's K-number K0318439 to the right-hand column

1 towards the bottom of the page, this is what is written. This is a question put by Mr. Calloway
2 (*phonetic*). "Jean-Pierre's real name appears on the list of people involved in the genocide, which was
3 provided to us by a human rights organisation."
4

5 And your answer is as follows: "I would not contradict that. I suppose that he was opportunistic in his
6 actions, and he must have wanted to save his life."
7

8 Are those statements yours, Colonel?

9 A. Absolutely so. But, then again, I was being asked for an interpretation. I have been asked a good
10 number of interpretations here. I do not have a list of these human rights organisations, and I also read
11 the book, *La Saison de Machette*, "The Season of Machetes," in which those who participated in the
12 massacres, who were tried and who have, again, been released in Rwanda, explained how they got to
13 urge those who want to distance themselves from the massacres to finally participate in them. So in
14 1997 when I made that statement, I was supposing. And if you want to take a book as evidence, I
15 would want you to read *La Saison de Machette* so that you can understand how that organisation
16 worked in an efficient manner.
17

18 Even people who did not want to get involved in the massacres were urged to do so.

19 Q. Colonel, I thank you for your indulgence.
20

21 But that notwithstanding, can that question and answer not be reconciled with what General Dallaire
22 says in his book, and I quote page 185 of the French version, which was disclosed to us by the
23 Prosecutor, and the page has the number 7101 *bis*, and this is what the general says: "Luc described
24 his meeting, or encounter, with the informant to whom we gave the code name Jean-Pierre."
25

26 Now, by giving a code name, was it not supposed that Jean-Pierre was not Jean-Pierre, or, rather,
27 there was no conviction initially that Jean-Pierre was not Jean-Pierre?

28 A. In my humble opinion, I could have been blind at the time. The name I read on the card was
29 Jean-Pierre. The family name was Turatsinze. And the defence counsel said that the name existed
30 and it was amongst people who had been dismissed and who were drivers.
31

32 Now, a code name for people who did not work in intelligence services, that would surprise me. And
33 when we talk about a code, we do not talk about names. We use letters and figures. And we don't talk
34 about an informant, we talked about -- we talk about a source.

35 Q. Colonel, are you asserting, and I do not doubt that, that you were questioned by the ad hoc committee?
36 Do you have any reasons to question the sincerity of men and women who worked in the ad hoc
37 committee of the senate on the events of April 1994 in Rwanda?

1 A. No, not at all.

2 Q. Thank you, Colonel.

3

4 I am going to read a passage to you. It's an excerpt of the report of that committee, and then I will
5 invite comments from you. It is page 28 in brackets.

6 MR. BÂ:

7 What document is it?

8 THE WITNESS:

9 The document with letter A.

10 THE ENGLISH INTERPRETER:

11 Says the witness, confirmed by counsel.

12 BY MR. SEGATWA:

13 Q. "Although the ad hoc group was able to find Jean-Pierre's exact identity in the documents examined,
14 his name does not appear in the report which has been submitted to us, so that the person concerns
15 personal security (*sic*) and that of his family should not be endangered for as long as they are still
16 alive."

17

18 Colonel, what is your comment on this? Do you maintain your position, that Jean-Pierre is Jean-Pierre?

19 A. Only those who wrote the findings of the ad hoc committee were -- are responsible for what they wrote.
20 As far as I'm concerned, Jean-Pierre is Jean-Pierre.

21 Q. Colonel, on this point, I am going to read out to you what Colonel Luc Marchal states in his book,
22 *La Descente aux enfers*, page 166. He is talking about the conversation he had with Jean-Pierre, and I
23 quote, "From the outside, the conversation starts on a strong or tough note: 'My name is not that
24 important, so call me Jean-Pierre. That would be easier.'"

25

26 This statement by Jean-Pierre, repeated by Colonel Marchal, does it not prove that Jean-Pierre is a
27 name given by Jean-Pierre to Jean-Pierre?

28 A. Let me repeat once again: Either -- perhaps he had a falsified identity card. In his identity card it was
29 written "Jean-Pierre Turatsinze." His ethnic origin was indicated. Perhaps I do not know how to read.
30 That's what I would say. And if anybody writes a book and the person writes it in the frame of mind the
31 person has -- and what the person remembers, my memory, what I remember, identity card, first name,
32 Jean-Pierre; surname, Turatsinze; ethnic origin, Hutu.

33

34 Now, if some people want to put it in brackets and use it or say that it is a code, that's up to them.

35 Q. Colonel, do you have any reason to doubt the sincerity of the telexes that the ambassador of Belgium
36 was sending to his ministry, MINAFET?

37 A. I do hope that the people who have -- are employed in embassies around the world by the ministry of

1 foreign affairs are people who deserve confidence. It is not up to me to judge their competence or their
2 sincerity.

3 Q. Thank you for that confidence you place in them.

4
5 Now, I am going to give you an extract of the ad hoc committee of the senate, the same committee
6 which reproduces information given by the ambassador of Belgium in Rwanda. It's the extract with the
7 letter B. I read: "Telex number 45 of the 15th of January 1994 from Ambabel Kigali to MINAFET
8 Brussels, which deals in particular with the protection of the informant called," quote, unquote,
9 "Jean-Pierre," in brackets, "see 43 above, the telex points out that the United States, France, and
10 Belgium were reluctant about the suggestion which had been made by the special representative of the
11 United Nations, Mr. Booh-Booh, who was proposing to host the person in question in one of the
12 countries mentioned and to grant him asylum. In his telex, the ambassador states the possibility of
13 getting this person into a United Nations service, either in Tanzania or Kenya."

14
15 What comments do you have about that, Colonel?

16 A. The only comment I have on this is that it would have surprised me. It would have surprised me a great
17 deal that people who talked with the ambassador also transmitted names. If there were intelligence
18 persons or people who were experienced about a source or they would have talked about a source or
19 an informant, a name would not have been provided.

20
21 And since this is a conclusion, I would assume that this telex is a follow-up of an earlier telex. And
22 these are findings of a commission that went on for, I do not know how long, a month or so, and where
23 Jean-Pierre's name appears on a number of occasions. And, by deduction, this name also appears in
24 the conclusion. Now it is put in brackets and it is put in quotes, it doesn't change anything. I maintain
25 my position.

26 Q. Colonel, still praising your intellectual honesty, is it not possible that this Jean-Pierre, whom you said
27 went to Tanzania -- you said that, didn't you?

28 A. Yes, I did.

29 Q. So is it not possible that this Jean-Pierre was going to Tanzania in order to assume his new duty with
30 the United Nations in Tanzania and this time he went under his real name instead of going for
31 business?

32 A. I do not know what to answer to that, but he had enough money to go to Tanzania -- or, would you say,
33 the international community provided him with money, because an ordinary mortal would not go to
34 Tanzania with the means which an unemployed person would have had at the time.

35 Q. But, Colonel, I also suppose that France, the United States, and Belgium, if they decide to get the
36 person they want employed in a United Nations service, that is not a big deal.

37 A. So you have just told me that, apart from a foreign policy of United Nations and Belgium in Rwanda,

1 United States, and these countries, along with France, are in a position where they can control the
2 United Nations and get Jean-Pierre employed in Tanzania.

3 Q. If I had to answer your question, I would say yes, absolutely.

4
5 Colonel, I respect your answers, and I wanted to ask you that, with your experience in Rwanda, were
6 you not aware that Tutsis, especially at the time, pretended to be Hutus and, to justify that, they said
7 they were born of a Hutu father and a Tutsi mother?

8 A. And who gave them the identity card?

9 Q. Colonel, having been born in Africa, having been raised in Africa, do you think it is difficult to have an
10 identity card with the name that one wants to have?

11 A. Once again, a question as an answer, and even that is the fault of the Belgians.

12 Q. Colonel, I will move on to another question.

13
14 In the course of your examination-in-chief, the Prosecutor asked you how many informants you met.
15 And your answer, if I am not mistaken, was that, if you have to talk about informants, you can talk
16 only -- you can talk about only one person because, as far as you are concerned, the others were not
17 informants, they came to tell you things, to give you an overview, to give you an idea of the situation,
18 and so on. Do you remember that, or do you want me to read the exact words of your testimony?

19 A. That is correct; that is what I said.

20 Q. And I suppose that the only one who retained your attention as an informant was Jean-Pierre?

21 A. I cast it in that way to show that that was the person who gave us information that was overwhelming.
22 The Zairians, the Congolese, and the white expatriates that I met were also informants.

23
24 If you talk with a taxi driver in the street, the mother who sells avocados or mangoes, during the
25 appropriate season, also provides information. We did not deal with them as intelligence officers
26 bringing us the latest information coming from one or another occult organisation. So I considered
27 Jean-Pierre as an informant for the overwhelming information that he provided.

28 Q. Colonel, amongst these other informants, did you not know a certain Gaspard Hategekimana --

29
30 I'll spell Hategekimana, H-A-T-E-G-E-K-I-M-A-N-A.

31
32 -- alias Power, who was a captain in the Presidential Guard?

33 A. From my recollection, that does not ring any bell. Was that his real name?

34 Q. That was actually his real name. Because Colonel Luc Marchal talks about it in his book on page 180,
35 and I am going to read that out. "Captain Gaspard Hategekimana, alias Power, a member of the
36 Presidential Guard, was part of the KIBAT informants' network. He took direct part in the assassination
37 of Agathe Uwilingiyimana and was present, according to a certain testimony, in Kigali camp at the time

1 the Belgian Blue Helmets were killed."

2 A. I believe I said earlier that Lieutenant Nees of KIBAT was receiving funds to pay informants, that he
3 was working in his Belgian tactical chain, and that if he had paid informants, I was certainly unaware of
4 who they were. You do not mention your source. You only mention the information, as you already
5 said, with a certain degree of confidentiality for the person and for the wealth of the person's
6 information. So I do not know them. If Colonel Marchal knows, then put the question to him.

7 Q. That is correct, Colonel. Because -- because Nees told members of the ad hoc committee, and you
8 should refer to the excerpt numbered as D at the bottom of the page, where he says -- he suggests that
9 that informant, who works, respectively, for the Presidential Guard, including Gaspard Hategekimana,
10 my -- my addition, the Rwandan general service, the *Interahamwe*, the MRND, and the entourage of the
11 prime minister-designate appointed according to the Arusha Peace Accords.

12
13 Colonel, the Marchal -- or, rather, Colonel Luc Marchal goes on to say what was his exact role in the
14 network, question mark, informant or a fake informant. "In spite of reiterated requests I made, I never
15 received from KIBAT any assessment of his network."

16
17 The question that comes to mind, Colonel, is why are all these informants mysterious?

18 A. To the best of my recollection, since Lieutenant Nees was an S2 of a battalion, he was not someone
19 working in an intelligence service, per se, so he, therefore, did not classify, be it in alphabetical or
20 numeric order, the persons who came forward to provide him with information for pay.

21 Q. Colonel, although you do not know who those informants were, I will put a proposition to you, since
22 there's a striking resemblance between the person of Jean-Pierre and the person of Gaspard.
23 Jean-Pierre appeared and disappeared under his real name. Discovered by a human rights
24 organisation on a list of criminals, Gaspard disappears and resurfaces in Agathe's home among the
25 criminals. This makes me ask one question, and I'm putting it to you, is it not with a view to preserving
26 one's image that one does not want to divulge his or her informants at the risk of unveiling those who
27 brought them to the scene of the Rwandan tragedy?

28
29 My concerns, Colonel, are all the more well founded, as they are corroborated by
30 General Roméo Dallaire himself, who said this, who said the following before Trial Chamber I in the
31 Bagosora trial, during the hearing of the 26th of January 2004, page 31, lines 22 to 26, and I quote,
32 question by Counsel Erlinder: "I would like us to go back to the question concerning Claeys -- and I
33 believe you are the person being referred to -- you stated that Claeys spoke directly to Jean-Pierre and
34 that you yourself did not speak with him. Is that true?"

35
36 Answer, from General Dallaire, "Yes. The decision I had taken not to speak to him was aimed at
37 ensuring that I could keep him at arm's length in case the situation exploded, and my personal

1 intervention would have tarnished my credibility and prevented me from carrying on with my activities."

2

3 Before putting the question to you, Colonel -- or, rather, asking you to comment on it, I would like to
4 know whether you know what he means when he says though the situation that was going to explode.

5 A. That is an assertion by General Dallaire. And, after the fact, he is talking about what was going to
6 happen subsequently. That is what I understand from what he said by that situation.

7 Q. And now, Colonel, I would like you to give us your reaction. On the one side, you have the attitude, the
8 cross-checked attitude of those two informants, and on the other side you have the reservations of
9 General Dallaire regarding the Presidential Guard.

10 MR. BÂ:

11 You had drawn conclusions that do not hold any water here. Where are those reservations? He said
12 there were risks. He sent his subordinate because he didn't know how things were going to turn out,
13 and now you talk of reservations. I read all his testimony in Military I, and he said it was something
14 reliable, was reliable information.

15 MR. SEGATWA:

16 *(No interpretation)*

17 MR. BÂ:

18 Where are the reservations? I don't draw such a conclusion from what he said -- what he read. He
19 said he delegated Claeys because he knew it was going to explode. That is what he said. He does not
20 express any reservations on the credibility of Jean-Pierre; otherwise, we are not speaking the same
21 language, French.

22 MR. SEGATWA:

23 Mr. President, may I also encroach on the time provided for --

24 MR. BÂ:

25 *(Microphones overlapping)*...you started. I only objected, and it lasted only -- it lasted less than two
26 minutes.

27 MR. SEGATWA:

28 I would, nevertheless, like the witness to answer if the question is relevant because if, in the final
29 analysis, Dallaire did not want to meet that witness, the most *(unintelligible)* Dallaire himself said that
30 the information from that gentleman was not quantifiable, does that not, therefore, include reservations?
31 Does it not -- is it not tantamount to reservations? Can the witness comment on the attitude of an
32 informant who finds himself on a list of criminals, on the one hand, and, on the other hand, we have a
33 KIBAT informant who also figures in the vicinity of Agathe's residence -- Agathe was assassinated?

34 BY MR. SEGATWA:

35 Q. Do you think we are dealing here with the role of an informant? What do you think of this, Colonel?

36 A. My personal opinion on all that, and you said it was a short question, my opinion is that it was certainly
37 not for Dallaire to go and meet the informant. He had his duties at his level. He had his obligations at

1 his level.

2

3 Secondly, I don't see any relationship between the famous informant called Gaspard (*unintelligible*) and
4 not Jean-Pierre. The link you established is from you. I don't see any proof to that effect, unless you
5 have corroborated information. And I have seen that list of human rights organisations, and on it is
6 neither Gaspard's name nor Jean-Pierre's name. That is all I have to say on that.

7 MR. SEGATWA:

8 Mr. President, I have a lot of respect for the Chamber, and I would not like to go beyond the time
9 allotted to me. How much more time do you give me to try to ask the questions that I consider to be the
10 most important?

11 MR. PRESIDENT:

12 (*Microphone not activated*)

13 THE ENGLISH INTERPRETER:

14 Your microphone.

15 MR. PRESIDENT:

16 (*Microphone not activated*)...questions.

17

18 Yeah, you can take 15 minutes.

19 MR. SEGATWA:

20 Thank you, Mr. President. I will be through in 15 minutes.

21 BY MR. SEGATWA:

22 Q. Colonel, let us now move into another line of questioning, and it has to do with the bell -- the withdrawal
23 of the Belgian contingent of UNAMIR.

24

25 Colonel, in reality, beyond the death of the Belgian peacekeeping troops, which we profoundly regret,
26 wasn't there rather anti-Rwandan government sentiments that prompted Belgium to abandon Rwanda
27 and that, for the second time in less than three years -- in other words, Colonel, can we consider from
28 the logical and military standpoints that the withdrawal of the Belgian contingent was solely due to the
29 death of the ten Belgian peacekeeping troops?

30 A. In my humble opinion, those who decided to withdraw both the Belgian contingent of UNAMIR and that
31 of the evacuation operation, since at the moment in time there were 1,500 Belgians in Kigali working
32 under the umbrella of the United Nations and other organisations, it was a concern of certain politicians
33 to save face and to maintain their privileged positions in the government. If it was up to the soldiers,
34 there was no reason to leave.

35 Q. Thank you, Colonel.

36

37 (*No interpretation*)

1 A. I could even add that Colonel Marchal almost refused to obey orders to return. That is why he was
2 suspended for four months, *inter alia*.

3 Q. Thank you for the information you've given, which prompts me to drop the continuation of the question
4 on this, but I would still put another question to you. In your capacity as a soldier, who was an officer of
5 the intelligence service, why were losses registered on European soil?
6

7 I am referring to what you said when you say France lost 50 people in the east of Yugoslavia, but in
8 Africa, in Somalia, the United States lost 18 soldiers and withdraw -- and withdrew in Rwanda. Belgium
9 lost ten troops and withdrew. In the final -- in the final analysis, when soldiers are lost -- lost in Africa, it
10 is not considered as serious as when they are lost in European -- or, on European soil?

11 A. Again, it is not up to us to decide. A decision was taken at a higher level. I have no opinion to give on
12 that. Put your question to political officials.

13 Q. Colonel, an idea comes to mind, and I would like to share it with you because it comes under the
14 military domain. Can one not conclude that Belgium withdrew from Rwanda because it was convinced,
15 after the occupation of positions that had been held by the RPF across Kigali, that its victory was a
16 foregone conclusion and that the mission of its contingent had been accomplished?

17 A. Again, there are excellent military strategists in this courtroom who foresee events even before they
18 occur. The (*unintelligible*) as they were not on the ground.
19

20 I must, nevertheless, say that the French forces had already left 15 days before the Belgians withdrew
21 from Rwanda territory. Had they already predicted that victory as well? In order to be in a position to
22 pull out or escape more than a thief at night, 15 days before, the Belgians insisted to stay.

23 Q. Colonel, the time given me is drawing to a close. I would, nevertheless, like to complete my
24 cross-examination by returning to what I may refer to as the famous telegram of the 11th of January
25 1994.
26

27 You stated that you participated in the drafting of that singular telegram which you sent. Do you
28 remember also participating in the drafting of a second telegram sent by General Roméo Dallaire or any
29 other staff member of UNAMIR?

30 A. No, never.

31 Q. Do you still have before you the transcript of your hearing before the -- the Belgian senate on the 13th
32 of May 1993?

33 A. Yes, I have it before me.

34 Q. On page 480, this is what is stated --

35 A. (*No interpretation*)

36 Q. -- "What were the contents of that second telegram?" And your answer was this: "It dealt with an
37 eventual extermination plan and the additional guarantees required for the person in question."

1 Is that your answer, Colonel?

2 A. If it is indicated therein. It is a question that is going to exhaust your time.

3
4 However, I would like to point out that there is no follow-up to the previous page. First of all, I was
5 asked the question, "Did you send other telegrams?" I said, "I never sent telegrams myself. I know a
6 telegram was sent to me." And then someone asked the question, "What were the contents of the
7 second telegram?"

8
9 I probably should have said there was no second telegram. I continued answering in a -- as a follow-up
10 to what I said in the first telegram. I said that at a certain time I made mention of a fax, a message, and
11 reports, and all that was mixed up at one time.

12 Q. Excuse me, General -- I mean, Colonel -- I hope you'll be a general in future -- if we now look at page
13 483 of the same document to the right, to the right-hand column --

14 A. Yes, I have it. Proceed.

15 Q. You said -- you stated that "Several other telegrams were circulating between Kigali and the
16 United States. The telegram of the 11th of January makes no mention of lists of Tutsis to be
17 executed -- to be executed." "In the second telex, which was never mentioned, was the same true of
18 that second telex?" Answer: "Yes."

19
20 What do you think of that answer?

21 A. That is quite correct. There were other telegrams that were sent by General Dallaire, but I only
22 participated in the drafting of one single fax. The English report that was transmitted to
23 General Dallaire, the contents thereof could have been put in another fax. I was not the person who
24 had to write that fax or draft that fax. And it is in line with the information I provide in my reports. Those
25 reports were presented here during the hearing. Whether you take information provided on the 11th,
26 12th, or 13th, that information at a moment in time was used by the general as he wished. My position
27 is that I participated in the drafting of a fax, only one fax. I was not General Dallaire's secretary.

28 Q. Colonel, I handed to you excerpts of the ad hoc Belgian senate committee. Refer to page 28 in
29 brackets A.

30 A. Please proceed.

31 Q. It is said therein that all telegrams sent by the Belgian embassy following Jean-Pierre's revelations do
32 not include threats made against Belgian peacekeeping troops or are not mentioned. Or, if at all they
33 are mentioned, that is done in a very indirect manner.

34 MR. BÂ:

35 What passage are you reading, please?

36 MR. SEGATWA:

37 Page 28, fifth paragraph, after telex number 41.

1 MR. BÂ:

2 What is the beginning of the sentence?

3 MR. SEGATWA:

4 *(No interpretation)*

5 MR. BÂ:

6 I've seen it. Thank you.

7 BY MR. SEGATWA:

8 Q. Let me also read the last part of that page, where it is stated, "Telex number 15 --" or, rather, 45 of the
9 11th of January -- thank you for the correction -- I repeat, "Telex number 45 of the 15th of January
10 1994, d'Ambabel Kigali and MINTEF -- MINAFET Brussels, in which additional information is provided
11 regarding telex number 32, information from the United Nations's special representative,
12 Mr. Booh-Booh, from General Dallaire and Colonel Marchal.

13
14 The telex only deals with the problem of arms dumps and the eventual dismantling of such dumps, the
15 directives from the United Nations headquarters, New York, and the protection to be afforded to the
16 informant concerned, no word regarding the plan in the killing or wounding the peacekeeping troops.
17 The ad hoc group points out, by the way, that the telegram that MINAFET Brussels sent from Ambabel
18 Kigali does not mention such a plan.

19
20 My question to you is this, Colonel: That telex of the 11th of January 1994 -- indeed it is a fax; whether
21 we are talking of a telegram or a fax is the same thing -- which talks about the elimination of Belgium --
22 Belgians, was it not prepared after the fact, that is, after the death of the Belgian peacekeeping troops?

23 A. I have said on numerous occasions, and I maintain my position, there was no plan. Jean-Pierre talked
24 about a possible intention of challenging both those who were controlling the protest and the RPF, with
25 the possible -- probable aim that -- and what follows.

26
27 Now, to say that that was information -- and it is up to the person who is receiving the information to
28 forward it or not to forward it so that it can be analysed subsequently, what Colonel Marchal,
29 Mr. Booh-Booh, General Dallaire transmitted to various ambassadors, because it was not on the -- on
30 the ambassador of Belgium. I was not present. That was not at my level.

31
32 Now, whether they talked about it, I am unaware. Whether the telexes from the embassy of France
33 were consulted or looked at from the embassy of the United States to corroborate this information, that I
34 cannot say either. So my position remains the same. This attention given by Jean-Pierre was
35 contained in the fax. When I was asked whether there was a plan, I said there was no plan; as far as
36 I'm concerned, there was an intention.

37

1 I even explained later that I never felt threatened in Kigali because I went around myself without a
2 weapon, even though I was not a military observer. So my status allowed me to carry a weapon. I was
3 going around in day and night. I used public transport when I felt like doing so, and I never felt
4 threatened. So that is information which, as far as I am concerned, was not corroborated and was,
5 therefore, not worthy to be exploited further. So that was sent in a fax to New York.

6 Q. Colonel, and this is how I will conclude, you have a strong feeling that Jean-Pierre's allegations
7 contained in this famous text are so correct that you have decided on several occasions to come and
8 testify for the Prosecution to prove that those who are here are responsible for a certain planning, which
9 Jean-Pierre denounced. But then we realise that this famous fax still raises some problems and that
10 you yourself, you, question the fact or -- that this information was not verified.

11
12 In your opinion, will it not be necessary -- in order to justify your testimony, is it not necessary to try to
13 bring to us those faxes which were sent on the 11th of November --

14 A. November now?

15 Q. I'm sorry, the 11th of January -- so that the Chamber itself can have a clear picture of what really
16 happened? Because any man who is logical in his thinking does not understand, and it's hard to believe
17 that that fax, which is being presented today was prepared after the events had occurred. So I am
18 going to subscribe to what the others have said, that the original of that fax should be brought before
19 the Chamber in order to clear any reasonable doubt.

20
21 Colonel, what do you think you would need, the support of the United Nations, a rogatory commission,
22 just like a Tribunal, to be able to consult the archives of the United Nations?

23 A. That is the only place where that fax can and should be found.

24 Q. Colonel, I thank you, and I wish you a safe trip back to your country.

25 A. Thank you.

26 MR. PRESIDENT:

27 Thank you.

28 MR. SEGATWA:

29 Mr. President, I'm through.

30 MR. PRESIDENT:

31 *(Microphone not activated)*

32 MR. BÂ:

33 Mr. President, I have a few questions.

34 RE-EXAMINATION

35 BY MR. BÂ:

36 Q. First of all, I would like us to clear an ambiguity. Colonel Claeys, let me put this to you: From the point
37 you became a military information officer, were you part of the KIBAT battalion or you were exclusively

1 under General Dallaire?

2 A. I was exclusively under General Dallaire.

3 Q. Now, after what Jean-Pierre told you on the 10th of January, are you aware that he was running a risk,
4 and did you take that into account when you tried to justify the information that he gave you?

5 A. I was aware, that if the information he was providing us with turned out to be true, that it would not be
6 difficult for people who knew him to eliminate him. And so his security was the *sine qua non* condition
7 before we could put our hands on the list, the famous lists.

8 Q. From your understanding of a peacekeeper, was it conceivable after the signing of the Arusha Accords
9 in August 1993 that one of the parties, the RPF or the government forces or the government party or
10 the dissident party, that would provide training to civilians and provide them with weapons? Was that
11 compatible with the Arusha Accords?

12 A. No. But let me add something. Daily training (*unintelligible*) for a unit that is already in the army, yes.
13 But new recruits, no. Because after the implementations of the Arusha Accords, it was provided that
14 the numbers would be reduced.

15 Q. In answer to different questions which were put to you, you said that, during the first encounter with
16 Jean-Pierre, he gave you no details about cache -- weapons caches, their locations. He only did so
17 subsequently. Do you confirm that?

18 A. I do.

19 Q. You also testified, in answer to a question which was put to you, that the RPF military liaison officer,
20 Karenzi, told you at one point in time that he was aware that you had an informant within the MRND.
21 Did he tell you at the beginning of your relations with Jean-Pierre, at the middle, or towards the end?

22 A. Since I do not have clear dates as time frames, if I depend on my memory, I would say it was after
23 mid-February.

24 Q. Very well. Is it only the RPF which had liaison officers, or the government forces also had the liaison
25 officers?

26 A. The two parties were represented in the headquarters at Hotel Amahoro. They each had their office.

27 Q. It was suggested to you yesterday that Major Beardsley claimed that he was the only person who wrote
28 the fax, and apparently without the least participation on your part. I have here an extract of
29 General Dallaire's testimony of the 26th of January, 2004 --

30 MR. MACDONALD:

31 (*Microphone not activated*)

32 BY MR. BÂ:

33 Q. -- in the Military I trial --

34 MR. MACDONALD:

35 (*Microphones overlapping*)...General Dallaire's testimony for that witness. The questions I asked that
36 witness with respect to General Dallaire were in accordance with the fact that that witness said that he
37 had read Dallaire's book. And I was questioning the witness as to what he thought. I wanted his

1 comments with respect to certain passages of that book, and he gave us answers on that.

2
3 If my friend, Mr. Bâ, wants to cross -- re-examine on that line of questions, I suggest that the first
4 question he should ask the witness is whether or not he knows whether Dallaire made another -- or,
5 gave another version of these events. And instead -- because I think what Mr. Bâ wants to do is say
6 well, okay, he said -- Dallaire said certain things in his book. But in his testimony in January, I believe,
7 2004, he said something else. But we all know the purpose of that is for Mr. Bâ to introduce the
8 evidence of General Dallaire. Because I agree with Mr. Black. I'm far from being sure that Mr. -- that
9 Dallaire's going to be here.

10 MR. BÂ:

11 No, no --

12 MR. MACDONALD:

13 *(Microphones overlapping)*...even though he's on the lists. I know he's on the list.

14
15 So basically what I'm saying is if you want to -- if my friend wants to follow up on these questions, he
16 has -- the first question he has to ask the witness is whether or not the witness knows of a new version
17 from Dallaire. And if the witness's answer is no, that's the end of that. Otherwise, the sole purpose is
18 to introduce the evidence --

19 MR. BÂ:

20 *(Microphones overlapping)*...hold on. I am not introducing Dallaire's evidence. According to the
21 witness, three of them participated in the writing of the docs, General Dallaire, Major Beardsley, and
22 himself. The three of them remained in the house. You read to him what Major Beardsley said, so let
23 me read to him the -- what the third person, who was present, said. That is the most basic
24 *(unintelligible)*. You think it is all right to tell him what Beardsley said and I cannot say what Dallaire
25 said? Tell me why.

26 MR. MACDONALD:

27 It doesn't -- it doesn't change anything. You see, the difference here is that --

28 MR. BÂ:

29 *(Microphone not activated)*

30 MR. MACDONALD:

31 -- he's got a position. He says -- he maintains his position. He says we were three there, I helped, and
32 then he describes how he helped. I'm cross-examining the witness. I'm putting to the witness another
33 version, Major Beardsley's version, and I'm confronting him with that. And he still maintains his
34 position. He says no, it's the way I said in examination-in-chief. So what's the purpose of bringing in
35 Dallaire's --

36 MR. PRESIDENT:

37 *(Microphones overlapping)*...it's your purpose of putting the question to this witness is to say that this

1 witness has been excluded from the drafting in Dallaire's book.

2 MR. MACDONALD:

3 That's right.

4 MR. PRESIDENT:

5 And now Dallaire has changed that position.

6 MR. MACDONALD:

7 Yes, but --

8 MR. PRESIDENT:

9 *(Microphones overlapping)*...so you are questioning him on the book, saying that, well, in the book he
10 says you were never there.

11 MR. MACDONALD:

12 *(Microphones overlapping)*...well, you didn't really talk about --

13 MR. PRESIDENT:

14 *(Microphones overlapping)*...yeah, he doesn't talk -- he talks about the events, excluding the witness.

15 MR. MACDONALD:

16 But Beardsley clears it, clearly exclusively --

17 MR. PRESIDENT:

18 *(Microphones overlapping)*...yes, so we can put both positions. He will say that --

19 MR. MACDONALD:

20 Well, my position with all --

21 MR. PRESIDENT:

22 *(Microphones overlapping)*...to the witness and now what is proposed is to say that even though
23 Dallaire says in his book that he has not mentioned about this witness, he has changed that position
24 subsequently.

25 MR. MACDONALD:

26 First point, General Dallaire accepted -- or, recanted on his initial position after being confronted with
27 Colonel Claeys's statement. I think somewhere --

28 MR. PRESIDENT:

29 Yeah.

30 MR. MACDONALD:

31 -- either he's not sure or there's some type of fabrication from Dallaire, or Dallaire and Beardsley. But,
32 you see, you give --

33 MR. PRESIDENT:

34 *(Microphones overlapping)*...has Beardsley given evidence in any of these cases? Was this position
35 put to him?

36 MR. MACDONALD:

37 Yes.

1 MR. PRESIDENT:

2 Was this position put to him, that this witness also participated in the drafting of the --

3 MR. MACDONALD:

4 *(Microphones overlapping)*...oh, absolutely.

5 MR. PRESIDENT:

6 *(Microphones overlapping)*...no.

7 MR. MACDONALD:

8 *(Microphones overlapping)*...yes.

9 MR. PRESIDENT:

10 *(Microphones overlapping)*...no.

11 MR. MACDONALD:

12 *(Microphones overlapping)*...Beardsley --

13 MR. PRESIDENT:

14 *(Microphones overlapping)*...was the position put to the -- that witness?

15 MR. MACDONALD:

16 Yes.

17 MR. PRESIDENT:

18 What is his position there?

19 MR. MACDONALD:

20 Beardsley says -- he says, "I've known Frank for a long time. I'm close to him, but he's obviously
21 mistaken."

22

23 That's his position. And Beardsley goes further than that. Beardsley says he -- when they started
24 writing the fax with General Dallaire's computer, the others left. That's the way he puts it. The others
25 left the -- Colonel Claeys and Luc Marchal. They left. So Dallaire and Beardsley drew the fax.

26 Beardsley left -- because they had no printer, he left, went to headquarters, came back with the paper
27 version. Dallaire read it. Afterwards, they woke up the civil section or communications section from
28 headquarters, whom sent the fax.

29

30 But Colonel Claeys is not -- and -- and even, I believe, Judge Reddy in the Military case also --

31 MR. BÂ:

32 *(Microphones overlapping)*...Mr. President, to cut all this short, I am not reading anything to him. I'm
33 going to put a question to him.

34 MR. PRESIDENT:

35 Yeah, yeah. *(Microphone not activated)*

36 BY MR. BÂ:

37 Q. *(No interpretation)*

1 THE ENGLISH INTERPRETER:

2 Counsel's microphone.

3 BY MR. BÂ:

4 Q. Colonel Claeys, do you maintain your position that on the 11th, after midnight, that you and Beardsley
5 and General Dallaire wrote the fax?

6 A. I maintain my position that we wrote it in the residence together.

7 Q. And I add that is what General Dallaire says on the 24th of January 2004, which he is refusing. I don't
8 intend to enter it as an exhibit, but that is what he says, and you know. So that -- let's move on to
9 something else, Colonel Claeys --

10 MR. MACDONALD:

11 *(Microphone not activated)*...he'll probably give us another version, so that will be three versions.

12 MR. BÂ:

13 He will come, unless he doesn't want to. As I hope he's going to be there. He's on my list of witnesses.

14 BY MR. BÂ:

15 Q. During the swearing-in ceremony of the 5th of January, was there a procedure for the distribution of
16 accreditation cards? If so, who was responsible for that?

17 A. Yes, there was a procedure. And, from my recollection, a representative in the person of
18 Major Mpiranya came to the UNAMIR headquarters and, following the list that the headquarters had,
19 the cards prepared at UNAMIR was given to the various MPs.

20 Q. And during that day of the 5th, was there an authority screening access to the CND hall?

21 A. What happened at the entrance of the hall I cannot say because I was not there. I was at the gates,
22 entry of the premises, with another officer of UNAMIR, and it was at that level. That is also where
23 Major Mpiranya was.

24 Q. But you did not know what he was doing there?

25 A. Yes. He intervened regarding access of vehicles of certain MPs.

26 Q. And what do you mean when you say "he intervened regarding access of vehicles"?

27 A. As we -- I testified earlier, we did not know the people whose names were on the lists. And since he
28 was able to do so -- and some people actually did not have their cards and did show up, and others
29 were -- received cards and their names were not on the list, and those are those people who were not
30 allowed to come in.

31 Q. Yesterday in answer to a question, I believe, from Mr. MacDonald, you said Jean-Pierre had several
32 vehicles at his disposal, at least two.

33 A. That is correct. His personal car, and he spoke of a Pajero with which he went to Tanzania, Mitsubishi
34 Pajero.

35 Q. And who did this Pajero vehicle belong to, to him or to somebody else?

36 A. From what he said, that vehicle belonged to the MRND party.

37 Q. Very well. During his cross-examination, Mr. MacDonald invited your comments on a newspaper article

1 concerning Colonel Marchal where it was said, in substance, that the Rwandan armed forces gave him
2 full cooperation but that there were daggers drawn with the RPF.

3
4 I have with me here the book published by Colonel Marchal, Rwanda, *La Descente aux enfers*, and I'm
5 going to read out a short excerpt of this book. And you will tell me whether you were aware of the
6 information contained therein or not and whether you agree with what is written in it. And this is the
7 passage. It is on page 116 of Marchal's book --

8 MR. MACDONALD:

9 I'm just -- I'm just wondering -- I -- I -- I know the question is unfair, I was just trying to determine
10 whether or not I was going to object to it. It's clearly unfair. There's no reason -- there's no basis on
11 which my friend could do that.

12
13 Again, I asked the witness the question based on a -- an article -- an interview that Marchal gave to a
14 magazine, and he answered. He gave us his comments on that. I'm entitled to do that in
15 cross-examination. My friend is in examination-in-chief. There's nothing more suggestive than that.

16 MR. PRESIDENT:

17 Yes, this is re-examination. He's asking (*microphones overlapping*).

18 MR. MACDONALD:

19 Re-examination, the rules don't change. He can't be suggestive. He can't ask suggestive questions --

20 MR. PRESIDENT:

21 (*Microphones overlapping*)...he can clarify (*unintelligible*) from cross-examination.

22 MR. MACDONALD:

23 Well, he can clarify --

24 MR. PRESIDENT:

25 (*Microphones overlapping*)...so you just (*microphones overlapping*).

26 MR. MACDONALD:

27 He could read that part of the magazine and ask him some clarifications with respect to the answer he
28 gave to -- to my question. But he can't put -- introduce in another piece of -- of -- what he's trying to do
29 is, then, is he's trying to --

30 MR. BÂ:

31 (*Microphones overlapping*)...that is precisely what I want to do (*microphones overlapping*).

32 MR. MACDONALD:

33 (*Microphones overlapping*)...which he can't do. He can't do it in examination-in-chief. He can't do it in
34 re-examination, whether or not I cross-examined on -- on -- on the point or not.

35 MR. TAKU:

36 Your Honour, I rise to support the objections raised by my learned colleague, Mr. MacDonald. If the
37 re-examination flows from the initial interview that Colonel Marchal gave, my colleague has to refer to

1 either -- ask questions along that line. Now to go -- to cite passages from the book of General Marchal
2 is to raise an issue which never came before Your Honours. There was no particular issue with regard
3 to the point in issue flowing from the excerpt in the book in which he testified --

4 MR. BÂ:

5 *(Microphones overlapping)*

6 MR. TAKU:

7 *(Microphones overlapping)*...except -- except, Your Honour, that he wants to reopen, to reopen the
8 debate with the possibility that the quotation --

9 MR. BÂ:

10 *(Microphones overlapping)*

11 MR. TAKU:

12 Excuse me -- excuse me, Your Honours. Excuse me, Your Honour.

13

14 He has first also to establish a basis on which he seeks clarification. Or if a new issue arose for the first
15 time during cross-examination which he never anticipated, he can talk about that. This is not any of
16 these situations, Your Honour. So my fear is this, that he's trying to take advantage of the
17 re-examination to introduce a new issue which -- which has been raised for the very first time, and this
18 we object. My colleague is objecting.

19 MR. PRESIDENT:

20 Counsel, I think what Mr. MacDonald involves to read a passage and whether he got -- whether -- to
21 show that Colonel Marchal got support from certain section of the armed forces.

22 MR. TAKU:

23 Yes, Your Honour.

24 MR. PRESIDENT:

25 Yes. So now he is trying to put another passage and saying, "Well, Marchal says this also. What have
26 you got to say to that?"

27 MR. TAKU:

28 Yeah, Your Honour, but it's not from the same newspaper. It's not from the same newspaper that
29 Mr. MacDonald --

30 MR. PRESIDENT:

31 *(Microphones overlapping)*...the same person.

32 MR. TAKU:

33 But not the same person, but there's a distinction here. It's not from the same newspaper that -- that
34 my colleague referred to. He's referring to a book, a passage in the book. There are two different
35 issues. *(Unintelligible)* is the same person, but the basis on which the cross-examination was done is
36 not the same --

37

1 MR. PRESIDENT:

2 *(Microphones overlapping)*

3 MR. TAKU:

4 -- Your Honour. So we object very vehemently that my colleague is trying to -- to -- to -- to make a
5 reference to a passage which is being mentioned for the very first time in re-examination.

6 MR. PRESIDENT:

7 What's your answer -- *(microphone not activated)*

8 MR. BÂ:

9 You are the one who opened the door. We wanted to present things in a *(unintelligible)* manner. We're
10 dealing with various issues on the side of UNAMIR and others. You are talking about instructions.
11 You -- you are talking about a newspaper. But I have Marchal's book. I want to read an expert *(sic)*
12 and ask him what he thinks. Do you think you have the right to do whatever you want and we are not
13 entitled to do the same?

14 MR. MACDONALD:

15 The -- the --

16 MR. PRESIDENT:

17 *(Microphones overlapping)*...yes -- yes, Mr. -- we have recorded your objection. We will permit him to
18 do that.

19 MR. MACDONALD:

20 That's not -- just one thing. He says we're allowed to do everything, they're not allowed to do nothing.
21 It's partially true. These are the rules. These are the rules of evidence. You are --

22 MR. PRESIDENT:

23 *(Microphones overlapping)*...yeah.

24 MR. MACDONALD:

25 *(Microphones overlapping)*...you are interrogating in-chief. You're -- you're -- you're held within certain
26 boundaries. You can't be suggestive with your witness, and you have -- you have to deal with these
27 consequences --

28 MR. PRESIDENT:

29 *(Microphones overlapping)*...yeah.

30 MR. MACDONALD:

31 *(Microphones overlapping)*...we're entitled in cross-examination --

32 MR. PRESIDENT:

33 *(Microphones overlapping)*...yeah.

34 MR. MACDONALD:

35 *(Microphones overlapping)*...and then anybody else from any Defence team could have put that
36 passage to him --

37

1 MR. PRESIDENT:

2 *(Microphones overlapping)*...yeah.

3 MR. MACDONALD:

4 *(Microphones overlapping)*...but not the Prosecutor.

5 MR. PRESIDENT:

6 Now, Counsel, if anything new arises from the re-examination, what is -- what is *(unintelligible)*
7 cross-examining him on that?

8 MR. BLACK:

9 That's true, Mr. President, but we'll be here another day, which we don't need to do. I agree with
10 everything my friends have said, but with the addition that they're just splitting their case because the
11 Prosecutor could very well have anticipated, and must have anticipated, that these questions would
12 arise with this -- this colonel -- with this officer, that we would ask questions about all sorts of subjects --

13 MR. PRESIDENT:

14 *(Microphones overlapping)*...well, Counsel, I find that so many people --

15 MR. BLACK:

16 *(Microphones overlapping)*

17 MR. PRESIDENT:

18 *(Microphones overlapping)*...so many books on Rwanda now. I think he will have to bring the library
19 *(unintelligible)* to cross-examine him.

20 MR. BLACK:

21 *(Microphones overlapping)*...no, Mr. President, the point is they deliberately brought this officer down for
22 one apparent purpose, to introduce that fax. But they must have known he could talk about many,
23 many things. They decided not -- not to ask him questions in-chief on other things about the
24 relationship between the UNAMIR and the Rwandan Armed Forces. They decided not to do that. They
25 have all that information from this officer. They've spoken to him many times, probably --

26 MR. PRESIDENT:

27 *(Microphones overlapping)*

28 MR. BLACK:

29 *(Microphones overlapping)*...including Marchal. They know. So they can't split their case now. They
30 decided not to bring it up. We brought it up, they can't re- -- conduct a re-examination on that basis.

31 MR. PRESIDENT:

32 Counsel, we have already made a ruling. You can put that question to him.

33 BY MR. BÂ:

34 Q. Witness Claeys, this is the passage. It says on page 35, "This reconnaissance battalion poses a real
35 problem --"

36 MR. TAKU:

37 *(Microphones overlapping)*...object, Your Honour. *(Unintelligible)* wasn't one other question. He cannot

1 ask any question --

2 MR. BÂ:

3 *(Microphones overlapping)*

4 MR. TAKU:

5 *(Microphones overlapping)*...when, in effect, he asked the question --

6 MR. BÂ:

7 *(Microphones overlapping)*

8 MR. TAKU:

9 *(Microphones overlapping)*

10 MR. PRESIDENT:

11 Counsel, before we got any objections --

12 MR. TAKU:

13 *(Microphones overlapping)*

14 MR. PRESIDENT:

15 *(Microphones overlapping)*...objections are coming from the booth --

16 MR. TAKU:

17 Your Honour, Your Honour --

18 MR. PRESIDENT:

19 *(Microphones overlapping)*...they ask one minute to get the translation.

20 MR. TAKU:

21 Yeah, yeah, Your Honour, Your Honour, it is grossly unfair that, after the evidence in-chief for more
22 than a week, the cross-examination by different counsel, I cross-examined this witness -- neither myself
23 nor my learned colleague, Mr. Segatwa, cross-examined this witness about --

24 MR. PRESIDENT:

25 *(Microphones overlapping)*...can I ask one question --

26 MR. TAKU:

27 *(Microphones overlapping)*...about Colonel Marchal --

28 MR. PRESIDENT:

29 *(Microphones overlapping)*...what is he going to read in this. I don't know what he's going to read.

30 MR. TAKU:

31 Yes, but I hadn't thought about the reconnaissance battalion. And this has come up for the first time. It
32 has never happened in any legal system in the world on re-examination, Your Honour, except they want
33 to reopen this case. But we object vehemently, and my colleague knows this it is not fair.

34 MR. BÂ:

35 *(Microphones overlapping)*

36 MR. TAKU:

37 *(Microphones overlapping)*

1 MR. BÂ:

2 *(Microphones overlapping)*...Mr. President, what he said was that he wanted to throw somewhere
3 *(unintelligible)* are you aware that the FAR distributed weapons in the president's native village and
4 other places --

5 MR. TAKU:

6 *(Microphones overlapping)*...it didn't arise in evidence in-chief --

7 MR. PRESIDENT:

8 *(Microphones overlapping)* counsel --

9 MR. TAKU:

10 *(Microphones overlapping)*...okay, okay, okay.

11 MR. BÂ:

12 Right. Right. It is not as new as that because it is in some documents that are tendered into evidence,
13 and we will use them in due course.

14 MR. SEGATWA:

15 Mr. President, objection. I believe that, as far as I am concerned, I did not tender any matters into
16 evidence. I simply did what I did to facilitate the cross-examination and the opposing party. All I did
17 was --

18 MR. BÂ:

19 *(Microphones overlapping)*

20 MR. SEGATWA:

21 *(Microphones overlapping)*...provide documents that have in that regard. I did not tender any
22 documents into evidence.

23 MR. BÂ:

24 *(Microphones overlapping)*

25 MR. SEGATWA:

26 *(Microphones overlapping)*

27 MR. BÂ:

28 *(Microphones overlapping)*...what you are saying is that --

29 MR. TAKU:

30 *(Microphones overlapping)*

31 MR. BÂ:

32 -- you are saying that everything was all right on the side of the FAR. I'll read another passage. I'm
33 proceeding to another subject.

34 MR. TAKU:

35 *(Microphones overlapping)*...learned colleague. Your Honour, the fact that *(unintelligible)* should not be
36 misconstrued to believe that all the paragraphs of the indictment refers to all -- all the accusations here.
37 And this would be -- this we *(unintelligible)* and my colleagues address this himself and limit it to the

1 cross-examination that was done by counsel for each Accused person. That is what I was saying.

2
3 Because he, himself, knows that, at the beginning of every testimony, he always says to us the
4 paragraphs in the indictment in which each witness will testify. And we address our *(unintelligible)* it's
5 fair notice. So we are *(unintelligible)* want to draw this to the attention of my colleague. I don't intend to
6 interrupt your re-examination, but just please bear this in mind.

7
8 Thank you very much.

9 MR. BÂ:

10 That's fine with me, Counsel Taku. I endorse your remarks.

11 BY MR. BÂ:

12 Q. Witness, I will read a passage out to you. It is from document B, which Counsel Segatwa filed this
13 morning. This document B, I'll read the same passage he read out to you.

14
15 Paragraph 1, telegram number 45 of the 15th of January 1994 from Ambabel Kigali to MINAFET
16 Brussels which deals specifically with protection of informant Jean-Pierre. The telegram states that the
17 United States, France, and Belgium expressed reservations -- there is a spelling error here -- regarding
18 the suggestion which had been made by the United Nations special representative, Mr. Booh-Booh,
19 who proposed that the person in question be welcomed in one of the countries mentioned and that he
20 be granted asylum.

21
22 If I understand correctly, it is that Booh-Booh himself believed in that informant and that he was
23 concerned about finding a country of asylum for him. Does not -- does -- does that, therefore, not
24 connote all the assertions we heard during the entire week, that is, last week, to the effect that
25 Booh-Booh was not informed, that he was not aware of the activities you were carrying out?

26 A. That is true.

27 Q. Witness, I have just two other questions for you. The massacre of the ten Belgian peacekeeping
28 troops, what impact did that massacre have, if at all there was an impact on ordinary Belgian citizens?

29 MR. MACDONALD:

30 *(Microphones overlapping)*

31 BY MR. BÂ:

32 Q. *(Microphones overlapping)*...how was that received in Belgium?

33 MR. MACDONALD:

34 How could we cross-examine on that?

35 MR. PRESIDENT:

36 *(Microphone not activated)*

37

1 MR. MACDONALD:

2 Unless we had a couple of hours to spare.

3 MR. PRESIDENT:

4 *(Microphones overlapping) (unintelligible)*

5 MR. BÂ:

6 But all this flows from your cross-examination. Because, in your opinion, there was no reason why
7 Belgium withdrew and that that massacre was supposed to be recorded as losses. He was a Belgian --
8 he's a Belgian citizen, and he lived there during that period. I'm asking him not as a citizen of the world
9 but as a Belgian citizen what impact that --

10 MR. MACDONALD:

11 *(Microphones overlapping)*

12 MR. BÂ:

13 *(Microphones overlapping)*...event had on the Belgian citizens.

14 MR. MACDONALD:

15 *(Microphones overlapping)*...with some kind of a survey done in Belgium at the time with an expert.

16 And even that could be contested. But how could Frank Claeys give us an opinion on that?

17 MR. BLACK:

18 *(Microphones overlapping)*...and, Mr. --

19 MR. MACDONALD:

20 *(Microphones overlapping)*...I object to it.

21 MR. BLACK:

22 And, Mr. President, he's already given a very clear answer. He stated that politicians made certain
23 decisions but, as a soldier, he would have disagreed with that decision. And that's clear enough.

24 There's no clarification needed.

25 MR. TAKU:

26 And, furthermore, Your Honours, this Claeys has consistently said well, he's a military man. He doesn't
27 want to give answers which are clearly political decisions. And he has been very clear on that.

28 Besides, my colleague in -- my colleague --

29 MR. BÂ:

30 *(Microphones overlapping)*...

31 MR. TAKU:

32 *(Microphones overlapping)*...in evidence-in-chief asked these questions, and I think it was not a new
33 issue raised under cross-examination.

34 MR. PRESIDENT:

35 Witness --

36 MR. BÂ:

37 *(Microphones overlapping)*

1 MR. PRESIDENT:

2 *(Microphone not activated)*

3 MR. BÂ:

4 *(Microphones overlapping)*...is a soldier, some isolated -- an earthly human being who do not follow
5 news about events concerning his country?

6 MR. PRESIDENT:

7 Mr. Witness, it was suggested to you by Mr. Segatwa that the telegram that was sent on the 10th of
8 January was created after the death of Belgians on the 7th of April.

9 THE WITNESS:

10 Mm-hmm.

11 MR. PRESIDENT:

12 Do you accept that position?

13 THE WITNESS:

14 No, no. The telegram was neither drafted after the 11th of January or later. It was drafted in the
15 evening of the 10th of January.

16 MR. BÂ:

17 *(Microphone not activated)*

18 BY MR. BÂ:

19 Q. I have one last question to you, Counsel Claeys -- Witness Claeys, I beg your pardon.

20

21 You stated, I don't know whether it was during examination-in-chief or cross-examination, that five
22 soldiers were entitled to two bottles of beer a day and that, if they were not given the two bottles, they
23 could go on strike.

24 MR. MACDONALD:

25 *(Microphones overlapping)*...that was given in-chief. That was given in-chief, and there were no
26 cross-examinations on that question. So how could he come back with that? We -- with certainty we
27 know that when *Maître Bâ* is re-examining, at least the last question is illegal. We know that --

28 MR. BÂ:

29 *(Microphones overlapping)*

30 MR. MACDONALD:

31 *(Microphones overlapping)*...so we're ready.

32 MR. BÂ:

33 *(Microphone not activated)*

34 THE ENGLISH INTERPRETER:

35 Your microphone, Counsel.

36 MR. BÂ:

37 Mr. President, this brings me to the end of my re-examination, but it should be explained why they took

1 the hotel of Mount Rebero before you --

2 MR. MACDONALD:

3 Your Honour -- oh, I'm sorry --

4 MR. PRESIDENT:

5 Yeah.

6

7 Thank you. Thank you, Witness, for coming and giving your time to this Court. Thanks. You can go
8 now.

9 THE WITNESS:

10 It was a pleasure. Thank you.

11 MR. PRESIDENT:

12 Court is adjourned for ten minutes.

13 MR. MACDONALD:

14 Mr. President, maybe before we -- just to deposit the transcripts of the -- Colonel Claeys's testimony
15 that were referred to. Before he testified in Military I --

16 MR. PRESIDENT:

17 Yeah, when we come back.

18 MR. MACDONALD:

19 When we come back? Very well.

20 MR. PRESIDENT:

21 Yeah. Court is adjourned for ten minutes.

22 *(Court recessed at 1120H)*

23 *(Pages 1 to 30 by Ann Burum)*

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1 (Court resumed at 1145H)

2 MR. PRESIDENT:

3 Yes, Mr. MacDonald, why don't you -- have you referred to -- the pages that were referred to through
4 the witness can be tendered of his previous testimony.

5 MR. MACDONALD:

6 I believe that when I cross-examined -- the pages appear there -- will appear in the transcript, but if you
7 wish, I could -- we take this and --

8 MR. PRESIDENT:

9 What does this --

10 MR. MACDONALD:

11 This is -- what I have given is the --

12 MR. PRESIDENT:

13 Not the entirety?

14 MR. MACDONALD:

15 The entirety in French and English, if you have to refer to it. But, in most cases, I have read out the
16 passages. So that should appear in the transcript.

17 MR. PRESIDENT:

18 For whatever it is, we put this in the records. If there is any problem, they can refer to this. At this
19 stage Counsel MacDonald tenders the testimony of Witness Claeys in Military I, dated 7th April 2004
20 and 8th April 2004. D. 72. These documents are marked D. 72 and D. 73.

21 (*Exhibit No D. 72 [Bizimungu] admitted*)

22 (*Exhibit No. D. 73 [Bizimungu] admitted*)

23 MR. PRESIDENT:

24 Yes, Mr. Prosecutor, you can call in your next witness.

25 MR. MACDONALD:

26 Just one thing, Your Honour. With respect to Major Birtili, will the Court also want us to provide you
27 with the transcripts of his testimony, because we have them?

28 MR. PRESIDENT:

29 (*Inaudible*)

30 MR. MACDONALD:

31 No.

32 MR. JEGEDE:

33 With due respect, Mr. President, Your Honours, the Prosecution calls Witness ANH as the next
34 Prosecution witness, Number 44. My name is Segun Jegede, and I appear for the Prosecution.

35 MR. BLACK:

36 Before the witness begins the witness's testimony, I have an objection to the appearance of this
37 witness, Mr. President, on the grounds that we have not received disclosure, as obligated under the

1 rules. We have one statement to the ICTR in which the witness says, "This is my fourth time to be
2 interviewed by the ICTR." So, we are missing three statements.

3 MR. PRESIDENT:

4 Yes, Counsel, are you also ready -- but I understand he had been questioned three and four times.

5 MR. BLACK:

6 Where are the statements from those three interviews?

7 MR. PRESIDENT:

8 I don't know.

9 MR. JEGEDE:

10 I believe the witness is in the best position to answer that. And if he wants me to clarify that issue, I'll
11 say, in all honesty, that the witness has only -- one witness which we have disclosed to the Defence --

12 MR. PRESIDENT:

13 One statement?

14 MR. JEGEDE:

15 One statement, yes.

16 MR. BLACK:

17 Well, there must be interview notes that he made -- that were made at the time of the interviews. The
18 statements made, we need those notes.

19 MR. JEGEDE:

20 Your Honours, I believe it's premature to raise this issue now. The witness is here before us, and when
21 it comes to the turn of Mr. Black to cross-examine him, he has all the time in the world to ask questions
22 relating to whether he has other statements that we've not disclosed to him. But as far as we are
23 concerned, Your Honours, the rule is "*nemo dit nemo dat court non habit*"(phonetic). We can only
24 disclose what we have.

25 MR. BLACK:

26 Mr. President, they are in violation of the rules obligating them to disclose material which could help in
27 our defence. This man been interviewed four times; we have only one statement. Mr. Jegede is not
28 denying that notes were taken; we need those notes about what he said to the investigators, because
29 I'm assuming that we have not been given those notes or statements because they are exculpatory.
30 That has to be the assumption.

31 MR. PRESIDENT:

32 We will have to ask the witness whether notes were taken.

33 MR. BLACK:

34 No, no, no.

35 MR. PRESIDENT:

36 No, Counsel, otherwise, there are two methods. Firstly, if there are notes -- they are internal notes, you
37 are not entitled to --

1 MR. BLACK:

2 That's not true.

3 MR. PRESIDENT:

4 I don't know. Secondly, we don't know whether notes were taken by the persons who questioned him --

5 MR. BLACK:

6 The Prosecutor knows, and they are not denying it.

7 MR. PRESIDENT:

8 The Prosecutor says that he has --

9 MR. BÂ:

10 Mr. President, those notes are in existence. When the witness statement was read, the first thing that
11 struck us was that, because he said that was the fourth time he was meeting investigators of the ICTR.
12 So, we look into all our archives and in our database and the notes do not exist; no other statements
13 exist. We asked the witness and the witness said that he made only one statement.

14 MR. BLACK:

15 Well, we've already got a contradiction. I mean, I find it very hard to accept, Mr. President, but what
16 can I do. They are just denying it flat-out.

17 MR. PRESIDENT:

18 Registrar, you may administer the oath.

19 *(Declaration made by Witness ANH in Kinyarwanda)*

20 MR. JEGEDE.

21 Registrar, could you hand this over to the witness. Your Honour, I will require the assistance of the
22 Kinyarwanda interpreter.

23 MR. PRESIDENT:

24 Can a person from the booth assist the witness, please?

25

26 WITNESS ANH,

27 first having been duly sworn,

28 testified as follows:

29 EXAMINATION-IN-CHIEF

30 BY MR. JEGEDE:

31 Q. Witness, has the document in front of you been interpreted to you?

32 A. Yes, it has.

33 Q. Is that your signature at the bottom of the page?

34 A. Yes, indeed.

35 Q. Does that mean that the information contained therein is correct?

36 A. It is correct.

37

1 MR. JEGEDE:

2 Mr. President, I wish to tender the PIS as the next Prosecution exhibit number. Registrar, could you
3 provide the number?

4 MR. BLACK:

5 Could we ask the witness to move forward so we can see him.

6 MR. PRESIDENT:

7 P. 68 accepted and should be kept under seal.

8 MR. JEGEDE:

9 Thank you very much.

10

11 Mr. President, I would like to commence in closed session and we do that for --

12 MR. BÂ:

13 Mr. President, the booth -- the French booth did not hear the number of the exhibit for the record.

14 MR. PRESIDENT:

15 P. 68 accepted and should be kept under seal.

16 Counsel for the Prosecution requested for a closed session. Session will be closed to the public for few
17 minutes.

18 *(Exhibit No. P. 68 admitted)*

19 *(At this point in the proceedings, a portion of the transcript [pages 35 to 40] was extracted and sealed
20 under separate cover, as the session was heard in camera)*

21 *(Pages 31 to 34 by Sheriffo Jammeh)*

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1 (Court resumed at 1404H)

2 MR. PRESIDENT:

3 Yes, Mr. Jegede.

4 MR. JEGEDE:

5 Thank you, Your Honour.

6 BY MR. JEGEDE:

7 Q. Witness, we are now in open session. I'll urge you not to reveal your identity or say anything that might
8 reveal your identity. Do you understand that?

9 A. I have understood, Mr. Prosecutor.

10 Q. We are moving to April 1994 now. We know that the president died on the 6th of April 1994. Where
11 were you on that day?

12 A. I was at home.

13 Q. When did you learn of the news?

14 A. I heard about it on the morning of the 7th of April 1994.

15 Q. What did you do upon hearing the news?

16 A. I travelled to my *secteur*, and I spoke to members of the population, telling them to remain calm while
17 waiting for instructions that would be given by the senior authorities, since the person who had just died
18 was a high-ranking authority.

19 Q. How would you describe the situation in your *commune* in the days following the president's death?

20 A. People asked questions on the death of the president, and the situation remained calm up to the 20th,
21 or thereabout. It was on that date of the 20th that the situation started to change, particularly in my
22 *secteur*.

23 Q. How did the situation change in your *secteur* How precisely, did it change?

24 A. On the 20th, a Tutsi from Nyarusange *secteur* died, and it was from that death that the situation began
25 to change.

26 Q. Who was this person that had died?

27 A. It was a man called Fasaho (*phonetic*).

28 Q. What work did he do?

29 A. He was a farmer.

30 Q. Where was he killed, if you know?

31 A. He was killed in Nyarusange *secteur* on the 20th, and I know that he was killed in Cyarwa *cellule*.

32 MR. JEGEDE:

33 Your Honours, Nyarusange is number 50 on the spelling list.

34 BY MR. JEGEDE:

35 Q. Do you know whether his killers were found?

36 A. Yes, they were found.

37 Q. How many -- were they arrested?

1 A. Yes, they were arrested. The *conseiller* of the *secteur* in question informed the *bourgmestre* of the
2 *commune*, whose name was Jean-Marie Gisagara, and the latter went down to the field with the police
3 inspector working at the Prosecutors office Rubebuka. They were accompanied by police officers.
4 They went to arrest the assassins of Fasaho. They were 15 Hutus and one of them was
5 Abel Basabode, who was the chairman of the MRND in Nyabisindu *commune*.

6 MR. JEGEDE:

7 Your Honours, Basabode is number 1 on the list.

8 BY MR. JEGEDE:

9 Q. When they were arrested, what happened to them?

10 A. After they were arrested, they were detained in the *communal* jail.

11 Q. Do you have any idea what happened to them after they were put in jail that day?

12 A. Yes, I do. I know what happened to them. In the evening of that day, Captain Bilikunzira, who was the
13 gendarmerie commander in Nyanza, went to the *commune* office and freed those detainees from the
14 *communal* jail, thereby enabling them to return to their homes.

15 Q. This Bilikunzira, how do you know he was a gendarme?

16 A. He had been introduced to us by the Butare *préfet* during a meeting of the population. *The préfet* had
17 told us on that occasion that that gentleman was a commander of the gendarmerie battalion in Nyanza.

18 Q. And how -- were you present when Bilikunzira released the killers of Fasaho?

19 A. No. When he released them, I was not at the *commune* office.

20 Q. How were you able to confirm that he released them?

21 A. One of the killers, called Abel Basabode, met me in my *secteur*; that was on the way to his home. He
22 was, therefore, returning from the jail where he had been detained. He is the one who gave me that
23 information.

24 Q. How long had you known Bilikunzira prior to 1994?

25 A. I had known him for about a year. That was prior to April 1994.

26 Q. Did you engage in any official duties on the 24th of April 1994?

27 A. Yes.

28 Q. What did you do?

29 A. On the date you have just mentioned, Captain Bilikunzira had sent a communiqué to all the
30 *conseiller de secteur*, inviting them to meet him at the gendarmerie brigade. A colleague and myself --
31 a colleague from Nyarusange and myself went there. First of all, before going to the meeting, we asked
32 the sub-*préfet* to explain to us what was happening because killings had started in the *secteur* and we
33 wanted to seek further information from the sub-*préfet*. We, therefore, arrived at the sub-*préfet*'s office.
34 We talked to him about Tutsis who had been killed in Nyarusange *secteur* -- by who had been killed by
35 Hutus, the same Hutus who had just been released. He scolded us saying: "Up till date, you don't
36 know who your enemy is?" And he added, "You ought to know that your enemy is the Tutsi. You,
37 therefore, have to kill him or her. You have to kill or you -- rather, "You have to eat his cattle and

1 destroy his house."

2 Q. Thank you. Have you finished?

3 A. Yes, that was the end of my answer.

4 Q. What did the sub-*préfet* do after scolding you in that manner?

5 A. After scolding us, he phoned Captain Bilikunzira, who was the commander of the gendarmerie in
6 Nyanza. He told him of the concerns we had raised before him, and Captain Bilikunzira asked him to
7 bring us to the gendarmerie brigade. Immediately after we boarded the sub-*préfet*'s vehicle, another
8 vehicle on board which were 10 gendarmes arrived, and we alighted from the sub-*préfet*'s vehicle to
9 board the gendarmes' vehicle. They took us to the gendarmerie brigade where their commander
10 works, that is, Captain Bilikunzira.

11 Q. Thank you. At the sub-*préfet*'s office, you said that the sub-*préfet*'s telephoned Captain Bilikunzira.
12 How did you know that it was Captain Bilikunzira he telephoned?

13 A. We were standing next to the sub-*préfet* when he phoned, and we could hear the voice of the person
14 he was talking to on the phone. Furthermore, he was speaking a language I understand, that is,
15 Kinyarwanda.

16 Q. What type of vehicle did the gendarmes come in?

17 A. It was a white double-cabin vehicle.

18 Q. How many gendarmes were aboard that vehicle?

19 A. On board that vehicle were ten gendarmes.

20 Q. Were they in uniform or in mufti?

21 A. They were wearing their usual uniform, but they were not wearing any berets.

22 Q. Did you ultimately arrive at the gendarmerie brigade that day?

23 A. Yes.

24 Q. How many of you arrived at the brigade?

25 A. There were 12 of us when we arrived at the brigade and the sub-*préfet* who joined us subsequently at
26 that location was the 13th person.

27 Q. Did you see Bilikunzira on that occasion?

28 A. Yes.

29 *(Pages 41 to 43 by Sheriffo Jammeh)*

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1 1430H

2 BY MR. JEGEDE:

3 Q. How was he dressed?

4 A. He was wearing his usual official uniform, but he was not wearing a beret.

5 Q. And what happened when you arrived at the brigade?

6 A. The *sous-préfet* who had just arrived on the scene told Captain Bilikunzira what we had just told him,
7 that is, what we had just told the *sous-préfet*. Captain Bilikunzira, in turn, scolded us, saying, "How can
8 you imprison Hutus who have killed a Tutsi? I'll show you what I'll do to your *bourgmestre*. By the way,
9 you ought to know that he is no longer *bourgmestre*."

10 Q. And after he said that, did he say anything else?

11 A. He went on to tell us this: "Up to now, up to date, you don't know that your enemy is a Tutsi? Well, you
12 must kill Tutsis, destroy their property, and eat their cattle."

13 Q. How long were you at the brigade on that occasion?

14 A. We were there very briefly, for a short period of time.

15 Q. Where did you go when you left the brigade?

16 A. When we left the brigade -- or, rather, before we left the brigade, Captain Bilikunzira told us to go back
17 to our *secteurs* and explain to members of the population that the enemy was a Tutsi, that we must kill
18 the Tutsi, eat their cattle and destroy their houses. He, therefore, placed gendarmes at our disposal.
19 He gave us a group of 10 gendarmes, who left with us.

20 Q. Where did you first go?

21 A. We first went to Nyarusange *secteur* in Cyarwa, Cyarwa *secteur*. And when we arrived, my colleague
22 whistled and Tutsis came out of their houses into the open. My colleague passed on
23 Captain Bilikunzira's message to the Hutus, saying, "Your enemy is a Tutsi. Kill them, destroy their
24 homes and eat their cattle."

25 Q. Witness, just a clarification here. I heard, "Tutsis came out of their homes." Who came out of their
26 homes when your colleague blew a whistle?

27 A. That was a trading centre. Everyone came out of their houses to listen to the message that was
28 delivered by my colleague; that is, everyone in the houses at that centre came out of those houses, and
29 my colleague told the Hutu present that their enemy was the Tutsi, that they had to destroy the houses
30 of Tutsis; kill them and eat their cattle.

31 Q. What was the reaction of the crowd to Masonga's orders?

32 A. The Tutsis immediately ran away in an attempt to flee, and other members of the population started
33 pursuing them, killing their cattle, killing the Tutsis themselves and destroying their houses.

34 Q. Where did you go after the meeting at Cyarwa?

35 A. We went to a location called Mugasiza in that Butare *secteur*, where a market was located. My
36 colleague, again, he was with us, again passed on the same message, saying that the enemy of the
37 Hutu were the Tutsi and that they had to kill them, destroy their homes and eat their cattle. But on that

1 occasion when we arrived, houses had already begun to be burnt down.

2 Q. Could you repeat the name of the place you went after Cyarwa again?

3 A. It's a place called Mugasiza. There's a trading centre there, a marketplace there.

4 MR. JEGEDE:

5 Mugasiza, Your Honours, is No. 41 on the spelling list.

6 BY MR. JEGEDE:

7 Q. What did you observe when you arrived at Mugasiza?

8 A. It was noticed that houses were already being burnt down.

9 Q. And where did you go when you left Mugasiza?

10 A. When we left Mugasiza, we stopped at a place called Rwabucuma, in Rwabucuma *secteur*, and there
11 we met that *secteur's conseiller*. His name was Emmanuel Kamuhanda.

12 MR. JEGEDE:

13 And Rwabucuma is No. 52 on the list.

14 BY MR. JEGEDE:

15 Q. Were the gendarmes still with you at that point?

16 A. Yes, we were still together.

17 Q. Do you recall what happened at your Rwabucuma *secteur*?

18 A. Yes, I remember. While we were at Rwabucuma, the *secteur conseiller* told us that Tutsis were busy
19 running away, leaving Nyabisundu, and he told us the place where the Tutsis were at the place called
20 Mugasiza. The gendarmes fired on the Tutsis and also used a STRIM, but the STRIM did not explode.
21 The attack lasted about 10 minutes. When the gendarmes noticed that they did not have enough
22 ammunition, they decided to halt the attack.

23 Q. Approximately how many Tutsis did you see on that occasion?

24 A. There were about 50 people in that place.

25 Q. What can you say about their ages and gender?

26 A. They were people aged 18 and above, between 18 and 40 years of age. They were both men and
27 women, young people, youths.

28 THE ENGLISH INTERPRETER:

29 "Young boys and young girls," says the interpreter.

30 BY MR. JEGEDE:

31 Q. Did there come a time when you left Rwabucuma?

32 A. Yes, we left that place and went on our way, continued on our way.

33 Q. And where was your next port of call?

34 A. We stopped in Munyinya *cellule* in Mishirungu *secteur*.

35 Q. When you arrived at Munyinya, what did you see?

36 A. At Munyinya, there were some Tutsis who had taken refuge on a hill called Nyabubare.

37 Q. Did you see the Tutsis on that hill?

- 1 A. I saw them.
- 2 Q. Approximately how many were there?
- 3 A. Between 600 and 800 Tutsis.
- 4 Q. What did you do after observing the Tutsis?
- 5 A. The gendarmes asked me if those people were Tutsis. I told them that perhaps there were some Hutus
6 among them. The gendarmes told me I should gather those people and talk to them, instructing the
7 Hutus to separate from the Tutsis and point out that the Tutsis were their enemy, that they should kill
8 them -- not only should they kill them, but also destroy their houses and eat their cattle.
- 9 Q. And what did you do upon being told to take the Hutus out of the Tutsis -- Tutsi crowd?
- 10 A. I addressed those people, telling the Hutus that they ought to know that, from then on, their enemy was
11 the Tutsi, that they should kill the Tutsis' houses (*as interpreted*) and eat their livestock. That is the
12 speech I made to those people.
- 13 Q. And what did you do after doing that? Were the gendarmes still with you?
- 14 A. While we were there, the gendarmes had given me another task; that is to be in charge of a roadblock
15 in Cyarwa *cellule* and the one in Gisoro, and once they had given me that task, they returned to the
16 gendarmerie brigade in Nyanza.
- 17 Q. Did they tell you why roadblocks had to be set up?
- 18 A. Yes, they told me why.
- 19 Q. What reasons did they give?
- 20 A. It was in order to intercept Tutsis and kill them.
- 21 Q. What happened after the gendarmes left that day?
- 22 A. That evening a man called Charles Karemera from Cyarwa *cellule* died and, that evening, houses were
23 first set on fire.
- 24 Q. Who killed Charles Karemera?
- 25 A. He was killed by Hutus.
- 26 Q. Now, Witness, we'll go to another area. What does the name Gasagara, Jean-Marie, mean to you?
- 27 A. That names rings a bell.
- 28 MR. BLACK:
- 29 He can't ask that question. He can just ask him what happened. He can't put names and then say,
30 "Tell me what happened around that name." This man hasn't totally memorised this statement which
31 appears to be the case, and he can -- you can just ask him what happened next, and he can just tell
32 you, "I met that person; I met that person; I met that person." Counsel can't put to him, "Do you know
33 this person?" to jog his memory before he's even forgotten it. That's outrageous.
- 34 MR. JEGEDE:
- 35 Your Honours, Mr. Black, I don't know from where he got that rule from. You are allowed to ask a
36 witness a yes-or-no question, "Do you know such-and-such a person?" He might say "yes"; he might
37 say "no." And then we will follow up with another question, "How do you know him?" If you want me to

1 proceed like that, I will.

2 MR. BLACK:

3 My friend's got it backwards. Only in cross-examination can you put yes-or-no answers. In
4 examination-in-chief you ask them to tell the story, to tell the narrative.

5 MR. PRESIDENT:

6 *(Microphone not activated)*

7 MR. JEGEDE:

8 Yes, the witness was answering, Your Honours.

9 THE WITNESS:

10 I was saying that I know -- I knew that name, the name you mentioned in your question.

11 BY MR. JEGEDE:

12 Q. Who was that person?

13 MR. BLACK:

14 He's already told us who that person was when he testified ten minutes -- a bit before lunch. He said
15 who that was. I don't think you can ask him that question twice. You can go back and say, "You
16 mentioned that fellow before. Can you tell us then what happened?" But it's evident to me that you're
17 trying to give him a reference point in the script he's memorised, which is the statement here.

18 BY MR. JEGEDE:

19 Q. Mr. Witness, did you hear my question?

20 A. Yes, I understood your question.

21 Q. And what's your answer?

22 A. My answer was I knew the name of this Jean-Marie who was *bourgmestre* of Nyabisindu. And he went
23 to hide in the house of a policeman called Eliabu. Residents found out, went to inform the gendarmerie
24 and gendarmes went to arrest him. They also arrested Eliabu. They tied them to their vehicle, their
25 arms tied behind their backs, and they took them to Nyanza town. Towards midday, we saw them at
26 Nyabisindu *commune*. They were tied to the vehicle -- on top of the vehicle, and they were killed.

27

28 The *bourgmestre* asked Musafari to shoot them rather than kill them in another way, and he answered
29 that he had no bullets to waste, and that is how the members of the population came to kill them by
30 beating them to death.

31 Q. Where were you when you first saw Gasagara and Eliabu?

32 A. I was at the *communal* office in -- Nyabisindu *communal* office.

33 Q. When they arrived, what happened?

34 A. Around midday, around noon, Jean-Marie Vianney Gasagara was killed on the instructions of
35 Captain Bilikunzira, who was at the Nyabisindu *commune* office. They were killed as I have just
36 described, and before he was killed, Jean-Marie Gasagara, Nyabisindu *bourgmestre*, asked to be killed
37 with a bullet, and Musafari said he had no bullets to waste and he gave orders that they be beaten to

1 death, he and his friend Eliabu.

2 Q. Now I want to focus your attention on the 23rd of April 1994. Did you have any task on that day, official
3 assignment that you performed?

4 A. Yes. I carried out an official task. Alexandre Rekeraho came to my house. He was a member of the
5 population. However, he was formerly a soldier in the Rwandan army. So he came to my house and
6 told me, "You know, in your *secteur* there are many Tutsis who have sought refuge there. Let us go
7 and tell the gendarmerie about this." So we went to the gendarmerie together, and he spoke to
8 Captain Bilikunzira, telling him that in my *secteur* there were many Tutsis. There was a soldier named
9 Pierre Ngirinshuti, a Tutsi of the former Rwandan army whose rank was first sergeant. He was one of
10 the Tutsis mentioned.

11 Q. And while you were at the brigade, how did you meet at the brigade?

12 A. There, I found Captain Bilikunzira, who was the gendarmerie commander.

13 Q. While you were at the brigade, did anything happen that caught your attention?

14 A. Yes. A warrant officer, chief warrant officer called Biguma, found us there. He was in a vehicle aboard
15 which were seven Tutsis whom he had arrested at Ntyazo whilst they were trying to flee. Amongst the
16 seven Tutsis was the *commune bourgmestre*, the *bourgmestre* of that *commune*, whose name was
17 Nyagasaza.

18 MR. JEGEDE:

19 Nyagasaza is No. 21, Your Honours, on the list, and Ntyazo is No. 44.

20 BY MR. JEGEDE:

21 Q. When Biguma came with the Tutsis, how did he arrive that day?

22 A. He was coming from Ntyazo and he had Tutsis in his vehicle. He was also escorted by gendarmes.
23 When he arrived at the gendarmerie brigade, Captain Bilikunzira told him to go to Mushirarungu, where
24 other Tutsi refugees were to be found. He gave him guns and bullets. I recall that one of -- or some of
25 the guns was known as mortar 60, together with the ammunition.

26 Q. When you left the brigade that day, where did you go?

27 A. We went to Mushirarungu *secteur*. Before we got there, we went to the house of one Ntashamaje and
28 the vehicle we were in stopped at that place.

29 Q. How many of you left the brigade?

30 A. When we left the brigade, there were the seven Tutsis arrested in Ntyazo, seven gendarmes and
31 myself. So we were 15 in that vehicle.

32 Q. What type of vehicle was it?

33 A. The vehicle had a double cabin, twin cab.

34 Q. How were you seated in the vehicle?

35 A. There were two persons in the cabin, and the back seat of the cabin had three persons seated and in
36 the back, the rear of the vehicle where I was, we were 10.

37 Q. You said you stopped at Ntashamaje's home. Why did you stop at that place?

1 A. We stopped at Ntashamaje house and, there, chief warrant officer Biguma, who was in charge of the
2 gendarmes who were with us, said that if the Tutsis alighted from the vehicle -- rather, he requested
3 that they be made to alight and searched. The body searches were conducted, and he asked that they
4 be taken to a wood that was below the road. And, there, they were shot.

5 Q. Did you see them as they were being taken away?

6 A. Yes, I witnessed it because I was in that vehicle.

7 Q. How many people were taken away on that occasion?

8 A. Six people, and these six were shot below the road in a wood.

9 Q. You said six people were taken out of the vehicle. Who was the person remaining in the vehicle?

10 A. It was *bourgmestre* Nyagasaza of Ntyazo *commune* who remained in the vehicle, and of course the
11 gendarmes and myself, we also remained in the car.

12 Q. What happened after the six Tutsis were killed?

13 A. We boarded the vehicle again and headed toward Mushirarungu *secteur*. We arrived in Gisoro *cellule*
14 at the Mushirarungu office, *secteur* office, and that is where we stopped.

15 Q. Why did you stop at Gisoro?

16 A. Chief warrant officer ordered Nyagasaza to alight from the vehicle; firstly asked him if he had money.
17 When the latter said he only had 1,000 francs, the chief warrant officer took that money. And after
18 doing this, he asked him to move away, to stand aside, and lay down on his side. He was shot. Two
19 shots were fired at him, and he died.

20 Q. Did you eventually arrive at Mushirarungu?

21 A. In fact, we stopped at Gisoro *cellule* at Mushirarungu and that is where *bourgmestre* Nyagasaza was
22 taken out of the vehicle and killed, so this was in Mushirarungu *secteur*.

23 Q. Did you leave that place where the *bourgmestre* was killed?

24 A. Yes, we left the place and once we got to a point that was 300 metres away from Nyabubare hill where
25 the Tutsis had taken refuge, we stopped.

26 Q. Please tell the Chamber, in detail, what happened when you arrived at that place.

27 A. When we arrived at a distance of 300 metres from where the refugees were, Nyabubare, in Munyinya
28 *cellule*, Chief Warrant Officer Biguma, first of all, spoke out in a loud voice, reminding the first sergeant
29 who was in the group of refugees, called Pierre Nginshuti -- he wanted him to heed the call. But that
30 refugee said he didn't want to answer his call. He asked him to discharge the mission they had come
31 for.

32

33 Then Chief Warrant Officer Biguma ordered the gendarmes to set up a gun on the scene. He also
34 ordered the other gendarmes to surround the hill on which those refugees had sought refuge, and they
35 started shooting at the Tutsi refugees with the weapon. Other gendarmes surrounded the hill and
36 started shooting at the refugees. Chief Warrant Officer Biguma had also assembled Hutus in order that
37 they could use other weapons to kill those refugees. On that day I would estimate that about 300 Tutsis

- 1 were killed there. The first sergeant, Pierre Ngirinshuti, who was among the refugees, fled, but he was
2 arrested in Nyarusange *secteur*, and that is where he was killed. That attack ended at about 1 p.m.
- 3 MR. JEGEDE:
- 4 Your Honours, Ngirinshuti is No. 18 on the list.
- 5 BY MR. JEGEDE:
- 6 Q. How were you able to confirm the figure of casualty during the attack?
- 7 A. The day after the attack in which those people died, I went to supervise the burial of those people. If I
8 gave the estimate of 300 people, it is because I was the person in charge of organising that burial.
- 9 Q. Where were they buried?
- 10 A. They were buried -- they were buried on the Nyabubare hill, in Munyinya, where they had died in a
11 gutter and in a banana plantation.
- 12 Q. Earlier in your testimony, Witness, you mentioned the names Silas Twagirumukiza, Hoseyana and
13 Sekimonyo. Do you recall mentioning those names?
- 14 A. Yes, I do.
- 15 Q. Who is Silas Twagirumukiza?
- 16 A. Twagirumukiza was the brother of Pierre Ngirinshuti. May I proceed?
- 17 Q. Yes, that's fine. Where is he today?
- 18 A. He is dead.
- 19 Q. Under what circumstances did he die?
- 20 A. In late April 1994 he was in Kirwa *cellule* in Mushirarungu *cellule*, and when members of the population
21 saw him, they were afraid and they came to announce that in the *commune*. They met the *conseiller*
22 replacing the *bourgmestre*, called François Masonga, and they told him that the person called Silas had
23 come to Mushirarungu because members of the population were worried because he could kill people.
24 The assistant of the *bourgmestre* who reported to Captain Bilikunzira -- Bilikunzira, I beg your pardon,
25 phoned him and told him of the problem that had been raised by members of the population.
26 Captain Bilikunzira sent five gendarmes, and the police officer Emile Rurangirwa joined those
27 gendarmes. I myself also joined them and we went to arrest Silas Twagirumukiza. We found him
28 where he was in Cyarwa *cellule*. Those gendarmes were led by a sergeant. Those gendarmes,
29 therefore, arrested him. They took the firearm he was carrying and took him to the gendarmerie
30 battalion and handed him over to Captain Bilikunzira.
- 31 Q. I heard "gendarmerie battalion." Did I hear right?
- 32 A. No. I referred to gendarmes. I did not talk of battalion. I referred to five gendarmes.
- 33 Q. Where was he taken? Where was Silas taken?
- 34 A. He was taken to the gendarmerie camp at Nyanza.
- 35 Q. When he was taken there, what happened?
- 36 A. When the people who took him away arrived at the gendarmerie camp in Nyanza, Captain Bilikunzira
37 asked him why he had come to kill members of the population. And Silas Twagirumukiza answered the

1 captain by saying he hadn't come to kill members of the population. He said that he had instead come
2 to see members of his family. Captain Bilikunzira then kept the gun that Twagirumukiza had in his
3 possession and handed him over to the 10 gendarmes, to the police officer and to myself, so that he
4 should be taken back to where he had been found and handed over to members of the population so
5 that the latter could kill him.

6 Q. And was he taken to where Bilikunzira said they should take him to?

7 A. Yes.

8 Q. Who took him there?

9 A. He was taken there by five gendarmes, a *communal* police officer called Emile Rangirwa (*phonetic*),
10 and myself. When we got there, we handed that person to the members of the population. And when
11 members of the population started beating him up, I was sorry for him. And I ordered the police officers
12 who were with us to shoot him.

13 Q. How many -- I heard "police officers" who were with you. Who shot him? Who shot him? Who did you
14 order to shoot Twagirumukiza?

15 A. I myself ordered the police officer to shoot him.

16 Q. Thank you. Now, who is Hoseyana?

17 MR. BLACK:

18 Again, again, again, he can't do that. It's quite clear what is happening here. This man's just
19 memorised his script. It's a long one, and my friend, so-called, is giving this man reference points in the
20 script so he can jump to the next section. That's quite clear what's going on here. He can't do that.
21 What he should do next is ask what happened next.

22 MR. PRESIDENT:

23 Ask him what happened to Hoseyana.

24 MR. JEGEDE:

25 Your Honours, if he was in this Court, he would know that the witness had mentioned the names of
26 these persons, and I had asked him a prior question whether he had mentioned those names and he
27 said, "yes." So, we're now going to each of those names and for him to tell us what happened to them.

28 MR. PRESIDENT:

29 Counsel, he has mentioned these names earlier.

30 MR. BLACK:

31 He didn't mention them in any particular order that I can see, but the fact is, he should just ask him what
32 happened next in a narrative. He can't say -- put names in there he may not even remember. He's
33 putting a name to him he may not remember, and then that jogs his memory about, "Oh, the script I've
34 got; I've got to go to that section now and tell that story." He can't do that.

35 MR. PRESIDENT:

36 He mentioned those names at the inception.

37

1 MR. JEGEDE:

2 Exactly.

3 MR. BLACK:

4 Can't you see what's going on? They can't do that. He can ask him what happened next, "Tell us
5 about the next person," because he knows about the next person, supposedly. He's just giving him
6 reference points in a memorised script. It's quite clear what he's doing.

7 MR. JEGEDE:

8 Your Honours, this is a completely uncalled for because this witness had mentioned these names. Are
9 we not now entitled to ask him questions relating to the names he mentioned? Isn't that why he's here?

10 MR. PRESIDENT:

11 You related to his former -- *(microphones overlapping)* ...

12 MR. JEGEDE:

13 Exactly. That was actually my first question. I said, earlier in his testimony, he mentioned these
14 names. He said, "yes."

15 MR. PRESIDENT:

16 So you can ask him to tell the circumstances as to how Hoseyana came by his death.

17 MR. JEGEDE:

18 Exactly. So we have to -- but we cannot put something on nothing, Your Honour. It would collapse.

19 BY MR. JEGEDE:

20 Q. Where is Hoseyana, Witness, today?

21 A. Hoseyana is dead.

22 Q. When did she die?

23 A. She died in April, April 1994.

24 Q. Do you know her ethnic group?

25 A. Yes. She was Tutsi.

26 Q. Do you know how she died?

27 A. Yes.

28 Q. How did she die?

29 A. These are the circumstances under which Hoseyana died. She sent for me. She sent me a message
30 to do everything so that she should have an ID card. I told her that I did not have the authority to get
31 such a document for her, but I promised to go and request Captain Bilikunzira to issue such documents.
32 I took her on board my vehicle right up to the brigade where Captain Bilikunzira was. I requested the
33 captain to issue the documents that woman wanted. And the captain told me he was going to look into
34 the matter, but he immediately locked her up in the brigade jail.

35

36 Subsequently, I returned to the brigade to see Bilikunzira so that he should issue the documents for the
37 lady in question, and I wanted to explain things to him. But when I got there, I realised that that woman

- 1 had already been killed -- was already dead.
- 2 Q. How did you find out that she had died?
- 3 A. At the brigade were people who had been detained, including Gad Mutabazi, Yotham Kamonyo. Those
4 were the two people who told me Hoseyana had been killed.
- 5 Q. And the third person, who is Sekimonyo, Denis?
- 6 A. Denis Sekimonyo was a teacher. I also know him.
- 7 Q. And where is he today?
- 8 A. He is dead.
- 9 Q. Do you know the circumstances of Sekimonyo's death?
- 10 A. Yes.
- 11 Q. Please tell us.
- 12 A. Sekimonyo and members of his family were in Mushirarungu in Gisoro *cellule*. He sent me a message,
13 asking me to go and tell Captain Bilikunzira why he had fled. Since he had fled and hidden here and
14 there, I therefore went to see Captain Bilikunzira. I told him I had a message from Sekimonyo for him,
15 and Captain Bilikunzira answered me in anger, saying, "If they don't find him, you yourself will
16 disappear." He therefore handed me over to four gendarmes. I left on a motorbike and those
17 gendarmes came in a vehicle and I went and showed them where Sekimonyo was.
18
- 19 I got to the Gisoro *cellule* where he was and I went into the house in which he was. I spoke with him
20 and I took him out, so that he should answer the call of the gendarmes outside. The gendarmes asked
21 Sekimonyo where his wife was. Sekimonyo answered by saying she was with him, and the gendarmes
22 asked him to go and tell his wife to also come out. She also came out and they were but on board a
23 vehicle. They were taken back to the gendarmerie brigade in Nyanza and handed over to
24 Captain Bilikunzira.
- 25 Q. When you handed him over, what happened?
- 26 A. The gendarmes took him to Nyanza, to the gendarmerie brigade, and I remained at the *secteur*.
- 27 Q. Did you see Sekimonyo again?
- 28 A. No, I never saw him again because, the following day, I went to the gendarmerie brigade in Nyanza and
29 I met his wife there, and she told me he had been killed the day before. Two days later, I returned to
30 Nyanza to see Captain Bilikunzira, to ask him about Sekimonyo, and he told me that Sekimonyo had
31 been killed, but that he did not know who had killed him.
- 32 Q. When did -- when did this event happen? The event you've just related, when did it happen?
- 33 A. That event occurred in April 1994.
- 34 Q. Yes, thank you. Now, you've recounted to the Court how you were invited by Captain Bilikunzira to the
35 brigade on 21st of April 1994. Do you recall attending any other meeting in which Captain Bilikunzira
36 participated?
- 37 A. Yes. There were two other meetings.

1 Q. Where did they take place?

2 A. One of the meetings was held in Butare at the headquarters of the movement. I was present and
3 Captain Bilikunzira, who left with me, was also present. There were also *conseillers* of *secteurs* in
4 Butare. There was also the service head. The representative of the army in the military region of
5 Butare, Gikongoro was also present.

6 *(Pages 44 to 54 by Karen Holm)*

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1 1530H

2 BY MR. JEGEDE:

3 Q. You said that the meeting took place at an HQ. Which HQ? I heard HQ movement.

4 A. That place was called *palais du MRND*. That's the headquarters of the MRND party.

5 Q. Do you know who convened that meeting?

6 A. That meeting had been convened by the *préfet* of Butare *préfecture* who had just replaced
7 Jean-Baptiste Habyarimana. The *sous-préfet* who organised the meeting was called Sylvain
8 Nsabimana.

9 Q. Did anyone speak at that meeting?

10 A. Yes, the *préfet* of that *préfecture* delivered a message. The participants revealed the security situation
11 in Butare *préfecture*. We wanted to know how far we had gone in the fight against the enemy, the
12 Tutsi. At the same time we asked the soldiers to support us in matters relating to security, especially by
13 blocking the way for the enemy and exposing the enemy. And when we mentioned enemy -- when we
14 said "enemy", we meant the Tutsi.

15 Q. And the other meeting -- you said there was another meeting. Sorry, let me take you back a bit. When
16 did this first meeting take place, the meeting -- the meeting in Butare?

17 A. I do not remember the date, but I know it was in April.

18 Q. You mentioned that another -- that you attended another meeting. Where did that other meeting take
19 place?

20 A. That meeting was held at the Nyabisindu *commune* office. It had been convened to address members
21 of the population in that *commune*.

22 Q. Who was present at that meeting, if you recall?

23 A. Those in attendance included the *conseiller de secteur*. Captain Bilikunzira was there, the *sous-préfet*
24 and members of the population.

25 Q. Do you know the agenda of the meeting?

26 A. I remember some items on the agenda of the meeting.

27 Q. What were they?

28 A. Members of the population at the meeting said that some Hutus were hiding Tutsis. Captain Bilikunzira,
29 captain of the gendarmerie in Nyanza and who was chairing the meeting, cited this Kinyarwanda
30 proverb to them. It goes as follows: when a snake is coiled around a calabash, to get the snake out of
31 the calabash, you have to break the calabash and kill the snake. And members of the population in
32 attendance asked for weapons -- asked to be given weapons and torches.

33 Q. What did you understand by that proverb?

34 A. For us, the proverb meant that any Hutu found to be hosting a Tutsi, in that case both the Hutu and the
35 Tutsi would have to be killed. That is what the proverb meant to us, in that context.

36 MR. JEGEDE:

37 I have no further questions, Your Honours.

1 JUDGE PARK:

2 Can you get the date of the second meeting?

3 MR. JEGEDE:

4 I believe I can ask him.

5 BY MR. JEGEDE:

6 Q. Witness, do you recall the date of that meeting that you've just spoken about?

7 A. The meeting was held in late April 1994, but I do not remember the exact date.

8 MR. JEGEDE:

9 Thank you, Your Honour. That will be all for the witness.

10 MR. PRESIDENT:

11 You want to start now, or we'll take the break?

12 MR. BLACK:

13 If you wish not to take a break, or I can take a break, whatever is your preference.

14 MR. PRESIDENT:

15 Yes, we will go for another 20 minutes. Who will be cross-examining this witness?

16 MR. BLACK:

17 Me.

18 MR. PRESIDENT:

19 Only you?

20 MR. BLACK:

21 And Mr. MacDonald may want to put questions; somebody there, but I don't know.

22 CROSS-EXAMINATION

23 BY MR. BLACK:

24 Q. Where were you in July of 1994?

25 A. In July 1994 I had gone into exile. Rather, in July 1994, I was a displaced person. I was in Nyamagabe
26 *commune* in Gikongoro *préfecture*.

27 Q. What were you doing there?

28 A. I was a displaced person.

29 Q. What were you doing there?

30 A. Would you repeat your question, Counsel?

31 Q. What-were-you-doing-there?

32 A. Before asking me what I was doing in that place, I would like you to refresh my memory as to the
33 question that preceded this one.

34 Q. Your script breaks down at that point, right? Jump out of the script and tell me the truth. What were
35 you doing in July 1994 in Gikongoro?

36 A. I was a displaced person.

37 Q. Right. What were you doing as a displaced person?

- 1 A. I was involved *****.
- 2 Q. And were you using your real name? And don't tell me your real name, by the way. But were you
3 using your real name or another name?
- 4 A. I was using my names.
- 5 Q. The names marked on the identification sheet you looked at when you first started testifying today, that
6 same name?
- 7 A. Indeed.
- 8 Q. And why did you go to Gikongoro?
- 9 A. The *Inkotanyi* had not yet taken Gikongoro *préfecture*. Besides, there were French troops there
10 protecting us.
- 11 Q. And how long did you stay in Gikongoro?
- 12 A. I stayed there two years and about nine months, two years and about nine months in Gikongoro.
- 13 Q. And did you have a family with you, or were you alone?
- 14 A. I was alone.
- 15 Q. Did you have a family before you left your native *secteur*?
- 16 A. Would you repeat your question, Counsel?
- 17 Q. Did you have a family before you left your native *secteur*; that is, were you married, did you have
18 children, or were you single?
- 19 A. I had a family; I was married.
- 20 Q. And did they go to Gikongoro with you?
- 21 A. We moved together towards Gikongoro, but we did not remain in the same place.
- 22 Q. After these two years and nine months, where did you go?
- 23 A. I went into exile to Burundi.
- 24 Q. And why did you go to Burundi?
- 25 A. I continued my path as an exile.
- 26 Q. Why did you go to Burundi?
- 27 A. I was still on the run, because in the place where I was the authorities were now issuing identification
28 documents and I figured that I could not get identity documents.
- 29 Q. Didn't you already have an ID, identity document?
- 30 A. No, I had no identity documents because the identity cards had been changed, so that the identity card
31 being issued was completely different from the one held by members of the population before.
- 32 Q. So, what was the problem with you getting a new identity card?
- 33 A. Identity cards in Rwanda distributed -- one can only obtain an identity card in one's native area, and I
34 was not a native of Gikongoro where I was staying; therefore, it was impossible for me to receive a new
35 identity card.
- 36 Q. Why couldn't you go back to your native *secteur* and get an identity card?
- 37 A. I was afraid because of crimes I had committed.

- 1 Q. You were afraid of what?
- 2 A. I was afraid of the crimes I'd committed.
- 3 Q. Sir, you can't be afraid of crimes you had committed. What were you afraid of because of the crimes
4 you'd committed?
- 5 A. I had been involved in crimes, the killings of Tutsis.
- 6 Q. Answer my question: what were you afraid of?
- 7 A. I was afraid I would be arrested, detained and made to answer for these actions.
- 8 Q. And that's why you fled from your native *secteur* into Gikongoro, to escape detection from the new
9 authorities in the country, because you were afraid of being arrested?
- 10 A. When I left my *secteur* to go to Gikongoro province, I was running away. Members of the population
11 were fleeing from the RPF soldiers who had just arrived in our localities and we fled the gun shot --
12 gunfire.
- 13 Q. Well, you didn't stay in Gikongoro for almost three years after the war ended because you were
14 escaping gunshots. Why did you stay in Gikongoro once the war ended? Was it because you were
15 afraid of being arrested in your local *secteur* -- in your native *secteur*?
- 16 A. As I said, when the identity cards were first issued, I thought I would not succeed in obtaining an
17 identity card and I, therefore, decided to flee.
- 18 Q. That wasn't my question. I'm asking why you stayed in Gikongoro. You stayed in Gikongoro, I put it to
19 you, because you were afraid of being arrested if you returned to your native *secteur*, correct?
- 20 A. That is correct.
- 21 Q. Right. Then what made you -- what identification were you using while you were in Gikongoro in order
22 to obtain employment and for other purposes? If you were stopped by the police, say, on a routine
23 patrol, what were you using for identification?
- 24 A. During my stay in Gikongoro I was fortunate not to encounter security officers who would ask to see my
25 identity documents. And when I was in Gikongoro, very often I would hide in order to avoid being seen
26 by residents -- or, members of the population in my native locality. I would often hide.
- 27 Q. I'm not sure what you mean by that. Were you living in a house in Gikongoro while you were there?
- 28 A. I was living in the house of a member of the population of Gikongoro. He was hosting me.
- 29 Q. And in order to obtain employment, didn't you need to show some sort of identification?
- 30 A. No, that was not the case. I was somehow fortunate. Members of the ***** in the place
31 where I was, were building a church, and, you know, members of one's congregation do show
32 compassion to one another and they, therefore, *****.
- 33 Q. And I put it to you, you didn't tell anybody in Gikongoro what you had done in your native area during
34 the war, right? You didn't tell nobody about that, you kept it a secret, correct?
- 35 A. In Gikongoro, I was living with Hutus. We would discuss the events of April 1994; therefore, the Hutus
36 could not do anything to me, given that they'd had similar experiences in Gikongoro province.
- 37 Q. Well, since you felt safe there, why did you leave Gikongoro when the -- you say the new regime

- 1 instituted new identity cards. If you didn't need identity cards for almost three years, why did you
2 decide to leave and go to Burundi?
- 3 A. I told you that during the three or so years I lived in Gikongoro I would get by by hiding, but when the
4 distribution of identity cards began, I could not go on living that way because I ran the risk of being
5 caught.
- 6 Q. What made you decide to go to Burundi, instead of, say, to Tanzania or Uganda or some place, or the
7 Congo?
- 8 A. Burundi was close to the area where I was. Because Tanzania and Uganda were more -- closer than
9 those countries, and that is the reason I decided to head to Burundi.
- 10 Q. But by heading to Burundi you risked becoming picked up by the Burundian police for lack of
11 identification, didn't you, and being sent back to Rwanda and being immediately arrested?
- 12 A. That was possible.
- 13 Q. Whereas it was more easy to go across the border into Congo.
- 14 A. You know, human beings are ruled by their conscience and my conscience told me to go to Burundi
15 and I obeyed my conscience.
- 16 Q. And how did you get -- how did you cross the border into Burundi?
- 17 A. I left Nyamagabe *commune* in Gikongoro where I was. I left on foot and went as far as the border,
18 crossed the border. I passed through the Gatunda border post. That was my first time in that place
19 and I used that border post to cross into Burundi.
- 20 Q. How did you go through a border post without being stopped?
- 21 A. When one wanted to cross the border and got very near the border, one would check to see if someone
22 would see one, and one could easily cross by the little river separating the two countries. This river had
23 no bridge and it was easy to pass that way and it was relatively easy to go un-noticed.
- 24 Q. I don't want to know what one could do; I want to know what you did. What did you do to cross that
25 post, to get past that post?
- 26 A. I passed through that place because there were Burundians who were natives of -- there was a
27 marketplace in Gatunda, and so I made sure I was not noticed.
- 28 Q. But I'm not sure what you are telling me. There was a marketplace at Gatunda on the Rwandan side of
29 the border?
- 30 A. Gatunda market is on the Rwandan side of the border, very near the Burundian border. This market is
31 in Nshili *commune*.
- 32 Q. All right. So how does that connect with getting across the border? Tell me what you did to get across
33 the border. You talked about going across a river, and now you tell us about mixing with a crowd. Tell
34 us which of these versions is true.
- 35 A. Again, I will explain. Gatunda market is in Rwanda in the former Nshili *commune*. I took advantage of
36 the Burundians who had come to that market and I blended into the crowd of Burundians. And the
37 Burundians who were coming to this border were not using the border post, and so we used a small

1 path and I blended in to the group of Burundians who had come to the market. That is how I crossed
2 the border to go to Burundi.

3 Q. Perhaps we can break at this point.

4 MR. PRESIDENT:

5 Court is adjourned for 10 minutes.

6 *(Court recessed from 1600H to 1620H)*

7 MR. PRESIDENT:

8 Yes, Mr. Black.

9 MR. BLACK:

10 Thank you.

11 BY MR. BLACK:

12 Q. So, you are about to tell us how you got across the border. So you are mingling with this crowd of
13 Burundians. So what happened next?

14 A. After crossing the border, I arrived in Burundi and I spent four days there. I spent four days there.

15 Q. No, no, you haven't told me how you crossed the border. You are mixing in a crowd of Burundian
16 people who would come to the market at Gatunda. Tell me how you crossed the border.

17 A. I left with the Burundians who had come to the market in Gatunda. We crossed the little river which
18 crosses the Rwandan-Burundian border. We crossed that river. It was in the country. I continued my
19 journey. I arrived in Burundi. I did not use any other means. I simply mingled in the group of
20 Burundians who had come to the marketplace, and I crossed with those Burundians. I crossed the
21 border with those Burundians, the more so as that border was not guarded.

22 Q. If the border was not guarded, why did you have to mingle with anybody? You could just walk right
23 across it. It was an unmanned post. Why did you do that?

24 A. The border was not guarded. As you know, they are two neighbouring countries and you cannot station
25 border guards everywhere. I crossed over a stretch of the border that I thought was safe. Besides, I
26 mingled in a group of Burundians in order to cross over with them.

27 Q. So, neither border guards on the Rwandan side or border guards on the Burundian side were there to
28 stop or check the crowd going back and forth from Burundi to Rwanda and back again, people
29 smuggling goods? There was no patrol there at all?

30 A. There were no border guards on our route.

31 Q. And where was your family at this time? In fact, had you been with your family at all while you were at
32 Gikongoro? Had you been with them, or you never did get back with your wife and children?

33 A. No, I was not with my family. I was alone; my family was at home.

34 Q. At home. You mean in Gikongoro, or somewhere else?

35 A. In my home where I was residing before April 1994.

36 Q. Right. So you get -- you cross this border and you do what? Where do you go in Burundi?

37 A. After crossing the border I arrived in Burundi, and very close to the border is a house belonging to a

- 1 Burundian who housed me. I told him I was of Rwandan nationality and he housed me.
- 2 Q. And at that point you had no documentation on you, no identification?
- 3 A. I had none.
- 4 Q. And this Burundian took you in, despite the fact that he had no idea of who you were and where you
5 came from?
- 6 A. That Burundian housed me although he did not know me. I introduced myself to him. He felt sorry for
7 me, especially since we were members of the same religious congregation. He was an *****, as
8 myself. He did not even hesitate because I was carrying an ***** hymn book. Those were the
9 circumstances under which that Burundian housed me.
- 10 Q. Well, did you know beforehand this man was there? Did somebody put you in contact with this man
11 before you crossed the border so you knew where to go?
- 12 A. Let me tell you how I got to know that person. The people who left with me and who were coming from
13 the market saw me when we crossed the border. They said they did not recognise me. But since I was
14 a member of that group, I introduced myself. I told them I was a Rwandan and that I was fleeing. They
15 told me that somewhere not far, there was a Christian who loved people, and they suggested that I
16 should go to his house and spend the night there in order not to have to trek all night. Those were the
17 circumstances under which I went to his house.
- 18 Q. Did you -- and what did you tell this group of people who were travelling with about why you were
19 fleeing? What reason did you give them for fleeing Rwanda?
- 20 A. I told them I was fleeing because there had been problems in Rwanda, that Hutus had killed Tutsis, and
21 that those Hutus who had committed those crimes were being arrested, and that that was the reason
22 why I was fleeing into Burundi. I therefore told them the whole truth.
- 23 Q. So you told these Burundians you were a mass murderer and they decided to help you escape. You
24 expect me to believe that? "I'm a mass murderer, people; help me escape."
- 25 A. During that period I had not yet confessed. I told them there had been killings in Rwanda, but I did not
26 tell them I was one of the perpetrators of those killings.
- 27 Q. You told them -- you said to us you told them that Hutus who had killed or been involved in crimes were
28 in trouble and were fleeing. That implies, sir, that you were involved in the killings, so basically you
29 confessed you were a killer. So why would the Burundians want to touch you with a 10-foot pole, let
30 alone help you escape?
- 31 A. If I said that they were Hutus who had carried out killings, that didn't implicate all the Hutus. During that
32 period I had not yet decided to confess to having committed those crimes. I simply told them that I was
33 fleeing to save my life.
- 34 Q. And you told them you were fleeing to save your life, why? Your life was in jeopardy for what reason?
35 What did you tell them?
- 36 A. I told them my life was threatened because in Rwanda people were going to think I had participated in
37 the massacres and were going to punish me, and that was why I was fleeing.

1 *(Pages 55 to 62 by Verna Butler)*

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1 1630H

2 BY MR. BLACK:

3 Q. So did you tell these people, then, that people suspected you of being a mass murderer but it was not
4 true, therefore, you were fleeing to save your life?

5 A. I told those people that I was an authority and that I had to be arrested among the suspects. Because,
6 when people were arrested, evidence had not yet been gathered. Only suspects were arrested, that is,
7 people suspected of having perpetrated those crimes. I told them that I, myself, could have been
8 arrested like those other suspects.

9 Q. But since you didn't know these Burundians, it was the first time you met them, you had no idea who
10 they were or what they would do with that information. You took a great risk they would just turn you in
11 to the police as soon as you crossed the border. You're a confessed mass murder suspect. I don't
12 understand why you would tell people such a thing when you're trying to escape.

13 A. Before fleeing to Burundi, I inquired about the situation in Burundi, and I heard that the area close to
14 Katunda (*sic*) was inhabitant -- was inhabited by Burundian Hutus. I approached Burundian Hutus,
15 therefore, so I wasn't worried.

16 Q. So, in other words, you had arranged your escape in advance. You had contacts along the way or
17 something, and that's how you met this -- you went to this house of this person in the *****church.
18 You knew where the house was.

19 MR. JEGEDE:

20 Objection, Your Honour. I believe the witness has mentioned the circumstances of his going to that --
21 the house -- the house where he took refuge that night. It's not that he had planned ahead that he was
22 going to stay there. He's mentioned to the Court how he spoke to the people with whom he crossed,
23 and they were the ones who told him that there was a Christian nearby whom he could stay with. So
24 why are we going back there?

25 MR. BLACK:

26 Thanks for the summary, Mr. Jegede.

27 BY MR. BLACK:

28 Q. Now, following up on what Mr. Jegede said, which is what you said, I take it, then, that you must have
29 known in advance that you were going to the house of the ***** church member.

30 A. In Gikongoro we had been able to find refuge. I already knew the person in who -- in whose house I
31 subsequently sought refuge was, so I knew nobody in Gikongoro before.

32 Q. What are you referring to? You're referring to the house in Burundi you went to or the house in
33 Gikongoro you went to?

34 A. I knew the person in Gikongoro who housed me.

35 MR. PRESIDENT:

36 That is not the question, Witness. The question is when you were -- went to Burundi, you were taken
37 into a house by a Christian. The question is whether you knew that person before going to Burundi.

1 THE WITNESS:

2 I did not know that person.

3 BY MR. BLACK:

4 Q. Well, sir, you were ***** in Gikongoro, and
5 you happened to end up across the Burundian border in the house of a ***** member.
6 You say you're introduced just by chance because people in the crowd knew someone like that. I put it
7 to you that that had to be arranged in advance.

8 A. No, it had not been planned in advance.

9 Q. So you just walk up to some stranger's house in Burundi, knock on the door and hope this person's a
10 ***** and you carry -- you're carrying a hymn book?

11 A. When I got there, the owner of the house was not even there. I found his wife, and I spoke to her. She
12 sent a message to her husband, telling him that a Rwandan had come to their house and was asking to
13 be accommodated.

14 Q. And did you tell that lady, and later her husband, that you were wanted or was a suspect in mass
15 murders in Rwanda and that's why you were fleeing, that you'd broken every commandment in the
16 Bible?

17 A. I told them that massacres had taken place in Hutu -- in Rwanda, perpetrated by Hutus, that I, myself,
18 had fled for fear of being put in the group of those identified as perpetrators of the massacres.

19 Q. All right. And when you went to Burundi, did you -- what did you carry with you? Did you have clothes?
20 Did you have money? What did you carry with you across the border?

21 A. I was clothed. I was not wearing any other additional clothes. I had no other extra clothes, and I had
22 2,000 francs on me.

23 Q. You weren't carrying a pack or a bag, carrying your personal belongings when you were going to flee to
24 Burundi?

25 A. I had nothing on me except for the hymn book.

26 Q. I take it, then, that you fled in a real hurry?

27 A. Yes. That is how I chose to flee. When you are fleeing, you do not want to be seen, so I left practically
28 empty-handed.

29 Q. Now, sir, nobody knows you're in Gikongoro except the fellow Hutus and ***** people
30 protecting you, and then you suddenly decide to flee. You had enough -- you could have planned to
31 leave with all your belongings and gone to Burundi with personal belongings, more clothes, money,
32 personal effects. You took nothing. I put it to you that you fled Gikongoro because the police were hot
33 on your trail, that you'd been detected, and you fled suddenly because they were about to arrest you
34 that day.

35 A. I think that is what you believe. I stand by the truth. I know. And it is what I told you.

36 Q. Then why did you not plan ahead and pack a bag and take extra clothing, some personal effects and
37 favorite items, important things in life, a Bible -- not just a hymn book -- and arrange for more money?

1 Why didn't you do that for a couple of weeks in advance and then go to Burundi?

2 A. I did what my conscience dictated. I could not do anything else.

3 Q. It has nothing to do with conscience, sir. It's about planning. You were afraid for your life. You were
4 afraid of the police, and you -- you flee with nothing, which implies, sir, that you fled very, very, very
5 suddenly, that you fled. The police came to the church, perhaps, or your house. They were going to
6 pick you up that day, and you -- you -- you escaped out the back door, figuratively speaking, and you
7 ran.

8 A. No, it did not happen like that. I did not flee suddenly. I prepared my flight the way I described because
9 I thought that, in this way, I would be able to slip out much more quietly.

10 Q. Right, because the police were hot on your trail. You were being -- you were afraid of being detected,
11 correct?

12 MR. JEGEDE:

13 Objection, Your Honour. Why is he trying to twist his arm? He's answered the question many times
14 now. He's going back to the -- to the same question. He's given his answers, I believe, about three or
15 four times. Your Honours, if he has no other questions, I think he should give the floor to
16 Mr. MacDonald.

17 BY MR. BLACK:

18 Q. When you get to the house in Burundi, how long do you stay there?

19 A. I stayed there four days.

20 Q. Why four days?

21 A. My conscience moved me. I had to go back to my country to tell my story and ask to be pardoned, and
22 that is how I came to take the path leading homewards.

23 Q. So you're fleeing for your life and you cross -- you take -- you risk being arrested by the Rwandan
24 border patrols, you risk being arrested by the Burundian border patrols, you risk being arrested once
25 you're in Rwanda -- Burundi itself, you're afraid for your life, and then you decide to return, to risk your
26 life again; is that right?

27 A. Yes, I took that decision. I was remorseful. My conscience told me -- accused me of committing
28 crimes. And at one point I decided to return to Rwanda and ask the Rwandan authorities to pardon me.
29 And all I did was comply with what my conscience was telling me to do.

30 Q. You just told us your conscience told you to flee in the first place. You've got a very strange
31 conscience, sir. It's not very reliable.

32

33 I put it to you, you were, in fact, picked up and arrested by the Burundian police and returned to
34 Rwanda. That's how you returned to Rwanda.

35 A. No, I will not accept that. It was I who thought about it and decided to return to my country, as I told
36 you. You know, it is conscience that can mislead a person and conscience that can give the person
37 advice.

1 Q. A conscience like that, sir, is no conscience at all.

2

3 And when did you flee again? What date was that?

4 A. From where to where, Counsel?

5 Q. All right. Let me get this straight first. You were in that house for four days, then you decided to go
6 back to Rwanda after four days?

7 A. That is correct.

8 Q. And you crossed -- recrossed the border back into Rwanda at the end of those four days?

9 A. Yes, indeed.

10 Q. Well, then, why on your statement does it said -- say -- on page 2 of your statement dated 8th of
11 November 2000, it says, "Past residence outside Rwanda, period. Burundi -- Country: Burundi.
12 Reason: Refugee. Period in Burundi: From the 10th of February 1997 to the 26th of March."

13

14 That's six weeks.

15 A. I will answer you. When I fled to Burundi, I did not arrive in Burundi the same day. I walked for several
16 days in Gikongoro *préfecture* day and night, so I did not cover that distance in one day. When you
17 leave Nyamagabe to go to Burundi, you cannot just do that in one day. So you should take into
18 account the number of days I spent in Rwanda in Gikongoro *préfecture* and heading to Burundi.

19 Q. That doesn't help you at all. Because it says, quite clearly, "Period in Burundi," not "getting to Burundi"
20 and "in Burundi." It says "in Burundi." Tenth February. The dates are quite specific, from the 10th of
21 February, 1997, to the 26th of March, 1997.

22

23 Why are you telling us you were in Burundi only four days when you say in the statement to the ICTR
24 you were there around -- actually, almost two months, seven weeks, I think, almost?

25 A. It was on the 26th of March that I returned to Rwanda. Otherwise, I left Gikongoro on the 10th of
26 February to go to Burundi. I did not arrive on that same day, the 10th. Meanwhile -- or, in the interim, I
27 spent the nights in Gikongoro *préfecture*. I arrived in Burundi on the 22nd of February -- rather, the
28 22nd of March --

29 THE ENGLISH INTERPRETER:

30 Says the witness, correcting himself.

31 BY MR. BLACK:

32 Q. Well, then, why did you tell the investigators from this Tribunal that you entered Rwanda on the 10th of
33 February? Why did you tell them that lie?

34 A. I did not tell them I entered Rwanda the 10th of February. It was on the 10th of February that I left
35 Gikongoro to go to Burundi.

36 Q. Maybe I misspoke myself. I meant you entered Burundi on the 10th of February. That's what you told
37 the ICTR investigators. Now you're telling us you entered on the 22nd of March.

1 A. I repeat, I headed to -- towards Burundi as of the 10th of February and returned to Rwanda on the 26th
2 of March. But I did not arrive in Burundi the same day. I stayed -- was in the *commune* of Gikongoro.
3 You cannot reach Burundi in one day only.

4 Q. I suppose not if you crawl, sir. But, anyway.

5
6 Let me put it to you that you've now changed your story to say you were only there for four days
7 because you want this Tribunal to believe you had a sudden crisis of conscience and decided to
8 surrender yourself to the police when you returned. But, in fact, that's not what happened. You were
9 arrested by the police in Burundi and forced back to Rwanda and then delivered right into the hands of
10 the police in Rwanda; isn't that correct?

11 A. That is not correct.

12 Q. All right. But, anyway, after -- okay. After this supposed four days you were in this house, you had a --
13 you had a crisis of conscience, you're saying, and then you decide to return to Rwanda. And you
14 crossed over the border the next day, correct, which would make it the 27th of March?

15 A. No, I was already in Rwanda on the 26th of March.

16 Q. No, sir, you -- even you -- you agreed you were still there on the 26th. We got you in, on your
17 statement, from the 10th of February to the 26th of March. To cooper up that story, you said well, I
18 left -- I entered Burundi on the 22nd, and I was there four days, which includes the 26th, so you must
19 have left the 27th, according to this new story.

20 A. I arrived in Rwanda on the 26th.

21 Q. All right. And you've had a crisis of conscience. You want to go and turn yourself in and confess to the
22 police and beg for forgiveness and a pardon. You can't take it anymore, you feel very guilty and
23 ashamed, you want to go back and get it all over with and fall on your knees and beg for forgiveness,
24 correct?

25 A. That is correct.

26 Q. And that's the only reason you crossed back into the border -- across the border into Rwanda. The only
27 reason you had was for that purpose, that sole purpose, because you risked -- faced a heavy risk by
28 doing that. So you had a very single-minded purpose, to turn yourself in, correct?

29 A. That is correct.

30 Q. Then why did you tell us that you only turned yourself in on the 10th of May, which is another seven
31 weeks after you say you crossed back into Rwanda?

32 A. When I arrived in Rwanda from Burundi on the 26th, I did not immediately report. I remained in hiding
33 the whole time, until the 10th of May. I was in hiding, but I was in Rwanda in a place -- or, places only
34 known to my spouse.

35 Q. And you told me you had no contact with your spouse; now you do?

36 A. She knew where I was because I was already back home, but I was hiding in a banana plantation that
37 belonged to me; thus, my wife knew that I was there.

- 1 Q. Okay. So you want to turn yourself in to the Rwandan authorities because you got a crisis of
2 conscience. That is your single-minded purpose when you cross the border, but you don't turn yourself
3 in. You go into hiding again. Did your conscience change again once you crossed the border? What
4 happened?
- 5 A. I had to calm down and try to map out how I would approach the authorities, what were the modalities.
6 I had to know who was going to receive me. So during this period, this whole period, I was thinking
7 about how I would hand myself over to the authorities.
- 8 Q. What you were thinking about is how you're going to hand yourself in to the authorities to your best
9 advantage, correct, not because you had a crisis of conscience?
- 10 A. When you think of something, your conscience is active, and it is the conscience that tells you what
11 stance to take and where you should go.
- 12 Q. No, sir, that's not what conscience is. I'll tell you what a conscience is, because you don't seem to
13 know. A conscience is the ability to tell right from wrong. It's the function in your -- inside you that tells
14 you what's right and what's wrong, sir.
15
- 16 And you had -- you told us you decided what was right in Burundi. You were going to go back and turn
17 yourself in immediately and confess and ask for forgiveness. Now you cross the border, and you're not
18 acting on your conscience. You're acting, the way you describe it, in a manner which indicates -- or,
19 states that you are seeking your best -- the best advantage for you.
- 20 A. My conscience dictated that I should do the things I described to you, and my conscience told me that,
21 once I got to Rwanda, my heart would be at peace and that I should hand myself in to the *communal*
22 authorities, which is what I did.
- 23 Q. But you didn't. You said you weren't at peace. You had to hide in a banana plantation, at risk in your
24 own native *secteur* for -- for goodness' sake, at risk of being detected and arrested on the spot. And
25 you don't turn yourself in till the 10th of May. I put it to you, in fact, you didn't turn yourself in. You were
26 detected and arrested. That's how you got into the hands of the police. But you want to look like you
27 turned yourself in to give yourself more credibility; isn't that right?
- 28 A. Take what I have told you as the truth. I, myself, handed myself in to the authorities on the 10th of May.
29 And you can go to Rwanda, and you'll be told that that is what happened.
- 30 Q. Put it to you you're on the run from February through May and that, while you were on the run and you
31 expected, perhaps, to be arrested at some point, you began thinking of, "When I'm arrested, how am I
32 going to get out of this? What am I going to say?" And it's at that point you began concocting stories
33 about putting the blame on other people. And I'll demonstrate that later. Isn't that so?
- 34 A. I cannot give false testimony against others. I want to tell the truth, clarify things so that people are
35 exculpated. So the advantage in telling the truth is that the guilty -- the guilty will be punished and the
36 innocent acquitted. And that is what my conscience dictated.
- 37 Q. Sir, you knew that when you -- in 1997 when you say you turned yourself in, that you -- for the crimes

1 you say you confessed to, you faced the death penalty. You faced execution. Nothing about fleeing
2 and coming back with a conscience could possibly lead to the conclusion that you were going to risk
3 death just to do that. You didn't turn yourself in, sir, because, if you turned yourself in, you turned
4 yourself in knowing you could be shot. And I don't think you wanted to commit suicide, so, again, I
5 suggest to you you were arrested.

6 A. I was not arrested. I handed myself in to the authorities. I knew that I could be executed. It was not
7 unjust. As you know, Rwandan law provided for the death penalty. I knew I could be killed, but my
8 conscience dictated that I should tell the truth and ask for forgiveness before man and before God.

9 *(Pages 63 to 69 by Ann Burum)*

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1 1700H

2 BY MR. BLACK:

3 Q. What made you think that Rwandan authorities were going to forgive you or (*inaudible*). Only God, not
4 state or government --

5 A. I was mostly expecting to be forgiven -- or, wanting to be forgiven by God. As for Rwandan law, under
6 such law, anyone found guilty of murder was to be punished. And when I handed myself in to the
7 authorities, I did not expect the authorities to forgive me. My objective was to tell the truth and ask God
8 to pardon me; however, I knew that I run the risk of being sentenced to death, but even so, I knew I was
9 safe in my spiritual life.

10 Q. But you didn't care much about your spiritual life in 1994, so why suddenly your spiritual life is important
11 in 1997?

12 A. At that time in 1994, I was living in ignorance, because what I did run counter to God's will.

13 Q. And to this day you haven't been convicted of anything, have you?

14 A. To this date I have not yet been tried.

15 Q. And yet you say you confessed to mass murder, correct?

16 A. Yes.

17 Q. In fact, you began your confession, you say, the day -- however, you ended up in the *communal* police
18 office speaking to the police officer there and telling him everything you have done, correct?

19 A. When I appeared before the *communal* authorities, I went to the office of the *commune*. I spoke to the
20 brigadier of the *commune*, to him, I had committed a crime of genocide, and that I was coming forward
21 to meet him in order to be placed in detention so that my safety should not be jeopardised. The
22 brigadier received me and detained me in the *communal* prison.

23 Q. Why on earth would you want to feel secure in a prison when they might take you out and shoot you?
24 What do you mean you want to be put in prison for reasons of your security? Security for what? You
25 risk being shot by the very people you are turning yourself in to.

26 A. That is not what I thought because I realised that the administration had been put in place, and I could
27 see that the other detainees were not being bothered, so I thought, I, myself, would not be bothered.

28 Q. It doesn't make any sense, because at that period the regime was executing people by firing squad.
29 You couldn't possibly think that if you were following the news, and you had no experience with other
30 detainees the day you handed in yourself. You couldn't possibly know how the prisoners were being
31 treated unless you had been detained by the Rwandan police before May 10th or the Burundian police
32 or both.

33 A. I told you that there was an administrative structure in place. There were detainees in the jail, and I
34 was detained in that jail. Regarding people who were executed, those who did so did it on their own
35 account. They did not do it on behalf of the administration.

36 Q. This police officer you turned yourself in to, you said, what crime did you confess to him?

37 A. I told him that I had participated in the massacres of Tutsis.

1 Q. Which Tutsis? Where?

2 A. Killings of Tutsis in my *secteur*; that is to say that we killed those Tutsis in collusion with gendarmes.
3 About 300 Tutsis were killed in Nyabubare Hill, in Munyinya *cellule*. Those Tutsis had sought refuge
4 there. I also talked about the death of a Tutsi named Silas Twagirumukiza. I was with gendarmes
5 when that Tutsi was killed. I brought a Tutsi woman called Hoseyana --

6 Q. Let me stop you right there. I am going to tell why I'm going to stop you right there. This is not what
7 you said. I have several documents from Rwanda about what you told the police and none of these
8 names appear in any of your statements to them, not one of the instance you mentioned. The ICTR
9 statement -- you mentioned your statements in Rwanda and --

10 MR. JEGEDE:

11 Objection. That's a complete misinformation.

12 MR. BLACK:

13 No, it's not.

14 MR. JEGEDE:

15 You want me to show you the names?

16 MR. BLACK:

17 You can't show me the names because they don't exist anywhere, except the gendarme captain
18 appears in one statement, that's to indict --

19 MR. JEGEDE:

20 How about Hoseyana and Sekimonyo, Denis?

21 MR. BLACK:

22 Those three exceptions, okay. And the Hoseyana story is completely different.

23 BY MR. BLACK:

24 Q. You don't tell the Rwandan police anything about the other incidents, the killing of Silas or the two
25 *bourgmestres* or Sekimonyo; not mentioned.

26 A. I mentioned them, and you should know that I was answering all questions that were put to me. I made
27 mention of the killing of Silas, as well as that of Sekimonyo. I was questioned on several occasions,
28 and I know that I provided explanations on that subject.

29 Q. In your first interview with that police officer, was -- were notes taken? Did they make a note of what
30 you said to them?

31 A. A police officer questioned me, and I answered his questions, and he wrote down the answers I gave
32 him.

33 Q. Is that in your file in the prison?

34 A. Yes, that is in my file.

35 Q. Do you have a copy of your file with you here in Arusha?

36 A. No, I do not have it.

37 Q. Why didn't you bring it so we can check what you are saying, whether it is true or not?

1 A. I remember what I am talking about; that is why I did not deem it necessary to bring a copy of my file
2 here.

3 Q. You made a statement, and the Prosecution has failed to give to us the files as well. Have you ever
4 actually made a confession? Have you signed -- written out and signed a confession document, as
5 such?

6 A. Yes, I did that in Rwanda.

7 Q. When did you do that in Rwanda?

8 A. When I met the judicial police inspector in Nyanza, in the office of the prosecutor in Nyanza on the
9 19th of December 1997, I made that confession.

10 Q. Do you have any idea why we don't have that confession? Did you tell the Prosecutor about that? Let
11 me ask you, did you tell the Prosecutor here, sitting in front of us, that you had written that confession?

12 A. That confession statement was prepared in Rwanda and not here. It was officers at the Nyanza
13 prosecutor's office who questioned me, and I gave them explanations in answer to their questions.

14 MR. BÂ:

15 Counsel Black, may I know whether you have the same documents as my colleague, Jegede?
16 Because he has the case file. Is it the same that you have, or do you have less documents than we
17 have? Maybe we should, first of all, cross-check that.

18 MR. BLACK:

19 Well, I'm sure I have less documents than you do. If I don't have any confession documents in my file
20 than you --

21 MR. JEGEDE:

22 Your Honours, we have a document here, four statements from the Rwandan authorities, which were
23 disclosed to --

24 MR. PRESIDENT:

25 Four?

26 MR. JEGEDE:

27 Four, yes, on different dates, one -- the first one we have here was dated 21st of January 1998.

28 MR. BLACK:

29 I don't have it.

30 MR. JEGEDE:

31 You don't have it?

32 MR. BLACK:

33 No. Yes, I got 21st of January, 1998; May 11th, 2001; and that's it -- and the document in Kinyarwanda,
34 also 2001.

35 MR. JEGEDE:

36 Then 28th June 2001.

37

1 MR. BLACK:

2 No, I don't have that.

3 MR. JEGEDE:

4 That's K0358356.

5 MR. BLACK:

6 No, I don't have it.

7 MR. JEGEDE:

8 And then the one dated 23/05/2001.

9 MR. BLACK:

10 I don't have that one.

11 MR. PRESIDENT:

12 How many documents do you have all together?

13 MR. BLACK:

14 Three, and none of them are confession documents.

15 MR. JEGEDE:

16 They are all confession documents.

17 MR. BLACK:

18 No, they are not, sir. They are interrogations. They are not confession documents.

19 MR. JEGEDE:

20 They are confession documents. He confessed to crimes he committed.

21 MR. BLACK:

22 They are not confession documents which we heard about from other prisoners, when -- actually,
23 written out and confessed, it is a very formal process, "I hereby confess --

24 MR. JEGEDE:

25 Did you ask him whether he did something like that?

26 MR. BLACK:

27 I just asked him; he said yes, in 1997.

28 MR. PRESIDENT:

29 No, Counsel, I think he answered all the questions specifically --

30 MR. BLACK:

31 I asked him specifically, sir, if he'd written out a confession document? He said yes.

32 MR. PRESIDENT:

33 So we will ask him.

34
35 Apart from the questions that were put to you by the Prosecutor in Rwanda, did you on your own write
36 anything and give to the Prosecutor? Did you write anything of what you did in 1994?

37

1 THE WITNESS:

2 No, I wrote no document to that effect. The document that was drafted was based on an interview, that
3 is, questions which were put to me, and I answered those questions with regard to what I had
4 committed in terms of crimes.

5 MR. BÂ:

6 It would appear you received two sets of documents. The first time the case file was in Kinyarwanda;
7 we gave it to you. Three weeks later, when that file was translated, we also disclosed it to you. That is
8 the translation. I can find the file number. But if there is anything you need and which we have, I can
9 ask my case manager to provide you with that.

10 MR. PRESIDENT:

11 What is (*inaudible*) Mr. MacDonald?

12 MR. MACDONALD:

13 I have some material on them, but I want to verify if it is the same date as mentioned by Mr. Jegede.

14 MR. PRESIDENT:

15 The dates are 21/01/1998, 15/05/2001, 20/06/2001, and 23/05/2001.

16 MR. MACDONALD:

17 Okay, 21st January '98, I have that in French, I'm not sure in English, because it (*inaudible*). May the
18 23rd, 2001, and May the 11th, that is what I got.

19 MR. PRESIDENT:

20 There is another document of 28/06/2001.

21 MR. BLACK:

22 I do have one in Kinyarwanda, which they failed to translate.

23 MR. JEGEDE:

24 That's the one which is typed.

25 MR. BLACK:

26 Is there a reason why we didn't have a translation?

27 MR. JEGEDE:

28 No, we have it in French.

29 MR. BLACK:

30 It's not been given to me. My assistant is now busy translating it, which is a lot of work, so if I can have
31 a copy --

32 MR. JEGEDE:

33 Okay. I would let you have it right away.

34 BY MR. BLACK:

35 Q. You said you confessed to everything, so you are saying that -- what you are saying is a confession, in
36 answer to a question put to you by the prosecutor in Nyanza, correct?

37 A. Yes.

1 Q. And you say that you set out in those answers the same crimes or incidents you set out in the testimony
2 you gave today?

3 A. Yes, the crimes I committed and which are referred to in that document, as well as those I have
4 mentioned *inter alia*.

5 Q. What *inter alia*? Well, actually, it's not *inter alia*.

6 MR. BLACK:

7 But do the interpreters have this document dated May, 11th, 2001, which is K0358456. Otherwise,
8 745B. It is a question and answer in French. Do the interpreters have that document?

9 THE ENGLISH INTERPRETER:

10 All the English interpreters have are the statements and the spelling list of common names.

11 BY MR. BLACK:

12 Q. Well, then, I'm going to put some questions and the answers you gave to those questions as recorded as
13 *pro judicia* (*phonetic*) statements by the national police in Rwanda. This is May 11th, 2001.

14
15 Before Bernard Habyamana. "Question 1. Can you tell us where you were during the genocide of
16 1994? Answer: I was in my home in Mushirarungu from the beginning of the genocide up to the time
17 when the *Inkotanyi* took Nyanza. In July I fled to Gikongoro where I stayed up to my return in
18 May 1997."

19
20 Second question: "Were you an eyewitness of the attacks during which Tutsis were killed in your
21 *secteur*? Answer: Yes, but not all. Question 3: Can you talk to us about them? Answer: They are the
22 following attacks, that of the 23rd of April 1994, which was a large-scale attack during which many
23 people were killed in Mushirarungu, the attack during which Samuel Kakunge was eliminated; that
24 during which Eziel Rabukumba was killed; that during which Joel Twagirayezu was killed; that during
25 which Munyatuware and his wife were killed; that during which Laurent Gasingwa's spouse was killed;
26 that during which an unidentified person was killed at Augustine's home, that is, at the home of
27 Augustine Gatayeha was killed, also known as Magigira; that during which Laurent Gasiguwa's children
28 were killed; that during which Odette Mukanyangise was killed; that during which Charles Karemera
29 and his wife were killed; that during which 13 people were killed at Sarushi's. Those are the attacks I
30 remember.

31 Q. With the sole exception of Karemera, not one of the names you mentioned today appeared on that list,
32 and you then go and ask how were people killed in each incident and you gave descriptions. Why are
33 the names you mentioned missing from the list?

34 MR. JEGEDE:

35 That's not entirely true. Your Honours, if you go further down that page, question number 4 it says, and
36 then to page number 5, the names that this witness has testified to are there. And I went specifically,
37 that is K0358 – or and then I think it is the third paragraph, it says -- the witness says, "I recalled a

1 person called Hoseyana and whom Captain Bilikunzira had asked me to bring to him. I took her to his
2 house and he killed her, because she never came back. I also participated in an attack in the company
3 of soldiers that Captain Bilikunzira had sent to that location and during which Denis Sekimonyo and his
4 wife Bernadette Mukamura, were brought. Apart from myself no other civilian participated in that
5 attack.

6
7 And then on page 4, that is, question 6, the question: "You are accused of having carried a firearm and
8 of having led several attacks during which people were killed. What do you say to that? Answer: I
9 admitted to having carried a firearm and to having participated in attacks, but not all. However, that
10 attack was launched in accordance with the instructions that I gave them and that I myself received
11 from the superior authorities, namely, Captain Bilikunzira and sub-*préfet* Gaetan. It was our duty --
12 *(Pages 70 to 76 by Sheriffo Jammeh)*

1 1730H

2 MR. BLACK:

3 That's not relevant to my question, Mr. Jegede.

4 MR. JEGEDE:

5 Yes, well, I've mentioned three names --

6 MR. BLACK:

7 Yes, three names.

8 MR. JEGEDE:

9 -- three names that he testified to, apart from Charles Karemera.

10 MR. BLACK:

11 Right.

12 MR. JEGEDE:

13 And then the attack of 23 of -- 23rd of April, 1994. Everything is contained in here.

14 MR. BLACK:

15 No, it's not. Let me go -- let me go into this.

16 MR. MACDONALD:

17 I have a problem, Your Honour, if I may raise it at this point. In trying to make his point, Mr. Jegede
18 read out to you a statement. Of course, I understand this is not evidence, but in that statement, I am
19 referring to the passage where he says, at page 5, "I also participated in an attack in the company of
20 soldiers." I just want to make sure what my friend's position is.

21 MR. PRESIDENT:

22 The purpose of reading this is to counter Mr. Black's --

23 MR. MACDONALD:

24 Yes, but --

25 MR. PRESIDENT:

26 -- that he has not mentioned names. So he says that, apart from the names that Mr. Black mentioned,
27 there are many names, so solely for that purpose.

28 MR. MACDONALD:

29 But there seems to be confusion with the term "military" here. Am I understanding that we're not
30 pointing at the army in any way?

31 MR. PRESIDENT:

32 Yes, from his evidence, I understood that.

33 MR. MACDONALD:

34 Because I wouldn't have touched that, but it came out. I understand Mr. Jegede, I'm not attributing
35 any -- (*Microphones overlapping*) ...

36 MR. JEGEDE:

37 Yes, Your Honours, I can understand Mr. MacDonald's fears, but I believe he can take that up with the

- 1 witness in cross. I don't want to give evidence because I didn't put it there. So he will be able to clarify
2 that in cross.
- 3 MR. MACDONALD:
4 Thank you.
- 5 BY MR. BLACK:
6 Q. Witness, why doesn't -- the name Jean-Marie Gisagara.
7 doesn't appear on that list, *bourgmestre*.
8 A. That name should be on the list because I also mentioned him.
9 Q. Well --
10 A. Furthermore, I told you that many reports were drafted when I was questioned by the various people. I,
11 therefore, mentioned that particular person. I did not forget him, because he was an influential authority
12 in the *commune*. I would also add that often, when a confession is given, reference is made to events
13 that concern your own *secteur*, Jean-Marie Vianney Gisagara was in Busasamana, and that is why I am
14 mentioning that person here before this Chamber. When I am questioned in respect of crimes
15 committed by gendarmes, I did not mention that in my *secteur* -- since it was not in that *secteur* that he
16 died. It was not in that *secteur* that he died.
17 Q. That's not the question that's been put to you. The question put to you was where -- what -- can you tell
18 us what happened during 1994? It's a general question. And they asked you, "Did you witness any
19 killing of Tutsis?" And you say, "Yes." And this statement you made to the Rwandan authorities is
20 made after the statement you made to the ICTR. So the names you mentioned to the ICTR must have
21 been totally fresh in your mind when you spoke to the Rwandan authorities again in 2001?
22 MR. JEGEDE:
23 Excuse me, did I say "after"? He didn't give the statement -- he gave the Rwandan statements before
24 the --
25 MR. BLACK:
26 No, Mr. Jegede.
27 MR. JEGEDE:
28 -- the ICTR statement.
29 MR. BLACK:
30 No. This is dated May 11th, 2001. His statement here is dated 8th November 2000.
31 MR. JEGEDE:
32 Okay.
33 BY MR. BLACK:
34 Q. You also didn't mention the other *bourgmestre* of Ntyazo, Mr. Nyagasaza, N-Y-A-S-A-G-A-S-A,
35 Nyagasaza. He's not mentioned in that list, either. Petero Ngirinshuti is not mentioned in that list.
36 Silas Twagirumukiza is not mentioned in that list. The principal -- four of the principal people you testify
37 about in this trial here are not even mentioned, and your story about Hoseyana is totally different.

1 MR. JEGEDE:

2 Objection, Your Honour. Those are not four of the principal persons he testified about. This witness
3 was brought here to testify to incitement, to things told him by the Captain Bilikunzira and what they did
4 after they were ordered -- or they were given instructions, and those are also contained here.

5 Your Honours, let me refer you --

6 MR. BLACK:

7 Mr. Jegede.

8 MR. JEGEDE:

9 Excuse me, may I finish, please? (*Microphones overlapping*) ...

10 MR. BLACK:

11 No, you cannot because it's not relevant to my question.

12 MR. JEGEDE:

13 It's an objection.

14 MR. BLACK:

15 It's not an objection.

16

17 Mr. President, this man, again, is trying to give the witness the answer. He can't do that, Mr. President.

18 MR. JEGEDE:

19 Your Honour, I'm objecting. He's made assertions; he's made allegations against this witness, and I'm
20 prepared to point Your Lordships to the relevant part of the statement.

21 MR. PRESIDENT:

22 Are those names there in the statement?

23 MR. BLACK:

24 No, he's talking about the accused -- the person he's fingering, he's accusing. I'm talking about the
25 victims. He talks about four principal victims in his testimony here. They're not even mentioned here.

26

27 That's the point, Mr. Jegede; get with it.

28 MR. JEGEDE:

29 But he's given his explanation as to why. He said he gave them those names, but they were not
30 recorded.

31 MR. BLACK:

32 That's why I'm questioning him about why they don't appear in this Rwandan document.

33 BY MR. BLACK:

34 Q. Sir, those names don't appear in this document. And they asked you, and you said, "*Telles sont les*
35 *attaques que je me rappelle,*" the ones you did list. And the names you mention in this list are names
36 that appear nowhere in the information in the ICTR document. There's one, two, three, four, five, six,
37 seven, eight -- eight other names of people and families you killed, which don't appear in here; two

1 separate lists, except for two people. And the story about Hoseyana is different in each document, and
2 I'll point that out to the Judges later.

3 MR. BÂ:

4 Counsel, there is also a question. Start from the question. "Were you an eyewitness to attacks during
5 which Tutsis were killed in your *secteur*?" The question was "in your *secteur*," and when that person
6 was not from his *secteur*, he could not mention him. The question was in his *secteur*.

7 MR. BLACK:

8 Another thing, Mr. President, about protocol, while we're discussing it. After a year, I think we are tired,
9 at this end, of us facing a tag team of three or four lawyers there. It seems to me that if one lawyer is
10 handling a case, that lawyer should handle the objections. We can't -- we are handling different
11 Accused, that's why we can get up and object in tandem. They can't do that. Either one person
12 speaks, or nobody speaks. They can't have four people with four different objections.

13 BY MR. BLACK:

14 Q. All right, let's go to --

15 MR. JEGEDE:

16 Should I respond to that?

17 MR. BLACK:

18 I'm talking to Mr. President, not you.

19 BY MR. BLACK:

20 Q. So, you're telling me, sir, that those names -- you had told the Prosecution, Mr. Habimana, in Rwanda
21 about those names, but he forgot to put them on the list?

22 A. That is not what I told you. I told you that I was questioned several times and that I said all that. I did
23 not tell you that I'd mentioned the names and that he had not mentioned them in the list.

24 Q. You're saying that he failed to mention them in the list. Two *bourgmestres*, two important officials,
25 they're left off the list?

26 A. I only answered the questions he put to me. As for the two *bourgmestres*, I told you I talked about them
27 and that we were answering questions as put to us. *Bourgmestre* Gisagara lived in Busasamana
28 *secteur*, whereas Nyagasaza lived at Ntyazo. I mentioned it when I talked about the acts committed by
29 soldiers because they are the ones involved.

30 Q. I have another document here dated the 21st of January 199 -- sorry, 23rd of May 2001, in which they
31 ask you about crimes, meetings, meetings in Butare, and then your reaction to that, and you go on to
32 list a whole series of people you saved, including several women who you obtained false ID cards for.
33 Why isn't that in your statement to the ICTR? Because this statement is also ante, post dates the
34 statement you gave to the ICTR. So you must have been aware. Why didn't that appear in your story
35 about what you did those days, that you obtained false identity cards for several people?

36 A. When I answered those questions on the 23rd of May 2001, the person questioning me asked me if I
37 had saved people. That was a question he put to me. And I answered by saying I had saved some

1 people. He was curious to know if I had done so.

2 Q. Let's go straight to Hoseyana. What's your story on Hoseyana? Can you tell us that story again,
3 please?

4 A. Hoseyana lived in my *secteur* at Jean-Pierre's Munyankindi's house and had come to ask if I could
5 obtain documents for Hoseyana. I told him I was not able to, but I promised that I would take Hoseyana
6 to Captain Bilikunzira, who could issue the document, which I did. I took her to the captain, but the
7 captain did not provide the document to her. He actually detained her, and that is when she died.

8 Q. So you are saying that -- who approached you first about her?

9 A. Hoseyana contacted me through Jean-Pierre Munyankindi, who lived with her.

10 Q. That's not what you say in your statement. In your statement you say, "On a date I do not now recall,
11 Hoseyana approached me and requested that I issue her with a travel document." You say in your
12 statement to the ICTR that she approached you, not her father-in-law. In your statement you just say
13 she's hiding with her father-in-law, but she approaches you, not him.

14 A. She was not hiding with her father-in-law. Rather, she was hiding at her father-in-law's house. When
15 the father-in-law, Jean-Pierre Munyankindi, came to see me, then Hoseyana came out, approached me
16 and told me what I've told you, that I should get a document for her. It is when I went to Jean-Pierre's
17 house that Hoseyana approached me, to request me to give her the document in question.

18 Q. That's not what you told the ICTR investigators. You say, "In my *secteur* there was a Tutsi woman
19 called Hoseyana." This is on page 6 of that statement. I'll just read two lines, in English, for the
20 translators. "In my *secteur* there was a Tutsi woman called Hoseyana who had come to hide at the
21 home of her father-in-law, called Munyankindi, Jean-Pierre. On a date I do not now recall, Hoseyana
22 approached me and requested that I issue her with a travel document."

23
24 So that's wrong, I take it. And then what happened? You're asked for a travel document. What do you
25 do then?

26 A. I told her I could not obtain that document for her, but I promised to request for the document from
27 Captain Bilikunzira.

28 Q. And then?

29 A. I left with her on the motorbike and I took her so as to obtain the document. When we got to
30 Captain Bilikunzira's, he had her put into the jail and said he would examine her case. Later on, I went
31 back and found out that Hoseyana had been killed.

32 Q. That's not what you said to the Rwandan authorities, sir, on May 11, 2001. You say this, in French. It's
33 on page 5 of the May 11th 2001 document from Rwanda. You say, "I remember a person called
34 Hoseyana that Captain Bilikunzira -- whom Captain Bilikunzira had asked me to bring to him." Nothing
35 about -- it's a completely different story, sir.

36

37 You're telling the Rwandan authorities Captain Bilikunzira told you -- or, asked you to get her and bring

1 her to him; nothing about travel documents. To the investigators in 2000, you tell a different story that
2 she came to you and you took her to him to get travel documents. And I can't believe you'd get that
3 mixed up when this poor woman was killed, according to you. Why are there two different versions?

4 A. I said it as I described it to you. I took her and handed her over to Captain Bilikunzira. That is exactly
5 how it happened.

6 Q. Then why did you tell the Rwandan authorities that Captain Bilikunzira asked you to bring her to him?

7 A. Captain Bilikunzira told us that we should bring anyone who had problems that we could not resolve.
8 So we could take these people such as Sekimonyo to the captain when we encountered a problem. So
9 I took the lady to Captain Bilikunzira, but he, the latter, had not asked me to bring her to him.

10 Q. But that's what you told the Rwandan authorities. You told Bernard Habimana that he had asked her to
11 bring her to him, and there's no mention of travel documents being sought by her.

12 A. I was answering the questions as Habimana put them to me. He was in a hurry. He did not wait for me
13 to furnish details. He just took down a few bits of information.

14 Q. Sir, it doesn't make any sense because you told -- you just spoke to the ICTR investigators a few
15 months before this interview. You told them the story about -- this dramatic story about her coming to
16 you. Even though you've helped killed Tutsis days before, for some reason she comes to you, and you
17 actually go and take her to Captain Bilikunzira, hoping to get her a travel document, when you know
18 he's going to kill everybody, according to you, who's a Tutsi. And you cook up this whole story about
19 this dramatic thing about taking her there on a motorcycle, but you don't tell the Rwandan authorities
20 anything about that.

21 MR. JEGEDE:

22 Objection, Your Honour. The witness has answered that question twice now. He said he told -- he told
23 Habimana, that is, the RPJ, what he wanted to know, and at the end, he took bits and pieces of what he
24 said to him. So he wasn't the one -- the witness wasn't the one taking down the statement. So he's
25 explained fully what happened to Hoseyana in the statement to ICTR investigators, but he says now,
26 with respect to the statement before the Rwandan authorities, the man questioning him only wrote bits
27 and pieces of information. I believe that clears the matter.

28 BY MR. BLACK:

29 Q. Do you adopt that answer by your counsel, sir, that you told the Rwandan investigators what they
30 wanted to hear and, therefore, you also told the ICTR what they wanted to hear? You gave them the
31 versions they asked for?

32 A. I was answering questions according to the visitor who came to see me, according to the way he put
33 them. The representatives of the International Tribunal asked me questions in relation to questions
34 about acts committed by the gendarmes in Nyanza, as well as my own *secteur*, in Nyabisindu
35 *commune*. So I dwelled on those matters. Then the Rwandan authorities contacted me, and I was just
36 answering to the questions as they put them to me.

37 Q. Well, that's -- let's try and figure out why you didn't tell -- why you're not telling the Rwandan authorities

- 1 the truth and why, in my submission, you haven't told anybody else here the truth.
2
- 3 You were kept in lockup at the *communal* prison for seven months, you said?
- 4 A. I did not quite understand your question, Counsel.
- 5 Q. All right. You say you were put in the *communal* jail for seven months; is that right?
- 6 A. That is correct.
- 7 Q. And how many other prisoners were in the same cell with you?
- 8 A. 175 detainees were there.
- 9 Q. In your same cell, the same room, correct?
- 10 A. I was not alone. I was with 175 other detainees in the *communal* cell.
- 11 Q. And can you tell us how big that cell was? Was it as big as this room? Smaller?
- 12 A. The cell was smaller than the room where we are now.
- 13 Q. And you were kept in there 24 hours a day, or were you allowed out from time to time for a walk or
14 something, sunlight?
- 15 A. We would leave it in the morning to go to the toilet, and then others would then go out at times to do
16 some jobs in the courtyard.
- 17 Q. And at night you all slept on the floor?
- 18 A. Yes.
- 19 Q. That must have been pretty hard to take for seven months.
- 20 A. Yes, it was hard, but we had to take heart.
- 21 Q. And during that seven-month period, did you ever see a lawyer to talk to about your situation? And I
22 don't mean a prosecution lawyer, I mean someone who would help you.
- 23 A. I did not meet anyone.
- 24 Q. You did not see your family at all then; you weren't allowed to see your family?
- 25 A. Yes. Every day, our relatives would come to visit us.
- 26 Q. And that was to bring food, as well as to see you?
- 27 A. Yes, they would bring us food or clothing to replace those we were wearing. They brought us whatever
28 we needed -- what we needed.
- 29 Q. And for those prisoners who didn't have families to bring them food, I take it they had to hope that other
30 prisoners would share their food with them.
- 31 A. Yes, we would share the food with our fellow detainees because, you see, we were enduring the same
32 problems. Thus, we would share what we had.
- 33 Q. And you never saw -- while -- those seven months in prison, you were never charged with any crime,
34 were you; that is, you never saw any document -- nobody came to see you and say, "Officially you are
35 now charged with this crime and this crime and this crime?" You never saw any such document; you
36 never met with anybody, telling you that?
- 37 A. During the seven months I spent in the *communal* jail, the *communal* CID officer spoke to me and

1 asked me questions about the crimes I had committed, and I gave explanations.

2 Q. Just before we break for the day -- but you never actually were shown a document saying, "You're
3 accused of this, you're accused of that," a formal document.

4 A. No, no one showed me such a document. I was told verbally that I was being charged with genocide,
5 criminal association, and I verbally answered that I had seen no document related to that.

6 MR. BLACK:

7 Thank you, sir; we'll continue tomorrow.

8 MR. PRESIDENT:

9 Court is adjourned until 9:00 tomorrow.

10 *(Court adjourned at 1800H)*

11 *(Pages 77 to 84 by Karen Holm)*

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CERTIFICATE

We, Ann Burum, Sheriffo Jammeh, Karen Holm and Verna Butler, Official Court Reporters for the International Criminal Tribunal for Rwanda, do hereby certify that the foregoing proceedings in the above-entitled cause were taken at the time and place as stated; that it was taken in shorthand (*stenotype*) and thereafter transcribed by computer; that the foregoing pages contain a true and correct transcription of said proceedings to the best of our ability and understanding.

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

Ann Burum

Sheriffo Jammeh

Karen Holm

Verna Butler