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THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

CASE NO.: ICTR-96-14-T

THE PROSECUTOR  
OF THE TRIBUNAL

AGAINST  
ELIÉZER NIYITEGEKA

12 NOVEMBER 2002  
0908H  
CONTINUED TRIAL

Before: Judge Navanethem Pillay, Presiding  
Judge Erik Møse  
Judge Andrézia Vaz

For the Registry:  
Ms. Marianne Ben Salimo  
Mr. John Tumati

For the Prosecution:  
Mr. Kenneth Fleming  
Ms. Melinda Pollard  
Ms. Amanda Reichman

For the Accused Niyitegeka:  
Ms. Sylvia Geraghty  
Mr. Feargal Kavanagh

Court Reporters:  
Mr. Rex Lear  
Ms. Verna Butler  
Ms. Diane Hermann  
Ms. Karlene Ruddock  
Ms. Karen Holm

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I N D E X

WITNESS

FOR THE DEFENCE:

ANDRE SEBATWARE

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

2 MADAM PRESIDENT: Court is in session.

3

4 Good morning, Witness.

5 THE WITNESS: Good morning.

6 MADAM PRESIDENT: Now, because you are a protected witness, we  
7 will not refer to you by name. We will refer to you by  
8 a pseudonym, TEN-13. In what language would you be  
9 testifying?

10 THE WITNESS: I would like to express myself in Kinyarwanda  
11 and I would like my name to be used. I have nothing to  
12 hide here.

13 MR. KAVANAGH: I was going to tell Your Lordships that in  
14 consultation with him yesterday, he's indicated that  
15 he's prepared to speak openly about everything.

16 MADAM PRESIDENT: Well, we thank you for that, Witness. Now,  
17 I need your name.

18

19 Mr. Tumati, you can open the courtroom more, the witness  
20 can be visible.

21

22 Mr. Kavanagh, you've explained to the witness that he's  
23 not seeking any other protection, am I right?

24 MR. KAVANAGH: That's correct, My Lord. I've explained to  
25 him, in great detail about the procedures where this  
26 protection was available to him. He's just anxious that  
27 he be afforded the same degree of security in leaving as  
28 he got coming in and -- but once that happens he's more  
29 than happy. Of course, he wishes to remain where he's  
30 staying at the moment while he's here. He's not waiving

1 entirely all the protection afforded to him by the  
2 Tribunal, and he's grateful for it while he's here.

3 MADAM PRESIDENT: Yes. Those protections for your safety will  
4 be in place. My concern is the openness of proceedings  
5 here. He does understand that he will be testifying  
6 openly.

7  
8 Well, let's have your full name, then, Witness, and if  
9 you could spell it for us if it's a difficult name.

10 THE WITNESS: My name is André Sebatware. Sebatware is  
11 spelled S-E-B-A-T-W-A-R-E, Sebatware. My first name  
12 André, André is spelled A-N-D-R-E.

13 MADAM PRESIDENT: We've got that, thank you.

14  
15 Before you testify, Mr. Sebatware, we require you to  
16 take a sworn declaration to speak the truth, and that  
17 declaration will be administered by Mr. Tumati from the  
18 registry.

19  
20 Mr. Tumati.

21 (Declaration made by Witness Sebatware in Kinyarwanda)

22 MADAM PRESIDENT: Mr. Sebatware, you will be questioned first  
23 by Counsel Mr. Kavanagh for the Defence and then  
24 Counsel Mr. Fleming, would it be?

25 MR. FLEMING: Yes, Your Honour.

26 MADAM PRESIDENT: Counsel Mr. Fleming for the Prosecution, and  
27 then the Judges may have some questions for you. Will  
28 you please listen to the questions and just address the  
29 question, and, if we need more details, you will be  
30 asked for further details.

1 Mr. Kavanagh.

2 MR. KAVANAGH: Very grateful to your Lordships.

3

4 ANDRE SEBATWARE

5 first having been duly sworn,

6 testified as follows:

7

8 EXAMINATION-IN-CHIEF

9 BY MR. KAVANAGH:

10 Q. Good morning, Mr. Witness.

11 A. Good morning, Counsel.

12 Q. You've given us your name. Just for the purposes of the  
13 record, could you give us your date of birth, please?

14 A. I was born on the 6th of January, 1939.

15 Q. Now, I'm going to ask you to tell the Court where you  
16 were born by indicating your cellule, secteur, commune  
17 and préfecture, and if in giving your answers you could  
18 spell the locations for us, please, because they may not  
19 be familiar to us. So in what cellule were you born,  
20 please?

21 A. I was born in Ruhanga cellule. Ruhanga is spelled  
22 R-U-H-A-N-G-A, Ruhanga.

23 Q. And I understand that the secteur is the same. Could  
24 you then tell us, if that is the case, what commune and  
25 secteur?

26 A. The secteur is also called Ruhanga. The commune is  
27 Cyeru, C-Y-E-R-U.

28 Q. And the préfecture?

29 A. Ruhengeri, R-U-H-E-N-G-E-R-I, Ruhengeri.

30 Q. Now, in April 1994, where were you living?

- 1 A. I was living in Kanombe in Kigali Préfecture.
- 2 Q. Kanombe, is that spelled K-A-N-O-M-B-E?
- 3 A. You're correct.
- 4 Q. And what was your occupation in April of 1994?
- 5 A. Trader.
- 6 Q. Now, is it the case that you were a private businessman  
7 or were you working for somebody else?
- 8 A. Private.
- 9 Q. Now, just by way of background, when did you complete  
10 your studies as a young man?
- 11 A. I completed my studies and had my diploma on the 30th of  
12 June, 1959.
- 13 Q. And after you completed those studies, what did you do  
14 by way of working or profession?
- 15 A. I finished teaching school at Gonomal (phonetic) and on  
16 the 1st of November 1959 I went and started teaching in  
17 the third year in Butaro (sic) commune.
- 18 Q. And for how long were you a teacher?
- 19 A. I'm sorry, in Butare parish.
- 20 Q. And for how long were you a teacher?
- 21 A. I remained in Runabare until December, I was there for  
22 one term. We went on holidays and I was invited -- I  
23 was transferred to Bisaga in Cyeru commune and I worked  
24 there up until June, and that is when I put an end to my  
25 career as a teacher.
- 26 Q. Now, after you finished being a teacher what occupation  
27 did you take up? That's after June of 1960, if I  
28 understand your evidence to be correct.
- 29 A. There was the 1959 social revolution and, like all  
30 others, I campaigned for the position of bourgmestre,

- 1           and I was elected Kirambo commune right up until 1965.
- 2    Q.    And Kirambo is K-I-R-A-M-B-O, I think, is preferred.
- 3           And was there some --
- 4    A.    That is the spelling, indeed.
- 5    Q.    Was there some change in the name of that commune during
- 6           the term that you were bourgmestre?
- 7    A.    There were many communes, provisional communes, right up
- 8           until April 1963 when all the names of the communes were
- 9           changed, and that commune changed its name and became
- 10           Cyeru commune right up to today.
- 11   Q.    Now, you told us that you remained in that position
- 12           until the end of 1965. What happened at that point in
- 13           time, insofar as your career is concerned?
- 14   A.    Later on I became the préfet of Kigali Préfecture right
- 15           up until June of 1968.
- 16   Q.    Now, it came to me as June of 1968. I just want to make
- 17           sure that that date is correct.
- 18   A.    Right up until the end of June, and, thereafter, I
- 19           became a minister.
- 20   Q.    So, what ministerial position did you get?
- 21   A.    I became Minister of Posts and Telecommunications right
- 22           up until the end of September 1969.
- 23   Q.    And what position did you take up at that point?
- 24   A.    In October 1969 I became Minister of the Interior and
- 25           Justice, right up until the 5th of July, 1973.
- 26   Q.    And just explain to us the general nature of that
- 27           government. Who was the president of Rwanda at the time
- 28           and the prime minister at the time you were Minister of
- 29           Justice and the Interior?
- 30   A.    The president was Mr. Grégoire Kayibanda; there was no

1 prime minister.

2 Q. Now, from the end of July 1973, what occupation did you  
3 take up?

4 A. Late July, early August, I became préfet of Kigali once  
5 again, right up to January 31st, 1981.

6 Q. And what occupation did you take from that point in  
7 time?

8 A. I was there for six months, I would say right up to July  
9 or August, if I remember properly. Could you repeat the  
10 question? I didn't get it correctly, if it is possible.

11 Q. Of course. You were telling us that you were again the  
12 préfet of Kigali and that you took that position up  
13 sometime in January 1981. You've just told us you had  
14 that for a number of months, up to maybe August 1981.  
15 What position did you take up from August of 1981?

16 A. I spent six months unemployed, and in August I was in  
17 the social fund right up until the end of 1983 -- 1984,  
18 I beg your pardon.

19 Q. Now, just explain to us what role you had in the social  
20 fund, as it was translated to us, and just tell us a  
21 little bit more about that, please?

22 A. At the fund I was responsible for -- I do not know how  
23 to express that in Kinyarwanda I was the head of  
24 administrative and financial services. I was  
25 responsible for administering the workers, the  
26 employees, those who were responsible for the fund or  
27 the proceeds of the fund.

28 Q. So just for the purposes of clarification, it came to us  
29 in August that you were unemployed and somehow involved  
30 in the social fund. Is it the case that you were

1 employed in the Cafe Social De Rwanda, which is the CSR,  
2 in the position you've just told us about?

3 MADAM PRESIDENT: He said there was a period of six months he  
4 was unemployed.

5 MR. KAVANAGH: I just needed a confirmation of that, My Lord.

6 THE WITNESS: Yes, indeed, I was unemployed for six months.

7 BY MR. KAVANAGH:

8 Q. So when was it that you took up the job as chief of  
9 services of administrative and financial section in the  
10 CSR?

11 A. I said it as from August 1981 and right up to the end of  
12 1984.

13 Q. And from that point in time, what occupation did you  
14 take up?

15 A. As from 1985, I started working on my own. I was a  
16 businessman from that time up until the 6th of April,  
17 1994.

18 Q. Now, is it the case that you're somebody who has been  
19 involved for a good proportion of your lifetime in  
20 politics in Rwanda?

21 A. As I said, nothing was fabricated, that was my  
22 situation, indeed.

23 Q. Now, do you know about the existence of a party known as  
24 the MDR PARMEHUTU and if you did can you tell the  
25 Tribunal when it was founded and what you knew about it?

26 A. MDR PARMEHUTU, like other parties, was set up in 1959  
27 but that was a party that was formed to defend people,  
28 especially the Hutus who had no rights in their country.  
29 That was the objective of that party.

30 Q. And what did the membership of this party consist of by

1 way of ethnic groups?

2 A. All ethnic groups were members of the MDR PARMEHUTU, but  
3 the majority of the members were Hutu.

4 Q. Now, tell us how that party developed and how  
5 multipartyism developed in Rwanda from the time the  
6 MDR PARMEHUTU was founded in 1959?

7 A. The parties were formed before the independence of  
8 Rwanda. Rwanda was still under the authority of  
9 Belgium. It was in 1959, November, following the  
10 disservices in Rwanda where Rwandans fought one another.  
11 People who were in power wanted to maintain their  
12 position, but the other people said, we, too, want to  
13 share power. And, as we know from history, they provoked  
14 the others and there were disturbances. And since the  
15 Belgians were in charge of security, at one point  
16 tension gradually diminished, and later there were  
17 elections. Prior to that, there were no communes that  
18 there were elections during which conseiller and  
19 bourgmestre were elected. In June conseillers were  
20 elected and in July 60 bourgmestre were elected. First  
21 July 1962 Rwanda got its independence.

22 Q. Now, you've told us a moment ago that you had the  
23 position of minister for justice and the interior in  
24 1969 and that you held that post up until the 5th of  
25 July, 1973. What happened on the 5th of July, 1973, in  
26 Rwanda?

27 A. After that there was a military coup d'état led by  
28 General Juvénal Habyarimana, who later became president,  
29 and after that I was appointed a préfet.

30 Q. And was this an appointment to be the préfet of Kigali?

1 A. That was the second time because earlier I had been a  
2 préfet under President Kayibanda. And so this was the  
3 second time that I was appointed a préfet, and this time  
4 I became a préfet of Kigali.

5 Q. Now, I think it's a common case that  
6 President Habyarimana created a party known as MRND, is  
7 that the case, and if it is the case, tell us when that  
8 party was created by?

9 A. That party was established in 1975 and the last  
10 constitution of that party was adopted by the party's  
11 congress in 1978.

12 Q. Now, how was the membership of the MRND made up and what  
13 were the rules governing membership, in a general sense?

14 A. Since the establishment of that party, the constitution  
15 of the party ordered all Rwandan citizens to become  
16 members of the party whether they liked it or not.  
17 Whether it was inside or outside Rwanda, all citizens  
18 had to be members of the party, so all of us Rwandans  
19 were members of the MRND. We had no choice. No other  
20 political party was allowed to exist in the country.

21 Q. And who was it that amended the constitution in that  
22 way?

23 A. Since the seizure of power by the military, they  
24 suspended the constitution and they removed the  
25 government which had been in place at that time.

26 Q. Now, you spoke a moment ago of a congress, a national  
27 congress meeting of the MRND in 1978. Were you present  
28 at that meeting?

29 A. Yes. I was present at that congress because it was --  
30 the préfet was the chairman of MRND in the préfet, and

1 the préfet led the préfectoral organ of the party, and  
2 in an event capacity there was something known as the  
3 MRND préfectoral committee, and the members of that  
4 committee were members of the national congress of MRND.  
5 I was a member of that préfecture committee, so I was an  
6 ex-officio member of the congress.

7 Q. Now, during that congress meeting, did  
8 President Habyarimana make any changes to the MRND  
9 statute, and, if he did, will you tell us about those,  
10 please?

11 A. MRND's constitution was adopted in 1975 and MRND was the  
12 supreme organ, the supreme power in the country. At  
13 that time, there was an addition that the president  
14 would become the supreme leader. In a way, he became an  
15 institution, and the law provided that he would be the  
16 supreme leader who would be the head of all power organs  
17 in the country.

18 Q. Now, in what way did you view these changes and what was  
19 your reaction?

20 A. Personally, it was outside my control and it was  
21 unusual. It was not normal. Many people were  
22 frightened because we had a military government.  
23 Everybody was afraid of a military government. And I,  
24 then. Said that that was against the law and it was not  
25 normal to have -- at the communal level when people take  
26 a decision and the decision would go up to the  
27 préfectoral level, up to the national level, up to the  
28 national congress chaired by the president. I said that  
29 it would be not normal for a president to change the  
30 decision that had gone all the way from the bottom to

1 the top because the president was only one person. So  
2 my relationship with the president deteriorated from  
3 that time onwards.

4 Q. Now, when you say your relationship with him  
5 deteriorated, what was his reaction to you, and why did  
6 he react in the way you are going to tell us about?

7 A. Personally, I had a good understanding with the  
8 president. We would discuss, we had a close  
9 relationship, so I don't know why he reacted in the way  
10 he reacted because I told him that the changes he had  
11 established were exaggerated. And he said, look you are  
12 close to me, and other people supported him, but I  
13 really don't know what were the reasons for his  
14 reaction.

15 Q. And what affect did that have on your relationship from  
16 that point onward?

17 A. From that point onwards I noticed that the situation was  
18 not good. My aides, who were his sympathisers, did not  
19 get along with me, as had been the case prior to that.  
20 And this situation continued up to 1980. In 1980 there  
21 was what was referred to as a coup d'état. Some  
22 soldiers and some of his aides fled and went to  
23 Tanzania. Among them was someone who later became the  
24 chairman of RPF, Alex Karangwe, and others became  
25 imprisoned, including one a certain Lizinde who was the  
26 head of national security. So he, too, subsequently  
27 joined the RPF. When he was imprisoned it was said that  
28 he had prepared the coup d'état. I don't know whether  
29 that coup d'état was real, but I was summoned by the  
30 Prosecutor General and I was accused of having

1 participated in the  
2 coup d'etat plot, but I told him that I didn't know  
3 anything about that. And they were convinced by my  
4 explanations and they were convinced that I was  
5 innocent, so they released me.

6 Q. Now, did you express your unhappiness with the changes  
7 brought about by President Habyarimana privately or  
8 publicly?

9 A. I expressed my disagreement publicly. There were more  
10 than 800 people participating in the congress, and I  
11 spoke in front of all those people, and my comments were  
12 greeted with an ovation, so I don't know why those  
13 people did not support me because they applauded me as  
14 if they agreed with me. But, subsequently, they  
15 conformed with the president's decision.

16  
17 Later on, whenever I saw that something was amiss, I  
18 would say it, I would say it in my report, in meetings,  
19 because this was my nature. And this brought a  
20 disagreement between me and my colleagues and this  
21 situation went on up until 1981 when I was removed from  
22 my functions I was relieved of my functions.

23 Q. And how did you learn that you had been relieved of your  
24 functions, and who was it that relieved you of your  
25 functions as préfet of Kigali?

26 A. Normally it was the president of the republic who  
27 appoints the préfet, according to the law and then to  
28 the president who can dismiss the préfet. I heard about  
29 my removal, my dismissal, on the radio, and the radio  
30 announcement also mentioned the person who was going to

- 1           replace me. I did not hear about my dismissal from any  
2           other source other than the radio announcement.
- 3    Q.    Did you subsequently learn why it was that you had been  
4           dismissed or removed and were you given any opportunity  
5           to speak in your defence in relation to the loss of your  
6           job?
- 7    A.    No, I was not told anything. Normally a presidential  
8           order should have been released announcing my dismissal,  
9           and normally I would have received a copy of the  
10          presidential order, but I did not receive a copy.  
11          Moreover, the president was authorised by the law not to  
12          necessarily contact a junior person in order to explain  
13          to him reasons pertaining to that person's removal from  
14          office.
- 15   Q.    Now, what happened in Rwanda on the 1st of October of  
16          1990?
- 17   A.    On the 1st of October, 1990, many things happened, but I  
18          believe that on that day the law on multipartyism was  
19          published.
- 20   Q.    Now, I'm asking you about the 1st of October, 1990?
- 21   A.    Oh, I see. Well, this is an unforgettable date in the  
22          minds of Rwandans. On the 1st of October, 1990, the RPF  
23          Inkotanyi attacked Rwanda with the assistance of  
24          Ugandans.
- 25   Q.    And what consequences did this have for you, personally?
- 26   A.    I suffered from several consequences. First of all, I  
27          was affected by the fact that Rwanda had been attacked  
28          and many people had been killed, and those people were  
29          innocent.
- 30

1 Secondly, I was arrested because I was accused of  
2 collaborating with the attackers. I was arrested by  
3 soldiers; however, I was not remanded in custody for a  
4 long time. I was detained for a period of nine hours.  
5 I was then released without being given reasons for my  
6 arrest. However, at the time of my arrest I was accused  
7 of being an accomplice of the Inkotanyi.

8 Q. Would you explain to the Tribunal what your  
9 understanding is of the word Inkotanyi? What do you  
10 mean by Inkotanyi when you say it?

11 A. Normally, the Inkotanyi is a name given to the RPF, and  
12 they echoed phrases RPF Inkotanyi when referring to  
13 people who attacked Rwanda.

14 Q. And what does the word mean or can you help us with  
15 that?

16 A. You mean the word Inkotanyi? Well, according to the  
17 history of Rwanda and according to how the word was  
18 explained -- I don't know how to put it, but it was an  
19 army, like militia, that was the army of King Rwabugiri,  
20 which was a Rwandan king. It's like  
21 now, we have in Rwanda now what is called the  
22 Presidential Guard. So it was an army following  
23 Rwabugiri wherever he went. That is where the militia  
24 got its name from. It was, in fact, for the most part,  
25 the army belonging to the same ethnic group, but they  
26 added to the word Inkotanyi the word Patriotic Front.

27 Q. Now, I think you've told us that the MDR PARMEHUTU  
28 party, which had been established in 1959,  
29 was abolished as a consequence of the coup d'état of  
30 Juvénal Habyarimana. Was there any move to re-establish

1           that party or a party using a similar name; and if there  
2           were when did these moves first begin?

3    A.    Yes, there were moves to re-establish it and I was among  
4           the people who wanted to relaunch or renovate MDR  
5           PARMEHUTU, but we called it MDR renovat in line with the  
6           period when we lived, and this happened in 1991.

7    Q.    Why was the decision made to remove the term PARMEHUTU  
8           from the MDR title?

9    A.    There were two reasons for this.  Firstly, PARMEHUTU  
10           meant -- as it was explained in French, PARMEHUTU meant  
11           the party for the emancipation of Hutus, since Hutus had  
12           been oppressed and they had no rights in the country.  
13           However, subsequently, things changed and Hutus  
14           emancipated themselves.  So we had no reason to use  
15           again a name with a word Hutu because we had already  
16           been emancipated.  MDR, Mouvement De Republic, that is  
17           the Republican Democratic Movement, wanted democracy.  
18           We also, wanted to defend the republic.  That is why we  
19           opted to name our party MDR.

20  
21           Secondly, as I have told you earlier, there was a law  
22           that had been enacted recognizing the existence of many  
23           parties.  Ethnicism and regionalism were abolished.  Any  
24           party advocating ethnicism or regionalism was to be  
25           abolished.  This was in the law governing political  
26           parties.

27    Q.    Now, I think you've told us you were one of the founding  
28           members of the MDR party that re-emerged or emerged in  
29           July 1991.  How many préfectures were there in the  
30           country at the time and how many representatives at the

1 political level did each préfecture have?

2 A. Normally in each préfecture -- let me first tell you  
3 that there were eleven préfectures and within the MDR  
4 there was an organ known as the préfectural secretariat  
5 of MDR, and that organ was led by a chairman and a  
6 vice-chairman and a secretary, as well as a treasurer.  
7 These were the four main leaders, and these leaders were  
8 elected by members of the préfectural congress, and the  
9 congress gave them the power to become members, of the  
10 political bureau of MDR at the national level. So these  
11 four people from each préfecture were members of the  
12 political bureau of MDR at the national level.

13 Q. So did that mean that there were 44 persons in total in  
14 the political bureau of the MDR or did the constitution  
15 provide for additional members?

16 A. The political bureau comprised 44 members and those  
17 members would elect what was known as the steering  
18 committee pursuant to the constitution of the party, and  
19 they would elect people from among themselves. This was  
20 provided for by the party -- Political Parties Act, so  
21 those 44 people were the ones who elected a chairman,  
22 two vice-chairmen and an executive secretary. So these  
23 four elected members actually were the leaders of the  
24 political bureau.

25 Q. What was your préfecture at the time and what was your  
26 position amongst the MDR representatives?

27 A. I'm a native of Ruhengeri Préfecture. I was the  
28 vice-chairman of the Ruhengeri préfecture from where I  
29 hailed.

30 Q. Now --

1 MADAM PRESIDENT: Just a moment. Did you hold any position in  
2 the political bureau at the national level?

3 MR. WITNESS: Madam President, I did not hold any position  
4 other than the position of vice-chairman at the  
5 préfectoral level, so I was an ordinary member of the  
6 political bureau of the party.

7 BY MR. KAVANAGH:

8 Q. Now, Mr. Witness, do you know Eliézer Niyitegeka, the  
9 Accused in this case?

10 A. Yes, I know him.

11 Q. When did you first make his acquaintance or become aware  
12 of his existence, if I can put it that way?

13 A. I knew him when he was a journalist at Radio Rwanda in  
14 1975.

15 Q. Now, I think you've told us that you were at that time  
16 the préfet of Kigali. On what occasions did you come  
17 into contact with Mr. Niyitegeka?

18 A. First and foremost, Niyitegeka was a journalist, was a  
19 good representor of the news, and the people liked him.  
20 And whenever there were meetings, be they meetings of  
21 MRND or of préfectoral authorities, Niyitegeka would  
22 come and report what had transpired at the meeting, what  
23 I had said, what the people had said. So he would  
24 summarise the proceedings and report what was said and  
25 what he had seen, so it was under these circumstances  
26 that we became acquaintances and, also, later developed  
27 a close relationship.

28 Q. Now, I just wanted to move on to 1992. Can you tell the  
29 Tribunal what was transpiring in 1992, insofar as you  
30 were concerned, and the political stability of the

1 country?

2 A. Frankly speaking, in 1992, following what I've already  
3 said, that I had been sacked and that my dismissal was  
4 announced on the radio, I was attacked one day at  
5 8:30 p.m. by people who were armed with machetes and  
6 other weapons, including grenades. They launched a  
7 grenade in the rooms of one of my children.  
8 Fortunately, the child was not in the room, but the  
9 grenade damaged the house, but the child was not killed,  
10 and I was lucky because I, by luck, managed to escape  
11 from the attackers.

12 Q. Were you ever able to find out who it was who attacked  
13 you in 1992?

14 A. No, but there were between seven and ten attackers, but  
15 for me it seemed there were a million people because it  
16 was a terrifying attack. They broke down the door, but  
17 I was not able to recognise them. The people who saw  
18 them and were beaten up by the attackers were not able  
19 to recognise the attackers either.

20 Q. Now, do you have any suspicion of who it might have been  
21 who was attacking your home?

22 A. What was happening in Rwanda was really very confused.  
23 At that time there were people who were being attacked,  
24 and it was said that the attackers were members of MRND  
25 attacking members of opposition parties; subsequently,  
26 we found out that members or elements of the RPF were  
27 attacking people, you know, trying to pass as  
28 Habyarimana's people. So I don't know among these two  
29 groups who attacked me.

30 Q. Apart from you, who else in your commune was attacked,

1 at this time?

2 A. I was attacked -- I was the third person to be attacked.  
3 There was the Minister Agathe Uwilingiyimana was  
4 attacked first. She was living in Kanombe commune where  
5 I lived. The second person lived below Agathe,  
6 Thadee Bagaragaza, who was also a member of MDR. Then  
7 the president of the Court of appeal was living in  
8 another neighbourhood in Kanombe was also attacked. I  
9 was living in a different secteur with Agathe. He was  
10 therefore attacked and his house was looted, but  
11 fortunately he was not at home when the attackers came.

12 Q. Now, you mentioned a name Thaddee Bagaragaza. Is that  
13 spelled B-A-G-A-R-A-G-A-Z-A, and if it is tell, us what  
14 position he took up, if any, in politics?

15 A. You spelled his name correctly. He held several  
16 political positions. He was in politics before me. He  
17 was a minister, then he was president of the parliament  
18 or National Assembly, and he lost his post after the  
19 coup d'état. Subsequently, he became Minister of  
20 National Education, and he lost that post and became  
21 director of Taraba, a cigarette company -- producing  
22 company. Then he was unemployed. He was dismissed from  
23 his post and he was working for himself.

24 Q. Now, you mentioned a judicial officer a moment ago.  
25 Just tell us who that was, please. And if you could  
26 spell the name, that would be of assistance, and also  
27 identify the court that he presided in?

28 A. His name was Joseph Kavaruganda, spelled  
29 K-A-V-A-R-U-G-A-N-D-A Joseph Kavaruganda.

30 Q. And do you know what court he presided in?

1 A. When there was the coup d'état there was the most senior  
2 judicial organ which was the coup d'etat association.  
3 After that coup d'état, the judicial system was changed.  
4 He then became the president of the coup d'etat  
5 association.

6 Q. Now, I want you then to tell us what you know about  
7 events occurring in April of 1994. Were you in Rwanda  
8 in April of 1994?

9 A. Are you talking about the 6th of April? I was in Rwanda  
10 when Habyarimana and his counterpart and their  
11 delegations were assassinated.

12 Q. When did you first hear this news and how did you come  
13 to learn about it?

14 A. I got the news towards dawn. I was not listening to the  
15 radio. A child knocked at the window and asked, do you  
16 know what has happened? And he told us the presidents  
17 of Burundi and Rwanda have just been killed. I turned  
18 on my radio set. The child told me that it was RTLM  
19 that announced the news, so I turned on my radio, tuned  
20 to RTLM, and I myself heard the news.

21 Q. Now, what was your reaction to that news?

22 A. I trembled. I was scared, and I wondered what I was  
23 going to do. I did not even know where I was. I was  
24 scared for two reasons. I said to myself, if the  
25 Inkotanyi do not kill me, I am going to be killed by  
26 people of the MRND. I was targeted on several  
27 occasions, there had been attempts to attack me on the  
28 road, and I had been attacked, as I told you earlier,  
29 and I said to myself, that's all for me. I was so  
30 scared.

- 1 Q. Now, were there other killings in the immediate  
2 aftermath of the killing of the Presidents of Rwanda and  
3 Burundi and their entourage?
- 4 A. Citizens had been ordered not to leave their homes, but  
5 from what I heard on the radio and what I read  
6 subsequently in the newspapers, whether it was when I  
7 was within the country or when I was abroad, I learned  
8 that the RPF left the barracks where they were and  
9 started killing people in Kigali. They killed a number  
10 of prominent personalities. And I later on learned that  
11 RPF had resumed hostilities, started by killing people  
12 and later on the RPF and the government army resumed  
13 hostilities. That started immediately after the death  
14 of the president.
- 15 Q. Now, you mentioned a moment ago an attack on three  
16 individuals and yourself. In relation to two of those  
17 persons, Agathe Uwilingiyimana, what was her position in  
18 April 1994?
- 19 A. She was prime minister.
- 20 Q. And what was her political affiliation?
- 21 A. She was a member of the MDR.
- 22 Q. And, as you were a member of the MDR yourself, had you  
23 come to know her?
- 24 A. I was also a member of MDR. The first time she was  
25 attacked, we were in the same party, the same leanings;  
26 but later on in April, she and Twagiramungu were not  
27 members of the same wing as I was. They had separated  
28 or they had left our party.
- 29 Q. Yes, I'll be coming to that later. What happened to the  
30 prime minister after the presidential plane was shot

1 down?

2 A. If I have to go by what was broadcast on the radio or by  
3 what I read in the newspapers, later, she died. She was  
4 killed.

5 Q. Do you know whether anything happened to the president  
6 of the court of cessation, Mr. Kavaruganda?

7 A. From what I learned later, people wearing military gear  
8 came and kidnapped Kavaruganda from his residence just  
9 after the president's plane was shot down. Later on,  
10 Madam Agathe Uwilingiyimana's body was found, but  
11 Joseph Kavaruganda's body has never been found.

12 Q. Now, do you have any idea or suspicion who it was who  
13 may have killed the prime minister and kidnapped and  
14 possibly killed Mr. Kavaruganda?

15 A. The truth is that it would be better to carry out  
16 investigations to determine who is responsible for those  
17 assassinations so that an end could be put to the  
18 rumours. As I said earlier, in Rwanda people were  
19 killed in circumstances that could not be explained, and  
20 sometimes it was said that MRND members were  
21 responsible. But later on, when there were separate  
22 wings, people revealed that RPF wanted to cause trouble  
23 in the country and was killing people, and they managed  
24 to get MRND to be seen to be responsible for those  
25 assassinations. And people who were killed were people  
26 of MDR, PL, PSD, and it was said that MDR -- the RPF had  
27 infiltrated all those parties, that even within MRND  
28 there were RPF members. MRND members were killed by  
29 RPF. I think only an investigation can be carried out  
30 to determine who is really guilty of those crimes.

1 Q. Now, from your understanding of the situation at the  
2 time, were you able to form any view as to how  
3 President Habyarimana saw the RPF threat?

4 A. Please, could you repeat your question? I did not  
5 understand it.

6 Q. Were you able to form any view as to how  
7 President Habyarimana was seeing things, mainly the RPF  
8 threat, if I can put it that way, and the emergence of  
9 the MDR party?

10 A. I might be mistaken, but my opinion is as follows. If I  
11 go by what happened to us, most of Habyarimana's  
12 collaborators within MRND who were attacking people and  
13 who sometimes distract us as Inkotanyi were more afraid  
14 of MDR than they were of RPF. They seemed to be sure of  
15 winning the RPF, but they were afraid of MDR and thought  
16 that MDR was going to win the elections later. So they  
17 were putting more effort against MDR than they were  
18 against the RPF.

19 Q. What was the nature of the support for the MDR party at  
20 this time? Was it large or small or was it growing or  
21 decreasing?

22 A. MDR had many members and the membership kept growing,  
23 and that is why I said Habyarimana was afraid of our  
24 party, but he was afraid mostly about the results of  
25 elections. He was not afraid that we were going to  
26 fight the way the RPF had been fighting against them  
27 using weapons.

28 Q. Now, I want to move on to another subject, and that  
29 concerns Mr. Niyitegeka and his political involvement  
30 with MDR. Can you tell the Tribunal, please, if you

- 1 will, please, what you know about Mr. Niyitegeka's  
2 career in the MDR, if I can put it that way?
- 3 A. Niyitegeka was the chairman of MDR in Kibuye. He was a  
4 member of the national political bureau. I often met  
5 him in meetings. I had the opportunity of getting  
6 acquainted with his opinions. I was able to assess and  
7 appreciate his courage, and I could do so within the  
8 context of the MDR.
- 9 Q. Will you tell the Tribunal, please, what your impression  
10 of Mr. Niyitegeka was from the period -- during the  
11 period you got to know him as somebody involved in  
12 politics in the MDR party?
- 13 A. Niyitegeka was somebody who told the truth. He liked  
14 the truth. He could not put up with injustices. He was  
15 not a theoretician. He put in practice what he  
16 believed. He was against regional and ethnic  
17 discrimination. He was an intelligent person who acted  
18 as an intellectual. He liked people, and everybody also  
19 liked him. When everybody saw him, everybody was happy  
20 to see him.
- 21 Q. Now, how did Mr. Niyitegeka's political career develop.  
22 You told us what position he held in préfecture level  
23 and at national level. Was he ever nominated by the  
24 party for any senior position within government?
- 25 A. The political bureau of the party had appointed  
26 Mr. Eliézer Niyitegeka as a member of the broad-based  
27 transitional government following the Arusha Accords,  
28 and he was an MDR candidate to be minister within that  
29 government.
- 30 Q. What was your reaction to his nomination?

- 1 A. Are you talking about myself or Eliézer? Whose reaction  
2 are you talking about?
- 3 Q. Sorry, I asked the question, what was your reaction to  
4 his nomination?
- 5 A. I was pleased with the nomination. I was one of those  
6 who supported his candidature because I was a member of  
7 the political bureau. I was happy because I knew that  
8 he would represent us honourably within the government.
- 9 Q. Now, what was MDR policy at that point in time in  
10 relation to the Arusha Accord?
- 11 A. From the time the Arusha Accords were signed, MDR was  
12 always in support of those Accords. All MDR  
13 representatives always supported those Accords to put an  
14 end to the war and bring peace back to Rwanda.
- 15 Q. Was the MDR involved in the negotiations of the Arusha  
16 Accord, and, if it was, who was it represented the MDR  
17 view?
- 18 A. It is Boniface Ngulinzira who represented the MDR and he  
19 did a good job. That even created problems for him. In  
20 any case, we supported him, and he carried out his duty  
21 with wisdom and courage. His party supported him in the  
22 negotiations.
- 23 Q. Now, what was Eliézer Niyitigeka's view of the Arusha  
24 Accord?
- 25 A. As I said when I described Mr. Niyitegeka to you, he was  
26 of the opinion that those Accords should be implemented  
27 as soon as possible, so that the fighting can stop. He  
28 supported the Accords. He wanted the problem to be  
29 resolved, that peace should be restored in the country.  
30 He wanted the country to be what it was before the war.

- 1 He liked democracy, and he wanted the country to be  
2 governed by authorities elected by the people.  
3 Mr. Niyitegeka supported those Accords.
- 4 Q. Now, has it been explained to you the general nature of  
5 the charges which Mr. Niyitegeka is facing and the  
6 general nature of the indictment against him?
- 7 A. I was explained the charges. I didn't take note of all  
8 of them, but I was surprised. I even heard that he  
9 raped women. That surprised me. That is something  
10 unthinkable, as far as he is concerned.
- 11 Q. Now, in relation to Mr. Niyitegeka's views, can you tell  
12 the Tribunal what you understand those views to be. And  
13 I want you to touch upon, if you could, you just  
14 mentioned respect for women in a indirect way, but also  
15 the ethnic, regional, religious area. Would you tell  
16 us, please, what you have learned in your contact with  
17 Mr. Niyitegeka as being his views on those matters?
- 18 A. I told you that I knew Mr. Niyitegeka better within the  
19 MRND party, which was determined to fight against ethnic  
20 and regional discrimination; in fact, all forms of  
21 discrimination. One could have thought that he was the  
22 one who brought those objectives to the party. In his  
23 personal life, he followed those objectives. Killing,  
24 theft, are all things that Eliézer could not support.  
25 Unless you did not know Eliézer, his father was a  
26 pastor. He was a Christian, and he attended church  
27 services. Had he committed those crimes, he would have  
28 gone against the objectives of MDR and he would have  
29 sinned against his religious convictions. He could not  
30 do things against his religious convictions or against

1 the objectives of the party he was a member of.

2 Q. Now, after President Habyarimana died, what was the  
3 immediate consequence of the stability of Rwanda?

4 A. After Habyarimana's death, Rwandans were saddened/; they  
5 were expecting the Arusha Accords to bring peace back to  
6 the country. After the death of the president, after  
7 the death of the prime minister, the army chief of  
8 staff, Rwandans started asking themselves what would  
9 happen. War broke out again, and everybody was saddened  
10 and felt desperate.

11 Q. How soon after the presidential plane was shot down did  
12 the RPF military relaunch their offensive from Uganda?

13 A. The RPF did not attack from Uganda. When President  
14 Habyarimana died RPF soldiers were at the CND in town.  
15 Later on, members of RPF told us that they had other  
16 people within the country. The war resumed everywhere  
17 in the country. They did not attack from Uganda, they  
18 were already in the country, unless some of them came  
19 from Uganda with reinforcements.

20 Q. Now, I think -- well, can you tell us how long this  
21 military campaign progressed? How long did it last for?

22 A. The war went on right until the beginning of the month  
23 of July 1994.

24 Q. Now, prior to the presidential aircraft being shot down,  
25 had there been a cease-fire in place pursuant to the  
26 Arusha Accords?

27 A. Yes, there was a cease-fire, which had been accepted by  
28 both parties.

29 (Pages 1 to 27 by R. Lear)

30

1 1030H

2 MR. KAVANAGH: (Continuing)

3 Q. And do you know --

4 A. -- which had been accepted by both parties.

5 Q. Do you know which party first breached that ceasefire?

6 A. The RPF.

7 Q. Now, what effect did the recommencement of that war,  
8 those hostilities, have on people's hopes for democratic  
9 change?

10 A. That's what I had said. People lost all hope. People  
11 lost hope, and they lost hope of having democracy.

12 Q. Now, I just want to touch upon matters concerning the  
13 president of Burundi and what implications, if any, they  
14 might have for the situation in Rwanda in April of 1994.  
15 If you can tell us very quickly what you know about the  
16 president of -- presidential position and appointment in  
17 Burundi, in a democratic sense?

18 A. People who do not know Rwanda and Burundi think that  
19 those two countries are one and the same country, but  
20 they are two different countries, but between those  
21 countries there was a unity which does not exist  
22 anywhere in Africa or Europe. When a Rwandan spoke, a  
23 Burundian would understand him without an interpreter,  
24 and vice versa. Now, in both countries there were three  
25 ethnic groups: Hutu, Twa and Tutsi. I don't know how to  
26 say this in Kinyarwanda, but the customs are the same in  
27 the two countries. We are neighbours, and any event  
28 that happens in Burundi affects Rwanda and what happens  
29 in Rwanda affects Burundians.

30

1           And since the independence of Burundi it was the first  
2           time that a president was democratically elected. It  
3           was the first time that a president was democratically  
4           elected and he was not a president who had gained power  
5           through the use of arms, through a military coup d'état.  
6           So when elections took place in Burundi, Rwandans were  
7           very happy. They said there would be peace and  
8           democracy in Burundi. Sometime later we heard that many  
9           people had been killed along with the president, and the  
10          Rwandans said, "Now what is going to happen following  
11          the Ndadaye's death?"

12  
13          And the misfortune of Burundians in Rwanda is that those  
14          events happened during the attacks, but the Inkotanyi  
15          from the north of the country -- people were being  
16          killed every day. There were many displaced people and  
17          they were living outside their property for three years.  
18          For more than three years they were living in hunger,  
19          they were being shot at, so they were suffering all the  
20          miseries which befall people not living in their homes.  
21          So, following Ndadaye's death, when Rwandans learnt  
22          about the death, they said that it would not be easy to  
23          apply the Arusha Accords, but they said, "Let us be  
24          patient and let us see what is going to happen".  
25          Sometime later we were told that President Ntaryamira  
26          and President Habyarimana had been killed, so any hopes  
27          they had were dashed. And there was no basis for them  
28          -- for Rwandans having hope following  
29          President Ndadaye's death.

30

1 According to the constitution, it was the speaker of the  
2 national assembly who was to replace the president. But  
3 the Burundian army, made up mostly of Tutsi, refused to  
4 have the speaker replace the president. They changed  
5 the constitution and, instead, they appointed  
6 President Ntaryamira, who was later killed. So the  
7 situation in Burundi discouraged us and made us lose all  
8 hope in Rwanda.

9 Q. What was your understanding of President Habyarimana's  
10 view of the Arusha Accords and multiparty democracy?

11 A. Like any dictator, a person who has ruled in a  
12 dictatorial manner, and he had been in power for  
13 20 years without sharing power; however, he did develop  
14 the country, but at the same time he had concentrated  
15 powers in his hands. So it can easily be understood  
16 that democracy, according to the Le Baule declaration  
17 that was made by the president of France, who had said  
18 that all countries in Europe or Africa which did not  
19 accept democracy would not receive assistance -- so  
20 President Habyarimana accepted to change the  
21 constitution and to agree to multipartyism, and we in  
22 Rwanda were pleased with that.

23  
24 So President Habyarimana agreed to have a multiparty  
25 political system, and that is how we came to establish  
26 other parties. But he appointed a prime minister from  
27 his party. The other parties did not agree to this.  
28 They organised demonstrations which were attended by  
29 many people in order to object to his decision and  
30 people said, "We are tired of having one political

1 party. Your power is not based on election so we think  
2 you should appoint a prime minister from opposition  
3 political parties". So when he read the situation, he  
4 accepted the will of the people and implemented their  
5 will. So under these circumstances I can say that  
6 Habyarimana did everything that he could do in order to  
7 defend democracy by accepting multipartyism. And when  
8 the Arusha Accords were signed -- of course, he had his  
9 own interests, but from time to time he would forget the  
10 accords, but in the end he had to accept the Arusha  
11 Accords.

12 Q. What was your understanding of what the RPF attitude was  
13 to multiparty democracy and the end of a regional and  
14 ethnic division in Rwanda?

15 A. The RPF came to the country with its own speech -- its  
16 own language, its own way of working, which was  
17 different from what was existed. Short-sighted Rwandans  
18 agreed with what RPF was saying. But I told you that I  
19 hail from Ruhengeri. RPF attacked Ruhengeri. It killed  
20 people, and wherever RPF would go they would kill  
21 people; men, women, children. Of course, people were  
22 talking about the wickedness of the RPF, but other  
23 people did not agree with what they were saying because  
24 they had not accepted similar fates. RPF was very sly,  
25 cunning. It infiltrated all parties in Rwanda at all  
26 levels and even the presidency had been infiltrated by  
27 the RPF, so everything that happened at the presidency  
28 was known by the RPF before it was made public and that  
29 created problems in Rwanda, and RPF's working ways were  
30 always different to their political leaning.

1           The RPF did not want democracy; they wanted to grab and  
2           hold power without sharing it, and this is the case that  
3           now they are in power.

4    Q.    Insofar as the implementation of Arusha Accords is  
5           concerned, what was attitude of the RPF insofar as you  
6           could see when it came to the formation of the  
7           transitional government?

8    A.    As the president had said prior to his death, he had  
9           told President Mubuto that, "People are attacking me.  
10          There is pressure on me. They are putting pressure on  
11          me. I am making many concessions; however, RPF is not  
12          make any concessions. Contrary to that the RPF is given  
13          more advantages than the advantages being given to  
14          Rwanda". In my opinion, I think that  
15          President Habyarimana did everything possible in order  
16          to satisfy the RPF so that the Arusha Accords would be  
17          signed because Rwandans were getting impatient, but the  
18          unfortunate thing is that when they saw that the accords  
19          were signed and they could not take power. We later  
20          learnt that the president had died.

21   Q.    Can you recall when the swearing-in of the transitional  
22          government was first scheduled for and whether or not it  
23          happened, and if it didn't happen, why it didn't happen?

24   A.    The swearing-in was to take place on the 5th of  
25          January 1994. That was going to be the first  
26          swearing-in for the president so that the transition  
27          began. All political parties were invited. RPF did not  
28          come, and this is understandable. There was a programme  
29          for the swearing-in ceremony of members of parliament.  
30          There were four attempts to go ahead with the ceremony,

1 but the RPF did not respond to the invitation. Instead,  
2 what happened was President Habyarimana's death,  
3 following all these failed attempts to call them and for  
4 them to respond to the invitation.

5 Q. It came to me in the English translation that the  
6 failure of the RPF to turn up for the swearing-in was  
7 understandable. Is that what you said? And if that's  
8 what you said, what do you mean by that?

9 A. Yes. I said that that was one of the reasons which made  
10 the implementation of Arusha Accords fail.

11 Q. Why is it that the RPF didn't turn up, in your view?

12 A. I told you what I saw. I was only an observer. I base  
13 my testimony on what I saw. I'm no longer a young man.  
14 And from what I saw, I think that RPF wanted to take  
15 power without sharing it with any other party, and this  
16 could be seen in all its actions since its attack, up to  
17 the president. And I think that what the RPF wanted was  
18 to have power without sharing it with any other party.

19 Q. Are you aware of any conspiracy by members of the MDR or  
20 the MRND to kill President Habyarimana?

21 A. Only investigation can reveal such complicity, but  
22 reports show that in order to understand the reasons  
23 which caused the deaths that occurred in Rwanda -- in  
24 the Rwandan tragedy -- we can never know the reasons of  
25 the Rwandan tragedy.

26 Q. Now, insofar as Rwanda today is concerned, what is the  
27 political situation there at the present time?

28 A. Nothing is going well in Rwanda. Only the president has  
29 the last word. Others have to follow, and if anyone  
30 does not want to follow the orders, he can be killed; he

1 can be imprisoned or go into exile, and this applies to  
2 all Rwandans, Hutu and Tutsi. Many Tutsi are fleeing  
3 from the country. There were even Tutsi holding high  
4 positions, but who had to flee; they have fled from the  
5 dictatorship in Rwanda. They are many, many Rwandans  
6 dying in Rwandan -- I mean, there are many, many  
7 Rwandans in Rwandan prisons and their number is not  
8 getting any less, so we cannot say there is democracy in  
9 Rwanda. Tutsi are complaining; Hutu are complaining,  
10 let alone the Twa. That is the current situation in  
11 Rwanda.

12 Q. Now, can I ask you this: if you had been offered a  
13 ministerial post in the interim, or the Abatabazi  
14 government as it is sometimes called, what would your  
15 reaction to such an offer have been?

16 A. In line with everything that I did in the country, I  
17 reached a level where I did not have to work in the  
18 government. But if I had been called upon by the  
19 government and if I had said no, then that would mean  
20 abandoning them. I would have accepted the offer in  
21 order to help them and do everything to make sure that  
22 peace is restored, so I would have done that in order to  
23 help the country, but not because I was -- I had -- I  
24 was power hungry. I would have accepted it only to help  
25 Rwandans and not to satisfy my power hunger.

26 Q. Now, are you able to tell the Tribunal whether or not  
27 there were any Tutsi appointed to the Abatabazi or  
28 rescue government?

29 A. Who's a Hutu; who's a Tutsi in Rwanda? That is  
30 something difficult to explain in Rwanda. And I did not

1           ask members of that government to ask them whether it  
2           was always the Hutu, but what I do know is that members  
3           of that government were Rwandans, and even if there were  
4           no Tutsi in the government, that would not be surprising  
5           because we had the hope that in the broad-based  
6           transitional government there would be many Tutsi. That  
7           was the hope held by the MDR which was saying that, "We  
8           are going to install a broad-based transitional  
9           government in which the RPF would have its place". That  
10          was a struggle by the MDR. "We are going to ask the RPF  
11          to stop the fighting so that there is a government which  
12          will comprise both Hutu and Tutsi".

13        Q.    You had mentioned earlier that you believed that the RPF  
14            had infiltrated political parties in Rwanda. Was this  
15            prior to 1994, or afterwards, or when do you think this  
16            was occurring?

17        A.    That happened prior, but Rwandans knew about it only  
18            much later, and it was people who left the RPF who told  
19            this to us. And when you make a posteriori analysis,  
20            one finds that this was true. President Habyarimana  
21            died, and we asked ourselves who killed Habyarimana. So  
22            we started asking ourselves questions, and after  
23            defection by certain members of the RPF they told us,  
24            "Look, you are wrong, but we were ones who were killing  
25            all those people in order to sow confusion amongst you,  
26            amongst your ranks".

27        Q.    Now, insofar as the party to which Mr. Niyitegeka  
28            belonged, the MDR, is concerned, what was your -- or  
29            what is your belief insofar as the RPF infiltration of  
30            that party is concerned?

1 A. That party was so much infiltrated that it is on the  
2 brink of ruin. RPF infiltrated the presidency, the MRND  
3 and all political parties. And what weakened the party  
4 was the RPF recruited the chairman of MDR, Faustin  
5 Twagiramungu, and some of the president's advisors told  
6 the president that MDR was a bad party and it had to be  
7 destroyed; if it was not destroyed, it would win. And  
8 the president accepted what they told him. In other  
9 political parties -- such as PSD and PL -- their  
10 leaders, the -- and the MRND, which was the president's  
11 party, agreed to destroy the MDR. Twagiramungu took the  
12 decision which was unilateral of becoming a prime  
13 minister without being nominated by his party.

14  
15 At that time President Habyarimana and the other parties  
16 accepted that, so when the MDR learnt this they  
17 dismissed Twagiramungu from the party. First, he was  
18 dismissed from the political bureau, and the issue was  
19 taken to the national congress, and three-quarters of  
20 the members agreed to his dismissal. This situation  
21 continued and we wrote a letter to the RPF telling them  
22 that Twagiramungu had been expelled from the party. So  
23 Twagiramungu and Habyarimana's government, whose prime  
24 minister was Madam Agathe, took all the power from MDR  
25 and took all the posts that had been allocated to the  
26 MDR and they -- and if you did not go and lobby with  
27 them, you would be kicked out. So they just took  
28 decisions which normally would not have been accepted.  
29 In sum, they created difficulties within the MDR.  
30 Q. Now, did this -- these difficulties that were created

1 within the MDR result in a division in the MDR into  
2 various factions, and if it did, would you tell us  
3 something about that, please?

4 A. There was a group of people, very few people, who  
5 followed Twagiramungu. Some journalists described them  
6 as a microscopic party which could not be seen by the  
7 naked eye. This tiny group continued working with  
8 chairman Twagiramungu and they forgot the majority of  
9 other members who remained in the party, and this hurt  
10 us because we could no longer work in the way we would  
11 have hoped to continue working.

12 Q. Now, how did Mr. Twagiramungu's approach fit with the  
13 MDR statute and its fundamental ideals?

14 A. What he had just done was a hundred per cent against the  
15 statute of the MDR. As a matter of fact, his objective  
16 was to destroy the MDR.

17 MR. KAVANAGH: I wonder if the witness could be shown Defence  
18 Exhibit 37, My Lords, just on this point, if Mr. Tumati  
19 has it. If not, I have a copy of it here, My Lord.  
20 Your Lordships will recall that it is the judgment in  
21 the court of first instance in a case taken by  
22 Mr. Twagiramungu against the MDR wherein he lost his  
23 action in attempting to re-establish himself within the  
24 MDR, My Lords.

25 BY MR. KAVANAGH:

26 Q. Mr. Witness, I would just like you to look at that  
27 document, please, and tell us whether or not you can  
28 recall a court case taken by Mr. Twagiramungu against  
29 MDR at this time and its outcome.

30 A. That was long time ago. It is difficult for me to

1 remember everything; however, since you have mentioned  
2 it and I have this document now, I do indeed remember  
3 that this case did take place, and lawyers who defended  
4 the MDR are still alive.

5 Q. Now, can you tell us what your understanding of the  
6 situation was that brought about that court case and  
7 what transpired after the court case finished?

8 A. I told you that case took place. I know this. I just  
9 remembered about it, but I do not remember all the  
10 details because it took place a long time ago and I did  
11 not pay attention to this issue. I have not had the  
12 time to read this document. I cannot read it now  
13 because it will delay the proceedings. What I do know  
14 is that case did take place, but I do not have all the  
15 details.

16 Q. Very good. I can move on. I just want you to have a  
17 look at another document.

18 MR. KAVANAGH: And, My Lords, this is listed on 32 -- No. 32  
19 in the Defence exhibit list. It's an MDL statute  
20 document, My Lords, dated February 1992, and my friends  
21 have a copy of it already. With your leave, My Lords, I  
22 would ask Mr. Tumati to show a copy of this to the  
23 witness. Mr. Tumati doesn't have it already. It's  
24 going to go in, subject to Your Lordships' direction,  
25 after it has been identified, My Lords. Mr. Tumati,  
26 it's not yet an exhibit.

27 BY MR. KAVANAGH:

28 Q. Mr. Witness, you have been handed a document. I wonder  
29 if you can identify the document, please, just by  
30 telling us what you believe it to be.

1 A. As is written on the document, it is a document that  
2 belongs to the MDR. It is the draft constitution of the  
3 MDR, and even if it is only a first draft, the articles  
4 are indeed contained in the constitution itself and  
5 these list the objectives of the MDR.

6 Q. Now, I think on the second page of the document and it  
7 has been signed by the comité directeur du MDR and  
8 amongst those signatories is Mr. Niyitegeka and also  
9 Mr. Twagiramungu; isn't that correct?

10 A. That is correct.

11 Q. Now, I wonder can you assist the Court by pointing to  
12 the sections in it that refer specifically to the ideals  
13 that you referred to.

14 A. I've not found the section yet, but that should normally  
15 come under the title of "Objectives", on page 15,  
16 article 3. These are the objectives on which MDR based  
17 its activities. Those are the guiding principles of  
18 MDR, articles 3 and 4.

19 Q. I'm grateful there. Mr. Witness, can you just, as  
20 quickly as you can, summarise what is contained in  
21 article 3 and article 4, as you understand those  
22 objectives to be, fundamental objectives of the MDR  
23 party?

24 A. Under article 3, you can see that MDR supports democracy  
25 and the republic. In article 4, sub (a), mention is  
26 made of peaceful coexistence of ethnic groups in Rwanda.  
27 That, indeed, is the first point, the fact that  
28 ethnicism is condemned. That is one of the basic  
29 principles -- or fundamental principles of MDR. Sub (b)  
30 talks about right -- and people's rights and freedoms.

1 It is written that the human being -- or human person is  
2 innocent, and so on. Under (d) mention is made of the  
3 fact that the MDR wanted its members to be models in the  
4 society; people who do not commit crimes, people of good  
5 moral conduct. I think that the rest is understandable.

6 Q. Yes. I wonder would you just move now to article 6  
7 under "Membership" in part III of the document on  
8 page 16, and just explain to us the terms of membership  
9 of the MDR party.

10 A. What article? I did not understand the article you  
11 referred to. You talked about a section. Did you talk  
12 about article 4?

13 Q. My apologies. Articles 5 and 6, under the title, 3, on  
14 membership, on page 16 of the document; 5 and 6.

15 A. Are you referring to where letter "C" is written?

16 Q. Page 16; article 5 and article 6, both articles.

17 A. Article 15 states that MDR comprises two parts: on the  
18 one hand members who applied for membership and were  
19 accepted; and on the other hand, honorary members,  
20 people who did something beneficial to MDR and who, as a  
21 result, became honorary members of the party.

22

23 You can see, therefore, that to be a member of the party  
24 and be recognised as a member of the party you have to  
25 be of Rwandan nationality. That is point one.

26 Secondly, you have to recognise the MDR constitution in  
27 particular, article 4 -- article 3, which we have just  
28 mentioned, as well as the other points contained under  
29 those articles. If you are not a founding member of the  
30 party, you should write a letter applying for

1 membership. Under that article it is mentioned that  
2 members must comply with the provision of the  
3 constitution.

4 Q. Now, in article 6 -- this is on page 16 -- to what types  
5 of people is membership open?

6 A. Membership depends on your place of residence. You send  
7 in your application to the leaders at cellule level. It  
8 is taken to the secteur level and to the level of the  
9 préfecture. But, under normal circumstances, to become  
10 a member of a party you have to start at the grass roots  
11 level; that is, your cellule of residence.

12 Q. Would you read for us, please, article 6 on page 16,  
13 Mr. Witness?

14 A. Do you want me to read the entire article? "Membership  
15 of the party is open to all persons with no distinction  
16 as to ethnic group, race or religion. The conditions  
17 are as follows: you have to be of Rwandan nationality,  
18 accept to be governed by the provisions of the  
19 constitution, and to send in an application at the  
20 bureau of the secteur of the party".

21 Q. Now, is there a section in the statute which would  
22 obligate a senior party official to get party approval  
23 prior to putting himself forward for a government  
24 position?

25 A. It's a question of all important decisions -- important  
26 decisions, decisions which commit the party and which  
27 commit the officials of the party. I would say, in  
28 French, anything that commits the party. There are  
29 provisions in the constitution relating to that. I  
30 believe that starts with the steering committee. You

1 would find that under the duties of -- or  
2 responsibilities of the political bureau. That is where  
3 you will find the articles where that is mentioned --

4 Q. Could I ask you please to look at on page 20 --

5 A. -- the duties or responsibilities of the political  
6 bureau.

7 Q. May I ask you, please, to look at page 29 and  
8 article 61, and if you could just explain to us, please,  
9 what is contained in that article; that's article 61 on  
10 page 29?

11 A. "Without prejudice to the laws and regulations in  
12 Rwanda, the president or chairman, after consulting the  
13 political bureau, can take only measures deemed to be  
14 necessary for the defence of the party's interests.  
15 This should be submitted for approval by the party  
16 assembly". You can see, therefore, that in case of  
17 emergency, as that article states, the political bureau  
18 meets and empowers the chairman of the party, as is  
19 mentioned in the article. So, in order to propose  
20 candidates for the post of minister or president, that  
21 could be done, but that would be done at the level of  
22 the political bureau which seeks the approval of the  
23 national congress.

24 Q. Now, was this the article which Twagiramungu had  
25 offended and which resulted in the national assembly of  
26 the political bureau expelling him?

27 A. That is one of the articles that he violated. He  
28 violated many of those articles. In fact, since I left  
29 Rwanda I did not read those articles. And I believe  
30 there are other provisions which were also violated,

1           particularly articles dealing with the duties of the  
2           political bureau, but the article that you just referred  
3           to is indeed one of the articles that he violated.

4   MR. KAVANAGH: My Lords, I'd ask that that be entered as a  
5           Defence exhibit, My Lord. I think the next number on  
6           our listing system is 43.

7   MADAM PRESIDENT: D43.

8           (Exhibit No. D43 admitted)

9   MR. KAVANAGH: I am obliged, My Lord.

10

11           It may be appropriate to have a short break. I don't  
12           have an awful lot more, My Lords. Another half an hour  
13           would certainly see it finished.

14   MADAM PRESIDENT: We will take the short break now then,

15           Mr. Kavanagh.

16   MR. KAVANAGH: I am obliged to Your Lordships.

17   MS. BEN SALIMO: Madam President, the exhibit number for the  
18           Defence is 42, not 43.

19   MR. KAVANAGH: I'll just take moment.

20   MADAM PRESIDENT: D42 was the statement --

21   MR. KAVANAGH: Yes, My Lord.

22   MADAM PRESIDENT: -- of Witness TEN.10, Mrs. Ben Salimo --

23   MR. KAVANAGH: It went in in the course of the proceedings

24           yesterday, TEN.10, under seal, My Lord.

25   MADAM PRESIDENT: -- which I have; D42.

26

27           The Court are will take a short break of 15 minutes,

28           Mr. Sebatware.

29           (Court recessed from 1120H to 1148H)

30   MADAM PRESIDENT: Mr. Kavanagh.

1 MR. KAVANAGH: I'm grateful to Your Lordships.

2 BY MR. KAVANAGH:

3 Q. Now, Mr. Witness -- or Sebataware, just before we broke,  
4 you were telling us a little bit more about the MDR and  
5 it's factionalisation, if I can put it that way. What  
6 consequence was there for the MDR for the fact that  
7 Mr. Twagiramungu was behaving and operating in breach of  
8 the constitution of the MDR?

9 A. MDR had consequences. There were consequences on MDR.  
10 MDR was destabilised. MDR could not accomplish its  
11 objectives. MDR was supposed to participate in the  
12 government and contribute to the government through its  
13 constructive ideas; however, MDR lost, in particular,  
14 three ministerial posts. So, MDR did not participate in  
15 the peaceful construction of the country. When MDR  
16 wanted to organise meetings, such meetings were not  
17 authorised. And I would say that MDR was handicapped in  
18 its activities and it was not able to properly conduct  
19 its political activities.

20 Q. What advantage to its opponents did the fact that the  
21 MDR was handicapped in such a way have?

22 A. I told you that some people are short-sighted. For  
23 example, President Habyarimana knew that if he destroyed  
24 MDR, he would be the only captain on board because he  
25 knew that Twagiramungu would follow him. On the other  
26 hand, Twagiramungu was waiting to be a candidate for the  
27 post of prime minister in the broad-based government  
28 so -- but he did disassociate himself from Habyarimana  
29 and disassociated himself with the RPF.

30

1           Let me give you another example. When Dismas was prime  
2           minister and Ngulinzira was the minister of foreign  
3           affairs candidate, both from MDR, both refused the  
4           camping of RPF units in Kigali town. They said that  
5           they should be based, instead, in Kinihira until such  
6           time as when the army was merged, but -- because for  
7           them it was not advisable to have an enemy -- enemy  
8           units confined in town. This would be tantamount to  
9           having something that would -- could be described as the  
10          Trojan horse. And so they had suggested -- the two  
11          people from the MDR had suggested that RPF should be  
12          based in Kinihira. This explains why Habyarimana and,  
13          indeed, the whole country failed.

14  
15          On his part, Twagiramungu was getting power and later  
16          became the president of the whole country, supported by  
17          the RPF. He wanted to be supported by people who were  
18          looking for ministerial and other posts. But Ngulinzira  
19          and two other ministers -- here, I mean three ministers  
20          -- who were in the government refused to follow  
21          Twagiramungu. But other people who were looking for  
22          posts followed Twagiramungu. But the honest supporters  
23          of MDR refused to follow him. Twagiramungu realised  
24          that he had made a mistake, but he persisted on his  
25          path. Whether it was not the case of the MDR or other  
26          political parties, they continued carrying out  
27          manoeuvres with the RPF and this brought the country  
28          down to its knees. You know that he was appointed prime  
29          minister, but he did not remain in his post for a long  
30          time. He fled the country and that was to the benefit

1 of the RPF, but I really doubt whether RPF benefited  
2 from that because, on the whole, the country lost a lot.  
3 In the light of the current situation I think one cannot  
4 talk about any party winning, unless one is  
5 short-sighted.

6 (Pages 28 to 46 by Verna Butler)

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1 1200H

2 BY MR. KAVANAGH: (Continuing)

3 Q. Before I move on to the next point, you mentioned a  
4 number of names in there, Mr. Sebatware, and for the  
5 purpose of the record, we have to properly identify  
6 them. I think you were talking about ministerial names  
7 and you mentioned a man called Dismas. Would you please  
8 give us those names again in the context in which you  
9 mentioned them so that we can link it on the transcript,  
10 and spell out the surnames for us.

11 A. Nsengiyaremye was the prime minister of the broad-based  
12 government. He was an MDR candidate. His name is  
13 spelled N-S-E-N-G-I-Y-A-R-E-M-Y-E, Dismas Nsengiyaremye.

14 Q. You also mentioned one other name in the same context.  
15 I wonder, could you recall what that --

16 A. The other name was Boniface Ngulinzira, which Ngulinzira  
17 is spelled N-G-U-L-I-N-Z-I-R-A. Ngulinzira, Boniface  
18 Ngulinzira.

19 Q. Did the non-implementation of the Accords provide any  
20 advantage to the RPF?

21 A. The RPF thought that it would benefit from that, and  
22 indeed they did benefit from that because it wanted to  
23 have power without sharing it, and they had power  
24 without sharing it. But I don't know where that is  
25 going to lead them to, and I don't know -- and I'm  
26 wondering where all this is going to lead Rwanda to.  
27 That is the question.

28 Q. Now, as somebody who is a former minister for justice  
29 and in the interior in Rwandan politics, what do you  
30 believe -- or why do you believe that the prime

1 minister, Agathe Uwilingiyimana, and Joseph Kavaruganda  
2 were killed?

3 A. As a matter of fact, there were people who were dying,  
4 there were people who were being killed because of their  
5 political leanings or because they were fighters. They  
6 were adversaries, as in the military terms one talks  
7 about enemy. In Kinyarwanda, we refer to them as  
8 umwanzi, and that means the enemy. So there were people  
9 who were killed when it was suspected that they were the  
10 enemies.

11  
12 For example, Agathe was considered to be an enemy or a  
13 Inkotanyi because she collaborated with the Inkotanyi  
14 and did not respect President Habyarimana. She wrote a  
15 lot, and people also, in turn, wrote about her. And she  
16 was considered by activists as being an umwanzi, that  
17 is, an enemy. Kavaruganda, too, was considered as being  
18 someone who collaborated with the RPF.

19 MADAM PRESIDENT: Stop. Spell that Kinyarwanda word you used,  
20 Mr. Sebatware.

21 THE WITNESS: U-M-W-A-N-Z-I, umwanzi.

22  
23 Kavaruganda, too, was considered as being someone who  
24 did not get on, along well, with the president and who  
25 collaborated with Agathe and Twagiramungu in their plan  
26 to assist the RPF and to have someone else being sworn  
27 in as the president of the republic, in other words,  
28 overthrow the president of the republic. So in this  
29 way, these people were considered to be the enemies of  
30 the country.

1 BY MR. KAVANAGH:

2 Q. Now, who was the Minister for Information at that time,  
3 that's just in the --

4 A. The Minister of Information was Pascal Ndengejeho.  
5 Ndengejeho is spelled N-D-E-N-G-E-H-O, Ndengejeho.

6 THE INTERPRETER: The translator would like to say one  
7 syllable is missing, so he'll spell it again:

8 N-D-E-N-G-E-J-E-H-O.

9 THE WITNESS: So he associated himself with Dismas and  
10 Ngulinzira; they formed a trio. Subsequently, they  
11 resigned, and Agathe and Twagiramungu were appointed as  
12 ministers.

13 BY MR. KAVANAGH:

14 Q. Now, after Ndengejeho was Minister for Information, who  
15 took up that position and when?

16 A. He was replaced by a certain Rucogoza. Rucogoza is  
17 spelled R-U-C-O-G-O-Z-A. I'll repeat that,  
18 R-U-C-O-G-O-Z-A. However, I do not remember his first  
19 name.

20 Q. Can you assist the Tribunal at all by telling it what  
21 you know came of Mr. Rucogoza?

22 A. The last time that I saw Rucogoza was before the 6th of  
23 April, 1994. After that, I did not see him again, but  
24 the newspapers said that he was murdered, and the report  
25 of his death was also aired on radio.

26 Q. Now, what was the consequence for the Rwandan population  
27 of the death of their president and the killing of their  
28 prime minister, the Minister for Information, and the  
29 president of the court that you -- Mr. Kavaruganda?  
30 What consequence did that have, or result?

1 A. The Rwandans whom I met and who I meet currently were  
2 saddened by all those killings, and they say that  
3 whenever people confront each other, problems are not  
4 solved. On the contrary, things get worse. The deaths  
5 of Kavaruganda, Agathe, and the president saddened  
6 Rwandans, including myself.

7 Q. And what impact, if any, did those deaths have on the  
8 politicians who were attempting to form government?

9 A. With regard to politics, the country plunged into chaos.  
10 I did not know the Kinyarwanda word for this. The  
11 country was in mourning, and there was disorder. The  
12 country no longer had a government, so to speak. There  
13 was a pall, a vacuum in the country. There was what we  
14 would call an institutional vacuum, institutional  
15 vacuum, and the result of this is what we all know, and  
16 that was the tragedy which befell Rwanda.

17 Q. Now, during the period beginning on the 6th of April,  
18 1994, up until the end of the war with the RPF in July  
19 1994, did you have occasion to listen to any government  
20 communiques that had been issued?

21 A. I was able to listen to some announcements, but I did  
22 not listen to all the announcements because all that  
23 happened a long time ago and I do not remember  
24 everything. There were communiques which were released,  
25 for instance, every two days and which were disseminated  
26 by the government within the context of what was known  
27 as pacification messages.

28 Q. Would you tell the Tribunal, please, about these  
29 pacification messages and what you heard and what you  
30 understood them to be attempting to achieve?

1 A. The messages were disseminated after the establishment  
2 of the Kambanda government, and they were disseminated  
3 in line with the programme of the government. The  
4 government's duty was to put an end to the war and to  
5 restore peace. So, they had to stop the killings, and  
6 also to see to it that the people survive, and thirdly,  
7 to have an understanding with RPF and other parties in  
8 order to establish a government pursuant to the Arusha  
9 Accords. As a matter of fact, the government aimed at  
10 setting up a government which would be formed pursuant  
11 to the Arusha Accords.

12  
13 The Minister of Information was led by someone from MDR,  
14 that is, Eliézer Niyitegeka. Generally speaking, it  
15 could be seen that he was aiming at achieving the  
16 objectives of his party as well as those of the  
17 government, but there was a particular characteristic:  
18 He wanted to put forward his political vision. I  
19 remember there was a speech he delivered in Butare. I  
20 do not remember the date, but at the end of the meeting  
21 there was a release, a press release, which spoke about  
22 a bishop of Butare. I think the name of the person was  
23 Bishop Gihamani (phonetic). Eliézer spoke on behalf of  
24 MDR, but he also spoke as if he were a religious pastor.  
25 This press release exists. It emanates the meeting that  
26 was held in Butare, and I was happy to hear that press  
27 release because it allowed me to make an assessment of  
28 Niyitegeka once again.

29 MR. KAVANAGH: I wonder, with the leave of the Court, might I  
30 utilise Mr. Tumati again, My Lords, just to show the

1 witness a transcript of a tape of that Butare speech, if  
2 I can describe it that way.

3  
4 My Lords, we do have, as I understand it, a cassette  
5 tape, which was provided to us by the Prosecution, of  
6 this particular speech. There seems to be a copy in  
7 Kinyarwanda and French, but no English version, and  
8 there has been a transcript provided - again, it's a K  
9 number, My Lord - by the Prosecution of that particular  
10 tape, My Lord.

11 MADAM PRESIDENT: Have you made copies of the transcript?

12 MR. KAVANAGH: We have, My Lords.

13 MADAM PRESIDENT: All right.

14

15 In the meantime, I have a question, Mr. Sebataware.  
16 These communiques you say the government issued as part  
17 of the pacification messages, how were these communiques  
18 disseminated?

19 THE WITNESS: Where I was, Madam President, I was hiding;  
20 however, I had a small radio set, and therefore I was  
21 able to follow information. For example, I heard that  
22 message. It said that Eliézer Niyitegeka had held a  
23 pacification meeting in Butare. This was broadcast on  
24 the radio, and I heard it.

25

26 Now, with regard to the dissemination of such  
27 information to the population, I will tell you that that  
28 was not an easy thing to do, apart from the fact that  
29 announcements were made. Talking of Butare, he went  
30 there, but there were --

1 MADAM PRESIDENT: No, no, no. Just answer my question.

2 THE WITNESS: -- other areas of the country where members of  
3 the government could not go to.

4 MADAM PRESIDENT: Just answer my question. The communiques  
5 from the government, how were they distributed? Were  
6 they published in the Hansard or were they announced  
7 over the radio? If so, which radio?

8 THE WITNESS: Madam President, I respect you and I'll answer  
9 your question according to what I know. I will not make  
10 up anything.

11

12 I was at the place where I could -- I could not go out,  
13 could not go out, so I can't know whether those  
14 communiques were disseminated in other ways to the  
15 members of the population, because I don't want to lie.  
16 I've sworn to tell the truth.

17

18 What I heard, I heard on the radio because I had a radio  
19 set. But with regard to whether -- how such information  
20 was disseminated, members of the population, I don't  
21 know because I had no way of knowing it. I think this  
22 is all I can say in response to your question, Madam  
23 President.

24 JUDGE MØSE: Which radio channel did you listen to when you  
25 heard these communiques? That was the second part of  
26 the question.

27 THE WITNESS: Radio Rwanda.

28 MADAM PRESIDENT: Go ahead, Mr. Kavanagh.

29 MR. KAVANAGH: I'm grateful, My Lords.

30

1 Mr. Tumati, I also have a French translation of that  
2 tape.

3  
4 For its identification purposes, My Lord, this is a  
5 transcription of broadcasts made on Radio Rwanda on the  
6 30th of April, 1994, of a speech purportedly made on  
7 the --

8 MADAM PRESIDENT: Well, it must be on the 30th of April, as  
9 well.

10 MR. KAVANAGH: Well, it may not have been simultaneous. I was  
11 just checking that, My Lord. It's AV 945, and there's a  
12 French version available for the assistance of Judge Vaz  
13 and anybody else who needs the French, My Lords.

14 MADAM PRESIDENT: We'd like both transcripts.

15 MR. KAVANAGH: Yes, they're available, six or seven copies of  
16 each.

17 MADAM PRESIDENT: Do have you a Kinyarwanda?

18 MR. KAVANAGH: There isn't a Kinyarwanda of this particular  
19 one, My Lord. Apparently, the speech was made in --

20 MADAM PRESIDENT: What, in French?

21 MR. KAVANAGH: In French. And I also have a tape, cassette  
22 tape, My Lord, of both the English and the French. For  
23 the sake of completion, I should perhaps exhibit those  
24 as well, My Lords, and put them onto the court record.  
25 So again, with Mr. Tumati's assistance, I'll just place  
26 those in the registry, subject to Your Lordships --

27 MADAM PRESIDENT: Yes.

28 BY MR. KAVANAGH:

29 Q. Now, insofar as the broadcast is concerned,  
30 Mr. Sebatware, can you recall the general nature of the

1 speech and what Mr. Niyitegeka's views were as expressed  
2 at the time?

3 A. What I understood in the speech was that people should  
4 not commit murders, and that those killings could not  
5 solve Rwandans' problems, and that people should not be  
6 victims because of their ethnic origins or their region  
7 of origin, because of their fortune or their religion,  
8 but that people should work together instead of killing  
9 each other. People should work together to restore  
10 peace. I think he mentioned the fact that those acts  
11 were against the law.

12 Q. Now, I don't have a Kinyarwanda version of the  
13 transcript of the tape, but there is a French one  
14 available, Mr. Witness, and I'd like you to look at it  
15 for me, please.

16 MADAM PRESIDENT: No, it's not a question of whether there's a  
17 Kinyarwanda. Can you clear up for the Court, having  
18 listened to the tape --

19 MR. KAVANAGH: Yes.

20 MADAM PRESIDENT: -- whether the transmission was, in fact, in  
21 French? We're concerned now with broadcasts of the  
22 Accused, so maybe he could tell you in what language he  
23 spoke, then we needn't consider the Kinyarwanda aspect  
24 at all.

25 MR. KAVANAGH: Yes.

26 THE WITNESS: When I heard the speech, it was made in  
27 Kinyarwanda. Rwandans do not all speak French. But  
28 what I'm saying is that when I listened to the speech on  
29 the radio, it was made in Kinyarwanda.

30 BY MR. KAVANAGH: Now, I wonder, could the witness be shown,

- 1 My Lords, the French copy of the transcript of the  
2 transmission?
- 3 MADAM PRESIDENT: Yes, yes.
- 4 MR. KAVANAGH: I'm obliged.
- 5 BY MR. KAVANAGH:
- 6 Q. And Mr. Witness, could you go to page 8, please, of the  
7 French transcript.
- 8 MR. KAVANAGH: And My Lords, I have to apologise because I  
9 haven't been able to marry the two together, the English  
10 and the French, so that I may have difficultly in  
11 directing Your Lordships to exactly where I'm reading.
- 12 MADAM PRESIDENT: Well, we might find it ourselves.
- 13 MR. KAVANAGH: I'm sorry to have to put Your Lordships to the  
14 trouble of that. It's K0238712 in the French version,  
15 My Lords, and I think that may be --
- 16 MADAM PRESIDENT: The English is page 5, the second paragraph.
- 17 MR. KAVANAGH: I'm grateful to Your Lordship.
- 18 BY MR. KAVANAGH:
- 19 Q. Now, Mr. Witness, as you speak and read French, and I  
20 appreciate that it's not your first language, would you  
21 read the paragraphs on page 8 in the French version,  
22 K0238712, and ask -- and tell the Tribunal whether or  
23 not you recall Mr. Niyitegeka expressing himself in that  
24 way over the radio?
- 25 A. "That is my colleague, the Minister of Agriculture and  
26 stock breeding, who has just arrived, but we are  
27 carrying the same message. Your Excellencies, ladies  
28 and gentlemen, all of you present here, we have to work  
29 together to ensure that this commandment is respected  
30 which forbids us from stealing and from killing. Will

1 the judicial authorities and the Prosecutor stop the  
2 bishop? Would anybody authorise us in this message --"

3 MADAM PRESIDENT: Let me just interrupt.

4

5 Mr. Kavanagh, did you, as usual, furnish the booth with  
6 copies?

7 MR. KAVANAGH: I'm sorry, My Lords, I should have directed

8 Mr. Tumati to bring them as far as the booth and --

9 MADAM PRESIDENT: That has to be done.

10 MR. KAVANAGH: There are extra copies.

11 MADAM PRESIDENT: We'll do it now, English and French.

12 MR. KAVANAGH: Sorry, My Lord. I should have directed him.

13 I'm obliged, Mr. Tumati.

14 MADAM PRESIDENT: I'm sorry, Mr. Sebatware, if you go back and

15 begin the sentence where you were.

16 THE INTERPRETER: "Do you want me to start all over again,"

17 asks the witness.

18 THE WITNESS: "This is my colleague, the Minister of

19 Agriculture and stock breeding, who has just arrived.

20 We are bearing the same message. Your Lordship,

21 bourgmestres, ladies and gentlemen, you are here

22 present. We have to work together to ensure the

23 observance of this commandment. Who will forbid us from

24 stealing or killing? Will the judicial authorities or

25 the Prosecutor forbid us? The bishop, the pastor, and

26 the administrative authorities, will they forbid us?

27 Does anyone authorise us to do so? The government is

28 asking us to safeguard peace in our homes and throughout

29 the country. If nobody has the intention of killing a

30 neighbour or to destroy anybody else's property, peace

1           and security will reign. If we avoid committing these  
2           two offences, what would disturb our peace and  
3           security?"

4 BY MR. KAVANAGH:

5 Q. I'd ask you to stop there, Mr. Sebatware, and just go  
6       back up to the top of the page, K0238713 in the French,  
7       and midway through the first sentence or the first line,  
8       it's dans son message, just repeat that sentence for me,  
9       please, because it didn't make its way to the English.  
10      This is on the page -- top of page 9.

11 A. I found the passage. "In its message, the government is  
12      asking us to safeguard peace in our homes and throughout  
13      the country."

14 Q. Thank you very much. I now want you to -- you started  
15      the second paragraph of page 8. Would you go up to the  
16      top of page 8, please, where it says je me réjouis de  
17      fait, and just read that section for us, please, that  
18      paragraph.

19 A. "I am happy with the fact that normally to address a  
20      message to the inhabitants of Butare is like to preach  
21      to somebody who has already been converted, repeating  
22      something to somebody who already knows it. At the time  
23      I'm speaking, you can imagine the good luck of Butare,  
24      which has the luck of counting among its members the  
25      president of the republic and the prime minister of  
26      government I'm talking about. And were there to be no  
27      security in the native region of the president of the  
28      republic and the prime minister in your native region,  
29      would it be said that you wanted to preserve your good  
30      fortune or not? Besides the native region of the

1 president and the prime minister, the other regions also  
2 have people who are aware that peace should reign in  
3 their region.

4  
5 Most of those attending this meeting are Christians, and  
6 the same is true for almost all Rwandans. If we really  
7 believe in God, does one of God's commandments not read  
8 'Thou shalt not kill', Monsignor? (Laughter.) Are  
9 those not the words? Are the words of that commandment  
10 not, 'Thou shall not kill'? And if we are Christians  
11 and we agree with the bishop, the pastor, and the priest  
12 when they tell us not to steal or kill, is there  
13 anything we can do but obey this commandment? We have  
14 to obey it while safeguarding our security."

15 Q. Thank you. Now, would you now move, please, to page 10  
16 of the French, My Lords, and there's a sentence  
17 one-third of the way down, Mr. Sebataware, commencing le  
18 gouvernement est là pour vous et, and if you could read  
19 to the end of the page, please, and complete the  
20 sentence over to the next page.

21 A. "The government is there for you, and you promised us  
22 your support. We are asking you to safeguard peace and  
23 security for all those living in Rwanda, for all the  
24 people under your authority. The harm has been done.  
25 Some people died and others lost their relatives. But  
26 for how long will those of us who survived continue to  
27 tear one another to pieces? We are sincerely asking you  
28 to make peace. We are asking you to safeguard peace and  
29 security.

30

1 "The préfet told me some good news a while ago. Banks  
2 are open again, and people can now withdraw money to  
3 cater for their various needs. That is a good thing.  
4 Now, why do you not want your neighbour to go and buy  
5 provisions like you? People should go to the market.  
6 Let the markets be busy.

7  
8 "We now know the enemy, and we know where the  
9 battlefield is. We know that the enemy is present here  
10 in the country. We know that there are accomplices  
11 living here in Butare; however, do not assume that your  
12 neighbour is an accomplice. He could look like an  
13 accomplice but not be one, and if you happened to  
14 eliminate him, would it not be unjust? It is said that  
15 God forgives, but I wonder whether you will forgive even  
16 somebody who decided to kill a human being or commit  
17 atrocities against another person without asking himself  
18 if the person were not innocent.

19  
20 "If you see an accomplice or someone who resembles an  
21 accomplice or if you suspect that someone is an  
22 accomplice, tell the authorities. They will determine  
23 whether he is an accomplice by asking him if he is one  
24 or not. This will be done without getting anybody to  
25 suffer an injustice. Due account should be taken of all  
26 the characteristics of the enemy since they are known.  
27 We have already discovered them. If you discover that  
28 somebody is innocent, why attack that person? Is it  
29 simply because the person is Tutsi, Hutu, or Twa?  
30

1 "Distinguished ladies and gentleman, please help us to  
2 ensure that nobody is targeted on the grounds of his  
3 ethnic or regional origin, his wealth or his poverty; in  
4 short, that nobody should be attacked unjustly.  
5 Innocent people should not be attacked. However, I  
6 repeat, the enemies' agents are everywhere.  
7 Collaborators of the enemy exist. So do not be  
8 distracted, for although we say we want peace, there  
9 should be no respite for an enemy that you have already  
10 identified. But then, be careful not to be mistaken  
11 about the enemy. The enemies' collaborators are easy to  
12 identify since we have already discovered their  
13 characteristics. Be prudent and do all in your power to  
14 ensure that everybody can live in peace again, that  
15 peace and security are restored in the country."

16 Q. Thank you, Mr. Witness.

17  
18 I want you, then, to move forward, because the Court  
19 will have an opportunity to read the entire of the  
20 transcript in its own time, but for our purposes, just  
21 move forward, please, to page 12 of the French  
22 transcript, and just starting the second last sentence,  
23 ne vous attaquez pas.

24 A. "Do not attack somebody because of the ethnic origin,  
25 because the person is handsome or beautiful or ugly,  
26 because of the person's height, because of the person's  
27 riches or poverty. Everybody has -- every person has a  
28 right to life, except the enemy, for the simple reason  
29 that he is the enemy. In short, as I told you at the  
30 beginning of my speech, I was only repeating what you

1           have already been told."

2    Q.    Okay, Mr. Witness. I want now to move forward to the  
3           end of the speech at page 14 in the French, and it says,  
4           four lines from the end, voilà donc le message. If you  
5           could just read that for us, please.

6    A.    "This, therefore, is the message. I am begging you to  
7           lend us a hand. If this spilt blood were to fertilize  
8           our soil, then the soil would be fertile, but instead of  
9           fertilizing the soil, I think it will, rather, make the  
10          soil barren. Please help us to restore peace in this  
11          country and security in your home."

12   Q.    Thank you, Mr. Witness.

13   MR. KAVANAGH: My Lords, with Your Lordships' leave, I want to  
14          put in the entire of that transcript, My Lord, in both  
15          the English and the French, and those tapes. And  
16          subject to correction, My Lord, I think we're now at  
17          D44. So I don't know how Your Lordship intended --

18   MADAM PRESIDENT: D44 will be the tape, D44A will be the tape  
19          -- there are two tapes?

20   MR. KAVANAGH: There are two tapes, yes, My Lord.

21   MADAM PRESIDENT: Can't we identify the two?

22   MR. KAVANAGH: They may have to be marked separately, My Lord.  
23          If Mr. Tumati could assist, I'd be grateful. The two  
24          cassettes, if he brings them to me, I might be able to  
25          help Your Lordships.

26   MADAM PRESIDENT: Oh, side A and side B.

27   MR. KAVANAGH: There is that. I think the two tapes,  
28          actually, one represents the French, and I incorrectly  
29          told Your Lordships the other one was English earlier.  
30          One is the French and the other is the Kinyarwanda, and

- 1           they -- without putting them into a machine, I'm not  
2           going to be able to tell which one is French and which  
3           one is Kinyarwanda, I'm sorry, My Lords.
- 4   MADAM PRESIDENT: All right. So D44A1 and A2, will be the two  
5           tapes.
- 6   MR. KAVANAGH: Very good, My Lords.
- 7   MADAM PRESIDENT: B would be the French transcript, and C the  
8           English transcript.
- 9   MR. KAVANAGH: May it please Your Lordships.
- 10           (Exhibit No. D44A1, A2, B, and C admitted)
- 11   MR. KAVANAGH: Now, I'm just going to digress a moment, My  
12           Lords, and come back to perhaps another transcript.
- 13
- 14           Mr. Tumati, I wonder, would you again oblige? I'm sorry  
15           to have you running up and down so often.
- 16
- 17           I have copies, My Lord, of the next exhibit. It's  
18           listed number 17 in the Defence exhibit list furnished  
19           to the Prosecution and Your Lordships earlier. It's  
20           comprised of two parts, My Lord, an A and a B, and it's  
21           in Kinyarwanda. It's a photocopy of a magazine, My  
22           Lords, and there are extracts of it translated into  
23           French, My Lord.
- 24   BY MR. KAVANAGH:
- 25   Q.   Mr. Witness, I think Mr. Tumati has been kind enough to  
26           place before you, with permission of the Court, a  
27           magazine Urumuli Rwa Demokrasi. Have you got a copy of  
28           that before you? A rather poor photocopy, I must  
29           apologise.
- 30   A.   Yes.

- 1 Q. And first of all, you would tell us, then, what this --
- 2 MADAM PRESIDENT: Well, let's just check if the booth has
- 3 copies. How many copies have you made available for the
- 4 booth?
- 5 MR. KAVANAGH: There should be a total of seven gone to
- 6 Mr. Tumati, My Lord. I have an extra copy here if
- 7 somebody wants it. I can use the original magazine, but
- 8 it's in a somewhat delicate condition.
- 9
- 10 Mr. Tumati, I have an additional copy if it's of any
- 11 assistance.
- 12 JUDGE MØSE: Mr. Kavanagh, side B, is that a separate meeting
- 13 in Gikongoro, whereas side A of this 44 is in Butare?
- 14 Are they two different meetings or is this the same
- 15 event?
- 16 MR. KAVANAGH: I'll just have to check that for Your
- 17 Lordships. I'm just checking that, My Lords, and I'll
- 18 be able to tell Your Lordships in a moment what the
- 19 situation is.
- 20 BY MR. KAVANAGH:
- 21 Q. Mr. Witness, I was asking you then whether or not you
- 22 had before you a copy of that magazine, Urumuli,
- 23 U-R-U-M-U-L-I, Rwa, R-W-A, Demokrasi, D-E-M-O-K-R-A-S-I?
- 24 A. Yes, I have a copy.
- 25 MR. KAVANAGH: Now, the numbers on the pages aren't clear, it
- 26 would appear. And I have to apologise to the booth and
- 27 everybody else who's attempting to use this document, My
- 28 Lords, for its quality, but it's a photocopy of a rather
- 29 ragged magazine which was the only edition of that
- 30 magazine we've been able to acquire, My Lords.

1

2 BY MR. KAVANAGH:

3 Q. Would you, just counting the pages from the front,  
4 Mr. Witness, go to page -- the fifth page, please, and  
5 there's photographs on that page, and I would just ask  
6 you to try and identify the Accused in any of those  
7 photographs.

8 A. The pictures are not clear. It is difficult to  
9 recognise anybody in this picture.

10 MR. KAVANAGH: My Lords, the photocopy is very poor, and given  
11 the witness's --

12 MADAM PRESIDENT: Do you have the original?

13 MR. KAVANAGH: I was going to, with your permission --

14 MADAM PRESIDENT: Yes.

15 MR. KAVANAGH: -- ask Mr. Tumati to show him the original.

16 MADAM PRESIDENT: Yes, show him the original. We'd like to  
17 see it, too.

18 MR. KAVANAGH: Of course, My Lord.

19 MADAM PRESIDENT: Can you establish a date or volume number or  
20 something?

21 MR. KAVANAGH: Yes, My Lord, I was going to do that. I'm  
22 obliged.

23

24 Yes, show it to Their Lordships first, please, and then  
25 my friend, and then give it to the witness to use.

26

27 In relation to Judge Møse's question, My Lord, it would  
28 appear side A is the only one relevant to Butare. Side  
29 B is a speech of Mr. Kambanda, which, of course, Your  
30 Lordships probably have seen before or you're welcome

1 to, but to save Your Lordships the --

2 MADAM PRESIDENT: We haven't, actually.

3 MR. KAVANAGH: Very good. Well, it might be of assistance to  
4 Your Lordships.

5 MR. FLEMING: Your Honours, we don't object to that part of  
6 the tape staying in.

7 MADAM PRESIDENT: Did you place on record that you had  
8 obtained the tapes and the transcripts from the  
9 documents disclosed to you by the Prosecution?

10 MR. KAVANAGH: Oh, yes, My Lord.

11 BY MR. KAVANAGH:

12 Q. Mr. Witness, I was asking you, just while we were  
13 getting that matter of the tape clarified, whether or  
14 not you could recognise the Accused in either of the  
15 photographs on page 5.

16 A. I can see him very well. He's in the middle. He's very  
17 visible.

18 Q. Now --

19 A. He's wearing a whitish coat.

20 Q. Now, Mr. Witness --

21 MADAM PRESIDENT: So, is it fifth from the left?

22 THE WITNESS: No, he's the sixth person from the left. He's  
23 wearing a whitish double-breasted jacket.

24 BY MR. KAVANAGH:

25 Q. Now, I want to do something that I should have done  
26 maybe at the outset and I've been prompted by Madam  
27 President in relation to, and that is, can you identify  
28 this magazine for us, for the purposes of the record,  
29 and help us as to when it may have been published?

30 A. Urumuli Rwa Demokrasi was an MDR newspaper. This was a

- 1 special edition. I have not had the time to read it.
- 2 It is a special edition dealing with Kabusunzu meeting
- 3 which took the decision against Twagiramungu and Agathe.
- 4 During the congress, the congress participants took
- 5 other decisions relevant to issues of that time.
- 6 Q. And what does the title mean, Urumuli Rwa Demokrasi?
- 7 A. "The light of democracy".
- 8 Q. Now, was there a special national congress meeting held
- 9 that relates to this special edition, and if so, can you
- 10 tell us where it was held and when?
- 11 A. I do not remember dates very well, but I remember the
- 12 circumstances surrounding the holding of the congress.
- 13 It was at a time when Twagiramungu had agreed with the
- 14 president to destroy the MDR party. It is at a time
- 15 when he took a decision on behalf of the MDR party
- 16 without consulting the political bureau. I think that
- 17 that congress was two days long, from the 2 -- on the
- 18 23rd and 24th of July, 1993.
- 19 Q. Now, insofar as Mr. Niyitegeka's appearance is
- 20 concerned, as is shown in the photograph that you've
- 21 identified for us, is that how you recollect him to have
- 22 appeared in July of 1993?
- 23 A. I do not remember his physical appearance at the time,
- 24 but I am sure it is Niyitegeka, indeed. But as you are
- 25 aware, with time people grow older, and problems we
- 26 encounter can affect our physical appearance. But that
- 27 was his physical appearance at the time. If the picture
- 28 was taken on the day the congress itself took place, I
- 29 cannot confirm, but the way I see it here, that is the
- 30 way I knew him at the time.

1 Q. Now, I just want you to move forward two pages from that  
2 photograph, it would be to the seventh page as you turn  
3 over the document from the front, and there's a  
4 paragraph 8.5.

5 MR. KAVANAGH: For Your Lordships' assistance, particularly  
6 Judge Vaz, there was another document that was handed in  
7 with this document, My Lords, and that is a two-page  
8 transcription of portions that I may refer to, and on  
9 the first page of that, 8.5, paragraph 8.5 is translated  
10 from the Kinyarwanda into the French, My Lords. And  
11 that might assist the booth as well, given the condition  
12 of the photocopy of the document, My Lords.

13 BY MR. KAVANAGH:

14 Q. Mr. Witness, I don't know whether you're able to read  
15 8.5 on the original document. If you're not, perhaps  
16 you will refer to the two-page typed document that was  
17 with the first set.

18 A. I have found the passage.

19 Q. Yes, 8.5, starting Isabye.

20 A. "The congress strongly requests the president of the  
21 republic to speed up the process of signing the peace  
22 accords, and the congress denies or condemns the means  
23 used by President Habyarimana and certain political  
24 party leaders to intentionally delay the signing of  
25 these peace accords and cause an impediment to the  
26 democratic process which the country has begun."

27 Q. Thank you. Will you now move to paragraph 9.1.

28 MR. KAVANAGH: Which, again, has been translated on the second  
29 page of the typed document into French, My Lords, for  
30 the assistance of the Court and the translation booth.

1 BY MR. KAVANAGH:

2 Q. If you can find that, Mr. Witness, would you read that  
3 paragraph for us, also.

4 A. "The congress reasserts the determination for MDR to  
5 participate in the broad-based transitional government  
6 pursuant to the accords signed in Arusha on the 30th of  
7 October, 1992, and the 9th of January, 1993."

8 Q. Thank you, Mr. Witness. Would you now just read us  
9 paragraph 9.3, which is just one paragraph below the one  
10 you've just read.

11 MR. KAVANAGH: That's also on the French translation, My Lord.

12 THE WITNESS: "The congress empowers the political bureau to  
13 take all necessary measures to safeguard party  
14 interests, all what is given to it by the Arusha  
15 Accords, as a political party which should participate  
16 in the broad-based transitional government."

17 BY MR. KAVANAGH:

18 Q. Did you yourself attend this conference?

19 A. Yes.

20 Q. I think there's a list of the participants of this  
21 congress, and under the list relevant to Ruhengeri, a  
22 couple of pages over from where you're reading, there is  
23 at point 9 the name André Sebatware. Is that your name  
24 indicating that you attended the meeting?

25 A. Yes. André Sebatware, that's my name, member of the MDR  
26 party from Ruhengeri.

27 Q. And just two paragraphs above that in the Kabuye section  
28 is the name of Mr. Niyitegeka as being attending; isn't  
29 that right?

30 A. Yes.

1 Q. Are you in a position --

2 A. That is correct. If anybody doubted the presence of  
3 Mr. Niyitegeka in the picture, it is clear now that he  
4 was at the congress.

5 Q. Can you assist the Tribunal at all by indicating whether  
6 or not you can remember what Mr. Niyitegeka's  
7 contribution was to this meeting, and if so, just to  
8 tell us what you believed his views to be at that time?

9 A. As I indicated a little earlier, I grew to know him  
10 better when we attended many more meetings, and he is  
11 amongst those who made the party have a good outlook.  
12 He's one of those who contributed positively to the  
13 congress. But I cannot say anything special because  
14 anybody who wanted the floor was given the floor. What  
15 I can say was he was an active member in the  
16 preparation. Even during the meeting, he was working  
17 hard right till the end of the meeting of the congress.  
18 In fact, he was one of those who was responsible for the  
19 preparation of that congress.

20 Q. Thank you very much, Mr. Witness.

21 MR. KAVANAGH: I'd like to admit those documents into evidence  
22 on behalf of the Defence, My Lords, and if I'm correct,  
23 it's Defence 45. And Your Lordships may wish to make  
24 the magazine itself 45A and the extracts that have been  
25 translated into French 45B, if the Court still requires  
26 it.

27 MR. FLEMING: Would Your Honours receive the original of the  
28 magazine as the exhibit, because there is some minor  
29 difficulty with reading the photocopies. They've been  
30 cut off, for example, down one side of them. So the

- 1 best exhibit would be, in fact, the original.
- 2 MR. KAVANAGH: Yes. I would expect that that's certainly the  
3 sensible thing to do. It may be possible to properly  
4 and more accurately photocopy it. I do know that our  
5 client would be interested in retaining the original and  
6 -- because it seems it's maybe the last one in  
7 existence, My Lord, so it does have some importance.  
8 Subject to Your Lordships' --
- 9 MADAM PRESIDENT: Well, we've come across this situation  
10 before. That's why I was going to ask you, who owns the  
11 original?
- 12 MR. KAVANAGH: I think I'll just make sure that those are our  
13 instructions, My Lord. He's indicating that perhaps it  
14 might be safer in the Tribunal's hands, My Lord. I  
15 think he's happy enough to put it in with the Tribunal  
16 in its original form. Very good, My Lords.
- 17 MADAM PRESIDENT: All right. We'll receive the original, but  
18 with directive to the registry that if Mr. Niyitegeka  
19 requires his property back, the original has to be  
20 returned to him. But pending court proceedings, they  
21 should remain -- it should remain as an exhibit.
- 22 MR. KAVANAGH: I'm very grateful to Your Lordships for that  
23 direction.
- 24 MADAM PRESIDENT: So the original will be D45 --
- 25 MR. KAVANAGH: Correct, My Lords.
- 26 MADAM PRESIDENT: -- A, and B would be the photocopy that you  
27 furnished us, and C would be the French excerpts, the  
28 translations of the excerpts in French.
- 29 MR. KAVANAGH: May it please Your Lordships.  
30 (Exhibit No. D45A, B, and C admitted)

1 BY MR. KAVANAGH:

2 Q. Now, Mr. Witness, I want to move on to something else  
3 and try and deal with this as quickly as we can. You  
4 said that you heard transmissions over Radio Rwanda.  
5 Did you happen to hear an interview given by  
6 Mr. Niyitegeka on the 28th of April, 1994, which was  
7 transmitted over Radio Rwanda?

8 A. I do not remember dates, but I told you that I heard a  
9 lot of pacification messages aired on Radio Rwanda by  
10 Minister Niyitegeka, but the message we just read was  
11 the one which retained my attention. But I remember  
12 other messages similar to that one, but I remember that  
13 one more than the others. I listened to others which  
14 were also good and which had these same messages.

15 Q. Very good. Can I ask you this, then: Did you ever hear  
16 Mr. Niyitegeka express either his own view or the  
17 government's view that Tutsis should be specifically  
18 targeted, men, women, and children, or otherwise, and  
19 killed?

20 A. What we read and what you are asking do not tally. I  
21 think that it -- what you are saying is contrary to the  
22 character and nature of the Niyitegeka that I know.

23 Q. Now, just to finish up, Mr. Witness, what is the  
24 attitude of the present Rwandan regime to you personally  
25 at the moment?

26 A. I took a solemn declaration to take (sic) the truth. I  
27 do not have much information regarding the country. I  
28 read a number of newspapers from all corners of the  
29 world. Where I am, I have the opportunity of receiving  
30 or having a good number of newspapers and reading them.

1           There are also refugees who are coming.

2

3           The country is experiencing difficulties, but if anybody  
4           has news which is different from what I'm saying, he can  
5           say it. Hutus, Twas, and Tutsis are all lamenting. The  
6           economy is failing, and everybody has a problem.

7   Q.    What is their specific attitude to you? Do you know  
8           whether or not you've been identified and listed in any  
9           way?

10  A.    Since July, my name has appeared -- July 1994, my name  
11           has appeared amongst the genocidaires. And since then,  
12           every time the list is published, my name appears on it.

13  Q.    Do you know why your name is appearing on this list?

14  A.    I am innocent, that is what I can say. From what I have  
15           said, you would understand that even the powers that be  
16           at that time were looking for me saying that I was  
17           collaborating with the Inkotanyi, and when they came  
18           they said I was collaborating with Habyarimana. The  
19           same reasons for which Habyarimana did not accept me are  
20           the same reasons why the RPF is not accepting me. It is  
21           because I did not support injustice and I always tell  
22           the truth, and that is why the government of Habyarimana  
23           and the RPF are always against me.

24  Q.    Have you or any member of your family ever been members  
25           of the RPF government?

26  A.    My eldest daughter was secretary of state in that  
27           government, and in 1998 she fled. She was a secretary  
28           of state in the Ministry of the Interior.

29  Q.    Can we take it that you've had opportunity to discuss  
30           with her matters of RPF strategy?

1 A. Yes. I saw her, and she said she fled because the  
2 country was breaking down.

3 MR. KAVANAGH: No further questions for the witness.

4

5 Mr. Witness, would you answer any questions Mr. Fleming  
6 might have for you and the Judges, when it comes to  
7 that.

8 MADAM PRESIDENT: Mr. Kavanagh, you're not tendering a  
9 statement as an exhibit? It's your decision, of course.

10 MR. KAVANAGH: Yes, I'm grateful to Your Lordships. Yes, I  
11 think we can. I was somewhat hesitant because he  
12 actually signed it in his own name, but now that he's  
13 decided from the outset to dispose of any of those  
14 protections, My Lord, I think it can go in, and I might  
15 ask that it be admitted. I have the original signed  
16 here, My Lords, which should, of course, be the proper  
17 exhibit, and it would be D46, My Lord.

18 MADAM PRESIDENT: D46.

19 (Exhibit No. D46 admitted)

20 MR. KAVANAGH: We haven't yet had a -- it was only completed  
21 this morning, My Lord, so it hasn't yet had time to be  
22 stapled, even, so perhaps Mr. Tumati could ensure that  
23 it be stapled before it goes in. I'm grateful to Your  
24 Lordships for reminding me about it.

25 MADAM PRESIDENT: Thank you, Mr. Kavanagh.

26

27 Mr. Fleming, will you be ready to begin your  
28 cross-examination at 2:35 p.m.?

29 MR. FLEMING: I'm ready now, Your Honours.

30 MADAM PRESIDENT: Not us, we're ready for lunch. 2:35 p.m.,

1           then.

2           Mr. Sebatware, we will take the break now and resume at  
3           2:35 p.m. Please do not discuss your testimony with  
4           anyone since you are in the midst of giving evidence.

5           (Court recessed at 1305H)

6           (Pages 47 to 75 by Diane Hermann)

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1 1440H

2 MR. KAVANAGH: Sorry, My Lords. I did indicate to Your  
3 Lordship that I had finished, and I am reminded, My  
4 Lord, that I was remiss in not putting one particular  
5 document to the witness before I sat down. And with  
6 Your Lordship's leave, I spoke to Mr. Fleming about  
7 this, My Lord, and I would like to do that.

8 MADAM PRESIDENT: Yes, certainly.

9 MR. KAVANAGH: I'm obliged. If Mr. Tumati would oblige as  
10 well, My Lord, I would be grateful. It is a document  
11 that only came into our hands yesterday, My Lords, and  
12 it is not on the list of exhibits as previously  
13 furnished to Your Lordships and to my friend, and I have  
14 explained that to Mr. Fleming. It's copies for the  
15 booth as well, My Lord.

16

17 It's a letter in French, My Lords, dated the 4th of  
18 April 1994, for the purpose of its identification, and  
19 it is written by the MDR representative from Belgium,  
20 Dr. Oswald Nsengiyumva, N-S-E-N-G-I-Y-U-M-V-A, to the  
21 Belgian Minister for Defence, My Lords.

22 BY MR. KAVANAGH:

23 Q. Mr. Witness, or Mr. Sabatware as I can call you, you  
24 have been shown a document. Do you recognise that  
25 document, and is it a document that you are aware  
26 exists?

27 A. I am aware of this document, and I know the authors of  
28 the document.

29 Q. I have mentioned Dr. Oswald Nsengiyumva. It is also  
30 signed by a member of the bureau politique,

- 1 Mr. Nkezabera, N-K-E-Z-A-B-E-R-A. Is that correct?
- 2 A. Yes, it's correct.
- 3 Q. Would you describe the document to the Tribunal, please.
- 4 And as it's a short document, and with the permission of
- 5 the Court, I would like it read onto the record, My
- 6 Lords.
- 7 A. "To his excellency, the Minister of National Defence,
- 8 rue de la loi, 181000, Brussels.
- 9
- 10 "Honourable Minister, following the tragic death of the
- 11 Belgian UN contingent, the MDR party extended its
- 12 sincere condolences to you, and request you to convey
- 13 their feelings of sympathy to the families and the close
- 14 relations of the victims affected in the course of their
- 15 peace mission in Rwanda. The MDR party shares the pain
- 16 of the families and the entire people of Belgium.
- 17
- 18 "The MDR party, extends its support to national and
- 19 international investigations following the demise of the
- 20 heads of states of Rwanda and Burundi, as well as their
- 21 respective delegations, and the death of the Belgian
- 22 Blue Helmets and all other massacres of innocent members
- 23 of the population. The MDR party calls, categorically,
- 24 for such barbaric acts perpetrated by the enemy forces,
- 25 forces that are inimical to peace and democracy in
- 26 Rwanda."
- 27
- 28 That's where it ends.
- 29 MADAM PRESIDENT: Just to the booth. How did you translate
- 30 the word "condamne?"

1 THE INTERPRETER: "Condemns", sorry. That is what it should  
2 be. "Categorically condemns these barbaric acts  
3 perpetrated by forces that are against peace and  
4 democracy in Rwanda."

5

6 It's an on-sight translation, Ma'am.

7 MADAM PRESIDENT: Thank you.

8 BY MR. KAVANAGH:

9 Q. And what date is that document, Mr. Witness?

10 A. The document was written on the 14th of April, 1994.

11 MR. KAVANAGH: I am grateful. With Your Lordship's leave,  
12 and if my friend has no objection, I would like to have  
13 that marked as Defence Exhibit 47, My Lords, which I  
14 think is the correct next number.

15 MADAM PRESIDENT: D-47.

16 MR. KAVANAGH: I'm obliged, My Lord.

17 (Defence Exhibit No. 47 was admitted)

18 MR. KAVANAGH: And apologies to my friend for not dealing with  
19 it earlier.

20 MADAM PRESIDENT: Mr. Fleming?

21 MR. FLEMING: Thank you, Your Honours.

22

23 CROSS-EXAMINATION

24 BY MR. FLEMING:

25 Q. Witness, on the 21st of October 1993, the president of  
26 Burundi, President Ndadaye was murdered, wasn't he, by  
27 Tutsi extremist army officers? Isn't that the case?

28 A. He was murdered, or assassinated, by soldiers.

29 Q. And, Witness, that sent a chill into Rwanda, didn't it,  
30 in respect of the security of the region?

- 1 A. The people of Rwanda were saddened as a result of that  
2 event, and we had to host a lot of refugees from  
3 Burundi.
- 4 Q. And there was a concern, wasn't there, about the state  
5 of security in Rwanda?
- 6 A. Rwanda was at war, so you would understand that it was  
7 difficult for there to be peace in the country.
- 8 Q. Who was Rwanda at war with on the 21st of October 1993?
- 9 A. Rwanda was fighting with the Inkotanyi RPF.
- 10 Q. In your view, when did that war start?
- 11 A. That war started on the 1st of October 1990.
- 12 Q. And what happened on the 1st of October 1990?
- 13 A. There were soldiers who entered Rwandan territory from  
14 Uganda, and started killing people.
- 15 Q. What soldiers?
- 16 A. I said they were Inkotanyi or, in other words, RPF, and  
17 they were supported by Ugandan soldiers.
- 18 Q. So Rwanda from 1990 was at war between the forces of the  
19 government and the RPF and Inkotanyi. Is that your  
20 evidence?
- 21 A. That is correct.
- 22 Q. Witness, your evidence is, isn't it, that you were a  
23 minister in the government immediately in place before  
24 President Habyarimana's coup. That is your evidence,  
25 isn't it?
- 26 A. That is correct.
- 27 Q. You tell us, don't you, that you were the Minister for  
28 Justice. Isn't that right?
- 29 A. That is correct.
- 30 Q. I take it, then, that you were responsible for the

- 1 administration of prisons as the Minister for Justice.
- 2 Is that so?
- 3 A. Yes, indeed. Prisons came under, or was part of the
- 4 docket of the Minister of Justice -- were, rather, under
- 5 the responsibility of the Minister of Justice.
- 6 Q. And, Witness, this was the government of the PARMEHUTU,
- 7 wasn't it?
- 8 A. Of course, absolutely.
- 9 Q. So from 1969 to 1973 you were the Minister for Justice
- 10 in the PARMEHUTU government that was displaced by
- 11 President Habyarimana. That is the case, isn't it?
- 12 A. I say it is true.
- 13 Q. What does PARMEHUTU stand for?
- 14 A. I had already explained, but if you didn't understand
- 15 let me then explain: it is the party for the
- 16 emancipation of the Hutu.
- 17 Q. Emancipation of the Hutus who were, in fact, in power in
- 18 1969 to 1973. Isn't that the case?
- 19 A. Well that had started a lot earlier. If you were to
- 20 look at the history of Rwanda, because you are among
- 21 those trying to find a solution to the problem of Rwanda
- 22 for there to be an atmosphere of conquered among the
- 23 people of Rwanda. But to achieve that objective, you
- 24 need to read the history of Rwanda because that would
- 25 enable you to be able to assist us. So in Rwandan
- 26 history, previously the Tutsis were in power. The Hutus
- 27 had no position in the power structure, and then there
- 28 were the whites --
- 29 Q. I'm sorry to cut you off. Please don't be patronizing
- 30 to me, and please don't lecture me about this history.

1 I am asking you a series of questions, and I expect  
2 answers to those questions; not being patronized.

3  
4 Now, Witness, it is your evidence, isn't it, that from  
5 1969 to 1973 – and they are the only years we are  
6 interested in – you were a member of a government given  
7 to the emancipation of Hutus, which government was in  
8 power at least during those years. Isn't that the case?

9 A. That's more or less the case.

10 Q. At the age of 30 you were the Minister for Justice in  
11 the PARMEHUTU government, weren't you?

12 A. Yes.

13 Q. And you retained that position until President  
14 Habyarimana effected his coup. Isn't that the case?

15 A. I have already said so, that's true.

16 Q. So from the ages of 30 to 34 you were the Minister for  
17 Justice, given to the emancipation of the Hutu. Isn't  
18 that the case?

19 A. No. The aim of the government was not the emancipation  
20 of Hutus. This party was set up in 1959, and only in  
21 1960 it became known as PARMEHUTU.

22  
23 In due course it changed its name to MDR-PARMEHUTU and  
24 so as to incorporate the democracy component in its  
25 objectives. So it was not only a matter of  
26 emancipating the Hutu, but the entire population.

27 Q. Did the MDR-PARMEHUTU government have in its ranks any  
28 Tutsi, that is, in the ranks of minister?

29 A. Yes, yes there were.

30 Q. Now, Witness, the events of 1990 which we have touched

- 1           upon briefly already also sent a shock wave through  
2           Rwanda when the RPF attacked. Isn't that the case?
- 3   THE INTERPRETER: The witness would like to find out, would  
4           like to ask you, Prosecutor, to repeat your question, if  
5           that is possible.
- 6   BY MR. FLEMING:
- 7   Q.   Moving to 1990, which we have touched upon, the attack  
8           by the RPF in 1990 again sent shock waves through  
9           Rwanda, didn't it?
- 10   A.   That is correct.
- 11   Q.   There was concern, wasn't there, that the government of  
12           President Habyarimana was not satisfying the  
13           requirements of a modern community. Isn't that the  
14           case?
- 15   A.   The entire population was saddened by the fact that  
16           citizens in the areas controlled by RPF had been killed,  
17           or had been deprived of their properties.
- 18   Q.   When was it, do you say, then, that the MDR was formed?
- 19   A.   MDR was formed on the 1st of July 1991.
- 20   Q.   In March of 1991, a group of 237 people published a  
21           document called "Appeal for the recreation of the  
22           Movement Democratic Republican." Isn't that the case?
- 23   A.   I know that that document was published, but I do not  
24           remember the exact date of its publication.
- 25   Q.   Were you one of those 237 people involved in the  
26           recreation of the MDR?
- 27   A.   I do not recall, no. I am saying rather, that I was  
28           among those who suggested a re-creation of the MDR  
29           party.
- 30   Q.   It's interesting that the word "re-creation" is used,

1           because that is what it was, wasn't it, it was a  
2           re-creation of the former party. Isn't that the case?

3    A.    No. We have talked about renovation initially, and  
4           that's why we called it MDR.

5    Q.    Wasn't there a statement made in March 1991 which  
6           referred to MDR appeal, and amongst other things it said  
7           this: "MDR-PARMEHUTU was the party of the ordinary man,  
8           and it never betrayed its democratic and republican  
9           principles, respected multipartyism, freedom of  
10          adherence to the party, free elections at all levels and  
11          clear separation of powers."

12  
13          It said that about itself, didn't it?

14   A.    What we said in that document appears in the statute  
15          that was shown to you here before the Court. It sets  
16          out the objective of the party and that is what we said.  
17          And we were convinced of the contents of that document.

18   Q.    So, Witness, it was reconstituted as MDR-PARMEHUTU,  
19          wasn't it?

20   A.    That does not appear anywhere.

21   Q.    Witness, you might have lost the subtlety or the  
22          unsubtlety of what I just read to you. Let me read it  
23          to you again. In March of 1991, this was written by the  
24          MDR party: "MDR PARMEHUTU was the party of the ordinary  
25          man, and it never betrayed its democratic and republican  
26          principles. Respected multipartyism, freedom, adherence  
27          to the party, free elections at all levels, and clear  
28          separation of powers."

29  
30          You understand what I just read to you?

- 1 A. I do recognise the terms that you have used.
- 2 Q. Do you recognise the name "MDR PARMEHUTU" which begins  
3 that particular passage?
- 4 A. I do recognise the fact that we had stated that we had  
5 to engage in a renovation of MDR-PARMEHUTU. So we  
6 wanted to, in fact, name it a renovated party, an MDR,  
7 and, in fact, that is what we did.
- 8 Q. After it was recreated it was called MDR-PARMEHUTU,  
9 wasn't it, and it was only subsequently that the term  
10 PARMEHUTU was dropped.
- 11 A. We deleted that word, and that was our objective, that  
12 was our aim, and we wanted the party to be known as MDR  
13 exclusively. And I had explained that the word  
14 "PARMEHUTU" served no purpose any longer, and when we  
15 considered the period we were talking about when we  
16 decided upon the re-creation of the party.
- 17 Q. Wasn't it the case that the PARMEHUTU name carried over  
18 with it a reputation for violence from pre-1973?
- 19 A. What you are saying is an outright lie.
- 20 Q. Are you saying that the PARMEHUTU period of government  
21 was not accompanied by violence?
- 22 A. There was violence among people, among individuals at an  
23 individual level, and that applies everywhere.  
24 PARMEHUTU MDR has never engaged in acts of violence.  
25 That has never existed.
- 26 Q. Minister, you were responsible for prisons between 1969  
27 and 1973. How many people died in the prisons in Rwanda  
28 during the period of your responsibility?
- 29 A. I don't have the figures regarding those who died during  
30 that period. All I know is that a lot of those people

1           were killed in an illegal manner. I know also that  
2           there were people who died because they were sick, and  
3           death certificates were prepared and filled out by  
4           medical officers.

5    Q.    Let's just concentrate upon the ones that you have just  
6           told us, in an illegal manner. It is the case, isn't  
7           it, that when you were Minister for Justice in the  
8           PARMEHUTU government, many people died unlawfully,  
9           illegally in the prisons under your control?

10   A.    I don't remember that.

11   Q.    But surely, surely you would remember if people -- I  
12           withdraw that.

13

14           Witness, you have taken us to the time when the party  
15           was reformed in 1991 and indeed it was hoped that the  
16           party would have a broad appeal to all groups. Isn't  
17           that the case?

18   A.    Yes, and that was our purpose, that was our aim.

19   Q.    In fact, you were able to recruit some ministers,  
20           weren't you, from the MRND government?

21   A.    We didn't compel anyone to join our party. People read  
22           the statutes of our party, the ideals we were  
23           advocating, and voluntarily joined our party. Nobody  
24           was compelled to join the party, whether they be Hutu,  
25           Tutsi, or Twa. We did not oblige anyone to join our  
26           party.

27   Q.    I didn't say that. Now you might like to answer the  
28           question that I asked. You were able to recruit,  
29           weren't you, at least two former ministries of the MRND  
30           government?

1 A. In actual fact, in 1991 the party was not seeking to  
2 recruit any particular person. All we did was to inform  
3 people of the underlying political principles of our  
4 party and our own ideology. We told the people of  
5 Rwanda that anyone who so desires could adhere to our  
6 party. It is true that people from various corners of  
7 the country, or various status, became members of our  
8 party. I do not remember any particular person whom we  
9 recruited for a specific reason or for some particular  
10 reason. I don't remember that any particular person was  
11 recruited knowingly by the MDR, I am sorry. I think  
12 that would have been strange, to compel people to join  
13 our party. And some people, including myself, would not  
14 have accepted that kind of approach, that kind of  
15 procedure.

16 Q. You seem to be reading something into the term  
17 "recruit," are you? Something of a compulsion?

18 MADAM PRESIDENT: Mr. Sabatware, the two MRND ministers joined  
19 the MDR?

20 THE WITNESS: Madam President, I do not recall. There were  
21 ministers in Kayibanda's government. I was one of them.  
22 Bagaragaza was a minister and at the same time the  
23 president of the national assembly. I was one of the  
24 ministers there in that government. Bagaragaza was not  
25 only a minister for a long time, he was also president  
26 of the national assembly.

27 BY MR. FLEMING:

28 Q. Witness, please listen carefully to my question. I am  
29 now talking about the MRND, not the MDR. Ministers came  
30 from the MRND party into the MDR, didn't they?

- 1 A. I'm sorry, I'm sorry. If you have names, maybe it would  
2 refresh my mind. But to juggle my memory, I would be  
3 able to answer your question. I could accept or deny  
4 whatever you say, but you have to give me the names.
- 5 Q. You don't recall the former Minister of Interior, Thomas  
6 Habanabakize?
- 7 A. I must say to you that he was my friend, a personal  
8 friend. He was a member of the MDR party.
- 9 Q. He was a minister in the MRND government, wasn't he?
- 10 A. Absolutely.
- 11 Q. Thank you. And you have already mentioned Bagaragaza,  
12 he was also a minister, and as you have told us a  
13 speaker of the national assembly. He also was in the  
14 MRND, wasn't he?
- 15 A. All Rwandans were members of the MRND party.
- 16 Q. Not all Rwandans were ministers in an MRND government,  
17 though, were they?
- 18 A. No. There were those who were ministers. You said he  
19 was a minister and he was a member of the MRND. All  
20 Rwandans, and I was saying in my initial testimony even  
21 those in the diaspora, were automatically members of the  
22 MRND party. That was the law. Whether you wanted it or  
23 not, you had to be a member of the MRND party.
- 24 Q. Until multipartyism, and the MDR didn't start before  
25 multipartyism, did it?
- 26 A. That would not have been possible; MDR was suspended.
- 27 Q. Thank you. So after introduction of multipartyism  
28 people were free to choose which party they belonged to,  
29 weren't they?
- 30 A. Yes, that's true.

- 1 Q. Now did the MDR have a journal by which it published  
2 material?
- 3 A. Yes. Occasionally from time to time we published. But,  
4 you know, these journals are quite expensive and we  
5 didn't have quite that much money. We had a journal  
6 that had to come out on a monthly basis, but because we  
7 didn't have resources it was not possible. It appeared  
8 in a rather irregular manner, and it was when we had the  
9 money or the resources that we could publish that  
10 journal.
- 11 Q. And is that the journal, a copy of which we saw earlier  
12 today?
- 13 A. Yes, yes, you are quite right.
- 14 Q. Now, Witness, there was, in fact, violence against the  
15 MRND -- I'm sorry. Against the MDR by factions of the  
16 MRND, wasn't there?
- 17 A. Yes, there were a few incidents.
- 18 Q. In fact, one such incident in November of 1991 included  
19 an attack on ten MDR sympathizers leaving a meeting, one  
20 of whom had his hand cut off by a machete. Isn't that  
21 the case?
- 22 A. I don't remember.
- 23 Q. There were calls by the MDR to have formed a new cabinet  
24 of government, wasn't there, which was more  
25 representative of the people during 1991?
- 26 A. We always asked for that, up until when it was actually  
27 brought into existence. We made such requests on  
28 several occasions.
- 29 Q. Witness, on the 17th of November 1991 there was a common  
30 memorandum signed by MDR, PSD and PL addressed to the

- 1 president setting out what they considered to be  
2 obstacles in the way of an appropriate democratic  
3 process. Isn't that right?
- 4 A. MDR either alone, that is, on its own, or together with  
5 other parties, published memoranda. Sebataware cannot  
6 remember all these publications. I would have to have a  
7 name for me to recall such a memoranda or such  
8 memoranda. It might be correct what you say, that such  
9 publication was made, but I don't remember.
- 10 Q. In that memorandum was a mention of MRND armed bands.  
11 Do you recall that?
- 12 A. I don't remember.
- 13 Q. Do you remember that the MRND did form armed bands?
- 14 A. It was said that there were people called Interahamwe  
15 who were armed, carrying guns, but I personally did not  
16 see them armed with guns. But let me emphasize the fact  
17 that this was what was being said.
- 18 Q. Witness, when did you first hear that said, that there  
19 were armed bands of MRND?
- 20 A. The first time that I heard mention of the fact that  
21 there were young men, Interahamwe, or militia or  
22 Interahamwe of the MRND party, that was first mentioned  
23 in 1993, or at least that is the first time I heard  
24 mention made of it.
- 25 Q. Witness, the pressure was such on President Habyarimana  
26 from the parties that on the 14th of March 1992 he  
27 signed a compromise agreement with the united  
28 opposition, meaning the various opposition parties,  
29 isn't that so?
- 30 A. I know that for the president to appoint a minister from

1 the ranks of the opposition we had to demonstrate in  
2 Kigali town, and after that demonstration he appointed a  
3 prime minister from the opposition; whereas, before that  
4 he had appointed a minister from the MRND party.

5 Q. In fact, the new prime minister sworn in on the 7th of  
6 April was an MDR member, wasn't he?

7 A. Well, now you are referring to dates, but I'm sorry. I  
8 don't want to give the impression that I don't want to  
9 answer your question. I am a witness, and I have sworn  
10 to speak the truth, but I am not a computer to be able,  
11 you know, on a click to remember all these dates. I  
12 know that when the Minister Nsanzimana was removed,  
13 Habyarimana appointed someone called Dismas  
14 Nsengiyaremye of the opposition as prime minister. But  
15 I don't remember the date on which he was appointed.  
16 All I know is that that prime minister, prime minister  
17 by that name, was appointed.

18 Q. Witness, the prime minister of that name was a member of  
19 the MDR party, wasn't he?

20 A. Absolutely.

21 Q. And how many other seats did MDR have in that ministry?

22 A. Same as all the other parties. MDR had three  
23 portfolios, ministerial portfolios. Of course, this is  
24 in addition to the position of prime minister which was  
25 occupied by one of our members.

26 Q. And you had the Minister for Foreign Affairs position,  
27 didn't you, in the MDR?

28 A. That is correct.

29 Q. You had the education portfolio, didn't you?

30 A. Absolutely.

1 Q. That was Agathe, wasn't it?

2 A. Yes, that's true.

3 Q. There was a lot of reform in that initial period of  
4 time, wasn't there, the MDR ministers worked very hard;  
5 for example, Agathe was responsible for some very  
6 significant variations to the education process. It's  
7 the case, wasn't it?

8 A. Yes. Agathe was appointed, and before she left our  
9 party she was following or implementing the program of  
10 the MDR party in the field of education. And we had set  
11 objectives that needed to be complied with, and in so  
12 doing, actually, she was following the objectives or  
13 pursuing the aims of the party.

14 Q. Witness, did a delegation from the MDR party go to  
15 Brussels for talks that year?

16 A. I had already made my position known regarding those  
17 dates, the issue of dates. So apart from the MRND,  
18 which do not honour the invitation, there was a number  
19 of parties that were participating in the government who  
20 went to Brussels.

21 Q. What did they go to Brussels for?

22 A. They had to agree with the RPF; namely, to consider the  
23 ways and means of achieving democracy, and putting an  
24 end to the war, a search for peace. They also had to  
25 talk about the electoral process which had to bring the  
26 war to an end.

27 (Pages 76 to 91 by Karlene Ruddock)

28

29

30

1 1530H

2 BY MR. FLEMING: (Continuing)

3 Q. Witness, tell me which ministers of the MDR went to  
4 Brussels to negotiate with the RPF.

5 A. At that time no minister went there, just ordinary  
6 members of the party who were part of the delegation.

7 Q. Tell me which members of the party went to negotiate  
8 with the RPF.

9 A. I do remember two of them, Bagaragaza and Faustin  
10 Twagiramungu. Those are the two I can remember. I am  
11 talking about Faustin Twagiramungu and Thaddée  
12 Bagaragaza.

13 Q. On the 6th of June of that year, an agreement was  
14 reached in Paris, wasn't it, as a result of  
15 conversations that had started between the various  
16 opposition groups and the RPF?

17 A. I don't recall or remember the Paris agreements. It is  
18 possible that there might have been such agreements, but  
19 I don't recall them.

20 Q. On the 14th of July that year, a ceasefire was signed  
21 between the parties, wasn't it?

22 A. That's possible, but I do not recall.

23 Q. Surely, you would recall something like a ceasefire. Do  
24 you recall a ceasefire being signed?

25 A. Many agreements were signed, but unfortunately they were  
26 not respected. Sometimes delegations met and never  
27 signed any agreement, and very often agreements were  
28 signed but they were never respected. I am telling you  
29 that I do not recall that agreement in particular.

30 Q. All right. Well, surely, you remember the Arusha

- 1           agreements of the 9th of January, the agreements in  
2           respect of power sharing. You do remember those, don't  
3           you?
- 4    A.    I know that accords were signed in Arusha and that there  
5           were variable protocols, depending on whether the  
6           parties agreed on one point or another. And,  
7           ultimately, that was crowned with an overall accord. I  
8           remember it all the more so because it was a member of  
9           the RPF who was at the head of the delegation which had  
10          to negotiate the Arusha Accords.
- 11   Q.    Witness, on the 9th of January, there was an agreement  
12          signed on power sharing whereby there was to be a  
13          broad-based transitional government where the MRND would  
14          get five seats in the cabinet, the RPF would get five,  
15          the MDR would get four, and the PSD and the PL, three  
16          each, and the PDC, one. You remember that, don't you?
- 17   A.    Yes, I remember there was an accord comprising the  
18          points that you just mentioned, and that it was signed.
- 19   Q.    And you told us this morning that, in 1993, at a special  
20          convention held on the 23rd of July, 1993, the president  
21          was urged to continue on with the process of  
22          democratisation and representation. You told us that,  
23          didn't you?
- 24   A.    Did you say the president? You are talking about the  
25          23rd and the 24th of 1993. I talked about the  
26          extraordinary congress which was held in Kabusunzu.  
27          This was a congress which had to leave or dismiss  
28          Twagiramungu and Agathe from the party because they had  
29          violated the constitution of the party.
- 30   Q.    Witness, just answer my questions, would you? At that

1 congress -- you told us this morning, didn't you, that  
2 the congress urged the president to continue on with the  
3 moves towards democratisation and representation; isn't  
4 that the case?

5 A. I did not say that.

6 Q. Well, I'll get you to read again --

7 A. Besides, that was not the objective of that congress.

8 Q. Witness, would you have a look, please, again at exhibit  
9 -- my right hand is gone.

10 MR. FLEMING: What's the number of the exhibit of the  
11 magazines, Your Honours? That's the Urumuli-45.

12

13 Could the witness please see that?

14 BY MR. FLEMING:

15 Q. Would you go, please, to paragraph 8.5 that you looked  
16 at this morning? Have you got paragraph 8.5?

17 A. Yes, I have.

18 Q. You read that for us this morning, didn't you?

19 A. Yes, I did.

20 Q. Isn't that urging the president on to higher and better  
21 things in respect of the democratisation process?

22 A. The president or chairman we are talking about here is  
23 the person who was chairing the party at the time. We  
24 were not excluding or dismissing the president or  
25 chairman of the party.

26 Q. I'm sorry, I don't understand. This is a very simple  
27 proposition. Isn't 8.5 -- just read it, would you  
28 please, for us, 8.5?

29 A. "The congress strongly requests the president of the  
30 republic -- " I'm sorry, I did not understand. We are

1 referring to the president of the republic, you are  
2 right. "The congress is strongly asking the president  
3 to pursue the signing of the peace accords. The  
4 congress hereby disapproves and condemns the  
5 time-wasting tactics used by President Habyarimana."  
6 You are right. I apologise; you are right. I didn't  
7 understand you well.

8 Q. I'm sorry, then, I shall try to be more careful. But  
9 was that the position of the MDR from that time through  
10 until the 7th of April, 1994?

11 A. Since MDR was formed, since the accords were signed,  
12 that is what MDR wanted.

13 Q. Now, we've already mentioned a number of times  
14 Twagiramungu. He was the president of the MDR, wasn't  
15 he?

16 A. Correct.

17 Q. And it is your version, isn't it, that as a result of  
18 his abuse of power he was excluded from the MDR party,  
19 and the court maintained that position? That's your  
20 version of the facts, isn't it? Would you now please --

21 A. Correct.

22 Q. I'm sorry, I'm anticipating some of the Kinyarwanda  
23 answers now. Would you now please have a look at  
24 Exhibit D36?

25  
26 Now, Witness, let me put to you an alternative version  
27 of the court case. Twagiramungu, in fact, went to court  
28 and withdrew his application that was before the court;  
29 isn't that the case?

30 A. I do not remember. Besides, I have not yet read that

- 1 document. But if that is what is written in that  
2 document from the tribunal, it must be correct.
- 3 Q. Witness, you told us this morning that he lost his case  
4 before the court for reinstatement into the party.  
5 Isn't that what you told us this morning?
- 6 A. I did not give you the details, but I am saying that if  
7 it is said in that document that he lost the case, then  
8 he did. If you asked me to read this or that paragraph  
9 and confirm it or deny it, I would do so very willingly.
- 10 Q. So anything that you confirmed or denied when our  
11 learned friends were asking you questions, you had no  
12 idea of this morning; is that the case?
- 13 A. No, I talked about things that I knew. I said that I  
14 was in agreement with what decision the court had taken.  
15 I was not talking about things that I did not know.
- 16 Q. Witness, the proposition this morning that you adopted  
17 very readily was that he lost his case before the court  
18 for reinstatement. Isn't that the case?
- 19 A. We should first ask why he took court action. We should  
20 follow what is written in the document and be able to  
21 say if the document is correct or false. That would  
22 allow us or make it possible for us to gain time. I've  
23 not read the document for a long time, but what I know  
24 is that there was a case --
- 25 Q. Witness, I didn't ask you what the document contained.  
26 What I said to you was this: This morning, isn't it the  
27 case that you readily adopted the proposition put by our  
28 learned friends who were asking you questions that he  
29 had lost his case before the court for reinstatement?  
30 Now, leave the documents aside. That's what you agreed

- 1 with this morning, wasn't it?
- 2 A. Unless I misunderstood the question or you did not  
3 understand my answer, but I said that I agreed with the  
4 decision of the court. If the court said Twagiramungu  
5 won or lost the case, I agree with that court decision.
- 6 Q. So that's what you say you said this morning.
- 7 A. I think that is what I said. I stated that I was in  
8 agreement with the court's decision.
- 9 Q. Now, you do have, don't you, the French translation of  
10 the document? Have you got that there?
- 11 A. Yes, I have the French version here.
- 12 Q. Would you go to the third page of the French version,  
13 and you'll see in the second complete paragraph on that  
14 page the name Twagiramungu on the left-hand side? You  
15 see that, the third page, the seventh and eight lines  
16 down? Please go to that.
- 17 A. Now I see.
- 18 Q. Would you please read that paragraph for us?
- 19 A. It is not easily visible. The quality of the  
20 photocopying is not very good. If you had a copy which  
21 was more legible, it would be better. I am not able to  
22 read this copy.
- 23 MADAM PRESIDENT: Just a moment. Judge Møse.
- 24 JUDGE MØSE: Mr. Fleming, there are two versions of this  
25 document, one original and one nicely provided by the  
26 Defence which is legible.
- 27 MR. FLEMING: Yes.
- 28 JUDGE MØSE: Maybe you would draw the witness's attention to  
29 the second version and there, too, Mr. Witness, if you  
30 look at the second French version you will see just as

1           stated in the second main paragraph there, starting with  
2           the word "constate". I suppose that's the one you  
3           wanted.

4   MR. FLEMING: Exactly, Your Honour.

5   JUDGE MØSE: "Constate que des lors."

6   BY MR. FLEMING:

7   Q.   It's the three-page document which is clear and visible.  
8           Do you have that there? That's the document. If you go  
9           to the third page.

10  A.   My document has two pages.

11  MR. FLEMING: Would you give him this?

12  THE WITNESS: I found it.

13  BY MR. FLEMING:

14  Q.   All right.

15  A.   "Notes that Twagiramungu decision as he expressed  
16           accepting that he has lost in pursuance of the law of  
17           15th July 1954 (sic) which stipulates that -- that he  
18           would take over the -- "

19  THE ENGLISH INTERPRETER: The interpreter is sorry, but the  
20           document is not available, and the reading is not that  
21           clear.

22  MADAM PRESIDENT: We need an English translation of this, so  
23           can the document be given to the booth?

24  MR. FLEMING: Your Honours.

25  MADAM PRESIDENT: A legible copy.

26  MR. FLEMING: It mightn't help because there are gaps.

27  MR. KAVANAGH: There's an extra copy here, My Lords, for the  
28           booth, if you wish.

29  MADAM PRESIDENT: Mr. Tumati, give that legible copy to the  
30           booth.

- 1           Apart from the gaps, we haven't heard the words in  
2           between the gaps. We even heard the year wrong,  
3           Mr. Fleming.
- 4   MR. FLEMING: I'm sorry, Your Honour.
- 5   MADAM PRESIDENT: We even heard the year wrong in the English  
6           translation.
- 7   MR. FLEMING: Yes.
- 8   MADAM PRESIDENT: Which the booth is naturally struggling with  
9           because the document was not provided to them.
- 10   MR. FLEMING: Your Honours, I don't think it's going to help  
11           any because the translation that we have is incomplete  
12           even to the -- I'm sorry, the transcription is  
13           incomplete.
- 14   MADAM PRESIDENT: Well, it's your question. What do you want  
15           done here? Is it entirely legible in the exhibit?
- 16   BY MR. FLEMING:
- 17   Q.   Witness, can you go, please, to the document which is  
18           difficult to read. On the second page, at about  
19           point 4, if you divide the page up into 10, at about  
20           point 4 of that page, you see the same word, "constate".  
21           Can you see that?
- 22   A.   I would like the interpreter to read that for me in  
23           Kinyarwanda. I do not understand the passage.
- 24   Q.   Do you not speak French?
- 25   A.   I speak French, but I do not understand this passage. I  
26           do not understand it very well, and it will be of  
27           assistance to me if it could be translated.
- 28   MADAM PRESIDENT: Mr. Sebataware, at this moment we don't want  
29           to have you understand it but to have you read it.
- 30   THE WITNESS: "Notes the withdrawal of Twagiramungu in his

1 letter sent to the tribunal on the 20th of October,  
2 1993, which withdrawal is confirmed by his  
3 representatives since the letter in question is written  
4 as follows. The letter is attached."

5 BY MR. FLEMING:

6 Q. And then the next paragraph?

7 A. "Notes that the withdrawal should be accepted by the  
8 adverse party in pursuance of Article 161-04 of CP --  
9 CPCC, but that this matter does not have a defendant as  
10 stated here above. Notes that MDR's intervention is  
11 based on Article 142, which provides that every person  
12 has the right to intervene in any matter which may  
13 undermine his interests. Notes that the defendant -- "  
14 "Notes that the plaintiff in this case, Twagiramungu, is  
15 withdrawing and MDR cannot suffer any prejudice because  
16 things are in the same state as they were before the  
17 request in compliance with Article 166, which states as  
18 follows: that the -- "

19 Q. Perhaps we don't need to go any further than that. That  
20 gives us the significance of what actually happened.

21 MADAM PRESIDENT: Thank you for reading that.

22 BY MR. FLEMING:

23 Q. Now, Witness, it was this -- this was the case, wasn't  
24 it, that the MDR complained, and as you've said to us,  
25 voted to exclude Twagiramungu from the party? That's  
26 the case, isn't it?

27 A. Yes, that is what was done, and he was excluded from the  
28 party.

29 Q. There was initially an application by him to overturn --  
30 to the courts, to overturn that decision of the party,

- 1           wasn't there?
- 2    A.    I do not really recall.
- 3    Q.    All right. Do you know a man named Emmanuel Gapfyisi?
- 4    A.    I know that person.
- 5    Q.    And what was he?
- 6    A.    He was a member of MDR, and he was the chairman of MDR  
7           in Gikongoro préfecture. He was a member of the  
8           national political bureau.
- 9    Q.    Donat Murego, do you know him?
- 10   A.    I know him.
- 11   Q.    And what was he?
- 12   A.    Murego did not hold any position in the party. He had  
13           just spent ten years or so in prison when we formed the  
14           MDR party. At the party level, he was the chairman of  
15           MDR in Ruhengeri. He was a member of the political  
16           bureau, and he had been elected as the  
17           executive-secretary of the MDR party.
- 18   Q.    Now, the prime minister, Dismas, he was presenting the  
19           MDR as a party of conciliation towards the RPF, wasn't  
20           he?
- 21   A.    Within the context of the Arusha negotiations and within  
22           the context of the broad-based transitional government.
- 23   Q.    Twagiramungu, he, too, was presenting the party as one  
24           which was conciliatory towards the RPF. Indeed, he went  
25           to Brussels; isn't that the case?
- 26   A.    Yes, he went to Brussels, and we authorised him to do  
27           so. But what he said did not satisfy us. Because RPF  
28           was not respecting the accords that had been reached,  
29           and after what he said, RPF attacked Ruhengeri town, and  
30           after that attack, Twagiramungu made a statement which

- 1           displeased the population. He said even if the RPF  
2           concluded with Byumba préfecture, there was no problem.  
3           That was a very unfortunate speech.
- 4    Q.    Now, that attack that you just mentioned occurred on the  
5           8th of February, 1993, didn't it?
- 6    A.    I did not remember the date of the attack, but I know it  
7           was after they returned from that meeting in Brussels.
- 8    Q.    And it was not long after that that Twagiramungu was  
9           excluded from the party; isn't that the case?
- 10   A.    He was excluded from the party because he had betrayed  
11          the party.
- 12   Q.    Witness, just answer the questions, please. I'm sure  
13          you'll get an opportunity to make editorial comment. It  
14          was shortly afterwards --
- 15   A.    Yes, it was after the Brussels interview. It was  
16          thereafter that he was excluded from the party.
- 17   Q.    Thank you. And by March of 1993, Faustin Twagiramungu  
18          had issued a communique expressing strong support for  
19          the French military presence in Rwanda, hadn't he?
- 20   A.    I do not recall. It's possible, but I do not remember.
- 21   Q.    Murego was bitterly opposed to Twagiramungu, wasn't he,  
22          within the party?
- 23   A.    No.
- 24   Q.    All right. So we're in 1993. You've already looked at  
25          Exhibit 45. By then there was an organisation called  
26          Power, wasn't there?
- 27   A.    I heard that word "Power".
- 28   Q.    Where did you hear it?
- 29   A.    I heard the word "Power" in two instances. The first  
30          time was about the incident in Burundi which we talked

1           about. There were the RPF attacks. Most of the  
2           population was besieged. They did not know where to go  
3           for. They were dying of hunger. Their situation was  
4           getting desperate. Thousands and thousands of them had  
5           been shot at. So when that incident happened, the  
6           population became even more afraid.

7  
8           So the biggest parties, MRND, MDR, PSD, came together at  
9           the Nyamirambo stadium and held a meeting and said that  
10          situation was unacceptable. They said we were attacking  
11          or we are attacking each other, and this is in line with  
12          Eliezer's document which we read that we should  
13          understand ourselves; there should not be disorder;  
14          there should be unity; we should come together before we  
15          attack or else the situation in Rwanda would be like the  
16          situation in Burundi; that Hutus, Twas and Tutsis should  
17          understand each other and that the parties should be  
18          careful to reach objectives that will develop the  
19          country.

20  
21          Karamira took the floor -- came, took the floor and  
22          talked about the power wings of the different parties,  
23          and then there was applause and that was it. After  
24          that, there was no meeting. There was no platform of a  
25          party called "Power". There was no power ideology. All  
26          those parties came together. The word "power" was used,  
27          and that was the end; that was it.

28  
29          The second instance when I heard the word "power"  
30          mentioned was when Twagiramungu left the party.

1 Twagiramungu had a problem of how to call the party  
2 members who left with him. He could not maintain the  
3 other name. He could not do so. But he was supported.  
4 And when he asked the powers that be for anything, he  
5 was granted what he asked for, and that didn't happen to  
6 us, even if he was not representing the majority of the  
7 party. War continued to destroy the country, and  
8 Twagiramungu gave us the name "Power". So it was said  
9 that there were PARMEHUTU, genocidaire, they were the  
10 power, and our party was described as "Power". We did  
11 not give that name to our party, and the Twagiramungu  
12 faction was called MDR.

13

14 And the historians in Rwanda said that it was the  
15 Twagiramungu faction, the microscopic faction. In  
16 reality, MDR continues to be called MDR, and you would  
17 not see in any document that our party was called  
18 MDR Power. That does not exist.

19 Q. Have you finished?

20 A. Yes.

21 Q. You mentioned the name Karamira. Who was he?

22 A. He was the second vice-chairman of the MDR. He was a  
23 member of the political bureau and a member of the party  
24 as it originated from Gitarama.

25 Q. Gapfyisi, what happened to him?

26 A. He was killed.

27 Q. When?

28 A. I do not remember the date.

29 Q. Was it in 1993?

30 A. Possibly.

1 Q. Who was blamed for his murder?

2 A. As I said earlier, certain people said that he was  
3 killed by Habyarimana's Interahamwe, and others said  
4 that it was the RPF who killed him. But no  
5 investigation was carried out to determine who the real  
6 killers were.

7 Q. Some said that Twagiramungu was responsible for his  
8 death, didn't they?

9 A. Those who say he was killed by RPF also say it was in  
10 collaboration with Twagiramungu.

11 Q. So Twagiramungu and the RPF are linked by the time  
12 Gapfyisi died; is that the case?

13 A. Yes. They were like relatives. They understood  
14 themselves well.

15 Q. And it was this which caused the dissension within the  
16 MDR, wasn't it, the fact that Twagiramungu --

17 A. No, that is not true. Because before Gapfyisi's death,  
18 he was amongst those who helped us to exclude  
19 Twagiramungu because he betrayed the party. Gapfyisi  
20 was amongst those who excluded Twagiramungu from the  
21 party.

22 Q. I'm sorry, that wasn't answering the question I asked.  
23 Perhaps you've misunderstood. Let me ask it again. It  
24 was the Twagiramungu-RPF connection which made itself  
25 manifest in allegations such as that Twagiramungu and  
26 RPF were involved in the murder, but it was that  
27 connection which had been forged earlier which resulted  
28 in Twagiramungu being excluded from the party. Isn't  
29 that the case?

30 A. Twagiramungu was not excluded from the party because he

1 was collaborating with the RPF, rather, it was because  
2 he had taken decisions, which were supposed to be taken  
3 by the party, without the opinion of the party, without  
4 the confirmation of the party. He was excluded because  
5 he took a decision which was supposed to be taken by the  
6 party, without the party's opinion.

7 Q. Agathe remained an MDR minister, didn't she, until her  
8 death in April of 1994?

9 A. MDR-Twagiramungu faction. MDR-Twagiramungu faction.

10 Q. So they maintained the name "MDR", did they?

11 A. Yes. They maintained the name because they were  
12 supported by people who were stronger than we were, by  
13 the president and his ministers, who have all the power.  
14 He ignored us.

15 Q. Just let me understand this for a moment. Twagiramungu,  
16 who was said to be collaborating with the RPF, you tell  
17 us was supported by President Habyarimana. Is that what  
18 you just told us?

19 A. I said that, and if you want me to give you further  
20 explanation, I will do so.

21 Q. On the 17th of July, 1993, Agathe became prime minister,  
22 didn't she?

23 A. I do not remember the date but she was appointed Prime  
24 Minister.

25 Q. I take it that MDR Power weren't too happy about that.

26 A. I do not know MDR Power. I confirm that. And I will  
27 tell you that if you cross-check in an MDR document, you  
28 will not see anywhere where that party calls itself  
29 MDR Power.

30 Q. All right. The MDR balance of the party wouldn't have

1           been too happy when Agathe became prime minister; is  
2           that the case?

3    A.    The party did not agree with her appointment. She was  
4           appointed by the authorities, and we considered that as  
5           a coup d'état against the MDR. But those who were  
6           involved were people who had -- the powers that be and  
7           the soldiers under the authority.

8    Q.    Now, about that time there broke out an argument as to  
9           who might be the premier under the broad-based  
10          transitional government; isn't that the case?

11   A.    No, there was no discussion. There was a political  
12          party meeting. The president and his advisors were  
13          infiltrated. In fact, they wanted to destroy the MDR,  
14          and they were saying if we destroy the MDR, the members  
15          of the MDR will join our party, and the MDR would have  
16          been destroyed and that would be the end of that party.  
17          So they came together, and since the party had been  
18          infiltrated, they wanted to destroy the MDR. In a  
19          meeting, they said that they were going to remove  
20          Dismas, and normally, it is the political bureau which  
21          gives the candidate.

22  
23          Twagiramungu obviously was present during the meeting.  
24          They said they were going to convene an extraordinary  
25          meeting of the political bureau and propose a candidate.  
26          They refused, but since it had been agreed, Twagiramungu  
27          said, "I have a candidate", and he gave the name of that  
28          candidate. And they agreed, and it is in that fashion  
29          that Agathe was appointed, and on the evening the radio  
30          announced that Agathe had been appointed prime minister.

1 Q. Witness, I want you to listen carefully then to this  
2 series of events. On the 18th of May, 1993, Emmanuel  
3 Gapfysi is murdered. On the 17th of July, 1993, Agathe  
4 is sworn in as Prime Minister, and on the 23rd of  
5 July, 1993 was held the special conference to remove  
6 Twagiramungu from the party. Isn't that the series of  
7 events?

8 A. Yes, those events took place.

9 Q. You told us before that Gapfysi, who died on the 18th of  
10 May 1993, participated in the removal of Twagiramungu  
11 from the party. That's simply not right, is it? He was  
12 dead before that happened.

13 A. I told you that I did not remember dates. You are  
14 trapping me with dates. If I said that about Gapfysi,  
15 I misunderstood; I apologise. Gapfysi and ourselves, we  
16 had the same objectives, and I thought that he had not  
17 yet died. And I said that following the party's line or  
18 policy, was not going to accept what Twagiramungu did.

19 Q. So when you told me before I couldn't possibly be right  
20 because Gapfysi helped in the removal of Twagiramungu,  
21 you were wrong?

22 A. I gave an explanation. I said that Gapfysi could not  
23 accept what Twagiramungu did against the party. I  
24 worked with Gapfysi for a long time. He died. I  
25 couldn't do anything about that. I did not understand  
26 why you are asking me questions about many dates. And  
27 that made me misunderstand your questions. I apologise,  
28 and I would like to ask you to stop asking me questions  
29 about dates because I did not retain the dates.

30 Q. I'm sorry, I'm not going to take your advice, because

1 the candidature of Twagiramungu for the premiership was  
2 announced on the 20th of July, 1993. That is three or  
3 four months after Gapfysi had died and three days before  
4 the special congress to remove him. Isn't that the  
5 case?

6 A. When they learnt that we had convened an extraordinary  
7 congress to remove him, he had been suspended, so we  
8 convened an extraordinary meeting for the congress to  
9 exclude him. The decision we had taken was provisional  
10 at the level of the political bureau, but the national  
11 congress had to confirm that. That is why we convened  
12 the national congress. At the same time, at the time  
13 President Habyarimana also convened a cabinet meeting,  
14 and when we took the decision to exclude him, they at  
15 the same time took a decision -- in fact, it was  
16 Twagiramungu who proposed himself as a candidate, and  
17 the president gave him to the RPF.

18  
19 We wrote to the RPF saying that Twagiramungu had been  
20 excluded from the party, but since the RPF was working  
21 with Twagiramungu, they accepted his candidature. But  
22 as far as the date is concerned, I do not recall  
23 exactly, but the incident -- incidents we are talking  
24 about happened the way you said them.

25 Q. Witness, let me now give you four dates: Emmanuel  
26 Gapfysi was murdered on the 18th of May, 1993; Agathe  
27 was sworn in as Prime Minister on the 17th of July,  
28 1993; Twagiramungu designated himself as the future  
29 prime minister on the 20th of July, 1993, and the  
30 congress to remove him from the party was held on the

1           23rd of July, 1993. That's what I suggest to you  
2           happened.

3    A.    I apologised as far as the dates were concerned. It is  
4           true he proposed himself. He was supported by other  
5           parties. Habyarimana and Agathe, who was the prime  
6           minister, sent his candidature to the RPF.

7    Q.    Witness, on the 23rd of July, Madam Agathe wrote a  
8           letter of resignation, didn't she?

9    A.    She wrote a letter of resignation on the 23rd or 24th,  
10           but it was members of her party who came from Butare who  
11           asked her by saying that, "We love you. If you continue  
12           to do that, it is not good for the party." So members  
13           of the party who came from the same region took her to  
14           the congress and she apologised. She asked for pardon,  
15           which we subsequently granted, and then she wrote her  
16           letter of resignation.

17  
18           And when she left, those who had misled her went and  
19           spent the night in her home, and amongst those people,  
20           there were soldiers. They got her to sign another  
21           letter which stated that she was, once again, accepting  
22           to be prime minister. She was taken to the radio right  
23           up to the morning, and she was released after the  
24           communique was aired on the radio.

25   Q.    So she resigned under pressure from the MDR other  
26           faction, not the Twagiramungu, on the 23rd and she  
27           withdrew that resignation within a day, didn't she?

28   A.    Let me repeat what I said. I'll add nothing. The  
29           members of that party who came from Butare went and met  
30           her were unaware of that. They told her, "You are a

1 dynamic lady who works very well. We love you. The  
2 party trusted you. You became minister of education."  
3 There were many women who were crying. When she came,  
4 it was the members of the party from her region who  
5 brought her and said, "You betrayed us". But soldiers  
6 brought pressure to bear on her by saying -- by asking  
7 her to go and meet her alliance with Twagiramungu. But  
8 that was in order to destroy the MDR.

9 Q. Witness, I don't require an explanation such as that.  
10 If you would please listen to the questions and answer  
11 the questions that I ask. I won't be put off asking  
12 questions, no matter how much you say, and I come back  
13 to it.

14

15 On the same day, the 23rd of July, 1993, as the congress  
16 was meeting to exclude Twagiramungu, Agathe resigned and  
17 the following -- as prime minister. The following day,  
18 she withdrew that resignation, didn't she? Now, that's  
19 a simple proposition. I don't often ask for a yes or no  
20 answer, but in this instance, I do.

21 A. That was the way it went.

22 Q. Thank you. The meeting continued on and excluded  
23 Twagiramungu, and it was at that point that the split  
24 occurred in the party, wasn't it, at that point when he  
25 was excluded from the party?

26 A. No, that split did not occur on the day of the congress.  
27 It was the split that brought about or led to the  
28 congress.

29 Q. Witness, what happened to the MDR prime minister who was  
30 in place immediately before Madam Agathe?

- 1 A. That was Prime Minister Dismas Nsengiyaremye. I can  
2 give you explanations. How am I going to do it?
- 3 Q. Please tell, was he dismissed?
- 4 A. Yes, he was dismissed.
- 5 Q. And he was the Karamira-Murego candidate, wasn't he, for  
6 the prime ministership, or that part of the party which  
7 you say continued on afterwards?
- 8 A. When he was appointed, he was the candidate for the MDR  
9 before Twagiramungu was excluded. So he was the  
10 candidate of the entire party before the split.
- 11 Q. And a couple of days before the congress which led to  
12 the exclusion of Twagiramungu, he was dumped as prime  
13 minister and Madam Agathe was placed in there; isn't  
14 that the case?
- 15 A. No. You're talking about Dismas. That's true, Dismas  
16 was replaced by Agathe.
- 17 (Pages 92 to 112 by Karen Holm)

18  
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30

1 1630H

2 MR. FLEMING: (Continuing)

3 Q. And the section of the party to which you belonged were  
4 not very happy about that, were you?

5 A. That's true; we were not that happy.

6 Q. And that was an element, wasn't it, which led to the  
7 split?

8 A. What Twagiramungu and Agathe did brought about -- led to  
9 the split in the party.

10 Q. Thank you. And what they did was fulfilled on the 17th  
11 of July 1993, isn't that case?

12 A. I don't remember the date --

13 Q. All right. All right.

14 A. -- but --

15 Q. Sorry.

16 A. -- they implemented it.

17 Q. Let us move on in time to the 23rd of October 1993, a  
18 few days after President Ndadaye had been killed. In  
19 fact, he died on the 21st of October 1993. You have  
20 talked about the meeting that was held. Where was that  
21 meeting held?

22 A. Now, regarding Ndadaye I said the meeting took place  
23 after his death, not before.

24 Q. Yes, 23rd of October 1993; he was killed on the 21st of  
25 October 1993. The meeting was held, wasn't it, at  
26 Nyamirambo stadium?

27 A. I told you that with respect to dates, I don't remember.  
28 But indeed that meeting took place at Nyamirambo stadium  
29 after Ndadaye's death. So Ndadaye died and after that  
30 the meeting took place.

- 1 Q. You have already told us that Karamira spoke, haven't  
2 you?
- 3 A. That's correct.
- 4 Q. And we should clarify one thing: this is Froduald  
5 Karamira, K-A-R-A-M-I-R-A, about whom we are speaking?
- 6 A. Yes. It is Froduald Karamira the second vice-chairman  
7 of the MDR party.
- 8 Q. Let me quote to you something that he said on that day,  
9 just one line. He said: "Hutu should unite against the  
10 danger represented by anti-democratic Tutsi. He said  
11 that, didn't he?
- 12 A. That's not true.
- 13 Q. Let me ask you again. In the course of his speech he  
14 said this: "Hutu should unite against the danger  
15 represented by anti-democratic Tutsi"; isn't that case?
- 16 A. I was not there on that day, but those who told me what  
17 was said in the course of the meeting never said so to  
18 me.
- 19 Q. Your first answer was, "That's not true". What was that  
20 based on?
- 21 A. It was based on what was told to me and I, myself, met  
22 Karamira after the meeting and he told me that he had  
23 said that people had to come together to fight against  
24 those who were armed; that is, all of us had to agree,  
25 whether they be Hutu Tutsi or Twa. All those who  
26 reported to me on what Karamira said never suggested  
27 that he had said that people had to come together in  
28 order to fight against some danger represented by the  
29 Tutsi. And, subsequently, I was able to meet Karamira  
30 and he also did not say so to me.

- 1 Q. Have you ever seen that statement reported anywhere  
2 attributed to him?
- 3 A. Nowhere; you have just informed me.
- 4 Q. Witness, I would like you to look at something, please.  
5 Witness, would you just tell me a couple of things about  
6 this document? It's got number 02 at the top and then  
7 after that it has U-K-U-B-O-Z-A. What is that word?
- 8 A. It is the month of December.
- 9 Q. So, we have at the top right-hand corner --  
10 A. December.
- 11 Q. We have at the top right-hand corner number 2,  
12 December 1993. Have I got that right?
- 13 A. You are quite right.
- 14 Q. In the middle we have what appears to be the English  
15 word "power", and then under that P-A-W-A. What is that  
16 word, P-A-W-A?
- 17 A. Are you talking about one in bold letters?
- 18 Q. Yes.
- 19 A. In Kinyarwanda, that is pawa.
- 20 Q. Yes.
- 21 A. That is "power" translated into Kinyarwanda.
- 22 Q. Underneath that there is a line where I can see the name  
23 Twagiramungu. Would you read that line to us, please?
- 24 A. "The hyena, Twagiramungu, has usurped power in Arusha.  
25 Today he is being hunted by the people".
- 26 Q. "The hyena Twagiramungu has asserted power in Arusha.  
27 Today he is being hunted by the people". That's what is  
28 says?
- 29 A. Yes, it's written there. He is being pursued, rough  
30 handled or maltreated by the people.

- 1 Q. Then we see some people dressed in clerical robes. And  
2 there is a balloon coming out of the one of the mouths  
3 with some writing in. Now, what does that say?
- 4 A. Munyandekwe says as follows: "You are wrong. The power  
5 that you have just usurped -- I am a fighter and I will  
6 not allow you to sing your victory in Gikongoro".
- 7 Q. And then the next?
- 8 A. I cannot read what follows. I am trying to read it.  
9 "We condemn these manoeuvres and lies and we ask you --  
10 we asked that you be punished as is appropriate".
- 11 Q. So the first name that you mentioned -- I'm sorry.
- 12 A. "We ask the Almighty to punish you as appropriate".
- 13 Q. Going back to the first of the statements, there is a  
14 name; is it Munyandekwe, is that name?
- 15 A. Yes, it is Munyandekwe.
- 16 Q. Who is he?
- 17 A. That is the person who replaced Gapfyizi as chairman in  
18 Gikongoro.
- 19 Q. And then there is the cartoon showing a person's head  
20 with an animal body which is spotted. Do you see that?
- 21 A. Yes, I can see it.
- 22 Q. I take it that represents Twagiramungu as the spotted  
23 hyena; is that right?
- 24 A. Yes, you can see the drum and you can see the cartoon of  
25 a hyena. Actually, it is that cartoon that provides the  
26 explanation for the words that appear in the circle on  
27 top of the head of one of those appearing in the  
28 cartoon.
- 29 Q. So, just explain that to us a little more.
- 30 A. But I have just seen this document for the first so I

1 cannot provide a more detailed explanation, and since  
2 you cannot do it yourself -- and I'm saying that this is  
3 the first time that I'm seeing this cartoon.

4 MR. KAVANAGH: I'm sorry, My Lords. The basis that this is  
5 the first time that this witness has seen this document  
6 and it hasn't been acknowledged as existing -- we don't  
7 know anything about it. We haven't seen it before. It  
8 wasn't proved as part of the Prosecution case in any  
9 event. It could have been printed last week insofar as  
10 the Tribunal is concerned. I am just wondering, (a),  
11 could we have sight of the original and, (b), could we  
12 be told who it was who was supposed to have published  
13 this and when it was supposed to have been published, as  
14 distinct from what is might say on its face?

15 MR. FLEMING: As much as we know will be revealed in the  
16 course of these questions, Your Honours.

17 MR. KAVANAGH: I'm sorry, My Lords. He shouldn't be permitted  
18 to use this document unless he is going to prove it.  
19 And I'd have an objection to it, My Lord, on the basis  
20 that we haven't seen it. It has certainly never been  
21 disclosed to us. It purports to have a photograph of  
22 our client on the second page, My Lord. It is  
23 incomplete and it's not something that we are privy to.  
24 So if he has the original, we should at least be given  
25 it now so that we can be conferring and maybe taking  
26 instructions. If he hasn't got the original document  
27 and doesn't intent to produce it, he shouldn't be  
28 allowed to use it, My Lord.

29 MADAM PRESIDENT: You produced here photocopies of two pages.

30 MR. FLEMING: Yes, Your Honours.

- 1 MADAM PRESIDENT: If you have the full and original version,  
2 just show it to us in due course.
- 3 MR. FLEMING: That will happen, Your Honours.
- 4 BY MR. FLEMING:
- 5 Q. Now, Witness, would you have a look at this document,  
6 please. Is Twagiramungu mentioned on that page as well?
- 7 MR. KAVANAGH: I'm sorry, My Lords, is this something we have  
8 already or is it some other document? Is it the second  
9 page he has already handed to us? It would be helpful  
10 if he could identify it.
- 11 MR. FLEMING: Your Honours, the witness might do that for  
12 them.
- 13 MR. KAVANAGH: It's not the witness's job to identify  
14 documents for us, Mr. Fleming. If you have another copy  
15 of the document, it should be made available to us. I'm  
16 simply asking do we have it already. If not, could we  
17 have a copy of it now?
- 18 MADAM PRESIDENT: Did you put another document to  
19 Mr. Sebatware?
- 20 MR. FLEMING: I put another page of the document,  
21 Your Honours.
- 22 MR. KAVANAGH: That's all we needed clarification of. So  
23 this -- you have, in fact, pinned two documents  
24 together, neither of which are complete; is that what  
25 has happened? Is that what has happened, My Lord?
- 26 MADAM PRESIDENT: We are just going to follow this. It is  
27 cross-examination, so we will deal with your objections  
28 in due course.
- 29 MR. KAVANAGH: See, unfortunately, the damage might be done.  
30 If my friend hasn't got the originals of these and

1 doesn't intend to provide the best evidence after that,  
2 he shouldn't be permitted to use them. That is why  
3 there is an objection taken to their use, My Lords. It  
4 seems that one is a cartoon of some document we know  
5 nothing about, and the second one is an extract from  
6 another document.

7 MADAM PRESIDENT: It's from the same day document. There's a  
8 document at the bottom.

9 MR. KAVANAGH: It may or may not be, My Lord. If we had a  
10 copy of the entire original, which is at least what we  
11 are entitled to, we would be able to confirm that.

12 MR. FLEMING: Your Honours --

13 MR. KAVANAGH: And in any event, I don't see the purpose of  
14 this, My Lord.

15 MR. KAVANAGH: The witness has said he'd never seen it before.

16 MR. FLEMING: He hasn't said that at all.

17 MR. KAVANAGH: In relation to the first page, and if this is a  
18 second page of the same document or just a page stuck to  
19 it, My Lord, with a staple -- no doubt we will hear  
20 whether he has seen before or not -- they should be  
21 dealt with separately and not as one document, My Lord.

22 MR. FLEMING: My learned friend is doing his best to assist  
23 the witness in the box, Your Honours, and that's an  
24 offensive and objectionable way in which to conduct  
25 himself.

26 MR. KAVANAGH: My Lord, that is not the purpose of my  
27 objection. My friend knows well what the purpose of my  
28 objection is. He knows the laws of evidence, or at  
29 least he should, My Lord. If he wants to put in a  
30 document of which there is objection taken to it, he

1 must have the original or he must be able to prove its  
2 provenance in some way. We don't know whether this was  
3 run off a printing press this morning, My Lords. If  
4 there's an original, we want to know if it exists. If  
5 there's no original, My Lords, he must make application  
6 to Your Lordships as to whether or not he can use it  
7 where it is objected to. Now, he has already handed it  
8 up to Your Lordships and referred to it. We didn't take  
9 objection at that point in time on the basis that we had  
10 presumed, perhaps wrongly, that the originals were in  
11 his possession and that he would prove it. On looking  
12 at it, My Lord, it doesn't seem to be complete and there  
13 may not be a connection between the two pieces, and to  
14 refer to it piecemeal, My Lords, would be unfair. If  
15 the two documents form part of same magazine -- that is,  
16 the two pages that were stuck together -- this witness  
17 has said he never saw the cartoon at the page to the  
18 front, My Lords, which is the front page of the  
19 document.

20 MADAM PRESIDENT: That's where you are treading into the  
21 evidence. Do you see that? He didn't say he didn't see  
22 it; he said he is seeing for the first time.

23 MR. KAVANAGH: Yes, My Lord. And if he is seeing it for the  
24 first time, My Lords, it can have no value to continue  
25 to put questions to him about what's contained in it.

26 MADAM PRESIDENT: Right. We will judge that. We note your  
27 comments and we would like you, Mr. Fleming to respond  
28 to whether you have this full document, or not.

29 MR. FLEMING: Yes, we have the full document. We don't have a  
30 photocopy -- I'm sorry; we have a photocopy of it. I

1 understand that we don't have the original of the  
2 document, but that search is being conducted again, as  
3 we speak.

4 MADAM PRESIDENT: So do you have a copy of all the pages.

5 Your Honours?

6 MR. FLEMING: Yes, we do, Your Honours.

7 MR. KAVANAGH: And may we inquire --

8 MADAM PRESIDENT: When do you want to look at it? Now?

9 MR. KAVANAGH: Immediately, My Lords. We also need to know  
10 where it comes from, My Lord. Can he -- is he going to  
11 be in a position to tell Your Lordships where this  
12 document came from? Because if he is not, My Lord, it  
13 has absolutely no value, especially in circumstances  
14 where the witness has never seen it.

15 MR. FLEMING: Your Honours, I am perfectly entitled to hold my  
16 powder dry and to extract from the witness all that he  
17 might or might not know about the document. I do so in  
18 the course the cross-examination, going to credit of  
19 what he has said as well as going to the facts about  
20 which he has given evidence today.

21 MADAM PRESIDENT: We are going to let you proceed,  
22 Mr. Fleming, but you will allow the Defence inspection  
23 of the full document.

24 MR. KAVANAGH: And is Your Lordship going to direct my friend  
25 to tell us where the document came from? Because if it  
26 was printed this morning, My Lord, we are entitled to  
27 know.

28 MADAM PRESIDENT: We are going to let Mr. Fleming proceed  
29 precisely in the way we let you proceed --

30 MR. KAVANAGH: I understand, My Lord.

- 1 MADAM PRESIDENT: -- only well into your questioning it  
2 emerged that you had an original of the document and  
3 then further into the questioning it emerged that your  
4 client owned it. Do you see that?
- 5 MR. KAVANAGH: Yes. It's been very --
- 6 MADAM PRESIDENT: So we are going to allow the questions to  
7 proceed.
- 8 MR. KAVANAGH: I understand that, My Lord.
- 9 MADAM PRESIDENT: Now, we have noted your remarks. We  
10 definitely will address them. We addressed it partly by  
11 directing that you have sight of the full document.
- 12 MR. KAVANAGH: And that's simply a photocopy. They have no  
13 original and they don't seem to be able to tell us where  
14 they got it, My Lords.
- 15 MADAM PRESIDENT: Mr. Fleming.
- 16 MR. FLEMING: Thank you, Your Honours.
- 17 BY MR. FLEMING:
- 18 Q. Witness, would you return that document to me, please.  
19 Witness, you still have the two pages there, don't you?
- 20 A. At the bottom?
- 21 Q. Yes. At the bottom --
- 22 A. I still have the document.
- 23 Q. At the bottom of the second page is the number, page 8.  
24 Do you see that?
- 25 A. Yes, I can see it.
- 26 Q. Do you see a photocopy of Eliezer Niyitegeka on that  
27 page?
- 28 A. I see the name Eliezer Niyitegeka. As for that  
29 photocopy, it's not really him; it does not look like  
30 him. I don't know whether this is because this is a

1 photostat copy, but I have this feeling that this is not  
2 his photograph.

3 Q. And what does it say, ministri, M-I-N-I-S-T-R-I, and  
4 what is the next word after that?

5 A. It's written, "minister of information Eliezer  
6 Niyitegeka". But as I told you, the face is not that  
7 visible, not that clear; darkish.

8 Q. Witness, immediately above that unclear face, as you  
9 have described it, there is a reference to Ngurinzira  
10 Niyitegeka and Kambanda, and what are the words  
11 immediately after those three names?

12 A. We wish you good power.

13 Q. Now, would you please return that document to me. We  
14 will leave the document alone until we have full copies  
15 for everybody.

16 MR. KAVANAGH: If my friend is withdrawing it from the  
17 document, is he going to withdraw it from  
18 Your Lordships? Or what way does he intend to prove it  
19 or proceed from now? He is either going to prove it or  
20 put it in some way as an exhibit, or undertake to do so  
21 or it should come back from Your Lordships. I don't  
22 understand how he is passing these pieces of paper  
23 about.

24 MR. FLEMING: Via the court orderly, but that's another  
25 matter. Your Honours, the document, as I have just  
26 said, I will deal with more fully. I just simply don't  
27 want him to have it in front of him while I'm asking  
28 questions of others. He will get it back. I can assure  
29 my learned friend that he is going to get it back.

30

1 BY MR. FLEMING:

2 Q. Witness, is it your evidence that the MDR was  
3 intractably opposed to the MRND and their policies?

4 A. Occasionally, people use words without really knowing  
5 their meaning or not quite understanding their meaning.  
6 When one says that MDR was an opposition party -- that  
7 is, a political opposition party -- there were parties  
8 that face up to each other ideologically. It is not a  
9 war. It is not armed conflict. It is a democratic tug  
10 of war, a democratic opposition. We were opposed to  
11 MRND, but in a democratic manner.

12 Q. Witness, I just -- I am struggling with something for a  
13 moment. You never did form an alliance or join with the  
14 MRND, did you?

15 A. When we talk about a coalition or alliance, it is on  
16 basis of a programme known as a common front. But we  
17 were not party to anything whatsoever, whether it be a  
18 programme for a common front, as far as I can recall.

19 Q. You see, Witness, there has been evidence here that the  
20 Accused could never have had any association with the  
21 ideals of the MRND because they were so totally opposed  
22 to each other. Is that true?

23 A. That would depend on one's understanding of the  
24 situation. One can read a document and understand it in  
25 a particular manner. The MRND statutes were in  
26 writing -- well written, but what they did, their action  
27 was inconsistent with what appeared their statute. If  
28 they'd stuck to the letter of their statute, everyone  
29 would have been at peace. There would have been no  
30 problem in the country. I have no critique or criticism

1           against or about the statute of the MRND. We are  
2           talking about the statute -- the statute of the MRND.  
3           That is the most recent version; that is in the course  
4           of multiparty era, not statute of the MRND before that  
5           multiparty era.

6    Q.    Witness, we may be at cross-purposes again, but this is  
7           my question and I'll ask it again: there has been  
8           evidence given in this Court that the Accused could  
9           never have had anything to do with the MRND because  
10          their policies and the policies of the MDR were totally  
11          opposed to each other; is that true or not?

12   A.    The operation of the MRND party was at variance with the  
13          manner in which the MTR party and Eliezer functioned.  
14          MRND did not follow the provision of its statute and,  
15          therefore, Eliezer could not be an ally of or have any  
16          relationship whatsoever with the MRND while MRND was  
17          acting in a manner that was at variance with its  
18          statute; that is, the statute of the MRND.

19   Q.    And when was it acting in a manner inconsistent with its  
20          statute?

21   A.    When the multiparty era started in Rwanda and political  
22          parties started being formed in Rwanda, we were  
23          witnesses to incidents. People were beaten up on their  
24          way. They are attacked in their houses. Their houses  
25          was burnt. There was conduct of that nature and they  
26          occurred in the country.

27   Q.    So, is it your evidence that MRND from the time of  
28          multipartyism never acted consistently with its statute?

29   A.    When the MRND did not act against -- or engage in acts  
30          of aggression again people there were peace; no problem.

- 1 But, again, we noticed that they acted in a manner  
2 inconsistent with their statute. There were incidents  
3 in which MRND were involved. If these did not occur,  
4 everyone was at peace.
- 5 Q. Witness, on the 5th -- I'm sorry, the 7th of April 1994,  
6 what happened to Madam Agathe?
- 7 A. According to that, I learnt over the radio subsequently,  
8 I think -- I'm not sure it may have been the 7th or the  
9 8th, I learnt that Agathe had died.
- 10 Q. Now, up until the collapse of that government, MDR still  
11 had four members in cabinet, didn't it, the prime  
12 minister and three other ministers; isn't that the case?
- 13 A. Well, after the murder of the president there was no  
14 longer any government. After the president died and the  
15 prime minister died, there was what could be  
16 characterised as an institutional vacuum.
- 17 Q. Witness, listen please again to my question: up to the  
18 point where that government collapsed -- all right? --  
19 MDR had four ministers, including the prime  
20 ministership. Isn't that case?
- 21 A. Yes, MDR-Twagiramungu.
- 22 Q. MDR-Twagiramungu, that faction had four ministers. What  
23 happened to those four ministers on the 7th or the 8th  
24 of April 1994?
- 25 A. Later on when we were able to learn of what had  
26 happened, we learnt that two of those ministers and  
27 Agathe had died; her body was found, together with the  
28 body of the minister, Rucogoza; that is if my memory  
29 does not fail me. That's what happened.
- 30 Q. Now, please give me the names of the ministers who were

- 1 of the MRND(sic)-Twagiramungu, immediately before the  
2 7th of April 1994. We know Agathe; she was the prime  
3 minister. Please give me the names of the other  
4 ministers of the MRND faction.
- 5 A. So there was Rucogoza. I can't remember the first name.  
6 He was minister of information.
- 7 Q. Could you spell the four, please?
- 8 A. Rucogoza, and it is spelt R-U-K-O-G-O-Z-A, Rucogoza.
- 9 Q. He was minister for information, yes?
- 10 A. Yes.
- 11 Q. Who were the other two ministers?
- 12 A. Anastase Gasana, who was minister of foreign affairs and  
13 cooperation. I don't quite remember who was minister of  
14 education. I no longer remember.
- 15 Q. How many of those four survived until the 15th -- the  
16 17th of July 1994?
- 17 A. Gasana was alive and so was the minister of education.  
18 I never learnt that they died. I learnt that Agathe and  
19 Rucogoza were dead, but the two others remained alive.
- 20 Q. But why then did they replace the minister for  
21 education and the minister for foreign affairs after the  
22 7th of April 1994?
- 23 A. They were replaced because at that time it was not  
24 Twagiramungu who proposed the candidates of the party.  
25 I told you that those were usurpers. They had taken  
26 places that were reserved for the party and were  
27 supported by Habyarimana. Habyarimana had just been  
28 killed. Unfortunately, he was dead. So they no longer  
29 had the authority to usurp the party's powers.  
30 Furthermore, Anastase, for example, was not in Rwanda.

- 1 I think he was in Dar es Salaam and he left  
2 Dar es Salaam and went to Mulindi. He did not go to  
3 Kigali, and he could not be given a portfolio while he  
4 was in this Mulindi.
- 5 Q. So who did propose the replacements for the MDR?
- 6 A. I was not present. I did not go out and I was living  
7 17 kilometres from the town. I did not leave my house.  
8 I learned that ministers had been appointed. I do  
9 not know who proposed them, but what I can assert was  
10 that it was the MDR party who proposed them. I did not  
11 attend that meeting. I was not able to go there.
- 12 Q. So, it was the other faction of MDR, not  
13 MDR-Twagiramungu who proposed these replacements; is  
14 that so?
- 15 A. It is not the Twagiramungu faction which proposed those  
16 candidates. It was not possible. In fact, it was  
17 impossible.
- 18 Q. And those replaced were Agathe by Jean Kambanda, the  
19 prime minister; is that so?
- 20 A. Correct.
- 21 Q. Bicamumpaka replaced Gasana, is that so?
- 22 A. Correct.
- 23 Q. Rucogoza, minister for information was replaced by  
24 Eliezer Niyitegeka; is that so?
- 25 A. Correct.
- 26 (Pages 113 to 128 by Verna Butler)
- 27  
28  
29  
30

1 1715H

2 BY MR. FLEMING: (Continuing)

3 Q. And Rwamakuba, André became the Primary and Secondary  
4 Education Minister, is that so?

5 A. That is so.

6 Q. And each of those is from the MDR other than the MDR  
7 Twagiramungu party, is that so?

8 A. So, indeed.

9 Q. Witness, you told us in evidence-in-chief that -- words  
10 to the effect who's a Tutsi, who's a Hutu in the  
11 ministry. Name me one Tutsi member of the interim  
12 government, please.

13 A. I would excuse anybody who asks that question because  
14 the person is unaware of the situation in Rwanda. It  
15 was a tragic situation. People were dying, and that  
16 government, which was put in place, had the objective of  
17 putting an end to the war, and, thereafter, to bring  
18 together parties so that there should be power-sharing  
19 between or amongst the ethnic groups, and that the  
20 government should open up to the RPF, which comprised  
21 mostly Tutsis. Most of the Tutsis were in the enemy  
22 zone at the time; others were hidden by their  
23 neighbours. Those who had not been hidden were killed.

24 Q. Witness, please name one Tutsi who was in the interim  
25 government.

26 A. I'm telling you that I did not see the identification  
27 papers of all the ministers. I did not ask them who was  
28 Hutu and who was Tutsi.

29 Q. Witness, name me one Tutsi who was in the interim  
30 government.

1 A. I know of none.

2 Q. Given that this government was committed --

3 MADAM PRESIDENT: Are you entering a new area?

4 MR. FLEMING: Yes.

5 MADAM PRESIDENT: Quarter past five.

6 MR. FLEMING: I can ask one more question in perspective,  
7 then.

8 MADAM PRESIDENT: Yes.

9 BY MR. FLEMING:

10 Q. Witness, given that this government -- that the interim  
11 government was given to representation and bringing  
12 Tutsi in, don't you find it a little strange that there  
13 wasn't a Tutsi in the government?

14 A. I told you that I did not see everybody's identity card.  
15 I did not have that possibility.

16 Q. It is, rather, consistent though with what  
17 Froduald Karamira said on the 23rd of October, isn't it:  
18 Hutu should unite against the danger represented by  
19 anti-democratic Tutsi. That's exactly what happened,  
20 isn't it? Hutu were united and there wasn't a Tutsi in  
21 place?

22 A. I told you that I did not check the identification  
23 papers, the identity cards of those people, but there  
24 are Hutus who hate Tutsis and, besides, there are Tutsis  
25 who hate Hutus. Because if I am in Kigali, I know that  
26 there's a Hutu boy who survived because he was hidden by  
27 Tutsis.

28 MR. FLEMING: Thank you, Your Honours. Is that appropriate?

29 MADAM PRESIDENT: Mr. Sebatware, we are going to stop for the  
30 day now, and we will continue at 9 a.m. tomorrow. So

1 kindly do not discuss your testimony.

2

3 How long do you expect to be, Mr. Fleming?

4 MR. FLEMING: I think about another 30 to 45 minutes.

5 MADAM PRESIDENT: And will you provide the Defence with a full  
6 copy of that document you intended to use?

7 MR. FLEMING: Yes, Your Honours.

8 MADAM PRESIDENT: So that they will be in a position to take  
9 instructions on it.

10 MR. FLEMING: I have it here for them now.

11 MADAM PRESIDENT: Court will adjourn.

12 MR. FLEMING: Your Honours, can we ask who the next witness  
13 will be after this witness? We still have not been told  
14 that.

15 MADAM PRESIDENT: Do we know that Mr. Kavanagh, a  
16 photographer?

17 MR. KAVANAGH: Yes, My Lord, a photographer to prove the  
18 photograph my friend already has a copy of.

19 Mr. Nzeyimana, he's now a protected witness, My Lord,  
20 and we suspect that he may be followed by TEN-14.

21 MADAM PRESIDENT: Just to the prove the photograph? Do you  
22 have questions?

23 MR. KAVANAGH: I have questions, yes, specifically in relation  
24 to the topography recorded by the photograph, My Lord.

25 MADAM PRESIDENT: All right, thank you for that information.

26 MR. KAVANAGH: Grateful, My Lord.

27 (Court adjourned at 1722H)

28 (Pages 129 to 131 by R. Lear)

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C E R T I F I C A T E

We, Rex Lear, Verna Butler, Diane Hermann, Karlene Ruddock, and Karen Holm, Official Court Reporters for the International Criminal Tribunal for Rwanda, do hereby certify that the foregoing proceedings in the above-entitled causes were taken at the time and place as stated; that it was taken in shorthand (stenotype) and thereafter transcribed by computer under our supervision and control; that the foregoing pages contain a true and correct transcription of said proceedings to the best of our ability and understanding.

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

\_\_\_\_\_(pages 1 to 27)  
Rex Lear (pages 129 to 131)

\_\_\_\_\_(pages 28 to 46)  
Verna Butler (pages 113 to 128)

\_\_\_\_\_(pages 47 to 75)  
Diane Hermann

\_\_\_\_\_(pages 76 to 91)  
Karlene Ruddock

\_\_\_\_\_(pages 92 to 112)  
Karen Holm