

INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

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

THE PROSECUTOR
OF THE TRIBUNAL

v.

AUGUSTIN NDINDILYIMANA
FRANÇOIS-XAVIER NZUWONEMEYE
INNOCENT SAGAHUTU
AUGUSTIN BIZIMUNGU

THURSDAY, 22 SEPTEMBER 2005
0907H
CONTINUED TRIAL

Before the Judges:

Joseph Asoka de Silva, Presiding
Taghrid Hikmet
Seon Ki Park

For the Registry:

Mr. Roger Noël Kouambo
Mr. Abraham Koshopa

For the Prosecution:

Mr. Ciré Aly Bâ
Ms. Ifeoma Ojemeni Okali
Mr. Segun Jegede
Mr. Moussa Sefon
Mr. Abubacarr Tambadou

For the Accused Augustin Ndindiliyimana:

Mr. Christopher Black

For the Accused François-Xavier Nzuwonemeye:

Mr. Charles Taku

For the Accused Innocent Sagahutu:

Mr. Fabien Segatwa
Mr. Seydou Doumbia

For the Accused Augustin Bizimungu:

Mr. Gilles St-Laurent
Mr. Ronnie MacDonald

Court Reporters:

Ms. Sithembiso Moyo
Ms. Regina Limula
Ms. Karen Holm
Ms. Verna Butler

I N D E XWITNESSESFor the Prosecution:

WITNESS AR

Cross-examination by Mr. MacDonald (*continued*) 1

Cross-examination by Mr. Black 27

WITNESS DP

Examination-in-chief by Mr. Jegede 43

EXHIBITS

Exhibit No. P. 55 44

Exhibit No. P. 56 93

PROCEEDINGS

1

2 MR. PRESIDENT:

3 Good morning, ladies and gentlemen. We are in session now. No alteration with regard to the
4 appearances.

5

6 Yes, Mr. MacDonald, you can continue.

7 MR. MACDONALD:

8 *(Microphone not activated)*

9 MR. PRESIDENT:

10 Yes, Mr. MacDonald, you can continue.

11 MR. MACDONALD:

12 Good morning.

13

WITNESS AR,

14

CROSS-EXAMINATION *(continued)*

15 BY MR. MACDONALD:

16 Q. Witness, I notice that you are wearing glasses, sir.

17 A. Yes, you are right.

18 Q. And I assume they are prescription glasses?

19 A. That is correct.

20 Q. And how long have you been wearing glasses, sir?

21 A. I have been wearing them for a very long time.

22 Q. Okay. Were you wearing your glasses on April the 11th, 1994?

23 A. Yes.

24 Q. And -- I referred you to a verbal statement that you would have provided to the investigators on
25 March 1st, 1997, and as I mentioned to you yesterday, the -- following that meeting, notes were taken
26 by these investigators with respect to what was said between yourself and the investigators, and we
27 have a copy of these notes. And in these notes, sir, the investigators mentioned that about
28 500 metres -- I am just going to read to you what they wrote down, quote: "After 500 metres, after he
29 passed Bagosora, however, his glasses were taken away from him and broken." So, is that so?

30 A. That is correct.

31 MR. TAMBADOU:

32 Could my learned friend provide the specific reference for the record where he is reading from?

33 MR. PRESIDENT:

34 He said the investigators noted.

35 MR. TAMBADOU:

36 Yes, My Lord, but the specific reference. There are numbered paragraphs, if he could give the number
37 of the paragraph.

1 MR. PRESIDENT:

2 Do you have the number of that document?

3 MR. TAMBADOU:

4 As Your Lordship pleases.

5 MR. MACDONALD:

6 Paragraph 11.

7 MR. PRESIDENT:

8 What is the number?

9 MR. MACDONALD:

10 Paragraph 11, sir.

11 MR. PRESIDENT:

12 Number, number of the document.

13 MR. MACDONALD:

14 Oh, the number of the document -- I am sorry. It is K0166323, and it is at paragraph 11. There are a
15 total of 17 paragraphs. These were notes taken by these investigators.

16 BY MR. MACDONALD:

17 Q. Sir, do you recall saying that to the investigators, "Approximately 500 metres past Bagosora, your
18 glasses were taken away and broken?"

19 A. Yes, I made that statement.

20 Q. Okay. So, I am assuming that you made that statement, that's the way it happened.

21 A. I admitted to you that my glasses were taken. When I was close to the top of Nyanza hill, at the time --
22 at the point where they opened fire on us, an *Interahamwe* took off my glasses. I don't know whether
23 that *Interahamwe* broke them. I don't know what he did with them precisely. All I know is that that
24 *Interahamwe* took my glasses.

25 Q. Okay, sir, but 500 metres after seeing Bagosora, I gather from your testimony, sir, that you had not
26 been -- you had not seen that pickup yet, the pickup where you mentioned were approximately
27 15 soldiers in that pickup. It's correct, sir, that that incident with the pickup happened after your glasses
28 were taken away?

29 A. No, that is not true. My glasses were taken off after I saw Bagosora and that was after the passage of
30 the pickup.

31 Q. Well, in your statement provided on March the 20th, 1997, the written statement, the one that you
32 signed, you mentioned that -- first of all, I am referring to page 4. I have the French version, and you
33 mention at the second paragraph -- you described the events with Bagosora. And right after that
34 second line, you say -- you described this event where your glasses were taken from you and that
35 event involving these 15 soldiers -- or, not 15 soldiers, but soldiers you saw in a truck. It comes after
36 that in the statement. I am not saying that you said specifically in the statement that it came after, but
37 chronologically speaking, this event would have taken place after. Is that a possibility, sir?

1 A. No, that is not the manner in which the events occurred.

2 Q. Okay, sir, it is just -- the investigators decided to put that before, but you never said that it was before.
3 And, again, you emphasise on that fact about your glasses when speaking about Bagosora, and I am
4 assuming, sir, that when you were met by these investigators, they must have drawn your attention on
5 the fact that -- given the fact that you were identifying Bagosora from a certain distance, they must have
6 questioned you on that as to whether or not you had glasses and how good your vision was, and so on
7 and so forth. In other words, what I am going to suggest to you -- I am under the impression, sir, that
8 these investigators had some information to the effect that you did not have your glasses on that
9 particular day. Did they draw your attention on that?

10 A. I recall that during my meeting with investigators, I stated that, customarily, I wore glasses and as I
11 approached the top of Nyanza hill, the *Interahamwes* took off my glasses.

12
13 Regarding what the investigators thought at the time when they were interviewing me as regards the
14 impressions they had, I know nothing about that. The investigators asked me whether I had seen
15 clearly, and my answer was yes. I said that I had seen clearly and that that was someone I had known
16 before.

17 Q. Okay. So you just happened to mention that. This incident about the glasses, you just threw that in
18 there for no obvious reasons. But, in any event, sir, I have a sketch here that was drawn by these
19 investigators, the ones that you met on March the 1st, and you had nothing to do with that sketch. I am
20 not saying that you are the author of that -- anything like that, but according to the sketch, sir, there is a
21 distance of approximately 0.5 kilometres between ETO and the specific area where you saw Bagosora.
22 Now, we know you left the Sonatube factory to go back to ETO. You thought you were going to ETO,
23 but they insisted that you continue towards Nyanza, but my suggestion is Bagosora was approximately
24 0.5 kilometres from ETO -- past ETO; is that correct?

25 A. You make that assertion as if you measured the distance. Were you on the scene to have measured
26 the distance? Well, if you did that, I cannot contradict you. However, I know the nature of the terrain;
27 that is an area I used to visit and I passed on that road often. The distance you are referring to cannot
28 be half a kilometre; that is, between the gate of the ETO school and the location where I found
29 Bagosora. The distance is not 0.5 kilometres. Of course, I am not talking like someone who measured
30 the distance. I am talking like someone who knows the terrain, and I am telling you that the distance is
31 not half a kilometre; it is less than half a kilometre.

32 Q. What's your estimate between ETO and the place where you saw Bagosora?

33 MR. TAMBADOU:

34 Objection, My Lord. My objection is based on the relevance of this line of questioning, My Lord. The
35 witness only mentioned in-chief, in passing, that he saw Bagosora. Now, my learned friend has spent
36 almost -- since he started on this line of questioning and I don't see where he is going with this.

37

1 MR. PRESIDENT:

2 Well, he is trying to establish that he couldn't have seen without glasses and couldn't have identified
3 these people. That is what he is trying to do.

4 MR. TAMBADOU:

5 As your Lordship pleases. I will not argue with My Lord. But, My Lord, he had already established the
6 issue of the glasses. Now he is establishing the distance between where the witness saw Bagosora
7 and, honestly --

8 MR. PRESIDENT:

9 He is trying to show that the truck passed before he saw Bagosora. So we will allow the question.

10 MR. TAMBADOU:

11 As Your Lordship pleases.

12 MR. MACDONALD:

13 All right. So, for the sake of the argument, we'll take it for granted it's less than half a kilometre.

14 BY MR. MACDONALD:

15 Q. So, you passed ETO, less than half a kilometre, past ETO; you saw someone you described as being
16 Bagosora, and in your statement, the oral statement, the verbal statement you made on March the 1st,
17 you mentioned, and then you confirmed, that your glasses were taken from you at approximately 500
18 metres past Bagosora. So my suggestion to you, sir, is that in the context of your testimony, this pickup
19 you saw with 15 soldiers, that event occurred after that. You were much closer to Nyanza when you
20 saw that pickup, and my suggestion to you is that when that pickup passed you, you couldn't have --
21 you couldn't see these people because you didn't have your glasses, and that's the reason why there is
22 so much confusion in your testimony with respect to black berets and camouflage berets. Is it correct
23 you didn't see these people in a truck, sir?

24 A. No, that was not the case. I have sufficiently explained that matter with regard to that point. It was after
25 the pickup passed near us that the glasses were taken. We went uphill, that was Nyanza hill, and it
26 was as we were approaching Nyanza hill that my glasses were taken off. It was not before the passage
27 of the pickup, at the level where we were.

28 Q. Sir, I was not on the terrain. I didn't do any measurements, but I am assuming these investigators did.
29 And according to these investigators, there is a distance of approximately 2.8 kilometres between ETO
30 and Nyanza. So if you were approaching the hill of Nyanza when you saw that pickup, you had to be
31 more than 500 metres from ETO, you had to be perhaps 500 metres from Nyanza. So it is impossible
32 that you could have seen these gentlemen in a truck because you didn't have your glasses, and you
33 had to be closer again, that's 2.8 kilometres. Are you contesting that -- that distance of
34 2.8 kilometres from ETO, between ETO and Nyanza?

35 A. Listen, you are reading a document that was written by people. Did those people say in that document
36 that my glasses were taken off before the pickup or the truck passed? The pickup passed near us. I
37 would like you to clarify that point.

1 Q. I think everybody understood, including yourself, but I will make that point. You are saying -- you said
2 to these investigators and you confirm today your glasses were taken from you between ETO -- I am
3 sorry, after you saw Bagosora. You saw Bagosora at approximately 500 metres -- I am sorry. Your
4 glasses were taken from you 500 metres after seeing Bagosora, and my suggestion to you is that,
5 given the fact -- and I am assuming that there is 2.8 kilometres between ETO and the Nyanza, and as
6 you mentioned, you were close to Nyanza when you saw that pickup. My suggestion to you is that your
7 glasses were taken from you before you saw the pickup. And, furthermore, sir, to illustrate that, you
8 mentioned in your testimony here you saw 15 people in this pickup, approximately 15 people.

9 MR. TAMBADOU:

10 My Lord, to set the record straight, he said between 15 to 20 people.

11 MR. MACDONALD:

12 Yes, okay.

13 MR. TAMBADOU:

14 As Your Lordship pleases.

15 BY MR. MACDONALD:

16 Q. But yet you mentioned to these investigators on March the 1st, 1997, that you saw 30 people. So the
17 best case scenario, between 15 and 30, that's twice as much and that confirms, sir, and I suggest to
18 you, that you couldn't have seen who was in that pickup. You didn't even see if it was soldiers or
19 *Interahamwes*, or what have you.

20 A. I do not accept your proposition. You have my statement which you are reading. I did not say that my
21 glasses were taken off before the pickup passed close to me. I have never stated that I saw
22 *Interahamwe* on board the pickup. Let me repeat to you that the pickup that passed close to me was
23 transporting soldiers and not *Interahamwe*. Besides, regarding the number of people I mentioned, that
24 is the number of people on board that pickup --

25 MR. PRESIDENT:

26 When the pickup passed, you said close by, what is the distance? Can you show the distance from
27 here?

28 THE WITNESS:

29 As you know, our roads are very narrow. When the pickup passed, we stepped aside to let the pickup
30 pass, which means that I was near the pickup; the pickup passed near me. Regarding the episodes in
31 which my glasses were taken off, it was not before the passage of the pickup. And even if my glasses
32 had been taken off before the passage of the pickup, I would have been able to see the pickup because
33 I was turning just on the roadside and between me and the road was a distance of one to two metres.
34 You, yourselves, know our African roads; they are not highways or tarred highways. They are earth
35 roads, and they are very narrow roads. Even if I pointed out to the Defence counsel that when I saw
36 the pickup, I wasn't wearing my glasses, that does not deny the fact that I was able to identify those in
37 the pickup, and they could have been soldiers or *Interahamwe*. Even if I were to take off my glasses

1 where I am, I would still be able to see the Defence counsel. There couldn't have been any confusion
2 in my mind. I could not have confused *Interahamwe* with soldiers under those circumstances.

3 BY MR. MACDONALD:

4 Q. So how could you explain that discrepancy between 30 and 15 soldiers?

5 MR. MACDONALD:

6 I am sorry, Judge Park.

7 JUDGE PARK:

8 Witness, can you tell the Bench here the distance, the entrance of ETO and the place where you saw
9 Bagosora?

10 THE WITNESS:

11 I will give you an estimate, as I have done before. The distance would be between 300 and 400 metres.
12 Obviously, I have not measured this distance; this is an estimate. I am trying to picture the place and I
13 think it is not half a kilometre.

14 BY MR. MACDONALD:

15 Q. So, sir, how could you explain that discrepancy between 15, 20 and 30? You mentioned 30 on March
16 the 1st, 1997.

17 MR. PRESIDENT:

18 Is it 20 or 30 -- 20 to 30, not exactly 30?

19 MR. MACDONALD:

20 No, he said 30 to the investigators on March 1st.

21 MR. TAMBADOU:

22 My Lord, may I just point out that, again, to the investigators he said approximately 30, again. That is
23 what the investigators have on -- approximately 30, and he did state here that he is giving estimates,
24 between 15 to 20. As Your Lordship pleases.

25 MR. MACDONALD:

26 Well, the best case scenario would be approximately 30; that could be 25. It could be 25; it could be 35
27 also, from 35 to 15.

28 BY MR. MACDONALD:

29 Q. Why would you say to these investigators in 1997, approximately 30? You must agree with me, sir, that
30 there is a difference between 15 to 20 and approximately 30. And if you tell me no, well, I will pass to
31 something else.

32 A. It is true; you are correct. There is a difference, but in 1997 when I made my statement, all I was giving
33 was estimates, which is what I did in my testimony here. I did not count the occupants of the vehicle.
34 You must bear in mind the kind of situation I was in.

35 Q. The kind of situation you were in, you have explained that to the Court yesterday. And I understand
36 from your testimony referring to the events at ETO, when you left ETO, there seemed to be a context of
37 chaos, ETO was being attacked, you fled with, I believe, approximately 4,000 people. They were

- 1 running, there were people all over the place. I suggest that perhaps you would have lost your glasses
2 there, but --
- 3 A. No, that is not true.
- 4 Q. Okay. In your written statement, speaking of that particular attack at ETO, is it correct, sir, to mention --
5 to say that you never mentioned that attack in your written statement, the one you gave on March 20th,
6 1997? You never mentioned that, and it's strange because it is a very important element of -- the
7 purpose for which you were interrogated by these investigators. So why didn't you mention that attack?
- 8 A. But if the attack had not taken place, why would we have fled at all?
- 9 Q. Well, you would have fled ETO because you would have been anticipating an attack; that is a good
10 reason to leave. But the fact that you were physically attacked by these people, that doesn't appear in
11 your statement, and, by the way, sir, I know we have discussed this question of you meeting
12 investigators on March the 1st, 1997, you answered to the Court on that particular point. I understand
13 that you recall that meeting took place on March 20th, 1997, where you provided a written statement,
14 and I understand you recall this -- I will put the question to you. Do you recall these investigators that
15 spoke to you, who they were on March 20th, 1997?
- 16 A. During the interview with the investigators, I did not ask them their names, therefore, I cannot
17 remember their names. Personally speaking, my job was to make a statement by answering the
18 questions by the investigators. As for the investigators who were questioning me, even if we were to --
19 I was to put my mind, but -- I would not be able to remember because this meeting took place a long
20 time ago. I therefore do not remember their names. It is true that you most likely had their names on
21 the documents you are reading from, but I am certainly not in a position to identify them, even if they
22 were to be shown to me. All I know is that there were two people, one who spoke English and the other
23 French. That is all I can say about the investigators.
- 24 Q. And what about the investigators you met on March the 1st, 1997, were they -- is that the same
25 investigators, to your knowledge, to your recollection? Were these the same people that you met on
26 March the 20th?
- 27 A. I do not recall. I remember people came to see me. They asked me to make an appointment -- to set a
28 date for an interview. They suggested a date to me, but I told them it was not possible due to my
29 workload. I do not remember those people.
- 30 Q. Now, with respect to the Bagosora incident, when you met these investigators, sir, did they or did they
31 not tell you that they had witnesses confirming what you were saying? Surely, they must have
32 mentioned something about Bagosora.
- 33 A. How could they have spoken to me about any other witness? I don't see the importance of that. They
34 had no report to make to me. On the contrary, they wanted a statement from me. So whether or not
35 there were other witnesses, I see no reason why they should have mentioned them to me. They did not
36 mention them to me.
- 37 Q. But the reason they might mention it to you, sir, is that if they have that information after meeting

1 another witness, they might want you to confirm that. There is nothing wrong with that. They could be
2 in a position where they suggest that other witnesses saw Bagosora at this particular place. Do you
3 agree with that; did you see him? That is the way it works; there is nothing wrong with that. But I
4 understand from your answer that they never alluded to that, and to your knowledge -- in your
5 impression, you were the first one to mention that to these investigators that you had seen Bagosora.
6 You don't know that for a fact, but you are the one that spoke about Bagosora, not them. They didn't
7 tell you anything about Bagosora. That is the way we should see things.

8 A. On the subject of other potential witnesses who may have spoken to the investigators, I told you that
9 the investigators did not mention them to me, and it had no bearing for me. The investigators wanted
10 me to provide them with my statement. However, they did not tell me that they had met other witnesses
11 who had seen Bagosora, and even if they had, this had nothing to do with me; it has no importance to
12 me. They said nothing to me about other witnesses who may have met the investigators. All I did was
13 make my statement that is all.

14 Q. Very well. Why Bagosora? How did you know that gentleman, Bagosora; why would you mention him
15 to the investigators?

16 MR. TAMBADOU:

17 Objection, My Lord. My learned friend's question about how he knows Bagosora raises some concern
18 here, because even in the Military I case, when he was led on that issue, My Lord, it was held in closed
19 session because there are certain facts which may tend to reveal the identity of this witness on that
20 issue. And, secondly, My Lord, really, I still do not see the relevance of this Bagosora line of
21 questioning in this case. As Your Lordship pleases.

22 MR. PRESIDENT:

23 Yes, Counsel.

24 MR. MACDONALD:

25 My friend (*Inaudible*) because -- I could reformulate the question perhaps. We all know who Bagosora
26 is alleged to have been. And I agree with my friend: if he was a personal friend, that is another story,
27 perhaps, but if he knew Bagosora because of his functions or something else, I will put back the
28 question.

29 BY MR. MACDONALD:

30 Q. Did you know Bagosora because of his functions, sir?

31 A. I knew him because of his functions. He was an official, one of the officials of the country.

32 Q. I think you know more than that. What was his specific function? You mentioned it in Military I.

33 A. I do not remember the answer I gave to that question. All I know is that he was *chef de cabinet* at the
34 ministry of defence. I do not remember the exact words I used in that trial, because it took place a long
35 time ago. You, perhaps, may remind me of it because you have the transcripts. All I remember is that
36 he was the *chef de cabinet* at the ministry of defence.

37 Q. Okay, that's good enough, sir. So he was *chef de cabinet* at the ministry of defence, but you knew who

1 Bagosora was, but yet you didn't know who the chief of staff of the army was, and I am referring to
2 you -- to the line of questions concerning Gatsinzi, yesterday. So you know who the *chef de cabinet* is,
3 but you don't know who the chief of staff is, of the whole army? Okay.

4

5 How long did you observe Bagosora for?

6 A. In my statement, I said three metres. At a distance of three metres away, I saw the truck as it was
7 going up the main road, if my memory serves me right. I tried to observe those in the truck. I had a
8 chance to do that until the truck passed us so that I had a good chance to view them, clearly saw them
9 and the truck was not very far from where I was.

10 Q. The question is: How long approximately? Is it five minutes? Is it one minute, 30 seconds, five
11 seconds; how long, in your estimate?

12 MR. TAMBADOU:

13 My Lord, I believe there is confusion here, I mean, the witness's response.

14 MR. PRESIDENT:

15 Witness -- (*Inaudible*).

16 MR. TAMBADOU:

17 I think he didn't get it quite clearly. As Your Lordship pleases.

18 BY MR. MACDONALD:

19 Q. Sir, I think you mentioned this.

20 THE WITNESS:

21 Mr. President, please excuse me. If I mentioned the truck, it is a mistake on my part. I actually meant
22 to refer to the Mercedes-Benz. If I said it that way, you must forgive me. To err is human. What I
23 meant is the Mercedes vehicle, green in colour, khaki colour, military colour.

24

25 The Defence counsel -- I am not sure if he wants to know how long I spent looking Bagosora in the eye,
26 and if that is his question, I would say I observed him for three to four minutes. I passed along the road
27 where his vehicle was parked, and I think I observed him for three or four minutes.

28 BY MR. MACDONALD:

29 Q. It is a major element, sir, but I suggest to you that that's not what you said in Military I. You said
30 one minute, page 66 of the transcript. Is that possible, it could be between one and three minutes?

31 A. Look, all I am giving are estimates. When I was asked a question in that trial, I gave an answer.

32

33 Now you are putting a question to me and, again, I am making an estimate. All I can say is that I
34 observed him and recognised him, whether the observation lasted one or three minutes, the fact is I
35 recognised him. Besides, he was very close to me.

36 Q. We are challenging that and I am putting questions to you to test your credibility, sir. I am entitled to do
37 that. So now it doesn't really matter. We asked for an estimate. You said three, four minutes; in

1 Military I you said one minute but, now, confronted with that, it doesn't really matter. So what's the point
2 of putting questions to you, if it doesn't matter?

3 JUDGE PARK:

4 Witness, the Mercedes-Benz was in open condition or closed condition -- were shutters down the
5 window when you saw Bagosora?

6 MR. PRESIDENT:

7 Shutters down or open?

8 THE WITNESS:

9 The doors were closed, but I do not know whether you are referring to the windows or the door. The
10 doors themselves were closed. I cannot tell you if the glass -- rather, if the windows were wound down
11 or not, but I think that on Bagosora's side -- on his door the window was down.

12 BY MR. MACDONALD:

13 Q. Was he sitting on the passenger side or the driver's side?

14 A. Listen, it is hard for me to say on which side he was sitting. All I know is that he was sitting in the front
15 of the vehicle, but I cannot tell you if he was in the driver's seat or in the passenger seat. All I know is
16 that he was sitting on the front seat of the vehicle, but I am not in a position to tell you if he was sitting
17 on the driver's side or the passenger side.

18 Q. And you did not see him speak to anyone while you observed him, yes or no? Did you or did you not
19 see him speak to anyone?

20 A. I did not see him speak to anyone.

21 Q. And you did not see him come out of the truck, yes or no?

22 A. No.

23 Q. And was he dressed -- how was he dressed; was he in uniform, according to you?

24 A. Yes, he wore military uniform.

25 Q. What kind of -- what did he have on his head; was it a beret, was it another type of hat? Surely, you he
26 must have had something on his head.

27 A. I cannot tell you. I do not remember.

28 Q. And was he wearing sunglasses?

29 A. Yes. I don't know if it was sunglasses or prescription glasses. I cannot make the distinction. All I do
30 know is that he wore glasses.

31 Q. All right. And when you saw Bagosora, surely -- given the functions of this man, surely, there must
32 have been some comments either by yourself or by people close to you. Either someone drew your
33 attention to the fact that Bagosora was sitting in a truck, or you drew the attention of somebody else.

34 A. I spoke to no one about Bagosora. I saw him. I was with my family; my wife was next to me and the
35 children were walking in front of us. We did not discuss Bagosora. I, personally, saw him and kept my
36 mouth shut. I said nothing about Bagosora to anyone.

37 Q. The interesting touch, sir, in your testimony consists of the fact that you come here and the reason why

1 you mentioned this incident about Bagosora is because you mentioned, with respect to Bagosora that --
2 and I am not necessarily quoting your words; I am quoting from my notes. And you mentioned, "He
3 was like watching to see if orders were followed." That's a very interesting touch, and I would like you
4 to tell this Court how you could come to that conclusion, given the description that you gave us: he
5 never spoke to anyone; he never got out of the truck; he was sitting there in a truck, you are not sure
6 which side; he is wearing some type of glasses, something on his head, you are not sure, and you
7 observed him from anywhere from a minute -- depending on which version we take, a minute; and four
8 minutes. So please tell us how you could -- please explain this interesting touch to your testimony.
9 Why did you feel it was important to mention that, and how; what do you base yourself on to say that?

10 A. It was my personal opinion. I mentioned it. I did not mention it to anybody. I did not mention that it was
11 my opinion that Bagosora was observing to check whether his instructions were being followed. I made
12 that observation based on how we had left Sonatube and how we had climbed up, gone up, how we
13 had been taken to ETO, how I realised that we had been made to pass ETO. This was my personal
14 opinion, which I shared with no one else. I thought -- and it is what I said in my statement. I said that
15 perhaps, Bagosora had come to see if the orders he had given were being executed. That was my
16 opinion, at least based on what I saw.

17 Q. Okay. Based on the context perhaps, sir, but based on his demeanour, and your opinion derives from
18 speculation purely, there is nothing in his demeanour and what you saw, and what you specifically saw,
19 that could lead you to conclude that he was watching to see if orders were being followed. And my
20 question, sir: "Why did you throw that in? Why did you feel it was important to mention that?" You are
21 not part of the military. Why would you think it is important to mention to the Court that Bagosora you
22 saw, seemed to be watching -- he was watching to see if the orders were being followed? Why did you
23 think it was important to throw that in?

24 A. While the investigators were interviewing me, they put questions to me, particularly on my passage and
25 my itinerary, and since I had seen Bagosora, I could not have overlooked that fact. I therefore did so
26 because the investigators asked me to include it. All the events and all the acts that I witnessed were
27 stated to them, and that is why I referred to that incident at the time when I was leaving the ETO. That
28 was why the investigators recorded that in my statement; there were asking me such questions as
29 "What happened when you got to such-and-such a location; even if you cannot say everything you saw
30 because that would risk taking a whole year." However, I answered all the questions that were put to
31 me.

32 Q. Okay. If I move on to another subject.

33
34 Now, you mentioned -- I believe you mentioned in your statement yesterday, and just for clarification
35 purposes -- I understand that you had no reason to doubt the fact that the soldiers were going to take
36 you to ETO and protect you, when you were asked to turn back from Sonatube to go back to ETO; is
37 that correct? You really thought that the soldiers were going to take you there and protect you.

1 A. I haven't quite understood your question, Counsel.

2 Q. When you got to Sonatube, you saw some soldiers who told you to go back to ETO, and at that
3 particular time and on your way to ETO -- from Sonatube to ETO, is it correct to say that you had no
4 reason to doubt the fact that these soldiers were going to protect you at ETO, and, therefore, you fully
5 cooperated?

6 A. No, it is not true, the assertion you are making, and that is not what I stated. I said that after the
7 UNAMIR soldiers left, abandoning us at the ETO, we waited for the soldiers who had to provide for our
8 security, but those soldiers did not come. The soldiers we met at Sonatube factory were not the
9 soldiers who were charged with providing for our security; they busy doing something else -- fighting.
10 Those soldiers did not ask us to go to the ETO, but they asked us to sit where we sat, in the triangle.
11 That is where we saw the soldiers I referred to. And I also talked about someone who looked like the
12 commander of those soldiers. He asked those soldiers to surround us. Those soldiers did not ask us
13 to go to the ETO. They told us to move in the direction of the ETO. That was a long road that led to the
14 Bugesera region.

15 Q. First of all, what you mentioned yesterday was that the only information you had was that the
16 government was going to provide protection. I didn't understand from your testimony that they
17 specifically told you which unit would assure that protection. Am I wrong about that, or did you mention
18 that yesterday? And are you saying to this Court today that they did tell you which unit from whatever
19 government unit would ensure your protection? How did you know it wasn't these soldiers?

20 A. I believe you have wrongly interpreted my statement of yesterday. I believe I, indeed, told you that after
21 the departure of the Belgian troops -- before their departure, they told us, "Don't be afraid, after our
22 departure, the government will send you soldiers to protect you." We saw them leave. They left and,
23 instead of seeing soldiers come to protect us, we saw soldiers come to attack us. So the government
24 never sent soldiers to protect us. I never said that the soldiers whom we saw at Sonatube were not
25 there to protect us, but they were there for something else, to carry out their mission, and it was the
26 same soldiers who asked us to get up and to leave.

27 Q. I believe you are confused, sir, because you mentioned in your testimony yesterday, if I recall correctly,
28 that you weren't attacked by the soldiers, you were attacked by the *Interahamwe*?

29 A. No, no.

30 Q. That's what you said yesterday.

31 MR. TAMBADOU:

32 My Lord, if my learned friend went into the transcripts, he would have seen that in-chief he did say that
33 the *Interahamwe* and soldiers went inside ETO after the departure of the Belgian contingent.

34

35 As Your Lordship pleases.

36 MR. MACDONALD:

37 I didn't see that part.

1 BY MR. MACDONALD:

2 Q. But, in any event, you never mentioned anything about this attack when you were first interviewed --
3 when you were interviewed on March 20th, 1997. So it doesn't really change anything. And who were
4 these authorities that were supposed to protect you? That is the question. Who were these people?
5 Your life is in danger. According to you, people are supposed to come in to protect you. Who were
6 these people?

7 MR. PRESIDENT:

8 Well, Counsel, I think he is merely reporting what was told to him.

9 MR. MACDONALD:

10 Well, if my life is in danger and I am expecting some people to save me, I would like to know who they
11 are.

12 MR. PRESIDENT:

13 But these people are (*inaudible*) ... your government will save you.

14 MR. MACDONALD:

15 No, no, no. I think that he mentioned that Lemaire mentioned to him -- spoke to them at a certain point
16 in time and told them that the government would ensure their protection, and I am asking if -- who were
17 these people that were supposed to protect them.

18 MR. PRESIDENT:

19 Yes.

20 THE WITNESS:

21 The Defence counsel is putting questions to me as if I, the witness, was a member of the government,
22 as if I had to determine who had to provide for the security of the population. It was up to the
23 government to protect its citizens. Don't ask me who had to protect us. Those who had to protect us
24 were the people the government were supposed to assign to come and protect us, but which the
25 government did not do. But, we, as members of the civilian population, we as refugees, were expecting
26 the security officers to protect us, but we did not see them. The Belgians told us that the government
27 was going to send people to protect us, but that was not the case. Before their departure, they told us,
28 "Don't be afraid, the government will send other soldiers to relieve us." So, therefore, I cannot answer
29 the question you are putting to me. I was not a member of the government. We only saw those who
30 attacked us and I stated to you that there were soldiers and *Interahamwe* among those who attacked
31 us. It was the *Interahamwe* and soldiers who drove us from the ETO, but in answer to your question, I
32 would say that we did not see those people who were supposed to protect us.

33 BY MR. MACDONALD:

34 Q. Well, in answer to my question -- what was my question, sir? What was it, what did I ask you?

35 A. You asked me which was the unit that was supposed to protect us. You asked me whether the soldiers
36 told us which unit was supposed to protect us. I don't know whether I properly understood your
37 question, but that was at least the question I heard. So the question you put to me was, "Which was

1 the unit, according to the Belgians, that was going to protect us?" That is at least what I understood
2 from your question.

3 Q. Your testimony is loud and clear, sir, on the fact that the Belgians promised you something, some
4 people protection, call it what you want; that protection never came. This I entirely agree. I understand
5 your testimony fully on that. But my question to you is, when they mentioned -- when these soldiers --
6 and I am assuming it's Lemaire that mentioned that. I think you mentioned Lemaire giving you some
7 kind of speech. He told you that the government would send protection after they had left -- or, before
8 they left. I am assuming, that protection would replace the Belgians contingent, right?

9 A. Yes, that is right.

10 Q. Well, the only question I am -- what I am trying to determine with you is whether --

11 A. That is right.

12 Q. -- whether or not they told you who those people were, if they did. If they didn't, they did not. But it's a
13 very simple question and I am seeking a very simple answer from you. Did they or did they not mention
14 who these people were?

15 A. They told us that after their departure, that is, after the departure of the Belgian troops, the Rwandan
16 government was going to send people to protect us. They did not specify the soldiers belonging to
17 such-and-such a unit who were going to protect us. All they said was that the government was going to
18 send people to protect us, without specifying who those soldiers were going to be.

19 Q. Now, when they mentioned that -- when Lemaire made that -- or, call it a speech, but for the purpose of
20 our understanding, when he spoke to the refugees, were there any questions put to Lemaire by anyone
21 out of the 4,000 people? Did anyone ask Lemaire anything about that protection, who is it going to be,
22 when is he going to arrive; how long is he going to stay there for? Surely, there must have been at
23 least one or two questions out of 4,000 people.

24 A. Yes, in my testimony yesterday I told you that, prior to the departure of the Belgians peacekeeping
25 troops, their commander, Lemaire assembled all the refugees who were at ETO and he somehow
26 organised a meeting with us, the refugees. I told you that I was present. He told us that they were
27 leaving shortly. The refugees were afraid. They started screaming in consternation -- in shock. He told
28 us, "Stay calm. Even if we leave, the government will send people to protect you." I remember his
29 words. He told us that the government was going to send people to protect us. That was all he said.
30 He added nothing more. He did not tell us that the people who were in charge of protecting us would
31 arrive in five minutes or in an hour. He did not give us any time frame. Besides, nobody came to
32 protect us.

33 Q. So that is what he told, so he didn't -- we know what he told you, the government will send some people
34 to protect you, that I agree with you. I mean, I understand you on that. My suggestion to you, sir: given
35 the importance of that protection in your eyes, given the amount of refugees that were there at ETO, my
36 suggestion to you, sir, is, surely, someone must have asked Lemaire who these people were; when
37 they were going to arrive; how long they were going to stay with them; what type of protection would be

1 provided. That is the question I am putting to you. Were there any questions put to Lemaire, any
2 comments by anyone? Yes or no.

3 A. Nobody made any comments. We stayed put while waiting for those who were going to come and
4 protect us. If I remember correctly, no one put any questions to Lemaire.

5 Q. I mean, don't you find that a bit strange, given the context of that situation, the Belgians were leaving
6 and your life is in great danger, dimension -- general terms, protection would be provided. What about
7 yourself, never mind about the other people, but what about yourself; didn't you think at any time of
8 trying to inquire as to who these people were going to be, when they would arrive?

9 A. It never occurred to me to ask Lemaire who the people who were supposed to come and protect us
10 were supposed to be and when they were supposed to come. I, personally, waited for those people
11 who were supposed to come and protect us to arrive. Given the presence of soldiers and
12 *Interahamwes* at the gate who were going to attack us, I told myself that those people were going to
13 come and protect us. That is what I thought at that moment in time.

14 Q. Who? Who are "those"? Who are you referring to?

15 A. I told myself that they were going to send the force of law and order to protect us, either soldiers or
16 gendarmes. As far as I was concerned, all that mattered was that people should come and protect us.
17 Unfortunately, no one came.

18 Q. Okay. We understand no one came, and you are saying that soldiers were right there, they were
19 waiting to attack; the *Interahamwes* were there and they were waiting to attack. You didn't bother or
20 you didn't think it never was -- or, it never occurred to you that -- for you to ask who these people were
21 going to be. It could have been the gendarmes; it could have been the soldiers, but I find that a bit
22 incompatible with the fact that, how could you expect -- if what you are saying -- if what you are saying
23 is true that you were attacked by these soldiers at the ETO before or just after in a split second the
24 Belgians left, how could you expect soldiers to come and protect you? I have a hard time with that.

25 A. Listen, as regards those who were to protect us, it was the commander of the Belgian peacekeeping
26 troops who had reassured us by saying, "Don't be afraid, but other people will come and relieve us to
27 protect you." So you can't ask me who those people had to be. I don't know whether they were
28 supposed to be soldiers or policemen, but I persist in saying that neither soldiers nor gendarmes came
29 to protect us. What happened is that, immediately after the Belgian peacekeeping troops left, the ETO
30 was attacked by soldiers and *Interahamwe*. I, therefore, did not know who had to come and protect us,
31 who had to come and replace the Belgians. All the refugees who were there only yearned for
32 protection, to protect them as the Belgians had done before leaving. I, therefore, am not in a position to
33 know who and what force the government was supposed to send to protect us. I am not in a position to
34 know.

35 Q. Okay, sir. The one thing that stands in my mind very clearly from your testimony is that no one came.
36 The Belgians left 30 seconds after you were attacked. But yet we have a statement, sir, from
37 Captain Lemaire, and Captain Lemaire says that it didn't happen the way you are saying it happened

1 because he says that the French paratroopers came in before the Belgians left. That is what Lemaire
2 says. So, are you saying to this Court that Lemaire is lying, or that you are lying, or you just forgot that
3 part?

4 A. I was not with Lemaire when he gave his statement and I didn't read it. I, therefore, do not know what
5 he said in his statement. He probably gave a version that was different from mine and that is normal.
6 He is speaking from a point of view that is different from mine. I was, therefore, not present when he
7 gave his statement, and I do not know the contents of his statement. He refers to French troops, but to
8 tell you the truth, I never saw French troops who were supposed to have come to replace the Belgian
9 peacekeeping troops. Accept my word for it because I am telling you the truth. I did not see any
10 French people.

11 Q. Well, I think it is a very important element.

12

13 Now, Lemaire -- first of all --

14 MR. PRESIDENT:

15 Lemaire didn't say anything to protect themselves.

16 MR. MACDONALD:

17 Well, why are you protecting Lemaire now. I want to find, sir, that this is an important element. We
18 have a statement from Lemaire. It's Captain Lemaire who says loud and clear, French paratroops
19 came in. That is what Lemaire says. He says --

20 MR. PRESIDENT:

21 He says they were attacked.

22 MR. MACDONALD:

23 His testimony is resounding and he said it about 20 times, just this morning, nobody came in and no
24 protection was whatsoever.

25 MR. PRESIDENT:

26 And he still says that.

27 MR. MACDONALD:

28 All right. So --

29 MR. TAMBADOU:

30 And, My Lord, just one important thing that he also said that he never saw any French troops.

31 MR. MACDONALD:

32 No, no, no, he never saw.

33 MR. TAMBADOU:

34 This was his last comment. He never saw any French troops.

35 MR. MACDONALD:

36 All right. But just try to recall his testimony. A split second, when the Belgians left, they were attacked.
37 According to Lemaire, these French paratroops arrived before the Belgians left.

1 BY MR. MACDONALD:

2 Q. And if you would like me to read your statement, I will read you part of the statement, sir. It goes like
3 this:

4 MR. PRESIDENT:

5 That is not necessary for this time, you can call this person and then they will --

6 MR. MACDONALD:

7 No, they are going to call him. He is on their list.

8 MR. PRESIDENT:

9 When they call him -- *(inaudible)* ...it is not necessary. *(Microphones overlapping)* he is saying that
10 no one came and no one protected them, and if they were protected, no one would have attacked them.

11 MR. MACDONALD:

12 And Lemaire's position is to the effect that when the Belgian -- when the French paratroopers came in,
13 everybody started applauding because they thought they were being saved. As he says, "They
14 applauded because they thought the French were coming to replace us."

15 MR. TAMBADOU:

16 My Lord, I have a different interpretation of what my learned friend just read. They applauded because
17 they thought the French were going to protect. That is what he just read.

18 MR. MACDONALD:

19 So, what's that? According to Lemaire the French paratroopers came in; when they arrived, the
20 refugees started applauding --

21 MR. PRESIDENT:

22 You are free to put all this.

23 MR. TAMBADOU:

24 *(Inaudible)* because they thought the French were going to protect them. As Your Lordship please.

25 BY MR. MACDONALD:

26 Q. Surely, sir, either Lemaire is lying or you are lying, because you could not have missed that. According
27 to your testimony, the split second after they left, you were attacked. According to Lemaire, before they
28 left the paratroopers came in and the refugees were applauding, so it can't -- he must be lying then.

29 A. No, it is not true, and I think that you are attributing statements he did not make to him. How could he
30 have put it that way, whereas he was not at ETO? Lemaire had left. Are you saying he waited for the
31 French and that he did not leave with his troops? How could he have stayed behind? It is not true,
32 Lemaire left with his troops and they left us to our fate unprotected. They could not remain there. All
33 the Belgians soldiers left at the same time; Lemaire could not stay behind. It appears to me that you
34 had made a mix-up. The members of the population did applaud on another occasion, but it was not on
35 that occasion at ETO.

36 Q. On what occasion, sir? When did they applaud?

37 A. If my memory serves me right, the people applauded.

1 Q. If your memory serves you right?

2 MR. PRESIDENT:

3 Let him answer that.

4 MR. MACDONALD:

5 I am sorry.

6 THE WITNESS:

7 I recall this event. It is something that is often shown on television when we commemorate the events
8 that took place in Rwanda during that period. The people applauded the French when the French
9 arrived in Cyangugu region and Kibuye region. The population believed that the French represented
10 their saviours who would save them from the *Inyenzi* in that area. But with regard to ETO, no one
11 applauded the so-called Frenchmen. The refugees fled because they were attacked and the French
12 did not come at the time you mentioned, after the departure of the Belgians. I was there and I did not
13 see it happen. So how can you claim that members of the population applauded the French or the
14 arrival of the French, whereas I know that they never came to ETO.

15 BY MR. MACDONALD:

16 Q. But, sir, I think you will stop at your answer because the first part of your answer -- the first part of your
17 answer --

18 MR. MACDONALD:

19 I sorry.

20 MR. PRESIDENT:

21 She (*sic*) is saying that you must now move on to another point.

22 MR. MACDONALD:

23 Okay. I understand it is not an important factor, but --

24 MR. PRESIDENT:

25 It is important when Lemaire comes.

26 MR. MACDONALD:

27 We are not sure if Lemaire is going to come, but he is on the list, but they could decide not to bring him
28 in.

29 MR. PRESIDENT:

30 If they don't bring him, you can bring him. All the people whom they are refusing to bring, you can bring
31 them.

32 MR. MACDONALD:

33 I am not going to comment on this, it's unreal. So his challenge -- one thing is sure is that witness is
34 challenging the fact. What he is saying actually is I am putting -- I am not repeating the contents of
35 Lemaire's statement, so I feel I have to put the exact paragraph to him what Lemaire said, because it is
36 on record, if that statement is not --

37

1 MR. PRESIDENT:

2 What Lemaire said, you have consider it in this context. He said that all the youths were protesting and
3 sleeping on the ground, and the Belgians had to shoot at the group -- (*inaudible*)... I don't know whether
4 that was necessary for them to do. There was somebody to protect them. So in that respect I think --

5 MR. MACDONALD:

6 No, what he is saying is that Lemaire never said that; I am making all this up. So if I make all this up --

7 MR. PRESIDENT:

8 (*Microphones overlapping*)... said that for various reasons. We do not know why he said it.

9 MR. MACDONALD:

10 He keeps telling me that I am making this up.

11 MR. PRESIDENT:

12 Are you -- (*inaudible*).

13 MR. MACDONALD:

14 But for the record, I have to read that passage from Lemaire's statement where he mentions that, and
15 my friend -- if I am making this up, my friend will get up and mention that to the Court for the record.

16 MR. TAMBADOU:

17 My Lords, I mean -- I think it is about interpretation again. The impression I got from the witness was
18 that --

19 MR. PRESIDENT:

20 Let him interpret and we will see what it is then.

21 MR. TAMBADOU:

22 As Your Lordship pleases.

23 MR. MACDONALD:

24 I will read it in French, sir. "When we were about to leave, the French paratroopers arrived. The
25 refugees cheered and applauded for they believed that the French were coming to replace us and
26 would continue to protect them. I asked the French not to leave before we left, so that the refugees
27 would not panic."

28

29 If I am mistaken, sir, my friend will get up and correct me.

30 MR. PRESIDENT:

31 Yes, Counsel, there is one point I want to clarify. "When we were about to leave," from there, they were
32 leaving the country and they were leaving ETO, both places, so I do not --

33 MR. MACDONALD:

34 They never left the country, Mr. President.

35 MR. PRESIDENT:

36 That is why I said it was not clear.

37

1 MR. BLACK:

2 *(Microphones overlapping)* ... until the 16th, at least.

3 MR. PRESIDENT:

4 That is the thing -- whether they left on the 16th and at which point he is leaving ETO and as well as his
5 place to go to his country, so I don't know there.

6 MR. MACDONALD:

7 Well, is the Bench's position the fact that this is not clear, this part when Lemaire says before leaving
8 ETO, the French paratroopers arrived?

9 MR. PRESIDENT:

10 He says that. "We were about to leave", that is what -- *(inaudible)* ... I don't know from there.

11 MR. MACDONALD:

12 Sir, I am going to read from further up. "On the 11th of April, the battalion ordered us to leave ETO. I
13 ordered the first group to pack up as quietly as possible and to leave the ETO."

14 MR. BLACK:

15 The word is "secretive", not "quietly".

16 THE ENGLISH INTERPRETER:

17 "*Discrètement*" is the word that was used. *Discrètement*, I will translate as discreetly.

18 MR. MACDONALD:

19 Just a few lines, Mr. President. "This first group left and the refugees did not realise this because there
20 was a constant -- movement to and fro, in and out of ETO."

21

22 Mr. President, the correct word is, "There were vehicles constantly entering and exiting the ETO, but at
23 the moment the last group left, the refugees despaired, and the youths laid down in front of the vehicles
24 to stop us from abandoning them. Lieutenant Lecompte had fired some shots in order to scare them
25 away. As we prepared -- as we were ready to leave, the French paratroopers arrived. The refugees
26 cheered and applauded, for they believed the French were coming to replace us."

27

28 That is the context, Mr. President.

29 MR. PRESIDENT:

30 Yes, Counsel, now he can --

31 MR. TAMBADOU:

32 My Lord, if I may just -- I just have one point to clarify. Is it my learned friend's position that there were
33 not any killings at the ETO around the date that the witness stated? I mean, I just want to know what
34 their position is.

35 MR. BLACK:

36 My position and my client's is that the massacre at Nyanza was committed by the RPF of Hutus. There
37 were no killings at the ETO.

1 MR. TAMBADOU:

2 Okay, right. Thank you.

3 MR. MACDONALD:

4 I might have just a few questions since I said -- I remember yesterday what I mentioned to the Court,
5 but we have to agree that the answers were very, very long for this witness, and I would appreciate if
6 you could give me perhaps another 15 minutes.

7 MR. PRESIDENT:

8 Okay.

9 MR. MACDONALD:

10 Thank you.

11 THE WITNESS:

12 I have a request to make to Mr. President.

13
14 Thank you, Mr. President. The Defence counsel has just read from a statement of Lemaire, but
15 Lemaire says that initially -- rather, at the departure of the Belgian troops that the French arrived to
16 replace them. If I understood his reading, Lemaire is saying "as we prepared to leave," and there he
17 refers to the Belgians who prepared to leave. Leaving for where, is the first question. And, secondly,
18 with regard to the French who are alleged to have come, does Lemaire say that the French took up
19 position in replacement of the Belgians? Is that the content of the statement that the Defence counsel
20 has just read? I would like clarification to that effect.

21 MR. PRESIDENT:

22 And when Lemaire comes, they will question him on that.

23

24 Yes, Mr. MacDonald, you can continue.

25 MR. MACDONALD:

26 Thank you, sir.

27 MR. PRESIDENT:

28 If you have said something, we will assess it when Lemaire comes. Let him come and (*inaudible*) ...
29 then same cross-examination will reveal the truth.

30 THE WITNESS:

31 Yes, I agree with you, Mr. President, but I wanted to say when the Belgians troops left no one remained
32 behind to ensure that we were protected. The French troops were not there.

33 MR. PRESIDENT:

34 That is noted.

35 THE WITNESS:

36 I think that my version, in any event, corresponds to Lemaire's version.

37

1 MR. PRESIDENT:

2 Yes, Counsel.

3 BY MR. MACDONALD:

4 Q. Sir, you mentioned something about Cyangugu where the -- when you were confronted with the fact
5 that -- what Lemaire had said about the refugees applauding. You started -- I felt you started trying to
6 explain that these refugees there where you were had applauded on another occasion. Then you
7 were -- you got stuck and you moved to something else, but you mentioned, I believe, an event in
8 Cyangugu and I believe that the event that you are referring to was in June, is that correct, June of
9 1994? I just want to know from you, I am --

10 MR. PRESIDENT:

11 Counsel, I think what he said was he saw -- (*inaudible*) ... cheering.

12 MR. MACDONALD:

13 Okay. Thank you Mr. President.

14 THE WITNESS:

15 Yes, the members of the population applauded the French. Moreover, these are not displaced persons
16 who were being hunted down who were applauding the French. In my opinion, it is people who had fled
17 the RPF attacks and these people were -- happened to be in that part of the country and when they saw
18 the French, they thought they would protect them from the RPF. It happened in the last months of the
19 war. I told you that I saw this on television. These are pictures I have seen on the television.
20 Whenever the genocide is commemorated, it is something that is usually done in the month of April in
21 memory of the genocide, in order to commemorate the events that took place during the genocide. So
22 this is with reference to members of the population who applauded the French when they arrived in that
23 particular area. It is not the French who were being applauded when they arrived at ETO.

24 BY MR. MACDONALD:

25 Q. This answer has nothing to do with the question I had put to you, sir, because I was reading for you the
26 passage from Lemaire's statement where he was referring to the French -- to the refugees that were
27 there. All right, it is on the record and the Court would decide -- and the Court would assess.

28

29 Where were you when you saw that on TV? Where did you see that?

30 A. I have just told you that every year in April throughout the country there is a period -- a number of days
31 that are set aside for commemoration of the victims of the genocide, and during that period the
32 television broadcast footage of the events in 1994. This happens every year. It is in order to
33 commemorate the victims of the genocide, our relatives who were slain during the genocide. It
34 happens every year in the month April. It happened this year and it will happen next year.

35 Q. That was in reply to my question as to the refugees applauding. Anyway, I have a few specific
36 questions for you, sir, and I would appreciate it -- my time is very limited, I don't think you would
37 cooperate, but I am asking you still. I had asked you yesterday if you had encountered any roadblocks

1 when you left your house to go to ETO. I think you mentioned that you didn't see any *Interahamwes*
2 and you got to ETO without any problems and you were justifying this, more or less, by saying it was a
3 kilometre away from your house to ETO. And -- but yet you mentioned in your statement, your written
4 statement, that the distance was three kilometres. That's a whole different story. And that's at page 3,
5 first paragraph. Do you recall saying that to the investigators?

6 MR. PRESIDENT:

7 The distance was one kilometre.

8 MR. MACDONALD:

9 That's what he said here, but in the statement he says three kilometres.

10 BY MR. MACDONALD:

11 Q. So how could the distance be short from your house to the ETO? First of all, do you recall saying that
12 to the investigators, sir, three kilometres?

13 A. I do not remember. The investigators questioned me in 1997. You will therefore understand that this
14 was a while back. If we are to take today, I am in a position to recall everything I have said today, and
15 all the figures I gave were estimates; these were not precise measurements.

16 Q. I agree with you, but you didn't say approximately; you said (*French spoken*) ... translated it means,
17 ETO was situated at a distance of three kilometres from*****. That's what you said. Why is it not
18 as far now than it was then? So if one kilometre suits your purpose, it is going to be one kilometre. If
19 five kilometres suits your purpose, it's going to be five kilometres. But for the record, which is it? Is it
20 one or three?

21 A. When I was questioned by the investigators, I did not give them an exact distance; it was an estimate,
22 given that I had not measured the distance. If the investigators did not indicate in my statement that
23 this was in fact an estimate, that is not my fault. The figure I have was an estimate and that is what I
24 am doing now in my testimony. Yesterday I said that the distance between my house and ETO was
25 about a kilometre, and I stand by my testimony yesterday; it was an estimate.

26 Q. All right. So let's go into that exercise. You made a statement March -- I am sorry. You signed a
27 statement on March the 26th, 1997. Do you recall that French version -- it's your signature -- that
28 statement was read to you? Why didn't you ask the investigators to correct that part if it wasn't
29 accurate then?

30 A. But I could not ask the investigators to make the correction you suggested, given that I had not
31 measured the distance in question. The distance I cited was merely an estimate as I have just told you,
32 and what I gave you here is also an estimate. I, therefore, could not ask the investigators to correct
33 anything whatsoever.

34 Q. And what I am telling you, sir, with all due respect, is when one kilometre suits your purpose, it's one
35 kilometre; that's the estimate. But when an estimate of three kilometres suits -- or five kilometres
36 serves your purpose, it's going to be five kilometres. That is what I am trying to put to you, sir.

37

- 1 If I recall correctly your testimony, just another few points -- you mention that at a certain point in time
2 the -- they ran out of ammunition when they were shooting at the refugees. And if I understand you
3 correctly, someone left to get some ammunition and came back and the killings continued; is that
4 correct, yes or no, basically?
- 5 A. Yes, it is true; that is what happened.
- 6 Q. And during that time, nothing happened; nobody was killed; everything is on standby?
- 7 A. The attackers were waiting to be resupplied with ammunition and when the person who had gone to get
8 the supplies left, one of the attackers said, "Maybe some of these people who are being killed are our
9 fellow -- there may be some of our fellow Hutus." And that is when they sorted the victims, those who
10 were being killed to establish those who held identity cards bearing "Hutu." So those who were not yet
11 dead and who had Hutu on their identity cards displayed their identity cards and were removed -- left
12 the group of refugees. This happened during the time that that person had gone to get supplies for the
13 attackers, and when he brought back the ammunition the killings resumed.
- 14 Q. So, there's two points -- there's two things that stand out in your testimony. So I understand that there
15 was a mixed group; there were Hutus and Tutsis in that group, first of all. And I understand also that
16 during all that time when they left to get ammunition, the *Interahamwe* with machetes and clubs and
17 what have you -- they just stood on the sidelines waiting for the armour to -- so they didn't kill anybody.
18 *Interahamwe* never killed anyone during that time, yes or no, a simple yes or no?
- 19 A. As they awaited the resupplies, the killings somewhat abated, but there were children who were trying
20 to leave the group to go into the sorghum fields or the banana plantations and the *Interahamwe* were
21 stopping those children, preventing those children from leaving the group. They would bring them back
22 to the group, but when they were awaiting the ammunition, the killing stopped and when the
23 ammunition came they resumed.
- 24 Q. Just one more element, sir. I thought about something else; I forgot it. Just quickly, on the events of --
25 clarification on the events of April the 12th, April the 13th, you were shot on April the 12th, you were
26 wounded, I believed you mentioned on April 11, but you stayed -- you remained in that particular spot
27 where you were for many hours. If I understand you, you left that particular spot on April the 13th,
28 right? Yes or no?
- 29 A. That is correct.
- 30 Q. And I read somewhere that the next day *Interahamwe* came on the 12th, but stayed for approximately
31 an hour; is that correct?
- 32 A. I believe that, indeed, I gave that testimony. I said that the following morning, very early, the
33 *Interahamwe* came to search among the bodies, given that there was an exchange of fire between the
34 belligerents, the Rwandan Armed Forces and what I believe to have been the RPF, the *Interahamwe*
35 did not remain a long time amongst the bodies. There was sustained fire throughout that day and I
36 could hear the gunfire, and that is why the *Interahamwe* were unable to stay for long in the place where
37 the bodies were piled up.

1 Q. Okay, but even given that the fact that they stayed for a very brief moment, you still stayed there for
2 another 23 hours when they weren't there. You stayed there until the April the 13th?

3 A. That is correct. It is correct, yes. I wanted to free myself to leave the corpses because it was not
4 pleasant to remain amongst the dead, amongst the bodies of my relatives, but I could not walk. I could
5 not leave since I could not walk. If I had been able to, I would have left the spot.

6 Q. Just one more thing -- I would have other questions, but I understand my time is limited.

7
8 When -- you mentioned this incident about the *Interahamwe* taking some money from you, and I was
9 reading your testimony and you mention in your previous testimony that you thought about asking that
10 person to share the money with him. Do you recall saying that? I could read the passage, it is page 26
11 of the transcript and you say: "He took my money and looked right and left and noticed that nobody
12 was looking at him and I said -- I thought I should ask him to share the money with me, the monies that
13 he had taken away from me." I would like you to comment on that.

14 A. No, that is not what I said. I do not even know whether that was how my statement was recorded. All I
15 said was that the *Interahamwe* left only after having opened the pocket of my jacket. They shoved the
16 bodies on me aside, made me lie on my back, opened my pocket, that is the pocket of my jacket and
17 removed the money that was in it. And I could see him, I could see him looking left and right to make
18 sure no one had seen him take out that money. I stated that, having realised that nobody had seen
19 what he had done and that he was lucky, that no one had seen him since, he could now go away with
20 the money without sharing it. I didn't want him to share the money with me. I couldn't have said that I
21 wanted him to share the money with me because he would have killed me. All I said was that, having
22 realised that nobody had seen him, he fled. I could not have asked him to share that money with me.

23 Q. That is in the record on page 26.

24
25 One last thing. Are you still a member of the *Ibuka*? Or do you know what *Ibuka* is, sir, don't you?

26 A. I know *Ibuka*.

27 Q. My question is: Are you still a member of *Ibuka*?

28 A. Do you know when I was a member of *Ibuka*? You are asking me whether I am still a member of *Ibuka*.
29 Do you know when I joined that association?

30 Q. Let's put it simply. Are you denying the fact that you ever were a member of *Ibuka*?

31 A. Whether or not I am a member of *Ibuka*, what is the relationship between that and this trial? What is
32 the relationship between membership of *Ibuka* and this trial? *Ibuka* was created or established after the
33 genocide.

34 MR. PRESIDENT:

35 Answer the question, if you are not a member.

36 MR. MACDONALD:

37 My position, sir, is that let the record reflect that he is refusing to answer that question, unless you want

1 us to elaborate on that. What difference does it make?

2 MR. TAMBADOU:

3 My Lord, I would like to advise the witness to answer the question.

4 THE WITNESS:

5 Mr. President, I have not refused to answer Defence counsel's question. I simply wanted him to explain
6 further. If he wants me to explain the matter, I would say that *Ibuka* was created or established after
7 the genocide. I am a member of *Ibuka*.

8 MR. PRESIDENT:

9 Whether you are a member or not, that is all he wants to know.

10 BY MR. MACDONALD:

11 Q. So why didn't you want to answer? Why did you want to seek an explanation from me, sir? Is that a
12 trouble area for you, simply, yes or no?

13 A. No. That doesn't complicate anything for me. I thought that that question had nothing to do with this
14 trial, but since you want to know, my answer is that I am a member of *Ibuka*.

15 Q. And we all know why you chose not to answer that question in the first place before Mr. President
16 intervened. That's all. Thank you.

17 MR. PRESIDENT:

18 Mr. Black, do you have any questions?

19 MR. BLACK:

20 Yes, sir.

21 MR. PRESIDENT:

22 How long would you take?

23 MR. BLACK:

24 May be an hour, maybe more. It depends on how his answers go by. If it is faster, it could be an hour.
25 If it's slow, it could take till 12:30 or to 1:00.

26 JUDGE PARK:

27 Mr. Black, those people you mentioned, you said there was a massacre at Nyanza hill in 1994.

28 However, it was done by RPF not Rwandan soldiers; is it your position?

29 MR. BLACK:

30 Yes, sir. Yes, sir, they were saying that there was no massacre that day, that they had arranged to -- a
31 story about a massacre which never took place, except the Hutus were killed en masse and then --
32 massacres were attributed to be against the government and their victims were described by the RPF
33 as Tutsis when, in fact, they were Hutus. That's our position.

34 MR. PRESIDENT:

35 Shall we go for break now? Court is adjourned.

36 *(Court recessed at 1110H)*

37 *(Pages 1 to 26 by Sithembiso Moyo)*

1 (Court resumed at 1135H)

2 CROSS-EXAMINATION

3 BY MR. BLACK:

4 Q. Sir, we are going to -- you said that -- can you tell us how the RPF came to you and found you in that
5 mass of bodies that you say were there. Can you describe that again -- on the 13th?

6 A. On the 13th, there was almost no more shooting over the Nyanza hill, or, rather, between the Nyanza
7 hill and Rebero hill, because this area had already fallen to the RPF. It was now under the control of
8 the RPF and there were RPF soldiers patrolling the area, and that's RPF soldiers on patrol in the area
9 came to the site where there were many bodies piled up and they were surprised to find such a pileup
10 of corpses, and one of them said that there may be survivors of this killing. As soon as I heard them, I
11 thought they may be the soldiers that shot at us, but when I opened my eyes, I saw that they were not
12 wearing the uniform as that of the soldiers who had shot at us. At that point, it occurred to me that they
13 might be RPF soldiers. At that point, the wounded were gathered by the RPF soldiers who transported
14 them to the Irebero Hotel where they had set up their command post or headquarters. In my case, I left
15 with other survivors, but I could not stand on my own, I would not stand on my feet. I was, therefore,
16 dragged out from under the bodies, and the soldiers held me aloft in their arms, and when they were
17 tired, they would set me down on the ground and continue and so on. But at a certain distance, we
18 came to an empty house. The soldiers said there was no one in the house. They tore off the door to
19 that house and they put me and transported me on the door flap. They used it as a stretcher to take me
20 up to the Irebero Hotel. That is how I came to that place.

21 Q. That is why I asked you the question, because in your testimony, you said you were carried in the arms
22 of the RPF soldiers, and in your statement you said you were carried on the door and this occurred
23 from the very first time they found you. Anyway, all right. So, you say you were there at the ETO, and
24 yet you say you never saw the French paratroopers arrive. I find that surprising, because, you know,
25 they arrived on several occasions; is that right?

26 A. I did not see them.

27 Q. Just because you weren't there?

28 A. Oh la la.

29 Q. Oh la la is correct.

30 A. Well, are you insinuating that I am telling lies, that I am a liar?

31 Q. You are. Captain Lemaire says that the French arrived three times; the 9th, the 10th and the 11th,
32 searching for the French and Italian nationals in the crowd, including the Italian ambassador Mr. Cross.

33 MR. PRESIDENT:

34 Mr. Black, does he know to identify -- to distinguish Belgian from the French?

35 MR. BLACK:

36 Oh, no. Are trying to -- again trying to explain this witness's testimony, because I am going to object to
37 that.

1 MR. PRESIDENT:

2 No, you have put it to him that Belgian came after --

3 MR. BLACK:

4 Now, you are giving him a chance to say, "I don't know what is Belgian and what is French, may be
5 they were there, but I did not recognise them." Thank you very much, sir. I object to that strenuously.

6 MR. PRESIDENT:

7 You are assuming things and putting things.

8 MR. BLACK:

9 I know what is going on here, and I am objecting to it. I want to put my questions and see what his
10 answers are, if I may.

11 BY MR. BLACK:

12 Q. Sir, the French arrived on the 9th, Captain Lemaire says, and they were applauded that day. They
13 came on a patrol looking for the French and Italian nationals. And when Captain Lemaire says -- in the
14 Rutaganda trial, says that they were applauded that day and they came back -- is that propaganda?

15 MR. PRESIDENT:

16 You can you put a question, that's all.

17 MR. BLACK:

18 That is what Captain Lemaire says, sir, and he was a Prosecution witness in the *Rutaganda* trial.

19 MR. PRESIDENT:

20 I don't like this kind of questioning, you can't give an extra -- If it is a question, it has to be a question
21 form.

22 MR. BLACK:

23 It is not a question, it is a suggestion.

24 BY MR. BLACK:

25 Q. The French were there twice before and they were applauded on both times. That is what
26 Captain Lemaire says; is that correct?

27 A. I am not French. The French paratroopers were not coming to see me, and they had no questions to
28 put to me. In the place where we were, it was a school. It was a school where there were pupils, and
29 perhaps the soldiers did come. However, they did not speak to us. Had I been a French man, maybe
30 the French paratroopers would have approached me, because they were looking for their countrymen,
31 they would perhaps have stopped and spoken to me then, but I see no relation between myself and the
32 French troops. I was just a Rwandan citizen. What would they have been looking for? I had young
33 children -- I had to attend to them; tuck them in when they slept. I did so with my wife. I was busy with
34 my children, preoccupied with them. Where do you think I would have met the French as a refugee?
35 Maybe they could have come to see me, but I did not see them.

36 MR. PRESIDENT:

37 Use short answers. Give short answers.

1 THE WITNESS:

2 Thank you, Mr. President.

3 BY MR. BLACK:

4 Q. Well, nobody is going to believe, sir, that French paratroopers in groups of 30 at the time would come
5 on patrol and you and the other refugees were applauding, it is impossible, sir, that you didn't know
6 they were present.

7
8 Anyway, it's also not true, is it not, that Captain Lemaire gave a talk to the refugees on the 11th, and
9 also it's not true, isn't it, because he says he never did that. He never addressed the refugees in that
10 camp.

11 MR. PRESIDENT:

12 Let him answer.

13 THE WITNESS:

14 This is my comment. Lemaire, the commander, gathered us himself on the 11th, in order to announce
15 their departure. I am telling you this in my capacity as a witness. I am not lying -- I am telling the truth.

16 BY MR. BLACK:

17 Q. Captain Lemaire says in his statement, that he was ordered to keep their departure from ETO a secret
18 from the refugees so that they would not panic, and, therefore, he received the orders on the 9th to
19 prepare for departure. He was told not to let the refugees know about it, and in his statement, he goes
20 on to say that from the 9th, 10th and the 11th, he tried to keep it a secret from the refugees. However,
21 he did give a talk to RPF members in the crowd on the 9th; is that true? And you were one of them;
22 isn't that true?

23 A. No, that is not true. I never spoke to Lemaire. I was at ETO as a refugee, and not as a member or
24 representative of the RPF.

25 Q. Captain Lemaire states that there were two groups of refugees, civilians and non civilians, Tutsi and
26 Hutu alike, and organised armed groups who came in to the ETO, and they were kept separate. The
27 real refugees kept inside and the RPF, the irregulars, were on the football field -- the athletic fields, with
28 their weapons. He also says that he disarmed the refugees in the buildings but allowed those
29 organised groups to keep their arms. That is what he said in the *Rutaganda* trial, in various pages on
30 1st of October 1999. And the only groups he spoke to were those with arms in the athletic field of the
31 football ground. So, if you heard Captain Lemaire saying that they were leaving, it was on the 9th, it
32 was because he was advising the RPF of the Belgian reactions; is that not correct? I can read the
33 transcripts --

34 MR. PRESIDENT:

35 Is that marked? You were given the letter and ---

36 *(Microphones overlapping)*

37

1 THE ENGLISH INTERPRETER:

2 Mr. President, the interpreters are asking that you should not speak at the same time; it makes it
3 difficult to interpret.

4 MR. PRESIDENT:

5 The question you are putting to him, while he is trying to give an answer, you ask another different
6 question.

7 MR. BLACK:

8 I am addressing you, sir, and if while he is thinking of the answer, we can have some time; I could read
9 these statements and put the particular statements by Luc Lemaire which confirm what I am saying, but
10 I don't want to waste people's time. So, if you accept what I am saying, that is the transcript.

11 MR. TAMBADOU:

12 Because Luc Lemaire is on our witness list, he will be here anyway. To put Luc Lemaire's evidence to
13 this witness is a bit --

14 MR. PRESIDENT:

15 So, you take it up with him; let him answer.

16 BY MR. BLACK:

17 Q. Is he denying what time I am saying?

18 THE WITNESS:

19 I firmly deny your assertion. None of the people in the group had a weapon within the ETO school
20 complex, we were all there as refugees and none of the refugees had a weapon.

21 MR. TAMBADOU:

22 My Lord, I just want to make one point. My learned friend is using the transcript of Rutaganda to
23 cross-examine, he could at least serve us and the Chamber with copies of that as it has been the
24 practice so far.

25 MR. PRESIDENT:

26 But I think he has abandoned it. He said -- after the undertaking that you will call that witness. I think
27 that you no longer --

28 MR. BLACK:

29 No, I can use the transcript. I just want to save time. If you want me to read this passage of what I am
30 going to suggest to this witness, it will take longer. If you accept that Luc Lemaire said these things, I
31 don't need to read it, I can just put suggestions to him.

32 MR. TAMBADOU:

33 What I am saying, My Lord, is that if he had intended to use these transcripts; he could have served us
34 with copies of these transcripts -- and the Chamber.

35 MR. BLACK:

36 You got the transcripts. He is your witness.

37

1 MR. TAMBADOU:

2 We did not have notice that you are going to use these transcripts.

3 MR. BLACK:

4 You don't need notice for my cross-examination.

5 MR. TAMBADOU:

6 My Lord, all I am saying is the least he could have done is serve us with copies as we have been doing
7 in this trial.

8 MR. PRESIDENT:

9 This is unnecessary talk. Do you have copies? If you have copies, give them.

10 MR. BLACK:

11 I am not using them so why get copies, it is their witness. I am sure he has got copies. It is his witness.

12 MR. PRESIDENT:

13 No, if you are making suggestions to him and basing them on the answers given by somebody, then
14 they should be put on notice.

15 MR. BLACK:

16 No, they don't need notice of my cross-examination -- (*Microphones overlapping*).

17 MR. PRESIDENT:

18 No, no, no, you can't have every thing you want --

19 MR. BLACK:

20 No, no, no, I will examine him my way and I am entitled to refer to statements and transcripts without
21 giving them to them. I only gave them to the Interpreters; I don't need to give to the Prosecution.

22 MR. PRESIDENT:

23 You have to give to the Prosecutor; don't they have a right to it?

24 MR. BLACK:

25 No, I don't. Not under the rules, I don't.

26 MR. TAMBADOU:

27 My Lord, the Prosecutor takes note of that, and we will certainly reciprocate.

28

29 As Your Lordship pleases.

30 BY MR. BLACK:

31 Q. In fact, Lemaire says that all troops came in, as I said, he addressed them on the 9th and advised them
32 to go to the Amahoro stadium, and he advised them how to infiltrate the city by passing roadblocks and
33 military patrols in order for them to be able to get there. He says he advised you how to get there; isn't
34 that true?

35 A. No, that is not how it happened. Once again, I tell you there were no weapons among the refugees.

36 No refugee was armed. When the *Interahamwe* attacked us, had the refugees been armed, they would
37 have been able to contend with the attackers.

- 1 Q. He also told you -- your group, to flee -- to actually infiltrate the city at night, because the Rwandan
2 government forces did not have night vision capacity. Isn't it true? They did not have night vision
3 goggles or binoculars -- optical equipment like that, so you could infiltrate the city more easily, isn't that
4 true? That is what he says.
- 5 A. But, Counsel, what was Lemaire's responsibility towards the refugees? I said there were no soldiers
6 amongst the refugees. Lemaire was not an adviser to the RPF elements. Who do you think Lemaire
7 was?
- 8 Q. Well, to answer your question, sir, I put it to you that Captain Lemaire was adviser to the RPF forces
9 based at the ETO and he didn't care one hoot about the refugees there, in fact, he says there were 400
10 refugees there. He says there were 2,000, and I put it to you that the other 2,000 you say were there
11 were RPF. There were at least 2000 RPF irregulars there -- armed. And that is the way it was; correct?
- 12 A. You are talking about the 2000 that I am supposed to have added? But I never talked about soldiers.
13 Once again, I refute your assertion that there were soldiers amongst the refugees at ETO, no soldiers,
14 and no one among the refugees was armed.
- 15 Q. You say that the ETO was surrounded the most days that you were there, by *Interahamwe* and
16 soldiers, correct?
- 17 A. Correct.
- 18 Q. Well, Captain Lemaire differs with you again. He says in the Rutaganda trial, his testimony -- that there
19 were no soldiers and *Interahamwe* around the ETO, and that the only time was sometimes a pick-up
20 truck, driving by in the road and from time to time firing shots in the air in their direction. That is the only
21 truck they saw around the ETO, and they counted the number of people on that truck, there were no
22 more than 10. That is what he said. So where did you get all these soldiers and *Interahamwe*
23 surrounding the ETO?
- 24 A. I saw them. I saw them with my own eyes, and I maintain that they were numerous, both soldiers and
25 *Interahamwe*. I saw them. As for Lemaire's assertion, you cannot confront me with them. I have
26 nothing to say about them. He has his position, I have mine. I am referring to events that I witnessed.
- 27 Q. In fact, Captain Lemaire -- all right, going back to the arrival of the French paratroopers, to establish to
28 his -- he even gives more details. He said he asked the French to stay around the ETO for several
29 minutes, to make the refugees believe that they were okay and nobody was really leaving. You did not
30 see that happen, no?
- 31 A. No. You keep telling me about the French and yet I did not see them. I did not see the French at ETO.
- 32 Q. And when they left, I believe the French left shortly after they left. He said, "When they left--", I will
33 read it in French. This is at page 136, or perhaps I could read the transcript. He says, on page 136 of
34 the transcript of October, 13th, that: "The moment they left the ETO, the area was very calm"
35 sorry -- yes, very calm, "Very calm, and the only persons they saw around the area was near the -- was
36 only 300 metres from the ETO, and they only encountered them when they drove out and encountered
37 a roadblock. But around the ETO, the day they left, they saw no one, not a single soul. So there was

- 1 no one to come and attack you immediately after they left -- not a person. The nearest roadblock was
2 300 metres away from that site. What have you got to say to that? This is, again, why I say you were
3 not there, sir, or if you were, you are lying.
- 4 A. Counsel, I beseech not to use the term liar. I think you are obsessed with that word. I am telling the
5 truth. The soldiers -- after the soldiers left, rather -- moreover, you have read the document -- Lemaire's
6 statement -- Lemaire himself confirms that prior to the Belgian soldiers' departure, youths lay down --
7 lay prostrate in front of the vehicle, and then immediately after the soldiers left, the *Interahamwe*
8 swooped in, and that is why we took off immediately, we ran away. If the attack had not taken place,
9 we would not have left, because we were comfortable in the classrooms, but it was after the attack that
10 we left the site.
- 11 Q. You told Mr. MacDonald and counsel there that you decided to try, with the rest of the refugees, you
12 said; try to go to the Amahoro stadium because someone with a radio in the crowd had heard there
13 were refugees there. Is that right?
- 14 A. Yes, indeed.
- 15 Q. And, do you know when you heard that? A couple of days before you left or?
- 16 A. Yes, a few days before we left the place.
- 17 Q. If I said the 9th would be the date, would that seem reasonable to you? You heard that? That was a
18 long time ago, but you were there.
- 19 A. I cannot remember the date. Yesterday, I explained that someone found us in the classroom where we
20 were, and told us that refugees had also gathered in large numbers at Amahoro stadium as was the
21 case at ETO, but I am not in a position to tell you if it was the 8th, the 9th or the 10th. We left ETO
22 intending to go to the Amahoro stadium.
- 23 Q. And you were going there to join up the RPF that was there; weren't you?
- 24 A. No, no, that is not the case. That was not the case.
- 25 Q. Well, you know there is a regimental history of their involvement in MINUAR in Rwanda at that time
26 called Kibab report -- Kigali battalion report, the official history. And they say, regarding the 9th April, at
27 8:25 hours, they observed RPF at Amahoro stadium; that was on the 9th. So you were going to join
28 refugees at the Amahoro stadium. Sir, you were going to join the RPF that had reached there; is that
29 right?
- 30 A. No, that is not true. I have explained to you that our intention was to join the other refugees. You
31 referred to RPF soldiers who were purportedly at the Amahoro stadium. I do not know them. Besides,
32 as regards the other soldiers you mentioned, who could have been at ETO, I did not also see them.
- 33 Q. What I put to you, sir, is consistent with Luc Lemaire's testimony. He told certain armed groups on the
34 9th, that they should leave that night, infiltrate and avoid all the military patrols and head for Amahoro
35 stadium because he knew, the Belgians knew on the morning of the night that the RPF were there, and
36 he also says at page -- so my friend can find it and use it when Lemaire comes again -- page 105, he
37 says there were two groups as I said before, in ETO, one group anti-RPF and certain Hutus who were

1 pro-RPF and the real refugees, that is what he says, and, I again put it to you that you were the anti
2 pro-RPF irregulars at the ETO, and part of the movement you were advised to make by
3 Captain Lemaire to the Amahoro stadium was to link up with the RPF there to capture to Kicukiro?

4 A. No. You are not right in saying so. You tell me of RPF soldiers, as far as I am concerned, that is
5 something new. I personally never saw RPF soldiers inside the ETO. We left our homes to seek
6 refuge at the ETO, and none of us were soldiers. What you are telling me is totally new.

7 MR. TAMBADOU:

8 Your Honour, I just want to point out the confusion in my learned friend's questions himself. He said
9 that they left the ETO to go and link up with the RPF in the Amahoro to capture Kicukiro, and the ETO,
10 it is in evidence that it is in Kicukiro, and I don't believe the Amahoro stadium is in Kicukiro. So what he
11 is saying is that they left Kicukiro to join the RPF to come to Kicukiro again. I mean, that is a confusion
12 in his question and I hope he realises that.

13 MR. BLACK:

14 Your Honour, those are military strategies. They tried to seize the entire area. By covering the whole
15 area, they captured Kicukiro, linked up with the RPF and seized the whole area.

16 BY MR. BLACK:

17 Q. Did you know, as Mr. MacDonald put to you, that -- did Luc Lemaire tell you that when he was leaving
18 that, in fact, when you left the ETO, he had no formal orders yet, in his cross-examination -- did he tell
19 you that he had nothing in particular to do that day? There was no reason for them leaving in particular
20 -- did he tell you that?

21 MR. PRESIDENT:

22 Well, you, yourself, gave the reason. You said the French came there.

23 MR. BLACK:

24 No, no, that is not why he left. The French came thereby coincidence, just on a patrol. Nothing to do
25 with this. The French happened to show up just before they left. That is Lemaire's testimony. It is
26 stated in Lemaire's testimony.

27 BY MR. BLACK:

28 Q. So, sir, answer my question. Do you remember my question?

29 A. No. Please repeat the question.

30 Q. Did Captain Lemaire, when he talked to your own group, I suggest, give you further information that he
31 had no particular reason to leave -- to do anything else urgent, because he was left, according to him,
32 to keep the "coat hanging" with no mission and he had to wait for further orders. So, there was no
33 reason for that contingent to leave.

34 A. Let me explain one thing to you, Counsel. Since yesterday, I have explained to you on several
35 occasions the manner or the circumstances under which the Belgian troops left. Luc Lemaire
36 assembled us, and this is what he told us: "We are going to leave, and you should not be surprised." I
37 have explained this on several occasions. You tell me of RPF soldiers, and I continued to tell you that

1 this point is new. There was no RPF soldier at the ETO. We were refugees; we were people who had
2 come from our homes to seek refuge. Most of the RPF soldiers who had attacked the country had
3 come from Uganda. How then can you insinuate that I was one of the RPF soldiers? Yesterday, you
4 asked me whether I had left Rwanda, and I told you that since my birth I had never left Rwanda. How
5 can you insinuate that I am an RPF soldier? The President of this Chamber has asked me to be brief in
6 my answers, and I would like to stop here.

7 Q. Sir, I don't think you were there. The only reason the Belgians left refugees defenceless there is
8 because they decided to see their deposition, to see the deposition of the RPF later that day. And the
9 real refugees were left wondering around by themselves, because the Belgians were working with the
10 RPF, and when they told you to leave on the 9th, they told you that they will leave on the 11th and the
11 position would be given over to the RPF. Isn't that right?

12 MR. TAMBADOU:

13 My Lord, with all due respect to learned counsel, I think the witness... (*Microphones overlapping*)

14 MR. PRESIDENT:

15 Counsel, you are not putting questions. You are giving evidence.

16 MR. BLACK:

17 I am not giving evidence. I am putting a suggestion. He said that he was at a meeting at which
18 Lemaire talked, and I am suggesting to him, that Lemaire must have told the RPF, the regulars there,
19 their plans. That is my thesis, sir. The agents of the RPF were working together --

20 MR. TAMBADOU:

21 My Lord, my objection is that this witness, really -- these questions are inappropriate for this witness. I
22 mean, let Lemaire come and put his thesis to him.

23 MR. PRESIDENT:

24 Well, Counsel --

25 MR. BLACK:

26 Well, he was in the meeting in which Lemaire spoke and here I am cross-examining him that Lemaire
27 must have put it to him first.

28 MR. PRESIDENT:

29 Well, then, I think he says what Lemaire said, and he says exactly what that person said and how he
30 left the area.

31 BY MR. BLACK:

32 Q. So you deny the suggestion I made that Lemaire told you that they were leaving the position and giving
33 it to the RPF? That is what exactly happened.

34 A. You tell me of RPF soldiers, Lemaire was an RPF *conseiller*. I am telling you that that information -- the
35 piece of information is totally new for me. You have just told me that the Belgian troops left to leave
36 room for RPF soldiers, that is something new for me, and you say I was a member of the RPF soldiers;
37 that is not true.

1 Q. Well, let us go back finally, to Sonatube. If you had been there, you would tell us the truth about what
2 happened there, you would tell us, when the refugees were left hanging by -- your regular forces and
3 the Belgians -- went down that road, they were stopped on that road by soldiers from proceeding
4 further, because they were told that they were heading into a combat zone, that is why the soldiers
5 stopped them. That is why they were told they came back the ETO; isn't that right? The soldiers
6 stopped them to save them from entering into the combat zone which they were unaware of. You
7 laugh, because you know I am right. That is what it was.

8 A. No, I am laughing at your lies. What you are saying is nothing but fabrications. That is not true.

9 Q. And those refugees were not massacred by anybody, this whole Nyanza thing is fabrication, isn't it?
10 That is why you were miraculously, in other words, there were miraculous witnesses, there was a major
11 massacre and thousands of people killed and you are the only one covered over by these dead bodies.
12 All these miracles, you are the only one, aren't you?

13
14
15 You are fabricating this, sir, because you are a member of Ibuka. Ibuka is a front group of the RPF; is
16 that right?

17 MR. PRESIDENT:

18 Give him the chance to answer. There are questions, but we have no answer.

19 MR. BLACK:

20 He is not answering, he is moaning and groaning over there. He has answered, sir, so far that -- if the
21 translation is not coming through it is not my fault.

22 MR. TAMBADOU:

23 My Lord, with all due respect, the interpretation comes in but he keeps talking. When the witness gets
24 a part he moans before the worst comes in. I mean, it is natural that he waits until the interpretation
25 comes through.

26 MR. PRESIDENT:

27 Yes, the witness has to stop at that. Don't mix him up by putting. A question and giving a (*inaudible*).

28

29 Yes, Witness, did you get the question?

30 BY MR. BLACK:

31 Q. I will put the suggestion to you again, sir, because -- sorry.

32 THE WITNESS:

33 Mr. President, the Defence counsel spoke without stopping. Besides, he made comments. He did not
34 ask any questions. He says that there were no massacres, but Mr. President, excuse me; Counsel is
35 making a mockery of my misery, and turning a knife in my wounds. All the members of my family were
36 killed on that site. I told you that only one of my children survived. The statements of that Defence
37 counsel are causing me a lot of agony. He denies the massacres at that location, and I know that those

1 massacres occurred because I was a survivor. He is causing me a lot of pain and harm. He should
2 ask other questions and stop turning the knife in my wounds.

3 MR. PRESIDENT:

4 Witness, I know that it will be difficult for you to recount, but there is a duty on your part to answer the
5 question. So, listen to the questions and then answer.

6 BY MR. BLACK:

7 Q. So, everyone knows that *Ibuka* is a front group of the RPF. It is financed by the RPF government; it is
8 financed by the Belgian government. You are here with an axe to grind, aren't you? You are not here
9 as a neutral observer of events. You have an axe to grind, right, because *Ibuka* is famous for
10 constructing or fabricating evidence.

11 MR. PRESIDENT:

12 This is the thing; you must put the question and wait.

13 THE WITNESS:

14 Mr. President, the Defence counsel is making comments and he is not asking questions. I hear his
15 comments and I wait for the question. I am waiting on the interpreter to tell me what Defence counsel's
16 question is, in my opinion, he has not put any question to me.

17 BY MR. BLACK:

18 Q. The question is that you have fabricated this evidence among other members of *Ibuka*, because *Ibuka*
19 is a front group for the RPF, which wants these men condemned under any circumstances. That is
20 your agenda here; isn't that correct?

21 MR. PRESIDENT:

22 What is your comment on that, Witness?

23 THE WITNESS:

24 Mr. President, I am inventing nothing as counsel for the Defence claims. Besides, counsel is talking of
25 *Ibuka* and *Ibuka* as branch of the RPF. Well, that is not true. *Ibuka* is an association for assistance to
26 victims and survivors, both adults and children -- I mean children who lost their parents. Families of
27 survivors who are homeless, that association assists those victims. It acts as a spokesperson for those
28 victims before the government and it mobilises funds to help educate the children of the survivors of the
29 genocide. It is, therefore, an association and not a branch of the RPF. That association was set up
30 after the genocide.

31 MR. PRESIDENT:

32 Yes, you can save a lot of time if you -- when counsel suggests to you, you can simply say, "I reject
33 your suggestion" or, if you accept, you can say, "I accept your suggestion." Don't keep on talking. If he
34 suggests to you, if you accept you say I accept; if you reject you say I reject the evidence.

35 THE WITNESS:

36 Agreed.

37

1 BY MR. BLACK:

2 Q. Are you a member of the RPF?

3 A. No.

4 Q. Have you ever been a member of the RPF?

5 A. No.

6 Q. What is your position in *Ibuka*?

7 A. I have no position in *Ibuka*. I am a member of that association.

8 Q. When did you join *Ibuka*?

9 A. I joined *Ibuka* since its establishment, because I considered that that association would be useful to me.

10 Q. Useful in what way?

11 A. I have already explained to you how useful that association is to me. That association is in charge of
12 educating children, destitute persons and homeless persons by trying to pay their school fees and
13 houses those people.

14 Q. But only Tutsis and not Hutus, right?

15 A. No, that is not true.

16 Q. Well, we had another Prosecution witness saying that what you are saying now is not correct. No
17 Hutus belong to that association at all. But we leave that contradiction to the judges to assess, but now,
18 before you are released and you can go back home, sir, you said you didn't see any reason why
19 Mr. Macdonald wanted to know why you didn't listen to radio Muhabura. I put it to you; it is obvious why
20 you didn't listen to radio Muhabura. It is because that would indicate that you were an RPF
21 sympathiser. That is what it would indicate; is that right?

22 A. No, that is not true.

23 Q. With respect to General Gatsinzi, you said it is no concern of yours or something to that effect His
24 position now, so, it seems to me, that if I had -- if your story was true and I hadn't been -- if my family
25 had been wiped out by the Rwandan army soldiers, I would want those who were in charge or
26 responsible punished. Don't you think General Gatsinzi should be punished for his role as the army
27 chief of staff for that time? Don't you want those responsible for the death of your wife and children
28 punished, sir?

29 MR. TAMBADOU:

30 My Lord, does it matter what the witness thinks?

31 MR. BLACK:

32 I would like to know what he thinks.

33 MR. TAMBADOU:

34 Is it relevant, My Lord? It doesn't matter what this witness thinks.

35 MR. BLACK:

36 It is, to me. It shows motivation for testifying.

37

1 BY MR. BLACK:

2 Q. Can you answer the question, sir; would you like the man -- head man of the army at that time
3 punished -- brought to trial, because he was head of the army -- or you are too afraid to say that?

4 MR. TAMBADOU:

5 Your Honour, I objected and you have not done anything.

6 MR. PRESIDENT:

7 No, he should answer.

8 MR. TAMBADOU:

9 As Your Lordship pleases.

10 BY MR. BLACK:

11 Q. Would you like General Gatsinzi punished for killing your family or not?

12 A. I wish to see those who did nothing to protect us, to assist us, to be punished. If Gatsinzi is one of
13 those persons, he should also be prosecuted.

14 Q. Are you going to take action and file a complaint with the Prosecutor here and in Kigali to have
15 General Gatsinzi charged?

16 MR. TAMABADOU:

17 My Lord, again, I object.

18 BY MR. BLACK:

19 Q. Because that would -- would that smooth over your life -- wouldn't that bring your life to closure by
20 having this man punished? So would you request my learned friend, the Prosecutor to punish this
21 person?

22 *(Microphones overlapping)*

23 MR. PRESIDENT:

24 -- if you have any complaint you know you don't have to wait until this witness goes. Anyone can
25 complain.

26 MR. BLACK:

27 That is right. That is why I am asking him.

28 BY MR. BLACK:

29 Q. Now, are you going -- now you know that General Gatsinzi was the army chief of staff. Are you going to
30 lay a complaint before the Prosecutor here, Mr. Jallow, and the Prosecutor in Kigali, to have General
31 Gatsinzi charged since he is ultimately responsible for the death of your wife and children?

32 A. Counsel, I do not know who called me to appear here, who summoned me to appear here. If I was
33 summoned in Kigali to appear as a witness in a Gatsinzi trial, I will do so. This is my point of view.
34 Anybody who did nothing, and who was in a position to do something to remedy the situation, be that
35 person Gatsinzi or anyone else, that person ought to be Prosecuted and punished. We should not be
36 overly interested in individuals, but, rather, in the government in power at the time. We should establish
37 or determine who was responsible and who was in charge of doing what, and who acted in such a

1 manner that the people to be protected were not protected.

2 MR. TAMBADOU:

3 My Lord, I am compelled to rise. I think the witness has given an answer. My learned friend is --

4 MR. BLACK:

5 He has not given me an answer.

6 BY MR. BLACK:

7 Q. So, are you going to make a charge against him or not -- or you don't care that the man who killed your
8 wife and children is not punished?

9 MR. PRESIDENT:

10 Who?

11 MR. BLACK:

12 General Gatsinzi?

13 MR. PRESIDENT:

14 Including you --

15 BY MR. BLACK:

16 Q. So are you going to ask these fellows here -- Mr. White, pleased to meet you again in court? Are you
17 going to ask them to lay charges against General Gatsinzi?

18 MR. PRESIDENT:

19 Well, Counsel, I overrule this question now.

20 MR. BLACK:

21 Well, I am not going to --

22 MR. PRESIDENT:

23 There is no relevance to this.

24 MR. BLACK:

25 I don't think you can overrule my question.

26 MR. TAMBADOU:

27 My Lord can overrule the question

28 MR. BLACK:

29 Let me ask the question because I put it to him.

30 MR. PRESIDENT:

31 Okay, then.

32 BY MR. BLACK:

33 Q. The reason, sir, you refused to answer my question is simple; you are afraid because of the regime in
34 Rwanda, the repercussions. Secondly, you weren't there at Nyanza; your family were not killed at
35 Nyanza, because if they really had been killed by those soldiers, you would want to get Gatsinzi,
36 because if my wife and children were killed by that man's soldiers, I would want to get him, and I am
37 telling you that -- that is my suggestion, sir.

1 A. But you say I should have filed a complaint against Gatsinzi. Where? Tell me where I could have
2 brought charges against Gatsinzi.

3 MR. PRESIDENT:

4 *(Microphone not activated)*... First, you say that he was not there. You say that his family was not killed
5 and then you say that Gatsinzi must be punished; what are you talking?

6 MR. BLACK:

7 No, Mr. President. Don't try and confuse things. That is bad enough for the witness. The witness quite
8 clearly refused to answer whether he wants Gatsinzi charged. I put it to him that if his family had been
9 killed there, he would want them charged. The fact he doesn't want to pursue is for two reasons. He is
10 scared to say so here in public because of the repercussions in Rwanda, because of the regime there –
11 dictatorship. Secondly; because he was never there and his family wasn't killed there, because then he
12 would want Gatsinzi charged. And, sir, you can go and do it on the 7th floor before all these people and
13 you can lay a complaint.

14 MR. PRESIDENT:

15 Are you accepting that or rejecting that? Counsel, give him time to give us a short answer.

16 BY MR. BLACK:

17 Q. My suggestion is, you were never there otherwise, you would have Gatsinzi charged. That is my simple
18 suggestion.

19 A. I have sufficiently explained my opinion on that issue. I stated that everyone who did not assist us, be
20 that person Gatsinzi or anyone who was in authority, anyone who did not come to the rescue of
21 refugees in distress should be prosecuted. I am not afraid of the RPF. I am not afraid of the
22 government. Why should I be afraid of the Government? There are Gacaca courts today in Rwanda.
23 If Gatsinzi played a role in the genocide, well, he should be punished. And to say that I should
24 prosecute them in the courts, if you are capable of setting up a tribunal to judge him or to try him, well, I
25 will come and give evidence in that court. But as an individual, I cannot bring charges against Gatsinzi
26 or anyone else. I can indict the government that was in power at the time. We couldn't help when we
27 were threatened with death.

28 Q. Well, I take it then you would also like to lay charges against anybody else who left you sitting there,
29 you say, including the Belgians, the RPF troops in that region who refused to help, that also goes for
30 them as well.

31 A. Was the RPF in government in 1994, Counsel? Why should I bring charges against RPF? Am I
32 supposed to accuse the RPF for having extracted me from beneath the corpses, having saved my life?
33 Would that be the purpose of my complaint against the RPF?

34 MR. PRESIDENT:

35 Witness, I think the question was whether if RPF did anything to you, and if they did anything to you,
36 whether they are also to be punished? If they did; what is your reaction to that?

37

1 THE WITNESS:

2 If those persons you have just mentioned did not assist me, did not protect me, as well as members of
3 my family during those events, well, all those people should be prosecuted and punished, particularly
4 those who had the power to assist us.

5 BY MR. BLACK:

6 Q. Well, we look forward with interest following your dossier to see how you proceed in charging the RPF
7 and General Gatsinzi and others. Thank you.

8 MR. TAMBADOU:

9 My Lord, just a brief comment for the record.

10 THE WITNESS:

11 But why did the Defence counsel not mention the Rwandan government among the people who ought
12 to be prosecuted?

13 MR. BLACK:

14 Because they are the only ones charged here, sir, and nobody else is prepared to charge anybody else,
15 for some strange reason unknown to us.

16 MR. PRESIDENT:

17 Any questions?

18 MR. TAMBADOU:

19 I don't have any questions, My Lord, for this witness, but just one point for the record before we break
20 off, My Lords. My Lord, Judge Park asked counsel on his position on the Nyanza massacre, he said
21 he agreed that there was a massacre, but it was perpetrated by the RPF. Now, during his
22 cross-examination he stated that the massacre was a fabrication. I just want that to be on record, that
23 he has taken conflicting positions on the Nyanza massacre.

24 MR. BLACK:

25 No, 30 seconds before lunch, clarifying my position: There was no massacre as described by this
26 witness or the Prosecution Accuse -- the indictment, at Nyanza by Rwandan armed forces. Those
27 bodies in that video and those films were placed there by the RPF. They were Hutus killed by the RPF

28 MR. PRESIDENT:

29 If we had permitted it, Counsel, that would have been good material for that propaganda.

30 MR. BLACK:

31 No, that is an RPF tape -- that is an RPF tape taken of Hutu bodies.

32 MR. PRESIDENT:

33 Anyway, Witness, thank you very much for coming.

34

35 You may get the next witness after lunch. We are adjourned until 2 o'clock.

36 *(Witness excused)*

37 *(Court recessed from 1235H to 1410H)*

1 MR. PRESIDENT:

2 Prosecutor, you may get your next witness, please.

3

4 Yes, please, you can swear in the witness.

5 MR. JEGEDE:

6 Most respectfully, Mr. President, Your Honours, the Prosecution calls Witness DP as its next witness.

7 (*Declaration made by Witness DP in Kinyarwanda*)

8 MR. JEGEDE:

9 Registrar, does he have the PI in front of him?

10

WITNESS DP,

11

first having been duly sworn,

12

testified as follows:

13

EXAMINATION-IN-CHIEF

14 BY MR. JEGEDE:

15 Q. Witness DP, do you have a document entitled *information protégé* before you?

16 A. Yes, I have it.

17 Q. Have you read that document?

18 A. Yes.

19 Q. Have you signed the document?

20 A. Yes, I signed it.

21 Q. And does that mean that the information contained in that document is correct?

22 A. Yes, the information contained in this document is correct.

23 Q. Thank you.

24 MR. JEGEDE:

25 Mr. President, the Prosecutor could like to tender the document as Prosecution Exhibit No. 55.

26 MR. MACDONALD:

27 Just before that, Mr. President, not to get too technical, but we had this problem before with another

28 witness, where it is indicated "ethnicity", what exactly is the situation on this? He says the information

29 that is there is accurate. So what is there, with respect to ethnicity?

30 MR. JEGEDE:

31 Your Honours, this is not yet time for cross-examination. There is an order in this court, and the way it

32 is being done is, the Prosecution would lead the witness --

33 MR. PRESIDENT:

34 No, no, concerning the ethnicity -- concerning this one.

35 MR. MACDONALD:

36 Well, because they are seeking to produce this document. This is why I am raising this at this point.

37 And this witness says he agrees with the contents in that document, everything there was accurate, and

1 so I submit that before it is introduced in evidence, we should know what exactly the situation is with his
2 ethnicity.

3 MR. JEGEDE:

4 Your Honours, we are saying that that point can be taken up in cross, that is part of his testimony.

5 MR. PRESIDENT:

6 What does that N/A mean?

7 MR. JEGEDE:

8 I didn't get that.

9 MR. PRESIDENT:

10 There is N/A.

11 MR. JEGEDE:

12 I believe that means not applicable. That can be taken up on cross, Your Honour.

13 MR. PRESIDENT:

14 Yes. P. 55 is admitted and it should be kept under seal.

15 *(Exhibit No. P. 55 admitted, under seal)*

16 MR. JEGEDE:

17 As the Court pleases. Much obliged, My Lord. Your Honours, I would like to proceed in closed session
18 for about 10 minutes to enable me deal with personal details of the witness.

19 MR. PRESIDENT:

20 Yes. The session will be closed to the public for a few minutes.

21 *(At this point in the proceedings, a portion of the transcript [pages 45 to 46] was extracted and sealed
22 under separate cover, as the session was heard in camera)*

23 *(Pages 27 to 44 by Regina Limula)*

24

25

26

27

28

29

30

31

32

33

34

35

36

37

1 MR. PRESIDENT:

2 Yes, Counsel.

3 MR. JEGEDE:

4 Are we in open session now?

5 BY MR. JEGEDE:

6 Q. Witness, we are now in open session, so you have to be careful how you answer my questions. If there
7 is any information which has the tendency to reveal your identity, you may inform me and I will re-put
8 the question; is that clear?

9 A. Clearly.

10 Q. Did the Kanombe camp have a commander in April 1994?

11 A. Yes, Camp Kanombe had a commandant.

12 Q. What was the commander?

13 A. Colonel Felicien Muberuka.

14 MR. JEGEDE:

15 Your Honour, Muberuka is spelt, M-U-B-E-R-U-K-A.

16 BY MR. JEGEDE:

17 Q. Do you know when he became Camp commander?

18 A. I remember the year.

19 Q. When, can you tell us the year?

20 A. In 1992.

21 Q. Before him, who was the commander of camp Kanombe?

22 A. Before him it was Colonel Théoneste Bagosora.

23 Q. Did the camp commander reside in the camp?

24 A. Yes.

25 Q. Where exactly, did the camp commander reside in the camp?

26 A. The camp commander in Camp Kanombe resided in the officer's quarters within Camp Kanombe.

27 Q. In what neighbourhood is Camp Kanombe located?

28 A. Camp Kanombe is in the eastern part of the city of Kigali.

29 Q. Do you recall any important landmarks around Camp Kanombe?

30 A. There was an international airport and the president's residence.

31 *(Page 47 by Regina Limula)*

32

33

34

35

36

37

1 1430H

2 BY MR. JEGEDE:

3 Q. What was the distance between the president's residence and Camp Kanombe, approximately?

4 A. There's a distance of about between 700 and 800 metres.

5 Q. Did any army unit, to your knowledge, provide security at that place? Now, this is the president's
6 residence.

7 A. Yes, there was a unit tasked with protecting the president's residence.

8 Q. Please mention the unit.

9 A. The Presidential Guard, usually referred to as GP.

10 Q. Thank you. Did you remain at Kanombe camp up till April 1994?

11 A. Yes, I was still in Camp Kanombe in that period -- during that period.

12 Q. And who was the commander of the paracommando battalion in April 1994?

13 A. It was Major Aloys Ntabakuze.

14 Q. Please tell this Honourable Chamber the functions of the paracommando battalion, as you knew it, in
15 April 1994.

16 A. The paracommando battalion was an elite unit. This unit was called on in difficult situations, such as
17 times of war or other times of difficulty.

18 Q. How many soldiers were in the paracommando battalion in April 1994?

19 A. About 800 men.

20 Q. Did the battalion have subunits?

21 A. Yes.

22 Q. How many subunits?

23 A. Six.

24 Q. Do you know the commander of the 1st Company?

25 A. Yes, I knew him. His name was -- he was Lieutenant Muhawenimana.

26 MR. JEGEDE:

27 Your Honour, that's number 19 on the list.

28 BY MR. JEGEDE:

29 Q. Who led the 2nd Company?

30 A. The 2nd Company was led by Lieutenant Gahutu.

31 MR. JEGEDE:

32 No. 4, Your Honour, on the list.

33 BY MR. JEGEDE:

34 Q. The 3rd Company, if you know.

35 A. It was the second lieutenant, whose name I no longer recall.

36 Q. And the 4th Company?

37 A. The 4th Company was led by Second lieutenant Hakizimana, alias Cyaka.

1 MR. JEGEDE:

2 Your Honour, that is No. 7 on the spelling list, but here we have him as "captain." That might be an
3 error.

4 BY MR. JEGEDE:

5 Q. Witness, can you confirm the rank of Hakizimana?

6 MR. JEGEDE:

7 Oh, sorry, my mistake, Your Honour. It is actually No. 6 on the list. There are two Hakizimanas there.
8 No. 6 on the list.

9 BY MR. JEGEDE:

10 Q. And the commander of the 6th Company -- 5th Company?

11 A. The 5th Company was led by Lieutenant Maniriho, Claver.

12 MR. JEGEDE:

13 No. 13, Your Honours, on the list.

14 BY MR. JEGEDE:

15 Q. And, lastly, the 6th Company.

16 A. The 6th Company was led by Second Lieutenant Sylvestre Nzabonariba.

17 MR. JEGEDE:

18 That's No. 29, Your Honours.

19 BY MR. JEGEDE:

20 Q. Which of these companies were you a member of at the time?

21 A. I was a member of the 5th Company.

22 Q. Did any of these companies that you have mentioned have any special units?

23 A. Yes, there was. There was one.

24 Q. Which one?

25 A. The 5th Company was the general staff headquarters and services company, paracommando.

26 Q. And what is the name of this special unit?

27 A. It is that 5th Company that I've just referred to, which is referred to as general staff and services.

28 Q. Yes. My question was: Which of the companies that you had mentioned at that time had a special unit
29 within -- or a subunit, a special subunit? Let's call it that.

30 A. Within the general staff and services company, there was a unit or platoon called CRAP.

31 Q. What does CRAP stand for?

32 A. CRAP means *Commando de recherche action en profondeur*, commando for intelligence and special
33 actions.

34 Q. Do you know when that subunits was created, that is, CRAP?

35 A. Yes, I know.

36 Q. By whom was it created?

37 A. That platoon was set up by the general staff headquarters, in collaboration with the paracommando.

- 1 Q. How many soldiers constituted the CRAP unit?
- 2 A. Fifty, 50 men.
- 3 Q. Do you recall any members of the unit?
- 4 A. Yes, some of them.
- 5 Q. Mention the ones you remember.
- 6 A. Corporal Jean Marie Vianney Mudahunga.
- 7 MR. JEGEDE:
- 8 Number 17, Your Honours.
- 9 BY MR. JEGEDE:
- 10 Q. Go on, Witness.
- 11 A. Corporal Nzayisenga, Leon Nzayisenga; Corporal Evargiste (*phonetic*) Kayonga;
- 12 Corporal Innocent Masengesho.
- 13 MR. JEGEDE:
- 14 (*Overlapping microphones*) ...and 14.
- 15 BY MR. JEGEDE:
- 16 Q. Witness, did you mention a third name? We have taken Kayonga, Masengesho -- and Masengesho.
- 17 A. I referred to Mudahunga and Leon Nzayisenga.
- 18 MR. JEGEDE:
- 19 Yes. Mr. President, that's No. 30 on the spelling list.
- 20 BY MR. JEGEDE:
- 21 Q. Now, what can you say about the functions of this unit?
- 22 A. This platoon was in charge of carrying out some military operation and clandestine activities.
- 23 Q. Do you know these activities, specifically?
- 24 A. During the war, members of the CRAP unit would be sent on the field to observe RPF positions and
- 25 identify some of their accomplices, and eliminate them.
- 26 Q. Were all the companies in paracommando battalion based in Camp Kigali -- sorry, Camp Kanombe?
- 27 That's in April 1994.
- 28 A. No, all the companies were not there.
- 29 Q. Where were the ones that were not there?
- 30 A. There was a company which was detached to the Presidential Guard at the Presidential Guard camp at
- 31 Kimihurura.
- 32 Q. And how long had the company been attached to the *Garde presidentielle*, Presidential Guard at
- 33 Kimihurura; that is, how long before April 1994?
- 34 A. Normally, before the month of April, companies of the paracommando battalion would take turns at the
- 35 Presidential Guard camp. The company that I'm referring to had just spent three to four days at the
- 36 time we are referring to in April.
- 37 Q. Apart from the paracommando battalion, were there other army units in Kanombe Camp?

1 A. There were some.

2 Q. Can you mention them?

3 A. There was RAA battalion, BAC battalion, engineering company, B Company -- BM, military buildings.

4 So let me go over. There was RAA, which was a battalion; BAC was almost like a battalion;

5 engineering corps was a company; and then Company BM. So I've given three battalions, and the rest

6 were companies.

7 Q. Thank you. Now, to your knowledge, from 1990 to 1994 that you were in the paracommando battalion,

8 did any civilian authorities or institution have maintained any office in the company?

9 A. No.

10 Q. At that time, at that period, did you have occasion to see any civilian authorities in Camp Kanombe?

11 A. Yes, I saw some civilian authorities come to the camp.

12 Q. Did you recognise any of them?

13 MR. BLACK:

14 Mr. President, I don't see how this questioning is relevant to the case, what -- if he saw some civilians

15 between 1990 and 1994. What do we care about civilians being there in that period? It's not in the

16 indictment. It's before the indictment before the jurisdiction of this Tribunal, so why are we wasting time

17 on civilians being there?

18 MR. JEGEDE:

19 Do I need to respond to that, Your Honour? Do I need to respond to that, or I just continue?

20 MR. PRESIDENT:

21 Yes, give a response to that.

22 MR. JEGEDE:

23 Well, it's pleaded. We've filed these indictments now, Your Honours, for about five years, and Mr. Black

24 has been party to the proceedings up to this day. We have -- at paragraph 22, paragraph 25,

25 paragraph 23, these paragraphs all talk about a conspiracy between --

26 MR. PRESIDENT:

27 It is connecting it to the conspiracy now.

28 MR. JEGEDE:

29 As the Court pleases.

30 MR. PRESIDENT:

31 Yes, Counsel, he says he is going to connect it to the conspiracy. Yes.

32 BY MR. JEGEDE:

33 Q. So, you said you recognised some civilian authorities, Witness.

34 A. Yes, that's what I said.

35 Q. Can you mention the names of the people you saw, civilians you saw, authorities that you saw at the

36 time?

37 A. I think I should mention, first of all, President Habyarimana. I saw him there.

1 Q. Yes.

2 A. Once I also saw the person who was the minister of defence at the time. His name was James
3 Gasana. I also saw the MP, Cyprien Munyandinda

4 MR. MACDONALD:

5 I have an objection at this point.

6 MR. PRESIDENT:

7 Yes, Counsel.

8 MR. MACDONALD:

9 I don't -- I also don't find the relevancy. I can't see the relevancy in these -- that question and answer.
10 But with respect to that name, James Gasana, it doesn't appear in any place, nowhere. So, the
11 objection would be based on, first of all, relevancy and, second, we haven't been informed that these
12 names would be coming out and we don't know exactly why they're doing this, what the -- why they're
13 bringing these names in. We can't prepare because we don't know -- and we didn't know, that these
14 names would come up and we don't know why they want these names to be mentioned by that witness,
15 and also the deputy's. If my friend could tell us where he's going with that.

16 MR. JEGEDE:

17 Your Honours, to add to my former submission on that point, if Mr. MacDonald looks at page 3 of the
18 statement of this witness, paragraph 5, on that page reads, "Between 1990 and April 1994, a lot of
19 meetings were held among high-ranking military officers in preparation for the genocide. I did not
20 attend any of these meetings. Colonel Bagosora, Anatole Nsengiyumva,
21 Lieutenant-Colonel Baransalitse, Major David Turikunkiko, Major Aloys Ntabakuze, Major Mutabera,
22 Major Munyampotore attended the meetings. Sometimes President Habyarimana himself took part.
23 There are also some junior officers who did not -- but they did not attend all the meetings. They
24 attended only unit meetings."

25

26 Your Honours, the paragraph that the witness is addressing at this point in time, one, the fact that there
27 was a conspiracy between the Accused persons here in this case and the names -- some names
28 mentioned in that paragraph exists, and then it is also pleaded in the indictment that military authorities
29 and civilian authorities colluded to perpetrate the genocide. So, that's where we are. If I may finish.
30 That's where we are. That is the relevance. The relevance is that all this goes to conspiracy. It is
31 pleaded both in the indictment and is contained in the witness statement.

32 MR. PRESIDENT:

33 Yes, Mr. Black.

34 MR. BLACK:

35 As for Mr. MacDonald -- because it doesn't do anything of the kind. All we've got, at the best, is this
36 man saying meetings took place at which he was not a party, so can't know the -- what happened in
37 those meetings, why the meetings were conducted, what was said. His statements that they were for a

1 certain reason are nothing but speculation, or if you hear it from others, it's hearsay, so it's not relevant.

2 It's not probative.

3 MR. PRESIDENT:

4 Yes, that is in our minds. We know that.

5 MR. BLACK:

6 Yes, it's not probative. It doesn't establish anything. It's either opinion or it's hearsay. Either way, it's
7 not admissible, because it doesn't establish anything saying, "I knew meetings took place." He wasn't
8 in the meetings; he admits so. So how can he know what they were about?

9

10 If they want to bring experts to come in and say, "We've talked to certain officers who were at the
11 meetings and they said this is what took place in the meetings," fine. But to call a ***** to say, "I
12 saw people go into a building and have meetings," it's nothing.

13 MR. PRESIDENT:

14 But Counsel, I told you, the burden is on them to establish. *(Microphones overlapping)*

15 MR. BLACK:

16 No, it's not because --

17 MR. PRESIDENT:

18 Just because there was a meeting, that does not mean anything for us.

19 MR. BLACK:

20 Exactly. So why are we wasting or time on hearing --

21 MR. PRESIDENT:

22 *(Microphones overlapping)*... Give them a chance. We don't know what they are going to do.

23 MR. BLACK:

24 Well, it's in the statement. This is as far as it goes. His statement doesn't go any further. He switches
25 to another subject -- *(Microphones overlapping)*

26 MR. PRESIDENT:

27 But you are asking me not to read the statement.

28 MR. BLACK:

29 Pardon me?

30 MR. PRESIDENT:

31 You are asking me not to read the statement.

32 MR. BLACK:

33 But you are reading the statement. I see Judge Park and you reading the statement.

34 MR. PRESIDENT:

35 I don't know.

36 MR. BLACK:

37 I'm not going to get into that because I know you are doing it. It's okay -- it's not okay, but I know that

1 you're doing it. But it's not probative of anything.

2 MR. PRESIDENT:

3 No, when we discuss the quality, I think, definitely, we will keep that in mind.

4 MR. BLACK:

5 But my objection is, if it's not probative, it's not admissible.

6 MR. PRESIDENT:

7 No, hearsay is admissible, but the weight that is attached only --

8 MR. BLACK:

9 We don't know it's hearsay yet. We don't know why he's saying the meetings are about this.

10 MR. PRESIDENT:

11 That is the thing; we don't know. Wait and see.

12 MR. BLACK:

13 No, but his statement doesn't go any further than that. It says, "I just know meetings took place." He
14 doesn't say how. So, either it's speculation, which he can't use -- he is not an expert, he can't give his
15 opinion on that, so it's not admissible. All he can say is, "I knew meetings took place." That's as far as
16 he can go. "These guys went in the building; these guys came out."

17 MR. PRESIDENT:

18 So, there is nothing wrong with military people meeting. They have to meet.

19 MR. BLACK:

20 That's right, but he can't go ahead and say it was about this and that. That's why he's trying to lead him
21 on this, because --

22 MR. PRESIDENT:

23 Yes, we will -- (*Microphones overlapping*)

24 MR. BLACK:

25 -- it's not admissible, because of the nature of the evidence itself.

26 MR. PRESIDENT:

27 Yes. At this stage, we see the relevance and then we will see.

28 MR. JEGEDE:

29 As Your Lordship please. Actually, if I may respond to that. We have not got to the hearsay part of the
30 evidence. At this stage he is talking about meetings which he saw took place where he worked, where
31 *****so -- and could -- Defence counsel could cross-examine him as to whether he saw
32 Habyarimana, for instance, or James Gasana in Camp Kanombe. So it's not hearsay at all. It's an
33 abuse of language to describe that as hearsay evidence.

34 MR. MACDONALD:

35 Something I'd like to add, and it reiterates my first objection, Mr. President, is the fact that this -- these
36 names were not disclosed, other than Habyarimana, which name appears in the statement. I have no
37 problem with that because of that, because we were warned about that and we knew that the name

1 would come up.

2

3 It's not a pure coincidence that the name James Gasana is the second name to be pronounced.

4 Obviously, there's a plan. They're going somewhere with that. And we -- at this point in time, we can't
5 take any chances with these names being thrown left and right, and actually, they're not thrown left and
6 right. There's a reason why he mentioned that name, Gasana's name and a third name which is a
7 deputy, which I can't even pronounce. And these names do not appear -- nowhere. They don't appear
8 in the statement; they don't appear in the indictment, either. And we can't -- my friend can't stand up
9 and say, "We've disclosed this information because, generally, we're talking about the
10 *sous-officier* or ..." If they're going to bring up these names for a purpose, these names have to be
11 provided to us.

12 MR. PRESIDENT:

13 But then the names that are there in the statement?

14 MR. MACDONALD:

15 I have no problem with these names in the statement. They're there; we know about them, and I'm
16 giving you the example of Habyarimana. Why are they bringing up Gasana?

17 MR. PRESIDENT:

18 *(Microphones overlapping)*

19 MR. JEGEDE:

20 I'll take your direction.

21 BY MR. JEGEDE:

22 Q. Witness, let's limit ourselves to the president, Habyarimana. How many times did you see him in
23 Camp Kanombe?

24 MR. PRESIDENT:

25 Counsel, he is not a civilian; he is the head of the armed forces.

26 MR. JEGEDE:

27 We had -- well, could I call it a hermaphrodite character?

28 MR. PRESIDENT:

29 Yes.

30 MR. JEGEDE:

31 He was both a military president and a civilian president.

32 BY MR. JEGEDE:

33 Q. So, how many times did you see him in Camp Kanombe?

34 A. I saw him on two occasions.

35 Q. In what year did you see him?

36 A. The first time was at the end of 1990, and the second time, in 1991.

37 Q. Where did you see him on those occasions? Where, specifically, in the camp did you see him?

- 1 A. He came and went to Colonel Théoneste Bagosora's house.
2 Q. Do you know the purpose of his visit to Camp Kanombe?
3 A. The reason was that he came to attend a meeting.
4 Q. Did any other person you know attend the meetings that you have just spoken about, any military
5 officers that you know?
6 A. Yes.
7 Q. Mention them.
8 A. Colonel Théoneste Bagosora was there, Lieutenant-Colonel Nsengiyumva was also there;
9 Lieutenant-Colonel Baransalitse was also present; Major Munyampotore was present; as well as
10 Major David Turikunkiko. There was also Major Aloys Mutabera.

11 MR. JEGEDE:

12 Your Honours, those are Nos. 26, 2, 20, 22 and 33 on the spelling list.

13 BY MR. JEGEDE:

14 Q. Witness, do you know where Nsengiyumva, Anatole, hailed from?

15 A. He came from Gisenyi.

16 Q. Colonel Bagosora?

17 A. He, too, was from Gisenyi.

18 Q. Aloys Ntabakuze?

19 A. He was also from Gisenyi.

20 Q. Major -- (*Microphones overlapping*)

21 A. He was from Ruhengeri.

22 Q. Major Munyampotore?

23 A. Munyampotore hailed from Ruhengeri.

24 Q. And President Habyarimana?

25 A. He was also from Gisenyi.

26 Q. Do you know if these meetings were open to all senior army officers in Camp Kanombe?

27 MR. BLACK:

28 Excuse me, how could he possibly know that without seeing the agenda for that meeting, the requests,
29 how the meeting was held by the officer who arranged it, the minutes of the meeting, and having been
30 at the meeting? How could he, his ***** , possibly know that? It's impossible. So I don't see the
31 relevance of this question without him establishing how this ***** could know what was happening
32 between senior officers at a senior officers' meeting.

33 BY MR. JEGEDE:

34 Q. Witness --

35 MR. BLACK:

36 And then the second part of that objection goes to this: How could he know what was in the minds of
37 the officers that did take place with respect to who and who was not invited? He can't know that.

1 MR. JEGEDE:

2 Thank you.

3 MR. PRESIDENT:

4 It's not a question of invitation. He said the people who were the top military officers were at these
5 meetings.

6 MR. BLACK:

7 No, he asked him: Were other officers excluded from that meeting, who didn't attend --

8 MR. JEGEDE:

9 Well, I didn't use the word "excluded".

10 MR. BLACK:

11 Or something along the lines of that.

12 MR. PRESIDENT:

13 He asked him who were the top military officers who attended.

14 MR. BLACK:

15 No, he went further than that and said: Who didn't come? Who couldn't come?

16 BY MR. JEGEDE:

17 Q. Okay, Witness, apart from these military officers that you mentioned, were there any officers, any other
18 officers --

19 MR. BLACK:

20 Well, again --

21 BY MR. JEGEDE:

22 Q. -- at those meetings.

23 MR. BLACK:

24 That's what I'm saying. How could he know who was not invited?

25 MR. JEGEDE:

26 Because he saw them go into that place.

27 MR. BLACK:

28 The issue is not invited -- well, Mr. President, what I'm saying is, it's obvious who is not invited because
29 the --

30 MR. PRESIDENT:

31 *(Microphones overlapping)*... Don't put -- the question you need to ask him, but whether he saw the
32 officers that he saw go into these meetings. Obviously -- *(Microphones overlapping)*

33 MR. JEGEDE:

34 He's made that clear, Your Honour, that he saw these -- they were officers that he mentioned.

35 MR. PRESIDENT:

36 Yes.

37

1 MR. JEGEDE:

2 So the follow-up question was: Was the meeting limited to the officers that he mentioned?

3 MR. BLACK:

4 And my objection stands. How could he know that because --

5 MR. PRESIDENT:

6 *(Microphones overlapping)*

7 THE ENGLISH INTERPRETER:

8 Please do not speak at the same time.

9 MR. BLACK:

10 My friend hasn't placed him there. Placed him where, in Camp Kanombe, as a *****? That's a large
11 camp, with --

12 BY MR. JEGEDE:

13 Q. Witness --

14 MR. BLACK:

15 -- a couple of thousands soldiers there.

16 MR. PRESIDENT:

17 Place him there, and he must be in a position to see; otherwise, he can't tell you anything.

18 MR. JEGEDE:

19 As Your Lordship please.

20 BY MR. JEGEDE:

21 Q. Witness, on the occasions that you saw -- you said you saw the president on two occasions. How
22 many occasions did you see -- on how many occasions did you see the military officers that you've just
23 mentioned?

24 A. With regard to the officers, since most of them lived in Kanombe, they met regularly.

25 Q. And where were you when you saw them -- the military officers that you mentioned, you said they
26 attended meetings at Colonel Bagosora's residence. How many times did you see them go to that
27 residence?

28 MR. BLACK:

29 I also object to the relevancy of that question because he may have seen them attend certain meetings
30 at certain times. He didn't see the meetings he didn't see. So what's the relevance of this question? It
31 doesn't get us anywhere. He may have missed hundreds of other meetings, he was out doing other
32 things and missed completely. So he saw five to six meetings. So what? I don't understand the
33 relevance of these questions at all.

34 MR. JEGEDE:

35 Your Honours, we can't conduct --

36 MR. PRESIDENT:

37 Yes, yes, Counsel.

1 MR. JEGEDE:

2 Thank you very much.

3 BY MR. JEGEDE:

4 Q. So, Witness, please answer the question.

5 A. When I was in Camp Kanombe, I saw the officers about 10 times.

6 Q. Thank you. Witness, let's move to another area now. Where was the office of the chief of staff of the
7 army -- or I believe, as it's called, *état-major* located between 1990 and 1994 *?

8 A. This office was located in Camp Kigali.

9 Q. Did the unit in Camp Kanombe have any relationship with the office of the chief of staff of the army?

10 A. Yes.

11 Q. What was the relationship?

12 A. Each unit was answerable to the chief of staff of the army command; that is to say, each battalion
13 commander acted under orders from the army chief of staff.

14 Q. How did the *état-major* or the office of the chief of staff communicate with the units in Camp Kanombe?

15 MR. BLACK:

16 Sorry to keep bothering you, Mr. President, but I still don't see the relevance of this witness at all to this
17 trial. He is not brought here as an expert on the military structure of the Rwandan Armed Forces. If
18 they want to bring in -- and they should bring in an expert, a senior military officer from somewhere, to
19 explain to you the structure of the army and how it functioned. That's fine. But they can't do it through
20 a *****. He may know certain things. Obviously, every soldier knows certain obvious things in every
21 army, but that's as far as he can go. So I don't see how it's helpful to this -- to you understanding this
22 case to have this man explain the operations of the general staff. He couldn't possibly know. He wasn't
23 a -- he was only assigned to the headquarters company in his particular unit as a *****. He was not --
24 had no other serious duties, therefore, couldn't possibly know how the daily function of the general staff
25 took place. So I don't understand why they are using this man to try and present this type of evidence
26 before you.

27 MR. JEGEDE:

28 Your Honours --

29 MR. MACDONALD:

30 I entirely agree with Mr. Black, Your Honour. I was about to make the objection on the same grounds.

31 It's an opinion and he's not an expert witness.

32 MR. JEGEDE:

33 Your Honours, you don't have to -- the difference between a ***** and a lawyer is not a measure of
34 intelligence. We brought ***** here; we brought cleaners here before this Chamber and other
35 Chambers of this Tribunal, and they have performed creditably. So the fact that someone is a *****
36 does not mean that he does not understand what's happening to him or he does not -- cannot talk
37 about his environment.

1 This witness ***** and he saw the goings in and out of his superiors
2 and he knew what happened in Camp Kanombe, and he's been able to tell us without a challenge from
3 the Defence, what happened in that -- in Camp Kanombe and the environs. So I don't know why they
4 think he is not competent enough to say what was the relationship between the head office of the army
5 and his unit. That is simple enough.

6 MR. PRESIDENT:

7 That is speaking to the knowledge that he gathered at the time.

8 MR. JEGEDE:

9 As the Court pleases. You don't have to go to school for you to be able to know what relationship
10 existed between your unit and the headquarters. That's clear. That's simple enough. Even a
11 simpleton could know.

12 MR. BLACK:

13 Exactly. We're not saying this man is not intelligent. It's nothing to do with that. He had a certain post
14 in the army. That was his role.

15 MR. PRESIDENT:

16 Yes, Counsel, we are hearing it from his point of view. So far, there is nothing, no damaging evidence
17 that is elicited from this witness against any of these Accused.

18 MR. BLACK:

19 Right. So I'm saying -- our objection is: Why are we wasting our time with this witness?

20 MR. PRESIDENT:

21 Well, we don't know what they are trying to bring about.

22 MR. BLACK:

23 And I object just on legal grounds that it's not right to use someone of this -- who had these functions in
24 the army to be produced here as a witness on expertise on the functioning of the army general staff.
25 He can't possibly know the relationship between the army general staff and certain units. He can only
26 say in a flow chart, "I know in the army I was trained. There was a general staff and subunits. There's
27 a flow chart. I know how they're connected." But he can't possibly know the individual -- the
28 relationship between each unit and the army general staff, the daily flow of information, the exchanges
29 of correspondence, their personal relationships. He can't possibly know that. They have to bring in an
30 expert to describe how the Rwandan army actually functioned in fact, not as it exists on a flow chart,
31 and this man can't do that.

32 BY MR. JEGEDE:

33 Q. Witness, please answer my question.

34 MR. MACDONALD:

35 I agree with Mr. Black, and I also raised an objection on that, and again, it has nothing to do with the
36 fact that he's a ***** or anything else. He's coming here to give an opinion, and if you come here to
37 give an opinion on matters such as the chain of command of the Rwandan army, you have to be -- you

1 have to have some kind of expertise. You can't just come here and say, "Well, they were taking orders
2 from them," and so on and so forth. That's an opinion, and that's -- the only way they could have that
3 opinion validated is through an expert.

4 MR. PRESIDENT:

5 Didn't he say that he was a soldier for 15 years, starting from 1983?

6 MR. JEGEDE:

7 No, no, 1986 --

8 MR. MACDONALD:

9 You could be a soldier, you could live in the Camp Kanombe, and he would be able to come here and
10 say, okay, in that particular building, there was the *compagnie médicale*" -- and by the way, he never
11 even mentioned that. That's just to show how expert he is, he never mentioned anything about the
12 *compagnie médicale*, which we know was a separate unit in Camp Kanombe. But besides that, certain
13 things he could testify on because he was there, he would see these things each and every day; this,
14 we would not object to. I would certainly not object to that. But on the chain of command, who's giving
15 orders to whom, this is a different story, and he can't -- he can't testify to that.

16 MR. PRESIDENT:

17 Isn't that knowledge given to them as basic knowledge when they are undergoing training?

18 MR. MACDONALD:

19 I don't think so. I don't think so. Well, this is something I'm not aware of. Maybe it is.

20 MR. PRESIDENT:

21 As a soldier -- (*Microphones overlapping*)

22 MR. MACDONALD:

23 -- have an expert to tell me that.

24 MR. PRESIDENT:

25 As a soldier, he should know his hierarchy and how it goes up.

26 MR. MACDONALD:

27 Perhaps his chain of command from his unit, but here -- the opinion he's giving here is the chain of
28 command of all the units, the chief of staff of the army would give orders to different units. And that --
29 there has to be an expert witness to validate that information.

30 MR. PRESIDENT:

31 Yes, we will keep that in mind, yes.

32 JUDGE PARK:

33 Also, Defence counsel can attack his knowledge about the chain of command during your
34 cross-examination. Each country has a different system.

35 MR. MACDONALD:

36 Right.

37

1 JUDGE PARK:

2 Let's continue. Then you will have a chance.

3 MR. BLACK:

4 I think I -- just one remark and I'll sit down. I think the basis of our objection is he's not being classified
5 or accepted by you, the Bench, as an expert, and they have to qualify him as an expert on this area
6 before he can even give evidence.

7 MR. PRESIDENT:

8 I don't think he has been summoned as an expert.

9 MR. BLACK:

10 That's right. So since he has not been summoned as an expert, he can't give expert evidence.

11 MR. PRESIDENT:

12 Yes. We will record your objection. As Judge Park says, you can test his knowledge and expertise.

13 MR. BLACK:

14 Well, then I'd like to know, Mr. President, why his evidence is being accepted. Is it being accepted as
15 expert evidence? Because then we have to qualify him first so we get the right to cross-examine him
16 on his qualifications. You can't just say we're going to listen to him and then we can cross-examine
17 him. That's not how it goes. He has to be -- even in the rules here, it says experts have to be qualified
18 first before they can testify. And it's true, as Judge Park says, every army has its own -- armies are
19 generally the same in certain general ways, but they have each their own structure. But this man, as a
20 ***** , could know only in basic training the general structure of the army, as we all were, but he
21 couldn't possibly know the day-to-day real operations and interactions of those units and the army
22 general staff.

23

24 When I was in the army, I knew General Dallaire was my commander somewhere -- somewhere,
25 hundreds -- 500 miles away, but I had no idea what my commanders were doing with him, saying to
26 him in other units. I had no idea, except in general terms. I could never testify -- I was in the army five
27 years. I could never testify as an expert that I knew they were having meetings about this and this and
28 that. It's a black box to me, and to every soldier. He couldn't testify on that.

29 MR. JEGEDE:

30 Your Honour, to label this evidence as a form of expert evidence or that which would require an expert
31 to testify to, is a complete misnomer. This witness was there. He***** , but what -- now
32 they're trying to quote -- or trying to specify to Your Honours that there are things that a ***** must
33 know and there are things that a ***** must not know. I've never seen that kind of law. It's not
34 contained in the Statute, neither is it contained in any rules that I've seen, anywhere in the world.

35

36 Your Honour, I've not finished, and I don't think we should rigamarole on these points. Mr. Black is
37 getting up again. And I believe you've ruled. I don't know how many times he wants you to rule on this

1 matter.

2 MR. PRESIDENT:

3 Yes. Mr. Black, we will -- (*Microphones overlapping*)

4 MR. BLACK:

5 I'm not going to comment. You've made your ruling, but -- fine, if they want to call him as an expert on
6 the army structure, then they have qualify this man as the expert, and then we can bring in another
7 expert -- (*Microphones overlapping*)

8 MR. PRESIDENT:

9 Sorry, why do you want them to qualify?

10 MR. BLACK:

11 I'm saying I don't understand, in logic or in law, why -- how his evidence can be accepted here, when he
12 is obviously -- and you've agreed, they've stated so, he's giving only opinion evidence. If -- since that's
13 established he can't do that unless he's classed as an expert. He hasn't been classed as an expert,
14 therefore, it's not admissible, and you've made your ruling, but I don't understand it. And I don't
15 understand -- I never will understand it, and I think Mr. MacDonald and I and the rest of us are
16 wondering why this is happening.

17 MR. PRESIDENT:

18 Yes, Counsel, you may continue.

19 MR. JEGEDE:

20 Thank you.

21 BY MR. JEGEDE:

22 Q. So, Witness, please answer my question. You were talking about the relationship between the army
23 headquarters and the units in Camp Kanombe.

24 A. There was a relationship between the two; that is to say, the chief of staff was above the units in the
25 chain of command, military chain of command.

26 Q. And how did the *état-major* communicate with the units, in particular, the paracommando unit?

27 A. There were radios for military communication. We also used telegrams and people could also meet;
28 that is, one could go in a vehicle to meet someone else at a given place.

29 Q. Please cast your mind back to the period between 1991 and 1992 and tell the Chamber whether you
30 remember any significant communication from the headquarters to the paracommando battalion.

31 A. In April 1992 a telegram arrived at the paracommando battalion and it was read to the troops. We were
32 told that this telegram had been dispatched to all the units in the army and it defined the enemy of
33 Rwanda, as well as places where that enemy was to be found, where it could often be located, and how
34 to combat it.

35 Q. How did you know about this telegram? How did you first know about it?

36 A. When we were not at the front, we underwent military training, and that particular day had been set
37 aside for military tactics training and we went to the place where -- place assigned for that training, and

- 1 our instructors told us that before we resumed the training, a telegram would be read to us. This
2 telegram was read to us by the deputy commander of the company before we began our training on
3 that day.
- 4 Q. Where did you converge on that day? Where was the meeting convened?
- 5 A. Each company had its assembly point where we would receive our training. For us, it was close to our
6 dormitories where we met.
- 7 Q. Did that place have a name?
- 8 A. Yes. It is the place where we normally underwent training.
- 9 Q. How many soldiers were present on that occasion when the telegram was read to you?
- 10 A. We were about 80.
- 11 Q. What time of day was it?
- 12 A. Yes, it was about 10:00 a.m.
- 13 Q. Did you see the telegram yourself?
- 14 A. I saw it.
- 15 Q. Can you describe it, what you saw?
- 16 A. It was a loose sheet of paper which bore inscriptions. It was typewritten.
- 17 Q. Did you read the message yourself?
- 18 A. I did not read it. The message was read to us.
- 19 Q. Now, I want you to say in some detail what was read to you that day by -- by the way, just a minute.
20 You have not given us the name of the deputy commander who read the message to you.
- 21 A. His name was Innocent Nsabimana, Lieutenant Innocent Nsabimana.
- 22 MR. JEGEDE:
- 23 Your Honours, Nsabimana is N-S-A-B-I-M-A-N-A.
- 24 BY MR. JEGEDE:
- 25 Q. So please tell us in some detail what was read to you that day.
- 26 A. First of all, it defined the enemy. According to this definition, the enemy was any Tutsi inside or outside
27 the country.
- 28 Q. And then you said it mentioned places where the enemy could be found at the time. Could you please
29 mention these places to us?
- 30 A. We were told of a number of regions in the country where the enemy was to be found, namely, Nyanza,
31 Nyamata, and Rwamagana. Those are the three I recall.
- 32 Q. In what part of Rwandan is Nyanza ?
- 33 A. Nyanza is situated in the south, southern part of the country, in Butare province, in the former
34 Nyabisindu *commune*. It is now known as the city of Nyanza.
- 35 Q. Thank you. And where -- in what part of Rwanda is Nyamata?
- 36 A. Nyamata is located east of Kigali -- rather, to the south of Kigali-rural, in the former Kanzenze
37 *commune*.

1 Q. Where is Rwamagana located in Rwanda?

2 A. Rwamagana is located to the east of Rwanda, in the northern portion of Kibungo, in the former Rutunde
3 *commune*.

4 MR. JEGEDE:

5 Your Honours, Nyamata is No. 57 on the list; Nyanza is No. 58; and Rwamagana is No. 62.

6 BY MR. JEGEDE:

7 Q. To your knowledge, Witness, what is peculiar about these three places?

8 A. The peculiarity of these three places is that there were a large number of Tutsis there, as compared to
9 the other towns or regions of the country.

10 Q. And you also testified that the message read to you also gave -- also explained how to combat the
11 enemy. Do you recall what you were told with respect to that?

12 A. We were asked not to give any respite to the enemy, never to leave him alone, to get information on
13 meeting places of the Tutsis and, where necessary, kill the Tutsis or put them in prison.

14 Q. Now, let's move to another area, Witness. Where were you on April 6th, 1994, when the president's
15 plane was shot down?

16 A. I was in Camp Kanombe, very close to the building where I spent the night.

17 Q. Which building were you close to?

18 A. This is the military block in which we spent the night.

19 Q. And how did you learn of this event, the event of the shooting down of the president's plane?

20 A. I witnessed the crash of the presidential plane. No one told me about it.

21 Q. So, what did you see or hear on that occasion?

22 A. After I heard the engine sound of the plane, I saw missiles that hit the plane and the plane burst into
23 flames.

24 Q. You said the plane crashed eventually. Do you know where it crashed?

25 A. The plane crashed in President Habyarimana's house, within the compound of
26 President Habyarimana's house.

27 Q. How close was the crash site to where you were in the camp?

28 A. The plane crashed at about 800 metres from the camp.

29 Q. What did you do after you saw the plane crash?

30 A. Normally, when a soldier witnesses such an unusual event, he would have to wear a combat uniform
31 and wait for orders from his superiors.

32 Q. Were soldiers of your battalion formally informed of the event?

33 A. Yes.

34 Q. Who informed you?

35 A. We were informed by our commanding officer; that is Major Aloys Ntabakuze.

36 Q. At what forum were you informed?

37 A. There was a clarion call and the soldiers put on their uniforms. Weapons were brought out of the

1 weapons store and the soldiers assembled at the usual assembly grounds, and the battalion
2 commander came to give us this information.

3 MR. PRESIDENT:

4 Now, Witness, you said that you saw missiles hitting the plane. So did you know that it was the
5 president's plane?

6 THE WITNESS:

7 Yes, I got to know.

8 MR. BÂ:

9 In French, the answer is ambiguous. "I got to know" does not say when he got to know. Was it when
10 the missiles hit the plane, or subsequently? I'm not too sure if it was properly translated.

11 MR. PRESIDENT:

12 Yes, we will clarify. When did you come to know about it? My question was: When the plane was hit
13 by missiles, whether you knew it was the president's plane.

14 THE WITNESS:

15 Yes, I knew it. I got to know immediately.

16 BY MR. JEGEDE:

17 Q. How did you know it was the president's plane?

18 A. I was familiar with the engine sound of the president's plane.

19 Q. Were any officers present at the assembly?

20 A. There were some.

21 Q. You said Major Ntabakuze addressed you. What did he say?

22 A. He told us that, "As you heard on radio, the presidential plane has been attacked and the president is
23 dead. He died along with all those who were present with him on the plane."

24 Q. How long did the meeting last?

25 A. The meeting lasted about 10 minutes.

26 Q. What happened after the meeting?

27 A. After the meeting, he asked us to stay with our company commanders. He left the CRAP. He went
28 about his -- he climbed aboard his vehicle and went to the president's.

29 THE ENGLISH INTERPRETER:

30 They went to the crash site, corrects the Kinyarwanda interpreter.

31 MR. JEGEDE:

32 I heard he left the CRAP. I don't know if I heard right, in English.

33 THE WITNESS:

34 He left with members of the CRAP unit.

35 BY MR. JEGEDE:

36 Q. And, Witness, let's move to another area now. Were you assigned any duties in the morning of 7th of
37 April; that is, the following day?

1 A. Yes, I was assigned a task.

2 Q. What task were you assigned?

3 A. I was asked to go to the hospital and wait for the bodies of the president and guard those bodies at the
4 hospital.

5 Q. Who gave you that assignment?

6 A. It was the non-commissioned officer of our company, called W. Kanyempinga.

7 MR. JEGEDE:

8 Could the Kinyarwanda booth help us with the spelling of Kanyempinga? We don't have it on the list.

9 THE KINYARWANDA INTERPRETER:

10 Kanyempinga is K-A-N-Y-E-M-P-I-N-G-A.

11 BY MR. JEGEDE:

12 Q. How many of you were given the assignment?

13 A. There were about 10 of us.

14 Q. And did you go to the hospital, as instructed?

15 A. Yes, I respected the order and I went there.

16 *(Pages 48 to 67 by Karen Holm)*

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

1 1545H

2 BY MR. JEGEDE:

3 Q. Did the body of the president eventually come?

4 A. Yes.

5 Q. Who brought the body?

6 A. The bodies of the presidents were brought by ambulance of the Presidential Guard.

7 Q. Did you see the president's body, yourself?

8 A. Yes.

9 Q. So how many bodies were brought in the ambulance?

10 A. Two bodies.

11 Q. Who had the other body -- whose body was the other one?

12 A. It was the body of the Burundian president called Ntaryamira.

13 MR. JEGEDE:

14 I call on the Kinyarwanda booth again to help us with the spelling of that word.

15 THE KINYARWANDA INTERPRETER:

16 Ntaryamira is N-T-A-R-Y-A-M-I-R-A.

17 BY MR. JEGEDE:

18 Q. While you were at the hospital that day were any other corpses brought to the premises, to your
19 knowledge?

20 A. Some time after the presidents' bodies were brought, other bodies were brought.

21 Q. Whose bodies were brought?

22 A. It was the body of the prime minister, Agathe Uwilingiyimana, and two other male bodies.

23 Q. Approximately -- approximately what time were these bodies brought?

24 A. The body of the prime minister and the two other men were brought around 1730 hundred --
25 1730 hours.

26 Q. Where exactly were you when the bodies were brought?

27 A. I was in the clinic which was close to the military hospital in Camp Kanombe.

28 Q. Who brought the bodies?

29 A. These bodies were brought aboard an armoured vehicle that belonged to the recce battalion and was
30 driven by a driver of the recce battalion.

31 Q. Can you, precisely, describe this vehicle? What -- did it have a name?

32 MR. BLACK:

33 Sorry, which bodies are we talking about, the first shipment or the second?

34 MR. JEGEDE:

35 Second.

36 MR. BLACK:

37 What about the first? Who brought them in?

1 MR. JEGEDE:

2 It's just -- I said ambulance of the --

3 MR. BLACK:

4 No, you said that. I didn't hear him say that. Maybe he did, but I missed it. I thought you said

5 "ambulance"; you suggested ambulance. He never --

6 MR. JEGEDE:

7 You miss everything.

8 MR. BLACK:

9 No, I heard -- I didn't hear him say anything, how it came in. You suggested that --

10 MR. JEGEDE:

11 No, he -- he --

12 MR. BLACK:

13 -- an ambulance brought it and -- he didn't say exactly --

14 MR. JEGEDE:

15 No, he --

16 MR. BLACK:

17 -- anything about who brought that -- who brought those bodies in.

18 MR. JEGEDE:

19 Your Honours, I believe you heard.

20 MR. PRESIDENT:

21 What I had taken down --

22 THE ENGLISH INTERPRETER:

23 Your Honour's microphone.

24 MR. PRESIDENT:

25 What I have taken down is "ambulance brought two bodies of the president of the two countries".

26 MR. BLACK:

27 But that came from his suggestion. He said to the witness, so, "The ambulance came". I didn't hear

28 him say that, but it must have had an escort. It couldn't just be an ambulance by itself. It was two

29 presidents. So who came -- who brought the bodies; military ambulance, civilian ambulance, or what?

30 MR. JEGEDE:

31 That's what I have, but if he wants me to ask again, I will do that gratuitously.

32 BY MR. JEGEDE:

33 Q. Witness, did you see who brought the body of the President Habyarimana and that of the Burundian

34 president?

35 MR. TAKU:

36 Your Honour, we want just to get harmonised the text in French and English. In English, aboard -- they

37 came in an armoured vehicle of the -- armoured. I mean, the other two corpses; the one of the prime

1 minister and two males. They came in the armoured vehicle of the --

2 MR. PRESIDENT:

3 That's correct.

4 MR. TAKU:

5 -- of the recce battalion. That's what I heard in English.

6 MR. PRESIDENT:

7 Yeah.

8 MR. TAKU:

9 Okay, I wanted just to be --

10 MR. PRESIDENT:

11 No, no, Mr. Black's was the previous one; that is, the two presidents who died.

12 MR. TAKU:

13 Okay.

14 MR. PRESIDENT:

15 They were brought in by an ambulance. He wants to know which ambulance, an army ambulance or
16 other. Yes, he clarified that.

17 MR. TAKU:

18 Thank you. Thank you, Your Honour.

19 BY MR. JEGEDE:

20 Q. Yeah -- Witness, the vehicle that brought the two bodies -- of the prime minister, Agathe, and the other
21 two men, did you have any name --

22 MR. TAKU:

23 I'm sorry, Your Honour, before that is done, my client is saying that he heard in French "vehicle", but I
24 thought I heard in the English something else. So I want to know exactly what the witness said. If he
25 can ask him again.

26 MR. PRESIDENT:

27 Armoured --

28 MR. JEGEDE:

29 Exactly. That's actually what I wanted to clarify --

30 MR. TAKU:

31 Oh, thank you.

32 MR. JEGEDE:

33 -- because I thought differently, too.

34 MR. TAKU:

35 Thank you, thank you.

36 BY MR. JEGEDE:

37 Q. Witness, what type of vehicle brought the prime minister's body and the two other men you mentioned;

1 what type of vehicle?

2 A. It was Silver Mark Jeep.

3 Q. What colour was the Jeep?

4 A. This Jeep was painted in camouflage colours. Camouflage colours are made up of khaki, green and
5 black colours; a mix of khaki, green and black.

6 MR. BLACK:

7 Sorry, Mr. Jegede, but I am confused because we still haven't found out how -- what kind of vehicle
8 brought in the presidents' bodies in -- but, anyway, they've sort of skipped over that somehow. But,
9 with respect to the prime minister's body and two others, I thought I heard him say they came in with
10 armoured vehicle from the recce battalion. Now he is saying it was a Jeep.

11 MR. JEGEDE:

12 Yeah, but --

13 MR. BLACK:

14 There's a big difference between an armoured vehicle and a Jeep.

15 MR. JEGEDE:

16 Yeah, you heard -- Mr. Taku said that his client heard something that was in French.

17 MR. BLACK:

18 Yeah, but I heard him say --

19 MR. JEGEDE:

20 So it's a --

21 MR. BLACK:

22 -- armoured vehicle, the recce battalion. Now he is saying it was a Jeep.

23 BY MR. JEGEDE:

24 Q. Okay, Witness --

25 MR. JEGEDE:

26 You want to us clarify that?

27 MR. BLACK:

28 Yeah. I mean, yeah -- was it a Jeep or an armoured vehicle?

29 MR. JEGEDE:

30 Exactly.

31 BY MR. JEGEDE:

32 Q. Witness, so the vehicle that brought the prime minister's body, what -- what kind of vehicle was it? We
33 just want to clarify this. We know you've given your answer. But what type of vehicle was it?

34 A. The make --

35 MR. PRESIDENT:

36 Ask him what type of vehicle it was.

37

1 BY MR. JEGEDE:

2 Q. What type of vehicle?

3 A. It's a Jeep of a Silver Mark make.

4 Q. And you had gone ahead to describe the colour of the Jeep. Do you know how many soldiers were
5 aboard the vehicle when he drove up to you?

6 A. There were three or four soldiers aboard that vehicle.

7 Q. Who was driving the vehicle?

8 A. A driver of the recce battalion.

9 Q. How do you know that he was a driver of the recce battalion?

10 A. I knew him well before because we used to meet some troops of the recce battalion on the battlefield.

11 Q. How many times had you seen him before?

12 A. I saw him two or three times.

13 Q. Do you recall the battlefields where you saw him?

14 MR. BLACK:

15 Objection to that question. How -- he can't assume he saw them on the battlefield. Ask him where he
16 saw 'em before, but you can't suggest he saw 'em on the battlefield before. That's what I heard in
17 English.

18 MR. JEGEDE:

19 That's what he said.

20 MR. BLACK:

21 I heard in English you said "battlefield".

22 MR. JEGEDE:

23 I heard him say "battlefield".

24 MR. BLACK:

25 I didn't hear that.

26 JUDGE PARK:

27 He said "battlefield".

28 MR. JEGEDE:

29 Your headset must have a problem, Mr. Black. You had better change it.

30 BY MR. JEGEDE:

31 Q. So which battlefields did you see him?

32 A. The recce battalion would often travel to Umutara region, because in that region the armoured vehicles
33 were easily operational. Umutara is in the eastern part of Rwanda.

34 Q. Thank you. Were you alone when this jeep drove up that day?

35 A. No, I was not alone.

36 Q. Who were you with?

37 A. I was with a medical officer named Warrant Officer Habineza.

1 MR. JEGEDE:

2 Your Honours, Habineza is spelt H-A-B-I-N-E-Z-A.

3 BY MR. JEGEDE:

4 Q. Did the soldiers in the Silver Mark Jeep speak to you or to your colleague?

5 A. The driver at the wheel of that vehicle spoke to the warrant officer who was with me.

6 Q. What did they (*sic*) say to him?

7 A. He told him he was taking the prime minister's body, Prime Minister Agathe Uwilingiyimana, and he
8 asked him to set up a place where the body could be dropped.

9 Q. Did you look in the vehicle, yourself?

10 A. Yes, I looked inside the vehicle.

11 Q. How many bodies did you see?

12 A. There were three bodies in the vehicle.

13 Q. Were you able to confirm who the bodies of the other two men you just spoke about were?

14 A. I did not know those men, but we were told that one of the two bodies was that of the husband of
15 Prime Minister Agathe.

16 Q. In what part of the vehicle did they show you these bodies?

17 A. The bodies were in the rear of the vehicle.

18 Q. Were the bodies eventually taken out of the vehicle?

19 A. Yes.

20 Q. Did you see the prime minister's body as it was taken out?

21 A. Yes, I saw it.

22 Q. Describe the body, as you saw it.

23 A. Before carrying the body to the morgue -- after taking the body to the morgue, I was curious and asked
24 the warrant officer with me if I could go and see Agathe Uwilingiyimana since I did not know her. I went
25 to the morgue, got to the door of the morgue, and we entered the room where they had been offloaded,
26 and we started by observing the body of Prime Minister Agathe, and we noticed that she had a bullet in
27 her forehead. I was not interested in looking at the other two bodies. I did not seek to examine how
28 they had been shot.

29 Q. Did the body have any clothing on?

30 A. No, the bodies -- or, the body was not covered -- clothed, rather.

31 Q. We are talking about the body of the prime minister, now, that you saw, not the other two bodies. Was
32 she wearing anything?

33 A. The prime minister's body had a skirt on it.

34 Q. What other --

35 THE ENGLISH INTERPRETER:

36 Petticoat, rather.

37

1 BY MR. JEGEDE:

2 Q. And what other injuries did you notice?

3 MR. BLACK:

4 Your Honour, at this point in time -- I'm sorry.

5 MR. MACDONALD:

6 That -- first of all -- the objection is based on two grounds. First of all, he is not an expert. Again, we
7 are asking him what kind of injuries she sustained, and I believe only an expert could give that
8 testimony.

9 MR. PRESIDENT:

10 Counsel, having examined the body, you can't -- you don't need to be an expert to say there were three
11 injuries on the body.

12 MR. JEGEDE:

13 *(Microphones overlapping)*

14 MR. MACDONALD:

15 That's the first ground. Second ground: that was not divulged to us. We never -- we weren't informed
16 of the fact that that witness was going to testify on these elements. We knew about the body. We
17 knew that the body was brought, but there was no information provided to us that this witness would
18 testify on that.

19 MR. PRESIDENT:

20 So what does it turn out? How is it prejudice to you?

21 MR. JEGEDE:

22 *(Microphones overlapping)*

23 MR. PRESIDENT:

24 How does it prejudice you?

25 MR. BLACK:

26 If I can add to Mr. MacDonald's -- and, Mr. President, make it one submission. The third -- the third
27 point of objection is that it was a leading question. He asked what injuries he saw on the body. The
28 man said a bullet to the forehead -- a bullet wound in the forehead. That was it. Then he said she was
29 naked, twice. Then my friend again asked the question what she was wearing. Then he came back
30 and she -- wearing a petticoat. Now he's suggested what other injuries were there. That's a leading
31 question.

32 MR. PRESIDENT:

33 How can that be a leading question?

34 MR. BLACK:

35 Because he's saying --

36 MR. PRESIDENT:

37 A leading question is a question which suggests an answer.

1 MR. BLACK:

2 He is suggesting there were other injuries. The man's already said, "I saw the injury, a bullet wound."

3 MR. JEGEDE:

4 He did it -- okay. I'll let you just finish.

5 MR. BLACK:

6 Now he is saying -- he could have said -- he's asked him already. "Did you see any injuries?" "Yes, I
7 saw a bullet wound to the forehead." End of story. He's asking it again. First, he had her naked, and
8 he said nothing. The problem -- you see, the problem is this. He said the body was not covered, was
9 naked, no clothes; bullet wound to the forehead; saw nothing else. They didn't like that because they
10 wanted to make it more.

11 MR. JEGEDE:

12 I like it, I like it.

13 MR. BLACK:

14 Yeah, you like it.

15 MR. JEGEDE:

16 No problem.

17 MR. BLACK:

18 So then they get him to say, "No, it was a petticoat." And then says, "Did you see any other injuries?"
19 No -- he said, "What other injuries did you see?" It would suggest there are other injuries, which gives
20 the answer -- the witness a signal: you gotta say there's another injuries (*sic*). And we all know -- that's
21 gonna be --

22 MR. PRESIDENT:

23 No, Counsel.

24 MR. BLACK:

25 No, it's not a laughing matter, Mr. President.

26 MR. PRESIDENT:

27 Counsel --

28 MR. BLACK:

29 It's about fairness --

30 MR. PRESIDENT:

31 You're -- you're talking as if the question is, "All right, Witness, now give me another injury."

32 MR. JEGEDE:

33 As the Court pleases.

34 MR. BLACK:

35 That's right. That's exactly what he's doing; that's exactly what he's doing. That's exactly what he's
36 doing and, since it's covered by a petticoat -- there was only other injury --

37

1 MR. JEGEDE:

2 Okay, okay. No problem, Mr. Black.

3 MR. BLACK:

4 All right then. Thank you.

5 MR. JEGEDE:

6 It's -- a bullet is enough to kill anyway.

7 MR. TAKU:

8 Your Honour.

9 MR. PRESIDENT:

10 No, he is not going to.

11 MR. TAKU:

12 Yes, Your Honour, but my objection is this. All this line of testimony which is being recited here today
13 was never communicated to us. And, Your Honour, if we look at the English copy of the statement,
14 which is at page 7, K005214 (*sic*), these are what was communicated to us about the scope of the
15 testimony of this witness. And, with your permission, let me read that out.

16

17 "I also found out about the death of several politicians from colleagues who had left the camp to gather
18 information.

19

20 "They spoke of Agathe Uwilingiyimana and Minister Landouald (Lando) Ndasingwa. The evening of
21 7 April 1994, the body of Prime Minister Agathe was brought to Kanombe camp shortly after that of the
22 President. Agathe's body was transported in a jeep belonging to the reconnaissance squad. That was
23 the only unit in the army which had that type of jeep."

24

25 This is all that had been communicated to us so far. Now, Your Honour, this evidence of the witness
26 being assigned to go and work in the hospital -- when not even the name of the hospital is mentioned --
27 they say they brought the corpse to the camp. The evidence led that there are about 10 of them, that
28 he saw the driver whom he had known in battle in Mutara, and that he had met him three times, that
29 that driver talked to the warrant officer who was commanding -- who was in command at that time has
30 not been communicated to us.

31

32 Now, Your Honour, I think, to be very, very fair to the proceedings, the accused persons must be given
33 ample opportunity, Your Honour, to know the evidence that will be led against them so as to prepare to
34 meet the accuser. And I regret -- and I regret, Your Honour, to say that the evidence being led here
35 today is completely out of the scope of the proof of evidence that was given to us.

36 MR. PRESIDENT:

37 So, this --

1 MR. TAKU:

2 And we will be submitting, Your Honour, and applying that that evidence be struck off -- and that we
3 have not been given proper notice, Your Honour, and that is -- we are being taken by ambush here. It
4 is not a case of elucidation that we are suggesting. He got evidence about this death from people who
5 they sent out to get and gather information. That's all what he says. How he comes out now, being in
6 the hospital, going into the hospital rooms to inspect corpses, trying to become an expert about the
7 nature of the injuries, and all what happened, has never been communicated to us.

8

9 So, on behalf of my client, Your Honour, it would be unfair, it would be a type of ambush for this
10 evidence to be led -- or for this witness to be allowed to testify, to -- this evidence to be elucidated,
11 without proper notice. The Prosecutor knows that under the rules he could have given supplementary
12 witness statements -- or given notice of that, and you would have allowed him to adduce that. But, for
13 him to come here today and start, in more than 20 minutes, going into these details about the hospital,
14 when nothing is mentioned here -- the corpses were brought to Kanombe camp. Full stop. So we
15 submit that everything that is alleged to have happened in the hospital should be struck off, and the
16 Prosecutor should -- the Prosecutor should be restrained from adducing this evidence or any evidence
17 in that regard further, Your Honour. That would be our humble application.

18 MR. PRESIDENT:

19 Yes, Counsel, in other words, what you say is that the witness cannot go beyond -- beyond the frame of
20 *(unintelligible)*.

21 MR. TAKU:

22 Yes, Your Honour.

23 MR. PRESIDENT:

24 That is not so, Mr. Counsel.

25 MR. TAKU:

26 Your Honour.

27 MR. PRESIDENT:

28 He is here to explain what is there.

29 MR. TAKU:

30 Yes, Your Honour.

31 MR. PRESIDENT:

32 Yes.

33 MR. TAKU:

34 But how does he explain what is there when *(unintelligible)* --

35 MR. PRESIDENT:

36 Ask him --

37

1 MR. TAKU:

2 At the hospital.

3 MR. PRESIDENT:

4 Ask him; ask him.

5 MR. TAKU:

6 Well, Your Honour, it's a matter of the admissibility of the evidence. It is (*unintelligible*) in what your
7 ruling be -- it is that at this point in time I should be entitled by the rules and the jurisprudence of this
8 Court to raise these objections and that the right of the Accused under Article 20 of the Statute is being
9 violated here by letting the witness -- to give details of substantive allegations in the indictment without
10 giving proper notice of the evidence that will be adduced in support thereof. That is our objection,
11 Your Honour.

12 MR. BLACK:

13 Just to add to that, Mr. President, I think it is important -- I think the issue -- it's an important issue
14 because the death of Agathe -- who killed Agathe is a big mystery.

15 MR. PRESIDENT:

16 Yes.

17 MR. BLACK:

18 It's not known who killed Agathe. We have our own theories we'll develop in time. They got theirs. But
19 it's not known who killed Agathe and under what circumstances. So I'm guessing, but I would think that
20 when her body was brought to the morgue at Camp Kanombe -- I'm assuming it's the military hospital --
21 an autopsy was done; therefore, they must have the autopsy report. That should be the document
22 brought here to describe the injuries, not some driver who, maybe, casually glanced at a body and said,
23 "I think I saw that". Because it's important how she died, to establish who killed her. And that's why we
24 object --

25 MR. PRESIDENT:

26 Yes, Counsel --

27 MR. BLACK:

28 That's why -- I'm objecting.

29 MR. PRESIDENT:

30 You are correct to a point --

31 MR. BLACK:

32 Huh? Sorry.

33 MR. PRESIDENT:

34 -- but the person, by looking at a body, can't he say, "I saw three cut injuries", not --

35 MR. BLACK:

36 Yeah, okay. But if -- not if -- yeah, you could do that as background.

37

1 MR. PRESIDENT:

2 No, Mr. Taku, you take the seat until Mr. Black finishes.

3 MR. BLACK:

4 I wouldn't object to that background of some driver saying, "I saw this, too." But they can't -- if they're
5 gonna rely on this type of --

6 MR. PRESIDENT:

7 No, but I think --

8 MR. BLACK:

9 -- evidence as --

10 MR. PRESIDENT:

11 Mr. Jegede is going to drop that and go into some other area now.

12 MR. JEGEDE:

13 As the Court pleases.

14 MR. PRESIDENT:

15 Yes.

16 MR. JEGEDE:

17 All we want to do is to ensure that the Court understands what the witness is saying, because this thing
18 cannot be done in a vacuum.

19 MR. BLACK:

20 Yeah, but --

21 MR. JEGEDE:

22 We had to talk about how the body got there and what was done with the body. This is not a memory
23 test of what happened at the time. We just want him to say what happened, and that is what he has
24 done. We are -- Your Honours, we are within the ambit of jurisprudence of the Tribunal on this matter.

25 MR. PRESIDENT:

26 Yeah.

27 MR. JEGEDE:

28 It is entirely consistent with what we have --

29 MR. BLACK:

30 I have no objection to that, Mr. Jegede. In fact, while -- just before we go for coffee, I'd like to make an
31 application. Since we are discussing Agathe, there must be an autopsy report in the possession of the
32 Prosecutor or somebody in authority. And we would like that -- to have that disclosed, and I'm sure
33 they got a complete dossier on the death of Agathe, which has never been disclosed to us, and it's one
34 of the essential crimes attributed to all these men here.

35

36 I would like -- and I'm making an application that they produce the entire investigative file on the murder
37 of Agathe so we can examine it, because there may be things in there which we can use in our

1 defence. If it condemns us, well, I guess we're condemned. I'm sure they have an investigative file on
2 the murder of Agathe. We would like to know the entire contents in order to aid in our investigations
3 about who killed her. And I would make that application to get that immediately.

4 MR. JEGEDE:

5 That --

6 MR. TAKU:

7 Your Honour, I pray very sincerely that the arguments here should not obfuscate my objections. The
8 annex 4 to the indictment, the summary of the evidence, which the Prosecutor notified us that the
9 witness was going to testify on at paragraph 22, that is DP, here, does not even mention the name of
10 my client at all. It does not even list this particular evidence -- piece of evidence that is given today as
11 material to the indictment. With your permission, Your Honour, and I crave your indulgence to be
12 attentive and listen, Your Honour., paragraph 22, it is in French, Your Honour: "The witness shall state
13 that prior to the death of President Habyarimana on the 6th of April 1994, several meetings were held
14 gathering officers, high-ranking military officers, with the exception of those who had been deliberately
15 excluded, with a view to preparing the massacre of the Tutsis, considered the enemy, and relying on a
16 telegram -- will rely on a telegram that was distributed by the army, which defined Tutsis inside and
17 outside the country as the enemy. The witness shall recount that, following the death of
18 President Habyarimana, Ntabakuze and Mpiranya's soldiers who were from the military camp of --
19 Kanombe military camp were involved in the killing and looting of the civilian Tutsi population in
20 Kigali-rural -- under control in 1994, and that the officers who participated in this massacre were
21 protected by their superiors. The witness shall mention the injustice that was done to Tutsi and
22 moderate Hutu troops within the Rwandan armed forces."

23
24 And, there, Your Honour will see the points on the indictment on which they were to testify, as stated
25 there as -- (*no interpretation*). And they put there Mpiranya, Bizimungu, four hours. In the document we
26 have been served about the points on the indictment, on which this witness would testify, they say
27 paragraphs 3, 17, 22, 23, 25, 59, 68, 70. So, Your Honour, with all this notice that we have been given,
28 that completely excludes the evidence being adduced here today, can Your Honour again say that we
29 have been given proper notice? Can Your Honour again say that we are not being taken by ambush
30 here, Your Honour? Your Honour will find out that even today, the notice given today, Your Honour,
31 given a few minutes before the testimony of this witness, Your Honour, supports my application that this
32 witness -- this evidence ought to be excluded, Your Honour, and, in fact, Your Honours should take a
33 decision here and now to exclude the witness testifying on this.

34
35 Your Honour, the prejudice caused to the Defence is this. The prejudice is that the Defence will not be
36 in the position, Your Honour, to investigate whether there were 10 men sent to the hospital to guard the
37 hospital, whether -- who did -- whoever this witness is, or this allegation. We don't have the opportunity

1 on the -- of hearing the evidence for the first time in order to meet our accusers. And, Your Honour,
2 believe -- he says he got this information from people who were sent out to investigate -- who was sent
3 out to investigate. In the proof of evidence given to us -- so, Your Honour, we submit that substantial
4 injustice will be done here and now, today, to my client if this piece of evidence is allowed to be
5 adduced. That would be my humble submission, Your Honour.

6 MR. JEGEDE:

7 If I may respond to that briefly, Your Honours. I am prepared to accept Mr. Taku's limited knowledge of
8 this case because he's just coming to the case. And I would like to say -- to tell him the primary
9 document in criminal proceedings, as looked at, is the indictment. Now, if there is -- an accused is
10 charged to court, the primary document that is looked at to know what charges the accused is facing is
11 the indictment. And that, of course, we have disclosed to them several years ago. And in addition to
12 that, we've also disclosed the witness statement. Now, to refer to supplementary documents, such as
13 summary of evidence, as supplanting the authority of the indictment is, to say the least, unacceptable.
14 It is not done. This is like the constitution. This is what drives the case. It is the same thing as in a civil
15 case; you look at a writ of summons to know the course of action that the defendant is facing. So a
16 criminal -- in criminal proceedings, the primary document that is looked at is the indictment. And
17 paragraphs 103, 104, 105 up till 108 -- up to 107 talk about the death of the prime minister, about the
18 involvement of Major Nzuwonemeye and Captain Sagahutu in the killing of Prime Minister Agathe
19 in 1994. What further notice does he want?

20
21 We have given -- we've disclosed the statement several months ago -- or several years ago. And the
22 indictment, he has in his possession. All he has to do is to look at paragraph 103 and he will know the
23 charge faced by Sagahutu. That is enough for him and Nzuwonemeye, and that's enough for him to
24 prepare against what this witness will say. We -- this is not a trial by ambush. There is no prejudice
25 caused to the Accused what -- in whatsoever manner. We have given them due notice. What
26 Article 20 says is that the Accused must be given proper notice, which we have done. It's not -- it's
27 not -- it's not an article that cannot be interpreted. It's there in black and white. They had due notice
28 and we are -- we must be allowed to continue with the evidence, Your Honours.

29 MR. TAKU:

30 Your Honour, Your Honour, with due respect, Your Honour, the notice given us on the
31 13th September 2005, at paragraph 4, specifies is -- the 19th -- the 19th of September 2005,
32 paragraph 4, specifies the areas -- the paragraph in the indictment in which the witness will testify --
33 paragraph 3, paragraph 17, paragraph 22, paragraph 23, paragraph 25, paragraph 59, paragraph 68
34 and paragraph 70. Your Honour, there's no paragraph 103. There is nothing about the evidence that
35 this is being adduced here today. Now, they came today shortly -- a few minutes and gave --
36 distributed some other purported notice about the areas in the indictment in which the witness will
37 testify. The question we ask, Your Honour, is this. This notice that was given on the -- on the 19th of

1 September --

2 MR. PRESIDENT:

3 Well, Counsel, there is a short cut to this, too. This is a dead body. The charge is murdering her. So
4 he says -- what prejudice is it going to cause? In any case --

5 MR. TAKU:

6 The prejudice -- the prejudice --

7 MR. PRESIDENT:

8 -- the charge is that you have murdered --

9 MR. TAKU:

10 The prejudice --

11 MR. PRESIDENT:

12 -- but we here are only looking at a dead body, at this stage.

13 MR. TAKU:

14 Your Honour, my objection is this. Maybe I was not clear, Your Honour -- is that the evidence about
15 this witness going to guard in the hospital --

16 MR. JEGEDE:

17 Let me read out the --

18 MR. TAKU:

19 -- and while at the hospital, seeing a vehicle purportedly driven by a driver of the reconnaissance
20 battalion bringing in the corpse and that his -- the warrant officer talking to him. All that evidence should
21 be excluded because -- either from the notice of the points on the indictment on which he would testify,
22 either on the witness statement -- not any other thing before, Your Honours, have they given for prior
23 notice. Your Honour, the reason why I raised the objections now is because of this abounding
24 jurisprudence on this issue. If I gave a reason now, it would be that these instruments are the
25 instruments which clarify the indictment. We submit, Your Honour, that we don't have any notice about
26 the areas of the indictment about the evidence which is being (*unintelligible*) today. And that the -- the
27 instruments -- the instruments by which we should have been given ample notice to prepare, dated 19th
28 of September 2005 does not contain this evidence

29 MR. PRESIDENT:

30 Yes, Counsel, I think you must know that notice can be given by several ways. It is -- the primary
31 document is the indictment; then the pre-trial brief; then the summary of the evidence; then the witness
32 statements, all those things are means of giving you notice. So can you say that you did not know that
33 Agathe was killed?

34 MR. TAKU:

35 Your Honour, yes -- generally, generally, Your Honour is somehow -- I mean, they -- the latest
36 jurisprudence of Kamuhanda explains this very clearly, which I had the honour to have read, very
37 clearly -- that of Semanza, the case in which I was involved, explains this clearly, that in Ntakirutimana

1 explains clearly. Those instruments that you are citing today are the instruments that support our case
2 that proper notice has not been given. Because even though the indictment has alleged in general
3 terms certain allegations, would that necessarily (*unintelligible*) in reciting the evidence by which they
4 will be proved? The Prosecutor also gave us the witness statements as the proper evidence to say,
5 "Look, this is the area he will testify in." The witness statement does not go to the details which have
6 been given here today, does not say what he is saying here today, does not contain these allegations.

7
8 Secondly, by -- the Prosecutor had the possibility under the rules to indicate to us the areas in the
9 indictment on which the witness will testify. He did that, but in -- on playing with those rules, he did not
10 indicate that this witness was going to testify on these areas of the indictment. So this instrument --

11 MR. PRESIDENT:

12 So, we will ask --

13 MR. TAKU:

14 -- Your Lordship has mentioned --

15 MR. PRESIDENT:

16 We will ask him.

17 MR. TAKU:

18 -- cannot be part of the indictment.

19 MR. JEGEDE:

20 We have said that many times.

21 MR. PRESIDENT:

22 But, but, don't.

23

24 What is your reply?

25 MR. BÂ:

26 Mr. President, Mr. Taku is right on certain issues. There are portions contained in this testimony that
27 we had not planned for -- provided for in the pre-trial brief and indictment, and which we did not need
28 because we did not really need that part of the witness's testimony. With regard to the part regarding
29 the description of the body and how it came and articles 111, 118 and others, which are included in the
30 notice document, I think, should not have been featured. The witness should have testified on the
31 issues for which notice was given.

32 MR. PRESIDENT:

33 So, are you withdrawing all that? What is the --

34 MR. JEGEDE:

35 Certainly not.

36 MR. TAKU:

37 Thank you, Mr. Bâ for your professionalism. Thank you so much. I will order (*sic*) that that evidence

1 will be excluded immediately.

2 MR. PRESIDENT:

3 *(Microphones overlapping)*

4 THE ENGLISH INTERPRETER:

5 Your Honour's microphone.

6 MR. JEGEDE:

7 We are --

8 THE ENGLISH INTERPRETER:

9 Counsel's microphone, please.

10 MR. JEGEDE:

11 We are not withdrawing -- we are not withdrawing the evidence. The evidence stands, Your Honours,
12 because the facts are pleaded in the indictment. The witness -- or, the Accused have due notice.

13 MR. PRESIDENT:

14 Mr. Bâ says that it is not so.

15 MR. JEGEDE:

16 No, no; he said certain parts of the statement.

17 MR. BÂ:

18 No, certain parts.

19 MR. JEGEDE:

20 *(Microphones overlapping)* ... particular part. And, actually, that's why if Mr. Taku looks at the
21 statement, he will know that I have not touched part of -- certain parts of the witness statement because
22 of disclosure problems. But, certainly, we are relying heavily on these parts that the witness has
23 testified to.

24 MR. TAKU:

25 Your Honour, Mr. Bâ has done the right thing which the prosecutors in the civil law jurisdiction, which I
26 come from, in part, have always done, to present all the facts and to be fair. In fact, Your Honour, we
27 have not been informed about the part of evidence that the witness is giving, about the witness going to
28 the hospital, going to *(unintelligible)*. We have not been informed, Your Honour, and we reiterate, Mr.
29 Bâ has done the appropriate thing. They may prove their case otherwise, but let us be given proper
30 notice, Your Honour. That it is my plea.

31 MR. JEGEDE:

32 Your Honour, I'm not going to respond to that. I will just continue because it's not worth responding to.

33 MR. PRESIDENT:

34 I think we --

35 THE ENGLISH INTERPRETER:

36 Your Honour's microphone, please.

37

1 MR. PRESIDENT:

2 We will take a break and come back.

3 MR. MACDONALD:

4 Just before Your Honour does, Mr. Black's filed a motion, I think, and we want to be part of that motion,
5 too. It's a motion to obtain complete disclosure of the file of Agathe's -- the prime minister's death --

6 MR. PRESIDENT:

7 I don't know -- when was it filed? I don't know. I haven't seen it.

8 MR. MACDONALD:

9 Well, we haven't received anything about that.

10 MR. BÂ:

11 That's unreasonable. That is unreasonable. Ask your clients for that dossier. They were in charge of
12 matters in Kigali in April in that time --

13 MR. MACDONALD:

14 No, no, no.

15 MR. BÂ:

16 On the 7th April in Kigali, they were in Camp Kanombe.

17 MR. MACDONALD:

18 There are all sorts of theories about her death and what caused her death. Mr. Black is absolutely
19 right. That would be done with -- by way of a medical -- an autopsy report. And I'm assuming there is
20 an autopsy report somewhere, and we want it; also, the medical -- the complete medical file and the
21 complete investigative file about Agathe's death.

22 MR. JEGEDE:

23 Your Honours, just --

24 THE ENGLISH INTERPRETER:

25 Counsel's microphone, please.

26 MR. JEGEDE:

27 Your Honour, just to respond briefly to that, there are no theories in this case about who killed Agathe.
28 We know who killed Agathe. That's why we brought these accused persons to court. And that is what
29 we are seeking to prove by bringing this witness and other witnesses who have testified before him,
30 and those who will testify after him. We have brought them to prove one fact, and that is that
31 Major Nzuwonemeye and Captain Sagahutu participated, whether under of 6(1) or 6(3), in the killing of
32 the prime minister. That's our case, Your Honours. So if there are theories -- maybe they are
33 alternative theories, which is their right -- their right to propound their new theories --

34 MR. PRESIDENT:

35 Yeah.

36 MR. JEGEDE:

37 -- whether accident or a new one.

1 MR. PRESIDENT:

2 I know.

3 MR. TAKU:

4 Your Honour.

5 MR. PRESIDENT:

6 No, no.

7 MR. TAKU:

8 Your Honour.

9 MR. PRESIDENT:

10 One at a time.

11 MR. TAKU:

12 Your Honour, he can make an allegation, but let him give us fair notice. We are prepared to meet an
13 allegation if we have fair notice. Mr. Bâ has stated the law as it ought to be, and we want that the ruling
14 should be very, very clear, Your Honours, so that the jurisprudence of this Court will guard future courts
15 in this, Your Honour.

16 MR. PRESIDENT:

17 Mr. Taku, you must remember that this is not a civil court; this is not a common law court; this is a
18 combined court.

19 MR. TAKU:

20 Even in common law it is even stricter, Your Honour.

21 MR. PRESIDENT:

22 Yes.

23 MR. TAKU:

24 It is even stricter in the common law juris -- I practice, Your Honour, all my life for these 24 years. So,
25 Your Honour, we are saying that at least the ruling should be very, very, clear. If there's an aspect of
26 common law which is good --

27 MR. PRESIDENT:

28 Yeah.

29 MR. TAKU:

30 -- I will find a counsel who gets up, like Mr. Bâ, to state that (*unintelligible*) which is applicable to all
31 jurisdictions. We must follow it, Your Honour.

32 MR. PRESIDENT:

33 Yes, Mr. Segatwa (*sic*).

34 MR. DOUMBIA:

35 Yes, Mr. President, Mr. Doumbia. I would really blame myself if I did not intervene right now just to say
36 that on the occasion of this testimony we ought to avoid mix-ups. I heard the Prosecutor mention in the
37 circumstance -- in this context, Captain Sagahutu, and it is obvious that, with regard to this witness's

1 testimony, there is nothing whatsoever that ought to link him to Captain Sagahutu, and this could lead
2 the Court -- mislead the Court, rather, and I would not want with regard to -- Captain Sagahutu to be
3 mentioned in relation to the previous testimony because, in my opinion, this is not a good thing. When
4 the time comes for Captain Sagahutu, he shall be mentioned. But when he is not in question, we
5 should not mix everything up at the same time. This witness is coming to testify on specific aspects,
6 very clearly defined and, in my opinion, Prosecutor Bâ said it the way it is. We cannot come up and
7 start to defend ourselves on aspects that were not mentioned. Mr. President. I would be most grateful
8 to you if you could ensure that testimony is carried out as defined earlier on. This would ensure that we
9 do not have mix-ups. Thank you.

10 MR. PRESIDENT:

11 Court is adjourned for 10 minutes.

12 *(Court recessed from 1635H to 1650H)*

13 MR. PRESIDENT:

14 Yes, Mr. Taku, with regard to the objection you raised, we took the opportunity during this break to read
15 the statement and the statement of this witness says this: "They spoke to Agathe Uwilingiyimana and
16 Minister Lando. The evening of 7th of April 1994 the body of Prime Minister Agathe was brought to
17 Kanombe camp shortly after that of the president. Agathe's body was transported in a jeep belonging
18 to the reconnaissance squad. That was the only unit in the army which had that type of jeep."
19

20 So, this portion puts you on notice that this witness will speak on these items. And the document that
21 you showed us now is the witness -- the Prosecutor had given to you about -- about two weeks back.

22 MR. TAKU:

23 On the 19th.

24 MR. PRESIDENT:

25 On the 19th -- that they will rely on this witness to testify with regard to these paragraphs, cannot be
26 interpreted in your favour, because up to the 19th witness statement, you'd have been ready to
27 cross-examine this witness on all the aspects that he speaks of in his statement. So we have decided
28 that there was sufficient notice for you on that. And now we'll go.

29 BY MR. JEGEDE:

30 Q. Witness, we will go to another area, now. We will go to the 7th of April. Did you take part in any other
31 activities of the battalion on the 7th of April?

32 A. When I left the hospital I was assigned to other duties.

33 Q. Now, I want you to tell this Court whether you took part in any other activities of the paracommando
34 battalion on the 7th of April. Just tell me what you took part in. That's my question.

35 A. On the 7th, for instance, I attended a meeting organised at the level of the paracommando battalion.

36 Q. Where did the meeting take place?

37 A. The meeting was held at a camp in the place where we usually held meetings, at the place known as

1 *Joli Bois.*

2 Q. What time did the meeting take place?

3 A. The meeting began at 10 a.m. and ended between 1330 and 14 hours.

4 Q. How were you invited to the meeting?

5 A. A warrant officer who was living with me, called*****
6 and told me about the meeting, and we left together to attend the meeting.

7 Q. Who was present at the meeting?

8 A. There were all the soldiers and all the officers of the paracommando battalion; so there were the
9 officers and the other ranks.

10 Q. Who addressed the meeting?

11 A. It was Major Aloys Ntabakuze.

12 Q. What did Major Aloys Ntabakuze say to the assembled soldiers?

13 A. He said that, "As at now, it is no longer a rumour that the head of state and the other persons you
14 referred to are dead. It is clear that it is the *Inkotanyi* and no one else who assassinated -- who killed
15 him in collaboration with the Tutsi."

16 Q. What happened after he spoke?

17 A. He added that, "The war starts now. We often told you the time will come when you will be on your own
18 without your chiefs. The time has come now for you to start the war in the town."

19 Q. Did he give any further instructions?

20 A. He gave several other instructions.

21 Q. What are these instructions?

22 A. He gave us an overview of the prevailing situation. He said *Inkotanyi* had come out of the CND and
23 were at the Remera stadium on their way to Remera, and he said that, "If we don't fight them, they will
24 be here with us in Kanombe. Be ready for the fight and we will go to the war front."

25 *(Pages 68 to 88 by Verna Butler)*

26

27

28

29

30

31

32

33

34

35

36

37

- 1 1700H
- 2 BY MR. JEGEDE:
- 3 Q. Did he tell the soldiers where to go or how to confront the RPF?
- 4 A. Yes, he said it.
- 5 Q. Where did he say the soldiers should go?
- 6 A. He said that the soldiers should go to Remera to fend off the advance of the *Inkotanyi*.
- 7 Q. Do you know the specific points of Remera that he said the soldiers should go?
- 8 A. He did not refer to any specific location. He said the *Inkotanyi* had come out of the CND, were on their
- 9 way to Amahoro stadium and Kanombe at the same time. We therefore had to go to Remera close to
- 10 the stadium to try and contain their advance towards Kanombe.
- 11 Q. Now, after the meeting that day, where did you go?
- 12 A. After the meeting I went to Kajagali neighbourhood, not far from Habyarimana's residence.
- 13 Q. Why did you go to Kajagali?
- 14 A. ***** , and I went there to see what the situation was
- 15 like in that neighbourhood.
- 16 Q. How close was ***** to Kanombe camp?
- 17 A. It was about 800 metres.
- 18 Q. What road did you take to ***** that day?
- 19 A. I took the road that goes to Kajagali on the Muhindu road, but I did not go all the way. When I got to a
- 20 point where there were the presidential guards, I left the road and went through a banana plantation.
- 21 Q. As you were going towards your ***** , did you see anything that caught your attention
- 22 that day?
- 23 A. On the road to Kajagali, there were dead bodies all along and also in the houses, in the various houses.
- 24 Q. Approximately, how many bodies did you see?
- 25 A. I saw between 20 and 30 bodies.
- 26 Q. Did you recognise any of the bodies as that of someone you knew?
- 27 A. I recognised one body.
- 28 Q. Whose body was that?
- 29 A. It was the body of a woman who lived in the centre of that neighbourhood called Kajagali.
- 30 Q. How long had you known the woman?
- 31 A. I had known that woman since 1992.
- 32 Q. What did she do? What work did she do?
- 33 A. She was a trader.
- 34 Q. How close was that place where you saw her to Camp Kanombe?
- 35 A. About 500 metres from the camp.
- 36 Q. Did you notice any injuries on her body?
- 37 A. I realised that her body was covered with blood, but I did not get close to the body to see the wounds.

- 1 Q. Do you know the ethnic group of this woman?
- 2 A. Yes, I knew it.
- 3 Q. What is it?
- 4 A. She was Tutsi.
- 5 Q. Did you later arrive at *****?
- 6 A. Yes.
- 7 Q. What did you see when you arrived there?
- 8 A. I saw the body of *****.
- 9 Q. Where specifically did you see the body?
- 10 A. His body was lying within the compound of his parent's house, next to the kitchen or the building that is
11 used as the kitchen.
- 12 Q. Did you see ***** on that occasion?
- 13 A. No, I did not see her.
- 14 Q. Why did you not see her on that occasion?
- 15 A. I was afraid to continue with the search because that neighbourhood was under the control of the
16 Presidential Guard, so I left quickly out of fear that they might find me there and attack me.
- 17 Q. Where did you go when you left that place?
- 18 A. I left that neighbourhood and went back to the military camp, and then I took up my position at the
19 hospital. That is where I was in the hospital guarding the bodies.
- 20 Q. Did you subsequently see *****8 in the course of April; that is, in the following days, did you
21 see *****?
- 22 A. Yes, I saw her in the days that followed.
- 23 Q. And when precisely did you see her?
- 24 A. The following day, that is, on the 8th. I went back to her parent's house and on that day I saw
25 ***** and bodies of other members of her family.
- 26 Q. Tell us how you arrived at your residence this time?
- 27 A. On the 8th I went down and I went -- I returned to ***** . I took the same route, but
28 upon my arrival at the house, I got scared. I climbed up a bit higher to the position of the Presidential
29 Guard elements. They were troops that I knew and one of these young men escorted me to the house
30 of ***** .
- 31 Q. Tell the Court in some detail what you saw when you arrived at *****?
- 32 A. I arrived and I was no longer afraid of the Presidential Guard troops because I was now in the company
33 of one of the Presidential Guards. When I arrived, I saw a body and then I immediately headed
34 ***** because I wanted to see her first. I did not see her in her room, but I saw that
35 everything had been torn apart. Her room had been ransacked, and I saw blood. I saw a bullet -- a
36 bullet that had come through a window. I got frightened. I went to the sitting room and I saw my*
37 ***** the bedroom and I saw the rooms -- I saw the bodies of all her other relatives, her young

1 sister. I went back to into***** , I sat down and I looked for documents I would require, but I
2 found no useful documents, although I did find family photographs and I took them with me before I left.
3 But when I was in ***** , a nephew to the president of the republic found me on the
4 spot.

5 Q. In what condition did you find ***** in the sitting room?

6 A. She was lying down and she had been shot. She was dead. I raised her body and examined it and
7 inspected it and I noticed that a bullet had gone through her body, it had entered through the nape of
8 her neck.

9 Q. Who were the other people that you saw – or, the bodies? Whose bodies were the other ones that you
10 saw at the house?

11 A. There was her parents' bodies, her mother and father, the body of her young sister, the body of a
12 domestic worker, as well as the body of her brother that I had seen earlier, which was in the compound.
13 All in all, there were six bodies.

14 Q. Thank you. Do you know the ethnic group of *****?

15 A. It was at that moment that I learnt her ethnic identity by looking at her identity card which was there.

16 Q. What was the identity written on the card or the ethnic group written on the card, sorry?

17 A. It said she was Tutsi.

18 MR. JEGEDE:

19 Your Honours --

20
21 Registry, please could you pass this to the witness? They are names of those who died at
22 ***** . I just want him to look at it, and maybe you show it to the Defence as well so they
23 can have a look at it because we are going to put the names under seal.

24 MR. BLACK:

25 May I draw the attention of the Bench to the strange number 6 appearing again, it's billions to one, but
26 anyway, number 6, again.

27 MR. MACDONALD:

28 That's one of those with number 7 with interrogation mark is that --

29 MR. JEGEDE:

30 Well, we will put it to him and he would tell us.

31 MR. MACDONALD:

32 Who drew this?

33 MR. JEGEDE:

34 He drew it up.

35 MR. PRESIDENT:

36 How long will you take?

37

1 MR. JEGEDE:

2 Your Honours, 30 minutes.

3 MR. TAKU:

4 Your Honour, I don't know what these names represent. Names like, they don't represent anything. So

5 I think --

6 MR. JEGEDE:

7 Yeah, I just wanted you to look at the names before I put them in front of the witness.

8 MR. PRESIDENT:

9 He said that these are the members of the family -- *****'s family who died.

10 MR. TAKU:

11 Yes, Your Honour.

12 MR. PRESIDENT:

13 These are the names.

14 MR. TAKU:

15 Without more?

16 MR. PRESIDENT:

17 I don't know. That is what he said.

18 MR. TAKU:

19 Okay, that's all right.

20 BY MR. JEGEDE:

21 Q. Witness, do you recognise the names on that piece of paper?

22 A. Yes, I know all these names.

23 Q. Who prepared the list?

24 A. I did.

25 Q. What names are those?

26 A. These are the names of members of *****.

27 Q. There is a question mark at number 7, in front of 7 there, figure 7. What does that mean?

28 A. Number 7 is for the domestic worker whose name I do not remember, but I suggest that you cross out
29 number 6 from the list because that is the name of a person who lived with the family, but whose body
30 was not found with the family.

31 MR. JEGEDE:

32 Your Honours, I would tender -- I seek to tender that as Prosecution Exhibit No. P. 56.

33 MR. BLACK:

34 So to be clear then, there were six bodies there; one he can't name because it was a domestic servant,
35 and another body is missing somewhere. Okay.

36 MR. PRESIDENT:

37 Not missing; a member who was living, not a family member, but a person who was living with them.

1 MR. BLACK:

2 So there were six bodies there. You are not changing that, okay.

3 BY MR. JEGEDE:

4 Q. Were you given any assignment, Witness, on the 8th of April?

5 A. Yes, I was given a task.

6 MR. PRESIDENT:

7 Mr. Black, he has crossed out number 6.

8 MR. BLACK:

9 Yes, I understand. I was just not sure if he was changing the --

10 MR. PRESIDENT:

11 It should be kept under seal.

12 MR. JEGEDE:

13 Under seal, Your Honours, yes. So --

14 MR. PRESIDENT:

15 This document should be kept under seal.

16 *(Exhibit No. P. 56 admitted, under seal)*

17 BY MR. JEGEDE:

18 Q. What task were you given on the 8th of April?

19 A. I was made responsible for military resupplies to the ground.

20 Q. Okay. Before we get to that, let me take you back a little. You mentioned that you saw somebody at
21 the PG -- a soldier at ***** , as you were in the house. Did you have any conversation
22 with him?

23

24 Okay. The ***** of President Habyarimana, excuse me.

25 A. Yes, President Habyarimana's ***** found me there.

26 Q. And did he say anything to you?

27 A. He asked me if all the members of that family had perished and I said yes. He asked if even the *****
28 had died, I said yes. By "*****," he meant "*****", as she was fat, very fat. And he added that if
29 she had sought refuge at their house, he might have had no problems, and I said perhaps it was her
30 time, her time had come and it was her destiny to die with the members of her family; fate had decided
31 it. Then he advised me to leave that place for fear that the members of the Presidential Guard would
32 find me and swoop down on me.

33 Q. Now, let's go back to your assignment on the 8th of April. What did you say -- what task did you say
34 you were assigned to do?

35 A. I was given a task of providing food to the soldiers who were at the front at Remera.

36 Q. And did you accomplish that task?

37 A. Yes.

1 Q. How many positions did you visit that day?

2 A. About five positions.

3 Q. Please mention them.

4 A. There was a position at the place known as Giporoso; there was another one at the SGP petrol station,
5 another position was located next to the Sobolirwa factory. And further up, a little further up towards
6 the Remera market, there was another position. And the last position I went to was located opposite
7 what was known as IAMSEA.

8 Q. And, Witness, what can you say about the activities of the paracommando soldiers that you saw at
9 these positions that day?

10 A. This is what I can say. Can we backtrack a little? You mentioned a meeting that took place on the 7th
11 in the morning. I did not finish what I wanted to say about that meeting. Prior to the departure of the
12 soldiers to Remera, during the meeting, the major stated that the soldiers would pass by a very
13 dangerous area because that area was occupied by many Tutsis and, therefore, they were warned to
14 be careful and that if they were to come across elderly Tutsis or children, that they should not be
15 spared. They were planning to kill all these people from the 7th and 8th. And on the 8th when I went
16 there, I came across bodies and other people had been killed in their houses as well as at the
17 roadblocks. So generally speaking, they massacred those people.

18 *(Pages 89 to 94 by Sithembiso Moyo)*

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

1 1730H

2 BY MR. JEGEDE:

3 Q. Did you -- could you recognise any of the ones -- any of the people killed that day?

4 MR. BLACK:

5 Perhaps -- objection to the question before and the answer in the sense that he was just delivering
6 supplies. We take it was in his own effort at the time he reached this position. So I think my friend
7 should establish how on earth he saw these alleged killings taking place not always making those
8 general statements and conclusions, as far as I am aware.

9 MR. JEGEDE:

10 Okay. If you want us to go into each of these.

11 BY MR. JEGEDE:

12 Q. Witness, which position did you first go to?

13 A. I started with the position that was at the Giporoso centre.

14 Q. What did you see at the Giporoso centre?

15 A. It was at the Giporoso centre that our commando battalion was located -- where
16 Commander Ntabakuze of that battalion was located, and on that day he was there in the company of
17 soldiers and *Interahamwe*.

18 Q. You say he was there with soldiers and the *Interahamwe*; were the *Interahamwes* armed?

19 A. Yes, the *Interahamwe* were carrying weapons.

20 Q. What kind of weapons?

21 A. The *Interahamwe* were carrying different types of weapons, particularly R4 and 5.

22 Q. How were they dressed, particularly these *Interahamwe* that you saw at Giporoso centre?

23 A. Some of them were wearing military uniform and others were wearing *Interahamwe* uniform, which is in
24 Kitenge.

25 Q. Did you observe what the soldiers and the *Interahamwe* at Giporoso were doing?

26 A. Some of them were on roadblocks and stopping passersby and some were in houses in the
27 neighbouring -- general areas searching the houses?

28 Q. Where was the next position that you went?

29 A. It was the SGP position.

30 Q. What did you observe at that position?

31 A. At that position -- but let me clarify before then, that most the crap members were at that position. So
32 there was a team from the crap unit.

33 Q. Did you observe what they were doing at SGP petrol station, the crap and those other persons that you
34 saw?

35 A. When I was passing -- when I passed through that place, I normally saw that they had brought out
36 people from their houses, and sometimes I saw them beating up those people.

37 Q. And what were they beating them with?

- 1 A. They were beating them up with the butts of their guns, and sometimes they used sticks to beat them.
2 And sometimes too, they would select some people from among them and go and kill them.
- 3 Q. Where did you go next, Sopererwa factory, as you say? When you arrived at Sopererwa factory, what
4 did you see?
- 5 A. At the Sopererwa factory, there was a military position of soldiers guarding the factory, but I saw
6 something peculiar, that is, the presence of the *Interahamwe* that I was not used to seeing at the
7 Sopererwa factory, and one day – on one particular day, the *Interahamwe* threatened me.
- 8 Q. How did they threaten you?
- 9 A. One day I found a young girl who was wearing a military uniform and carrying a gun, and she asked a
10 soldiers who was with me whether he was one of them. She wanted to shoot me, shoot me.
11 My colleague to her, “No, you should not shoot him, he is one of us,” and that he is a good soldier.
- 12 Q. Did she say why she wanted to shoot you?
- 13 A. Yes, she told the soldier who was with me that, “I see the little soldier is a Tutsi”.
- 14 Q. And did you go to the next -- what did you see when you got to the Remera market position?
- 15 A. It is at that place that is close to the Remera market, that I saw a large number of bodies; that is, on the
16 8th.
- 17 Q. Could you tell the gender of the bodies that you saw?
- 18 A. There were bodies of both male and female.
- 19 Q. About how many were there, approximately?
- 20 A. On that day I saw about 80 bodies, because I went to three different houses.
- 21 Q. Where were the bodies, where exactly did you see the bodies at that position?
- 22 A. From the road that leads to the market, all the way to the IMS – IAMSEA, everywhere on the road there
23 were bodies.
- 24 Q. Have you finished, Witness? Have you finished your answer?
- 25 A. Yes, I have given you a complete answer.
- 26 Q. And when you got at IAMSEA, what did you see there?
- 27 A. At the IAMSEA, there was our position, but after the tarred road, there was the RPF position, that is, on
28 the other side of the road.
- 29 Q. Which road are you referring to?
- 30 A. I am referring to the tarred road which is on the side of the road that is leads to Kimironko, from the
31 Amahoro stadium and which goes through the IAMSEA. And there was a majority called Munyawera,
32 who lived at that place. That is where our position was.
- 33 Q. This major — Major Munyawera--
- 34 MR. JEGEDE:
35 Munyawera, Your Honour, is No. 21 on the list.
- 36 BY MR. JEGEDE:
37 Q. Do you know the unit of Munyawera – Major Munyawera?

1 A. I do not know the unit he belonged to, all I know is that he was a major in the gendarmerie.
2 Q. Now, you spoke at length about PG and paracommandos today, are you able to describe the uniforms
3 – the uniforms -- how many types of uniforms did the para commandos have at the time -- how many
4 types of uniforms?

5 A. The para commandos had three types of uniform.

6 Q. Please describe them as you knew them?

7 A. They had a combat uniform made up of a shirt and a pair of trousers in green, with a camouflage
8 smoke over it. The camouflage smoke is a mix of khaki, green, black and a little of blue – a little bit of
9 blue. The second type of uniform is what was referred to as the parade uniform, which is made up of a
10 pair of trousers and a smoke, which is made up of khaki, green and black. And then, there is the
11 ordinary uniform which is made up of khaki. All these uniforms go with a camouflage beret, and let me
12 remind you that the camouflage colours are khaki, green, black and a bit of blue. These are the various
13 types of uniform that the commando – the paratroops wore.

14 Q. And the PG uniform, are you able to describe what they wore at the time?

15 A. Members of the presidential guard wore the same type of uniforms that I described to you. The only
16 difference was the beret. They wore black berets.

17 MR. JEGEDE:

18 Thank you, Your Honours. I would like to work with the witness on the map. I didn't is the video people
19 are able to do it in open or closed session. It depends on their preference. I would love it in open
20 session, My Lord. The Registrar told me – informed me before hand they might focus on the witness
21 while he is there. So I don't know if they have been able to iron that out now.

22 MR. PRESIDENT:

23 Now, that there are no people watching this, we can go into closed session.

24 MR. JEGEDE:

25 As the Court pleases.

26 MR. PRESIDENT:

27 Yes, if the witness can be kept out of the camera, then there is no problem.

28 MR. JEGEDE:

29 What I fear is that he has to be very close to the map to be able to see, because there are small prints
30 on it.

31 MR. BLACK:

32 Mr. President, I rise for two reasons. First of all, we would like to know more about this map, when was
33 it made, who made it? The same questions asked us. Was it made in 1994, does it represent the
34 situation now or then; who drafted it, and so on? They ask us the same questions. Secondly, once
35 they establish that, it can be used. Frankly, personally, I am feeling tension, it is getting late. I don't
36 know whether in the short time left if we can effectively go through that map. What is remaining is eight
37 minutes.

1 Maybe we can do it Monday morning. There will be less pressure at that time. And, first of all, we have
2 to decide whether the map can be used or not. We don't know that.

3 MR. JEGEDE:

4 Yes, I will do that. Actually, Your Honours, this map is the same as Exhibit P. 9, which is already in
5 evidence. I didn't want to use that – the one that is already in evidence because it is already marked,
6 and I don't want to make marking on those ones, because it will be confusing. That is why I brought a
7 new one, but the same map as Exhibit P.9.

8 MR. PRESIDENT:

9 Yes, why do you need the witness to go through this map again?

10 MR. JEGEDE:

11 Yes, what I want to do with him is just to show us the positions that he mentioned; that is all. It is very
12 important, because at the end of the day, we would want to know – we would refer to the areas held by
13 the para commando battalion, areas held by the RECCE battalion, areas held by other units of the army
14 and area held by the RPF. So it is very important that we sketch these areas on the map so that there
15 is no confusion at all in our minds, and in the minds of Your Honours.

16 MR. TAKU:

17 Your Honour, I just want to object that this witness has not talked about any area -- testified about any
18 area occupied by the recce battalion here. So, again – my objections, Your Honour.

19 MR. PRESIDENT:

20 This is only to show the places where he went, that's all.

21 MR. TAKU:

22 Exactly, Your Honour, but he should mention – I mean, I am talking about learned counsel saying that
23 at the end of the day, he has to mention about this. I don't want him to go on a futile exercise for me to
24 take this mile on a map reading an issue – about what is not an issue here now.

25 MR. JEGEDE:

26 We are not talking about RECCE now, I was just referring to the entire case, globally, at the end of the
27 day, what I want to achieve with the map. The map is offered in evidence in this case, not this
28 particular map. This particular map will only show areas held by the para commandos at the end of
29 April and subsequently when he went to those positions. That's all. So, if the witness can step down
30 to the board --

31 MR. PRESIDENT:

32 Yes, try to finish it early.

33 MR. JEGEDE:

34 Yes, I will be fast, Your Honour.

35 MR. PRESIDENT:

36 Give him that cane, then.

37

1 BY MR. JEGEDE:

2 Q. Witness, do you see that map in front of you?

3 MR. PRESIDENT:

4 Counsel; first ask if he knows how to read the map.

5 BY MR. JEGEDE:

6 Q. Yes, Witness, do you know how to read that map, the map you are looking at?

7 I did not get an answer.

8 THE ENGLISH INTERPRETER:

9 The witness's microphone, please.

10 BY MR. JEGEDE:

11 Q. Are you able to read that map?

12 A. Yes, I can read the map.

13 Q. That map, do you know where it is depicted on – the area of Rwanda on that map?

14 MR. PRESIDENT:

15 An area of Rwanda.

16 MR. JEGEDE:

17 The part of Rwanda depicted, I am sorry.

18 THE WITNESS:

19 Yes, I can identify the parts represented on this map.

20 BY MR. JEGEDE:

21 Q. Where is that? Where is it represented on the map – the town?

22 A. This is Kigali town.

23 Q. Are you able to locate Kanombe – Kanombe area on that map? Where you had the Kanombe camp
24 and the para commando battalion, are you able to locate the area on that map? Where you see it, just
25 point at it so that Your Honours can see what you are doing.

26 A. I don't know if you want me to show you where Camp Kanombe is located or the positions of the para
27 commando troops.

28 Q. Yes, we are going to get there. We are going to get the locations. Let's start with -- take para
29 commando battalion, if you can point the cane at the area.

30 A. It is to this side, but the area is not visible on the map, but it is in the direction that I pointed with the
31 cane. The road does not go all the way to the para commando battalion position.

32 Q. Okay. Witness, using the mark that you have, please indicate the area where the camp – the general
33 area where Camp Kanombe camp is. Is it visible on the map -- is Camp Kanombe visible?

34 A. No, I cannot see Camp Kanombe on this map.

35 Q. Okay. What you do is, you use --

36 MR. TAKU:

37 Your Honour, at this time we object. He is saying he cannot see Camp Kanombe on the map. That is

1 the answer. So what is the other question again?

2 BY MR. JEGEDE:

3 Q. Okay. Can you locate the road leading to Camp Kanombe on the map?

4 MR. PRESIDENT:

5 Is it on the outskirts of Kigali?

6 MR. JEGEDE:

7 Yes, Your Honour, a bit out on the outskirts.

8 MR. PRESIDENT:

9 Then he can put an arrow.

10 MR. JEGEDE:

11 Yes, that is what I want him to indicate.

12 BY MR. JEGEDE:

13 Q. Just put an arrow indicating the road leading to Camp Kanombe.

14 A. Are you referring to the road leading to the camp?

15 Q. Put an arrow pointing to the general area of Camp Kanombe. Thank you, and put KC near the arrow.

16 MR. BLACK:

17 Mr. President, I don't think this map is very useful to us. If they don't know -- if there isn't Camp

18 Kanombe on the map, we can't tell. Maybe on Monday they can find another map they can use.

19 MR. JEGEDE:

20 Your Honour, what we are going to do -- we are going to adhere to your suggestion, but what is actually

21 important is the position, not Camp Kanombe itself. The positions where he delivered the food to

22 soldiers, Your Honours.

23 BY MR. JEGEDE:

24 Q. So, Witness, can you locate the positions where you delivered food?

25 MR. PRESIDENT:

26 Give him the name, one by one and let him show us.

27 BY MR. JEGEDE:

28 Q. Are you able to locate IAMSEA on that map?

29 A. Here.

30 Q. Okay. Circle the area. Can you put a circle around the area -- a big circle around the area?

31 And, if you are able to write IAMSEA next to the circle, with the pen that you have -- legibly, please?

32 Good. Let's go to Giporoso, are you able to find?

33 A. Yes.

34 Q. Put a round -- circle around where you find Giporoso -- a circle, big circle around the area. Yes. And

35 put SGP -- SGP, can you write SGP, next to the circle. And where is SGP petrol station? Can you

36 locate it?

37 A. I think the SGP station is located here where I am pointing with the marker.

- 1 Q. Circle around the area and then put SGP next to it. How about Sobererwa, can you see it on the map?
- 2 A. Sobererwa is located here.
- 3 Q. Put an X next to the circle. Thank you. How about the Remera market, is it visible on the map? Put a
4 circle around it and put an M – the letter M next to it. And you spoke about a road – a road beyond
5 which the RPF position were. Can you locate that road?
- 6 A. Yes, I can see that road.
- 7 Q. Where is the road?
- 8 A. It starts from where I am pointing, and it's a tarred road and the RPF positions is beyond that road.
- 9 Q. Okay, draw a line on that road; indicating the road, so we can know that is the road you referred to in
10 your testimony. Just use a marker to draw a line on the road. Where is the Amahoro stadium?
- 11 A. Here.
- 12 Q. Put AS there to delineate the stadium. And CND, can you see CND on that map? Put AS denoting the
13 Amahoro stadium. And the CND, can you locate the CND on that map?
- 14 A. Here.
- 15 Q. Put a circle around that and CND next to the circle.
- 16 MR. JEGEDE:
- 17 Your Honours, that will be all.
- 18 MR. BLACK:
- 19 Mr. President, can he mark the --
- 20 THE ENGLISH INTERPRETER:
- 21 "I made a mistake with regard to the first point," says the witness.
- 22 MR. BLACK:
- 23 Mr. President –
- 24 THE WITNESS:
- 25 I made a mistake with regard to the first item.
- 26 MR. PRESIDENT:
- 27 Counsel, he says he made a mistake.
- 28 BY MR. JEGEDE:
- 29 Q. You said you made a mistake. What mistake did you make?
- 30 MR. PRESIDENT:
- 31 The first point
- 32 THE WITNESS:
- 33 I made a mistake with regard to the road leading to the camp.
- 34 BY MR. JEGEDE:
- 35 Q. Okay, have you identified the road now? Okay, put an arrow indicating the direction of the camp.
- 36 MR. JEGEDE:
- 37 Your Honour, I am done with the witness, and I would like to tender that as Prosecution Exhibit No. 57.
- 38

1 MR. BLACK:

2 Your Honour, it would be helpful for everybody if he marked in the RPF positions.

3 MR. PRESIDENT:

4 We have not testified to the RPF positions, and --

5 MR. BLACK:

6 Yes, you did. You said the RPF was on the other side of the road, I want to know where, I want to mark
7 that. I am not sure whether it is to the right or the left, so I don't know where he is indicating.

8 MR. JEGEDE:

9 You should be able to do that in cross.

10 MR. BLACK:

11 Oh, come on. Mr. President, why doesn't he have to do that again. He can mark the RPF position
12 where he thinks it was.

13 MR. JEGEDE:

14 He didn't go to RPF position.

15 MR. BLACK:

16 He testified that he --

17 MR. JEGEDE:

18 That he went to RPF position?

19 MR. BLACK:

20 He testified that the RPF was on the other side of the road, so he can just mark that in there.

21 MR. JEGEDE:

22 Where?

23 MR. BLACK:

24 Just there, on the map.

25 MR. PRESIDENT:

26 No, Counsel, he said there was an RPF position. So he can show the direction where it was.

27 MR. JEGEDE:

28 Yes, but that is why I say if they want, they can do that in cross-examination, that is why I am saying it
29 is all theirs -- the witness is theirs.

30 MR. BLACK:

31 The Judges need to understand what his evidence is. They want to know where the RPF position he
32 talked about was.

33 MR. JEGEDE:

34 But he did not talk about RPF positions.

35 MR. BLACK:

36 The witness said on the other side there was the RPF position. So, where is it, on which side of the
37 road?

1 MR. PRESIDENT:

2 Mr. Jegede, the witness said that there was an RPF position beyond that road. So, I think he can just
3 ascertain the direction on the road.

4 MR. MACDONALD:

5 Actually, that would be the first question in cross-examination.

6 MR. PRESIDENT:

7 Yes, so then he can start with this tomorrow – Monday.

8 MR. MACDONALD:

9 He can do that now, he is standing there now. What is the point?

10 MR. JEGEDE:

11 That is -- if that is the general consensus, we should ask him whether he knows first.

12 MR. PRESIDENT:

13 Witness, you said that there was RPF position on a particular road. If you can see that position on this
14 map, or if you can't, at least show the direction where that position was.

15 THE WITNESS:

16 The observation point – the observation post was located here. I don't know if you understand what I
17 mean by observation post. I don't know the other RPF positions. So, but you have to make a
18 difference between an observation post and a defensive position.

19 MR. BLACK:

20 I don't care whether position the RPF had there. He said he saw an RPF position as he was going to
21 the market; that is all -- whatever position it was.

22 BY MR. JEGEDE:

23 Q. Now, Witness, the line that you have drawn -- the point of observation, now I needed you to clarify an
24 issue. The line you have drawn, can you clarify what that line represents?

25 A. With regard to this line, our soldiers were not to cross the line. Soldiers of our army fought the RPF
26 troops along this line that I have traced. But at the time that I got there, our soldiers were not sure if the
27 RPF troops were still present there. You should also recall that the UNAMIR was present there.

28 Q. Witness, what date are you referring to? Is it the date of the 6th of April or after the 6th of April?

29 A. After the 6th.

30 MR. BLACK:

31 Maybe, Mr. Jegede can ask on what date – this is indicated as of what date? From his memory. He
32 has marked the position where he says his battalion was -- as of what date?

33 BY MR. JEGEDE:

34 Q. Witness, the markings that you made crossing the line on the other – crossing the line that you have
35 indicated as being the RPF position; what date were – as of what date were your troops situated at
36 those positions?

37 A. Our troops got to these positions in the evening of the 7th.

1 Q. So that the -- the AS -- we are talking about the AS now, the AS and the IAMSAC position?

2 A. I think you are right.

3 Q. Right about what?

4 MR. PRESIDENT:

5 That is what the witness said.

6 MR. JEGEDE:

7 No, no, no, I wanted to -- just so there is no confusion, Your Honour, we need to know what he says I
8 am right about so that -- that is the market -- the market at the top. Now, let's look at your pointed --
9 your observation point of the RPF; can you indicate the area?

10 THE WITNESS:

11 It was in this area.

12 BY MR. JEGEDE:

13 Q. Since when was that post at that place.

14 THE ENGLISH INTERPRETER:

15 Your Honour's microphone, please

16 BY MR. JEGEDE:

17 Q. Maybe we can use this other one. Actually we need to use another colour for the marker for the RPF
18 so that we can -- so, can you put observation post. Just draw a circle on the area, and since when did
19 you notice the observation post -- since what date?

20 A. At one point in time, the soldiers went to release the people who were at the IAMSAC. On that day
21 our troops fought the RPF troops, and that was the day that I noticed the observation post of the RPF.

22 Q. And what day was that?

23 MR. PRESIDENT:

24 Mr. Jegede --

25 THE WITNESS:

26 Between the 10th and the 13th -- between the 9th and the 13th, but I cannot recall the exact date.

27 MR. JEGEDE:

28 Okay. With your leave, this is the last question, Your Honour.

29 MR. PRESIDENT:

30 Okay. Finish.

31 BY MR. JEGEDE:

32 Q. Have you finished your answer, Witness?

33 A. Yes, I have just given you the date. I said that it is between the 9th and the 13th that our soldiers went
34 to evacuate people who were at the IAMSAC. So, it was between those two dates and it was the day of
35 the evacuation operation that I noticed the presence of the RPF in that place.

36 MR. JEGEDE:

37 Yes. Now, we offer the witness for cross-examination, My Lord.

1 MR. PRESIDENT:

2 Yes, Court is adjourned until Monday.

3 *(Court adjourned at 1820H)*

4 *(Pages 95 to 105 by Regina Limula)*

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

CERTIFICATE

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

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

Sithembiso Moyo

Regina Limula

Karen Holm

Verna Butler