

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

CASE NO. ICTR-98-41-T
CHAMBER I

THE PROSECUTOR
OF THE TRIBUNAL
v.
THÉONESTE BAGOSORA
GRATIEN KABILIGI
ALOYS NTABAKUZE
ANATOLE NSENGIYUMVA

THURSDAY, 9 MARCH 2006
0911H
CONTINUED TRIAL

Before the Judges:

Erik Møse, Presiding
Jai Ram Reddy
Sergei A. Egorov

For the Registry:

Ms. Marianne Ben Salimo
Mr. Edward E. Matemanga

For the Prosecution:

Mr. Stephen Rapp
Ms. Barbara Mulvaney
Mr. Drew White
Ms. Christine Graham
Mr. Rashid Rashid

For the Accused Théoneste Bagosora:

Ms. Allison Turner

For the Accused Gratien Kabiligi:

Mr. Paul Skolnik

For the Accused Aloys Ntabakuze:

Mr. Peter Erlinder
Mr. André Tremblay

For the Accused Anatole Nsengiyumva:

Mr. Kennedy Ogetto
Mr. Gershom Otachi Bw'omanwa

Court Reporters:

Ms. Jean Baigent
Mr. Rex Lear
Ms. Judith Baverstock
Ms. Kirstin McLean

INDEXWITNESSFor the Defence:

JOSHUA RUZIBIZA

Examination-in-chief by Mr. Erlinder.....	4
Cross-examination by Mr. Skolnik.....	68
Cross-examination by Ms. Turner.....	76
Cross-examination by Mr. Ogetto.....	79

EXHIBITS

Exhibit No. D. NT214.....	2
Exhibit No. D. NT215.....	42
Exhibit No. D. NT216.....	58
Exhibit No. D. NT217.....	60

PROCEEDINGS

1

2 MR. PRESIDENT:

3 Good morning, the Court is in session. We are starting a little bit later today because we had to sort out
4 a few practical issues.

5

6 The Kabiligi Defence?

7 MR. SKOLNIK:

8 Good morning, Mr. President; good morning, Judges; good morning, counsel, colleagues.

9 Good morning, Mr. Witness.

10

11 Mr. President, I would like to advise the Trial Chamber that General Kabiligi is absent this morning.

12

13 I have another request. When the Witness Tchambi testified, I forgot to ask the Trial Chamber for an
14 exception to the ruling that he not communicate with anybody. So I need an exception for the Kabiligi
15 team, please.

16 MR. PRESIDENT:

17 Thank you. What you said first is noted and your second request is granted.

18

19 Good morning, Mr. Witness.

20 THE WITNESS:

21 Good morning, Mr. President.

22 MR. PRESIDENT:

23 Are you going to testify under your own name or under a pseudonym?

24 THE WITNESS:

25 I will testify under my own name, not under a pseudonym.

26 MR. PRESIDENT:

27 All right. We have the personal information sheet of Mr. Joshua Ruzibiza in front of us.

28

29 Do you have it there, Mr. Witness?

30 THE WITNESS:

31 Yes, sir.

32 MR. PRESIDENT:

33 It is your signature at the bottom of the page, isn't it?

34 THE WITNESS:

35 Yes, sir.

36 MR. PRESIDENT:

37 So the information contained in this document is correct?

1 THE WITNESS:

2 It is correct.

3 MR. PRESIDENT:

4 Mr. Matemanga.

5 MR. MATEMANGA:

6 D. NT214.

7 MR. PRESIDENT:

8 Under seal because there are a few elements that should be protected.

9 (*Exhibit No. D. NT214 admitted, under seal*)

10 MR. PRESIDENT:

11 Yes, Mr. Erlinder?

12 MR. ERLINDER:

13 Thank you, Mr. President.

14

15 Pursuant to our short in camera discussion earlier this morning, we did receive the documents of
16 disclosure from the Prosecution. It will take us a little while to assimilate those, but we have them.

17 They're -- may I?

18 MR. PRESIDENT:

19 Please proceed, yes.

20 MR. ERLINDER:

21 Thank you, Mr. President. There -- there were two matters that I brought up yesterday that I want to
22 draw the Court's attention to. First, as the Court is aware, the Defence teams have objected
23 strenuously to the activities of the OTP involving getting immigration records from various witnesses --
24 or (*unintelligible*) witnesses, as part of their argument that they should be able to have that information
25 in order to cross-examine the witness.

26

27 In this situation that had been done -- and the disclosure was given to us, and I showed it to
28 Mr. Ruzibiza. He expressed a great deal of concern that other people, other than he, were mentioned
29 in those immigration documents, and he asked me to request to the Court that the Prosecution not be
30 allowed to keep those documents in their possession, and that if they are going to be retained by the
31 Court, that all copies be recorded under seal, because he's concerned about those names somehow
32 migrating from the Tribunal to the hands of those who might do him or his family harm.

33

34 In addition, there are also several names that, of course, if they're mentioned in his book are not, I
35 guess, such an issue. But there are some names that I'm sure he is not going to want to mention
36 because he hasn't spoken to those third parties or got their approval to use their names here. And,
37 when that issue comes up, we're going to have to find some way of making a record of what those

1 names are in a sealed fashion so that they don't become public.

2

3 But having said that, I think that if the Court is interested – and, I think, perhaps Mr. Ruzibiza would like
4 to speak to this -- I don't know if we can do it in open session or closed. It depends on -- on how much
5 the -- I don't think we have to talk about the specific names or even his country of origin, although I
6 don't think that's a secret. So --

7 MR. PRESIDENT:

8 You are not going to refer to this immigration document in your examination-in-chief, are you?

9 MR. ERLINDER:

10 No, I'm not, Mr. President.

11 MR. PRESIDENT:

12 So we can postpone this?

13 MR. ERLINDER:

14 Okay. I don't know because it's the witness who raised the issue with me, and I think we have to find
15 out from him whether he's willing to proceed with things as they are.

16 MR. PRESIDENT:

17 Well, we will follow the normal procedure, and should the OTP use this document, then we will have to
18 address this in the normal way.

19

20 What was the second remark, Mr. Erlinder?

21 MR. ERLINDER:

22 Well, the second remark was having to do with mentioning third parties in his testimony. There are
23 certain third parties whom he would be uncomfortable mentioning by name -- certainly in public, and the
24 question, of course, when we come to those names, will need some sort of way of making certain that
25 the Court has the record that it needs without jeopardising third parties.

26 MR. PRESIDENT:

27 Yes, and this is also something we are doing every day in this courtroom and is nothing special. So we
28 will come back to that when the issue arises.

29

30 Did you have anything, Prosecution?

31 MS. MULVANEY:

32 Mr. President and Your Honours, I'd just ask that the curtains be opened so that the witness can be
33 seen.

34 MR. PRESIDENT:

35 There is agreement on that.

36

37 Shall we then start the examination-in-chief?

1 BY MR. ERLINDER:

2 Q. Mr. Ruzibiza, you requested that I make this request to the Court about your immigration documents
3 and that you wanted that issue to be resolved before you began your testimony. Before we start --

4 MR. PRESIDENT:

5 Mr. Erlinder --

6 MS. MULVANEY:

7 Mr. President (*microphones overlapping*) could we start on questioning the witness --

8 BY MR. ERLINDER:

9 Q. I raised that issue --

10 MS. MULVANEY:

11 -- the speeches are just ridiculous at this point.

12 MR. PRESIDENT:

13 Yes.

14 MS. MULVANEY:

15 We know how to handle the information in this courtroom.

16 MR. PRESIDENT:

17 Yes. Let us now do this the way we do every day. And the first thing I'm going to do now is to say,
18 Mr. Witness, you have to tell the truth and the registry will now take your solemn declaration.

19 (*Declaration made by Joshua Ruzibiza in Kinyarwanda*)

20 MR. PRESIDENT:

21 That was the first part.

22
23 The second part was the one raised by Mrs. Mulvaney; namely, that we have to draw the curtains, and
24 there is nothing now preventing the video system from filming the witness. He's testifying in open
25 session without a pseudonym.

26

27 Now that is clear, shall we now start with the first question to this witness?

28

JOSHUA RUZIBIZA,

29

first having been duly sworn,

30

testified as follows:

31

EXAMINATION-IN-CHIEF

32 BY MR. ERLINDER:

33 Q. Mr. President, the first question is: Mr. Witness, you've heard just what happened with respect to the
34 immigration documents. Are you prepared to go forward in light of the Court's decision? This is your
35 decision.

36 A. I'm ready to go on with my evidence. However, I am wondering how the immigration documents did not
37 remain confidential while they were disclosed to the Office of the Prosecutor, whereas the documents

1 contained names of third persons who are still within Rwandan territory. And, it is my opinion that if
2 ever those names were to be divulged to the public, those people would be in difficulties. Concerning
3 myself, I do not have any problems. So I am reiterating my prayer that this document remain within the
4 possession of this Tribunal and that they not be made public out of the Tribunal.

5 MR. PRESIDENT:

6 Yes, and that is presently the situation and we will get into the details later on, so rest assured.

7

8 The question, Mr. Erlinder?

9 BY MR. ERLINDER:

10 Q. Mr. Ruzibiza, your personal information statement reveals that you were in the RPF in 1994. Could you
11 tell us when it was you first joined the RPF? We'll talk about your history just in a general way, so let's
12 be brief.

13 A. I joined the RPF in 1987, once it was set up. At the time I was in Burundi, but before I joined the RPF I
14 had been a member of associations of young Rwandan refugees. As time went on, when the RPF was
15 set up in 1987, I officially joined that organisation. And in October 1990, I joined the armed wing of that
16 party. I remained a member thereof up until the 4th of February 2001 when I officially left the country.

17 Q. Can you tell us why you left the country?

18 A. I left Rwanda because I had started having problems pertaining to my security on account of my stance.
19 In light of the injustice -- I had noticed injustice caused by the same organs which were supposed to be
20 fighting injustice. I realised that, in the meantime, the situation had changed from the date I joined the
21 RPF to the date I left. I realised that the injustice we were supposed to fight against had become a
22 system of government. So I was of the view that I could not keep on doing something against my
23 conscience, so I decided to leave the country.

24 Q. Mr. Witness, have you -- I'm sorry, Mr. Ruzibiza, have you had occasion to write essays or articles or
25 books about your observations while you were in the RPF?

26 A. When I was still a member of the Rwandan Patriotic Army or within the RPF, I did not publish anything.
27 But once I left that country, I wrote several documents addressing issues which I was able to observe
28 when I was a member of the RPF, and amongst the documents, there is a book which I have here with
29 me. A book titled, *Rwanda L'histoire secrète*, and in which book I wrote down my observations and
30 findings of my research from 1990 to 2001.

31

32 The other document, which I published, is a statement which I made in April or late March 2003, and
33 that was after an article was published in the newspaper called *Le Monde*, as well as in other
34 publications such as, *La Libre Belgique* -- publishing articles containing some information, which I had
35 given to official institutions concerning the assassination of President Habyarimana. When the
36 president of the republic and the minister of foreign affairs were interviewed, they reportedly said that
37 those who had given the information were vagabonds who were passing for factual witnesses. And in

1 order to avoid people considering me as a vagabond, I opted for a public statement.

2 MR. PRESIDENT:

3 Yes. So the question was: Have you publicised? And the answer was, yes, a book, and some other
4 publications. So just try to be brief because Mr. Erlinder has many questions.

5 MR. ERLINDER:

6 And, we have the -- for the record, Mr. President, I believe the witness has a copy of the book. I believe
7 one was informally sent to the President. I don't know that -- who else has copies in the courtroom, but
8 we haven't been able to afford to provide copies to everyone. In addition, we do have, however, copies
9 of the essays that I would like him to identify and would like to distribute to those in the courtroom,
10 please.

11 MR. PRESIDENT:

12 The witness has said that he has written a book and that he has that book in front of him. Do you want
13 to distribute documents now?

14 MR. ERLINDER:

15 I think it's just as well, Mr. President.

16 MR. PRESIDENT:

17 All right. Mr. Matemanga.

18

19 Am I only the one -- please, listen, everyone in the courtroom. Am I the only one having problem with
20 CaseView now? We all have. So, Mrs. Ben Salimo, please make sure that we receive the necessary
21 assistance. Thank you.

22 BY MR. ERLINDER:

23 Q. Mr. Ruzibiza, while they're passing this out, I want you to identify these two documents. As that's
24 happening, I can ask you a few more questions. Can you tell us what your rank was in the RPF in 1994
25 and what your rank was when you finally left?

26 A. *(No interpretation)*

27 THE ENGLISH INTERPRETER:

28 Microphone.

29 THE WITNESS:

30 In 1994, I was a sergeant and when I left the country in 2001, I was a lieutenant.

31 BY MR. ERLINDER:

32 Q. Now, focusing just on the month of April, and we'll go back and cover more, but just on the month of
33 April, can you tell us what your assignment was in April of 1994?

34 A. In April 1994 I was a soldier, as I told you, and I was a member of the team which was in charge of
35 reconnaissance; it was known as combat intelligence. We did intelligence gathering in conjunction with
36 other teams. But concerning the specific team I belonged to, we were charged with carrying out
37 intelligence pertaining to the field where we are going to fight, once we were to start combating within

1 Kigali city.

2 Q. Now, in -- again returning to that specific time, April of 1994, could you describe the areas that you were
3 responsible for in reconnaissance, and to the extent that you can, to how that information was
4 reported?

5 A. I was responsible for some neighbourhoods in Kigali. The south, Kicukiro and the east, Masaka and
6 Kabuga, as well as the part which has the Ndera psychiatric hospital, so it was the area covering
7 Ndera, Masaka, Kabuga, passing behind the Kanombe military camp through Busunza and right up to
8 Kicukiro.

9 Q. And in order to carry out your duties, what did you do in that area and how did you report the results of
10 what you found -- in just a general way, of course?

11 A. As usual in military intelligence one would focus on topography. So we focussed on the topography of
12 Kigali city and its surroundings. Also we tried to identify Rwandan government forces positions.
13 Thirdly, we tried to know the types of weapons they had in those various positions as well as the
14 strength, by way of soldiers deployed in various positions, and the various actions that were carried out,
15 such as patrols. Also, we identified the various observation posts. All the intelligence was sent to
16 Captain Hubert Kamugisha, who was our immediate superior, and he would report to
17 Colonel Karake Karanzi, who was the RPF liaison officer within UNAMIR. The other information was
18 sent to Kayonga.

19 Q. We don't have --

20 MR. PRESIDENT:

21 Mr. Witness, we have a procedure in this Court, and it means that whenever you start giving names we
22 need to spell them. Now, I do not know whether the names you just mentioned are of relevance, but
23 once you start mentioning them, then we have to spell them for the record.

24

25 Have you provided a spelling list, Mr. Erlinder?

26 MR. ERLINDER:

27 Mr. President, as the Tribunal is aware, we only began preparing this witness recently and there hasn't
28 been time to do that. So we have to spell the names.

29 MR. PRESIDENT:

30 Well, many witnesses come late.

31

32 Can you spell these two names for us, Mr. Ruzibiza?

33 THE ENGLISH INTERPRETER:

34 Three names, Mr. President.

35 THE WITNESS:

36 I think the first name I mentioned was Hubert Kamugisha, and Kamugisha is spelt:

37 K-A-M-U-G-I-S-H-A, Hubert.

1 MR. PRESIDENT:

2 That's good.

3

4 Now, when you do the spelling, you have to slow down. So it's not only about spelling it, but doing it
5 slowly. So can you do that once more and then also spell the first name please.

6 THE WITNESS:

7 Kamugisha is spelt K-A-M-U-G-I-S-H-A.

8 MR. PRESIDENT:

9 Now the first name?

10 THE WITNESS:

11 H-U-B-E-R-T. Hubert.

12 MR. PRESIDENT:

13 That's very good. Now, let's do that for the second name, please.

14 THE WITNESS:

15 I also mentioned Karenzi, Karake. Karenzi, Karake is spelt -- for Karenzi: K-A-R-E-N-Z-I. And for
16 Karake, K-A-R-A-K-E.

17 MR. PRESIDENT:

18 And then there was a third name, wasn't there?

19 THE WITNESS:

20 The third name I mentioned was Kayonza, Charles Kayonga. Kayonga is spelt K-A-Y-O-N-Z-A (*sic*).

21 MR. PRESIDENT:

22 Thank you.

23 THE ENGLISH INTERPRETER:

24 Kayonga -- K-A-Y-O-N-G-A. Correction from the Kinyarwanda booth and the first name is Charles.

25 MR. PRESIDENT:

26 Very good.

27

28 Mr. Rapp?

29 MR. RAPP:

30 This touches, though not specifically, on the subject we raised in our in camera session this morning.

31

32 The witness would periodically be mentioning names and dealing with individuals who are in the RPF.

33 And we had suggested that it would be better in keeping with your -- Your Honours' decision that was
34 filed yesterday evening regarding the indication that information about potential targets would not be
35 included in any statements that were disclosed by the Office of the Prosecutor; that when we deal with
36 any officer of the RPF, that the individuals are simply referred to as an officer generically -- or, a senior
37 official generically. And that we do not get into a situation where we might have to object to specific

1 names, and by doing that, compromising the possibility of interaction by the Office of the Prosecutor.

2 MR. ERLINDER:

3 Mr. President, if I may?

4 MR. PRESIDENT:

5 Just hold on.

6

7 Now, this remark was of a general nature drawing our attention to a procedure to be followed. But it
8 does not require any particular follow up in relation to the three names just mentioned; is that correct?

9 MR. RAPP:

10 That's correct, Your Honour. I thought it was probably wise to raise it while we're only talking about
11 general background information. We have no problem with people describing general command
12 structures or that kind of thing. But when you get to specific operations, describing that could, in fact,
13 begin to deal with situations that would create -- create a circumstance where information that was
14 redacted pursuant to Your Honours' order could, in fact, be revealed in this session when
15 Your Honours have decided that that information could not be exculpatory and, by logic, relevant to the
16 Defence case.

17 MR. PRESIDENT:

18 Yes.

19 MR. SKOLNIK:

20 Mr. President, could I just say something quickly on this issue?

21

22 It seems that what Mr. Rapp is asking you is for a decision *in vacuo* to cover any name that the witness
23 might give because anybody in all of Rwanda could be a target of a prosecution. So, I think, that you
24 have to limit it to -- what Mr. Rapp is saying -- to anything that's in the statements that may disclose a
25 target and not anything out of those statements that may disclose a target. You have to distinguish
26 that.

27 MS. MULVANEY:

28 Mr. President, if I may just add? One easy point of reference is if it's a name that's already in his book,
29 which is published around the world, we can probably go forward. But if it's not, then -- then it would
30 raise an issue. But if it's already in the public domain, it seems as if he should be allowed to testify.

31 MR. OGETTO:

32 Mr. President, for the record I think Mr. Rapp mentioned discussions that may have been held
33 in camera. I'm not aware of those discussions, and if we can be enlightened on what was discussed
34 during that in camera meeting, I think it's important for us to understand.

35 MR. PRESIDENT:

36 Mr. Erlinder and Mr. Rapp met with the Bench five minutes before we started. That's why I said that we
37 were delayed this morning. They came together and discussed a few issues. I will give Mr. Erlinder the

1 opportunity to brief you on what happened during that in camera session. There was nothing dramatic,
2 and it will all transpire here in the courtroom afterwards.

3
4 Now, what we are faced with now, is simply that the names mentioned do not call for any specific
5 measures to be taken. Then, Mr. Skolnik said that one had to delimit this in one way or another and he
6 referred to statements. And then Mrs. Mulvaney said maybe a better method of delimitation could be
7 the book, which is already in the public domain.

8
9 Do you have any comment regarding that procedure, Mr. Erlinder? With other words, that may be
10 caution or a procedure could be followed whenever the witness comes to a name which is not in the
11 public domain according to the book, for instance, which you have referred to.

12 MR. ERLINDER:

13 Well, Mr. Witness -- Mr. President, the situation is that because we hadn't received those disclosures
14 from the Prosecution until just half an hour ago, although we requested them several months ago, the
15 preparation of this witness did not include any disclosures from the Prosecution that are the subject of
16 Mr. -- the Prosecution's concerns. So that if one of these names that's on his list is mentioned by this
17 witness, it has nothing to do with any disclosures made by the Prosecution at all. And, this witness's
18 testimony should be able to stand as long as this witness is able to give that information in a way that
19 he's comfortable with in terms of protecting the security of third persons.

20
21 And, unfortunately Mr. Rapp's arguments are -- at least with respect to this witness and his disclosures,
22 are not relevant to the testimony of this witness in any way.

23 MR. PRESIDENT:

24 Your submissions are not clear.

25 MR. ERLINDER:

26 Well, first we -- I agree with Ms. Mulvaney, and I appreciate her suggestion that any names in the book
27 are certainly public record at this point and the Prosecution would have no basis to object to those
28 being mentioned.

29
30 With respect to names not in the book -- with respect, the Prosecution has no basis to object to those
31 names being mentioned in the way that Mr. Ruzibiza is comfortable mentioning them, because nothing
32 in the disclosures of the Prosecution have anything to do with the preparation of this witness -- or,
33 connected in any factual way with the issues that Mr. Rapp raised. So this witness should be in a
34 position to be able to talk about anyone that he chooses to talk about irrespective of the disclosures
35 because they simply had nothing to do with his preparation.

36
37 Now, if Mr. White -- Mr. Rapp wishes to raise another issue, which is that he has security concerns

1 about persons that the witness does not have security concerns about, that's a fair assessment to be
2 made on a case-by-case basis. And then, if those names need to be made part of the record, they can
3 be done in a secure fashion by writing them and keeping them under seal.

4
5 But a broad ruling, as Mr. Rapp suggests with respect to this witness, is simply inapplicable
6 (*unintelligible*). The disclosures have nothing to do with this witness's testimony and could not.

7 MR. PRESIDENT:

8 Mr. Rapp?

9 MR. RAPP:

10 Yes, just very briefly.

11
12 Our major concern here is that obviously -- I know this is a public session and we don't want to go into it
13 very deeply -- the statement of this witness has been disclosed. And it was disclosed pursuant to a
14 decision that Your Honours filed after 5 o'clock last night, and it was redacted in a manner consistent
15 with that decision. And we simply want to avoid a situation where matters that are redacted in that
16 statement are, in fact, presented here in court. It would seem to me that those matters would
17 necessarily be irrelevant because Your Honours have found that those matters would not be
18 exculpatory, so they couldn't be of assistance to the Defence in terms of their guilt or mitigating it in any
19 manner.

20
21 Obviously it may be that we won't have a difficulty here because no one has had an opportunity to
22 study that statement. Basically, we want to avoid a situation where one attempts to fill in the blanks in
23 the redactions by examining the witness. And, I think, we'll just have to wait and see how the
24 questioning proceeds. I was simply suggesting that as we saw the difficulty of spelling names -- and
25 spelling names that are not of specific relevance to this proceeding -- that a wiser solution would be for
26 the witness to refer to senior officers or senior officials in these matters and avoid the necessity of, one,
27 spelling the name; and, two, potentially revealing matters that when this transcript is put together
28 without redactions, would have the effect of revealing a target.

29
30 So that was a suggestion that, I hope, would be adopted to avoid future conflict. But if the suggestion is
31 not to be adopted, we'll just have to wait and see what happens when a particular issue comes up.

32 MR. PRESIDENT:

33 Mr. Ogetto?

34 MR. SKOLNIK:

35 May I respond to that?

36 MR. PRESIDENT:

37 Mr. Ogetto?

1 MR. OGETTO:

2 Yes, Mr. President.

3 MR. PRESIDENT:

4 Do you remember you asked a question?

5 MR. OGETTO:

6 I did, Mr. President, and I was very concerned about --

7 MR. PRESIDENT:

8 Yes, but my information to you now is the following: What is happening now is what Mr. Erlinder and
9 Mr. Rapp alerted to us might come up; that's all that happened.

10 MR. OGETTO:

11 I understand.

12 MR. PRESIDENT:

13 So now you are aware of what happened in the ex camera or in camera conference. Nothing dramatic.
14 So Mr. Erlinder has no need to brief you now. It's all transpired in the courtroom, and it was just a
15 matter of practicality so that the Bench would not be taken by surprise.

16 MR. OGETTO:

17 Yes, I understand, Mr. President. The only reason why I raised it was because it also affects me in the
18 defence of my client. These are issues that are going to arise when I cross-examine the witness, so I
19 was a bit concerned that there were discussions in my absence on issues that would be relevant during
20 the testimony of this witness.

21 MR. PRESIDENT:

22 And again, as always, in such situations no decisions were taken. It was just about informing the
23 Chamber of a possible practical problem that might come up, and now it has come up. It's as simple as
24 that. All right?

25

26 Mr. Skolnik.

27 MR. SKOLNIK:

28 Thank you, Mr. President.

29

30 I have a lot of conceptual difficulties with what Mr. Rapp is saying. First of all, he's saying that you
31 should not refer to any names and only refer to officers in the RPF generically. I mean, how could we
32 do that? We are involved in a legal case where the Prosecution brought 82 witnesses, some of whom
33 rambled for days, and days, and days, and Madam Des Forges rambled for six weeks about everything
34 and anything --

35 MS. MULVANEY:

36 Excuse me, Your Honour, excuse me. She did not ramble and she was in cross-examination for
37 90 per cent of the time --

1 MR. SKOLNIK:

2 -- you could talk after I finish.

3 MR. PRESIDENT:

4 Will you please stop talking at the same time, the two of you? We won't have it.

5
6 Now the situation is as follows: Mr. Skolnik, please don't use the word "ramble". And Ms. Mulvaney,
7 don't interrupt Mr. Skolnik.

8
9 Now what were you saying?

10 MR. SKOLNIK:

11 Okay, so what Mr. Rapp is suggesting is that we only refer to officers in the RPF, I presume, as officers
12 not by name and only generically -- number 1.

13
14 Number 2, we all know who these people are that are in the statements which are redacted. So we're
15 crippled here by trying to fight our Defence case with both hands behind our back. And I don't think this
16 is a sensible or practical solution -- what Mr. Rapp is suggesting.

17
18 We have to find a different way to deal with that, and I don't think that his suggestion that all officers
19 should be referred to only as officers -- it seems to me what they're trying to do is to camouflage the
20 responsibility of the RPF without -- and keeping it all secret and hope that -- what you call -- the policy
21 that we have to finish all cases by 2008 would put everything to bed.

22 MS. TURNER:

23 Mr. President?

24 MR. PRESIDENT:

25 The Chamber has deliberated.

26
27 Yesterday we made a ruling of the 8th March 2006 and decided in -- pursuant of Rule 68(D), that a
28 document which should be disclosed to the Defence would be subject to redaction. That is the point of
29 departure for the matters now being raised. The question now is how we implement or follow up that
30 decision in connection with the oral testimony.

31
32 Now it seems to us that the wisest procedure to be followed is the following: You, Mr. Witness, have
33 written a book and other publications. You know which names are in the public domain. As long as
34 you are simply referring to names that are in your book, there is no problem. You will just concentrate
35 on the spelling as we have already agreed upon.

36
37 If, however, you get into areas where names have not been entered into the public domain -- for

1 instance, because they are not in your book, then you will alert the Chamber. You will tell us that now
2 you may be embarking upon testimony which will lead to the identification of persons that are not in the
3 public domain.

4
5 If so, we will adopt the procedure that you write that name on a piece of paper. It will be circulated in
6 the courtroom in conformity with our normal procedure. The parties will address us on these names,
7 and we will then make a ruling as to whether we will disclose it or whether it is best in conformity with
8 the decision of yesterday that it not be disclosed.

9
10 So that's the procedure to be followed.

11
12 Ms. Turner?

13 MS. TURNER:

14 Mr. President, I was wondering if we could have some clarification as to the decision that was just
15 rendered. It's the opinion of the Defence of Bagosora that the Prosecution had mixed apples and
16 oranges. The object of the motion and the judgment that was delivered last night -- we are unclear as
17 to what the relevance of that judgement is to the testimony of this witness today.

18 MR. PRESIDENT:

19 Your question is not crystal clear, so I am not absolutely certain what kind of further clarification you
20 need. Let me simply say that yesterday was an issue of disclosing a statement in redacted form. And
21 now the Prosecution will, during the testimony, say that similar concerns may arise now and they will
22 address us on a case-by-case basis.

23 MS. TURNER:

24 I understand. But how will the Court or how will the Chamber or the public know that any names
25 mentioned by the witness fall under the same exception that is invoked by the Prosecutor in order to
26 redact certain portions of those statements? How will they know if it is not disclosed by the Prosecution
27 during the testimony?

28 MR. PRESIDENT:

29 Well, first of all, the witness will know about the public domain issue. And then, in addition, the
30 Prosecution may feel free to raise and say that, "We are now approaching an area." And that's how we
31 have to proceed. The Court doesn't know either. We now have a redacted version in front of us --
32 when it arrives.

33
34 Can we proceed on that basis now, Mr. Erlinder?

35 MR. ERLINDER:

36 Mr. President, I think I understand it. I do want to just make it clear for the record that I have not read
37 this redacted statement. This witness has not been prepared with this redacted statement. So

1 anything that happens in court today has nothing to do with the redacted statements, and we are not
2 aware, of course, of what's under the blacked-out places, but we haven't even seen the blacked-out
3 places. So I don't think -- I understand the Court's ruling, and we're happy to go forward that way.

4 MR. PRESIDENT:

5 Is this clear to you, Mr. Witness, because you are, of course, directly concerned? You know what you
6 will be about to testify to?

7 THE WITNESS:

8 *(No interpretation)*

9 THE ENGLISH INTERPRETER:

10 The witness's microphone.

11 THE WITNESS:

12 I have understood, Mr. President, but I also have a problem to raise.

13
14 I was mentioned -- or, I was called by Defence counsel and I thought I understood that the discussion
15 on the statement that I gave to the OTP in 2003 -- that statement was not given to me. And I believe
16 that I should be granted leave to express myself on that statement before I continue my testimony.

17
18 That statement was made by a team of eight soldiers while we were in Kampala in Uganda. And, as far
19 as I'm concerned, the OTP officers came and interviewed me, and one month after our meeting, I
20 pointed out to them that I did not wish them to use the information I had given to them because that
21 would pose a security problem for us.

22
23 I remember that I spoke to an investigator named Mohammed Lejmi and I realised that the procedure
24 followed -- as well as his colleague, Maiga, and other officers of the OTP gave me the impression that
25 they were trying to buy information from the RPF soldiers who had fled the country. We told them that
26 the information that they wanted from us was confidential in nature. And we also told them that they
27 should guarantee our security before we provided all the information in our possession to them.

28
29 They told us that they would try to identify countries of asylum for us. I did not believe what they were
30 saying, and it was for that reason that I wrote to someone working in the Prosecutor's office to tell them
31 that I did not want to give them all the information at my disposal in order not to expose myself.

32
33 It was three years ago that I gave that statement. And one month after that, I told the investigator that I
34 did not -- I did not wish him to use the information I had given him. And I consider that the testimony
35 that I will give here before the Court is what should be taken into account and not my statement of
36 2003, because I was solemnly sworn in here. That is what I'm requesting, Mr. President.

37

1 MR. PRESIDENT:

2 Yes.

3 MR. ERLINDER:

4 Mr. President, we'd make a motion to that regard if this witness could be shown the statement as he's
5 requested before his -- his testimony continues. I think it's only fair -- if the Prosecution has that
6 statement.

7 MR. PRESIDENT:

8 Do you have any comment on this?

9 MR. RAPP:

10 Well, it's not under these circumstances, we think, appropriate to show the statement to the witness at
11 this particular stage of the proceedings. Keep in mind the position of the Office of the Prosecutor is that
12 the witness's protection is paramount. We did not wish that this statement be disclosed; we asked that
13 it not be disclosed because of those protective concerns. But we're obviously under an obligation
14 under Rule 68, if anything is in our possession, to make disclosure of those matters that are within
15 Rule 68.

16

17 Late yesterday, Your Honours made a decision that certain matters were in Rule 68. That rule trumps
18 the other rules, and that required us to disclose certain parts of it under Rule 68. This is not a
19 disclosure under Rule 66 of some statement given by a witness that he might be entitled to review
20 beforehand. We don't think that it's necessary to provide him with a statement at this point in the
21 proceeding. And, obviously, this statement largely deals with matters that have already been reflected
22 in the public domain. Domain distinction is the mention of specific names which the investigators were
23 interested in, and that's why we've asked that those matters be redacted and not mentioned.

24 MS. MULVANEY:

25 Mr. President, Your Honours, the procedure in our -- in our court in the past is --

26 MR. PRESIDENT:

27 Yes, hold on, Mrs. Mulvaney, I see we need to tackle a practical measure.

28

29 Could we just have the spelling of the two names, Mr. Witness? Can you give that to us before there is
30 a change of court reporter? So these two investigators, can you please spell them?

31 THE WITNESS:

32 I am not sure whether that was his correct name, but the person introduced himself as
33 Mohammed Lejmi. I don't know the spelling of his name. He way accompanied by another person
34 called, Maiga. In fact, there was a team of six investigators, but I only talked with those two whose
35 names I've given you. Maiga comes from Mali whereas Lejmi is from Tunisia.

36 *(Pages 1 to 16 by Jean Baigent)*

37

1 1000H

2 MR. RAPP:

3 The names of the investigators are on the face of the statement, unredacted, so I think that can be
4 supplied to the court reporters.

5 MR. PRESIDENT:

6 Yes, thank you.

7

8 Now, do you have anything to add, Mr. Erlinder, following the Prosecutions --

9 MS. MULVANEY:

10 Before we go there, I'd like to explain the practices that we've used in this courtroom. Our witnesses,
11 before we put them on direct, we allowed them to go through their statement and refresh their
12 recollection. So -- as to different issues, we talk to them about it, and I think that probably the Defence
13 does the same thing. There is an ownership quality in a statement, in my mind, that a witness has a
14 right to look at their statement. The Court has now instructed the witness not to mention those issues in
15 the statement. How is he going to know that, if he can't refresh his recollection as to what is in the
16 statement? So I think that he does need to look at his statement to follow the Court's order.

17 MR. ERLINDER:

18 I couldn't agree with Ms. Mulvaney more.

19 MR. PRESIDENT:

20 I think the Prosecution must agree on its position.

21 MS. MULVANEY:

22 Just so it's crystal clear, the trial team has not had the statement.

23 MR. PRESIDENT:

24 My question to you, Ms. Mulvaney, is that this is a statement not from the witness to Defence counsel,
25 but from the witness to the Prosecution. And often those kinds of statements are used in
26 cross-examination.

27 MS. MULVANEY:

28 Mr. President, if this was a witness in front of the Court he has an ownership quality, I think, in his
29 statement. I -- we don't have -- we've always taken the position there is no ownership in a witness, and
30 he's here to tell his story, and you've instructed him not to mention those things in the statement. How
31 is he going to follow your order? And, Your Honour, just so it's crystal clear, we have not had the
32 statement either. The trial team for the Prosecution has not had the statement until right before court.

33 MR. OGETTO:

34 Mr. President, for the record, Mr. President, my understanding is that the Prosecution has no objection
35 to the Defence motion

36 MR. RAPP:

37 Your Honour, if I might just comment about this, and obviously we find ourselves in a difficult position.

1 Obviously, appreciate the complex issues involved in this motion that was decided by Your Honours
2 last evening. That's why we worked on it until eleven o'clock last night. We had taken the position that,
3 under our commitment to this witness and his protection, that we could not disclose this statement
4 beyond those with the ability -- with a need to know. It had not been disclosed to this trial team. It had
5 not been disclosed beyond a handful of individuals within the Office of the Prosecutor. We understood
6 that by not disclosing it, we were going to eliminate our ability to even use it for impeachment purposes
7 with this witness. And, as we said in our motion we filed in October, we agreed that that would be the
8 situation. Now, in this particular situation, as Your Honours have pointed out, we've had many
9 statements before that witnesses have given in other settings, immigration statements, for instance.
10 And Your Honours, in your decision, have said that those do not need to be disclosed to the Defence.
11 It is only when the witness begins to contradict those statements that we can use them, potentially, in
12 cross-examinations, and we don't have to disclose those statements, really, until the commencement of
13 cross-examination. That, I think, would be the general rule here. However, in deference to the witness,
14 and in -- to assist the witness in complying with your order, that you entered a few moments ago, we
15 would now have no objection to taking a short break and permitting the witness to review the redacted
16 statement, showing the redactions made by the Office of the Prosecutor, it's a 16 page statement, and
17 then we can withdraw the statement from the witness and proceed.

18 MR. SKOLNIK:

19 Mr. President, could I speak to that? I think my colleague Mulvaney suggested a practical solution
20 because it's a practical solution, where I think Mr. Rapp's is not a practical solution. And let me
21 delineate why. If the witness can look at his statement and see the names in the statement, those are
22 the names in the statement the Prosecutor does not want to be mentioned. So then the witness will
23 know who he could refer to and who he could not refer to. That will be much easier than saying,
24 "anything that's in your book you could talk about but anything that is not in your book you can't talk
25 about" because his book is such a large book, even if he's the author he may forget and make a
26 mistake. And I think to narrow the issue to what is in his statement, he should be given a copy of his
27 non-redacted statement, he should see the names that are in there and he should be told that, "You are
28 not to talk about this in open court." And I think that will solve the problem.

29 MR. RAPP:

30 Your Honours, I concur. As to this individual himself, obviously his own statement is not secret to him,
31 but we don't want the unredacted statement being disclosed to any other person. So within the
32 supervision of the registry, in our view, he can be provided with both the redacted and unredacted to
33 review.

34 MR. ERLINDER:

35 Mr. President, I need to make a submission. Please, Mr. President, may I make a submission?

36 Mr. President, may I make a brief submission? I'm afraid you didn't hear my request to comment. To
37 the extent that this witness receives an unredacted copy, I think it would be necessary for at least one

1 counsel -- I would suggest me -- to also have an unredacted copy, so that I can evaluate his judgement
2 about the document and so that I can understand the document, because at some point we are going to
3 have to make arguments about the redacted portions, and unless I have some understanding of what is
4 in those redacted portions and who those persons are, I'll be fully disempowered to make a rational
5 statement about them.

6 MR. RAPP:

7 Briefly, Your Honours, this witness is now sworn and unless we wish that your decision last night would
8 be rendered meaningless, in terms of non-disclosure, I don't think that procedure would work. I think it
9 is sufficient that he who knows his statement have them reviewed with him by the registry and that,
10 thereafter, at least, the unredacted one, be withdrawn from him and returned to us.

11 MR. PRESIDENT:

12 So, what we do now, Mr. Witness, is to give you a copy of the redacted and unredacted statements, so
13 that you can refresh your memory because, as pointed out by Mr. Skolnik, it may be difficult to use the
14 book as a reference point. And we will simply have a break until you've read it. I assume that will take
15 about 15 minutes. And then the Court proceedings will continue again.

16

17 Needless to say, we cannot follow Mr. Erlinder's proposal. That would defeat the whole purpose of the
18 68(D) decision yesterday. So only you will be given that document. Do you have any questions,
19 Mr. Witness?

20 THE WITNESS:

21 The only issue I have is that the argument between the two parties does not enable me to express what
22 is my position in that regard. Questions are put to me and I answer. And in this book there are at least
23 450 names in the appendix. Concerning the statement I gave just three years ago, I cannot even
24 remember the names which are in my statement and in my book. Let me state that I am not here to
25 defend the Accused in this trial. I am here to give evidence about what I witnessed during the war. Let
26 me also point out that I gave a statement to the Office of the Prosecutor. I did not give a statement to
27 the Defence. So I think you ought to allow me to express myself freely, but whenever I personally
28 realise that there is a name about which I have concerns, then I can refrain from giving it to you in
29 public and use another means of disclosing the name to you, if necessary, in writing. Thank you.

30 MR. PRESIDENT:

31 So your remarks are noted, Mr. Witness, and we will now have the break.

32 *(Court recessed from 1012H to 1043H)*

33 BY MR. ERLINDER:

34 Q. Mr. Ruzibiza, have you had an opportunity to read the statement, both the redacted and the unredacted
35 you were given?

36 A. Yes, I've read the statement.

37 Q. Are you prepared to go forward with your testimony now?

1 A. Yes, sir.

2 Q. It may be difficult for all of us to recall where we were, but I believe that you were talking about the sort
3 of assignments that you carried out in Kigali in the beginning of April, and one of those places that you
4 mentioned was Masaka. And I'm wondering if you can tell us whether you had an opportunity to go to
5 Masaka on a regular basis during the first week of April, for example, other time, too, of course, but just
6 focusing on that week?

7 A. I went to Masaka, but I do not quite understand what the president has said. I do not know whether the
8 president has given me leave to give all names in my evidence. Really I'd like for that clarification.

9 Q. Mr. Witness, my question didn't include any names at this point. I was just asking you to explain your
10 going to Masaka as part of your work. And we'll get into what happened at Masaka at a different time.

11 A. Yes, I did go to Masaka.

12 Q. Was that part of your regular assignment in your reconnaissance duties?

13 A. Yes, sir.

14 Q. About how often did you go there, and about how often did you report about what you found there, as a
15 general matter?

16 A. I had to go to Masaka on a daily basis between six and eight o'clock, so sometimes at six o'clock, other
17 times at seven o'clock, and eight o'clock, but I did go there on a daily basis.

18 Q. And why did you go there during that time?

19 A. We were trying to locate Rwandan government forces position around Kigali city and Masaka was
20 located on a hill. We wanted control of that hill to check the movements of the enemy to ascertain that
21 there were no patrols or new positions which had been set up there. So, after our reconnaissance, we
22 realised there were only day patrols, not night patrols, that is why I went there in the evening.

23 MR. PRESIDENT:

24 Mr. Witness, your reference to six to eight o'clock was in the morning, was it?

25 THE WITNESS:

26 In the evening, so 6 to 8 p.m.

27 MR. PRESIDENT:

28 All right, that wasn't clear from your evidence.

29

30 Next question?

31 BY MR. ERLINDER:

32 Q. Mr. Witness, were you in a position to observe the shooting down of President Habyarimana's plane at
33 sometime while you were at Masaka?

34 A. Yes, sir.

35 Q. Could you just describe to the Court what you observed, as an eyewitness?

36 A. As I have said, my assignment was to go to Masaka, and I had to report on a daily basis about enemy
37 activities. So, I saw a pickup truck with RPF soldiers who had SAM -16 missiles. So they arrived at the

1 place where I was. They found me there. It was at about six -- no, correction -- 8:30 p.m. The plane
2 was about to land. And they fired two missiles. The first missile hit the wing of the plane, and the
3 second missile downed the plane. That is how the plane was brought down. Between the two shots
4 was a time lapse of three to four seconds.

5 Q. And do we both agree that these events occurred on the 6th of April, in the evening?

6 A. Yes, it was on the 6th.

7 Q. Mr. Witness, had you received some information prior to the 6th that caused you to think that the
8 presidential plane might be shot down at some point in the future? And if so, please explain what you
9 heard before the 6th that caused you to think that?

10 A. Actually, since President Habyarimana was our enemy, it was obvious that we had to kill him.
11 Concerning the exact day, I got to learn of it two days before. I think it was on the 3rd, but I learnt of it -
12 - I got the information from a soldier called Aloys Runenzi. He was in charge of intelligence. He was
13 one of the body guards of president Kagame. Runenzi is spelled R-U-N-E-N-Z-I, when he gave me that
14 information.

15 Q. And, Mr. Witness -- sorry, Mr. Ruzibiza, after you first received this information, did you have occasion
16 to receive confirmation of this information in some way and if so, please explain?

17 A. Generally, I asked my boss, called Hubert Kamugisha. I've already given his name, I asked him
18 whether he was aware of this information, and I also wanted to know from him what our team would do
19 if that were to occur. So he told me the decision had already been taken to kill President Habyarimana;
20 however, he said we had to continue to go about our business because we were not certain of
21 succeeding in that mission.

22 Q. Did the RPF go on alert at sometime prior to the 6th, or impose some sort of special conditions on the
23 troops prior to the 6th?

24 A. I subsequently got to know that from the 1st of April 1994 RPF troops were on alert, but from the 4th we
25 moved toward what's known as stand-by plus one, which means that they were in a defence condition in
26 which we were combat ready, ready for combat within a very short time.

27 Q. From the standpoint of a soldier, what does this stand-by alert mean, from the standpoint of a soldier in
28 the RPF, in terms of future conditions?

29 A. When you talk about stand-by plus one, as we refer to it within the RPF, it meant that we had to be
30 ready at any time, once the alert was given.

31 Q. And ready for what, specifically?

32 A. Ready to fight the enemy, and at that time the enemy was the government army.

33 Q. Did you subsequently come to find out information about what happened on the 5th, or what didn't
34 happen on the 5th, from your superior or others in the RPF?

35 A. Usually the army has a chain of command. That is how instructions are given. So, it is only through
36 that channel that I could get information. And I got that information from my immediate boss
37 Captain Kamugisha, who was the leader of all (*unintelligible*). I've already given you that name,

1 Kamugisha. I spelt it for you.

2 Q. Thank you, Witness. Now we have that name. Did he tell you about events that were supposed to
3 happen on the 5th or any information about the 5th, at all, regarding the president, Habyarimana?

4 A. I've already told you that he confirmed to me that he had received the information. He was not sure
5 about the success of the mission, and on the 4th we were told to be on stand-by class one, as I had
6 said. From that moment on, we had to be in constant contact with our superiors, either personally or
7 via radio. So from that day on I was on radio contact with him. I wonder if I have answered your
8 question, sir?

9 Q. Thank you, Mr. Witness -- Mr. Ruzibiza. Did you get information about the president's trip and return
10 from the Congo from anyone then related?

11 A. Personally, I did not learn that the president had to go to Congo. I got this information afterward, and it
12 was Hubert Kamugisha who informed me about it. He said, "We missed that idiot." And he spoke the
13 words in Swahili. So I asked him to explain and he told me that a plan had been mapped out for RPF
14 soldiers to shoot at the President on his return from Congo but unfortunately he had returned earlier
15 than planned and that we had missed him. So it was the following day that we were able to hit his
16 plane.

17 Q. Did you have a conversation with any of your RPF colleagues about what the assassination of
18 President Habyarimana meant, in terms of the commencement of the war or the war preparations or
19 stand-by status that you mentioned earlier?

20 A. Counsel, that question is not clear.

21 Q. Me either, Mr. Witness. Sorry. The question was, did you have occasion to discuss or to draw any sort
22 of impressions about what would happen after the assassination of President Habyarimana, from a
23 military standpoint?

24 A. As I said, we were on stand-by plus one; in other words, ready to engage combat at any time. So you
25 would understand that after the president's demise fighting would resume. I was receiving information
26 from the CND, that is where the command post was located. So at that time I was ready, and I said to
27 myself that if that were to happen, if the president were to die, fighting would resume immediately.

28 Q. Now, with respect to the night of the 6th and morning of the 7th, did you come to have some information
29 about RPF troop movements in connection with the downing of Habyarimana's plane? If so, please
30 describe.

31 A. After the plane came down, that is after 8:30 p.m., you see, at that time there was an African cup of
32 Nations match going on. I think it was the final. And in Mulindi soldiers were watching the match on TV
33 in a common hall. So my colleagues I was able to talk to said that even before the end of match they
34 were ordered to go out. The commanders were requested to go out, and each commander knew what
35 he had to do. And 30 minutes afterwards all RPA battalions, except Charlie battalion, which was in
36 Ruhengeri, were all combat ready. So all battalions had left Mulindi 30 minutes after the news was
37 announced.

1 Q. Do I understand that that means that the RPF began a military offensive around nine o'clock on the
2 night of the 6th? Am I understanding this correctly?

3 A. No, it was not at exactly 9 p.m., it was a few minutes after 9 p.m. Not all of us left at the same time. It
4 all depended on the final destination.

5 Q. We are in agreement that that this was on the night of the 6th, right?

6 A. Perhaps I should elaborate on that, Counsel, with your permission.

7 Q. By all means, Mr. Witness, this is your testimony.

8 A. The RPA had eight mobile units; there was the alpha unit; bravo unit; Charlie unit; and the 7th mobile
9 unit; as well as the 21st mobile unit', there was the 101st unit, as well as 51st and 71st units, and these
10 units were made up of about 2000 men.

11 Q. Mr. Witness, we have a diagram you gave me we have not distributed to the Court. There are two.
12 The second one is being distributed now.

13 MR. ERLINDER:

14 I wasn't sure of the exact sequence, so if we can distribute it now, so people will know what you are
15 talking about.

16 MS. MULVANEY:

17 Your Honours, I don't know how deeply we are going to go into the subject matter. I think the last
18 answer, in particular, is not relevant to our case. The Court has made rulings about what is relevant
19 and what is not. I implore the Court to not let it go too far afield.

20 MR. PRESIDENT:

21 No, it follows from our decision that we won't go into unnecessary details.

22

23 Is this an unnecessary detail?

24 MR. ERLINDER:

25 Mr. President, from the standpoint of the Defence case, I think not. As the Court knows, in our pre-trial
26 brief of December, 18 months ago, we made clear to the Court that the difference in force capability
27 between the RPF and the Rwandan government forces is an important part of the understanding of how
28 it was that the tragedy of Rwanda occurred. This witness has firsthand information with respect to that
29 imbalance of forces, from the RPF viewpoint and it is central to our case. However, by handing out this
30 diagram, we can shortcut the process quickly. That's the reason I'm doing it. So we don't have to take
31 additional time with explanation.

32 MR. PRESIDENT:

33 That's good when you do that. We will all recall that we have evidence already about this.

34 MR. ERLINDER:

35 Not from the standpoint of the RPF, Mr. President. There has been no evidence about that.

36 MR. PRESIDENT:

37 I don't want to get into a discussion about that now, Mr. Erlinder.

1 MR. ERLINDER:

2 That's what the record reflects, Mr. President.

3 MR. PRESIDENT:

4 I remember the record. There is no (*overlapping microphones*). Mr. Erlinder, I'm saying to you don't
5 go into it too much, as you just said yourself.

6 MR. ERLINDER:

7 I agree with that completely.

8 BY MR. ERLINDER:

9 Q. Mr. Witness -- Mr. Ruzibiza, do you have a diagram before you that shows the location of RPF units
10 and their --

11 MR. ERLINDER:

12 I don't know if that was brought back to us.

13 THE WITNESS:

14 Yes, Counsel, I have the diagram before me.

15 BY MR. ERLINDER:

16 Q. Now we are going to try to use this to make your testimony very brief, so if you could just point out to
17 the Court how the diagram relates to your testimony. We want to keep it short because we want to
18 make sure to use the Court's time well. Not too much detail, just a sketch is fine.

19 A. On this diagram I indicated the eight RPA units. There is the Mutara eastern access; and then you
20 have also Ruhengeri and Gisenyi. You can see the 157th battalion and the 7th battalion. Those two
21 battalions left immediately following the news of the crash of the presidential plane, which was known at
22 Mulindi. The 21st battalion, the 105th battalion, the alpha and bravo battalions, the 51st battalion and
23 the military police battalion had to go to Kigali. And before their departure they had to receive
24 information from his Excellency Kagame and they had to meet at Miotee (*sic*). So other units did not
25 leave immediately. It was only the Charlie unit that was not in place at that time; otherwise, all the other
26 units left from Mulindi after the announcement of that information.

27 Q. And, Mr. Witness, for the record, I just want to make clear, the eight battalions or mobiles you were
28 speaking with and on this diagram I think are indicated by a rectangle with a cross or X in the rectangle
29 and there are three vertical marks on top it. Are those the three you were talking about in the
30 Ruhengeri-Byumba area?

31 A. The fact is that the symbols that I've used are conventional units in military signs. And a rectangle
32 with a cross represents an infantry unit. When you look at the lines under those symbols it represents
33 the strength, and I used the lines to indicate that those units were slightly stronger than those of
34 conventional units.

35 Q. How many troops, overall, did these units -- comprise these units and how many troops did the RPF
36 have ready for combat at that point?

37 A. I have already said that each unit was composed of at least 2000 men; some of them even had up to

1 2,200 soldiers. There were other units known as battalions and which were of conventional strength. I
2 talked about the 3rd battalion at the CND and the military police battalion. They were referred to as
3 battalions, but the other units were known as mobiles, because they had greater strength than
4 conventional battalions. The third battalion at the CND was made up of 600 soldiers. And the military
5 police battalion also had 600 men. There was another unit that was responsible for Kagame's security.
6 So, in total, the RPA was composed of up to 20,000 men.

7 Q. Mr. Witness --

8 A. At that time only 19,000 people went to engage in fighting after the announcement of that information.

9 Q. Fine, Mr. Witness. If you could give us a short answer in a general way and then we can get more
10 specific, if it is necessary. I know the Court will appreciate that, and if we can do that in that way I think
11 we can be more expeditious.

12
13 There are other indications on the map in other areas also involving rectangles and numbers under
14 those rectangles. Can you describe, just, in a general way, what that is intended to represent?

15 A. This is a response to the various operational sectors of the Rwandan army fighting against the RPF.
16 And the numbers I have given are approximations of the strength of the Rwandan Armed forces, which
17 were fighting against the RPA.

18 Q. And do you remember what those total numbers were, approximately?

19 A. I believe the total should be about 13 to 14,000 men.

20 Q. Now of those 13 to 14,000 men, given what you knew about the structure of the FAR, about how many
21 do you think would have been actually combat trained fighting forces?

22 A. The figure that I have given in this diagram corresponds to the combat-ready soldiers, but given the
23 structures of the battalion of the Rwandan army, one can conclude that those who could effectively fight
24 could number 10,000.

25 Q. Now, again, without going into too much detail, there witness, given this array of forces, and the
26 knowledge that the war would start after the president's plane -- or they bring down to president's plane
27 would re-ignite the war, how was the bringing down of the president's plane related to the war plan that
28 this diagram suggests? From a military standpoint, what is the effect of the president's assassination
29 on future events?

30 A. The question is not clear, Counsel.

31 MR. PRESIDENT:

32 Was there any link between, on the one hand, the shooting down and on the other hand the positioning
33 of the these forces?

34 MR. ERLINDER:

35 Mr. President, with due respect, that was a different question.

36 MR. PRESIDENT:

37 It's very close. Let's see if that can be answered first.

1 THE WITNESS:

2 I do not see any link between the two facts, because those forces were already deployed at those
3 locations before the attack against the presidential plane. Given, or, rather, regarding the size of the
4 various units, that would be subject to another explanation.

5 BY MR. ERLINDER:

6 Q. Well, let's return to that subject. But you mentioned the size of the various units. From the viewpoint --
7 your viewpoint in the RPF, what was the impression of the RPF with respect to their ability to win a war,
8 given the force capability that you've just described and also given other things that you and the other
9 RPF officers knew at the time?

10 A. As from the month of February, 1993, the RPF had strengthened itself and they believed that they could
11 even take over the entire national territory, and I believe that answer is clear enough.

12 Q. Between February of 1993 and April of 1994, are you aware of any active preparations to the war that
13 were going on on the RPF's side?

14 A. The preparations had been carried out for a long time, and as from February 1993, even though there
15 was a ceasefire, each time that a cease-fire intervened it was an opportunity for the RPF to prepare for
16 combat that would take place later.

17 Q. Did you have any role in that preparation? And if so, please describe it.

18 A. I was a low-ranking soldier, and I cannot say that I effectively played a role, but I participated in certain
19 activities which indicated that preparations were being made for resumption of hostilities.

20 Q. Could you give us a few examples, please? Just a few.

21 A. The first example that I can give you is that after the signing of a cease-fire agreement, as from
22 February 1993, I was included in a group that was supposed to conceal weapons to be used during the
23 resumption of hostilities and in the final battle for taking over the country. I was also a member of the
24 reconnaissance team, and this was necessary for the taking over of the country. And a third element
25 was the assassination of the president of the republic, and I believes those examples speak for
26 themselves.

27 Q. I just want to return to the example that you mentioned in a general way, the building up of weapons,
28 and war material after the February 1993 ceasefire. Do you have specific examples of those bringing
29 weapons into Rwanda in preparation for the war or hiding them that you care to share with us?

30 A. After the attack of the 8th of February 1993, I was a member of the 59th unit. I was transferred from
31 that unit to become a member of the team responsible for concealing weapons from Uganda, and we
32 hid them in Butaro *commune* in Nyarabashengwa (*sic*). It was in this team that I worked before
33 becoming a member of the reconnaissance unit. So I had an opportunity to see those you weapons
34 when they were brought into Rwanda.

35 Q. Do you have any recollection about the quantities of weapons or ammunition that you could give us
36 some idea how extensive this was and from your knowledge and what you learned from colleagues?

37 A. Are you referring to the weapons that we were using or the weapons that we were suppose to conceal,

1 Counsel?

2 Q. Very good question, Mr. Witness. Thank you. I'm talking about the extent of the weapons and
3 ammunition you were concealing. What was the size and scope of that effort?

4 A. We only hid ammunition and shells, but with regard to the weapons used by the soldiers, they were
5 kept by the soldiers themselves.

6 Q. And how big were the ammunition storage areas that you worked on? What was the size of those?

7 A. I can only talk about the location in which I worked in Butaro *commune*. And even though I did not
8 really count the weapons exhaustively I believe that the material could have weighed up to 100 tonnes
9 and even up to 120 tonnes.

10 Q. Were there other sites that you worked at of a similar nature?

11 A. Yes, there are two other locations that I heard of there was Kaniga, for example, which was near
12 Gatuna toward Ruganda. There was also Karama in Mutara, but I should point out that I did not
13 personally go to those locations. This is information that I received from my colleague.

14 Q. I appreciate you being careful, Mr. Witness.

15 MR. ERLINDER:

16 May we put these names that you mentioned on the record, Mr. President? I believe one was Butaro
17 B-U-T-A-R-O. I'm going to have to ask the witness the spell the second name, which was I think
18 Kinyabishenge, I'm sure that's a bad pronunciation, but the witness can correct me.

19 THE WITNESS:

20 Kinyabishenge, K-I-N-Y-A-B-I-S-H-E-N-G-E, Kinyabishenge.

21 BY MR. ERLINDER:

22 Q. And we have Kaniga?

23 A. Kaniga is spelled K-A-N-I-G-A.

24 Q. And Gatuna?

25 A. Gatuna is spelled G-A-T-U-N-A.

26 Q. Ruganga, I think, was the next?

27 A. No, Karama, K-A-R-A-M-A. I talked about Karama, which is spelled K-A-R-A-M-A.

28 Q. And Rugonga, maybe I misheard. And was Mutara mentioned?

29 A. To my knowledge I did not mention that.

30 Q. Did you mention --

31 A. Yes, Karama was located in the Mutara region. I also said that Kaniga was close to Gatuna and that
32 Kinyabishenge was in Butaro *commune*.

33 Q. I want to return to an issue that we talked about and then left for a moment, which is the relationship
34 between the downing of the president's plane and the RPF's war plan and the effect that the downing of
35 the plane -- the intended effect of the downing of the plane regarding the ability of the government side
36 to respond to the RPF military advance. How did the president's assassination affect the ability of the
37 Rwandan government's side to resist the RPF offensive?

1 MR. PRESIDENT:

2 The first question is, Mr. Witness, "Did it?" So the question must be open-ended. Can you respond?

3 THE WITNESS:

4 Yes, the assassination of the president of the republic had an impact on the capacity of the government
5 forces to face up to the RPF advance.

6 MR. ERLINDER:

7 Thank you for that clarification.

8 MR. PRESIDENT:

9 How?

10 THE WITNESS:

11 The president of the country was the supreme commander of the Rwandan armed forces. He was a
12 general of the army and he was the symbol of national unity, and apart from that, he died alongside the
13 chief of staff of the army, and those two elements were supposed to destabilise the government forces
14 with regard to their combat capacity.

15 BY MR. ERLINDER:

16 Q. Do you have any observations as to whether that was successful with respect to the ability of the FAR
17 to resist the advance?

18 A. Yes. You will recall that after the 6th of April, that is after the assassination of the president of the
19 republic, there was no military command that could face up to the RPF, and even the command that
20 was appointed was replaced immediately after that.

21 Q. By the command, you're referring to the command of the Rwandan government forces side was
22 replaced? Can we have that clear?

23 A. The fact that in the attack against the president, General Deogratias Nsabimana, who was the chief of
24 staff, also perished. He was the one directing operations. After his death, his replacement,
25 General Marcel Gatsinzi did not have operational capacity, he did not remain for long at that position.
26 And, therefore, he did not really have the opportunity to plan the fighting against the RPF.

27 Q. Now, Mr. Witness, the -- at the time that the war or this -- the RPF advance started, on the night of the
28 6th, what was happening in Kigali, as far as you know? And we could go to the 7th, as well.

29 A. On the 6th of April there was nothing unusual because the members of the third battalion remained in
30 the CND premises until the following day, the 7th of April. So those soldiers in the CND did not carry
31 out any fighting during the day of the 6th of April.

32 Q. Do you know how early they left on the 7th, out on patrols and that sort of thing, before the formal
33 announcement of the war on the afternoon of the 7th?

34 A. On the 7th of April the third battalion was made up of six companies, and, at 4 p.m., four of those
35 companies came out to begin the fighting. So it was at that time, that is 4 p.m., that the hostilities
36 formally resumed.

37 Q. And how long, before that time, had the decision or the orders to begin the military advance been given

1 in Mulindi? I want to make sure we have our time sequence approximately right here?

2 A. I have no idea about that. I was not part of the command to have access to such information.

3 Q. Well, the question was, I guess, then, perhaps talking briefly about what happened in Kigali -- -

4 MR. ERLINDER:

5 And, Mr. President, with the leave of Court, we're past our normal break. I know we had the earlier one.

6 So I'm in the hands of the court as to whether we should proceed or take the break. I'm prepared to do

7 either.

8 MR. PRESIDENT:

9 We would prefer to continue.

10 MR. ERLINDER:

11 Thank you, Mr. President.

12 BY MR. ERLINDER:

13 Q. Mr. Witness, I want to change direction just for a moment here so the people in the courtroom and the
14 gallery can understand how we got to April of 1994. And I want to try and do this briefly, although it's all
15 important because your book is going to be part of the record. We can explain generally, and the book
16 can fill in details.

17

18 When was it that you first engaged in military activities or combat activities with the RPF and where was
19 that?

20 A. In October 1990.

21 Q. Now, did you have an opportunity to see a change in military strategy taken by the RPF during the early
22 months that you were involved?

23 A. There were changes that were quite frequent, but, initially, I was a low ranking soldier and my status did
24 not enable me to understand the RPF strategies. But regarding change of strategies, they were made
25 frequently.

26 Q. What I'm referring to, more specifically, is whether the concepts of conventional war and guerrilla war,
27 as different ways of proceeding, were part of the strategies of the discussions of strategy with respect to
28 the RPF or things you could observe from your position?

29 A. Conventional war was applied in 1990, when the RPF forces invaded the country but after October
30 1990 the situation changed and we no longer applied tactics of conventional war.

31 Q. Can you describe the tactics that were adopted and where the results of those tactics could be
32 observed?

33 A. The conventional war was not practicable because of a limited number of soldiers, and inadequate
34 material. Guerrilla warfare was more appropriate because we were fighting an enemy which was more
35 equipped, therefore stronger.

36 Q. And could you describe what those guerrilla tactics consisted of in the early time, '91, '92, any time you
37 choose, describe the fact what the RPF did to carry out their war plan at that time?

1 A. It was in November and December 1990 that we started applying guerrilla warfare, so we would make
2 spontaneous attacks then return to Uganda.

3 Q. Did the concept of infiltrating troops or combatants into the civilian population or civilian areas, is that
4 included in guerrilla combat? Just explain what the guerrilla tactics were, if you can.

5 MR. PRESIDENT:

6 Try to avoid leading evidence or leading questions, Mr. Erlinder.

7

8 You can respond now, Mr. Witness.

9 THE WITNESS:

10 I don't quite understand the question.

11 MR. PRESIDENT:

12 It will now be reformulated.

13 MR. ERLINDER:

14 Thank you, Mr. President.

15 BY MR. ERLINDER:

16 Q. In the -- what were the tactics or the use of violence with respect to civilians, if there was any, involved
17 in the RPF guerrilla war, at that time?

18 A. I was in the northeast, that is in Mutara, and the population comprised Hutu who did not understand
19 RPF objectives. So it was very difficult to infiltrate amongst the population.

20 Q. Well, can you describe, in greater detail, what the tactics were that you did use in that situation?

21 A. We launched our attacks at night, so as to avoid the situation whereby the people of the region would
22 alert the authorities. That was the first tactic.

23 Q. And what were the target of the attack or attacks? Can you give a range of those, as examples?

24 A. That depended. Often our targets were Rwandan government forces, but sometimes there were
25 casualties amongst civilians.

26 Q. How does the concept of destabilisation of the enemy or the civilian population relate to your guerrilla
27 tactics, if any, if it did have a relation?

28 A. As I told you, our targets were mainly military camps, but sometimes we laid mines against military
29 vehicles. We launched ourselves at night. And when inhabitants of the given region wanted to resist,
30 then we necessarily had to shoot at them. Have I answered your question, Counsel?

31 Q. Enough, Mr. Witness. And there is more in your book, so we don't need to go further.

32

33 In this time period of 1991-1992, how successful was the RPF in applying those tactics with respect to
34 military results? What was the RPF able to achieve using these tactics?

35 A. Actually, we were the ones winning the fighting, so we were obliging government forces to react in one
36 way or the other. That is how we were sure that we would win the war.

37 Q. Now, in a period of '92 to '94 -- and we probably should do this more or less chronologically to keep it

- 1 clear, but I'm also trying to be brief in regards to the Court's concern about time this morning -- did you
2 ever come to know about the RPF policy of recruitment of supporters or troops among people in
3 Rwanda?
- 4 A. In the area we occupied, that is in the north of the country, in 1993, it was difficult to recruit people
5 because the inhabitants of that region did not follow our ideology. During that period there were many
6 Tutsis in Rwanda who joined the ranks of the RPF.
- 7 Q. And I know that you can't describe every example, but can you tell us where those recruits were coming
8 from, in a general sense?
- 9 A. They came from all the parts of the country, excepting the north, which was comprised, majority, of
10 Hutu.
- 11 Q. And after these new recruits came forward, were they assigned to remain in the north or did they go to
12 other places?
- 13 A. I don't understand your question, sir.
- 14 Q. Well, Mr. Witness, let me see if I can clarify. As those recruits came to the RPF, and we're talking
15 about before '93, now, did they remain in the north with the RPF or did they sometimes go back to their
16 home areas or other areas in Rwanda?
- 17 A. You are referring to the RPF. Well, I was a member both of the RPF and the RPA. Those who joined
18 the army remained with the troops, but those who came for political lessons returned to their homes
19 after their training.
- 20 Q. That's an important distinction. For the record, we should be clear that we have a common
21 understanding of what the RPA is and what the RPF was, at least at that time. So, just briefly, put that
22 on the record, so we don't have to discuss it again, just quickly.
- 23 A. The RPF, that is the Rwandan patriotic front or Rwandese political front was a political front. It had an
24 armed wing called RPA, Rwandan patriotic army, or Rwandese patriotic army. On the battle field there
25 were RPA soldiers, even though there was certain politicians of the RPF who were there.
- 26 Q. You mentioned that the people who joined the RPF received training and then went back home. What
27 kind of training did they receive before they went back home?
- 28 A. I will talk about what I was able to see where I was. The civilians who came to RPF-controlled territory
29 received military training and political training. After that, they would go back to where they came from,
30 be it in Rwanda, Burundi or any other country.
- 31 Q. Do you know if there were RPF members who received military training were given weapons of any
32 kind or instructions on weapons?
- 33 A. Personally, I know those people were not given weapons before 1994.
- 34 Q. Do you know if they were given weapons after 1994?
- 35 A. From early 1994 some of those people were given weapons. Most of the people who received
36 weapons were Tutsi.
- 37 Q. Now, as I understood your testimony, in February of 1993 the RPF breach of the cease-fire resulted in

- 1 the conclusion that the RPF believed that it had military superiority. Do I understand that correctly?
- 2 A. Counsel, that question is not clear.
- 3 Q. Mr. Witness, I appreciate you for keeping me on track. Unfortunately I'm getting a little tired. I wanted
- 4 to make sure I understood your earlier testimony correctly. I believe you said that following the success
- 5 of the military advance in February of '93 that the RPF military and -- the RPA, I should say, not the
- 6 RPF -- but the RPA understood that it had military superiority in the country and could take over the
- 7 country when it chose. Did I understand your answer correctly?

8 *(Pages 17 to 32 by R. Lear)*

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2 THE WITNESS:

3 That is what I said. But we drew that conclusion after the attack, not before the attack you are talking
4 about, Counsel.

5 BY MR. ERLINDER:

6 Q. I meant after the attacks, so thank you. Now, I believe that your mission changed in 1993 from one
7 mission to another, and I am wondering if you can explain that for us and what that was?

8 A. After the ceasefire was signed and after the demilitarised zone was mapped out, we returned to our
9 previous positions. I was posted to the team which had to conceal the weapons which would be used
10 during subsequent fighting.

11 Q. Do you know where those weapons came from or where the ammunition came from?

12 A. I said the ammunitions came from Uganda.

13 Q. Now, the United Nations had a mission called UNAMUR with military observers at the border between
14 Uganda and Rwanda. How did it happen that this materiel got into Rwanda, even though the UN was
15 in that position?

16 A. At that time, UNAMIR had not yet been set up. There was another force which was known as
17 UNAMUR and which was in that area, not UNAMIR.

18 Q. Perhaps there is a problem with translation, because I tried to say UNAMUR, but I referred specifically
19 to UN observers at the border.

20
21 And given the fact that the UN did put observers at the border, how was it that the RPA was able to
22 bring weapons and ammunition into Rwanda?

23 A. The weapons entered between the 2nd and the 6th of September, at least concerning the area where I
24 was, and it was before the arrival of the team of observers. Actually, what we did was to make sure the
25 weapons got into the country before the observers go down to the field.

26 Q. Do you know if any weapons or ammunition came into the country after the observers were in the field?
27 Were they in a position to observe the RPA at all times?

28 A. I am unable to assert that. That would be speculation, even though I do suspect that.

29 Q. Well, did you observe more weapons and ammunition coming into the country, in some way, after
30 UNAMIR arrived? In other words, were the -- although we don't know where it came from, were there
31 more weapons that you noticed and more materiel and ammunition after that time that you observed?

32 A. I only heard that, after the genocide started, many weapons entered the country. But, before then,
33 additional weapons did not arrive into the country clandestinely.

34 Q. When at some time during this period of 1993 did you have occasion to be given a different mission
35 than the weapons mission that you spoke about?

36 A. You see, all teams had as a mission to take over power, but we had other missions, reconnaissance
37 assignments or some localised attacks, sporadic attacks at certain places. I wonder if that's what you

1 are seeking.

2 Q. I am mainly interested in your responsibilities. Did they change from weapons hiding and dealing with
3 the materiel coming into the country into some other kind of assignment? Your assignment, did it
4 change?

5 A. Yes, sir. I was assigned other duties, because from October 1993 I went through special training in
6 Karama before I joined the reconnaissance team which had to operate within Kigali town. I had already
7 described that to you.

8 Q. And could you describe the nature of that training and where you went after the training?

9 A. I was not the only one trained. We had two, crash training courses. The first one focussed on
10 leadership, whereas the second one was on intelligence.

11 Q. And for those of us who aren't military people, could you describe what you mean by intelligence?

12 A. As you are saying, it entails gathering intelligence information, and I was responsible for what was
13 referred to as combat intelligence, that is, information pertaining to combat.

14 Q. After receiving this training in combat information accumulation, where were you reassigned after your
15 training?

16 A. I was sent to Kigali.

17 Q. And the approximate time that that occurred, month, date?

18 A. It was in January, mid-January, and I went in a convoy of UNAMIR soldiers.

19 Q. How was it you became part of a convoy of UNAMIR soldiers?

20 A. RPA soldiers were authorised to travel to and from Mulinde and Kigali. It depended on the reasons for
21 their trips. That was authorised.

22 Q. Now, were there -- did you travel in that convoy in an open way or in a hidden way?

23 A. I could not hide. That is obvious.

24 Q. Do you know if there were other RPA soldiers that entered the CND through that method or other
25 methods that eventually increased the number of troops in the CND above 600, or in Kigali?

26 A. There were soldiers there officially, and we were in military attire. But there were also other soldiers
27 who were there, but who were in mufti, such as myself, and those soldiers were supposed to be there
28 as what was referred to as technicians or political cadres.

29 Q. Do I understand, then, that the RPA was bringing soldiers like yourself into Kigali and saying that they
30 were civilian technicians or they were civilians of various kinds? Did I understand that?

31 A. I would like to elaborate on this, that is, if you so desire, Counsel.

32 Q. I would like that, Mr. Witness, but given the President's concern about time, we do have to be brief.

33 MR. PRESIDENT:

34 So what is it you want to add, Mr. Witness?

35 THE WITNESS:

36 There were soldiers who were at CND officially and who could move about freely. There were others
37 who had infiltrated into that area, and who were in mufti. And, in order to bring them in, it was

- 1 necessary to get certain pretexts. Some of them were coming in as communication technicians, others
2 were considered as doctors. But there were others, yet, who were in Kigali.
- 3 BY MR. ERLINDER:
- 4 Q. Do you have any information about -- by mufti, I think you mean being dressed in civilian clothes; did I
5 understand that correctly, and not allowing anyone to know that they were in the military?
- 6 A. Yes, that is what I mean. So, actually, UNAMIR did not know that it was conveying soldiers. That is
7 how the number of soldiers who were officially supposed to be there had been exceeded.
- 8 Q. Do you have any information on how many of these soldiers in civilian garb eventually were sent into
9 Kigali by the RPF -- or, the RPA, I am sorry?
- 10 A. What I am giving is a rough estimate. I would say there were about 300.
- 11 Q. And in that 300, do you consider yourself in that number?
- 12 A. Yes, sir.
- 13 Q. Now, can you describe what the mission of those RPA soldiers in civilian garb -- what the various
14 missions consisted of, that you are aware of, after you arrived in Kigali?
- 15 A. They were basically three types of missions. Firstly, gather information to enable us to prepare for
16 fighting, once fighting was to resume. Secondly, we had to infiltrate the various political parties so as to
17 know their way of operation. Thirdly, there was a group which had to carry out the assassinations of
18 the various personalities.
- 19 Q. Regarding these assassinations by your RPA colleagues, do you have any examples of what some of
20 them might have been and where they might have been, and when they might have been?
- 21 A. Between 1993 and 1994, between -- before the death of the president, there was the assassination of
22 Emmanuel Gapyise just before 1994. Regarding what happened in 1994 and the killings that I have
23 confirmation for, there was the assassination of Felicien Gatabazi, the former energy minister. There
24 was another assassination, but which was not carried out by the RPA. That was Bucyana, who was a
25 CDR president. There was also a certain Ingabire, commonly known as Gatumba, who was
26 assassinated by the RPA. Those are the examples that I can give you.
- 27 Q. From a military standpoint of the RPA, what was the value of these assassinations, and were there
28 other acts of violence that were used?
- 29 A. Before those assassinations took place, I could not have found out the reasons for that, but after they
30 happened, I carried out an analysis and I concluded that this was a way of creating confusion for the
31 resumption of hostilities.
- 32 Q. What value did confusion or chaos have, from a military standpoint, assuming that chaos was going on
33 in the Rwandan government side? By that, I mean the area controlled by the Rwandan government.
- 34 A. At the political level, it is understood that it is more justified to fight against a government that cannot
35 provide security for the population, so the person attacking you is more motivated and is more justified
36 in attacking you if you cannot guarantee the security of the population. So this is a legitimate reason to
37 fight against the government.

1 I should also add one point of information. Each time that there was an assassination, it was attributed
2 to the government in power, and the result of that was that the situation became noxious. And so this
3 was in favour of the organisation that was attacking the government.

4 Q. I want to make sure I understand what you just said, Mr. Ruzibiza. As I understood it, what you said
5 was that before the RPF advanced on April 6th that the RPF was carrying out assassination --

6 MS. GRAHAM:

7 Objection, Your Honour, counsel --

8 MR. ERLINDER:

9 -- and acts of violence and blaming that on the Rwandan government side. Did I understand that
10 correctly?

11 MS. GRAHAM:

12 Well, if counsel doesn't understand, he should ask for clarification, instead of putting words into the
13 mouth of the witness.

14 MR. ERLINDER:

15 For clarification, I can ask for clarification in this matter, Mr. President. There is nothing wrong with that
16 in any rule in any jurisdiction of which I am aware.

17 MS. GRAHAM:

18 It's everything wrong with that in any book of advocacy that I am aware of.

19 MR. ERLINDER:

20 On the question of clarification of testimony, Mr. President, I beg to differ.

21 MR. PRESIDENT:

22 But you should try to avoid summing up questions which may give the impression that you are leading
23 the witness, even if that may not be the intention. Now, try to pose this question in another way instead
24 of summarising the evidence.

25 MR. ERLINDER:

26 With respect, Mr. President, I have to put on the record that summarising what the witness has already
27 said cannot be leading, by definition. But I will follow the Court's instruction, but I note my continuing
28 objection to that ruling.

29 MR. PRESIDENT:

30 You are adding elements which are leading, Mr. Erlinder, and that's what we want to avoid. Now,
31 please continue.

32 MR. ERLINDER:

33 Could the Court instruct me as to what elements I added, because I am not aware of any,
34 Mr. President, and I don't want to make the mistake again.

35 MR. PRESIDENT:

36 You don't need further clarity. Just proceed.

37

1 MR. ERLINDER:

2 How can I proceed without clarity from the Court, Mr. President?

3 MR. PRESIDENT:

4 All other counsel manage, you will also manage, Mr. Erlinder. Continue with your question.

5 MR. ERLINDER:

6 Mr. President, at your pleasure.

7 BY MR. ERLINDER:

8 Q. Mr. Witness, who was it that the RPF – or, the RPA, blamed for the acts of violence that they carried
9 out? Please just make that clearer for us.

10 A. Those acts were attributed to the government, but this was all propaganda.

11 Q. Now, we have heard testimony about some killings of civilians in November of 1993 in Mutura and
12 Kirambo in, I think, 17th and 18th of November and then towards the end of November. Do you have
13 any information on who committed those killings or do you know which ones I am referring to?

14 A. Kirambo is located in the *communes* covered by the 59th battalion to which I belonged. So I was able
15 to know those who were responsible for those killings because I myself was involved in similar
16 operations.

17 Q. Do you understand --

18 MR. ERLINDER:

19 Pardon me, Mr. President, I don't mean to lead. I intend to ask this witness whether I properly
20 understood that it was the RPA that killed the people on November 17th and on November --

21 MS. GRAHAM:

22 Respectfully, Your Honour -

23 MR. ERLINDER:

24 -- 26th, 1993. I believe that's what he testified to and I want to get a clarification --

25 MS. GRAHAM:

26 Well, this is not about what counsel believes. If he wants clarification, just ask who killed them.

27 MR. ERLINDER:

28 The Court has also instructed me to be expeditious, and one way is to be expeditious is to ask
29 questions in summary after the witness has already testified so we don't have to go through more
30 examination. I am between a rock and a hard place, Mr. President.

31 MR. PRESIDENT:

32 Was anyone killed on the 17th of November, Mr. Witness, to your knowledge?

33 THE WITNESS:

34 Yes. With regard to at least one of those killings, it was information that I received from others, but I
35 was witness to at least one of the incidents.

36 BY MR. ERLINDER:

37 Q. Do you know anything about the second incident, the one that occurred towards the end of November, I

1 believe it was around the 26th?

2 A. Which event are you referring to, Counsel?

3 MR. ERLINDER:

4 Excuse me, Mr. President, I want to frame this question correctly. I want to make certain I have the
5 names and everything correct.

6 BY MR. ERLINDER:

7 Q. Mr. Witness, forgive me for the delay. The information I have is that --

8 MS. GRAHAM:

9 Objection, Your Honour. The Prosecution objects to counsel standing up and giving information. The
10 witness has spoken about a couple of incidents. One is hearsay evidence; one he says he has direct
11 evidence. Why does not counsel just ask him about those two incidents, instead of him standing from
12 the bar giving evidence to the witness? This is pretty straightforward.

13 MR. PRESIDENT:

14 What's the next question?

15 MR. ERLINDER:

16 Yes, Mr. President.

17 BY MR. ERLINDER:

18 Q. Mr. Witness, the Prosecution brought evidence that there were killings -- through General Dallaire --
19 that there were killings at Kirambo on about the 17th or 18th of November and killings in Mutura around
20 the end of November, 26th to 29th in that range. Do you have any information on either of those
21 incidents or do you dispute that they occurred?

22 A. Killings were carried out in the Kirambo and Mutura areas and specifically in Kabatwa. Even though I
23 am not sure of the dates, the killings were carried out by soldiers of the Charlie unit and the
24 59th battalion. I believe that I gave the names of the people responsible for those killings in my
25 statement.

26 Q. Thank you, Mr. Witness. We don't have to go into those. Do you have any information as to why
27 those individuals were killed? They were civilians, I think, weren't they?

28 A. The reason is that it was part of the RPA plan to create a climate of violence for the resumption of
29 hostilities. And for Mutura it was unusual because it was Tutsis who were killed, whereas, usually,
30 those targeted were Hutus.

31 Q. Do I understand that the RPA targeted Tutsis, from what you just said?

32 A. It was not systematic, but I was informed about some incidents during which Tutsis were targeted, and I
33 do not know specifically why they were targeted.

34 Q. Do you know if either of those events had anything to do with local elections that might have occurred in
35 either of those areas with which you are familiar?

36 A. The elections were used as an excuse. The RPF had recruited some members, and when the civilian
37 populations returned to their property, the members of the population refused to elect RPF members.

1 But I do not believe that there was any link between those elections and those killings. I would rather
2 place those killings within the context of the plan to create a climate of violence for the resumption of
3 hostilities.

4 Q. Mr. Ruzibiza, you mentioned that part of the intelligence gathering of the RPA had to do with infiltration
5 and getting information, military information and political information, from the other side. Could you
6 describe for us the various institutions of the Rwandan government side in which the RPA had infiltrated
7 intelligence-gathering personnel? For example, the gendarmes, the FAR, political parties, et cetera?

8 A. I believe that this question is rather vague and it requires of me to give a lot of details, because we did
9 not have the capacity to infiltrate government institutions. Nevertheless, we could obtain information
10 from people who worked within those institutions, including both Tutsis and sometimes Hutus.

11 Q. And did you have information-gathering sources in the gendarmes and in the Rwanda government
12 army?

13 A. Personally, I do not know any, but that does not exclude the possibility that such sources existed.

14 Q. Did your RPA comrades also play a role in the *Interahamwe* or did they use the *Interahamwe* in some
15 way? If so, please explain.

16 A. We did not use the *Interahamwe*, but some my colleagues -- and I am referring here to members of the
17 team deployed in Kigali -- so, some of them used *Interahamwes* -- or, rather, participated in
18 *Interahamwe* activities and behaved like *Interahamwes* to avoid being identified.

19 Q. Do you know if that same infiltration of the *Interahamwes* and placement of RPA people in the
20 *Interahamwes* happened elsewhere, other than Kigali, or are you talking just about Kigali?

21 A. First of all, I should say that it was not easy to infiltrate the *Interahamwes*. But in answer to your
22 question, I can say that such infiltrations took place elsewhere. But it was easier for us to infiltrate the
23 youth wings of the other parties, such as the PSD and the PL.

24 Q. Now, I mentioned -- I think you just mentioned a few moments ago that sometimes it would be
25 necessary for plain-clothed civilians -- or appearing to be civilians, who were actually RPA fighters, to
26 take place -- to take part in *Interahamwe* violence. Did I understand that?

27 A. Yes, I said that.

28 Q. Would -- in the context of some particular examples, could you give us an idea of the kinds of things
29 that you are aware of -- roadblocks with RPA soldiers on them in plain clothes?

30 MR. PRESIDENT:

31 You see, that is the problem. Just ask the question generally, and then you don't need to give him
32 some indication specifically.

33 MR. ERLINDER:

34 With all due respect, if I give the witness more than one alternative and ask him to elaborate, it's not a
35 leading question. You stopped me after my first example, and had I been allowed to continue, I would
36 have given two or three other examples and asked for a general response. And that is not a leading
37 question, Mr. President. However, I will take your instruction. As President of the Tribunal, it is your

1 decision.

2 MR. PRESIDENT:

3 Can you answer the question now in the modified form?

4 THE WITNESS:

5 When you interrupted the Defence counsel, I did not understand what he wanted to introduce, what
6 qualifications he wanted to make, because I believed I had already answered that question.

7 MR. ERLINDER:

8 Mr. President, let me try.

9 BY MR. ERLINDER:

10 Q. I wanted some examples of the kinds of things that RPA soldiers would have to do in order to maintain
11 their position in the *Interahamwe*. What kinds of things did you mean when you mentioned that?

12 A. For example, there were demonstrations in the Nyamirambo stadium that took place in the presence of
13 Mr. Mugenzi, the president of PL. There were also demonstrations in Kimihurura before the installation
14 of the new government. These are two examples of incidents during which our members were involved
15 and that led to violence.

16
17 Before the assassination of the president, there were some members of the RPA who could not go to
18 the -- to their duty stations because of roadblocks that had been erected, and they had to wait for the
19 appropriate moment to be able to cross those roadblocks and go to their duty stations.

20 Q. Do you have any information about whether there were also RPA-infiltrated people on some of the
21 roadblocks -- at least at some point?

22 A. I am going to answer within the context of Kigali, taking into consideration that I did not even go to
23 those roadblocks; but this happened in Kimihurura and some other location. But I believe that after the
24 death of President Habyarimana there were infiltrations in other roadblocks, otherwise I did not know of
25 any other examples.

26 Q. By infiltrations, do you mean infiltrations by RPA people? Just for clarity.

27 A. Let us understand each other first. Their final objective was not to go to those roadblocks, so it was not
28 the RPF that decided that those people should go to those roadblocks.

29 Q. No I --

30 A. -- we did it so as to be able to obtain firsthand information.

31 Q. I understand. Now, with respect to the distinction you made earlier between RPA and RPF and the
32 people who received training in Mulinde and were sent back to their home area, do you know what
33 activities these trained RPF people engaged in while you were doing what you were doing with the
34 RPA? Do you have any information about that?

35 A. I should begin by pointing out that there was no training of civilians in Mulinde. The training that took
36 place took place in Karama and Kayondo, as well as in the command posts of the various units. There
37 was no training of civilians in Mulinde. And the training concerned political mobilisation; there was also

- 1 weapons handling. And then these people were sent inside the country to sensitise the members of the
2 population with regard to the RPF ideology. And before 1994, I do not know about any other missions.
- 3 Q. Well, let's concentrate on that. The missions, I think you said, were to sensitise people to the RPA or
4 RPF position. Why did they need military training to carry out this political work -- and weapons
5 training?
- 6 A. If I had to answer that question, I think there would be a danger of speculation. But they -- these people
7 had to be able to protect themselves in case they were attacked. That is why they had to receive
8 military training. Some of them received pistols and grenades for their own protection. In some cases,
9 some of those people who had been trained threw grenades in order to add to that climate of insecurity.
10 But I should point out that that was not the main purpose of their training. These were isolated cases.
- 11 Q. This is -- we are in the period before the president's plane was brought down?
- 12 A. Yes, and that is because such acts could not have been possible after the attack against the
13 presidential plane, because, at that time, we were in a situation of war.
- 14 Q. Did you have any contact with RPF members or supporters while you were doing your work for the
15 RPA, let's say before the president's plane came down? Over that three or four month period.
- 16 A. Yes, I had frequent contact with them because, even where I was hiding, it was an RPF member who
17 was in that location.
- 18 Q. Where was it that you were hiding at that time, the general area?
- 19 A. During the period that I was carrying out my reconnaissance work, I was living in a locality between
20 Kabeza and Giporoso, and that was in the Remera area.
- 21 Q. Did you stay there through the full -- the whole time you were in Kigali or did you move about?
- 22 A. This was my permanent address, but sometimes I spent the night at Kicukiro or at Kabuga, depending
23 on the purpose of my mission or whether it had rained or not.
- 24 MR. ERLINDER:
- 25 Mr. President, to make this a quicker exercise, we have a map of the various locations in which this
26 witness was that's been delivered to the Court. This is the one was large circles on it.
- 27 BY MR. ERLINDER:
- 28 Q. Mr. Witness, I am wondering if you can take a look at the map which has the large black circles on it. I
29 think you have a copy, but Mrs. Ben Salimo will bring you another, if necessary.
- 30 MR. PRESIDENT:
- 31 Are you entering this previous document?
- 32 MR. ERLINDER:
- 33 Yes, sir.
- 34 MR. PRESIDENT:
- 35 The previous one, let's enter that one.
- 36 MS. BEN SALIMO:
- 37 D. NT215, Mr. President.

1 MR. PRESIDENT:

2 Thank you.

3 *(Exhibit No. D. NT215 admitted)*

4 MR. PRESIDENT:

5 You have received this second document now, Mr. Witness. Here comes the question.

6 BY MR. ERLINDER:

7 Q. Mr. Witness, are you familiar with the document? And please tell us what it is, if you are familiar with it.

8 A. Yes, I am the one who prepared this map to indicate the various locations where I was during my
9 military career, as well as the periods that correspond to each location.

10 Q. This map is designed to prevent us from having to ask too many questions about those but to establish
11 that -- your experience in the country.

12

13 I want to return now, focussing on the period just before the president's plane came down, the four
14 months you were in Kigali. Do you know if members of the RPF participated -- or, RPF supporters,
15 participated in the information gathering and in the activities that RPA soldiers were engaged in of a
16 military nature?

17 A. Could you please kindly repeat your question, Counsel, because I did not quite understand it?

18 Q. Fine. I am trying to differentiate between the roles of RPF and RPA in Kigali while you were there. We
19 understand your information-gathering role and that of your colleagues; the other roles you also
20 mentioned. Do you know if RPF people, not RPA people but RPF people, also engaged in the activities
21 that you have already described?

22 A. The fact is that even though the RPA was the armed wing of the RPF, it was the same entity, and
23 members of the RPA only executed or implemented the decisions that had been taken by the RPF. So
24 the person who was even in command of the RPA was the vice president of the RPF.

25 Q. And who was that?

26 A. I am referring here to Major General Paul Kagame. Even though after the RPA battalion was sent to
27 the CND, he changed position, and he left his position to Patrick Mazimpaka. But, prior to that, he was
28 the one who was the vice president of the RPF, and at the same time he was the commander of the
29 armed wing.

30 Q. I understand that at the top level there was this connection between the RPF and the RPA in the person
31 of Mr. Kagame. But what about on the ground level? Did you and your RPA colleagues have support
32 and get assistance from and work with RPF people in Kigali, also? If so, explain whether that happens,
33 and how it happened, if it did?

34 A. Let me start with myself. I told you that I was being housed by a political trainer of the RPF, so you
35 would understand that that was a civilian working for the RPF and I was housed at his place. So it is
36 highly likely that my other colleagues were in the same position as me.

37 Q. Do you know if in the period before the president's plane came down -- and you can choose which

1 period you want to talk about, if there were changes -- about continued training of people who came
2 from Kigali in other places by the RPF and then have them return? Did that continue through this entire
3 time or had that stopped?

4 A. I said that the training took place mostly in mid-1993 and went on until the death of President
5 Habyarimana. But when President Habyarimana died, it was no longer possible. But in 1993, the
6 training sessions focussed mainly on elements who came from other countries than Rwanda.

7 MR. ERLINDER:

8 Mr. President, I have a request of the President, if I may. I have a blood sugar issue and it's necessary
9 for me to have a regular intake of calories. This morning has been a bit arduous and, if we can break
10 early and return early, I would appreciate it.

11 MR. PRESIDENT:

12 Two o'clock to resume in the fourth courtroom at the ground floor.

13 MR. ERLINDER:

14 Yes, Mr. President, and I am quite certain we will be able to finish before the end of the day.

15 MR. PRESIDENT:

16 What is the estimated length of examination of other teams?

17 MR. SKOLNIK:

18 Sorry, Mr. President. On behalf of the Kabiligi team, and this is just an estimate, so I would say around
19 half an hour.

20 MR. PRESIDENT:

21 Bagosora team?

22 MS. TURNER:

23 Bagosora Defence anticipates approximately a half hour as well.

24 MR. PRESIDENT:

25 Nsengiyumva team?

26 MR. OGETTO:

27 A lot will depend on areas that will be covered by my colleagues, but I can tentatively say that I will take
28 about an hour.

29 MR. PRESIDENT:

30 And you are not certain that you will need the entire day, but at any rate you will finish today.

31 MR. ERLINDER:

32 Mr. President, the current state of my ability to focus, I don't want to give a definitive answer to that.

33 When I return I will be able to tell you how long.

34 MR. PRESIDENT:

35 All right. If there is nothing else of a practical nature, we will break now and start again at the ground
36 floor at two o'clock.

37

1 *Maitre* Tremblay?

2 MR. TREMBLAY:

3 Mr. President, sir, DH133, you will remember that he had to return last week to his country of residence.
4 He is waiting and he will have the same problem tomorrow. So we absolutely need to have DH133 take
5 the stand tomorrow, otherwise we are going to lose him.

6 MR. PRESIDENT:

7 All right. Let's see how the different examinations develop. But now it's time for the break. Court
8 adjourned.

9 *(Court recessed from 1235H to 1405H)*

10 MR. PRESIDENT:

11 Good afternoon.

12

13 Mr. Erlinder.

14 MR. ERLINDER:

15 Thank you, Mr. President. I think I am going to shoot for about two hours, and I think I can resolve most
16 of the issues in about two hours. I hope to do better than that.

17 BY MR. ERLINDER:

18 Q. Mr. Witness, before we go on further, I want to return to one of the things you testified about this
19 morning. Do you know who it was that authorised the shooting down of the president's plane, in terms
20 of chain of command that the RPF had?

21 A. Personally, I was not in a position to know who gave the order directly. But, in any case, such an order
22 could only have been given by the higher command of the army, namely, Paul Kagame, because the
23 missiles used could only be used under his orders. That is all I can tell you.

24 Q. Now, I believe that there was actually a change in the way the RPF command structure functioned
25 before and after the president's plane came down. I am wondering if you can tell us about how you
26 perceive that change, in terms of relationship between the operational troops and the upper levels?

27 MR. PRESIDENT:

28 With other words, Mr. Witness, was there a change in connection with that event? That is the question.
29 Was there a change?

30 THE WITNESS:

31 I have still not understood the question. I am sorry.

32 BY MR. ERLINDER:

33 Q. With respect to the structure of command, while the RPF was fighting its guerilla war, did all of the
34 operational units take daily or regular orders from above or were they operating in a more independent
35 fashion during the guerilla war and the preparation for resuming the direct war in '94?

36 A. It should be clearly stated that in the army you do not act independently without receiving orders from
37 some superior. Usually, we knew we had to fight in a given area, and it was the commander who would

- 1 take the initiative on the ground. But in 1994 the situation changed, the commander no longer had the
2 right to take initiatives like in the past.
- 3 Q. And --
- 4 A. I do not know whether that is the kind of answer you expected to your question.
- 5 Q. I was hoping to talk about this for just a minute. Do you have examples of commanders -- first of all, let
6 me make clear, was the change after the assassination of the president or before the assassination of
7 the president, in terms of limiting the initiatives of the local commanders?
- 8 A. After the 6th of April, the war became conventional, whereas before that date we waged a guerilla type
9 of war. Therefore, after the 6th, we received orders from the higher command -- the high command of
10 the Rwandan Patriotic Army, and that was not the case before.
- 11 Q. Well, before the resumption of the war on April 6th, did the RPF have any idea that resuming the war
12 would result in political assassinations or civilian casualties? Was it understood as being a
13 consequence of the war?
- 14 A. Yes, the RPF was aware that such consequences were going to ensue. Personally, I was conscious of
15 that. I was aware of that.
- 16 Q. Now, after the war began, I believe that, initially, there were some killings on the night of the 6th and the
17 7th. Do you know if those were political killings or ethnic killings? Do you have any perspectives from
18 the RPF on what was going on at that time?
- 19 A. I do not want to make a political statement. That would be speculation. I know that there were
20 politicians who were killed, and that's all.
- 21 Q. In terms of large-scale civilian killings, did the change in military command have any implications or did
22 it cause any limitations in what the local commanders were able to do, in terms of stopping the civilian
23 killings that the RPF had anticipated? And, if it did, maybe you could give some examples of
24 commanders that, perhaps, fell foul of the new structure?
- 25 A. After the 6th of April, the war became very violent and there were many killings throughout the country,
26 so much so that it became necessary to look for new tactics of fighting. However, given the change or
27 the structural change, since soldiers had to follow orders to the letter, they were unable to save people.
28 I can give you an example. There was a unit that was on Mount Jali. It was commanded by
29 Commander Dodo. Commander Dodo wanted to save the residents of Shyongi, but he was prevented
30 from doing so. Even later on he was replaced by someone else because of that initiative.
- 31
- 32 The second example is the following: In a report to Colonel Musitu, who was in Mutura *commune*, as
33 well as Rwerere *commune*, his unit was requested to go and reinforce other troops that were in
34 Mburabuturo in Kigali town. He noticed that, on his way, there were killings going on, that is, when he
35 was going to Mburabuturo, he noticed that there were killings on the way. Later on, he was dismissed
36 from his position because of that acknowledgement of killings, which he made.
- 37

1 MR. PRESIDENT:

2 Just give us the spelling of Colonel Musitu, will you?

3 THE WITNESS:

4 M-U-S-I-T-U. Charles Musitu.

5 BY MR. ERLINDER:

6 Q. Mr. Ruzibiza, you mentioned earlier that there was an apparent force capability imbalance between the
7 RPF and the Rwanda government forces. Now, given that imbalance, from your point view, did the
8 Rwandan government side have the capacity to fight the RPF and also to stop the civilians massacres
9 with the troops that they had, assuming the RPF would not agree to a ceasefire?

10 A. That is a difficult question. You are talking of an imbalance in force capabilities of the Rwandan armed
11 forces and the RPF forces. I think the difference was from a strategic standpoint, because the
12 government forces were more numerous than RPF troops. As regards ending the killings, I think that
13 could have been possible had they not been fighting.

14 Q. Would you describe for us how the fight affected the beginning of the killings and the difficulty in
15 stopping them, from your point of view; how that related to the war and the offensive of the RPF?

16 A. In my opinion, FAR soldiers could not cope with RPF attacks and end the killings that were being
17 perpetrated by the *Interahamwe* and other people. That was not possible.

18 Q. These killings that you are aware of, were those primarily killings by the military or primarily killings by
19 civilians, or who was doing the killings, as far as you knew? Of course, there are specific examples, but
20 in a general sense.

21 A. The question is a difficult one. All categories of Rwandans participated in the killings; in other words,
22 both civilians and soldiers participated in the killings. I do not know whether I have answered your
23 question, Counsel.

24 Q. I am wondering if you have any information about -- well, let me lay the foundation here. Mr. Witness,
25 are you aware of the conditions created in the civilian population after the success of the RPF advance
26 in February of 1993? If you can talk about what the consequences were for civilians as a result of that,
27 as far as you know.

28 A. Your questions are not precise, and that is why I have difficulties answering them, especially as you
29 asked me to be brief.

30 Q. And, Mr. Witness, this is the dilemma that I believe I am in, because when I ask you questions too
31 directly I draw objections that they are leading. So I am trying to keep them completely open ended
32 which, of course, extends the time we need for this hearing. So I am in the hands of Court as to how it
33 wishes me to proceed.

34 MR. PRESIDENT:

35 Just make a new attempt. I am sure you will succeed.

36 MR. ERLINDER:

37 Thank you, Mr. President.

1 BY MR. ERLINDER:

2 Q. I believe that at some point in the past -- in your book, you mentioned that there were many
3 internally-displaced persons in Rwanda after the February 1993 offensive. Did I understand you --
4 understand your book correctly about that?

5 A. Yes.

6 Q. And could we talk about your impression, at least, of the attitude of these people regarding the RPF,
7 and how that affected events that eventually unfolded?

8 A. From 1990 to 1994, I and my colleagues waged a war and that war caused many casualties, especially
9 in the northern part of the country. There was great tension. I can tell you that the residents or the
10 inhabitants of those areas did not see favourably the advance of the RPF.

11 Q. And, as I understand it, those persons were displaced into the rest of the country, and many were still
12 around the country in 1994, in April; in other words, the people who had been displaced from the north?

13 A. Yes. Some left their *communes* and settled in other *communes* where there was no fighting. There
14 were camps of displaced persons inside the country.

15 Q. All right. In terms of the people who eventually were called the *Interahamwe*, after April of 1994, did
16 you notice any relationship between the people displaced by the RPF and the make-up of the civilians
17 in the *Interahamwe*? Did you notice any connection between them? If you could explain to us.

18 A. The *Interahamwe* were recruited from various parts of the country, but most young people who were
19 unemployed and who were against the RPF were recruited from within the camps of the war-displaced
20 persons. I believe that was the thrust of your question.

21 Q. It was. And, once the civilian violence started, what role did these internally-displaced people play, and
22 do you have any insights into why it was they might have responded violently to either the RPF or the
23 Tutsi, particularly the people who were internally displaced by the RPF -- RPA?

24 A. I do not know whether what you mean is that those people fought more than others -- fought the RPF or
25 the Tutsis more than others did. Is that what you mean, Counsel?

26 Q. Well, let me try and be more specific. I believe in your book you mentioned at one point that the
27 violence -- or the internally-displaced persons reacted particularly violently to the RPF, and I wanted
28 you to explain that a little bit, and how that interrelated with the *Interahamwe*.

29 A. I said that most *Interahamwe* were recruited from within the camps of displaced persons. Those
30 persons in the camps did not need any sensitisation, they already harboured some hatred against the
31 RPF. All that had to be done was to sensitise them against the Tutsi, so that they should be able to
32 participate in the killings of the Tutsi. Therefore, most *Interahamwe* comprised people who were
33 displaced, and for them it was easy to kill the Tutsis.

34 Q. Again, I am referring to your book -- and correct me if I am wrong -- I think you said, in some respects, it
35 was a mistake for the RPA to displace so many people and to build up this hatred of the RPF because it
36 led to more civilian killings. Did I understand your book correctly, and, if not, please correct me in any
37 way you think is appropriate?

- 1 A. That's correct, I wrote that in my book. But as far as I am concerned, that is not a justification for the
2 *Interahamwe* and extremist Hutus to kill the Tutsis. To me, that is not a justification.
- 3 Q. And I'd agree with you on that, of course. Returning now to just one subject, and perhaps we can leave
4 it then. In addition to the experience -- the examples that you mentioned about officers not being able
5 to use their troops to stop the killings once they started, at the command of the upper levels, did you
6 have any personal experience with people you knew who were killed because the RPF wasn't able to
7 use its forces the way that you suggested, which I think in your book you suggested that you would
8 have used the RPF forces to stop some of the killings? And, again, correct me if I am wrong. I am just
9 trying to get the issue out on the table.
- 10 A. First of all, the RPF was not in charge of protecting the civilian population, that was the responsibility of
11 the government in place at that time. That is the first point I would like to clarify.
12
- 13 Secondly, the combat strategy was suddenly changed. We were prevented from taking initiatives, even
14 though killings were going on.
- 15 Q. Now, did you yourself --
- 16 A. And that made it possible for the genocide to take on the scope that it took on later on.
- 17 Q. So, do I understand then, that you think the RPF, with the troops it had, could have made a difference
18 with respect to the scope of the massacres if it had chosen to use its troops in that way? And, if I am
19 wrong, please correct me. And I should say RPA. I am sorry, I keep making that mistake: RPA versus
20 RPF.
- 21 A. The RPA had all the military resources available to it to reduce by 75 per cent the number of casualties.
22 If it is said that there were one million casualties, perhaps we could have had a situation where there
23 would only have been 300,000 casualties. So I confirm that we had resources which we did not fully
24 use.
- 25 Q. Now, when we had our meeting when you first arrived Arusha, I think you talked to me about a
26 three-step process that you became aware of involving the overall strategy for the war, involving a
27 detonator, involving chaos. Could you just describe what those three steps were that you came to
28 understand in terms of the RPF -- RPA strategy or activities?
- 29 A. It is with hindsight that I realised that there was a strategy that had been devised. I thought I should
30 make this clear before answering your question.
- 31 Q. Please, go forward. Thank you.
- 32 A. The strategy you are talking about -- I start from the attack of 8 February 1993. We were in a position
33 to conquer the national territory. The RPF, first of all, carried out training; and, secondly, the RPF hid
34 weapons; thirdly, the RPF created a climate of violence by committing acts of violence throughout the
35 country; and, fourthly, the RPF, in the final analysis, killed the president of republic in order to spark off
36 the killings.
- 37 Q. Mr. Witness -- Mr. Ruzibiza, did the RPF troops -- RPA troops have occasion to at times to wear

1 uniforms of either the FAR or the gendarmerie, for one reason or another? Can you explain why that
2 might have been or why that might have come about?

3 *(Pages 33 to 49 by Judith Baverstock)*

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1 1430H

2 THE WITNESS:

3 Whenever we attacked a military camp, and if that camp fell, we would take the uniforms that we found
4 in the camp. We did so because we needed uniforms. There was no other reason for that.

5 BY MR. ERLINDER:

6 Q. Now, I imagine that might have caused some problems, because if the RPA is wearing FAR uniforms,
7 or gendarme uniforms, it's hard to tell who's the enemy and who's not. How did you deal with that?

8 MS. GRAHAM:

9 Objection, can counsel just get on with his question, instead of prefacing each question with a long
10 speech.

11 MR. ERLINDER:

12 I have to note, Mr. President, we've been going along with great dispatch, and to the extent I'm allowed
13 to continue I will finish my direct examination in the requisite time.

14 MR. PRESIDENT:

15 That's good. Do you want to reformulate the question?

16 MR. ERLINDER:

17 I don't think I need to, Mr. President.

18 MR. PRESIDENT:

19 It could have been formulated better.

20

21 But did you get the question, Mr. Witness?

22 THE WITNESS:

23 I believe he wanted to know whether there was no problem linked to the fact that we wore those
24 uniforms. If we were in an area in which there were enemy forces, that would cause a problem
25 because we could shoot ourselves, but if we were amongst ourselves there was no problem at all.

26 BY MR. ERLINDER:

27 Q. Do you know any examples of FAR personnel wearing RPF garb? RPA garb, I'm sorry.

28 A. I do not have any example to give you. We did not have any camp, so it was not possible.

29 Q. You mentioned earlier that some RPA -- or, I think, if I'm correct, RPF members -- correct me if I'm
30 wrong -- would sometimes join in with the *Interahamwe* dressed as civilians. And I'm wondering if you
31 have any examples of government troops or gendarmes dressing as civilians and engaging with the
32 *Interahamwe* in their activities.

33 A. I really do not know what you mean when you talk about the RPA that would have infiltrated the RPA.

34 Q. Well, perhaps there's a translation problem, or perhaps I misspoke. What I meant to say was, first of
35 all, I understood your testimony to be that RPA, at least, and perhaps RPF people dressed as civilians,
36 became infiltrated into the *Interahamwe*, and participated in some *Interahamwe* actions, whatever those
37 might be. And I want to make sure I understood your testimony first; then I'll ask the second part of the

1 question.

2 A. Yes, that is what I stated.

3 Q. I'm wondering if you have any examples, or any awareness, of Rwandan government forces, or
4 gendarmerie, dressing as civilians to become part of the *Interahamwe*, or to appear to be part of the
5 *Interahamwe*?

6 A. I was never assigned to work within the *Interahamwe*, so I never observed any such thing. But my
7 colleagues told me that sometimes amongst the *Interahamwes* there were reservists, and sometimes
8 members of the Presidential Guard, even though I never personally witnessed that.

9 Q. With regard to the -- whatever training the *Interahamwe* might have had, do you have any impressions
10 about whether that was -- that was done by regular army, or by reservists, or who might have done that;
11 from your own information or from the RPF perspective?

12 A. That would be speculation. I know that *Interahamwes* received training, but I do not know who were
13 their instructors.

14 MR. ERLINDER:

15 Mr. President, give me one moment, if I may.

16

17 Mr. President, in order to expedite this matter, I thought it would be wise to just highlight particular
18 aspects of the book without going into it in great detail, just to draw the Court's attention to those
19 specific portions that the Defence believes would be useful for the Court to have in understanding the
20 Defence position and the theory of the Defence. And, with the Court's permission, I think that once we
21 complete that -- which I think will not be very long, maybe an hour -- we will be very close to our -- to
22 this part of the exercise.

23

24 With the Court's permission, may I proceed?

25 BY MR. ERLINDER:

26 Q. Mr. Witness -- Mr. Ruzibiza, do you have a copy of your book with you?

27 A. Yes, I do.

28 Q. What I'd like -- what I'd like -- what I'd like to do is more or less go through this book in a sequential way
29 and identify those parts that we would hope that the Court would pay close attention to, rather than
30 having to have you explain everything in the book in a thorough fashion, since the writing is already
31 here.

32 MS. GRAHAM:

33 Objection, Your Honour. I don't believe the book is in evidence. We note the highly unusual procedure
34 of introducing a prior consistent statement -- possibly -- with the witness which will be nothing but
35 self-serving. So why are we doing this? What's the purpose?

36 MR. ERLINDER:

37 Need I respond?

1 MR. PRESIDENT:

2 You are planning to tender this book as an exhibit?

3 MR. ERLINDER:

4 Yes, of course.

5 MR. PRESIDENT:

6 Yes. Are you starting with the table of contents, or --

7 MR. ERLINDER:

8 No, Mr. President. No. What I intended to do -- and it seems to me we have two choices. Either I can
9 direct the witness' attention to his book -- which will be part of the record, if it's not already -- and ask
10 him to testify about what's in the book involving those issues. Or, I can draw his attention to it, ask for a
11 brief comment to identify it, and go on.

12

13 But the contents of the book, and putting the Prosecution in a position where they can cross-examine
14 this witness on the contents of the book, as well as his statements, it seems to me is a fair way to
15 proceed, because of course we want to be expeditious, but on the other hand we also want to be
16 thorough. And I thought that -- I can't imagine a faster way of going through the material than in this
17 way. And so that's what I was proposing.

18 MR. PRESIDENT:

19 Mr. Witness, this book that you have written, do you stand by it? The book you have written, the way
20 the formulations are in that book, do they still reflect your view on the events as described in that
21 document?

22 THE WITNESS:

23 Mr. President, this book contains my testimony, opinions, and political ideas. There are points on which
24 I cannot testify, but there are aspects to which I was a personal -- or, a witness. There are others
25 where I give my personal opinions, and there are passages that give an account of events that I
26 personally witnessed. So, I cannot say that the entire book is my testimony.

27 MR. PRESIDENT:

28 But the entire book reflects your views still? True?

29 THE WITNESS:

30 Absolutely.

31 JUDGE REDDY:

32 Just a follow-up question. You are also the author of this document which has been marked as
33 Exhibit D. B136, which is, I think, a statement you issued to the media, with your photograph in front, on
34 the front page. Is that right?

35 MR. ERLINDER:

36 For the record, Mr. President, we had a French copy and an English copy. I'm not sure what copy this
37 witness has.

1 JUDGE REDDY:

2 Well I'm working from an English copy, for obvious reasons.

3 MR. ERLINDER:

4 If I may, Mr. President, the witness told me he's much more confident of the French translation than the
5 English translation, and the grammatical errors are not his.

6 JUDGE REDDY:

7 Well my questions, at this stage, are questions of a very general nature. He doesn't really have to read
8 it.

9

10 But, insofar as this article is concerned, or this press release is concerned, it contains assertions of
11 facts. There are matters which are put forward as facts by you. Now, do you stand by those at this
12 stage, or have you revised your views on those facts, or alleged facts?

13 THE WITNESS:

14 I continue to stand by that statement that I released to the media. And with regard to the book, I simply
15 gave more detailed information. Otherwise, the facts remain the same.

16 JUDGE REDDY:

17 And this article also contains your opinions and your judgements on certain issues. Do you still stand
18 by those opinions and judgements, in relation to the events that took place in Rwanda during the period
19 that we are talking about?

20 THE WITNESS:

21 My position remains unchanged. But, I'm wondering whether here in the courtroom I have to limit
22 myself to the facts, or whether I can also give my opinion.

23 JUDGE REDDY:

24 No, I was merely trying to ascertain if you stand by that press statement, and you claim you do. And
25 that's all I wanted to know at this stage. Thank you.

26 THE WITNESS:

27 Your Honour, I stand by what I have said in this statement, but I'm not sure whether the statement in
28 English is consistent with the French version.

29 JUDGE REDDY:

30 Well, we will find out, I suppose, eventually, if it is. But at this stage I have an English translation of the
31 French article. And, in fact, the book is in French, isn't it?

32 THE WITNESS:

33 Yes, the book is in French.

34 JUDGE REDDY:

35 And I suppose --

36 THE WITNESS:

37 And I am totally comfortable with the entire text in French.

1 JUDGE REDDY:

2 Yes, thank you.

3

4 Mr. Erlinder, you proposed to draw the witness' attention to particular matters in this book --

5 MR. ERLINDER:

6 Correct.

7 JUDGE REDDY:

8 -- particular aspects. And I assume from that that they would be matters that you think, at this stage,
9 are favourable to your client.

10 MR. ERLINDER:

11 I think they're favourable to a better understanding of history, which is favourable to my client, I think.

12 JUDGE REDDY:

13 Yes, yes. And yet we must take a composite, balanced view of the whole of that book. We can't just
14 look at parts of it.

15 MR. ERLINDER:

16 Correct.

17 JUDGE REDDY:

18 Do you agree with that?

19 MR. ERLINDER:

20 I agree with that.

21 JUDGE REDDY:

22 So what is -- what do you hope to achieve by this selective exercise? Shouldn't we read the whole
23 book and draw our own conclusions from that book?

24 MR. ERLINDER:

25 I have no -- I presume, Judge Reddy, that that is what the Court will do. I don't believe that that's in
26 contradiction to identifying particular aspects of the book that this witness can be examined on while
27 he's here.

28

29 I just need to put this in context, Mr. President. The case started with the book and the testimony of
30 Alison Des Forges that was based on her research and investigations, but not based on her experience
31 as a member of one of the combatant armies. That the examination -- the direct examination was
32 relatively short, the cross-examination was relatively long, but we began this case with exactly this sort
33 of exercise.

34

35 And, essentially, what we are doing is presenting a witness, and a book, so that the other side can
36 cross-examine and the Court can ask questions as it will about the author, about his opinions,
37 conclusions, observations. Because putting just the book in without giving at least some opportunity to

1 question the witness seems to be both creating an overbroad problem, in which everything in the book
2 has the same weight, or it creates a problem of not being able to cross-examine on those portions of
3 the book that we think are important.

4
5 So, it would seem to me that the best thing to do is to identify those portions of the book we think are
6 important, to present the opportunity to cross-examine, or to examine this witness more on those
7 issues, and then for the Court to take the entire book into consideration after it's had that opportunity.
8 I'm hoping that the Court will agree that developing better knowledge of specific aspects of the book is
9 preferable to not having a chance to ask this witness about any of them, which is what happens if we
10 just put the book in.

11 JUDGE EGOROV:

12 May I ask you, Mr. Erlinder --

13 MR. ERLINDER:

14 Yes, Judge.

15 JUDGE EGOROV:

16 With your previous questions, didn't they have something to do with the contents of the book?

17 MR. ERLINDER:

18 I'm sorry, didn't?

19 JUDGE EGOROV:

20 Your previous questions, didn't they have anything to do with the contents of the book?

21 MR. ERLINDER:

22 Well, they did from time to time, because I mentioned on a couple of occasions that the witness -- I
23 thought this was in the book -- my French isn't so good, so I was asking for confirmation.

24 JUDGE EGOROV:

25 I'm only talking about possible repetitive portions.

26 MR. ERLINDER:

27 There will be no repeats, Judge Egorov.

28 JUDGE EGOROV:

29 Thank you.

30 MR. ERLINDER:

31 And the entire exercise is going to take an hour or less.

32 MR. PRESIDENT:

33 You see, when it comes to cross-examination you have confirmed that you want to tender this book.

34 MR. ERLINDER:

35 Correct.

36 MR. PRESIDENT:

37 And by doing that you open up the book as a field of cross-examination, so you don't have to do

1 anything (*unintelligible*) in order to allow the Prosecution the possibility for cross-examination, I think.
2 And that's one of the reasons you mentioned.

3
4 The other reason you mentioned is that you want to highlight portions of the book. Now, highlighting
5 can, of course, be done at the close of the case, and you will certainly do so in your closing arguments.
6 So, here we have a risk of doing something that you will do at the end of the day anyhow. I think our
7 task now must be to achieve, while this witness is here, something in addition.

8 MR. ERLINDER:

9 Well, as my learned counsel points out to me, since the book is in English -- or, is in French, having
10 those portions that we think are important commented upon by this witness so it can be translated into
11 French and English seems to be an additional factor that is useful.

12
13 Certainly it would highlight particular aspects, but not only highlight it in the way that I would highlight it,
14 but highlight it in the way the witness will highlight it. And after this witness goes home, his ability to
15 explain his book goes away. And it's not something that I can do in closing argument.

16
17 And I would suggest, Mr. President, if I may, that if one were to look at basic notions of fairness, to
18 permit the Prosecution to use an expert witness, with a book that is not based on personal experience,
19 so broadly to develop a theory of the case that we can now see from the evidence in this Court is not
20 well-founded, and then to put me in a position where I can't have six hours to respond to six weeks of
21 fallacious theory about what happened in Rwanda seems to me to be grossly unfair.

22
23 And what I would beg of the Court is the opportunity to have one hour to allow this witness to respond
24 to particular aspects of the book so that he can be asked further questions about those aspects, should
25 the Court or the Prosecution desire. And it seems to me that, on balance, I'm not asking for a great
26 deal.

27 JUDGE REDDY:

28 Yes, I tell you what I had at the back of my mind when I raised this issue with you. If we permit you to
29 raise aspects of this book which are consistent with your theory of what happened in Rwanda, or
30 favourable to your client, we will have to permit the Prosecution to go to those aspects of the book
31 which are clearly adverse to your case, and inconsistent with the theory you are advocating. So, at the
32 end of the day, we have to read the book and make our own judgement. That's why I can't understand
33 what you are trying to achieve by this exercise.

34 MR. ERLINDER:

35 Well, Judge Reddy, you and I -- unfortunately, since I have only a rudimentary ability to read French,
36 although I can read some, my reading of the book is that there is precious little in the book that supports
37 an alternative theory.

1 And if I may beg the Court's indulgence, even if I am completely wrong, even if what I am doing in
2 asking for an hour to put into the record specific aspects of my Defence that are in this book to draw the
3 Court's attention to it, it seems to me in the interests of justice, on this afternoon, on a Thursday, in
4 Arusha, given all of the time that has been -- that has expired in this enterprise, that it seems to me that
5 we are talking about something that will be very brief, and will certainly advance the level of the
6 understanding of the Tribunal about these incidents.

7

8 Now, I'm certainly willing not to read portions of the book; I'm not suggesting that. But what I was going
9 to do was touch on issues that I haven't touched on yet that are raised in the book, and just identify
10 where they are so that the Court and Prosecution can identify where the information is coming from.
11 That's all.

12 MR. PRESIDENT:

13 You see, we are not preventing you from doing this, Mr. Erlinder, we just want to know what you are
14 about to do since there was an objection.

15 MR. ERLINDER:

16 Okay.

17 MR. PRESIDENT:

18 We are simply trying to be practical here --

19 MR. ERLINDER:

20 Okay.

21 MR. PRESIDENT:

22 -- and avoid unnecessary time consumption. You have now explained what you are trying to do, so
23 why don't you start.

24 MR. ERLINDER:

25 Mr. President, I'm much obliged, thank you. We will do this as an exercise that's quite brief.

26 BY MR. ERLINDER:

27 Q. Mr. Ruzibiza, I want to make certain you have your book handy so that -- I don't think you're going to
28 have to refer to it, but I'm going to go through and outline the issues, more or less in the order that
29 they're presented in the book. So if I'm misunderstanding something you can correct me by pointing to
30 the portion of the book where I'm wrong.

31 MS. GRAHAM:

32 Well, Your Honours, respectfully, now this is just leading. I thought there was a request to have the
33 book admitted, and if that was granted, he can continue with the exercise he's doing. But isn't that what
34 we should be ruling on first?

35 MR. PRESIDENT:

36 Shall we start with the admission of the book?

37

1 MR. ERLINDER:

2 That's fine, Mr. President. And perhaps we should do the other two documents also. I'm not sure that
3 those have been admitted yet.

4 MR. PRESIDENT:

5 Let's start with the book, since we are talking about the book now. Mr. Matemanga, that will be?

6 MR. MATEMANGA:

7 D. NT216.

8 (*Exhibit No. D. NT216 admitted*)

9 MR. PRESIDENT:

10 All right.

11

12 And reference was made to the other documents.

13

14 Here you have to explain something, Mr. Erlinder. On the one hand we have D. B136. We have it in
15 French, and we have an English translation. And then there is a new document which you have
16 distributed today, and it seems to me that these documents are similar, but not identical.

17 MR. ERLINDER:

18 Well, Mr. President, if they're not identical, it's merely in form. The reason for submitting these
19 documents -- they were intended to be the same documents that were in exhibit, but I didn't have the
20 facility to be able to present those specific documents to this witness to make sure they were his, so I
21 provided him with the copies that we did have to verify that these were the essays that he had written.
22 So it seemed to me that it was appropriate with this witness just to make a record of the documents that
23 he identified personally. I don't know that there are any differences; I think there are not. But because
24 I'm not sure of that, I didn't want to take any liberties.

25 MR. PRESIDENT:

26 Well let's start with the English version, shall we, since we both prefer that language.

27 MR. ERLINDER:

28 Fine.

29 MR. PRESIDENT:

30 "Rwanda: Testimony" of the witness, from page 12 to 32. That's one of them, true?

31 MR. ERLINDER:

32 I believe that's correct, Mr. President.

33 MR. PRESIDENT:

34 And then you take D. B136.

35 MR. ERLINDER:

36 Which is --

37

1 MR. PRESIDENT:

2 Which is the statement. It is the same, apparently, but the wording in English is different. The way the
3 structure is in the document is slightly different, and it doesn't end the same way. The document is not
4 identical.

5 MR. ERLINDER:

6 Well, that's something that I wasn't aware of, Mr. President. Then we have to show -- have to exhibit
7 the document that the witness saw, I would guess, if there is a difference. We could also show him the
8 previously exhibited document and ask him to comment on it, but it seems to me that that's a waste of
9 time, but I'm in the Court's hands.

10 MR. PRESIDENT:

11 Mr. Matemanga, can you show the witness D. B136A and B.

12

13 While that is being done, why don't you start with a few questions.

14 MR. ERLINDER:

15 Okay, I will be happy to do that.

16 BY MR. ERLINDER:

17 Q. Mr. Ruzibiza, can we continue here for just a moment while we're getting this organised.

18 MR. ERLINDER:

19 With respect to my additional questions, Mr. President, as I mentioned, I propose to touch on issues in
20 the book that are structured the way that he wrote them, and Ms. Graham objected, saying that we
21 shouldn't do that until the book is in evidence. Shall we move it into evidence now, or shall I continue?

22 MR. PRESIDENT:

23 The book is now in evidence, as it has been entered as an exhibit. We have finished that one.

24 MR. ERLINDER:

25 Okay.

26 MR. PRESIDENT:

27 Now, we are not quite clear what you want to do, and we know that there is a possible objection here
28 since, depending on the way you are asking questions, the use of the book can be leading, by putting
29 statements to the witness. So, you have to bear that problem in mind, which is a general methodical
30 issue we always are faced with. But I'm sure you will try to avoid it.

31 MR. ERLINDER:

32 I will try, Mr. President. I hope I can.

33

34 Now that the witness is reading the statement, perhaps we shouldn't (*sic*) try to move into evidence the
35 map with the locations of where he was in various times -- that's to eliminate testimony about that.

36 That's a map with the black circles.

37

1 MR. PRESIDENT:

2 Mr. Witness, you made this document, didn't you?

3 THE WITNESS:

4 Yes, Mr. President.

5 MR. PRESIDENT:

6 Any objections against this document with arrows?

7 MR. RASHID:

8 Mr. President, I just thought that we'd already marked it as D. NT215. That's the way I followed the
9 testimony. Maybe I'm wrong.

10 MR. PRESIDENT:

11 You are wrong. This is D. NT215.

12 MR. RASHID:

13 Thank you, Mr. President.

14 MR. PRESIDENT:

15 So then, Mr. Matemanga, there seems to be no objection against this.

16 MR. MATEMANGA:

17 D. NT217.

18 *(Exhibit No. D. NT217 admitted)*

19 MR. ERLINDER:

20 Mr. President, there's some confusion on our part; I'm sorry. There are two maps, I believe, at issue.
21 One was the one with the large circles on it that indicated where he was in Rwanda. And there was a
22 second one, that actually came first in his testimony, showing the location of units, and I believe that's
23 already in evidence, is it not?

24 MR. PRESIDENT:

25 Yes.

26 MR. ERLINDER:

27 Yes, my colleagues thought perhaps I'd missed that, and sometimes I do.

28 MR. PRESIDENT:

29 No, I hope everyone is agreeable now that 214 is the personal information sheet, 215 is the map, 216 is
30 the book, and 217 is the sketch with arrows.

31

32 Meanwhile, Mr. Witness, have you had the opportunity to look at these documents which we in this
33 case have called D. B136? I suppose you have had a look at the French version, maybe.

34 THE WITNESS:

35 I agree with the French version. Concerning the English version, I'm not in a position to assess the
36 translation that was done.

37

1 MR. PRESIDENT:

2 Will you now kindly look at that French version and ensure that that is the complete version of your
3 statement.

4 THE WITNESS:

5 I looked at the declaration on the internet. The people extracted this text from my document; as far as
6 I'm concerned, it is the statement I made -- of course, with the reservation that it may have been
7 tampered with.

8 MR. PRESIDENT:

9 I have a D. B136A, which ends with the following final remark -- and I'm translating from French now:
10 "One should initiate investigations on the causes which have made genocide possible." That's the last
11 page.

12 THE WITNESS:

13 Mr. President, can you repeat what you just said.

14 THE ENGLISH INTERPRETER:

15 The president's microphone, please.

16 MR. PRESIDENT:

17 "It is necessary for investigations to be carried out on the causes that made this genocide possible,
18 which genocide was perpetrated in such a short period of time and under the responsibility of both
19 belligerents, that is, the government and the rebels."
20

21 Now, is that the final paragraph of your declaration?

22 THE WITNESS:

23 Yes, it is.

24 MR. PRESIDENT:

25 That's D. B136, then that is our reference point, and so be it whenever there may be nuances in the
26 English translation where the witness may not be quite comfortable.

27 MR. ERLINDER:

28 I think that's exactly as it should be, Mr. President.

29 MR. PRESIDENT:

30 Please proceed, Mr. Erlinder.

31 BY MR. ERLINDER:

32 Q. Mr. Ruzibiza, regarding the book, is your picture on the cover there, or is that -- who is it on the cover?

33 A. *(No interpretation)*

34 Q. Your picture's on the back. Are you depicted on the front in any way? On the front cover?

35 A. No, I am not mentioned anywhere.

36 Q. Now, I'm going to, for fairness sake, just refer to sections of the book, and issues you talk about in

37 those sections, and ask you to expand on them. I don't think it will be necessary to actually look at the

1 book, but that's up to you.

2

3 In the introduction of the book, you mentioned that your view on whether this was the struggle between
4 Hutus and Tutsis was an ethnic struggle, or whether it was a struggle for political power, I think. Could
5 you describe what you mean there?

6 A. The conflict between the RPA and the government forces, even if extremists described that conflict as
7 an ethnic conflict, that is not true. Because, as a matter of fact, it was a conflict leading to the seizure of
8 power, either by the government or the RPF. Initially it was not an ethnic conflict, even if, subsequently,
9 it was construed as such.

10 Q. I believe that you mentioned in your book some attitudes that you noticed in the RPF with respect to --
11 or in the RPA with respect to French-speaking Tutsis who had remained in Rwanda. I believe it's in the
12 section where you say why -- or you describe why you wanted to write the book, and I'm wondering if
13 you could explain that for us, please.

14 A. You are speaking to French-speaking people inside the country. In fact, you've asked a dual question.
15 Ask me a question on a specific point.

16 Q. What was the -- could you describe whether the RPA, or members of the RPA -- or RPF -- had
17 particular attitudes about Tutsi people who had remained in Rwanda, rather than leaving the country, as
18 they had done earlier.

19 A. On the whole, within the RPF, of which I was a member, there were extremists who thought that the
20 Tutsi who stayed in Rwanda had chosen to stay with the enemy, namely Habyarimana, and that
21 therefore they could not trust them.

22 Q. Did the RPF consider them part of the enemy, under those circumstances? I don't want to put words in
23 your mouth; please explain in your own words.

24 A. When you speak of the RPF, that is vague, because there had never been a uniform policy of the RPF.
25 It was the personal opinions of RPF members.

26 Q. Did you notice any differences between the attitudes of leadership in the RPA and the RPF, and
27 lower-ranking people in the RPA or RPF, on this issue about the French-speaking Tutsis who had
28 remained in Rwanda and cooperated with the Habyarimana government? Perhaps you could explain
29 what the range of opinions were that you recognised.

30 A. I am giving you my personal opinion. It is not a testimony to the events, or facts. Most military
31 commanders of the RPA, or the political leaders of the RPF, had other intentions, political intentions.
32 But for us it was a liberation war. We sought to liberate our country.

33 Q. Could you describe what those other intentions were that you came to understand, and how those
34 differed from the rank and file, like yourself, of the RPA and RPF?

35 A. For example, as far as I am concerned, I did not see why it was necessary to sacrifice the Tutsi in order
36 to take over power. But, our political leaders thought there was no problem with sacrificing the Tutsi in
37 order to be able to obtain power. This is a significant difference of -- in our opinions.

1 Q. In the part of your book where you talk about the 1990 to 1993 period, which is about page 100, I
2 believe that you mentioned that the former king of Rwanda -- that you agreed, essentially, with the
3 former king of Rwanda about the advisability of starting the war in 1990. Do you have any comment on
4 that? And please correct me if I've misstated something.

5 A. In my book I was making an analysis. I wanted to know whether it was necessary to invade the country
6 in 1990, or whether it was better to wait. However, later on I realised that that was necessary, and that
7 is why I joined the army, because I noticed that the war waged by the RPF was a legitimate war.

8 Q. Now, in the part of the book, going on to say, about page 170 -- this is the period from August to
9 December '92 -- you mention about the RPF showing bodies to journalists, and that perhaps some of
10 the RPF killings at that time were a mistake because of the effect that it would have later with respect to
11 reprisals. And I don't want to put words in your mouth, but this is page roughly 168 to 170, and I'm
12 wondering if you could just comment on those issues.

13 A. The question is not clear. I do not see what you mean, Counsel.

14 Q. Well, perhaps I'm not being clear, but I'm also trying to abide by the concerns that the Prosecution has
15 for me not leading. Consequently --

16 MS. GRAHAM:

17 Could we stop the comment here. Obviously counsel is leading at this point; he's directing the witness
18 to his own writing. It's just that we don't object, so let's not pretend.

19 BY MR. ERLINDER:

20 Q. Mr. Witness -- or Mr. Ruzibiza, I'm sorry, I'm conditioned here. Could you just take a -- do you
21 remember what it was you wrote about on page -- the issues that you wrote about between page 168
22 and 170 in your book, and if you don't remember, would you refresh your recollection by looking at it
23 and just tell us what your recollection is.

24 A. Counsel, I know the content of my book, but I would like you to be more precise.

25 Q. Okay. Would you discuss --

26 A. Do not specify the pages, but you can make specific reference to specific subjects, or contents.

27 Q. Well, I'll do my best to try and meet the demands of the Prosecution, the Court, and the witness, but I'll
28 have to do it at some risk because I'm not sure I can square the circle. I'll try.

29 MS. MULVANEY:

30 Mr. President, Your Honours, we really don't care if he leads at this point. We object, but it's going to
31 happen. And he needs to just go ahead and ask his questions so we can get through this. The Court
32 knows how to weight the evidence when it comes in. If it's done with a leading question, then it's
33 weighted differently. But, we just need to get going.

34 MR. PRESIDENT:

35 Yes. So, let's do that.

36 MR. ERLINDER:

37 Okay.

1 BY MR. ERLINDER:

2 Q. Mr. Witness -- Ruzibiza -- in pages -- I'm not going to ask you to comment on particular pages, but just
3 mentioning that -- I think this is where they appear in your book. Did you mention -- do you have some
4 recollection about the RPF showing dead bodies to journalists for political or publicity purposes?

5 A. Which period are you referring to, Counsel?

6 Q. Well, the part that I'm thinking I'm referring to is the part in the book that's talking to August to
7 December 1992. And if you don't recall that, we can certainly go on.

8 A. There are examples where there was fighting, and when journalists came to the scene the RPF would
9 pretend that it was the government forces who had killed people. If that is the period you are referring
10 to, it must have been in Kinyargushanbere (*phonetic*) and Ngondori. There was fighting there, and the
11 RPF showed dead bodies to journalists saying that it was the government forces who had killed those
12 people, although it was the RPF forces who had killed them. That is an example I have given you.

13 Q. Thank you, Mr. Witness. And without going into all the examples, were there more examples that --
14 where the RPF used that same sort of propaganda technique? Was that common, or uncommon?

15 A. When you say that it was common, I do not understand what you mean. But often when photographers
16 came to the scene of fighting, and where there were corpses, the RPF would take advantage of their
17 presence to attribute the massacres to government forces.

18 Q. You also mentioned some other incidents earlier -- assassinations, I believe -- carried out by the RPF
19 that were blamed on government forces. Was it a -- a common practice, or usual, for the RPF to blame
20 government forces for events that the government really wasn't responsible for? Was that part of the
21 military propaganda; a political tactic of the RPF?

22 A. The RPF was fighting in the north of the country, and in that area the government forces did not commit
23 massacres. Such massacres were committed in Kebula (*phonetic*) or Busaka (*phonetic*). Killings were
24 also perpetrated in the north of the country by the RPF, and the RPF never denied that. However, such
25 massacres, or killings, were not given publicity. I wouldn't say that it was an RPF propaganda.

26 Q. Again, you mentioned --

27 MR. PRESIDENT:

28 Mr. Witness, I don't know which relevance this will have, but can you spell the name Ngondori for us,
29 please?

30 THE WITNESS:

31 I mentioned Ngondori. I also forgot to mention another place which is called Ngarama. I also talked
32 about Base. Such an incident also occurred in Kinigi. It all depends on the period concerned.

33 MR. PRESIDENT:

34 Yes, you see it's only a matter of spelling. Will you help us with these so that we can move on to the
35 next point? Now we now have four names, unfortunately. Just get them on the record. Will you please
36 do that?

37

1 THE WITNESS:

2 Base is spelt as follows: B-A-S-E, Base. I also mentioned Ngarama, Ngarama is spelt as follows:
3 N-G-A-R-A-M-A. I mentioned Kinigi. K-I-N-I-G-I, Kinigi. G-A, sorry -- G-I, sorry, I come back. Then I
4 also talked about Kidaho, K-I-D-A-H-O. There are many more examples, but I will limit myself to those I
5 have given.

6 MR. PRESIDENT:

7 Thank you.

8 BY MR. ERLINDER:

9 Q. You just mentioned that there were RPF massacres in the north. Just focussing on the period between
10 1990 and 1994, can you tell me the general areas where that took place? Not specific names, but was
11 that in the area controlled by the RPF, or somewhere else?

12 A. I would rather you did not continue talking about the RPF in general, as if the RPF was only massacring
13 people. I think it's better to be specific that some members of the RPA committed certain acts,
14 Counsel.

15 Q. Mr. Witness, I -- Mr. Ruzibiza, I take your criticism to heart, and you're absolutely right. We're not
16 talking about the RPF; we're talking about the RPA. I believe in your book you mentioned -- without
17 having go into the detail, because the Court can read your book eventually -- that these massacres by
18 certain RPA people had a negative effect for all of the Tutsis in the country later, or really put the Tutsis
19 in danger. Could you explain to me what you meant by that? I think you covered that in your book, but
20 I'd like to understand it more thoroughly.

21 A. I am a native of Rwanda. I had never seen a situation of extreme hatred between the Hutu and the
22 Tutsi such that would have led the Hutu to seek to exterminate the Tutsi. Because of certain acts that
23 were perpetrated by RPA soldiers, some Hutu developed great animosity against the Tutsi. So much
24 so that when they were asked to kill the Tutsi, it was very easy for them to do that. That is what I
25 meant.

26 Q. Now, in the run-up to -- let's talk about 1993 to April 1994, in that period. Were there differences of
27 opinions in the RPA and RPF with respect to the Arusha Accords? And I'm wondering if you could
28 elaborate on that a little bit, if there were differences.

29 A. The soldiers, including myself, thought that the Arusha Accords could solve -- or address the situation
30 better than fighting. But, to give an example, President Kagame told us that we should not think that
31 political negotiations were going to solve the problem. He said it was better to resort to the use of arms.

32 Q. How was it he conveyed that information to the troops; if you could explain how that was done?

33 A. After the signing of the Arusha Accords in August 1993, Kagame taught all the units in Mutara and
34 Ruhengeri. He addressed the soldiers and met with various officers, explaining them the attitude to
35 adopt towards the Arusha Accords. He often asked us whether it was possible to go a bit with FAR
36 soldiers, and whenever he made such a speech he would take a Kalashnikov and tell us that, "This is
37 what will enable us to enter Kigali." Therefore, to us, we understood that we had to march right up to

1 Kigali, and that we had to enter Kigali thanks to weapons, and not thanks to political negotiations.

2 Q. Mr. Ruzibiza, moving on in your book, you mention an incident that took place in Muhura involving
3 Kagame, I think in May, it may have been -- that may not be right, but I think it was May in 1994. And
4 I'm wondering if you remember that passage, and whether you could describe it to the Court, or
5 whether you have to refresh your recollection by looking at the book.

6 A. I remember that, but this is testimony that I received from other people. But, in my opinion, it is credible
7 testimony. It was the bodyguards of President Kagame. They told me that at some point in time
8 Kagame left from the bar where he met someone, and when they arrived in Musha, they met a group of
9 people. Kagame said that it was necessary to shoot at that group of people. It would appear that he
10 personally shot at the group of people. I received -- or obtained that testimony from people who formed
11 part of Kagame's guard.

12 MR. ERLINDER:

13 We've just a few more questions, Mr. President. We're nearly done. I think I'll end early.

14 BY MR. ERLINDER:

15 Q. You mentioned, I think, your knowledge of what happened that bishops in Kabgayi regarding
16 Mr. Kagame. Do you have any information, or can you tell us what you know about that?

17 A. I was not an eye witness of that; that was testimony I received from other people. Following the
18 investigations which I carried out in the 57th battalion, and also within the personal guard of
19 President Kagame, which led to my obtaining some information, I learnt that it is Paul Kagame who
20 gave an order to Colonel Rubengera to kill those people. Colonel Rubengera hesitated killing them, but
21 Kagame (*sic*) clearly told him it was necessary to kill the people on that very day, because it would not
22 be possible to kill them later on.

23 Q. And there's a problem with translation. I believe the translation was "Kagage" and it should be
24 "Kagame". Is that correct?

25 A. I talked about Kagame.

26 Q. Mr. Ruzibiza, there are numerous examples in your book of other events, and I don't think we need to
27 go into them now because the Court can ask more questions about whether particular events were
28 alleged to be Rwandan government massacres when they're actually RPF massacres. But I'll not go
29 into that at the moment, it's not necessary; I think the evidence is clear.

30
31 But I just want to make sure -- I believe that you have given testimony of a more thorough nature with
32 many of these issues when we weren't under the time constraints that we have here today. What other
33 bodies have you testified to about these events in Rwanda prior to coming here today? We don't have
34 to be specific about the topics, but just the -- just the bodies themselves.

35 A. I gave testimony in France in connection with the attack against President Habyarimana's plane. That
36 was in 2003.

37

1 THE ENGLISH INTERPRETER:

2 Counsel's microphone, please.

3 THE WITNESS:

4 I also gave testimony in Spain. And before my arrival here, I was in Spain. There I spoke about RPF
5 killings, but more specifically, I spoke about the killings of medical doctors, or Spanish members of the
6 clergy who were in Rwanda. Those Spanish members of the clergy were killed because they gave
7 information to the media on acts of violence committed by the RPF. Therefore, the RPF killed those
8 people before the information spread. I also gave testimony in connection with the massacres
9 committed in Bwindi Park in the Congo. I will have to go and testify in the United States, where those
10 proceedings will be held. So, I have given three testimonies before three different courts, apart from my
11 testimony here today.

12 BY MR. ERLINDER:

13 Q. I forgot to ask you a question earlier, Mr. Witness. Do you -- Mr. Ruzibiza. Do you know where the
14 missiles came from, or how the missiles got to Masaka Hill; the ones that you saw being fired at the
15 plane of the president? Do you know where they came from, or how they got there?

16 A. We had two types of missiles. We had the SAM-7 missiles that we usually used, and then the SAM-14
17 missiles that had come from Uganda, which we did not usually use. So, I believe the missiles came
18 from Uganda through Mulundi, before they reached the CND and finally Masaka.

19 Q. Mr. Ruzibiza, do you know any of the defendants in this case, either personally or professionally?

20 A. I do not know any one of the accused. I can only recognise Colonel Bagosora, because I have already
21 seen one of his photographs.

22 Q. Do you have any information about -- or have you personally observed, or been an eye witness to any
23 of their activities during the tragedy in Rwanda? Did you observe them yourself?

24 A. No.

25 Q. Mr. Ruzibiza, what's your security situation now in the country in which you're living?

26 A. I'm doing fine. I do not have any problems, even though I am expected to perhaps have problems at
27 one point or the other because I am giving out information that is not very favourable to the Rwandan
28 government.

29 Q. Do you have regular security protection from your -- the country of your residence now, on an ongoing
30 basis?

31 A. I have special protection and I also have an alarm system at my home, and if I have to go anywhere, I
32 am accompanied by a policeman. Otherwise, my life is normal.

33 MR. ERLINDER:

34 Mr. President, let me consult for just one moment, and I think we are close.

35

36 Mr. President, I'm happy to report that the Defence theory of the case was presented in six hours,
37 rather than in six weeks. And we are indebted to the Court for allowing us to make a record.

1 Thank you.

2 MR. PRESIDENT:

3 Thank you. Next Defence counsel.

4 MR. SKOLNIK:

5 I'll go next, Mr. President. Just give me one second, I want to hand something out.

6 CROSS-EXAMINATION

7 BY MR. SKOLNIK:

8 Q. Good afternoon, Mr. Ruzibiza. In the back of your book there's a map called "Carte 4".

9 MR. SKOLNIK:

10 For those who don't have a copy of the book, I've made photocopies of the map. So could we have the
11 registry hand it out to maybe whoever may need it.

12 BY MR. SKOLNIK:

13 Q. Mr. Ruzibiza, I tried to scan the picture and tried to make it a little bigger, but I wasn't too successful.

14 So, what you'd like to know is, you told us, when you started off your testimony today, that there were
15 eight units, or eight mobile units --

16 MR. PRESIDENT:

17 Mr. Skolnik, this is cross-examination, isn't it?

18 MR. SKOLNIK:

19 Yes, Mr. President.

20 BY MR. SKOLNIK:

21 Q. You said that the RPA had eight mobile units, and just let me refresh your recollection. You said alpha,
22 bravo, Charlie, the 7th, the 21st, the 101st, the 51st, and the 71st. And then you also mentioned the
23 105th, and the 53rd. And I believe you also said later on there was the 3rd battalion that was at the
24 CND. Am I correct?

25 A. The number of the battalions is correct, but there are errors regarding the names, and if Defence
26 counsel allows me, I can go back and list them various names of those units.

27 *(Pages 50 to 68 by Kirstin McLean)*

28

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1 1545H

2 BY MR. SKOLNIK:

3 Q. Yes, I would like you to do that.

4 A. I will begin by the Mutara region. You had the number 157th, 21st, 101, bravo, alpha, 59th and Charlie.
5 These were the units that we referred to as the mobile units. There was also the 3rd battalion as well
6 as the military police battalion; that was the situation. So I'm talking about the units which could be sent
7 to the front to engage in combat.

8 Q. Okay. Now, am I correct in stating that on this map, *carte 4*, you've shown on three axes what the troop
9 dispositions were of the RPA from April 6th and as they moved on later on in April and May; is that
10 correct?

11 A. Your question is not clear, Counsel.

12 Q. Well, look, there's three axes I see on your map. There's the Mutara axis, the Byumba axis and the
13 Ruhengeri axis?

14 A. Correct.

15 Q. And you've shown -- you explained underneath with the black arrow it says, "Movement of RPF --
16 RPA troops right up to the third week of May 1994." That's the black arrow?

17 A. That is correct.

18 Q. Okay. And underneath that, the red arrow says, "Movement of APR troops towards Kigali on the 7th,
19 8th and 9th April respectively."

20 A. Correct.

21 Q. Okay. I don't want to be repetitious and read what you have written there; it explains by itself. But
22 would I be correct to say that what you were showing with these arrows was how the various mobile
23 forces or battalions moved after the presidential plane was shot down? I'm not saying that they all
24 moved at the same time, but you're showing the disposition and where they went eventually?

25 A. That is correct.

26 Q. Okay. Now, you told us earlier on when Mr. Erlinder was asking you the questions, you told us that
27 each one of these units or mobile forces or battalions had about 2,000 men each, and there was some
28 units that had 2,500 men in the unit; correct?

29 A. I did not talk about 2,500 soldiers. I said 2,000 and some.

30 Q. Okay. Now, could you just explain to the Court, what was the nature of the armament that these mobile
31 forces would have used? What kind of armament did they use? You could start with small arms,
32 mortars, artillery -- if they had. Can you just tell us what they had?

33 A. The most frequently used weapon was the Kalashnikov. Each soldier had one of them. Then we had
34 support weapons, such as, heavy machine-guns as well as shell-launching weapons or rocket
35 launchers. There was heavy artillery such as the Katiusha mortars, which were used sometimes. We
36 also had some missiles.

37

1 Each unit had its own missiles to protect itself. We also had weapons that looked like FAR-weapons
2 because we had seized them from the Rwandan armed forces. Otherwise, there were also helicopters
3 and armoured vehicles.

4 Q. Are you saying that you seized helicopters? I want to make sure that I got the translation right.

5 A. What I said was that the only weapons that we did not have but that the Rwandan Armed Forces had
6 were helicopters and armoured vehicles.

7 Q. Okay, thank you, I misunderstood your answer. Thanks for that clarification.

8
9 Now, could you tell me -- like, you talked about Katiushas. Can you tell me, like, what millimetre
10 armament that is because I'm not a military person, so maybe you could help me with that?

11 A. The Katiusha mortar is 107 millimetres and can launch rockets weighing 20 kilograms each and has a
12 range of 8 kilometres.

13 Q. Okay. Did you also -- were the troops also equipped with AD1 or AD2 or 120 millimetre mortars?

14 A. I said that we had a -- various types of mortars, from 60 millimetre calibre to 81, 82 and even 120. So it
15 was within this range that the mortars were calibrated.

16 Q. Did you have a 75 millimetre recoilless cannons or equipment?

17 A. We had them but we had captured most of those mortars from the government army.

18 Q. Now, what about artillery, did the RPA use artillery pieces?

19 A. I do not know what you mean by artillery. But in our army, even the Katiusha mortars were known as
20 artillery. You had 120 millimetre calibre mortars. We used all of those and they were all referred to as
21 artillery.

22 Q. Okay, thank you, I understand. But did you have any bigger pieces of artillery that could shoot, like, at
23 a longer range? You know, let's say 15 kilometres or up to such a distance?

24 A. We had a 122 millimetre calibre mortar, which had a longer range than the Katiusha and also a longer
25 range than the 120 millimetre mortars. We also had a 126 millimetre mortar which had a longer range
26 than all the others.

27 Q. Okay, thank you. Now could we go back to your map, the one I've been talking about?

28 MR. SKOLNIK:

29 Mr. President, I don't believe it would be necessary to produce this map as an additional exhibit seeing
30 it's in the back of the book, so, is that all right?

31 MR. PRESIDENT:

32 That's quite all right. Thank you.

33 BY MR. SKOLNIK:

34 Q. So Mr. Ruzibiza, could we look at the Mutara axis on your map. And you show the 7th and 157th
35 battalion. Now could you tell us what was the movement -- we see the black arrows going south, and
36 we also see them going west. So could you explain the movement of the units from Mutara, I presume
37 down to Kibungo and towards Kigali. Can you just tell us exactly what it is so that we have your

1 interpretation of your map?

2 A. The 7th and the 157th battalions moved down to Kiyombe. They separated there. The 157th went to
3 Kibungo, while the 7th headed for Kigali as indicated by the arrows. The 157th moved in the direction
4 of Kibungo towards Bugesera, and it passed through Gitarama and headed for Butare. That is the
5 interpretation that I can give of those various movements.

6 Q. Yes, thank you very much because by you giving that interpretation, it leaves no doubt to other people
7 to say it's something else.

8
9 Now, if we could go over to the Byumba axis, you mention there under the red portion: alpha, bravo,
10 59, 21, 101; is that right? In the red portion, there?

11 A. That is correct. Those units were at that location before moving to Kigali on the dates that I have
12 indicated.

13 Q. Yes, and you -- you mention in the square on top of that red portion there, *(French spoken)*.

14 A. Correct.

15 MR. PRESIDENT:

16 Shall we get the translation?

17 THE ENGLISH INTERPRETER:

18 "Positions of the RPA as at the 6th of April 1994."

19 BY MR. SKOLNIK:

20 Q. Okay, and I presume, Mr. Ruzibiza that you're explaining with this map where these units went from the
21 6th of April onwards; correct? The 7th, 8th and 9th?

22 A. In the night of the 6th, one of those units -- that is, the 21st attacked Byumba. Otherwise, the following
23 day, the other units headed for Kigali.

24 Q. Okay. So would it be correct to say that it was the 21st that encircled Byumba? Did it use any of these
25 other units -- or, did any of these other units that you have mentioned there, come in aid of the 21st and
26 then leave to go elsewhere, or was it just the 21st that was fighting mostly at Byumba?

27 A. The 21st unit stayed at Byumba while the others went to Kigali. This unit could leave behind one
28 company and then move on to Kigali. The 21st blocked the road to prevent the intervention of the
29 Rwandan army. So it was the 21st unit that stayed put while the other units moved on to Kigali.

30 Q. Okay. I just have one more question on this axis because on the red arrow, in your explanations
31 under -- under the map, you say that these were the troop movements for the 7th, 8th and 9th. And you
32 say the 21st after the fall of Byumba in the third week of April 1994. So, do I understand that the 21st
33 stayed there all the time till Byumba fell and the other units were there on the 7th, 8th and 9th and then
34 they left. Am I interpreting that right?

35 A. The 21st unit in its entirety stayed put while the others moved, but left some companies there. After the
36 fall of Byumba, the units that stayed also moved on alongside the 21st unit. This is after the fall of
37 Byumba.

1 Q. Okay. Could you just give me an idea of how many units from these other groups -- from alpha, bravo
2 59, 21 and 101 were with the 21st? In other words, was it one company from each unit or can you give
3 me an idea?

4 A. I will elaborate. The 59th left behind one company. The 101st left behind two units. The entire alpha
5 unit moved, as well as the bravo unit which left no unit at that location. Alpha left completely, 59th left
6 one unit, and 101st left two units.

7 Q. Okay. Now, when you say a unit, how many people are we talking about in a unit?

8 A. When I talk about a unit I am referring to the mobile units. Alpha and bravo, which each had 2,000 men
9 or slightly more. Each unit had 10 companies. So if the unit left behind a company in Byumba, it
10 means that they moved with nine companies to Kigali.

11 Q. Okay, thank you. Now, when you say the 101st had two -- left two units behind, I understand it's 200
12 people or 200 soldiers more or less; correct?

13 THE ENGLISH INTERPRETER:

14 The witness corrects himself.

15 THE WITNESS:

16 It was three companies. I have said that the 101st left behind three companies and the 59th left behind
17 one company at Byumba.

18 BY MR. SKOLNIK:

19 Q. Okay, there may have been a problem with the translation there. Okay, thank you very much. So when
20 you said the 101st left behind three companies are we talking about 300 men?

21 A. The RPA companies did not have up to 100 men. In 1991, each company -- or, rather, they had more
22 than 100 men. In 1991, each company had about 200 men.

23 Q. Okay, and in 1994 -- in 1994, contemporaneous with the events that we're talking about now after
24 April 6th, there were how many, because in the translation they said 1991, there were 200 men in a
25 company.

26 A. I refer to 1994, I said that in that year the RPA companies comprised at least 200 troops.

27 Q. Thank you. I think there was a translation error there. Now, if we go over to the Ruhengeri axis you
28 have the Charlie mobile force, bravo, and the 9th; is that right?

29 A. Even if on this map it can be seen that the bravo unit was not in Ruhengeri at that time, there was only
30 the Charlie unit and the 59th unit.

31 Q. Okay, I believe you explained where the purple arrow is under the map. You say that the other units
32 other than Charlie went there after the fall of Kigali from the 4th to the 7th of July; is that correct?

33 A. No, I was referring to the month of April and not the month of July.

34 Q. Okay --

35 A. -- unless I did not understand correctly.

36 Q. Well, it seemed to me --

37

1 MR. PRESIDENT:

2 Just for clarity, Mr. Witness, do we agree that in relation to this Ruhengeri axis we are talking only about
3 Charlie, 9, and bravo. We are not talking about 59; true?

4 THE WITNESS:

5 It is rather Charlie and the 59th unit --

6 THE ENGLISH INTERPRETER:

7 -- says the witness.

8 THE WITNESS:

9 Perhaps it is not clear on the map.

10 MR. PRESIDENT:

11 You see on the red arrow, 59 is under Byumba there, and when it comes to this Ruhengeri area, there
12 are references to Charlie, 9, and bravo. I do not know whether this will be very significant at the end of
13 the day, but just to avoid any misunderstanding.

14 THE WITNESS:

15 I just wanted to indicate the units that past by Byumba, but those units came from Ruhengeri, the
16 Charlie and the 59th unit -- and the 59th unit, rather. Otherwise the triangle shows the places through
17 which those units -- units passed, that is, the red triangle.

18 BY MR. SKOLNIK:

19 Q. Okay, Mr. Witness -- Mr. Ruzibiza, maybe you could help me here, okay, because I want to make sure
20 that there's no errors in the translation. You see, in the purple arrow down at the bottom where you
21 explained what this purple arrow means, you say, "Movement of troops after the fall of Kigali 4 to 7th
22 July 1994."

23
24 Then you say, "This was the 15th battalion from Butare to Gikongoro. The 59th towards Kibuye. The
25 7th and 9th bravo-Charlie towards Ruhengeri and Gisenyi."

26
27 So do I understand that what you have written on the map, Charlie, 9, and bravo with the purple arrows,
28 that's to show that those units went to Ruhengeri and then to Gisenyi after the fall of Kigali?

29 A. That's correct. You see that I have mentioned other units because even during the war there were
30 other units that were created. For example, the 9th and 15th units which did not exist before
31 the 6th of April.

32 Q. Okay. And, just to clarify the last point of the map, am I correct in saying that the only unit that was in
33 place around Ruhengeri on the 6th of April was Charlie on the 6th?

34 A. Yes.

35 Q. Okay. Now, did the Charlie unit engage the Rwandan government forces at Ruhengeri on the 6th and
36 days following? What was the nature of the fighting there?

37 A. Charlie had not been given orders to wage war. They did not have the resources to fight the

- 1 government forces. Therefore, it was the only RPA unit that could not attack. It had only been given
2 orders to defend itself in the event it was attacked by government forces.
- 3 Q. Were they carrying out any hit-and-run-type of operations, the Charlie unit?
- 4 A. There were some attacks that were launched, but there were no large-scale operations or attacks.
5 Because from a strategic standpoint, a unit cannot cause an attack when it is not in a position to defend
6 itself, so that unit only carried out some -- or launched some sporadic attacks in that area.
- 7 Q. Okay. Just to go to another subject, Mr. Ruzibiza, I believe you mentioned it in your book, but if you
8 didn't, let me just ask you the following: Are you aware that the APR or the RPA shelled the refugee
9 camp at Nyacyonga? I'll spell, N-Y-A-C-O-N-G-O.
- 10 A. Yes, I'm aware of that. Not only did the RPF shell that refugee camp, but RPA elements also shot into
11 that camp.
- 12 Q. Is it true that this operation put close to a million refugees on the road heading towards Kigali?
- 13 A. At Nyacyonga, there were never a million displaced persons. It was after the attack of
14 8th of February 1993 that the number of refugees almost reached the million that you mentioned.
- 15 Q. And, but did they -- when talking about the shelling of that refugee camp, we're talking about that was in
16 April, wasn't it?
- 17 A. If you're talking about Nyacyonga, I agree with you. That camp was shelled, but I am not sure of the
18 figure you are putting forward. I do not agree with that figure of 1 million.
- 19 Q. Maybe the 1 million included all the refugees coming down from Byumba and all that. In other words,
20 as the RPF advanced the population moved -- the RPA.
- 21 A. That's true.
- 22 Q. As a military person would you agree with me that this operation, which caused massive numbers of
23 people to move, would have created difficulties for the Rwandan government forces to conduct
24 operations with all these people coming down from the north? From Byumba and from Nyacyonga, all
25 heading south. Do you have an opinion on that?
- 26 A. Personally I do not see the relationship with military operations. Perhaps that may have caused
27 political problems. But as regards military operations, I do not think that would have had any incident
28 whatsoever.
- 29 Q. Let me tell you what I had in mind. If you have all the refugees coming down the roads, doesn't it
30 create a logistical problem to send troops into the areas where you want to send the troops? That's the
31 point I'm trying to make.
- 32 MR. PRESIDENT:
- 33 Do you know anything about this, Mr. Witness?
- 34 THE WITNESS:
- 35 Personally I do not see any relationship with military operations.
- 36 BY MR. SKOLNIK:
- 37 Q. Okay. Now, in your book you mention that the RPF bombarded *Saint Famille*, the *Mille Collines*,

- 1 Saint Paul and the *Centre Hospitalier*, Kigali, the CHK.
- 2 A. That's correct.
- 3 Q. And this is on page 290 of your book and you've mentioned this as taking place on the
4 1st of May 1994?
- 5 A. That's correct.
- 6 Q. And in your book you also mentioned that at *Saint Famille* there were Tutsis there that had taken refuge
7 at *Saint Famille*?
- 8 A. Yes, most people who were at *Saint Famille* were Tutsis.
- 9 Q. And you mentioned also that Colonel Kabarebe, James -- I'll spell that, K-A-B-A-R-E-B-E -- gave the
10 order to bombard *Saint Famille*?
- 11 A. He did not only give such order, but he was also present when the shells were thrown.
- 12 Q. And also the central market at Nyarugenge -- N-Y-A-R-U-G-E-N-G-E -- and the area at Kimisagara and
13 Biryogo -- I'll spell these places -- were also bombarded. So Kimisagara is K-I-M-I-S-A-G-- like George
14 -- A-R-A. Biryogo, B-I-R-Y-O-G-O. And Nyakabanda, N-Y-A-K-B-A-N-D-A (*sic*). And am I correct to
15 say that these places that were bombarded were civilian population?
- 16 A. At this CHK, for example, there were no civilians, rather, they were patients. In particular, wounded
17 Tutsi persons. In the market, you wouldn't know whether there were civilians or soldiers. At
18 Nyakabanda as well -- Nyakabanda was a residential area; it was not a military position.
- 19 Q. Okay. Now, to go on to another subject, as you know my client, General Kabiligi, was the G3 or the
20 chief of operations of the Rwandan government forces in April of 1994. You're aware of that?
- 21 A. Yes, Counsel.
- 22 Q. Are you aware that General Kabiligi was not in Kigali when the presidential plane was shot down
23 on 6th April 1994?
- 24 A. I heard about that, but since I did not know him I cannot confirm what you're saying.
- 25 Q. Okay. But could you tell us what you, as a soldier, knew of Kabiligi's reputation. What was his
26 reputation?
- 27 A. I do not know anything in particular concerning General Kabiligi, but within the RPA we considered him
28 as being a real strategist. He was someone who was respected in his army. That's all I know in that
29 regard.
- 30 Q. Would you agree with me that he did not have the reputation of an extremist?
- 31 A. I can't say anything about that because it would be pure speculation on my part.
- 32 MR. PRESIDENT:
- 33 Are we almost there?
- 34 MR. SKOLNIK:
- 35 Actually, we are there.
- 36 So thank you, Mr. Witness, for bearing with me. I know it's been a long day for you and I thank you
37 very much for your help.

1 MR. PRESIDENT:

2 Thank you very much, Mr. Skolnik.

3

4 Next Defence counsel?

5 MS. TURNER:

6 Mr. President, originally we had a different order, but I would like --

7 MR. PRESIDENT:

8 It doesn't matter, just go ahead.

9 MS. TURNER:

10 -- I would just like to specify as well that there were two questions that I wanted to consult lead counsel
11 on before asking them. So, if I may be permitted possibly to ask additional questions after the
12 Nsengiyumva team conducts their cross-examination?

13 MR. PRESIDENT:

14 But are you going ahead now or do you want to postpone your portion? Couldn't you more or less
15 empty the sack with the exception of these two questions?

16 MS. TURNER:

17 Yes, I could.

18 MR. PRESIDENT:

19 Yes, please do that.

20 MS. TURNER:

21 I would like to begin by distributing certain portions of the book of the witness.

22 MR. PRESIDENT:

23 Well, the witness has the book. Maybe needing it -- some of us who do not have the book. Could that
24 be distributed?

25 MS. TURNER:

26 I have some additional copies if anyone would like to follow.

27 MR. PRESIDENT:

28 All right, first question.

29

CROSS-EXAMINATION

30 BY MS. TURNER:

31 Q. Mr. Witness, you indicated earlier that you did not personally know Colonel Bagosora, but you did --

32 A. I do not know him.

33 Q. But you did make certain references in your book to Colonel Bagosora; is that not correct?

34 A. That's correct.

35 Q. Okay, for the purposes of clarifying the record, I would like to go through some of those references that
36 you made in the book.

37

1 At page 200 you indicate the following -- I'll read it in French. "All this made furious Colonel Bagosora,
2 who reported thereon to President Habyarimana." This particular excerpt was in the context, I believe,
3 of the negotiations of the Arusha Accords. Were you present at the negotiations of the Arusha Accords
4 at any of the sessions?

5 A. No, Counsel.

6 Q. Are you able to testify as to what Colonel Bagosora's reaction would have been to one thing or another
7 that would have transpired at the Arusha Accords, or the negotiations of the Arusha Accords?

8 A. Regarding Colonel Théoneste Bagosora, I gave my personal opinion. I also reflected the testimony
9 which I obtained from other persons. All of this was in the context of the war that took place in our
10 country. Therefore, I do not have a neutral opinion concerning Colonel Théoneste Bagosora.

11 Q. But is it not true that you could not testify as to what Colonel Bagosora said or did during the
12 negotiations of the Arusha Accords on the various occasions that they transpired?

13 A. I'm going to repeat what I just said. All I said concerning Colonel Bagosora comes from the testimony
14 given to me by some civilians or former members of the government forces. I also gave my personal
15 opinion on the basis of what I had heard people say regarding the role of Colonel Bagosora during the
16 genocide. Therefore, what I'm telling you is that I cannot give you a neutral testimony concerning
17 Colonel Bagosora. Consequently, I am not neutral and I'm not comfortable answering questions
18 concerning Colonel Bagosora.

19 MR. PRESIDENT:

20 The witness has no direct evidence in relation to that event.

21 MS. TURNER:

22 Nonetheless I would still like to proceed with a couple of more questions relating to the excerpts in this
23 book.

24 BY MS. TURNER:

25 Q. I understand what you just indicated, Mr. Ruzibiza. But with respect to another excerpt in your book
26 found at page 217, you indicated and I'll -- I'll read it in French. "While for Rwandans the hope for
27 peace was found once more, the two armed adversaries were expecting the apocalypse predicted by
28 Colonel Théoneste Bagosora."

29 Then, there is a footnote that references a nuance, or an apparent nuance, and I would just like for you,
30 if possible, to indicate to the Chamber what your sources were for indicating what you did on pages 217
31 and 218? What or whose information did you rely upon in order to indicate?

32 A. I maintain my position and I believe that it is clear. I have told you that I cannot give a neutral opinion
33 concerning Colonel Bagosora. I believe it would be better for you not to ask me questions concerning
34 him. I do not feel comfortable answering such questions. I do not feel comfortable giving testimony
35 concerning Bagosora because all such I say about him derives from the testimony obtained from other
36 people, and also from my personal opinion.

37

1 MR. PRESIDENT:

2 So doesn't this apply both to page 200, 218, 232, 253 and 254 in the registry, Ms. Turner? It's a
3 general answer.

4 MS. TURNER:

5 That's correct, but I still think it's important at least for the court record that the sources or -- or the basis
6 on which the witness has indicated --

7 MR. PRESIDENT:

8 I understand the witness is saying that he hasn't got any direct evidence in relation to any mention of
9 Colonel Bagosora in his book.

10

11 Isn't that true, Mr. Witness?

12 THE WITNESS:

13 Yes, Mr. President.

14 MR. PRESIDENT:

15 I think you have achieved your purpose.

16 BY MS. TURNER:

17 Q. Okay my next question is: Where did you first hear the word apocalypse in relation to the events that
18 transpired in Rwanda in 1993 or 1994? When was the first time?

19 A. The first time I heard that term apocalypse was over Radio Muhabura.

20 Q. Can you explain the context that this statement was said over the airways of that radio station?

21 A. Radio Muhabura was an RPF station or radio. That radio only broadcast such information and it also
22 broadcast programmes relating history; it also broadcast announcements. As a matter of fact, that
23 radio was used for RPF propaganda. In one of its programmes, during which the Arusha negotiations
24 were mentioned, it was said that a certain Bagosora had returned to Kigali to prepare the apocalypse.
25 That is what I heard.

26 Q. And do you have any information possibly as to where that radio station might have obtained that
27 statement or so-called statement that was said by Colonel Bagosora before it put the statement on the
28 airways?

29 A. It was said that that happened in Arusha. There were RPF representatives during the Arusha
30 negotiations. I, therefore, think that it is those RPF representatives who gave that information which
31 was subsequently broadcast over the radio.

32 *(Pages 69 to 78 by Jean Baigent)*

33

34

35

36

37

1 1630H

2 BY MS. TURNER:

3 Q. Mr. Ruzibiza, where do you see Colonel Bagosora as sitting in the military or government hierarchy in
4 Rwanda before the assassination of President Habyarimana? How much power did he have?

5 A. All I know is that he was *directeur de cabinet* in the ministry of defence, but regarding his power or
6 influence, I am unable to assess that.

7 MR. PRESIDENT:

8 Is there more to achieve from this witness? I don't think so. Do you want to consult with lead counsel
9 concerning the two remaining questions overnight and then we can hear Mr. Ogetto or Mr. Otachi now,
10 then you can come back tomorrow morning, if needed?

11 MS. TURNER:

12 Very well.

13 MR. PRESIDENT:

14 Thank you very much, Ms. Turner.

15

16 Next Defence counsel?

17 MR. OGETTO:

18 Thank you, very much, Mr. President.

19

CROSS-EXAMINATION

20 BY MR. OGETTO:

21 Q. Good afternoon, Mr. Witness.

22 A. Good afternoon, Counsel.

23 Q. First of all let me thank you for having the courage to come and give testimony before this Tribunal and
24 discuss this very important issue. Let me thank you very much for accepting to meet with the
25 Nsengiyumva Defence before coming to testify.

26 A. Thank you, also.

27 Q. Now, I'm going to seek a number of clarifications based on the testimony that you gave this morning
28 and in the afternoon, and also based on the book that you've written, and also further based on the
29 statements that have already been exhibited in this Court. In the morning, during questioning by my
30 learned colleague, Professor Erlinder, you spoke about the killings in Kabatwa, Mutura *commune*,
31 sometime in 1993. Do you recall?

32 A. Yes.

33 Q. You stated that you could not recall the exact date when these killings took place. Is that correct?

34 A. That is correct, but I remember the conduct of that operation.

35 Q. Now, do you think it would have been during the night of 29th to 30th of November 1993?

36 A. I believe that is correct.

37 Q. You recall that you have also discussed this issue in your book?

- 1 A. Yes.
- 2 Q. Now, did you witness these killings that took place on the 29th to 30th of November 1993 in Kabatwa?
- 3 A. I was not an eyewitness to those killings. It is my colleagues who carried out that operation who
4 informed me about it. We were divided into two teams, and one of the teams had gone for a similar
5 operation, and we discussed it after our return.
- 6 Q. But you have information regarding the perpetrators of these killings, is that correct?
- 7 A. Yes, I know the perpetrators of that massacre, and that is why I wrote about it in my book. And this is a
8 very serious accusation.
- 9 Q. And you have actually given the names of the perpetrators of these killings in your book, is that correct?
- 10 A. Yes, I mentioned the names of the perpetrators of those massacres.
- 11 Q. And these perpetrators of these massacres were RPF soldiers, is that correct?
- 12 A. It is true they were members of the RPA and belonged to the Charlie unit, which was operating out of
13 Butaro.
- 14 Q. Do you have any information if these perpetrators of these massacres received an order to commit the
15 massacres?
- 16 A. I'm not in a position to explain any order that might have been given, because I was not present during
17 that briefing. What I know is that the operation was led by the assistant or the deputy commander of
18 the unit. I do not know whether the order was given by the commanders of the unit. So, in short, I do
19 not know where the order came from.
- 20 Q. Do you know the objective of these massacres? Why were civilians massacred on this particular
21 occasion?
- 22 A. This would be speculation. It is only with hindsight that I carry out an analysis, and it seems to me that
23 it was a way of creating chaos and in view of resuming hostilities. So in Kabatwa Tutsis were killed,
24 and it was an excuse to resume the war, which made it easy for the RPA to accuse the government
25 army. So it was an excuse to resume the war.
- 26 Q. In your book you said that the killers at Kabatwa on that occasion used *Interahamwe* methods to kill
27 their victims. Do you recall that?
- 28 A. Yes, that is what I said.
- 29 Q. Can you please explain what you mean by that?
- 30 A. The *Interahamwe* used great violence to kill people. They slashed them, set their houses on fire, and
31 they wore civilian clothing. That was the same thing that the perpetrators of that massacre did. On that
32 occasion most of the people killed were Tutsis, and at that time no one believed that any other people,
33 other than the *Interahamwes*, could kill Tutsis. So the operation was organised in such a way as to
34 make believe that it was the *Interahamwes* who were the perpetrators.
- 35 Q. Do you know that after these killings the MRND and CDR were blamed for the killings?
- 36 A. I am aware of that. That is how it happened. The victims were Tutsis, and at that time each time Tutsis
37 were killed the MRND and the CDR were accused, so they were the ones who took the blame after that

- 1 massacre.
- 2 Q. Do you have any information if the RPF or the RPF, for that matter, had a hand in the propaganda
3 regarding the killings in Kabatwa?
- 4 A. This massacre happened towards the end of 1993. The preparations for the war were almost at their
5 conclusion. The government was going to be installed, and the RPF was looking for an opportunity to
6 begin the war. The RPF did not believe in the accords. So, as far as I am concerned, this was a
7 political strategy to resume the war.
- 8 Q. Now, you also talk about political assassinations and you mentioned Gatabazi, Gapyisi and Gatumba,
9 is that correct?
- 10 A. Yes, I answered that question when Professor Erlinder put that question to me.
- 11 Q. Now, let's talk about Gatabazi for a start. In your book you have given a date when he was killed, and
12 you have said it was either the 21st of February or 22nd of February 1994. Is that correct?
- 13 A. Correct.
- 14 Q. And you have actually mentioned in your book the people who killed Gatabazi?
- 15 A. Yes.
- 16 Q. Is it true that they were soldiers of the RPF?
- 17 A. It is true.
- 18 Q. Could you please clarify, what was the objective of killing Gatabazi?
- 19 A. It boils down to the same thing, politicians were killed and it was made believe that it was due to the
20 differences between them and President Habyarimana. They claimed that President Habyarimana was
21 responsible for those killings, and that was an excuse to resume the war. The RPA wanted to re-launch
22 the war; otherwise, we had no problem with Gatabazi.
- 23 Q. How did you get the information regarding the killing of Gatabazi?
- 24 A. Gatabazi was killed by soldiers belonging to the same group as myself, and which group was known as
25 network. I belonged to a sub-group responsible for reconnaissance, while others were carrying out
26 assassinations. Some of those soldiers lived with me in the same house, and they are the ones who
27 told me that information.
- 28 Q. And regarding Gapyisi, you have also discussed the killing of this person in your book?
- 29 A. I talked about it, but I was not an eyewitness, considering that I had not yet arrived at Kigali. This is
30 information that was given to me by third parties. He was killed in 1993.
- 31 Q. And who gave you the information regarding the killing of Gapyisi?
- 32 A. I guess that I got that information from Ngabonziza, who killed him, and this person died on the first day
33 of the resumption of hostilities, that is on the 7th of April 1994 and his name was Ngabonziza.
- 34 Q. Can you please spell that name?
- 35 A. N-G-A-B-O-N-Z-I-Z-A, and his first name was Charles.
- 36 Q. And this was a soldier of the RPF?
- 37 A. Yes, he was a member of the RPA and he was a soldier of the 3rd battalion. He died on the first day of

- 1 the fighting.
- 2 Q. And do you know why Gapyisi was killed, any explanation?
- 3 A. Except I carry out a personal analysis, that is I can give my personal opinion, but it was said that the
4 RPA was indicating that they wanted to take over power by force of weapons, whereas the RPF wanted
5 to have power through negotiations. So, according to them, the RPF wanted to have power all to itself,
6 and that is the reason why he was assassinated.
- 7 Q. And do you know that the Habyarimana regime was blamed for the murderer of Gapyisi?
- 8 A. Even though the RPA murdered him as an enemy, the victim was also in conflict with Habyarimana.
9 That is why responsibility was attributed to Habyarimana.
- 10 Q. Now, in the morning during questioning by my colleague, Professor Erlinder, you spoke about civilians
11 who were given political and military training by the RPF. Do you recall?
- 12 A. Yes, that is what I said.
- 13 Q. And you said that at the end of the training session these people were given weapons and you
14 specified that these weapons were pistols or served the same. Do you recall that?
- 15 A. I recall having said that, but I also pointed out that it was not everyone who received the weapons.
16 Q. So what was the criteria of giving out these weapons, if not everyone received?
- 17 A. The weapons were given to the most trusted elements, and those who were in charge of the training
18 became aware of this, as their training went on, and, in fact, amongst those who received the training,
19 there were some who were afraid and who could not dare to go into the country bearing weapons.
- 20 Q. And you say that after their training these people went back to their homes within Rwanda, is that
21 correct?
- 22 A. That is correct.
- 23 Q. Are you in a position to estimate the number of civilians who were given this political and military
24 training by beginning of 1994?
- 25 A. From which date, Counsel?
- 26 Q. How long did this training take? When did they start, that training, can you recall?
- 27 A. The training that was given to the leaders had also taken place. Secondly, when people from inside
28 Rwanda started coming out, and that happened from mid-1993 to early 1994, people received that
29 training. So, if I had to make an approximation, I would say that between 300 and 400 people received
30 that training and returned to Rwanda. That is the answer that I can give you.
- 31 Q. And those would be the people who were trained between 1993 and early 1994?
- 32 A. I believe that that is the number that I can approximate for you.
- 33 Q. Was there such training before 1993?
- 34 A. Such training existed in 1992, but it was not given to those who were coming from inside Rwanda,
35 because those people did not have access to the training centres of the RPF.
- 36 Q. What was the ethnicity of the people who were trained? Can you recall?
- 37 A. They were both Hutus and Tutsis.

1 Q. In equal numbers?

2 A. I am not in a position to give you a precise answer to that question. We could look at people physically,
3 but we did not ask them for their ethnicity.

4 Q. And you know how these people were recruited? What was the basis for their recruitment? Any
5 criteria?

6 A. The people who had to receive RPF training were recruited by cells started throughout the country, and
7 when they were in large numbers, they knew how to lead them to the RPF areas. And they were taken
8 there while the others returned to Rwanda.

9 Q. What do you mean by "cells throughout Rwanda?" Can you please give us more details?

10 A. When I talk about cells, I am referring to a person, for example, who was affiliated to the RPF ideology,
11 and who attracted other people, and who was assisted by others. These cells existed throughout the
12 country, and specifically in Kigali town.

13 Q. Are you in a position to approximate the number of cells that existed throughout Rwanda during this
14 period?

15 A. I do not know.

16 Q. And what was the function of these cells? Why did they exist, and why were they created?

17 A. The main purpose of the cell within the RPF was to recruit members into the RPF. There was also the
18 need to carry out fund raising amongst the members, and to generate resources. People were also
19 recruited into the cells as accomplices of the RPF, and they were also responsible for disseminating the
20 RPF ideology at the various locations.

21 Q. Now, these activities, were they carried out in the open or were they done in a clandestine manner?

22 A. These activities were top secret. However, in early 1994, when the RPF or the RPA leaders were
23 accepted inside the CND, some of the members of the RPF, as well as members of its cells, started
24 operating publicly and it became clear that there were RPA sympathisers operating clandestinely in the
25 country but who later on went public.

26 MR. OGETTO:

27 Mr. President, can I ask two questions, then we can adjourn?

28 BY MR. OGETTO:

29 Q. You stated -- I don't know whether I understood you well -- you stated that at some point in time some
30 of these people who had been trained, given political and military training, at some point in time, when
31 they went back home, they would throw the net at members of the public. Do you recall saying that?

32 A. You have to avoid using that information the way you like, because the weapons and grenades were
33 given for purposes of their own protection, but when it was necessary to create confusion, one of those
34 people could throw a grenade and the RPA knew why such grenades could be thrown.

35 Q. So, do I understand you to be saying that apart from the pistols that they were given, these people were
36 also given grenades, for their self-defence? Is that your testimony?

37 A. There was a limited number of people who were given pistols in relation to those who had grenades.

1 The grenades were more numerous.

2 Q. And how did they get these grenades?

3 A. Before the 600 members of the RPA were allowed to go to the CND, those grenades had come from
4 the areas controlled by the RPA. And when those soldiers arrived at the CND, they distributed those
5 grenades in collaboration with the members of the cells. The distribution also took place through the
6 other members of the RPA who were outside the CND, such as ourselves.

7 MR. OGETTO:

8 Mr. President, we can adjourn, I think.

9 MR. PRESIDENT:

10 All right, we have heard four different teams today. How much is left of your cross-examination,
11 Mr. Ogetto?

12 MR. OGETTO:

13 I think another 45 minutes to one hour.

14 MR. PRESIDENT:

15 Based upon what you have here so far, how much time does cross take?

16 MR. RASHID:

17 Mr. President, Your Honours, I think I will be less than a couple of hours.

18 MR. PRESIDENT:

19 And what is the cross of D1133?

20 MS. GRAHAM:

21 DH133, less than a couple of hours.

22 MR. PRESIDENT:

23 So, we may be able to finish both witnesses by one o'clock tomorrow then. All right, tomorrow morning
24 we will not be sitting in Laity Kama courtroom, so we meet here tomorrow morning at 8:45. The Court
25 is adjourned.

26 *(Court adjourned at 1703H)*

27 *(Pages 79 to 84 by R. Lear)*

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CERTIFICATE

We, Jean Baigent, Rex Lear, Judith Baverstock, and Kirstin McLean, 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.

Jean Baigent

Rex Lear

Judith Baverstock

Kirstin McLean