

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

CASE NO.: ICTR-00-55C-T
CHAMBER III

THE PROSECUTOR
OF THE TRIBUNAL
v.
ILDEPHONSE NIZEYIMANA

MONDAY, 9 MAY 2011
0909H
CONTINUED TRIAL

Before the Judges:

Lee Gacuiga Muthoga, Presiding
Seon Ki Park
Robert Fremr

For the Registry:

Mr. Nouhou Madani Diallo
Mr. Issa Mjui

For the Prosecution:

Mr. Drew White
Ms. Kirsten Gray
Ms. Yasmine Chubin
Ms. Zahida Virani

For the Accused Ildephonse Nizeyimana:

Mr. John Philpot
Mr. Cainnech Lussiaà-Berdou

Court Reporters:

Ms. Deirdre O'Mahony
Ms. Eleanor Bastian
Mr. Haruna Farage
Ms. Kelly Surina
Ms. Sherri Knox

I N D E XWITNESSFor the Defence:

DÉOGRATIAS BASESAYABO

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Cross-examination by Ms. Gray.....20

EXHIBIT

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PROCEEDINGS

1

2 MR. PRESIDENT:

3 Good morning, everyone.

4

5 I'm not sure I'm wired. Can someone speak.

6 MR. WHITE:

7 Good morning, Your Honours.

8

9 For the record, my name is Drew White, counsel on behalf of the Prosecution. I know we are just doing
10 a test of the audio here, hoping that everyone can hear me.

11 MR. PRESIDENT:

12 I think I can now. Yes. Thank you.

13

14 So today is the commencement of the Defence case. And we hope that the Defence is ready to push in
15 their witnesses. But before they do so, I would like to remind everyone that we have six weeks to get
16 the job done, to get the Defence in, and that I would like to clarify a few things.

17

18 Now, we -- I -- I do hope there is -- the Defence has informed the Prosecution of the order of the -- the
19 calling order of the witnesses.

20

21 Is that the case, Mr. Philpot?

22 MR. PHILPOT:

23 Yes. And I would like to address the issue of order of witnesses. I'm listening to you attentively, and I'd
24 like to address it afterwards because --

25 MR. PRESIDENT:

26 If you would, then let's take the appearances and then get on record.

27

28 Mr. White, what is your team today?

29 MR. WHITE:

30 Good morning, Your Honours. Again, for the record, my name is Drew White. I'm appearing as
31 counsel on behalf of the Prosecution. And appearing with me today are a number of team members.
32 I'm going to introduce them all to you. You won't see them all day every day, but you will see these
33 faces come in and out throughout the session. So I wanted everyone to come this morning so that I
34 could introduce them to you because some of them are new faces.

35

36 Assisting me as co-counsel, as usual, will be Madam Kirsten Gray; also, Yasmine Chubin, sitting to my
37 right; and Zahida Virani, sitting immediately behind me to my left.

1 Our case manager is Astou Mbow, sitting directly behind me. And we also have the assistants -- the
2 trial supportive assistants of Mr. Jean-Baptiste Nsanzimfura, who is to my far right. We also have some
3 pro bono lawyers assisting us in this session, and I'll introduce them to you now. On the back bench to
4 the far right in blonde is Brittany Conkle of the University of Pennsylvania and a member of the
5 Pennsylvania bar. And to her left is Catherine Matasha, a graduate of the University of Dar es Salaam.
6 We are missing today the familiar face of H el ene Moenback, but we expect she will return later this
7 week.

8
9 And with respect, that's the appearances for the Prosecution for this session. Thank you.

10 MR. PRESIDENT:

11 Defence.

12 MR. PHILPOT:

13 Good day, Your Lordships. Many of the faces you are aware of; however, I will list the people present.

14
15 Appearing for the Defence is myself, John Philpot, lead counsel; Cainnech Lussia -Berdou, co-counsel;
16 Valens Hahirwa, investigator; Leopold Nsengiyumva, assistant; and we have S ebastien Chartrand, who
17 will be coming and going and is outside the room today, right now. We have an intern named
18 Maud Letay who was here a few minutes who has left. And we have Myriam Bouazdi, an assistant,
19 who will be with us. And I don't think I have forgotten anybody. Thank you.

20 MR. PRESIDENT:

21 Thank you.

22
23 Let's now get back to the issue of the order of the -- the calling order. You said you would want to say
24 something about it.

25 MR. PHILPOT:

26 Yes. I have -- I have copied all the correspondence to Madam Ku, okay. And I won't go into the
27 details, but as of last Tuesday where there was a problem which has been resolved, I think, of -- for
28 which we have no responsibility whatsoever. And the order has been distributed rather repetitively. As
29 I received news I informed the Prosecution and your assistant, Your Lordships. And as I -- I will tell -- I
30 think Mr. White has received everything, but just to be sure he has -- has, we have
31 D eogratias Basesayabo, who is here this morning. We have MOL -- Mr. Hahirwa will testify tomorrow
32 afternoon or Wednesday morning, because we had some documentary problems with printing on the
33 weekend. We have MOL08, who is present. We have Jean Ghiste, who is almost present in the sense
34 that he's in his hotel, and WVSS is aware of his having to be brought here. So we have a good chance
35 of doing three witnesses today.

36
37 We have BUV02, who I presume will be here tomorrow. We'll see, but he's -- he's present. We have

1 CBN20, who will, I understand, waive his protection eventually. And we have Etienne Mutabazi, who I
2 understand is flying from South Africa on Wednesday night and I presume will be available after -- on
3 Thursday afternoon. We also have two prisoner witnesses who informed us on Friday that they wish to
4 have their lawyers present. Your assistants received information to that question that we are in
5 contact -- I'm in personal contact with the lawyers of both Mr. Ndayambaje and Mr. Ntabakuze. And
6 there will be some things to settle with the presence of these lawyers which I understand is their right.

7
8 And the question I was wondering about, which we can discuss or settle, is whether they should be
9 brought in here officially to say they want their lawyers or whether the Court takes this as a fact,
10 because I had them scheduled for later this week.

11
12 As for the second, third and fourth weeks, the Prosecutors received a list and an order, which may
13 fluctuate, and we are meeting with WVSS today at about two during the lunch break to finalise certain
14 issues. We've received since last Wednesday -- or last Tuesday afternoon, last Wednesday, excellent
15 support from WVSS, and there will be some fluctuation in the order for the second -- for the -- above all,
16 the third and fourth week, I think there will be, but we will endeavour to inform the Court and, of course,
17 the Prosecution, very promptly.

18
19 The bit of confusion is regrettable. I don't apologise for it because I had no responsibility for it, but we
20 are trying to resolve it. I also wish to inform the Court that it is our intention to complete within the time,
21 and we're quite optimistic to that effect, barring unforeseen circumstances, which I do not -- I do not
22 foresee them.

23
24 Thank you.

25 MR. PRESIDENT:

26 Thank you.

27
28 Now, with regard to the two UNDF witnesses, our direction is that, of course, we -- we know it's their
29 right to have counsel, but that is a right to be exercised independent of us. So when it is their time to
30 call them, they will come here, and hopefully they will advise their counsel to be present at that time.
31 So you need to engage with them so that their counsel knows when or about when they might be called
32 in to testify, because, obviously, they must be able to accommodate that counsel -- counsel's
33 programme for action.

34
35 In respect of the one who is in the process of changing counsel, I think we would be duty-bound, I think,
36 to allow the time necessary for that to happen before asking him to come in.

37

1 MR. PHILPOT:

2 I'm aware of your concerns. I assure you that I have begun -- as of Saturday, I have spoken to the
3 counsel involved, and I've also informed the registry of the issues at stake and assume that this will be
4 done quickly.

5
6 My question, Your Lordship, is: The two prisoner witnesses had been scheduled to come in this week,
7 and possibly your assistant can tell us during the -- after the break whether we should have them come
8 in and say, "I want my counsel", or is that an artificial -- we know they want counsel; I assure you they
9 want counsel. If you take my word for it, that's enough.

10 MR. PRESIDENT:

11 I do know that they want counsel.

12 MR. PHILPOT:

13 Right.

14 MR. PRESIDENT:

15 And I also know that the jurisprudence says yes, they are entitled to counsel.

16 MR. PHILPOT:

17 Of course.

18 MR. PRESIDENT:

19 So it's merely an issue which doesn't become an issue until they are here with us and they are saying,
20 "We want counsel, we have said so, but we have been unable to get counsel." That is one -- that is the
21 only way it can arise.

22 MR. PHILPOT:

23 Well, I'll discuss with your assistant during the break, and we'll resolve that without discussing that in
24 court, if it's okay -- if it's all right with you.

25 MR. PRESIDENT:

26 It is all right.

27
28 The next item which I would like to illuminate is the issue of the outstanding disclosure motion under
29 16(B) which I -- was filed by the Defence on the 19th of April. I -- I do hope there will be cooperation in
30 getting all the matters that require to be disclosed, to be disclosed without the need to use any
31 persuasion.

32 MR. PHILPOT:

33 I understand this has been resolved, unless there are materials we do not have yet. If the Court
34 renders an order, that's fine. It would be -- wish -- I would be pleased. However, we are not -- I don't
35 think we're in a dispute here unless other materials come into the hands of the Prosecutor.

36
37 As for reciprocal disclosure, it is complete, but a couple of days ago we received some new material

1 which my colleague is going to hastily disclose to the Prosecutor if it's not been taken to the registry as
2 yet. But we have -- and I informed my colleague in writing that we had given, at the time of the writing
3 of the letter, our -- all our reciprocal disclosure. There now is more, and Mr. Lussiaà-Berdou is handling
4 that expeditiously.

5

6 Correct?

7 MR. PRESIDENT:

8 And Mr. White nods to that.

9 MR. WHITE:

10 If it please the Court, just as a semantic matter, it always seems to be presumptuous to refer to
11 disclosure as being complete because it's an ongoing obligation, and there's always materials that
12 come in. I can advise the Chamber that the Prosecution's investigations and efforts to acquire material
13 and documents, and in particular Gacaca records, are still underway and ongoing. We haven't given up
14 on acquiring more materials. And as materials are acquired, we'll be providing those to the Defence.

15

16 I understand my learned friend's position with respect to the reciprocal disclosure obligations. The
17 Prosecution is less certain that those obligations have been satisfied, particularly with respect to the
18 potential existence of statements. But having said that, I'm not about to try and make an issue of it at
19 this stage of the proceedings. If it does become an issue, I'll draw it to the Court's attention. But I'm not
20 acquiescing to the notion that there's nothing else that we may be asking for, and I'm conceding that
21 there will be more materials forthcoming from the Prosecution.

22 MR. PRESIDENT:

23 Yes. All -- all that the phrase "disclosure is complete" means is that as far as -- as far as we go now,
24 and what -- what is disclosable and what is available for disclosure has been disclosed. But that
25 doesn't mean that what comes tomorrow is not liable to be disclosed or to be disclosed as soon as it
26 comes because the disclosure process continues.

27

28 Yes, Mr. --

29 MR. LUSSIAÀ-BERDOU:

30 I can phrase it another way and just state that every document and other evidentiary material that the
31 Defence intends to use at trial has been communicated to the Prosecution as of today with the caveat
32 of the few documents that were acquired over the weekend. Thank you.

33 MR. PRESIDENT:

34 Good.

35

36 Well, we will be sitting Monday to Thursday, this session.

37

1 As you may be aware, we -- towards the end in completing some other trials which both Judge Park
2 and myself were involved in, and they required to be -- make Friday available for the completion work
3 with respect to those trials. So I would like us to organise our time on the basis that we will only sit on
4 Friday when it -- when exceptional circumstances call for it. Otherwise, the schedule, it should be
5 Monday-Thursday.

6
7 I would like also to ask all parties -- all -- all parties concerned with running this trial, meaning the
8 registry, WVSS, the translators, reporters, ourselves, our -- our officers and everybody else, to please
9 do what you can to ensure that we run expeditiously and as economically timewise as it is possible to
10 do. The Bench will endeavour to assure that this happens to the best of its ability.

11
12 And I know we have had excellent cooperation between the parties and the Bench in the last session.
13 And I know this will continue, and I urge that it continues so that we can discharge our obligations
14 without any difficulties.

15
16 I think now, Mr. Philpot, if your witness is in the neighbourhood, they can come to the witness box.

17 MR. PHILPOT:

18 Fine. Well, he can come. And he's not protected.

19 MR. PRESIDENT:

20 Good.

21 *(Witness entered courtroom)*

22 MR. PRESIDENT:

23 Mr. Déogratias Basesayabo, good morning.

24 THE WITNESS:

25 Good morning.

26 MR. PRESIDENT:

27 How are you? Did you sleep well?

28 THE WITNESS:

29 Yes, indeed.

30 MR. PRESIDENT:

31 Good. You are going to be giving evidence in this trial, and you will be sworn to tell us the truth, the
32 whole truth and nothing but the truth. After you are sworn, I want to request that you answer questions
33 that are put to you first -- in the first place by Mr. -- the Defence and, subsequently, by the Prosecution.
34 Answer them. Keep your microphone at a distance good enough for it to be picked, and remember to
35 allow a little while -- a little time between the question and the answer so that translation can take place,
36 because these proceedings are being recorded and are being translated into the three languages of
37 the -- of the Tribunal.

1 Do you hear me?

2 THE WITNESS:

3 Yes, I hear you.

4 MR. PRESIDENT:

5 And you understand what I am saying?

6 THE WITNESS:

7 Yes, I have understood you.

8 MR. PRESIDENT:

9 Thank you. Please swear the witness.

10 *(Declaration made by Déogratias Basesayabo in French)*

11 MR. PHILPOT:

12 May it please the Court if we commence? Or is there --

13 MR. PRESIDENT:

14 Mr. Philpot, are you -- are you waiting for me to do anything?

15 MR. PHILPOT:

16 I'm waiting for your permission to start. But I saw someone moving around. But I'll start now.

17 MR. PRESIDENT:

18 Yes. Please start.

19 MR. PHILPOT:

20 Thank you.

21 DÉOGRATIAS BASESAYABO,

22 first having been duly sworn,

23 testified as follows:

24 EXAMINATION-IN-CHIEF

25 BY MR. PHILPOT:

26 Q. So, sir, the registry will exhibit to you a --

27 MR. PHILPOT:

28 Does he have it already, Mr. --

29 BY MR. PHILPOT:

30 Q. You have it in front of you, a document which is called a -- in French, it's a personal information sheet,

31 and you're French speaking, so would you please read it, sir. I know you've seen it already, so is it

32 exact?

33 A. Yes, the information is correct.

34 Q. Would you please sign it. And you can give it to the registry.

35 MR. PRESIDENT:

36 We will enter this as -- the PIS is entered as Defence Exhibit No. 1 -- number what?

37

1 MR. PHILPOT:

2 No. It's around 17, I think, Your Lordship.

3 MR. PRESIDENT:

4 Seventeen?

5 MR. PHILPOT:

6 I'm not sure. To be honest, I don't know the number. The registry will know the number.

7 MR. PRESIDENT:

8 Somebody should know the number.

9

10 Mr. Registrar?

11 MR. DIALLO:

12 The number is D. 23.

13 MR. PRESIDENT:

14 Twenty-three?

15 MR. DIALLO:

16 Yes.

17 MR. PRESIDENT:

18 All right. We will accept the registry's assertion and call it Exhibit D. 23. Thank you.

19 *(Exhibit No. D. 23 admitted)*

20 MR. PHILPOT:

21 So --

22 MR. PRESIDENT:

23 Proceed.

24 MR. PHILPOT:

25 -- I did inform my colleagues --

26 MR. PRESIDENT:

27 Is there some problem on the Prosecution side?

28 MS. GRAY:

29 Good morning, Your Honours. There is a slight variation. We have the -- the English document, which
30 has got the registry number 3575. So if we could just have a copy of that when the registry has a -- has
31 a moment.

32 MR. PHILPOT:

33 Well -- yeah, fine. Well, the exhibits will be distributed, of course.

34

35 I was going to say to my colleague, I'm going to start off leading. As soon as you want me to stop, just
36 raise your hand. So we want -- I'm not trying to lead evidence which is at issue.

37

1 BY MR. PHILPOT:

2 Q. So, sir, you're Rwandan, and you were living in Butare in 1994; is that correct?

3 THE ENGLISH INTERPRETER:

4 Microphone is off.

5 MR. PRESIDENT:

6 Please put on --

7 THE WITNESS:

8 Yes. Yes, I confirm that.

9 BY MR. PHILPOT:

10 Q. And you were medical -- a medical intern of a sort, were you not, sir?

11 A. I was an intern, because I was doing medicine, and I was in my last year.

12 Q. And you were married at that time, were you not?

13 A. Yes, I was married. And I had one child.

14 Q. Now, where were you working on a day-to-day basis in 1994?

15 A. Normally throughout the year I was an intern at the Butare university hospital, so I was at the same
16 hospital at that time.

17 Q. And where was your residence at that time?

18 A. I was living in Cyarwa Sumo *secteur*, Ngoma *commune*.

19 Q. Where is that in relation to Tumba? T-U-M-B-A.

20 A. Cyarwa Sumo was located between the Tumba *secteur* and Ngoma town. So we were between the
21 campus and the Tumba *secteur*.

22 Q. Where were you on 6th April 1994, of course?

23 A. On the 6th of April 1994 I was at home.

24 Q. When did you find out that the president was assassinated?

25 A. I heard about it on the 7th in the morning on the radio.

26 Q. Did you go to work on the 7th?

27 A. No. I remained at home.

28 Q. Did -- did you go to work on the 8th?

29 A. Yes. I think that I went to the hospital to see what was happening there with regard to our activities and
30 our internship.

31 Q. Fine. Did you commence working again full-time?

32 A. Initially the -- the internship programme stopped immediately. The situation was such that we had to
33 wait in order for the situation to be sorted out -- sorted out before knowing what we were going to do.

34 However, in the next few hours, we were asked not to go to our intern centre -- respective intern
35 centres and that we should make ourselves available to assist people who needed our services.

36 Q. Are you saying that you were, therefore, at the hospital?

37 A. Yes. I confirm that I spent most of my time at the hospital.

1 Q. All right. A small -- all right. Now, around April 15th, approximately, sir, what was the nature of the
2 patients in the hospital?

3 MR. PRESIDENT:

4 What does the question -- what does the question ask, "what is the nature of" --

5 MR. PHILPOT:

6 I'll explain. I didn't like my own word.

7 BY MR. PHILPOT:

8 Q. What type of patients did you have in the hospital?

9 MR. PHILPOT:

10 Thank you, Your Lordship.

11 THE WITNESS:

12 Around the 15th of April, we had ordinary patients who came to the hospital for typical diseases, which
13 were the normal cases at the hospital. However, from around the 15th, we started having more
14 wounded people who had been wounded at various points and who were brought to the hospital. Ours
15 was the only hospital which was still working at that time, basically. So from that time onwards, we also
16 started taking care of wounded people who had been victims of acts of violence committed in the town.

17 BY MR. PHILPOT:

18 Q. And these victims, what areas did they come from? Butare itself or the surroundings of Butare? Maybe
19 you could clarify, if you know.

20 A. There were victims from everywhere, particularly from Butare *préfecture*. There were people from Save
21 and the areas near the town and as well as from town. They are all categories of people. They are
22 people who had been seriously wounded and who required emergency intervention. Others had been
23 wounded, but they could be treated by intern doctors. So we dealt with the latter group of patients. The
24 seriously wounded patients were taken straight to operation -- operating theatres where surgeons who
25 were at the -- doctors at the university hospital treated them. However, not long after that, we heard
26 that we had to start treating soldiers who had been wounded in fighting, because, as I said, there was
27 only the university hospital which was operational in that whole area.

28 MR. PRESIDENT:

29 And other than these soldiers, you say, these other injuries, what kind of injuries were they? Injuries
30 inflicted with what, in medical terms?

31 THE WITNESS:

32 With regard to civilians, most of them had been hacked with bladed weapons and who luckily were
33 taken care of by doctors of *Médecins sans Frontières*; Doctors Without Borders. There was all sorts of
34 categories. There were people who had been disembowelled, who had their intestines in *tissus*. There
35 were patients who had all sorts of wounds that anyone can imagine. So you can imagine yourself the
36 situation which prevailed at the hospital at that time.

37

1 With regard to the soldiers, most of the soldiers who came there had been wounded by bullets. There
2 were soldiers who had come there amputated. Some were brought in a terrible state. That is why,
3 throughout the days, we were never idle.

4 MR. PRESIDENT:

5 With regard to the civilian, not the soldier category of your patients, the civilian category of your
6 patients, was there any -- were you able to identify their ethnic compositions? Was there any primacy
7 in that?

8 THE WITNESS:

9 With regard to the wounded patients, I think that most of them were Tutsis. But I would like to tell you
10 that in the south of the country, ethnic labels were not that obvious as some people might think because
11 some people could be described as Hutus; there were people who could be described as Tutsis who
12 came there as patients. But the majority of them were, indeed, Tutsis.

13 MR. PRESIDENT:

14 Proceed, Mr. Philpot.

15 BY MR. PHILPOT:

16 Q. Now, you had these two groups of patients. What was the atmosphere in the hospital?

17 A. At the hospital, the situation was tough. The hospital authorities were worried because they were
18 receiving patients without having the adequate resources to deal with the patients. We civilians
19 realised that the situation was very serious outside the hospital.

20
21 Up to that point, the -- that hospital was the safest place compared to other places at that time. Apart
22 from wounded people, we had to deal with people -- civilians who had moved -- who had been
23 displaced. And they were considered to be Tutsis, and, therefore, they felt threatened outside the
24 hospital. So the hospital became a sort of an asylum for those people because there were people who
25 were wounded in the hospital, but there were also people who were not wounded but who had sought
26 refuge there. So to describe the situation there, I can say that the situation was chaotic, and the
27 management of the hospital at that time was not easy.

28 MR. PRESIDENT:

29 And when you took histories from these witnesses, did they tell you how these wounds had been
30 inflicted on them?

31 THE WITNESS:

32 Yes, indeed. Many of them told us about attacks that had been carried out by local militiamen. There
33 were many fearful militiamen in the country. The most active in the south were militias known as
34 Abakombozi, who were the militia wing of the PSD party which was quite active in that area. So those
35 attacks were described to us. We were told that attackers would go from house to house
36 when -- where they suspected that they had members of the targeted group -- ethnic group. So most of
37 them were wounded in that context.

1 BY MR. PHILPOT:

2 Q. Sir --

3 MR. PRESIDENT:

4 Proceed.

5 BY MR. PHILPOT:

6 Q. -- we have heard testimony at the trial in the past of people being killed in some way or another at the
7 hospital. Is that -- could you -- could you explain if that happened, and if so, will -- you can describe
8 how it happened, sir.

9 A. Yes. I can confirm that, apart from the killings that took place in town, I identified three events which
10 occurred at the university hospital. I can describe them as three main events. The first event --

11 Q. I'm going to interrupt you, sir, just because I want to get the date, the approximate date from you, if you
12 remember the date.

13 A. The first event occurred on or around the 16th. One morning we got to the hospital, and we found that
14 the atmosphere was tense. Doctors did not want to -- did not want to put on their working gown --
15 gown -- attire. People were distressed, particularly hospital workers. So when we enquired about what
16 was happening, we were told that in the previous night there had been abduction of patients who had
17 been operated on on the previous day. And we had no explanation for those abductions. The head of
18 surgery department at that time, Dr. Gatera, sought explanations from nurses who were working in the
19 intensive care unit.

20
21 But before getting any explanation from a Tutsi nurse who had preferred working there on night duty
22 rather than go home -- so he remained at the hospital. He ate there, and he was there 24 hours a day.
23 The same nurse said that patients had been abducted at night by soldiers who had been hospitalised
24 but who were not very sick. So when those soldiers were being treated there, we noticed that they did
25 not want to return to the war front. They remained in the hospital, although they were not hospitalised
26 as such, and we didn't know what to do with them. So the nurse said that soldiers had come there in a
27 group and had abducted about ten patients. And those patients were found dead near the hospital.
28 They had been shot -- most of them had been shot dead. So Dr. Gatera, the doctor, realised that
29 things were really getting worse, whereas, up to that point, the hospital was more or less a safe place.

30
31 So before continuing our work, our contact person -- or, rather, the chief -- the head of the soldiers who
32 was dealing with the soldiers there was told by Dr. Gatera that if they did not stop abducting patients,
33 then he would take measures barring soldiers from being treated at the university hospital. So the
34 soldiers promised that they'd do their best to control their soldiers so that the abductions do not occur
35 again. So work continued normally after that.

36

37 One or two days later --

1 MR. PRESIDENT:

2 Who was head of the soldiers who was told that?

3 THE WITNESS:

4 I no longer remember his name. We were -- he was pointed out to us. We were told that he was the
5 contact person. But I think that the head of the hospital would be in a better position to answer that
6 question, because I do not really remember their names.

7 MR. PRESIDENT:

8 Proceed.

9 THE WITNESS:

10 If I can continue, the second event which we witnessed and which occurred there was the death of ten
11 nurses. One morning we got to the hospital and we noticed that there was an atmosphere of agitation
12 at the hospital because -- and we were informed that there was -- not ten, one nurse -- one nurse who
13 had been -- who had been an eyewitness to the first event had been attacked at night, and after a long
14 scuffle, she was stabbed to death. So it was only one nurse. Correction.

15
16 We had -- we heard testimony from patients who had witnessed the event, and they said that the attack
17 against that nurse had occurred at around 2 a.m. when the soldiers entered the hospital. And the
18 nurse's body was found in the mortuary. Once again, hospital authorities contacted the leaders of the
19 soldiers -- I'm talking about soldiers who were still hospitalised there -- and he told them the situation
20 was getting so bad that our cooperation could be halted. This time around the soldiers swore by all
21 gods that the perpetrators of that act, who killed the nurse, would be identified and punished, and they
22 swore that such occurrences would never ever happen again. So --

23 BY MR. PHILPOT:

24 Q. I would like to clarify one point with you, sir. My question is: The soldiers who killed the nurse, do you
25 know who they were?

26 A. That is what I tried to explain a while ago, but it was incomplete.

27
28 It is more the patients who give the testimony, the patients that this nurse was taking care of. They
29 confirm that it is the same soldiers who came. Among them, there were those who were still wearing
30 their bandage from their wounds. So -- or they came where they were -- the -- those who were
31 wounded from the combat. Among the soldiers who came, there were those who received the same
32 treatments and who were identified as the same group of soldiers who were hospitalised there earlier.

33
34 If I may proceed to the third event. There was some kind of lull up until around the 20th when still,
35 according to the testimonies of those who were present in the hospital, there was an attack of
36 militiamen who came from outside whom, in spite of the fact that following the second event, certain
37 measures had been put in place, including that there was a measure instituted that if any soldiers was

1 seen there after 2200 hours, he would be considered as suspect. So there was a curfew on the
2 soldiers.

3
4 So the same -- the group of soldiers stayed outside and the militia came -- kidnapped a number of
5 patients, abducted them, and they were also found killed. Some were outside the fence of the hospital.
6 So it is with this last event that Doctors Without Borders had started doubting the implementation of
7 security measures and started leaving.

8 MR. PRESIDENT:

9 And those -- those militias who were supposed -- who came and abducted people, they did so while the
10 soldiers were still around or outside the hospital, is that the case; or is it that the soldiers left the
11 hospital and left it unguarded?

12 THE WITNESS:

13 Well, I will say that, in fact, the hospital was never guarded by anyone. It was a place that was
14 respected. The soldiers who were there were on patrol for themselves. And I will say that they were
15 not tasked with the security of the hospital. On the contrary, I will say that they contributed to the
16 insecurity.

17
18 Now, when the militia attacked, the soldiers were still in the hospital since they remained there until the
19 last evacuation from the hospital when things were finished.

20 BY MR. PHILPOT:

21 Q. I'm just going to follow up on a question by Judge Muthoga. When you refer to soldiers, who are you
22 referring to? Please describe who they are.

23 A. Most of the soldiers who were hospitalised at the teaching hospital were troops from the
24 Presidential Guard. They were straight from the war front. Most of them had bullets still lodged in their
25 bodies. And some were evacuated elsewhere. But the university hospital had been requisitioned for
26 the troops of the Presidential Guard. But this did not exclude other persons. But I'm not able to be
27 more specific, because we were not in charge of these soldiers. Well, we took care of the soldiers in
28 terms of health, but in terms of their organisation, we were not aware -- we did not know about that.

29 JUDGE PARK:

30 Mr. Witness, you said you spent most of your time at the hospital. Around what time did you come to
31 the hospital, and did you leave the hospital, daily basis?

32 THE WITNESS:

33 I know I arrived at the hospital at 8 a.m. But I went home -- the time I left to go home depended on the
34 situation in the hospital. Sometimes I will stay up to 2200 hours, 2300 hours. Sometimes I will spend
35 the night there and go home at 4 a.m., 5 a.m. If there weren't too many patients coming in on that day
36 or if we had sufficient hands on board, then that would change the situation. So when I left to go home
37 would depend on the situation in the hospital on that day. I would go home if I realised that I could go

1 and the others were in agreement with me.

2 BY MR. PHILPOT:

3 Q. Fine, sir. So you mentioned the third event. What was the attitude of the soldiers in the hospital
4 towards this militia who you say came in? Or I might say: What was their relationship, if any, sir?

5 A. Taking into account testimony that we gathered, it was not all the soldiers; it was a band or a group of
6 soldiers.

7
8 And the third event -- during the third event, we tried to understand that they had taken measures.
9 They tried to -- not to treat them anymore. So they depended more on complicity. They stood by the
10 side. But other sources also mentioned the presence of the soldiers in the neighbourhood. It was the
11 militia that acted. They showed them how to act.

12 Q. And was this problem resolved at one time, sir?

13 A. Following the third event, people started understanding that things were deteriorating. We had --
14 several doctors had already fled because they were no longer -- they no longer felt safe in the hospital,
15 so some of them started fleeing. And towards the end, there were virtually no more doctors. They had
16 been discouraged by the fact that they are not able to afford security to their patients. So the bulk of
17 the work was in the hands of final year medical students.

18
19 Not only did the situation deteriorate in that manner, but the Doctors Without Borders also decided to go
20 to Bujumbura. They, however, left us the stock of equipment and medicine. The hospital atmosphere
21 became such that it is difficult to describe. Patients who had been treated and cured could no longer go
22 home. So there was some kind of dangerous cohabitation between those who were considered to be
23 killed and those who were still ill.

24
25 And since there was no security afforded by the security forces, people could go in and out. Patients
26 that had been treated and who wanted to go home, what -- which is what the hospital management
27 wanted, was the wish of the hospital management because they wanted those who were ill -- they
28 wanted to know those who were ill and know those who were cured and could go. So there were
29 people who were not on any record. So the patients could go out. Among the patients there
30 was -- there were rumours to the effect that some of them, realising that there was no more security,
31 were paying people who were assisting them to flee. So it was a terrific situation in a hospital.

32 Q. I'd like to ask you a question: After the third event of a killing of a large number of people, were there
33 any more large-scale killings, particularly after the departure of MSF, *Médecins sans Frontières*?

34 A. I do not recall any other event which lead to killings on a massive scale. But as I indicated earlier, it
35 was not uncommon for patients who were getting well and vanish from the hospital. It didn't bother us
36 if -- or, well, we -- we were not able to tell whether these people went home on their own volition or
37 whether they had been abducted.

- 1 Q. After the -- when did you -- just to clarify in -- the time, when did you leave Butare? I'm not asking you a
2 date. I'm asking you with respect to the arrival of the RPF.
- 3 A. I left Butare when a shell started falling in the neighbourhood of the hospital. That is when we
4 understood that the situation was complicated. At that point things were such that since all the doctors
5 and nurses had fled, the one who left -- the person who was the last -- who was the last to leave gave
6 instructions that all the patients should be sent out and that the hospital premises be locked up,
7 because he realised that it was becoming too dangerous to keep the patients there because there were
8 oxygen bottles. So it was dangerous to keep the patients there when there's nobody in charge. So
9 those last days when I left the hospital, I was there for the send-off of a friend who had been
10 hospitalised and who was -- whose -- who was operated upon -- whose intestines were operated upon.
11 So we could no longer stay.
12
- 13 So the shells were falling, and we had to flee. When we fled, the last patients -- the nurses realised that
14 we were leaving the hospital, so some of them followed us because they said that maybe they were
15 being followed. When they were catering for patients -- caring for patients and it got to a stage where
16 they can no longer carry on, they abandoned them and fled.
- 17 Q. I would like to ask you a couple of simple questions, sir. Were there Tutsi patients in the hospital up till
18 the end?
- 19 A. Yes, there were some until the end. Because even as I describe -- even though I describe things in
20 three stages, in relation to other places in town, the hospital remained a place where people felt just a
21 little bit safe. So there were those who stayed and even admitted that even if they die -- if they were to
22 die, they prefer to die in the hospital, because at least symbolically a hospital is a place where people
23 were cared for. So I confirm that up till the end there were still some.
- 24 Q. And were there Tutsi employees in the hospital up to the end?
- 25 A. Yes. There were some. For example, among the doctors doing the housemanship there were some,
26 also, good number of Tutsis among them. Among the nurses there were some. I would even say
27 many, because, as I said, when things got worse, the only place people could take refuge was in the
28 university hospital. So the -- there were rooms. They had rooms. It is not only the Tutsis who had
29 rooms, but the others as well. Everybody had a room, and that's until the end.
- 30 Q. I have another question for you, sir. We have heard evidence of rape in this hospital. Do you have any
31 knowledge of that, sir?
- 32 A. I did not hear anything about rapes committed within the hospital. I heard about it when I heard my
33 lawyers talk about the situation. But I never heard any testimony to the effect that there were rapes
34 committed in the hospital.
- 35 Q. Now, sir, did -- do you -- can you identify in Butare ESO students, and if so, how do you identify them?
- 36 A. The junior officers' academy was directly adjacent to the university hospital. So we could see them in
37 uniform exercising, and they would normally pass in front of the hospital on their way to exercise. So

1 we knew them, and it's easy to identify them. And those we saw -- or, rather, those I myself saw at the
2 hospital were mainly women, or let me say girls, who came at noon to bring food to the wounded
3 soldiers who were in the hospital. So at -- every noon we would see them pass by with their pots to
4 supply food to the soldiers.

5 Q. And did you see large numbers of ESO soldiers in the hospital?

6 A. To my knowledge, I do not recall seeing a single soldier, apart from those who came to -- who brought
7 food to the wounded soldiers. I do not recall seeing any group of soldiers invading the hospital. Not
8 even heard about -- I had not even heard about any such event.

9 Q. And from April until when you left in -- at the end, did you work -- how many days a week did you work,
10 sir?

11 A. Every day. It was every day, because I spoke about the Tutsi staff who stayed there. And even I
12 myself, being a Hutu, have found the hospital environment safer than my neighbourhood. Because
13 there were always things happening on the hills; there were revenge attacks and all sorts of things that
14 were happening on the hills. So I -- it was better for me to spend most of my time in the hospital
15 because then I could also -- I could keep myself away from those things happening on my hill in my
16 neighbourhood.

17 Q. I -- I just have a couple of small questions now, sir. Do you know where the maternity ward is in the
18 hospital or was at the time?

19 A. Yes. The maternity ward, I can say, is located to the south of the hospital. I don't know how to
20 describe that, but it was located to the southern part of the hospital. I can't say more than that.

21 Q. I'll ask you a question: From the maternity ward, can you see ESO?

22 A. Not at all. It was far. There was a distance of at least a hundred metres between the maternity ward
23 and the ESO, so it was not possible to see it from one -- to see the ESO from the other end.

24 Q. And which way was the maternity ward pointed, for lack of a better expression?

25 A. The maternity ward was close -- close to the -- the home of the male medical students, and from there
26 you get to the maternity, and then you get to the other wards like surgical ward, emergency ward. And
27 it is when you get out of that place that you see the non-commissioned officers academy which is
28 outside that place.

29 Q. Okay. Where's the kitchen, sir?

30 A. The kitchen was located right after the administrative building behind the stomatology department, so it
31 is somewhere to the middle. If we take the hospital as a clock, and if the administrative block is where
32 12 o'clock is -- is located, then 6 o'clock would be where the maternity is located. So it was somewhere
33 between 10/11, that is, within the hospital premises.

34 Q. And from the maternity, can you see -- sorry, my mistake, sir. From the kitchen, can you see the ESO?

35 A. From the kitchen you cannot see ESO, because, first of all, these are not storey buildings. They are
36 single-storey buildings, and then there is no continuity.

37 *(Pages 1 to 17 by Deirdre O'Mahony)*

1 1030H

2 BY MR. PHILPOT:

3 Q. Fine, sir, so I have -- I have no more questions for you.

4

5 Now, the lawyer from the other side will ask you questions and please answer any questions that they
6 ask you. And the Court may also ask you questions which I'd ask you to reply to, please. And thank
7 you very much.

8 MR. PRESIDENT:

9 Judge Fremr will first ask you the question.

10 JUDGE FREMR:

11 Thank you.

12

13 Mr. Witness, I would like to return back to that group of patients composed of wounded soldiers. First,
14 were they brought to the hospital with their arms or guns?

15 THE WITNESS:

16 When they were admitted to the hospital the condition was that they come without their weapons.

17 The first batch that came were soldiers who carry -- were not carrying any weapons. But there were
18 some soldiers who carried -- whom kept their weapons, saying that it was for their security or to
19 ensure the security of where their -- their troops who were hospital -- hospitalised. But in such cases
20 they had to declare the weapons to the hospital administration. So, there were some, but there were
21 very few of them who carried their weapons. Most -- most of the patients had no weapons.

22 JUDGE FREMR:

23 Those who did carry their weapons, where did they store them?

24 THE WITNESS:

25 We normally saw them going about with their weapons. Sometimes you see them without weapons.

26 What I saw is that they were -- the soldiers went about carrying their weapons.

27 JUDGE FREMR:

28 And the last question: Those wounded soldiers, what kind of clothes they wore during their
29 hospitalisation?

30 THE WITNESS:

31 Because they were brought directly from the war front, some of them came in their military uniform
32 and kept them on except for some who were operated upon, who had to wear other clothes. For
33 example, you could see somebody with a pair of trousers because they need to be identified so we
34 know who is a soldier and who is not. So most of them would keep their uniforms, not the full
35 uniforms sometimes only the pair of trousers of the military uniform or the top, but they always had
36 something to indicate that they were soldiers.

37

1 JUDGE FREMR:

2 Thank you, Mr. Witness.

3 JUDGE PARK:

4 Excuse me, one more question. You said there were some soldiers who carried their weapons to
5 ensure the security. Do you know where these soldiers came from?

6 THE WITNESS:

7 As I told you, we, staff members, were mostly occupied with treating the patients. And the
8 hospital leaders would be in a better position to know to which groups each convoy of soldiers who
9 came to the hospital belonged. At times, we were told that there were some from a garrison that had
10 been attacked somewhere, but we were not in a position to know from which camp or front they had
11 come. But, we simply saw them come there and we saw that they were mixed -- a mixed bunch,
12 because there were soldiers from various groups including the Presidential Guard.

13 MR. PRESIDENT:

14 Mr. Witness, as you went yourself from the hospital home and from home to hospital on various days
15 in Butare, did you see any roadblocks?

16 THE WITNESS:

17 Yes, there were two main roadblocks. In order to go home, I had to pass through a roadblock. I lived
18 behind the last president's residence. So, in order to go home I had to pass through a roadblock
19 every day. Then there was another roadblock at the entrance to the university. That roadblock had
20 not been there since the beginning of the event. It was set up after violence occurred at the campus.
21 And there were acts of violence on the campus, so students organised themselves in order to control
22 movement into and from the university in order to prevent further violence. So that is how that
23 roadblocks came to be set up in front of the university. Apart from those roadblocks, there were other
24 checkpoints in town. But since I did not go to town often I really cannot talk about those roadblocks.

25 MR. PRESIDENT:

26 And those roadblocks about whom -- which you saw yourself, and the others which you experienced,
27 can you tell us who was manning them?

28 THE WITNESS:

29 The roadblock near the president's residence was manned by soldiers of the Presidential Guard. I
30 forgot to tell you that there was another roadblock which was near ESO, the
31 non-commissioned officers' academy, which was manned by the non-commissioned officers'
32 academy. And then there was the roadblock near the university which was manned by students who
33 took turns at controlling the roadblock. So, that's how the manning of the roadblocks was organised.

34 MR. PRESIDENT:

35 Thank you.

36

37 Mr. White.

CROSS-EXAMINATION

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MS. GRAY:

Yes, may it please the Court.

BY MS. GRAY:

Q. Witness, you've been asked a number of questions about roadblocks. Is it correct that you would've gone through a number of roadblocks during the course of the genocide when you travelled from home to work at the hospital?

A. Yes, I mentioned the roadblock near where I lived. I used to pass through that roadblock in order to get to the hospital. But, apart from that roadblock, there were no other checkpoints on my way to work.

Q. Well, did you pass through the roadblock by the university?

A. I passed through that roadblock once, when I went to the university campus in order to go and get some food for my family. There was a small banana field which was near there so I went there in order to get some vegetables. That was the only time that I went to the university campus at that time.

Q. So you're telling us there was one roadblock that you would have to pass through on a daily basis, correct?

A. That is correct.

Q. Did you ever see anyone -- any Tutsis being killed at that roadblock during the genocide?

A. I did not see any massacre at any of the roadblocks, because I'd pass through the roadblock in the morning going to work, and in the -- and, once again, going back home. So, I did not see any killings at that roadblock.

Q. Did you ever see any Tutsis being beaten up at roadblocks during the hundred or so days that you passed through roadblocks?

A. No.

Q. Did you see those manning the roadblocks checking identity cards of people passing through?

A. Yes, certainly, that was the purpose of the roadblocks. In other words, to check who was passing through them going where. So there was a roadblock at the -- the roadblock in front of the president's residence they would not allow someone who did not live in that area to pass through the roadblock. So they would ask anybody passing through there where he was going to. So the purpose of the roadblock, just like the roadblock in front of the campus, was to provide security to those area -- respective areas.

I was told that someone who was not a student could not go onto the campus without explaining why he or she was going to the campus. So that was the main reason for the roadblocks, in order -- in other words, to find out who was going where and to do what. In the -- at the roadblock near my house, initially they asked me to show them my identity card. But, after that, since they knew that I

1 was a medical intern, they would allow me through. All medical interns were told to -- to wear our --
2 our hospital gowns. And so the people at the roadblocks would see us, and would, after that, not ask
3 us to show our identity cards. But, initially, I had to show them my identity card showing that I was an
4 intern.

5 MR. PRESIDENT:

6 And, Mr. Witness, how far was your home from the hospital?

7 THE WITNESS:

8 The distance was about 600 metres between my home and the hospital. But that's just an estimate.

9 MR. PRESIDENT:

10 And would you walk the distance or would you drive it?

11 THE WITNESS:

12 I walked.

13 MR. PRESIDENT:

14 And when you walked at 22 hours or 23 hours or 4 a.m., as you said in your testimony, what kind of
15 lighting did you have?

16 THE WITNESS:

17 There's one point which I did not clearly explain. People who were interns residing outside the
18 hospital, for security reasons, were given rooms -- for medical interns. So, I had a room in -- in a
19 hostel. So if I was tired and when it was very dark at night I would spend some days in that room.
20 So, it's only when I was sure that I could walk safely -- and the streets in town -- then I would go
21 home.

22

23 So, if I had to go home at night, then I would have to seek assistance from one of my acquaintances.
24 For example, amongst the soldiers there was a secondary school classmate of mine. So when I had
25 to go home urgently, and if I deemed that the roads were not safe, I would ask him to accompany me.
26 And on one or two occasions he accompanied me. But, otherwise, I would arrange to make sure that
27 my working hours actually were suitable to my movements.

28 MR. PRESIDENT:

29 So it's fair to state that you didn't go home every day of the 100 days that the genocide took --

30 THE WITNESS:

31 Yes, I confirm that I did not go home every day. As I've just explained, when I thought that it was late
32 at night and I didn't want to take a chance to go home at 2 a.m. or 3 a.m., because I did not want to
33 take the risk of crossing the wooded area between my home and the hospital, I would therefore --
34 then go to my room and sleep up to dawn. And I'd go home, see what was happening at home, take
35 a shower, and come back to the hospital.

36 MR. PRESIDENT:

37 On average, how many days a week would you go home?

1 THE WITNESS:

2 On an average I'd say about three days a week.

3 MR. PRESIDENT:

4 And out of those three days a week, on average, how many days would be at night, you'd be going
5 home at night?

6 THE WITNESS:

7 On -- I did not go often home at night. Up to ten it was possible to go home, that is, when there's no
8 curfew. But I can say that I would go home about once a week at night.

9 MR. PRESIDENT:

10 About once a week you would go home at night. In all these times that you went home, otherwise
11 and at night, did you ever see any corpses at any of those roadblocks?

12 THE WITNESS:

13 Yes, I saw dead bodies. Along the road there were decomposed corpses. Even in my
14 neighbourhood, I saw some dead bodies. You could see dead bodies along all roads.

15 MR. PRESIDENT:

16 I actually asked at "roadblocks"; at any of the roadblocks or near any of the roadblocks.

17 THE WITNESS:

18 I said that I did not see corpses at the roadblocks, particularly since when I passed through that
19 roadblock I was not there to see what was happening at the roadblock. I passed through the
20 roadblock to go to work and I really don't really try to find out what was happening at the roadblock.
21 When I was asked for my identity card I would immediately show them my identity card, and they
22 would tell me they were doing that in order to make sure that those areas were safe. But I confirm
23 that I did not see any dead bodies near or at the roadblocks.

24 MR. PRESIDENT:

25 Okay. And the dead bodies you did see at other places were civilian or military?

26 THE WITNESS:

27 They were civilian corpses.

28 MR. PRESIDENT:

29 Continue, madam.

30 MS. GRAY:

31 Mr. President, I do have some documents that I should've distributed at the outset, so if I can ask for
32 some assistance in relation to those.

33 MR. PRESIDENT:

34 And why, may I ask, did you not distribute them at the onset?

35 MS. GRAY:

36 It slipped my mind.

37

1 MR. PRESIDENT:

2 Make an effort not to let it slip again.

3 MS. GRAY:

4 Thank you, sir.

5 JUDGE PARK:

6 To save time: Mr. Witness, you said there was a soldier who was your classmate. Do you know
7 his name and unit?

8 THE WITNESS:

9 He was a student in medicine as well. We had batches, and each batch or year there was
10 one or two soldiers who came to study medicine. And that particular student was -- was a student at
11 the ESO, the non-commissioned officers' academy. But he also had come to the hospital in order to
12 study medicine.

13 JUDGE PARK:

14 I'm asking his name and his rank, if you know.

15 THE WITNESS:

16 I think that he was a warrant officer. His name was Rwanyonga.

17 THE ENGLISH INTERPRETER:

18 Rwanyonga, R-W-A-N-Y-O-N-G-A.

19 JUDGE PARK:

20 Thank you.

21 BY MS. GRAY:

22 Q. So, Rwanyonga would escort you home from the hospital, correct?

23 A. Yes, on one or two occasions when I really had to go home. As I've said, he was not my bodyguard.
24 So, I could not have him available whenever I wanted. He escorted me once or twice when I really
25 had to go home, in order to find out what was happening at home. I would hear that there had been
26 incidents in my neighbourhood so I'd go to see whether my family was safe. So I asked him to
27 accompany me -- to accompany me once or twice home.

28 Q. And he would have been armed when he accompanied you home, correct?

29 A. Yes, he had a pistol.

30 Q. And you've confirmed that he was an ESO -- he was from ESO, correct?

31 A. I beg your pardon. He was at the *École supérieure militaire*, the military officers' academy. So he
32 was a student at the military officers' academy at the same time that he was a student at the
33 faculty of medicine at the university.

34 MR. PRESIDENT:

35 And you said, Mr. Witness, that in every batch there would be someone coming to study medicine. In
36 "every batch" you mean batch at ESO; the training group at ESO is what you call a batch, isn't it?

37

1 MR. PHILPOT:

2 Your Lordships.

3 MR. PRESIDENT:

4 Yes.

5 MR. PHILPOT:

6 I'd like to clarify something at this stage. You used the word "ESO". I understand the testimony is
7 ESM, and it's a significant distinction and you can ask the Court -- the witness what that means just to
8 be clear, because there is a problem here.

9 MR. PRESIDENT:

10 Witness, what did you mean by "batch", in "every batch"?

11 THE WITNESS:

12 I'm talking about classes or batches of medical students. Every year there would be students,
13 soldiers, who came to enrol to study medicine. And, actually, they were from the ESM,
14 *École supérieure militaire*, that is, the military officers' academy.

15 THE ENGLISH INTERPRETER:

16 And, Mr. President, the interpreter would like to apologise for having said "non-commissioned
17 officers' academy". It's actually ESM.

18 MR. PRESIDENT:

19 Did any soldiers from ESO, non-commissioned officers' academy, ever study medicine?

20 THE WITNESS:

21 I don't know of any.

22 MR. PRESIDENT:

23 You don't know of any soldier from ESO who would have studied medicine or who would have been
24 part of the university, Butare campus -- or, medical campus?

25 THE WITNESS:

26 In my opinion, the soldiers whom I knew at the faculty of medicine were soldiers from the
27 *École supérieure militaire*, the ESM officers' academy. Those were the ones I knew.

28 MR. PRESIDENT:

29 My question remains unanswered. You don't know of any who studied medicine while you were at
30 ESO?

31 THE WITNESS:

32 What I wanted to tell you is that in order to study medicine you have to complete your
33 secondary school studies. And students who were at the ESO were students who had completed
34 their primary school studies. So I can't see how they could have come to study medicine, given their
35 academic levels. So, I don't know any ESO student who came to study medicine.

36 MR. PRESIDENT:

37 And those who came to study medicine, what would they -- would be the need for them to carry their

1 arms as students in the university?

2 THE WITNESS:

3 I don't think that I can -- that I am able to answer that question, because those soldiers were governed
4 by their military superior officer. So, I don't know what their relationship to that officer was on the
5 campus. But during the war, when people had to be ready to defend themselves, if a need arose, we
6 were not surprised to see soldiers carrying weapons, because we were at war and people didn't really
7 ask themselves questions about why were soldiers carrying weapons, because all they had to do was
8 to respect the agreement which their leaders had with the hospital authorities.

9 MR. PRESIDENT:

10 When had you entered the university?

11 THE WITNESS:

12 I enrolled into the university in 1988-89 class.

13 MR. PRESIDENT:

14 And your classmate, when did he enrol?

15 THE WITNESS:

16 He was behind me. I was in my last year, so I think that he was two years behind me. There was
17 one class between us.

18

19 We had studied at the same secondary school but we had -- we were not in the same class. So, we
20 were not in the same class. He was a friend who had studied in the same school as me but he was
21 not in the same year as me.

22 MR. PRESIDENT:

23 So, he was not -- strictly speaking, he was not your classmate either in medicine or at
24 secondary school?

25 THE WITNESS:

26 No. He was not my classmate in the middle of school or in secondary school. He was younger than
27 me; I was older than him. And he respected me because I had been a senior to him in
28 secondary school.

29

30 Furthermore, we were close because we studied in the same school. But apart from that, there was
31 no other relationship which I had with him.

32 MR. PRESIDENT:

33 And all those soldiers in those batches who came to study medicine, they all carried their arms all the
34 time?

35 THE WITNESS:

36 No. Normally you have to make a difference between the period. In the period prior to the
37 1994 events, they were at the campus as civilians in uniform but they were not allowed to carry their

1 weapons to the campus. However, during the 1994 events, the university was on leave. People --
2 students had gone to their homes. So, we found ourselves in a situation whereby we saw people who
3 previously did not have weapons carrying weapons. But we could not do anything. We simply
4 noticed what was happening there.

5 MR. PRESIDENT:

6 Thank you, Ms. Gray.

7
8 Sorry, I'm looking at my watch, Madam Gray. I cut you too early, but it looks like it's time to take a
9 break --

10 MS. GRAY:

11 Thank you, sir.

12 MR. PRESIDENT:

13 -- and then resume after 20 minutes, and you can then continue with your cross-examination.

14

15 The Court adjourns.

16 *(Court recessed from 1104H to 1130H)*

17 MR. PRESIDENT:

18 Court is in session.

19

20 Continue, Madam Gray.

21 BY MS. GRAY:

22 Q. Now, Mr. Witness, you have a binder in front of you of -- is that correct, of documents? And you've
23 been --

24 A. Yes.

25 Q. And you've been reading the binder of documents during the break; is that correct?

26 A. I don't know which document you are referring to.

27 Q. Well, have you got a binder of documents in front of you?

28 A. No, I was not given anything by way of documents.

29 Q. Well, you've been --

30 MS. GRAY:

31 No, no, no, sorry, don't give the witness that document.

32 BY MS. GRAY:

33 Q. You've had a black binder which you have been looking at during the break, correct?

34 A. Counsel for the Prosecution, I did not receive anything during the break.

35 MR. PRESIDENT:

36 Mr. Witness, you're not being asked whether you received anything during the break. It's whether you
37 have any black binder with you which you were looking at during the break. That's all you were

1 asked, not when you were given it.

2 THE WITNESS:

3 The binder here has invoices and my train tickets. I did not look at these train tickets because it does
4 not give me any information.

5 MR. PRESIDENT:

6 So you have a binder, but you were not looking at it during the break.

7

8 That's your answer, Madam Gray.

9 BY MS. GRAY:

10 Q. Mr. Witness, if I could just look at the binder you have in front of you, please.

11 A. Yes, no problem.

12 Q. Now, before the break, Mr. Witness, you were talking to us about --

13 MR. PHILPOT:

14 Your Lordship, just to interrupt my colleague.

15

16 If they're going to exhibit documents, I would like to see what they are too. And then, of course, she
17 can examine them. But if the witness -- the witness consented, but I would like to see them, please.

18 MR. PRESIDENT:

19 Obviously, if she is -- wants to use them you have to see them.

20

21 I'm sure she's aware of that.

22

23 Madam Gray.

24 MS. GRAY:

25 Yes. We'll just have a look at the documents, sir, and there may be nothing in it.

26 BY MS. GRAY:

27 Q. Before the break you were telling us about the individual who escorted you home, correct?

28 A. Yes.

29 Q. Can you tell us his first name?

30 A. His first name? Well, possibly Grégoire, but I'm not too sure because I didn't relate to him by his
31 name.

32 Q. You've described him as a friend, though, correct?

33 A. Yes, there was a period of friendship. Or I've -- I had a number of friends and if 18 years on you ask
34 me of their names and first names, I may not be able to give them to you, Counsel.

35 Q. Was he in the crisis committee, do you know, in the hospital?

36 A. I was not a member of any crisis committee because I did not hold any position that would enable me
37 to be a member. I was only a medical intern. I learned that there was a crisis committee just as other

1 people got to know. But regarding their activities, what they do, I'm not able to tell you, Counsel.

2 Q. The question was: Was the soldier, Rwanyonga, in the crisis committee; yes or no, or you don't
3 know?

4 A. I must say that I do not know if he was a member of any committee.

5 Q. Do you agree, Mr. Witness, that the roadblocks were established during the genocide in order to
6 systematically target Tutsi civilians?

7 A. Counsel for the Prosecution, I'm not able to confirm that. I wouldn't know the motive of people who
8 set up roadblocks, because when they decided to erect roadblocks they did not consult me.

9
10 What I came to testify to in this courtroom is things that I saw, experienced. As for the roadblocks, I
11 noticed them in relation to the events that took place. And we only had to endure these roadblocks.
12 We woke up one day, they were there and we just had to endure it. So, what their motives were I
13 wouldn't know. All I know is that whenever they asked me for my identification documents I produced
14 them without problem.

15 Q. Do you accept that Tutsi civilians were screened and set to one side at the roadblocks that you
16 passed through? Or did you not observe that?

17 A. Once again, let me clarify this: I did not see Tutsis at this roadblock, particularly the two roadblocks
18 that I made reference to. I was not a witness to what was happening at the other roadblocks because
19 I was not there.

20 MR. PRESIDENT:

21 Mr. Witness, let me just get myself absolutely clear. You lived in Butare up to what time?

22 THE WITNESS:

23 I cannot recall the date, but what I can say is that when I left Butare, the same night of the day that I
24 left, RPF troops took over the town. And even the trip that I took out, I saw the RPF troops in
25 refugee camps elsewhere, so I am not able to give you the exact date.

26 MR. PRESIDENT:

27 Are you able to give me the *(inaudible)* the month?

28 THE WITNESS:

29 I believe it was in July, if my memory serves me right.

30 MR. PRESIDENT:

31 So, at least we can say you lived in Butare between the 6th of April and the 1st of July?

32 THE WITNESS:

33 That is so.

34 MR. PRESIDENT:

35 And in that time, you never got to know what was happening at roadblocks? Or even if anything was
36 happening.

37

1 THE WITNESS:

2 To know what was happening is like you meet somebody when you are going to buy flour in town and
3 you ask him regarding the bodies that you see along the route, and he says that, "Well, there was a
4 roadblock here and it is possible that it was while the roadblock was there that these killings took
5 place." But I'm telling you things that I saw and heard -- and heard. But that I saw people being
6 separated on ethnic -- along ethnic lines is something that I cannot speak to.

7 MR. PRESIDENT:

8 But did anybody -- as you went to look for vegetables or cabbages or whatever it is. Did anybody ever
9 tell you, "You know what is happening at these roadblocks, people are being separated and some are
10 being killed and others let to go" or any theory or anything like that? Did anybody ever tell you
11 anything like that or are you hearing it for the first time now?

12 THE WITNESS:

13 I cannot say that I'm hearing it for the first time because it was being said on radio. Even MSF gave
14 some testimonies, because MSF was more mobile than myself. They were in many more places than
15 I, myself. I heard this the first time when MSF gave a statement to the effect that they witnessed the
16 separation of persons at the -- at those roadblocks and some of them were killed.

17
18 Among the patients who arrived at the hospital there were some of them who were wounded and who
19 said that while going through some roadblocks they were separated from the others and attacked.
20 So, I cannot deny that such acts occurred at the roadblocks, but I did not witness with my own eyes
21 such separations of persons who eventually were killed.

22 MR. PRESIDENT:

23 Okay. So, basically, what you're saying is that while you never personally experienced separation at
24 any roadblock, you did hear that that was happening at some roadblocks in the course of your time
25 there in Butare; is that a fair way of putting it?

26 THE WITNESS:

27 Almost. Almost, that is what happened. If people recounted it it's because they experienced it or they
28 saw it. And I think those persons are best placed -- better placed to speak about these things.

29 MR. PRESIDENT:

30 Thank you.

31 BY MS. GRAY:

32 Q. And you confirm that your identity card was checked at the roadblock, correct?

33 A. Yes.

34 Q. And your identity card said that you were Hutu, correct?

35 A. Yes, that is correct.

36 Q. And you are telling us that from April to July you never personally saw a Tutsi being separated out at
37 a roadblock, correct?

- 1 A. I think that it is necessary for me to describe a situation to you somehow, because when the situation
2 became more complicated, after the attack on the presidential plane, the days following that event
3 were such that people had no doubt that the situation was going to become difficult. People were
4 moving around, gathering information, buying some foodstuffs. But, some days later, when they
5 heard that the killings had started in Kigali and elsewhere, those who could flee fled towards Burundi.
6
- 7 If I should talk about some of our doctors who were at the hospital I told you had left, and that was in
8 the first week, others were holed up at home. So I'm able to confirm to you with my hand on my heart
9 that during my entire stay I never saw Tutsis going around in the streets. So if I could not see them
10 then I cannot see them being separated.
- 11 Q. Now, turning to what occurred at the hospital, Mr. Witness. Have you said previously to the Defence
12 that you rarely -- rarely, as in not very often -- stayed at the hospital?
- 13 A. Counsel, that is not what I said. I said that most of the time I stayed at the hospital. So I think you're
14 stating the opposite of what I said.
- 15 Q. So you've never said to the Defence prior to giving evidence today that it was uncommon or rare for
16 you to stay at the hospital?
- 17 A. I don't believe I said that because I started off explaining to you that it was much more difficult staying
18 in my neighbourhood than to stay at the hospital. Most of the staff, Tutsis and others, particularly
19 the -- those who had decided to take -- to stay at the hospital felt safer than those who stayed outside.
20 That is what I explained when I was giving my testimony.
- 21 Q. And your wife and child were at home, correct?
- 22 A. Yes, my wife, my child stayed at home. I was quite respected in my neighbourhood so I had no -- I
23 was not worried. But if I felt that the situation was deteriorating I had to do everything to go home to
24 ensure myself that they were safe.
- 25 Q. Now, you've told us that you were not an eyewitness to any of the attacks at the hospital, correct?
- 26 A. Yes, I confirm that.
- 27 Q. You can confirm then that whilst you did not see the attacks, you are aware that there were many,
28 many Tutsis that were killed in the hospital, correct?
- 29 A. Counsel for the Prosecution, when you use the term "many", if it is more than one person, well, I
30 agree we can use that word "many". But when I told you what I heard and saw during the
31 three events for the first event I'm not able to give you a figure, but we found about 10 bodies
32 outside -- behind the hospital. The second was one person, and the third events were -- event was
33 about three -- about 10 persons. So those who were killed at hospital were probably killed there, but I
34 was not a witness to any killing at that hospital.
- 35 Q. And they're the events you told us took place between the 15th and the 20th of April, correct?
- 36 A. Yes.
- 37 Q. And do you accept that there were many, many more murders of Tutsi civilians at the hospital than

1 the three events that you've told us about today?

2 A. As I explained to you, once the patients were treated they were abandoned in the hospital, because
3 once the doctor has signed the discharge of the patient it is not for that doctor to ensure that patient's
4 destination. What I saw and what I experienced is that at one point in time the hospital became a
5 place where you saw people from all ethnic backgrounds, including the Tutsis who could not go home
6 because the neighbourhoods were more dangerous than what they were living through in the hospital.
7 So I'm not able to say there were other events. All we know is that there were people, acquaintances,
8 who were evacuated to the hospital who, for example, were staff of the university. Some that I knew
9 because they were the ones who took care of us. And after they were treated, at some point in time, I
10 did not see them again. Now, then, I'm unable to say that they were killed, I have nothing to rely on to
11 be able to make that assertion. But from a certain point on I did not see them anymore.

12 Q. So in answer to the question I asked you, Mr. Witness, whether you accept that there were many,
13 many more murders of Tutsis at the Butare hospital than the ones that you've told us about between
14 the 15th and the 20th of April, your answer is, "I don't know"; is that correct?

15 A. I did not know that I don't know. I said, to my knowledge I was not a witness or got to know about
16 killings beyond the three events that I referred to.

17 Q. You weren't a witness to the three events that you've referred to either, were you?

18 A. Yes, I confirm that.

19 Q. You heard about those three events from other people, correct?

20 A. I thought I was sufficiently clear on that. The first event, the principal witness was the nurse who was
21 working in the emergency intensive care unit who was a Tutsi, and since the events started elected
22 not to go home anymore. So everybody knew that he had that room, that was his room. He slept
23 there. He spent day and night there. He is the one who testified for the first time. And there I was
24 present, explaining the first attack that took place and which led to about 10 abductions and eventual
25 killings.

26
27 The second event was clear, because I saw the body myself. It was the same nurse who testified,
28 because the first victims were in the reanimation hall of the intensive care unit. And the third is
29 something we heard about, that the hospital administrators were getting fed up. And before starting
30 their work again -- or, continuing with their work requested that investigations be carried out. And
31 investigations started until it was revealed to us that the patients that disappeared that night were
32 found in the neighbourhood -- were found killed in the neighbourhood of the hospital.

33
34 I can't take it further than that, because this is the -- this is the information as it was passed on to us
35 and that's it.

36 Q. So, after hearing about those three events from other people, did you hear about other murders of
37 Tutsi people at Butare hospital; yes or no?

1 A. I have told you no, Counsel.

2 Q. Did you notice that there were a lot of Tutsi people at the hospital who simply disappeared after the
3 20th of April?

4 A. It's the -- the word "many" which is bothering me. I have recounted the acts of the disappearance.
5 There were two employees of the university and I, myself, evacuated them with the Red Cross. And
6 since I evacuated them myself, I knew and I could see them every day, they were being treated
7 every day, until when I could not see them anymore.

8
9 When I enquired, I was told that they were Tutsis who themselves negotiated with people that they
10 thought would be able to ensure their flight, and who left the hospital and who came to an agreement.
11 There must have been people who were proposing their -- offering their services to these people. So
12 it is difficult for us to know of people who left of their own volition and those who were abducted and
13 killed, particularly since there was no military, gendarmerie or police authority that recorded events.
14 The hospital was left out there to -- on its own. So, on this issue I don't think I can tell you more.

15 Q. Were you aware that there was -- or, there were mass graves where Tutsi patients were dumped,
16 those that had been murdered; yes or no?

17 A. I never heard about that from anyone. But I'm able to say there were mass graves in my
18 neighbourhood. There were pits in which -- because when we got to the neighbourhood they told us
19 things that were happening, that they threw a number of Tutsis into such pits. And these pits were in
20 houses belonging to Tutsis. I, myself, witnessed some. I do not have photographs, but if I went to
21 that site I can show those. These were not in houses of Tutsis.

22
23 Now, at the hospital, nothing was recounted to me and elsewhere. It is the testimony that I have.

24 Q. Mr. Witness, you're giving us very long and elaborate answers. If I can ask you, please, to restrict
25 yourself to the question that you are asked. So, in short, your answer is that you were not aware of
26 any mass graves around Butare hospital; is that correct?

27 A. That is so.

28 Q. And you never saw any dead bodies of Tutsis around the hospital; is that correct?

29 A. The dead body that I saw is the body of the nurse. Besides that I did not see any.

30 Q. That was a dead body that you saw before the 20th of April 1994, correct?

31 A. That is correct.

32 Q. That is the only dead body that you saw at the hospital during the entire genocide, correct, that was
33 murdered?

34 A. Yes, it is the only body that I saw, and those who died on the operation (*sic*) table. But the -- those
35 ones are common occurrences in the -- in the trade.

36 Q. And did you hear that there were bodies of the murdered Tutsis that were dumped near the
37 electrical transformer by the hospital; yes or no?

- 1 A. No, I was not aware of that. I was not aware of that event.
- 2 Q. Did you see soldiers checking the identity cards of patients and those within the hospital to ascertain
3 whether they were Tutsis, during the day?
- 4 A. I'm saying no, because most of the patients that we had -- or, rather, all Tutsi patients who came to
5 the hospital had been evacuated by *Médecins sans frontières*, Doctors Without Borders. I never saw
6 any doctor of Doctors Without Border hand over those Tutsis for their -- to soldiers for their IDs to be
7 checked. So those patients would be brought to the hospital because they had been wounded, but
8 I'm not aware of ID checks at the hospital.
- 9 Q. Were you present when -- or, did you hear about soldiers having lists of Tutsi patients; yes or no?
- 10 A. Which soldiers? I did not understand that, Counsel. Which soldiers are you talking about?
- 11 Q. Did you see any soldier with a list of Tutsi patients during the course of the genocide?
- 12 A. No, never.
- 13 Q. Did you work with the MSF nurse named Sabine?
- 14 A. Yes. That nurse -- let me try to remember. There was a nurse, whose name I do not remember, who
15 used to work for MSF who was reportedly killed. But, I don't think that that nurse was killed on the
16 camp. I don't think she was killed at the university hospital. What we heard is that one day, in the
17 morning -- what I know is that one day, in the morning, we came there and we found MSF doctors
18 very angry because the nurse had been killed, but I don't know where that person had been killed.
19 But I'm sure that the killing was not carried out at the hospital. Otherwise, we were not told what
20 happened, but they told us that the nurse had been killed. At least I'm sure about that.
- 21 Q. So this is an additional death that you didn't tell us about before, additional to the other three, correct?
- 22 A. Yes, that's possible, because the events took place 17 years ago. So I cannot guarantee you that I
23 can -- I can tell you truthfully that I've said everything, because there are things that I'll remember in
24 the coming days as I talk with people. Some people will remind me about certain events. So I'm not
25 telling you that I remember everything that happened in respect of each and every killing. But, I
26 remember the events that affected me and that remained in my memory.
- 27 Q. Do you recall that Sabine was pregnant; yes or no?
- 28 A. No. In fact, I did not know that nurse personally, well; I don't even remember her face. I heard about
29 her killing when we saw that MSF doctors were threatening to leave because a nurse had been killed.
30 But at this point, I cannot really tell you who that nurse was. When you tell me about an MSF nurse, it
31 reminds me of the fact that her killing was the main reason for MSF's departure.
- 32 Q. Do you recall that Sabine was a Hutu who was pregnant to a Tutsi and, therefore, her unborn child
33 would have been a Tutsi? Does that jog your memory, Mr. Witness?
- 34 A. Counsel, to know who impregnated Sabine is something that I cannot venture into telling you. People
35 were talking about a lot of things. So, I cannot venture and try to tell you about that because people
36 were talking about everything and about nothing. So I can't really tell you that.
- 37 Q. Were you present when prisoners were brought to Butare hospital to get rid of the Tutsis that had

1 been murdered at the hospital; yes or no?

2 A. No, I was not present.

3 Q. Is that something that you heard about during the genocide?

4 A. I did not deal with how people who had been killed were buried because we had to deal with people
5 who were still alive. So, when we heard that people had been killed behind the hospital, I was aware
6 of that but I really did not know how the funeral was organised, how those people were buried.

7 Q. There was no funeral, was there, Mr. Witness, for those people?

8 A. I really don't know about that, Counsel.

9 Q. So, you saw no killings of Tutsis, you saw no bodies -- dead bodies of Tutsis, and you saw no one
10 checking the identity cards of Tutsis, correct?

11 A. Yes, I confirm that.

12 Q. I want to ask you some questions now about rape of Tutsi women during the genocide, Mr. Witness.
13 You said in your evidence-in-chief that you heard about it when "my lawyers talked about the
14 situation". Who are you referring to when you say "my lawyers"?

15 A. "My lawyers"? I don't remember using those very words. If I made a slip, I'd like to rectify that. I don't
16 have a lawyer. I've never had a lawyer. But otherwise, I did not really talk about my own lawyers.

17 MR. PRESIDENT:

18 Are you saying, Mr. Witness, that you have never sought the services of a lawyer, a practising
19 lawyer -- any services?

20 THE WITNESS:

21 Never. I've always defended myself. I've never needed the services of a lawyer.

22 MR. PRESIDENT:

23 And you're now living in Belgium?

24 THE WITNESS:

25 Yes.

26 MR. PRESIDENT:

27 As what, a citizen? A refugee?

28 THE WITNESS:

29 I'm a Belgian citizen.

30 MR. PRESIDENT:

31 And in connection with that change of citizenship you did not use a lawyer?

32 THE WITNESS:

33 When I filed my asylum application I did it myself. I had my main advice from family members. I
34 never engaged the services of an advocate for doing that.

35 MR. PRESIDENT:

36 So, it is correct to say, then, that today is the first day you are hearing of rapes of Tutsi women during
37 the genocide?

1 THE WITNESS:

2 Rapes occurred. People talk about the rapes because they experienced rapes, they were victims of
3 rape, but to say that I witnessed rapes at the hospital would be lying before this Court because I never
4 saw those rapes. If ever there were rapes there then I was not aware of them.

5 MR. PRESIDENT:

6 And, in fact, I am not saying you witnessed -- I'm not asking whether you witnessed rapes at the
7 hospital. I'm only asking you did you ever hear of rapes having taken place in the hospital involving
8 Tutsi women?

9 THE WITNESS:

10 As I said initially, Tutsi victims were -- I don't know any Tutsi victim who was raped at the hospital. If
11 they were raped, they confided in others about the occurrences. But no Tutsi victim came to tell me
12 or to confide in someone close to me about those rapes. So, therefore, I was not aware of those
13 rapes at the hospital.

14 MR. PRESIDENT:

15 From 1994 to the year 2011, you have never heard of any rapes being alleged to have occurred in or
16 about Butare hospital in the period between 6th of April and 1st of July?

17 THE WITNESS:

18 Hear from whom? From just anybody or from a particular person? And you want to know whether
19 between 1994 and 2011 I've never heard of any rape that had been committed at the hospital.

20
21 Well, my answer, Your Honour, is that I've not heard of -- up to now, I've not heard about any rape
22 that had been committed at the hospital.

23 MR. PRESIDENT:

24 You have never heard it said by anybody or any person or any -- or, even read it in a book
25 somewhere about any rapes having occurred at the hospital during that period?

26
27 I'm trying to ascertain, Mr. Witness, whether you are hearing from -- for the first time about these
28 allegations that other people appear to have heard.

29 THE WITNESS:

30 To that question, what I'd like to tell you is that what we have been -- we've heard a lot of things from
31 that time, 1994, up to this year, 2011.

32 MR. PRESIDENT:

33 Let's take away the "we" and go to the "I"; something called the singular in English.

34 I wanted to hear -- I want to hear about what you, in the singular and not the plural, have heard.

35 THE WITNESS:

36 I heard -- I heard about it. However, I cannot tell you whether the testimony is that -- it's not -- people
37 are not saying that they were raped at the campus only, because people who survived are saying that

1 they were raped in many other places at least once.

2
3 But with regard to what happened at the hospital, I was not aware of an incident, because when I -- if
4 there was a rape at the hospital then such a matter would not have remained confidential. At least up
5 till when we evac -- were evacuated from the hospital I was not aware of whom raped whom.

6 Because everything that occurred at the hospital was -- was reported and the authorities would take
7 special measures in order to prevent such acts being committed again in the hospital. But I can tell
8 you that during my stay at the hospital I did not hear about any rape that had been committed at the
9 hospital. But later, when I read about the cases of people who were tried elsewhere, I heard evidence
10 to the effect that people had been raped. But I am sticking to the facts regarding the period when I
11 wasn't there and regarding which I never heard about such incidents occurring there at that time when
12 I was there.

13 MR. PRESIDENT:

14 Ms. Gray, the witness has now explained the issue of rape. Get on to something else.

15 BY MS. GRAY:

16 Q. Just so I am clear in terms of rape, Mr. Witness. You accept that women were raped during the
17 genocide, correct?

18 A. It's possible women were raped, but I did not witness any rape. So from statements made by other
19 people, then it's possible people are raped. But for me to tell you that someone was raped, which I
20 know about, then if I said such a thing I'd be lying, because I did not witness any rape personally. So
21 I cannot venture into that field.

22 Q. Earlier in your evidence you said that you accepted that rapes occurred, are you changing now to
23 saying that it's possible but you don't know?

24 A. I told you that at the hospital I cannot confirm that there were rapes. And during my prior statements I
25 did not say that I was aware of rapes committed at the hospital. But when the Honourable Judge
26 asked me the question whether between 1994 and 2011, whether I heard that there were rapes --
27 there were rapes not at the hospital but rapes, I said yes, because rapes are -- incidents of rapes
28 occurred and narrated by people who were the victims of those rapes. But I cannot confirm that
29 someone was raped when I did not have anything to back my assertion. I think that's what I said.

30 Q. Do you accept the general propositions, Mr. Witness, that rape victims don't tend to want to discuss
31 the rape or rapes they've been subjected to with complete strangers; yes or no?

32 THE ENGLISH INTERPRETER:

33 Mr. President, could counsel, please, repeat her question because the interpreter did not quite get it.

34 BY MS. GRAY:

35 Q. Do you accept the proposition that rape victims don't tend to want to discuss the rape or rapes that
36 they've been subjected to with complete strangers?

1 MR. PRESIDENT:

2 Say "tend not". Don't say what they don't tend to do, say what they tend not to do.

3 THE WITNESS:

4 Yes, maybe that is why I was not aware of the rapes because they preferred being discreet. I cannot
5 imagine, I cannot talk about being aware of rapes when people did not talk about such rapes.

6 BY MS. GRAY:

7 Q. Now, you've confirmed already and we know that the ESO barracks are right beside the hospital,
8 correct?

9 A. Yes.

10 Q. And you're aware that ESO soldiers could move around where they liked during the genocide,
11 correct?

12 A. I didn't know about it, you are just informing me about it because everything that I've told you regards
13 ESO soldiers who were sent there to bring food to the patients, but I'm not -- I don't know how ESO
14 was organised because I really did not have anything to do with ESO soldiers.

15 Q. You saw ESO soldiers at the hospital, didn't you, during the genocide?

16 A. Yes. The soldiers were bringing food to the patients.

17 Q. You've spoken about the female ESO soldiers that brought the food to the soldiers, but there were
18 other ESO soldiers at the hospital during the genocide, correct?

19 A. I said notably women, and they could have been accompanied by men. We used to see them at
20 around midday, but outside those hours I did not see ESO soldiers walking about the hospital
21 premises.

22 Q. You don't claim to know all of the soldiers at the ESO during the genocide, do you, Mr. Witness?

23 A. I did not quite understand your question, Counsel.

24 Q. Did you know all of the ESO soldiers during the genocide?

25 A. No, I did not know of the soldiers -- ESO soldiers. We -- I didn't recognise soldiers because of their
26 uniform. If there was an ESO soldier who had come to the hospital dressed as a civilian, then I would
27 not be able to identify such a soldier as being from ESO.

28
29 So, when I am talking about ESO soldiers I'm talking about soldiers who can be identified by
30 something specific. But if people working at ESO came to the hospital in civilian attire, then I can't
31 swear that they are from ESO, because I really could not identify who was from ESO, who was not
32 from ESO, if they did not have their uniform.

33 Q. Did you know of a soldier by the name of Mazimpaka?

34 A. I don't know Mazimpaka.

35 Q. So you do not know whether he was at the hospital during the genocide, do you?

36 A. No. I -- I don't know because I don't know him.

37 Q. And you don't -- and do you know of a soldier by the name of Fulgence Nyibizi?

1 A. No.

2 (*Pages 18 to 38 by Eleanor Bastian*)

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1 1230H

2 BY MS. GRAY:

3 Q. Do you know of any ESO soldier by the nickname of Mzungu?

4 A. No.

5 Q. Did you know the ESO soldier, Bizimana?

6 A. Bizimana, I don't think so.

7 Q. So I have given a handful of names of ESO soldiers and you've confirmed that you don't know them,
8 correct?

9 A. No -- or, rather, yes.

10 Q. If you don't know those soldiers, then you are not able to assist us as to whether they were at the
11 hospital, are you?

12 A. Yes, Counsel. Because if they came there, they had to be dressed in military uniform, but if any of
13 them came to the hospital -- and I have to point out that I was not there 24 hours a day. At the
14 beginning of my testimony I told you I will tell you about what I saw, experienced and heard. So people
15 who came to the hospital in my absence are people regarding whom I cannot testify, because,
16 otherwise, I will be dishonest if I do that.

17 MR. PRESIDENT:

18 Mr. Witness, did you see -- you must have seen the hospital compound as you worked there. Did
19 anything happen to it during that time?

20 THE WITNESS:

21 *(No interpretation)*

22 MR. PRESIDENT:

23 What happened to it?

24 THE WITNESS:

25 To say something, in what sense? I did not quite understand your question. Something like
26 what -- know something?

27 MR. PRESIDENT:

28 Let me repeat. You were working at the hospital. And do you know the compound of the hospital,
29 surface area of the hospital? Did anything happen to it? Did anything -- any activity take place on that
30 surface within the hospital?

31 THE WITNESS:

32 Apart from what I've recounted in relation to the duties entrusted to me by the
33 *Médecins sans Frontières*, I do not recall other events which may have occurred or brought to my
34 attention.

35 MR. PRESIDENT:

36 Those duties that were entrusted on you -- to you by *Médecins sans Frontières*, where were you
37 carrying them out?

1 THE WITNESS:

2 In fact, when *Médecins sans Frontières* came to assist, they came following the appeal made by the
3 hospital administration, because we lacked everything. *Médecins sans Frontières* responded and from
4 that day, instead of working as medical interns, we were told that we were henceforth staff of the
5 *Médecins sans Frontières* even if we were not being paid. So we worked for them for the entire period
6 that they were there and we were on their list. So the task was the same, to provide care to patients of
7 all types and that is what we did; that is what I did.

8 MR. PRESIDENT:

9 And did they set up anything within the hospital compound?

10 THE WITNESS:

11 Me, no. But the *Médecins sans Frontières* erected tents.

12 MR. PRESIDENT:

13 Not what you did. I'm asking you, did they -- did they erect anything and I think you said they erected
14 tents. Is that the case?

15 THE WITNESS:

16 Yes, yes, they erected tents for patients to free the rooms.

17 MR. PRESIDENT:

18 And is it in those tents that you were working?

19 THE WITNESS:

20 No, we were multitasking. We sent patients who did not require general surgery or general
21 anaesthesia -- patients who were wounded, and that we could treat by using local anaesthesia. The
22 others were treated in -- inside. So, it is in those tents that we worked mainly up until when the
23 *Médecins sans Frontières* left. Because when the *Médecins sans Frontières* left, we were back to
24 those rooms that were now at our disposal.

25 MR. PRESIDENT:

26 And during this period, you yourself worked in which department of the hospital?

27 THE WITNESS:

28 During that period everybody was in surgery, but that did not preclude the possibility, because the
29 hospital was open to everybody. So there was the MSF wing which was exclusively in charge of
30 wounds, but if any patient came with some disease, it was dealt with. So when patients came we
31 separated them on the basis of the diseases they brought and sent them to appropriate departments.

32 MR. PRESIDENT:

33 And while you were doing that in one section of the hospital, would you know what is happening in
34 another section of the hospital?

35 THE WITNESS:

36 Yes, if it was something important; for example, if someone fought with somebody else, it will remain
37 where the incident took place. But if, for example, there was a problem with a patient, that was

1 immediately sent around. So, important information was transmitted to everyone.

2 MR. PRESIDENT:

3 If I walked into the hospital myself in my ESO uniform, would that be an important matter to be
4 transmitted everywhere?

5 THE WITNESS:

6 Certainly, since we were used to seeing those soldiers and we knew when they came. The fact that we
7 had patients, those administering the treatment were in charge of the patients. So if there was any
8 suspicious movement, everyone needed to know why, because I've told you that it was not only
9 patients who were being threatened by people who were considered outlaws. Among our
10 personnel -- among our staff, we also had people from other ethnic groups and we had to ensure their
11 safety.

12 MR. PRESIDENT:

13 If, for instance, we are in surgery attending a badly injured patient and some ESO soldier happened to
14 walk about in the maternity ward, somebody would come to tell you there is an ESO soldier in the
15 maternity ward or in the paediatric ward or in whatever ward? Is that what you are saying or am I
16 missing something here?

17 THE WITNESS:

18 I think an ESO soldier who goes into the maternity to visit his wife or a friend, I don't know why people
19 would go around saying that a soldier has come to visit a friend. I am talking -- I'm talking about those
20 whose movement were suspicious, who were attacking people. But here, I cannot say an ESO may
21 have entered the premises to visit someone. I think I will limit my testimony to what I've told you. What
22 I did not see, what I did not hear, I won't be able to testify to.

23 MR. PRESIDENT:

24 And did you know who was in charge of *Médecins sans Frontières'* operation at the hospital? Do you
25 know of a gentleman or lady who was in charge of that operation?

26 THE WITNESS:

27 The -- 17 years on, I think I have deleted some folders from my brain, because that is a name I did not
28 retain, because I didn't find it necessary to keep that in memory. So, to answer your question directly,
29 no.

30 MR. PRESIDENT:

31 Okay. Now, let me ask you a question, a different one. Probably you have deleted it from your
32 memory, but was it ever in your memory? Do you -- is it a kind of person who say, yes, I used to know
33 who he was, but now I have forgotten his name, or is it somebody you never got to know at all?

34 THE WITNESS:

35 No, we are in contact, because they hired us. So it was the leader of the unit in Butare who guaranteed
36 us that if we worked, because people did ask questions, people were saying: "Look, we don't have no
37 scholarship, no salary, we spent the day, we have to eat, our families have to eat. So what do we get

1 if -- what is in it for us if we work here?" So we were in contact with him. But to be able to tell you his
2 name today is something I am not able to do.

3 MR. PRESIDENT:

4 Did you ever hear him talk?

5 THE WITNESS:

6 Heard, I would say when he was recruiting us. Otherwise, the rest of the time we'd see him pass by to
7 discuss with the hospital administration and so on and so forth. But I, in particular, did not have any
8 face-to-face with him.

9 MR. PRESIDENT:

10 Did you complain of these incidences that you say took place in the hospital where patients were
11 abducted and subsequently killed?

12 THE WITNESS:

13 Yes, obviously. Obviously, if the authorities took measures, it was, first and foremost, as a result of
14 pressure brought by the *Médecins sans Frontières*. They were not happy when these events took
15 place at the hospital. That is why all measures that were taken were intended to demonstrate to the
16 *Médecins sans Frontières* that we are able to ensure them a certain level of security for their work.

17 MR. PRESIDENT:

18 And are you able to know with whom he negotiated that?

19 THE WITNESS:

20 When I made reference to the hospital administration -- the hospital authorities, I have in mind the
21 director of the hospital. So they say, "Well, we've spoken to the authorities." There was a director;
22 there were other secretaries, and I wouldn't be able to tell you more than that. The committee that was
23 there during the crisis period is something I'm not able to speak to, but there was an authority and
24 complaints went to a certain forum.

25 MR. PRESIDENT:

26 And is that authority Dr. Gatera?

27 THE WITNESS:

28 Dr. Gatera was not the director of the hospital. The director of the hospital was called Gahungu. Just a
29 moment, let me remember. The director of the hospital was one Jotham. Gatera was chief, head of the
30 -- head of surgery. Dr. Gatera was in charge of surgery. I made reference to him because, during
31 what happened, he bore the greatest responsibility for most of what -- for the -- for the situation.

32 MR. PRESIDENT:

33 So I'm asking -- I am trying to reach the hospital authority, who you say negotiated security
34 arrangement with the military so as to satisfy *Médecins sans Frontières*. Which individual was that in
35 the hospital?

36 THE WITNESS:

37 It would be difficult to say because after the events, it's difficult for me to know who was alive or who

1 died, because I was told later that Mr. Jotham who was the director, died, Mr. Gahungu who replaced
2 Mr. Jotham also died. There was the head of the medical faculty. I know he was there. I know he is
3 still there and I think one could contact him to find out if he has more information than I have.

4 MR. PRESIDENT:

5 His name is who or her name?

6 THE WITNESS:

7 He was called Karemera.

8 MR. PRESIDENT:

9 And did Karemera or any other of those authorities ever tell you who is the person in the
10 military regiment that they talked to to obtain the security or the guarantee that they said they had
11 obtained?

12 THE WITNESS:

13 I don't think so, because what I told you at the beginning of my testimony is that after the events, there
14 was -- there was a large number of doctors who left. When they saw that things were getting worse,
15 some left. But there was a large number of doctors who left, but there were those who were heads of
16 departments and so on, I wouldn't know. We were under Mr. Gatera, because when the situation
17 was as -- was described, it was Mr. Gatera who was working with us day and night and some
18 anaesthetist -- an anaesthetist. I don't think I met Mr. Karemera during that period. I don't know where
19 he worked. He is somebody who did ophthalmology. So I did not see him working at the hospital.

20 MR. PRESIDENT:

21 Madam Gray, proceed, as you may look at your watch.

22 MS. GRAY:

23 Thank you, sir.

24 BY MS. GRAY:

25 Q. Sick or injured ESO soldiers would come to Butare hospital, correct?

26 A. I don't know. I did not go to the wards where they were convalescing to be able to make a distinction
27 between those who came from ESO and those who were not. I normally saw the soldiers when they
28 were evacuated to the hospital. So, normally, their first day. And as I've told you these were soldiers
29 who were coming directly from the war front. So I'm not able to say if ESO students went to the
30 war front. So if I were to attempt any answer one way or the other, it would be a speculation.

31 Q. You can confirm though that there was no other hospital for sick and injured ESO soldiers to go to other
32 than Butare hospital after the 15th of April 1994, correct?

33 A. The university hospital was the main hospital, but there were other hospitals. There was a hospital of
34 the school complex of Butare and there were a number of wounded persons that went there. That is
35 what we were told, but I never went to that hospital to see what was happening. And it is possible, in
36 other hospitals as well, but the main hospital that was being used was the university hospital.

37 Q. In fact, in your evidence in-chief, Mr. Witness, you told us that Butare hospital was the only hospital that

- 1 was still working after the 15th of April, didn't you?
- 2 A. Which was still working -- by there, I mean, properly, because the hospital of the school complex, if I
3 recollect correctly, was being used not for wounded soldiers, but more to keep
4 handicapped -- war-handicapped persons. So it was more like a camp. So I never saw or heard that
5 medical activities were taking place there. So, I'm not well informed regarding that hospital. It was the
6 *Médecins sans Frontières* who were telling us that they select -- they chose our
7 hospital -- the university hospital because that was the only one that was capable of operating.
- 8 Q. When were you first contacted by the Defence, Mr. Witness?
- 9 A. Well, I cannot clearly recollect. It is probably very soon one year. I cannot give a more specific answer
10 because I did not recall the date.
- 11 Q. And who made that contact with you?
- 12 A. It is Mr. John Phillippo (*sic*).
- 13 Q. And how many meetings had you had with the Defence since you were contacted about a year ago?
- 14 A. I believe three.
- 15 Q. So when you were first contacted by Mr. Philpot, was that on telephone?
- 16 A. Yes, it was on telephone.
- 17 Q. And that you met with him after he made contact with you?
- 18 A. Yes, because when he called me, he asked me if I would be available to testify and I said yes. So he
19 asked me if we could make an appointment to meet and I was open to the idea, and that is how he
20 started off.
- 21 Q. And did you then have three meetings with Mr. Philpot or there are the other meetings with other people
22 as well?
- 23 A. During the three meetings, the first two I was only with Mr. Philpot. On the second occasion, he was
24 with someone else.
- 25 Q. And on the third meeting, who did you meet with?
- 26 A. It was Chrysostome who accompanied Mr. Philpot.
- 27 Q. And you clearly provided the Defence with information during the course of those meetings; is that
28 right?
- 29 A. Information in relation to what? First, they told me about the case and they then explained to me that
30 the Tribunal would want me -- would be interested in my testimony. So we discussed issues that I
31 could assist the Court on. So I told them how things happened.
- 32 Q. How was it that the Defence recorded the information that you provided them during the three meetings
33 you had with them?
- 34 A. They were asking me questions and I answered them based on what I knew and they recorded. So at
35 the end, they summarised to ensure that we understood each other and where there were
36 misunderstandings, we made corrections.
- 37 Q. Is there a written record?

- 1 A. Yes, I confirm that.
- 2 Q. And were you given the written record to read yourself?
- 3 A. No, the first time we went through together -- or, we examined together what I had to say and when we
4 did that, I made corrections, which he did immediately. So he promised me that the final version was
5 going to take into account the corrections.
- 6 Q. When you say "we examined together", what do you mean?
- 7 A. He read. He said on this issue, "This is what you said", and places he says I didn't understand what he
8 wanted to say, "What do you want to say". So I would clarify and he would take notes, so step by step
9 until we finished.
- 10 Q. So the corrections you made were oral corrections rather than you physically writing?
- 11 A. No, no, no, I did not write. I'll go through my statement and then I would make my corrections.
- 12 Q. And the next meeting, did Mr. Philpot bring a document that he had created from your discussions at
13 the first meeting?
- 14 A. Yes.
- 15 Q. Were you given an opportunity to read that document yourself?
- 16 A. Yes, I believe so.
- 17 Q. Did you confirm or did you make changes to that document?
- 18 A. The second session, there were still some amendments to be made. Even the third time, there were
19 things, because it was never easy given the fact that we were using various languages. So there were
20 places where I realised that he misunderstood me, and I would make a correction. So I made a number
21 of corrections in relation to the work that he did.
- 22 Q. During that second meeting, did you physically make the corrections yourself, or did you make the
23 corrections orally again?
- 24 A. Well, on the second occasion -- I forgot this -- he sent me a document by e-mail to tell me if that reflects
25 what I said. So, more specifically, he was confusing two events about the nurse that I spoke about and
26 the patient that was brought. And that correction was the same correction and up till now, I realised
27 that Mr. Philpot, when we were talking, was mistaken -- was confusing the two, and I still pointed this
28 out to him because he did not clearly understand me since the beginning.
- 29 Q. So after the second meeting -- or, at the second meeting, did you sign the document that Mr. Philpot
30 brought to you?
- 31 A. Signed? I do not recall that I signed that document.
- 32 Q. During the third meeting, did you sign the statement that you've given to Mr. Philpot?
- 33 A. Third meeting, I do not think so.
- 34 Q. And during the second meeting, did you sign or are you not sure?
- 35 A. Signed? I don't think so. I do not recall, but I don't think I signed. I think I did not sign.
- 36 Q. Did you speak to Mr. Philpot in French?
- 37 A. Yes.

- 1 Q. Did you initial the documents that he provided to you on the second or the third occasion?
- 2 A. I do not think so. I do not recall. I do not recall signing that document.
- 3 Q. When, approximately, was the third meeting?
- 4 A. It was during the month of September or October. I don't know. I did not recall the date.
- 5 Q. And at that third meeting, did you confirm that the information that was in the document that had been
6 created was correct?
- 7 A. As I told you earlier, I have always made the same correction, because I realised that there was a slight
8 confusion in the document. So I always pointed out that there was that aspect to correct. But during
9 the third meeting, he gave me the impression that he had understood. But as we spoke, I realised that
10 he confused the two events and I requested him to make the correction and have the correct account,
11 because I found -- I thought it was important that we do not confuse the two persons that I referred to.
- 12 Q. And after that third meeting, did you receive another document from Mr. Philpot for you to check?
- 13 A. Yes, I received it.
- 14 Q. Did you tell Mr. Philpot that there were deaths every night at Butare hospital?
- 15 A. Deaths every day at the Butare hospital, no, I don't think I said that.
- 16 Q. Did you tell Mr. Philpot that there were deaths every night at Butare hospital?
- 17 A. No, I don't believe I said that.
- 18 MS. GRAY:
- 19 We are just keeping an eye on the time. This might be a convenient point for the lunch break.
- 20 MR. PRESIDENT:
- 21 How many minutes --
- 22 THE ENGLISH INTERPRETER:
- 23 Your microphone, Your Honour.
- 24 MR. PRESIDENT:
- 25 How many minutes do you think you need with this witness when we come back or we resume?
- 26 MS. GRAY:
- 27 Not too many more, sir.
- 28 MR. PRESIDENT:
- 29 And not too many can be described as how many? Approximately how many?
- 30 MS. GRAY:
- 31 Approximately, half an hour, sir.
- 32 MR. PRESIDENT:
- 33 So the next witness should be on standby to start off at 3 o'clock or 3:05.
- 34 MR. LUSSIAÀ-BERDOU:
- 35 Yes, the examination-in-chief of the following witness is supposed to be quite short. I'm wondering
36 whether the Prosecution is in a position to indicate how long, maybe not -- but how long at this stage
37 they think it is going to take in cross so that we can decide whether or not to keep a third one.

1 Mr. Ghiste is fairly old. I wouldn't want him to spend the afternoon at the back room for no reason.

2 MR. PRESIDENT:

3 Are you asking from the Prosecution now?

4 MR. LUSSIAÀ-BERDOU:

5 Well, if they know already whether or not the cross-examination of the witness that will just come after
6 this one will then take us all the way through the afternoon or if we should have a third witness ready.

7 MR. PRESIDENT:

8 But do we know that before the witness has come to say something?

9 MR. LUSSIAÀ-BERDOU:

10 I'm just -- that's what I said, if they do, if they don't have any idea.

11 MR. PRESIDENT:

12 Do you have any idea how long you would take with the next witness?

13 MS. GRAY:

14 Now, it is difficult to say so. The next witness has a -- has a summary which is about five lines. I
15 suspect the evidence would be longer than that, but it is for us to ascertain because we simply don't
16 know what additional matters she may cover. So I apologise that -- I can't imagine that we will have
17 finished with her by 3:30. If that helps.

18 MR. PRESIDENT:

19 So, make sure then you have another witness.

20 MR. LUSSIAÀ-BERDOU:

21 Yeah. Thank you.

22 MR. PRESIDENT:

23 So we adjourn now. It's five minutes after one and we'll resume at 2:35 this afternoon. Court adjourns.

24 *(Court recessed from 1310H to 1445H)*

25 MR. PRESIDENT:

26 Session resumes.

27

28 Madam Gray.

29 MS. GRAY:

30 Thank you, sir.

31 BY MS. GRAY:

32 Q. Now, Mr. Witness, before you came to court today, were you able to refresh your memory from the
33 statement that Mr. Philpot provided to you after your third meeting with him?

34 A. This morning, no.

35 Q. That wasn't my question, Mr. Witness. My question was whether before you came to court, you
36 refreshed your memory with the statement that Mr. Philpot provided you after your third meeting, yes or
37 no?

- 1 A. I refreshed my memory yesterday. Today I didn't. As for yesterday, that is when I noticed that, as a
2 matter of fact, that all the corrections I had made, shall I say, had been implemented.
- 3 Q. And the document that you refreshed your memory with yesterday was the document that Mr. Philpot
4 provided to you, correct?
- 5 A. No, it was not the same document.
- 6 Q. Which document was that?
- 7 A. Initially with Counsel Philpot, we had overviewed everything I knew regarding the events at university
8 level. And it was very long, a long text. And what I saw yesterday was a summary of what I think he
9 understood of what we had said. But in spite of the fact that this was a summary, I saw that there were
10 still corrections to be made. But the main document was not shown to me by him. I cannot tell what
11 happened to it.
- 12 Q. Is it a document that you had previously signed?
- 13 A. The document I am referring to, I believe, is a document which I sent by email, in response to an email
14 which he sent to me to check whether what he had noted from our conversation, that is to say whether
15 the information was correct. That is when I made some modifications, which I sent back by email. So I
16 did not sign it.
- 17 Q. But you made some electronic corrections to the document?
- 18 A. Yes, indeed.
- 19 Q. Had you previously told Mr. Philpot or members of the Defence that you sometimes sleep at the
20 hospital, but generally you returned to your home escorted by a soldier called Rwango -- Rwanga?
21 Apologies.
- 22 A. Rwanyonga. Yes, I said -- if I were to repeat myself -- that there were times when I spent the night at
23 the hospital. That is in the initial days when we were -- was danger, I spent some nights at the hospital.
24 However, when organisation was improved, we could spend the night in rooms which were given us in
25 which we spent nights in the event we couldn't return home.
26
- 27 As I said initially, Rwanyonga used to escort me once, maybe twice, because at the time I needed him,
28 especially as I had heard that our neighbourhood had been attacked and I wanted to be sure that
29 everything was okay at home.
- 30 Q. I ask you to listen to the question, Mr. Witness. The question was whether you told Mr. Philpot or
31 members of the Defence that you'd sometimes sleep at the hospital, but generally you'd return home
32 and you'd return home with the escort?
- 33 A. Well, it is a matter of how you craft your statement. What I am saying is, it doesn't change much on
34 what I said, because the few times I referred to was once or twice when I was escorted by Rwanyonga.
35 I used to spend the night at the hospital. I used to spend nights up to a certain time. At times I'd return
36 to my room around 3 a.m., because I was tired. Spending the night is just a way of speaking, because
37 even though we were working, we worked in shifts and some were on guard. So one medical intern

1 had a day on which they had to spend the entire night on guard at the hospital.

2 (*Pages 39 to 49 by Haruna Farage*)

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1 1500H

2 BY MS. GRAY:

3 Q. Do you accept that Rwanga lived at ESO? Yes or no?

4 A. I can't tell where he lived, but I often saw him at the hospital because he used to come -- usually
5 medical students who came shared rooms with medical interns as from the first doctorate. As he was a
6 first doctorate, I am unable to say where he lived because I had never been to his house. We were
7 acquaintances, and I talked with him when I met him in the hospital.

8 Q. Again, Mr. Witness, I'll remind you to limit your answer to the question that you are being asked without
9 going into the additional detail.

10

11 What year did you leave Rwanda?

12 A. I left Rwanda in 1994.

13 Q. And you returned to Rwanda when?

14 A. I have never stepped foot in Rwanda after I left.

15 Q. So when you left Rwanda, where did you go to?

16 A. When I left Rwanda, I was in a camp which was in the Ngoma region in Munigi where I worked for
17 two weeks for *Médecins sans Frontières*. We were taking care of patients who were found there. So I
18 was in a camp in Munigi.

19 Q. Are you aware of whether you've been accused of any crimes in the Gacaca in Rwanda?

20 A. I just learned about it.

21 Q. And what is the crime that you have been charged with?

22 A. I believe, as I didn't know about it and that you just informed me about it, you probably let me know; that
23 if they are indicting me, then probably they have something to accuse me for.

24 MR. PRESIDENT:

25 Mr. Witness, are you saying that you are now just hearing it? You have not heard it before from
26 anybody, from Mr. Philpot or anybody else, any time outside this courtroom except now that she has
27 said -- she has asked you the question? Is that the position?

28 THE WITNESS:

29 Yes, indeed, Mr. President.

30 MR. PRESIDENT:

31 So the answer then is that you have never heard that you have been accused in Gacaca court. That
32 should be the correct answer then.

33 THE WITNESS:

34 I have heard about it from no one. I insist on that. This is the first time I am hearing about it, and I am
35 surprised at that piece of information.

36 BY MS. GRAY:

37 Q. Well, Mr. Witness, are you suggesting that I am the one that is telling you that you have been charged

1 with a crime in the Gacaca courts?

2 A. I insist on saying that this is the first time I am hearing about it.

3 JUDGE PARK:

4 Mr. Witness, is there any family member who is living in Rwanda?

5 THE WITNESS:

6 Yes. I have a sister-in-law who is still in Rwanda, and I -- I have a sister-in-law, that is, my brother's
7 wife, and another one who is my wife's elder sister.

8 JUDGE PARK:

9 They are living in Butare?

10 THE WITNESS:

11 No. One lives in Kigali, and the other lives in Gisenyi.

12 BY MS. GRAY:

13 Q. So coming back to my question, Mr. Witness, are you aware of whether you have been charged with
14 any crimes under the Gacaca?

15 A. No. I hope that I will not be disturbing anybody by repeating myself, but I only learned about it today.

16 Q. And who is it that you say you learned it from?

17 A. From you, Madam Prosecutor.

18 Q. I'm not suggesting to you that you have been charged with any crime under Gacaca, Mr. Witness. I'm
19 asking you whether you were. And I take it your answer to that is, as far as you know, you are not.

20 A. Yes. I hope I would answer in a manner which would be understood. You have just informed me that I
21 allegedly have been charged by a court -- I think Gacaca -- and I just heard about it, and I would like to
22 insist on the fact that I just heard about it and that before now I have heard nothing from anyone about
23 it.

24 MR. PHILPOT:

25 Your Lordship, at this stage I think it's a translation problem, and I know the Prosecutor tried to clarify
26 things. Maybe if she could clarify it in an unambiguous way. I'm not blaming her, but I'd like it to be
27 clear so we aren't off on a misunderstanding at this stage.

28 MR. PRESIDENT:

29 We'd like there to be no misunderstanding.

30

31 Mr. Witness, before you entered this courtroom this afternoon, had you ever heard that you have been
32 charged in some Gacaca proceedings in Rwanda?

33 THE WITNESS:

34 Before entering this courtroom, someone asked me the question. He asked me if I was not aware of
35 any form of sentence -- rather, any form of indictment. And I told him that I knew nothing.

36

37 So I would like to confirm that the very question that he asked me is the same question that has been

1 asked to me from the other side, and it deserves the same answer because the manner in which the
2 Prosecutor put the question suggests that she has information regarding to an indictment against me in
3 Rwanda, and I just learned about it here.

4 MR. PRESIDENT:

5 And now may I ask: Who is it that had asked you before you entered this courtroom whether you were
6 aware of a sentence? Who was the person who had asked you that question?

7 THE WITNESS:

8 I don't remember the name, but I'm trying to refresh my memory. If the name comes to my mind, I will
9 give it to you. But as it stands, I don't remember his name.

10 MR. PRESIDENT:

11 Is he a member of the Defence team?

12 THE WITNESS:

13 I think so.

14 MR. PRESIDENT:

15 You think he is a member of the Defence team. Can you see him where you are sitting -- from where
16 you are sitting?

17 THE WITNESS:

18 Yes. He's sitting at the end of this courtroom.

19 MR. PRESIDENT:

20 Now, when did he tell you that?

21 THE WITNESS:

22 This morning.

23 MR. PRESIDENT:

24 This morning before you came to court or after you came to court?

25 THE WITNESS:

26 No. He started asking me questions yesterday. He asked me whether I was aware of any accusation.

27 To that effect I said no. And the same thing applied this morning.

28 MR. PRESIDENT:

29 I'm asking you, Mr. Witness -- I'm asking when he asked you. You have told me this morning before
30 you came to court. I'm saying: Is it this morning after you had entered court, or is it after you had
31 entered court and got out? What time this morning was it that he put that question to you?

32 THE WITNESS:

33 Before I came here. This morning before I was brought here because yesterday he told me that "I think
34 I saw your name somewhere. So I wanted to check with you whether there is no mistake to that effect",
35 because it's ridiculous for me to be on a Gacaca court list.

36
37 And this morning he told me that "I'm almost sure you're on the list because I think I recognise your

1 name." But since I didn't see the name on the list, I consider that to be rumour. I have to see the list
2 myself to be convinced. There is someone who amused himself or herself by making -- levelling
3 accusations against me.

4 MR. PRESIDENT:

5 I can understand that, Mr. Witness. There is something else I want to understand. Was that in the
6 premises of the Tribunal, or was it at your hotel room?

7 THE WITNESS:

8 I said that it was at the hotel.

9 MR. PRESIDENT:

10 And why did you let us spend that half an hour we have spent on that question when you knew what
11 you are being asked? Why do you want to take us around in circles?

12 THE WITNESS:

13 The question didn't seem to be clear to me because I was asked whether I knew that I was a wanted
14 person. I said that I was not aware of that because the person in question asked me whether I knew
15 that my name was on a list.

16

17 I said, to my knowledge, my name was not on any such list. And up to now, I don't believe that
18 because I have not seen the list. I'll only believe that my name is on the list if I see the list.

19 MR. PHILPOT:

20 Your Lordship, at this stage I'd like to make an objection respectfully, Your Lordship. The Prosecutor
21 asked a question, and I am convinced there was a misunderstanding because -- and she tried to
22 correct it, but I don't think it was clear -- is that -- it was kind of like a question, "Do you know you're on a
23 Gacaca court?"

24

25 Now, I'm not saying she said that. I'm not accusing her of saying that, but that's obviously the
26 misunderstanding. But it's not the witness who is leading you around in circles. It's an innocent
27 confusion, and I'd like you to -- I hope we can move on on this question, Your Lordship.

28 MR. PRESIDENT:

29 I'm trying to clarify. I'm trying to make sure that I don't judge the witness wrongly. I want to make sure
30 that he wasn't playing things. He was -- he understood things different from I understood it.

31

32 Because the question that was put to him was "Has anybody told you that you were on the list of
33 Gacaca -- been charged with a Gacaca offence?"

34 MR. PHILPOT:

35 That wasn't the first question. The first question was from my -- Prosecutor, "Are you aware if you're in
36 Gacaca?" And that set us off onto a -- that set us on getting signals. That sent us off on a whirlwind
37 which, respectfully, Your Lordship, is going nowhere.

1 MR. PRESIDENT:

2 It isn't.

3

4 Mr. Witness, is it -- would it be correct to conclude that someone in the Defence team this morning
5 mentioned to you that he had seen a name similar to yours on the list but before that nobody else has
6 ever told you about the possibility that you have been charged in a Gacaca proceeding? Would that be
7 a fair way of putting it?

8 THE WITNESS:

9 Yes. I think basically that's it.

10 MR. PRESIDENT:

11 Proceed, Madam Gray.

12 BY MS. GRAY:

13 Q. Now, Mr. Witness, you are from Gisenyi originally; correct?

14 A. Yes.

15 Q. And you are from the *commune* Rubavu; correct?

16 A. Yes.

17 Q. So you are from the north of Rwanda then.

18 A. Yes.

19 Q. Do you or any member of your family have any connection, by either blood or marriage, to the accused,
20 Captain Nizeyimana, or his family?

21 A. No, none at all.

22 Q. Do you or any member of your immediate family have any connection that is either personal or
23 professional with Captain Nizeyimana or his family?

24 A. Not at all, at least from what I know.

25 Q. Have you ever met Captain Nizeyimana before?

26 MR. PRESIDENT:

27 Before when?

28 MS. GRAY:

29 Before today.

30 THE WITNESS:

31 I had never met him before today except when we were in Rwanda. I met him once or twice on the
32 road, and that's it. He is someone whom I knew, particularly since I had -- since my wife worked at the
33 non-commissioned officers' academy. That's it.

34 MR. PRESIDENT:

35 So in fact, Mr. Witness, you have known Mr. Nizeyimana in your days in Rwanda. Is that a correct
36 position?

37

1 THE WITNESS:

2 Yes.

3 MR. PRESIDENT:

4 And according to you also, he and your wife worked at the same place?

5 THE WITNESS:

6 Yes. I confirm that.

7 MR. PRESIDENT:

8 Was your wife a soldier?

9 THE WITNESS:

10 No. She was a civilian. She taught biology and chemistry.

11 MR. PRESIDENT:

12 At the non-commissioned officers' school?

13 THE WITNESS:

14 That's correct, Sir.

15 MR. PRESIDENT:

16 And for how many years did she teach?

17 THE WITNESS:

18 I think that she taught there for about one year, but I'm not that specific. Approximately one year. Yes.

19 MR. PRESIDENT:

20 And was she with you in Butare during the period 6th of April and 1st of July?

21 THE WITNESS:

22 Yes. She was with me, and she's still with me.

23 MR. PRESIDENT:

24 And she was working at ESO at that time?

25 THE WITNESS:

26 When the attack took place, normal activities stopped because civilians could no longer have access to
27 the non-commissioned officers' academy.

28 MR. PRESIDENT:

29 So she stayed at home?

30 THE WITNESS:

31 Yes. That's correct.

32 MR. PRESIDENT:

33 Proceed, Madam Gray.

34 BY MS. GRAY:

35 Q. So, Mr. Witness, when I asked you: Do you or any member of your family have any connection that is
36 either personal or professional with Captain Nizeyimana or his family, the answer is actually yes, isn't
37 it?

1 A. Yes. That's correct. Because as I've just said, my wife worked at the
2 non-commissioned officers' school.

3 Q. However, when I asked you the question the first time, you said no, didn't you?

4 A. That's because I had not understood the question.

5 Q. It's a simple question, Mr. Witness, isn't it?

6 A. The question is simple. However, the reason I answered with a no is that I understood you to mean
7 whether there was any specific relationship with Captain Nizeyimana. And those are two different
8 things.

9 Q. Well, you've told us that your wife was a civilian who taught at ESO; correct?

10 A. Yes. That's correct.

11 Q. And Captain Nizeyimana was in charge of training at ESO, wasn't he?

12 A. I can't tell you specifically what Mr. Nizeyimana's duties were at his workplace. Maybe you should put
13 that question to my wife because she was the one who worked directly with the authorities there. All I
14 know is that he dealt with something at ESO, but I don't know exactly what he did.

15 Q. Captain Nizeyimana was your wife's boss at ESO, wasn't he?

16 A. I don't think that he was her boss. I know that Mr. Nizeyimana dealt with soldiers. I don't know whether
17 he also dealt with civilians. I think you should ask him that because I know that he worked at ESO, my
18 wife worked at ESO, and that Mr. Nizeyimana had a post at ESO. But I cannot tell you specifically what
19 his duties were there.

20 MR. PRESIDENT:

21 And, Mr. Witness, is your wife with you in Belgium now?

22 THE WITNESS:

23 Yes. That's the case.

24 MR. PRESIDENT:

25 So she even knows that you are out to Arusha to testify in her boss's case? Is that a reasonable
26 proposition?

27 THE WITNESS:

28 Yes. She knows why I have come here.

29 MR. PRESIDENT:

30 But you don't know what Nizeyimana did at ESO, and she has never offered to let you know?

31 THE WITNESS:

32 My wife did not want to get involved in this matter. The information that I needed -- I obtained such
33 information, and the information which I did not ask for -- I did not get such information. So my wife is
34 not supposed to know what I've talked about with Counsel Philpot. She asked me what I was coming to
35 do here, and I said, "Well, I have a meeting regarding Mr. Nizeyimana's Defence", and that was the end
36 of it.

37

1 If I thought that I needed to know Mr. Nizeyimana's duties, then I would have asked her about it, but
2 that did not occur in my mind.

3 MR. PRESIDENT:

4 In fact, Mr. Witness, that's what I was going to ask you. Did you never think of asking, "What was this
5 Captain Nizeyimana doing at ESO when you were there?" You never asked that question to your wife?

6 THE WITNESS:

7 I was not interested in knowing what Mr. Nizeyimana was doing. I knew that he was there. I knew that
8 he was one of the people who dealt with the cadets at the non-commissioned officers' academy.

9
10 I had all the information that I knew of, but I didn't try to find out what he was doing there, what his
11 duties were. I was not really interested in all that. I can confirm to you that I don't know what
12 Mr. Nizeyimana's duties were at ESO. All I know is he was one of the leaders at the ESO.

13 MR. PRESIDENT:

14 Yeah. And, Mr. Witness, please understand me. I'm not asking you whether you asked that question in
15 1994. Maybe there was no need for that question in 1994. I'm asking: In preparation for your
16 testimony here, you never asked your wife, "By the way, what was this Nizeyimana doing at ESO, at
17 your place of work?" You never put that question to your wife at all?

18 THE WITNESS:

19 Honestly, I'm telling you that I didn't ask her that question because I was told that I was needed here to
20 testify. So I confined myself to providing the information that I had regarding events that occurred at the
21 university teaching hospital. So I did not think that it was necessary to go into details concerning
22 Mr. Nizeyimana's duties because I didn't see any interest in doing that.

23 MR. PRESIDENT:

24 So it's correct to say that in that one year that you knew you were going to be testifying here it never
25 occurred to you to ask your wife, "What was your boss doing?" or "What was he at the school?" or
26 anything like that? That never crossed your mind; correct?

27 THE WITNESS:

28 That's correct.

29 MR. PRESIDENT:

30 Madam Gray, proceed. And look at your watch.

31 MS. GRAY:

32 I'm looking at it, Sir.

33 BY MS. GRAY:

34 Q. Mr. Witness, you've said that you were told that you were needed to testify here. Who was it that told
35 you that?

36 A. Mr. John Philpot requested me to come to testify here, and I agreed to that.

37 Q. Other than Mr. Philpot, was there anyone else that told you that you were needed to testify here in

1 Arusha?

2 A. No, not to my knowledge.

3 Q. Now, you and --

4 THE ENGLISH INTERPRETER:

5 Microphone, please.

6 MS. GRAY:

7 Apologies.

8 BY MS. GRAY:

9 Q. You and your wife are still together; correct?

10 A. Yes.

11 Q. And you both sought asylum in Belgium at the same time; correct?

12 A. No. My wife applied for asylum first; I applied for asylum later. And we did not get to Belgium at the
13 same time.

14 Q. Approximately when was it when your wife applied for asylum?

15 A. I think that it was in 1999 or 1998. I'm not very sure about that. Maybe 1998 around May.

16 Q. What is your wife's name?

17 A. Her name is Bizige Niyonsenga.

18 Q. When your wife applied for asylum in Belgium, she described that there was a north/south problem in
19 Butare in 1994. Do you agree with her description?

20 MR. PRESIDENT:

21 There was no what?

22 MS. GRAY:

23 There was a north/south problem.

24 MR. PRESIDENT:

25 Oh, north/south, between the people of the north and the people of the south. Is that the problem?

26 MS. GRAY:

27 That is correct, Sir.

28 THE WITNESS:

29 The reason my wife said that is that there were valid reasons. I can confirm that the situation was not
30 clear. There was a tense relationship between people from the north who were not favourably seen or
31 perceived in the south and maybe vice versa. I'm saying this because I experienced this problem in
32 Butare because on two occasions I was almost attacked by local militiamen. So that is a real problem.

33 BY MS. GRAY:

34 Q. So you agree with her; correct?

35 A. Yes. I agree with her.

36 Q. Your wife also said when she sought asylum that there was an ethnic problem in Butare. Do you also
37 agree with her on that?

1 A. The statements that were given by my wife were statements accompanied by explanations. Every
2 person perceived political problems in Rwanda in his or -- from their own point of view. The problem in
3 Butare was not more serious than in other regions of Rwanda. She knows why she stated all those
4 things. I was not with her when she talked -- she gave those explanations, and I don't know what she
5 meant by "ethnic problems".

6 Q. So I'll repeat my question, Mr. Witness. She described that there was an ethnic problem in Butare. Do
7 you agree with her? Yes or no?

8 A. I don't quite agree with you. The regional problem was a problem of which she was a victim -- of which
9 we were victims. So if she talked about it, it means that she had experienced it. She had experienced
10 the ethnic problem because I did not experience everything that she experienced. So I don't think that I
11 am in a better position than her to answer that question.

12 Q. The answer is simply no then, is it?

13 A. In my opinion, no.

14 Q. Which political party did you belong to in 1994, Mr. Witness?

15 A. In 1994 I was not a member of any political party, but that does not imply that I had -- that prior to
16 multiparty politics everyone was a member of the same party because there was only one party which
17 was the MRND. So after the advent of multiparty politics, I took up membership with no political party.

18 Q. In 1993 were you a member of the MRND?

19 A. I was never a member of the MRND because I never faced them to apply for membership. However, I
20 was a fan of that party because somehow I had to be -- I had to act politically somewhere, but I was not
21 an active member of that party.

22 Q. Didn't you take part in MRND and CDR Power demonstrations in Butare, Mr. Witness?

23 A. I already told you, considering the fact that everybody who were from the north felt more or less
24 persecuted and not accepted in the south, it was some form of reflex, self-defence reflex, to be part of
25 political actions somewhere in order to express oneself.

26
27 So it is likely that I may have attended one of the MRND rallies, but my membership ended there. I
28 supported --

29 THE ENGLISH INTERPRETER:

30 What the witness said was not clear. He did not complete his statement.

31 MR. PRESIDENT:

32 Witness, say it again, what you said. The interpreters did not hear you fully.

33 THE WITNESS:

34 See, I did not -- I was not a member of the MRND, but since I was a -- I was from the north and we
35 were not truly loved in the south and we were persecuted and since we felt involved or concerned by
36 the events in the country, I took part in MRND meetings.

37

1 And I appeared -- I attended when President Habyarimana was visiting to be granted the
2 *honoris causa* certificate. And when we noticed that there were attacks that had been prepared by
3 people who claimed to be in the opposition and as we were responsible people who wanted things to
4 go on well, we were contacted by MRND people to go and speak on their behalf. And that is when I
5 acted. So I wore my beret, and we sung praises to the president at a time when others were insulting
6 him through songs. That is the last event in which I took an active part.

7 BY MS. GRAY:

8 Q. So the answer to my question, Mr. Witness, is yes. You did take part in MRND and CDR Power
9 demonstrations, didn't you?

10 A. Yes. Well, you have to be more specific. When you talk about MRND and CDR Power, I don't know
11 what you're referring to because the MRND was a party which was legally distinct from the CDR party
12 in spite of the fact that often you would see that people who were wearing CDR caps were also among
13 members of the MRND and people who ran the party were not bothered by that.

14
15 Now, if you mix up things in that manner, then my answer would be yes, but I wasn't there as
16 somebody who was coming to fight for any form of coalition. As a matter of fact, the coalition was
17 political in nature. My role was just to promote the ideology of peace and development that was
18 advocated by the MRND party.

19 Q. You've confirmed that you wore the MRND party insignia; correct?

20 A. I did. If you want more detail, during the president of the republic's arrival on campus, because it was
21 necessary to do so. But beyond that, I never wore them to go and attend rallies here and there
22 because I had more important things to do.

23 Q. You also wore the CDR party insignia around Butare as well, didn't you?

24 A. Is that an assertion, or is it a question, Madam Prosecutor? What I want to know is if that is a question
25 or if it is an assertion that you are making to the Chamber. So if it is an assertion, then I don't have to
26 answer it because you have -- if you confirm it, then clearly you have evidence to support it.

27 Q. Did you wear CDR insignia around Butare? Yes or no, Mr. Witness?

28 A. I never wore CDR insignia.

29 Q. You never wore a CDR hat around Butare?

30 MR. PRESIDENT:

31 Please, Madam Gray, clarify things.

32 THE WITNESS:

33 No.

34 MR. PRESIDENT:

35 When you're talking about "beret", you're not talking about insignia. When you're talking about
36 "insignia", you're talking about something different. Say which one you want to ask so that the witness
37 does not get confused and we have to go around and around and around. Your time surely is well

1 beyond what we had hoped you would require.

2

3 Mr. Witness, did you ever wear around Butare the beret of CDR?

4 THE WITNESS:

5 I confirm that I never wore that beret.

6 MR. PRESIDENT:

7 Did you wear on your breast or anywhere else their insignia at any time in Butare?

8 THE WITNESS:

9 Once, but I never wore the effigy of anyone belonging to the CDR.

10 MR. PRESIDENT:

11 You did in respect of MRND; is that correct?

12 THE WITNESS:

13 Yes. I said that before, during the event which I talked about not long ago.

14 MR. PRESIDENT:

15 Madam Gray, it's now clear. Proceed.

16 MS. GRAY:

17 Thank you, Sir.

18 BY MS. GRAY:

19 Q. And you have denied any membership in the CDR party; correct?

20 A. Yes. I deny it. All I can say, since you insist on that, is that people who were in the MRND party had a
21 good relationship with the CDR party. And on the day when the president of the republic came to
22 campus, I can tell you that both members of the CDR and MRND members wore MRND caps to come
23 and, let me say, counter the protests from opposition parties. As for wearing the CDR insignia, I deny
24 it.

25 Q. Were any members of your immediate family involved in MRND?

26 A. Yes. I have a brother who used to live in Belgium and who was the president of the Rwandan
27 community in Belgium and who was an active member of the MRND party, and he is the only person
28 whose active membership of the party I can confirm.

29 Q. Your brother was in Belgium in 1994; correct?

30 A. Yes, indeed.

31 Q. And he was the president of the MRND based in Belgium at that time, wasn't he?

32 A. No. I said that he was the president of the Rwanda community in Belgium.

33 Q. He was also the president of the MRND in Belgium, wasn't he, Mr. Witness?

34 A. Thank you for that piece of information because what I was aware of is that he was the president of the
35 Rwandan community and some of the documents he wrote got to Rwanda and were signed as the
36 president of the Rwandan community in Belgium. I never saw him sign anything as the
37 MRND president in Belgium. So if that is what you are claiming, you clearly have evidence to support it

1 and there isn't anything further I can say about that.

2 Q. Your brother was also raising funds for RTLM in Belgium in 1993; correct?

3 A. Maybe, but I was not involved. I didn't know what he was doing in Belgium. I heard that he had
4 become the president of the Rwandan community in Belgium when I saw some documents destined for
5 political parties in Rwanda which had been inviting him for a negotiation.

6
7 That is when I learned for the first time that he had been the president of the Rwandan community in
8 Belgium, but the activities of that meeting I was unaware of because I was very far from Belgium and he
9 had no obligation to tell me what he was doing.

10 *(Pages 50 to 62 by Kelly Surina)*

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1 1545H

2 BY MS. GRAY:

3 Q. Were you aware of your brother's close friendship with Georges Ruggiu?

4 A. First, that is not my younger brother. So it is my older brother. The Court needs to know this. I learnt
5 about that when he had to answer for his acts, having been indicted and tried in Belgium. So it was
6 during his trial that I got to learn that one of the charges was some form of collaboration with
7 Judge Ruggiu. But I believe he's in a better position to tell the Chamber what -- how far that
8 relationship with that man went.

9 Q. You've confirmed that you were aware that your brother was the founder of the community of Rwandan
10 students in Belgium as well; is that correct?

11 A. Founder, I can't tell if he founded it alone. But what I know is that when I got aware of that, he was the
12 president of the Rwandan community in Belgium. How it was born and how it was run is not something
13 I'm in a position to tell you about.

14 Q. Are you aware that that community known as CERB was deemed by the Belgians as a radical and
15 divisionist group, yes or no?

16 A. Thank you for providing me with that piece of information. What -- I mean the point of view of the
17 Belgian authorities regarding that movement is not something I'm aware of, because I was not in
18 Belgium at the time. Once more, I would like to say that my brother is in a better position to answer
19 you.

20 Q. Are you aware of the membership of Vincent Ntezimana in the CERB around that time, yes or no?

21 A. Who is that person? Because I don't know who that is.

22 Q. I'll take that as a no, Mr. Witness.

23

24 Your brother was denied refugee status in Belgian -- Belgium, correct?

25 A. Denied first. He was first denied, then he was granted. Presently, he's a Belgian -- he's a Belgian
26 citizen. I don't quite understand -- get it when you say he was denied. The procedure was long, but I
27 know that after he was -- he was heard, I think he -- he won his case. So I cannot tell the details about
28 what was involved in his trial. What I know is that he won the case, he was granted refugee status, and
29 he's presently a Belgian citizen.

30 MS. GRAY:

31 I wonder if the witness could be shown document number 4 in the bundle, please.

32 MR. PRESIDENT:

33 How does one know which is number 4?

34 MS. GRAY:

35 It should be --

36 MR. PRESIDENT:

37 Oh, I see it written on the top.

1 MS. GRAY:

2 -- identified as number 4 in the right-hand column.

3 MR. PHILPOT:

4 At this stage, Your Lordships, I am going to make an objection. I know what the document is. And this
5 is a document unsigned by the accused.

6 MR. PRESIDENT:

7 Accused or witness?

8 MR. PHILPOT:

9 By the witness -- by the accused.

10

11 I'm sorry, Mr. Basesayabo.

12

13 By the witness. Unsigned by the witness, which purports to be a Belgian refugee document of his
14 brother. He has been extensively cross-examined on it -- on the issue of his brother. He has answered
15 and cannot be contradicted by -- whatever the document says, by a photocopy of a document which he
16 has not signed. Had he -- I compare this to a signed statement which would -- could have been signed
17 by the witness. In that case, the Prosecutor could say, "Do you recognise your signature?" And if he
18 recognises, then he can be cross-examined on it. But on a document involving third parties there's no
19 cross-examination allowed, Your Lordship. If we do that, we're going to end up spending here -- being
20 here till the 1st of September. Thank you.

21 MR. PRESIDENT:

22 Madam Gray, this document, as you probably know, is in the French language, a language some of us
23 are not very conversant with. Can you lay some foundation how you can get to this witness as a
24 document he should be exhibiting.

25 MS. GRAY:

26 Sir, I'm not attempting to exhibit the document. I'm merely following up on the question that I've asked
27 the witness about, whether his brother was denied refugee status in Belgium. And he has, from his
28 answer at line 15:47:28, been perhaps equivocal is the best description. So I'm wanting to confirm with
29 him whether he is aware of what occurred in relation to his brother's refugee application in Belgium.

30 MR. PHILPOT:

31 I'm going to --

32 MR. PRESIDENT:

33 You ought to start by finding out whether he's aware of this statement.

34 MS. GRAY:

35 Yes, I will, sir.

36 MR. PRESIDENT:

37 This document.

1 MS. GRAY:

2 I will, sir.

3 MR. PRESIDENT:

4 Because if he -- the fact that his brother was denied whatever it is and it's contained in this document,
5 unless you can home this document to him, it's not of any use. In any event, his answers are that his
6 brother -- his brother was refused, but subsequently, on -- after appeal, he was allowed and became a
7 citizen. That's the way I understood it.

8 MR. PHILPOT:

9 There's an additional issue here, sir, Your Lordships. The question of relevance --

10 MS. GRAY:

11 I wonder if I can just interrupt and ask that during the legal submissions if the witness is either removed
12 from the room or removes his --

13 MR. PRESIDENT:

14 It won't be of great help, because I know -- I expect he understands English or enough English to
15 understand us.

16

17 Mr. Witness, how good is your English?

18 THE WITNESS:

19 It's the lowest possible level.

20 MR. PRESIDENT:

21 It can't be lower than my French.

22

23 Anyhow, do you want to litigate this?

24 MR. PHILPOT:

25 Your Lordship, I had one little point which is not -- the term -- I'll just say relevance for the time being.
26 And if we have to go into it more, I can -- we've gone past the stage of relevance. That's all. And the
27 Court understands what that word means.

28 MR. PRESIDENT:

29 Let's confer.

30

31 Madam Gray, I will ask this witness one question. Depending on that question, we'll make a ruling.

32 MS. GRAY:

33 As the Court pleases.

34 MR. PRESIDENT:

35 Can you show him this document.

36

37 Do you have it, Mr. Witness? You do?

1 THE WITNESS:

2 Yes, I have it.

3 MR. PRESIDENT:

4 Can you read it in the language in which it is written?

5 THE WITNESS:

6 Yes. I believe I can read and understand up to this point.

7 MR. PRESIDENT:

8 Good. Have you ever seen it before? Outside this court, have you ever seen this document?

9 THE WITNESS:

10 No. This is the first time I am seeing it.

11 MR. PRESIDENT:

12 Madam Gray, if that is the case, please let us know how you intend to bring in this document by this
13 witness or to -- or to contradict him with the contents of it.

14 MS. GRAY:

15 Well, sir, I've been asking the witness about the nature of his brother's refugee status after the
16 application was made to the Belgium authorities. And as I've said, the witness was equivocal about
17 that. And this may assist the witness in terms of what occurred when his brother sought refugee status.

18
19 I'm not attempting to do anything further than that, sir, in terms of the production of the document. It
20 simply relates to what occurred in relation to the application.

21
22 The witness has also denied, I think -- he has been evasive, perhaps, in relation to his brother's
23 presidency of the Belgium MRND, and that issue is clarified within the document as well.

24 MR. PRESIDENT:

25 But you see, what he knows and what is contained in this document may not be the same, because he
26 may know more or less than what is contained in this document. And unless this document is a
27 document he is familiar with, there is no basis upon which you can say that he has not told you the truth
28 because he has not told you that his brother was five and a half feet tall, as is written in this document,
29 that he weighed 20 kilos, as is written in this document. Because the only way you can -- you can
30 challenge what he is saying is if you know that he knows this document before which has set out those
31 facts. But without that, surely we don't see any basis upon which you can use it to contradict the
32 witness.

33 MR. WHITE:

34 If I may, Your Honours. With respect, it's not a question of seeking to exhibit this document, and it's not
35 a question of seeking to contradict the witness with the document. This is a question of seeking to use
36 information as a lever, as a tool to extract an answer from the witness.

37

1 Now, we can do this orally and simply put propositions of fact to a witness. However, when those
2 propositions of fact are contained in other materials, it may also be effective as a tool to simply say:
3 "Dear Mr. Witness, have a look at this. Doesn't that make you change your mind? Doesn't that inform
4 you a little more, or doesn't that refresh your recollection?" Whatever the means of the lever is, you can
5 still use the information.

6
7 It's not the document; it's the information in the document that we're seeking to use here, with respect,
8 Your Honours.

9 THE ENGLISH INTERPRETER:

10 Mr. President, with your leave, the interpreters would like to request, respectfully, the Court's guidance
11 regarding whether the arguments by counsel should be interpreted for the witness. Thank you, sir.

12 MR. PRESIDENT:

13 No, they shouldn't be. But it doesn't really matter because he understands them.

14

15 But, Mr. Philpot, let me first of all finish with Mr. White.

16

17 You see, it is legitimate to ask this witness, or indeed any witness, matters which are contained in a
18 document which he doesn't even know. But you don't say -- if he says the opposite of what these
19 documents say, you don't say he's not telling you the truth because the document says the opposite.
20 So that if you want to get all this information and bring it on record through asking questions to the
21 witness, you can do that. But once you have given it to him and you want it to become (*inaudible*), then
22 we become obliged to receive it, because we have also to see that what you say it says is what it says.
23 Because if it doesn't become an exhibit in our hands, we can never be certain that it is you and not the
24 witness who is saying what is correct in the document.

25

26 So Ms. Gray is free, if she wants, to ask all the questions which are contained here from this witness,
27 but I think Ms. Gray wouldn't be correct in saying, "I now exhibit as proof of what I have been saying
28 this document." Because then the witness will say, "I didn't write it. I didn't know anything about it. I
29 have not signed it. How does it speak for me?"

30 MR. WHITE:

31 Yes, Your Honours. All of that is correct and true. Agreed. Conceded. But, with respect, the
32 document can still be a tool.

33 MR. PRESIDENT:

34 It's the use of the tool -- it's the use of the tool that is in question. How do you use the tool? You use
35 the tool in educating yourself as to what the tool contains and getting the witness to confirm or deny
36 them or give you different versions but knowing that you will not be able then to say to him, "Look,
37 Witness, you are a liar because this document says the opposite." Because he will say, "Well, whose

1 document was it about?" And so forth. Unless, of course, the witness says, "Yes, I am familiar with
2 that document, and I can give you what the contents are."
3

4 You could, of course, if you want to, get the witness -- the writer of this document, if it's a matter that is
5 of that importance to you, and then exhibit it through him. Or if he is one of the witnesses that Defence
6 is calling, you can wait until that time and exhibit through that particular witness.

7 MR. PHILPOT:

8 I'd like to add something. And if the Court so wishes, I can ask Mr. -- the witness to take off his
9 earphones because I know his -- I can tell you his French is -- English is not very good.

10 MR. PRESIDENT:

11 Mr. Witness, take out your headphones, please.

12 MR. PHILPOT:

13 There's another aspect to this case -- this issue. The man answered this question unequivocally. He
14 was first refused and then granted and he became a citizen. It's becoming a form of badgering now.

15 Asked and answered. That's --

16 MR. PRESIDENT:

17 As far as that question is concerned, it's asked and answered. I understand that Madam Gray has
18 other matters which she was hoping to get out of the witness and is not proceeding in the same way but
19 want to use a tool by showing it to the witness.

20

21 As to whether what was the fate of the witness's brother's refugee status, that was asked, in fact, more
22 than once and answered also more than once. That's complete.

23 MR. PHILPOT:

24 Your Lordship, the issue of relevance -- I didn't stand up at the beginning of this questioning because
25 you can cross-examine somebody and say, well, the family connections means that the Court shouldn't
26 believe him. Okay? But after a certain time, it's going too far and it's going too long. And this
27 cross-examination has gone on for almost three hours. I haven't made the exact count. Three hours.
28 We took an hour. Now, I'm not -- I don't believe in equivalence minute -- equivalence minute by minute,
29 but there is some proportion, and I'd like the Court to enforce it.

30 MR. PRESIDENT:

31 Madam Gray, the Court is very sympathetic with what Mr. Philpot is saying about time. You must come
32 to some conclusion somehow.

33

34 But this document, we deny you the right to put it to the witness. Get on from there.

35 MS. GRAY:

36 As the Court pleases.

37

1 BY MS. GRAY:

2 Q. Mr. Witness, could you give us the name of your brother that we have been talking about.

3 A. My brothers's name is Paulin Murayi.

4 THE ENGLISH INTERPRETER:

5 Could we have the spelling, Mr. President. Thank you, sir.

6 MR. PRESIDENT:

7 Spell it, Mr. Witness.

8 THE WITNESS:

9 Murayi, M-U-R-A-Y-I, Murayi. The other name is Paulin, P-A-U-L-I-N.

10 BY MS. GRAY:

11 Q. You've told us that he was granted, eventually, some sort of immigration status in Belgium; is that
12 correct?

13 A. Yes, that's correct.

14 Q. And I think you've confirmed that initially he was denied refugee status because of his membership in
15 the various groups that we have discussed and the concern that the Belgian authorities had about
16 those, correct?

17 A. The reason why his application was denied was not known to me, because when I asked him about it,
18 he told me that he had a very voluminous file. And so I was not really interested in going through his
19 file to know what he was being accused of. You can have most of the documents, but, actually, there
20 are a good number of documents which are confidential.

21
22 In sum, I wouldn't say that I don't know why he was denied his application, because I don't want to lie,
23 but I can say that it was because of his activities during the critical period. And his activities made
24 those authorities deny his application for refugee status. But I really cannot honestly answer anything
25 beyond that.

26 Q. Your brother you've said was accused of various things in Belgium and was subjected to a trial; is that
27 correct?

28 A. Yes, I think so.

29 Q. What did the trial relate to?

30 A. It was connected with his application for asylum in Belgium. He was denied that, and he appealed up
31 to, I think, the constitutional court. It was a long process. He and his lawyers dealt with that process.

32 Q. Your brother is still in Belgium, correct?

33 A. Yes.

34 Q. You also live in Belgium?

35 A. Yes.

36 Q. And you obviously would see your brother there?

37 A. Yes. That's correct.

1 Q. Have you discussed this case with your brother more than you discussed it with your wife?

2 MR. PRESIDENT:

3 "This case" means which case, his refugee status case or the trial of Captain Nizeyimana?

4 MS. GRAY:

5 I'm happy to rephrase the question, sir.

6 BY MS. GRAY:

7 Q. Have you discussed the prosecution of Captain Nizeyimana with your brother, Mr. Witness?

8 A. I have never discussed it with him, because I did not want to publicise the whole matter. And if I had
9 spoken to him about it, he would have dissuaded me from coming here because he has had the
10 opportunity to defend himself. He came out clean. He was cleared of any suspicion. So I didn't have
11 to discuss anything with my brother. I took this decision to come here to testify for Captain Nizeyimana
12 personally with a clear conscience.

13 Q. Do you accept that your brother is involved in political organisations to bring down the current
14 Rwandan government, Mr. Witness?

15 A. Which brother? Because I have many brothers.

16 Q. Do you accept that Paulin Murayi is involved in political organisations to bring down the Rwandan
17 government, yes or no?

18 A. I don't know about it.

19 Q. Do you accept that part of the strategy is to deny that the genocide ever happened, yes or no?

20 MR. PRESIDENT:

21 Whose strategy --

22 MR. PHILPOT:

23 I'm going to -- want to clarify a translation question because I heard the French and that's not what it
24 came out in English. He said, "*Je ne reconnais pas ça.*" It means that "I do not recognise that. I do
25 not -- I'm not -- I'm not aware of that." Not "I don't accept that." It's not a negation.

26 MR. PRESIDENT:

27 Madam Gray, are you asking this witness -- whose strategy are you asking?

28 MS. GRAY:

29 My learned friend was on his feet.

30 MR. PRESIDENT:

31 Can you rephrase the question.

32 BY MS. GRAY:

33 Q. Part of the strategy of those political organisations is to bring down the Rwandan government. Do you
34 accept that or not?

35 A. To answer you, I would like to tell you that I am not -- I don't deal with my brother's current political
36 activities. If he's involved in politics, he doesn't have to inform me about it. Although I am his younger
37 brother, I'm free in my thinking. I have the right to do what I want to do. So when it comes to politics,

1 that's his business.

2

3 Now, with regard to whether he wants to overthrow the current government, you have asked me a
4 surprising question, because this is the first time I'm hearing about that since he won his case. I
5 wanted to inform you that since he won his case, I've never seen him being involved in any political
6 movement. So if he is active in any movement -- any movement bent on overthrowing the Rwandan
7 government, then you can inform the Court of it, because I'm not aware of this, I don't have any such
8 information, and I do not want to actually engage in discussions about it.

9 MR. PRESIDENT:

10 Ms. Gray, I think also, I don't know that his desire to overthrow the Rwanda government -- his brother's
11 desire to overthrow the Rwandan government is relevant to the testimony that he has given us.

12 MS. GRAY:

13 Thank you, sir.

14

15 I have no further questions.

16 MR. PRESIDENT:

17 Judge Park wants to ask one question before you do.

18 MR. PHILPOT:

19 Fine. Sorry.

20 JUDGE PARK:

21 Mr. Witness, you said you met Captain Nizeyimana once or twice on the road. Do you remember when
22 it was, months or year?

23 THE WITNESS:

24 No. I don't want to lie. One time on the road he waved. I don't think that after 17 years anyone can
25 remember what day or what week it was. So I cannot give you the specific period as you would like to
26 have.

27 JUDGE PARK:

28 Was it in the period of April to July in 1994?

29 THE WITNESS:

30 Yes. I can confirm that.

31 MR. PRESIDENT:

32 Mr. Witness, are you saying that that is the only time since you were born that you ever saw
33 Captain Nizeyimana?

34 THE WITNESS:

35 Since I was born? No. Captain Nizeyimana, when I was still young, I knew him because he would
36 pass quite close to our home in order to go and visit a member of his family who lived not far from our
37 place in the village. I did not know the relationship between Nizeyimana and that particular member of

1 his family, but we knew him because his family member taught me in primary school.

2
3 So when he went to study at the *École supérieure militaire*, ESM, in the neighbourhood, we did not
4 know people who had the opportunity of going to ESM, so the whole village was proud of that
5 achievement and word spread around and everyone knew about it. And when he would pass by in
6 uniform, you could see that he was someone who was proud to be a soldier. And it inspired other
7 people to aspire to go to the ESM.

8
9 So I knew him in that general context.

10 MR. PRESIDENT:

11 He is a man from home, as it were. In the north/south arguments, he would be falling on the north side.
12 He is from your part of the world; is that correct? Or you are from his part of the world?

13 THE WITNESS:

14 You mean he was from the north? Yes, I think he was from the north.

15 MR. PRESIDENT:

16 Not you think. You know.

17 THE WITNESS:

18 But regarding his exact *cellule*, *secteur* or *commune*, I can't answer that, because I told you that I knew
19 him through his family member. Because even when Nizeyimana went to ESM, that family member
20 boasted telling relatives and parents that his son or nephew had gone to ESM. They drank beer. They
21 danced. So I can tell you that there's a vague memory of Nizeyimana, but I have never sat down with
22 him to have a drink or anything of that sort. So I think that you will understand the kind of link or lack of
23 it that can connect me with him.

24 MR. PRESIDENT:

25 Good.

26

27 Mr. Philpot.

28 MR. PHILPOT:

29 No questions.

30 MR. PRESIDENT:

31 No questions. Thank you.

32

33 We'll take our break now for 15 minutes and come and do the next witness.

34 (*Court recessed from 1620H to 1644H*)

35 MR. PRESIDENT:

36 Session resumes.

37

1 Mr. Basesayabo, your testimony has come to an end. I want to take this opportunity to thank you for
2 coming all the way across the seas to assist us to find the truth in this matter. So thank you very much.
3 And you are now free to leave the court and to go back where you came from. Thank you. You may
4 now leave the court.

5

6 Show the witness out.

7 THE WITNESS:

8 Thank you.

9 *(Witness excused)*

10 MR. PRESIDENT:

11 Can we have the next witness, please.

12 MR. PHILPOT:

13 Before you bring in the other witness, I'd like to address the Court.

14 MR. PRESIDENT:

15 Proceed.

16 MR. PHILPOT:

17 Yes. At the beginning of the afternoon I received a document under 66(B) and 67(C) of one -- I haven't
18 counted the pages, about 20 pages in Kinyarwanda and a tiny bit in French concerning this witness.
19 And we are not prepared to have her heard right now because we have to look at this document with
20 her. I can exhibit it to the Court, but take my word for it that I received -- I can count the pages for you if
21 you want, but it's court records and arrest warrants. And, obviously, I'm not accusing the Prosecutor of
22 anything -- doing anything wrong except that it is late and so we have to consult with the witness and
23 verify the situation.

24 MR. PRESIDENT:

25 Does that suggest you have another witness in the wings?

26 MR. PHILPOT:

27 Mr. Ghiste is not here. I had every intention -- and the Court knows I was in hurry to get moving; you're
28 aware of that -- of having this witness heard. And this -- this occurred, and I consulted with my team.
29 And based on the Prosecution's late disclosure -- by the way, I'm not criticising. It's just a fact of late
30 disclosure. I'm not -- I'm not holding it against them in terms of being malicious or anything whatsoever.
31 We are not prepared to have this witness heard -- to present this witness. There's 45 minutes left.

32

33 And, obviously, we had requested WVSS to have three people in the wings, but with the extension -- I
34 consider the three and a half hours that the Prosecutor -- or four hours the Prosecutor used on a
35 witness we used an hour for, I assume WVS didn't bring the other witness in. But there's no misdoing
36 here. In fact, there's no misdoing by anybody here. The Prosecutor is a bit late, but I don't even hold
37 that against them. Maybe I hold against them, as a joke, that they cross-examined the witness too

1 long, but that's something we can discuss in the future, and I hope it doesn't happen too long -- too
2 often.

3 MR. PRESIDENT:

4 And that's something that the Court will keep itself well reminded of.

5 MR. PHILPOT:

6 We will time it, Your Lordship.

7 MR. PRESIDENT:

8 Madam Gray, we're going to insist on some proportionality between what counsel one side to the other.

9 MS. GRAY:

10 Thank you, sir. I take that on board. I do note that there were some questions which took some time to
11 get an answer from the witness about -- or from, as Your Honour no doubt noted as well.

12 MR. PRESIDENT:

13 Mr. White, on this other matter.

14 MR. WHITE:

15 Yes. Thank you, Your Honour. With respect to this other matter and the document that my learned
16 friend has referred to, I can advise that it arrived in my email box this morning at 10:59 a.m. while I was
17 in court. So as soon as we actually obtained a copy of it, we filed it and delivered it to my learned
18 friends. So that's as fresh as you can get it, Your Honour. There's nothing fresher than a document
19 that comes in while you're in the midst of court.

20

21 There may be some use of the remaining time in the day. I'm just going to plant this as a seed for
22 consideration, because earlier today I did file some correspondence to my learned friends, raising an
23 issue about another witness that we anticipate. This is Witness Hahirwa, the Defence team investigator
24 witness.

25

26 And I noted when I arrived this morning that there was an email from Mr. Lussiaà-Berdou from very
27 early this morning that set out a few pieces of information regarding Witness Hahirwa. And in the body
28 of that message there was reference to some documents that the Defence intends to make use of
29 during the testimony of Mr. Hahirwa. And the reference that was made was with respect to three, quote
30 unquote, reports. And these are reports that were provided in electronic form to the Prosecution on, I
31 believe, April 28th or 29th.

32

33 And in the correspondence to my learned friends today I indicated that the Prosecution will be taking
34 the position with respect to those materials that these are statements by the witness and not reports,
35 quote unquote, in their proper sense and that we would anticipate the testimony of Mr. Hahirwa would
36 proceed by way of the usual course of events for nonexpert witnesses by simply having them go
37 through their testimony in a non-leading way.

1 So if I'm to anticipate there may be some disagreement about that, I'm simply raising the matter at this
2 stage because, if we've got half an hour or so before the end of day, it may be something we can
3 address productively as an administrative matter without using other court time. I dealt with it by way of
4 correspondence specifically to avoid the use of court time. So I'm now just raising that. In the event
5 that my learned friends want to deal with it now, that's fine. If they don't, that's fine as well. I'm satisfied
6 to just sit down and depart the courtroom along with everyone else.

7 MR. LUSSIAÀ-BERDOU:

8 I don't mind --

9 MR. PRESIDENT:

10 Mr. Philpot -- or Mr. --

11 MR. LUSSIAÀ-BERDOU:

12 I don't mind one way or the other. Mr. White basically analysed the issue properly in this
13 correspondence. The reports themselves are essentially the result of Mr. Hahirwa's investigations.
14 They are not going to be used as such during his examination-in-chief. And the reason why I
15 mentioned it was in order to make sure that maybe copies would be brought, because they contain
16 photographs that he will be using during his examination. But we have prepared -- and this is, well,
17 precisely the issue we've had that has forced us to postpone his testimony is getting those printed in a
18 format that satisfy us for use in court. There will be -- there's one of those reports which do not contain
19 photographs but information of a technical nature that might be used a different way but not in any way
20 that would, I believe, cause any issue with the Prosecution. Yeah, that's all I have on this at this stage.

21 MR. PRESIDENT:

22 So we will take it that there is no issue now before us on this matter. And if an issue does arise, then it
23 will be dealt with in the usual way by address to us.

24

25 So it now means that we do not have another witness available for session today. I shall remind WVSS
26 what I said in the morning, that we should always, always, always have sufficient witness available so
27 that when things like this happen -- and they happen. A trial can never be an issue of science. It is --
28 there will always be something that makes a witness not get on his feet, so there should always be
29 another one able to fill in if we can run smoothly.

30 MR. LUSSIAÀ-BERDOU:

31 Mr. President, it's just in all fairness to the WVSS, it is our understanding from visiting the back rooms
32 that Mr. Ghiste is not here, but I don't know that we have received confirmation of that fact from them.

33 So I don't know if anybody has enquired with them that there is indeed no other witness present.

34 MR. PRESIDENT:

35 Can we hear from -- what is the position? Can you find out the position.

36

37 He's not present. It happens that this time we are right.

1 So we will adjourn proceedings until 9 o'clock tomorrow morning.

2

3 Now, which is the witness you are taking tomorrow morning?

4 MR. PHILPOT:

5 Unless these materials contain things which are -- require investigations, which I doubt, it will be
6 MOL08, then Mr. Ghiste, and then I think it's -- I'm going from memory -- BUVO2.

7

8 And I repeat my desire to proceed quickly as I pressed myself this morning in chief. I will continue to do
9 so in my preparation. And I hope we can have, as the Court pointed out, a similar approach by the
10 Prosecutor and do not blame it on the witness.

11 MR. PRESIDENT:

12 We much appreciate it. And we hope that we will all be able to go as fast as we can.

13

14 So the proceedings are now adjourned until 9 o'clock tomorrow morning.

15 *(Court adjourned at 1657H)*

16 *(Pages 63 to 76 by Sherri Knox)*

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CERTIFICATE

We, Deirdre O'Mahony, Eleanor Bastian, Haruna Farage, Kelly Surina and Sherri Knox, 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 no wise interested in the result of said cause.

_____ Deirdre O'Mahony

_____ Eleanor Bastian

_____ Haruna Farage

_____ Kelly Surina

_____ Sherri Knox