

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

CASE NO.: ICTR-01-65-T  
CHAMBER I

THE PROSECUTOR  
OF THE TRIBUNAL  
v.  
JEAN MPAMBARA

THURSDAY, 12 JANUARY 2006  
0847H  
CONTINUED TRIAL

Before the Judge:

Jai Ram Reddy, Presiding  
Sergei A. Egorov  
Flavia Lattanzi

For the Registry:

Ms. Marianne Ben Salimo  
Mr. Sheha Mussa

For the Prosecution:

Mr. Richard Karegyesa  
Ms. Andra Mobberley  
Mr. Didace Nyirinkwaya  
Mr. Ousman Jammeh

For the Accused Jean Mpambara:

Mr. Arthur Vercken  
Mr. Vincent Courcelle Labrousse

Court Reporters:

Ms. Ann Burum  
Ms. Jennifer Spring  
Ms. Kirstin McLean  
Ms. Judith Baverstock

I N D E XWITNESSFor the Defence:

GANUZA LASA SANTOS

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## PROCEEDINGS

1  
2 MR. PRESIDENT:

3 Yes. Good morning, Reverend. Good morning, everyone else in the courtroom. We will now proceed  
4 with cross-examination.

5 MR. KAREGYESA:

6 Thank you, Mr. President, Your Honours.

7 GANUZA LASA SANTOS

8 CROSS-EXAMINATION

9 BY MR. KAREGYESA:

10 Q. Good morning, Witness.

11 A. Good morning.

12 Q. Witness, you would consider yourself a relatively educated person, wouldn't you?

13 A. Yes.

14 Q. *(Microphones overlapping)*...formal education *(unintelligible)*?

15 A. I was trained as a priest. Subsequently I received refresher courses in universities in Madrid. But they  
16 were refresher courses. The only training I have received was seven years' training in priesthood after  
17 completing high school. Then we also had refresher courses for our sabbatical year, which was a year  
18 in continuation of our training, mainly in pedagogy and psychology.

19 Q. Right. And you would have studied diverse subjects like sociology and philosophy, wouldn't you?

20 A. Sure.

21 Q. History?

22 A. Sure. History of philosophy also.

23 Q. Metaphysics?

24 A. Sure. That is mandatory for a priest.

25 Q. And in the circumstances of your environment in Rukara parish in 1994, you would have been regarded  
26 as someone who was relatively well off, isn't it, by your flock?

27 A. I considered myself as someone well received and someone in the middle of my people but not  
28 someone in high society, so to speak. I have always attached myself to the ordinary people, and it is  
29 with ordinary people that I worked.

30 Q. Yes. Maybe I was misunderstood, Witness. By my question I meant you would have been seen as  
31 somebody who was affluent.

32 A. Rather, that I had possibilities of getting money, that I had the possibility of getting money with the  
33 assistance of several institutions in Spain. For instance, Manusunitas *(phonetic)*, Caritas, and other  
34 institutions in Valencia. And also I was someone who was trusted by those institutions, not that in a  
35 personal capacity I had money. I had to be accountable for all what I used.

36 Q. You drove a car, for example, didn't you?

37 A. Of course. I drove a car.

- 1 Q. One of the few cars in Rukara *commune* at that time?
- 2 A. At that time there were two or three. That's all.
- 3 Q. Thank you, Witness. And you wore shoes, for example.
- 4 A. Of course. I was considered as rich. When I said that I was poor, children would always tell me, "But  
5 you are putting on shoes, so you are wealthy."
- 6 Q. And you also wore a watch?
- 7 A. Yes, that was more common. It was already becoming common even amongst teachers.
- 8 Q. You managed a budget, as you've said, didn't you, of donor funds?
- 9 A. Yes, it was in the Rukara savings fund.
- 10 Q. And you kept a diary of the activities, didn't you?
- 11 A. Of course, in order to help the population and towards the development of Rukara *commune*.
- 12 Q. Now, as a leader of the Holy Roman Catholic Church in Rukara, you would have been perceived as the  
13 secular head of Rukara *commune*, wouldn't you?
- 14 A. A secular head? I do not understand that. As a religious leader, yes, I was acknowledged. However,  
15 let me sound this note of caution: I was parish priest only from the month of January. Because, prior to  
16 that, I was kind enough to trust the first Rwandan colleague who was ordained as a priest, and we  
17 asked the bishop to appoint him as the parish priest. That was Father Gérard Karugonga (*phonetic*),  
18 and he was appointed parish priest in 1992, if I'm not mistaken. I went there as a vicar only after his  
19 death following his car accident on the 8th of January, 1994. That is when I assumed position of parish  
20 priest in that parish.
- 21 Q. So from January 1994 through April 13th, you would have been --
- 22 A. Yes.
- 23 Q. -- the head of the Roman Catholic congregation in the entire *commune*, wouldn't you?
- 24 A. Yes.
- 25 Q. And you will agree that the Accused, Jean Mpambara, was the administrative head of the *commune*,  
26 isn't it?
- 27 A. Yes, yes, yes, yes.
- 28 Q. And by reason of your respective positions in society, you would have had to work closely together,  
29 both in good times and bad times?
- 30 A. Quite so. That is how it was.
- 31 Q. And, in fact, according to your own evidence and evidence on the record, between 7th and 13th of  
32 April 1994, you were seen in the company of Accused Mpambara on many occasions, isn't it?
- 33 A. Let me make this clarification: We worked closely together, but each and every one was a leader in his  
34 domain. I never got involved in politics even though I moved together with him. I respected his action.  
35 And when he went in to see the captain, the commander, or any other authority, cautiously, I did not get  
36 in because that was not my field of competence. We worked closely together, but separately.
- 37 Q. Precisely, Witness. I'm not suggesting for a moment that you got involved in his work, but, by your own

- 1 admissions, you were seen in his company on several occasions between the 7th and 13th of April  
2 1994. It's either "yes" or "no."
- 3 A. Yes, that's true.
- 4 Q. And it would also be true that, in the same period, 7th through 13th of April 1994, you were not together  
5 with Mpambara all the time.
- 6 A. Of course not. No, only when he would come for concrete actions. That's all.
- 7 Q. Now, between 1967 and 1994, a period of 27 years, which you spent in Rwanda, you were able to learn  
8 the Kinyarwanda language, weren't you?
- 9 A. Yes, yes, I learnt the language. I can speak the language quite well. I can understand it, but I can say  
10 that it is not easy to understand all the niceties of the Kinyarwanda language. But what I knew was  
11 quite enough for me to speak with people, so I did not rack my brains to know whether my grammar  
12 was correct or not. I understand Kinyarwanda. Now I lost quite a few things, I have forgotten quite a  
13 few things, but I still understand Kinyarwanda. I can speak the language.
- 14 Q. And in those 27 years, you closely interacted with the Roman Catholic congregation comprising  
15 Rwandans wherever you were in Rwanda at that time, isn't it?
- 16 A. Yes, yes.
- 17 Q. And during the same 27-year period, Witness, you were able to observe and identify certain traits that  
18 were characteristic to Rwandans, weren't you?
- 19 A. Yes, yes.
- 20 Q. In fact, in examination-in-chief the other day, you identified one of the traits, and you said it was in  
21 reference to Rwandans, I quote, "They hide their feelings," close quote.
- 22 A. Yes, sir.
- 23 Q. And it's correct, isn't it, that by that you would mean that Rwandans don't betray emotion physically or  
24 facially?
- 25 A. Yes, yes. And that's true. And I still stand by that. At least I would say that they do not speak the way  
26 I, a Spaniard, speaks because they know how to hide their feelings 100 times better than Spaniards. I  
27 stand by that.
- 28 Q. All right. And, in fact, it would not be easy, Witness, according to you, to judge what was on a  
29 Rwandan's mind by merely looking at him, interacting with him.
- 30 A. Very difficult. Very difficult. But after so many years on looking at the minute details, one is able to  
31 suspect what is inside.
- 32 Q. Now, I suppose another trait you would have observed in your 27 years in Rwanda is that it was a  
33 highly structured and formal society, isn't it?
- 34 A. Yes, yes, yes.
- 35 Q. In fact, it was so orderly during your 27 years, and the society or the population was subservient to  
36 authority and observed protocol.
- 37 A. Yes, that's true.

1 Q. Now, Witness, according to your evidence, you've been in the priesthood for over half a century, isn't it?

2 A. Yes, 52 years, sir.

3 Q. And by the nature of your calling, your vocation, you would naturally expect the best of people, wouldn't  
4 you?

5 A. Yes, that is our wish.

6 Q. And you'd expect people to act always with the best of intentions, wouldn't you?

7 A. That is why all of us, everybody works in life, not only me. Everybody who is working for people and  
8 men to give the best of themselves for the betterment of society.

9 Q. So it was only natural, Witness, for you to expect the gendarmes posted at the parish to have defended  
10 and protected the Tutsi refugees, Witness, isn't it?

11 A. Of course. It was their obligation.

12 Q. But you were totally shocked, weren't you, that they didn't fire a single shot to protect the Tutsi refugees  
13 on the 9th of April 1994, weren't you?

14 A. Let me start by saying that I was not present when the attack took place, but I was quite surprised.

15 Q. *(Microphones overlapping)*...precisely. Now, similarly, Witness, you would have expected the best of  
16 the military and civilian authorities, wouldn't you?

17 MR. VERCKEN:

18 Mr. President, Mr. President, I'm sorry. I object. Once the Prosecutor makes a supposition concerning  
19 Father Santos's emotions, it seems to me but normal that he should allow him to make the necessary  
20 clarifications when answering the question instead of interrupting him and asking him to give an answer  
21 by a "yes" or a "no" regarding the question concerning the emotions which Father Santos felt. So I  
22 think it is but normal for Father Santos to give the answers that he wants to give to the question.

23 THE WITNESS:

24 What I meant to say is that I did not know what they did because I was not present. But I would have  
25 wished a more concrete action. What they did, I do not know. That is what I can say. But I requested  
26 more concrete action. If they shot in the air or if they did not shoot in the air, I was not present.

27 MR. PRESIDENT:

28 Yes. Carry on.

29 MR. KAREGYESA:

30 Thank you, Mr. President.

31 BY MR. KAREGYESA:

32 Q. Now, Witness, you would have also expected the best of the military and civilian leadership to do their  
33 utmost to protect the Tutsi refugees at your parish?

34 A. I would have wished so, but the possibility of such a move is something else. And I quite understood  
35 that it was not possible for them to provide more assistance towards protecting the refugees. That is  
36 why I accepted -- or, we accepted that reality of the dearth of physical resources -- or, I should say,  
37 personnel to protect the refugees when the commander before me often repeated that "I do not have

1 soldiers." He did not even say that before the *bourgmestre*. He said, "All the soldiers are in the battle  
2 front. I am here only to protect the barracks, and I do not have more soldiers."

3

4 Whenever we went down to Rwamagana to seek assistance, the answer was the same.

5 Q. And in the same vein, Witness, you would have expected good Catholics to come to you for penitence if  
6 they had sinned, wouldn't you?

7 A. I am afraid I don't understand your question. Repeat it.

8 Q. (*Microphones overlapping*)...question, Witness, is that you would expect good practicing Catholics who  
9 have sinned to come to you for repentance.

10 A. Of course. That is what I expect, repentance for all those who have committed criminal deeds,  
11 everybody, and it's only at that time that we will have genuine reconciliation in Rwanda, the day when  
12 each and every one will acknowledge their wrongs committed. I am still looking forward to that day.

13 Q. And your natural inclination when somebody confesses to you would be to forgive that person, wouldn't  
14 it?

15 A. Of course. Let him repent, and that's what confession (*sic*), forgiveness for all the misdeeds and  
16 wrongs committed.

17 Q. And you would be under no obligation, as a priest who has received confession to a criminal act, to  
18 report that matter to the police, would you?

19 A. We have the secrecy and discretion in confessions. It is for me only. If it is a confession, then it is  
20 secret. I cannot divulge any information that I received in the course of a confession. If I got the  
21 information from elsewhere, that is different. But if it is a confession, it remains secret.

22 Q. Right. Witness, you conceded a while back that Rwandan society was highly structured, formal, and  
23 observed protocol. Now, wouldn't it have been entirely in order for the *bourgmestre* to consult with his  
24 *sous-préfet* before visiting with the military or gendarmerie commander in Rwamagana?

25 A. I find that quite obvious. The *bourgmestre* on a daily basis went to Rwamagana, went to Kibungo,  
26 because that was his obligation. It was not only a few times with me. Morning and evening, day in, day  
27 out, he ran here and there because of the floating turn of events. Sometimes he did not even have to  
28 prepare his trip to Kibungo. He had to cut it short because of the stream of events, but I find it quite  
29 normal that, as a civilian authority, he should meet with his superiors, that is, the *sous-préfets* and  
30 *préfets*, in Kibungo in addition to the military commanders to seek assistance.

31

32 As far as I am concerned, this is quite normal. And at that time I did not go there with him. I find it quite  
33 normal. I, myself, decided to stay aside because that was not my business. My business was to  
34 defend the refugees. But the modalities were handled by the civilian and military authorities. I  
35 voluntarily stood aside.

36 Q. Witness, you haven't quite answered my question. Maybe you didn't understand it. Let me rephrase or  
37 repeat it.

- 1 Wouldn't it be correct to suggest that the *bourgmestre*, in accordance with tradition and protocol, would  
2 consult his *sous-préfet* before going to the military or gendarmerie commander in Rwamagana?
- 3 A. Normal, quite normal. But if the *sous-préfet* was not there then, then he would be obliged, after  
4 consulting with the others, to go directly to the commander. But we went there on several occasions to  
5 see the *sous-préfet*, but, unfortunately, we did not see him, firstly, the *sous-préfet*.
- 6 Q. In fact, Witness, according to your evidence in-chief, Accused Mpambara asked you to go with him to  
7 Rwamagana to help him tell the *sous-préfet* that if he couldn't protect the Tutsi refugees and there were  
8 massacres, I quote, "The Hutu cause would be lost," close quote.
- 9 A. Yes, that is my evidence. If the refugees in the parish are massacred, your Hutu cause will be lost.  
10 The world of the images will be aired, and your cause will be lost. I repeated that statement to  
11 strengthen my request for the military authorities to defend and protect the refugees.
- 12 Q. Witness, what did you mean by "the Hutu cause"?
- 13 A. At that time the authorities were in power, and if they want to stay in power, the first thing would be to  
14 ensure fairness with regard to all ethnic groups. And those who were the powers at the time, if they  
15 were not able to ensure justice and fairness, then their cause would be lost. I did not need to go  
16 further. You can imagine the rest.
- 17 Q. So you would have been supportive in associating with the Hutu cause, wouldn't you, Witness?
- 18 A. Listen carefully. I am here to defend Mr. Mpambara. I am not here to tell you my political thoughts, and  
19 I have said from the onset that I do not want to answer questions which are beyond the scope of the  
20 defence of Mr. Mpambara, and I will not answer.
- 21 Q. I'm sorry, Witness, but you are here under cross-examination, and you are supposed to answer  
22 questions put to you by this Chamber, be it in Prosecution, Defence, or the Judges. And my question  
23 was simple. You were concerned about the loss of the Hutu cause.
- 24 A. Let me repeat that I am here as a Defence witness for Mpambara, and today I am not going to deal with  
25 something else. Well, perhaps some other day if I am called, I may answer. But today I am here to  
26 defend Mr. Mpambara's cause, and, I'm sorry, I am not going to answer.
- 27 MR. VERCKEN:  
28 *(No interpretation)*
- 29 MR. PRESIDENT:  
30 Reverend, let me caution you. You are here as a witness, and you will answer all questions put to you  
31 unless we rule that those questions are irrelevant or inadmissible. And that's an order.
- 32 MR. KAREGYESA:  
33 My learned friend is on his feet, Your Honours.
- 34 MR. PRESIDENT:  
35 Yes.
- 36 MR. VERCKEN:  
37 Yes. I would like to point out that the witness has answered the question put to him by saying that at



1 the time when he spoke to the authorities --

2 MR. KAREGYESA:

3 *(Microphones overlapping)*

4 MR. VERCKEN:

5 -- he was speaking to the majority --

6 MR. PRESIDENT:

7 You are objecting to something, Counsel?

8 MR. VERCKEN:

9 Yes, I do vehemently object, Mr. President, because I believe the witness answered the question that  
10 was put to him when the Prosecutor asked him whether that is how he speaks to the *bourgmestre*  
11 defending a cause. And the witness answered by saying no, he was speaking to -- he knew how to  
12 speak to political authority, and that is what he was doing. And the witness answered the question.  
13 The rest of the question is subjective and out of place. I believe the answer has been given. That is  
14 why I am objecting.

15 MR. PRESIDENT:

16 Well, the objection's overruled. He hasn't answered the question.

17

18 You can repeat the question.

19 MR. KAREGYESA:

20 Most obliged, Mr. President, Your Honours.

21 BY MR. KAREGYESA:

22 Q. Witness, by your own evidence, it would be correct to suggest that you were concerned about the loss  
23 of the Hutu cause, "yes" or "no"?

24 A. I was concerned about losing sight of the political ideology at the time. The Hutus were in power at the  
25 time. I wanted to support the order that existed in Rwanda at the time, whether such a political order  
26 was maintained by the Hutus or the Tutsi. The Hutus were in power, and it was my intention to support  
27 the action of the authorities to ensure that the tragic events should not destroy the political authority at  
28 the time or should not lead your political authority at the time to go astray.

29 Q. Witness, do you recall the date on which Mpambara asked you to go with him to talk to the *sous-préfet*  
30 about the lost cause, or the Hutu cause?

31 A. Yes, yes. On the 8th of April at 11 a.m.

32

33 No, wait a minute -- yes, it was the 8th. Yes.

34 Q. And on the 8th, at approximately what time of the day, to the best of your recollection, did Mpambara  
35 tell you to go and assist him talk to the *sous-préfet* because, as a white man, it would carry more  
36 weight?

37 A. Eleven a.m. And we went there at about 2 p.m., or 2:30 p.m., in the afternoon.

1 Q. And on that occasion, did you go to the *sous-préfet's* house in Rwamagana?

2 A. We tried to go there, but he was not present. I say this in my capacity as a priest, and I repeated those  
3 words, the words before the commander. Afterwards I went out. I was brought in. I said what I had to  
4 say, and then I left again. I do not know what strategies were agreed upon, but after the fact, the  
5 following day, we saw the strategy that they prepared. But I was not aware of it.

6 Q. Witness, you've used the words you "tried to go there." What do you mean you tried to go to the  
7 *sous-préfet's*? Did you go there or did you not go there?

8 A. We went right to the entrance to the gate, and at the gate we were told that he was not there. In any  
9 case, on that day we tried to go there. We went as far as the entrance, but we didn't go in. To the best  
10 of my recollection, we did not go in. We got there, but we did not go in.

11 Q. And, Witness, this would have been at his residence, wasn't it?

12 A. I cannot say that with certainty. I cannot be any more specific. The only thing that struck me was the  
13 pink window curtains. Whether it was his house or his office, I cannot say for sure. It is possible that I  
14 have forgotten. I do not remember having gone into his house, nor do I remember going into his office.  
15 It is possible that I have forgotten, but it doesn't change the facts.

16 Q. Witness, did you know, personally know, the *sous-préfet*?

17 A. No. I haven't the slightest idea. I do not know whether I ever met him, whether I ever saw him even  
18 once, knowing fully well that he was *sous-préfet*.

19 Q. Now, let me take you back to the 8th when you said you went with the Accused up to the gate of the  
20 *sous-préfet*.

21 A. *(No interpretation)*

22 Q. Do you remember Mpambara enquiring from someone you found in the garden? Do you remember  
23 Mpambara getting out of his car and talking to someone in the garden?

24 A. These are little details I do not remember. My memory of what happened is vague. All I remember is  
25 that we did not succeed to see the *sous-préfet*, and we immediately went to see the commander. That  
26 is all I remember. As for the rest, it is all minor details that I cannot remember.

27 Q. Witness, you've just told this Chamber that you did not know who the *sous-préfet* was. So how did you  
28 know that Mpambara didn't talk to the *sous-préfet*?

29 A. Yes, because he was told in my presence that the *sous-préfet* was not there. In that case, he spoke  
30 with someone else. It wasn't the *sous-préfet* because we were told the *sous-préfet* is not here. I may  
31 be wrong, but the idea I have of what was said is that the *sous-préfet* is not here, and so we went to  
32 see the commander. That is what I understood.

33 JUDGE LATTANZI:

34 Prosecutor, I have a question for the witness.

35

36 Father Santos, can you tell us something? You told us you stopped at the gate, yes, at the entrance at  
37 the gate *(microphones overlapping)*...and you said the windows could be seen.

1 THE WITNESS:

2 We went to the gate. From the road we could see the curtains. We saw the curtains from the road. All  
3 we could see was the gate. As for the gate, all -- that was all we could see.

4 BY MR. KAREGYESA:

5 Q. Witness, who told you that the *sous-préfet* wasn't there?

6 A. It's Mr. Mpambara who told me the *préfet* was not there. The people spoke to Mr. Mpambara.

7 Q. So was it people or a person at the *sous-préfet's* residence who informed Mr. Mpambara that the  
8 *sous-préfet* wasn't there?

9 A. Several people. Because at the entrance were several people, not just one person. Several persons  
10 came out in the presence of -- since the *bourgmestre* of Rukara was present, it was normal. In a small  
11 group of two or three, they said a few words to one another. They didn't talk for long, and we then went  
12 to look for the commander. Everyone was standing up at the entrance to that building. Whether it was  
13 the *sous-préfet's* office or his house, I do not know for sure.

14 Q. And you wouldn't know for sure whether Mpambara actually talked to the *sous-préfet* because you  
15 didn't know him, isn't it, Witness?

16 A. We went that short while together, and then we left together. We arrived together, we spoke together,  
17 and together we went to look for the commander. To the best of my recollection, he did not leave me at  
18 any time alone. I didn't know where to stay. I do not remember being left quite alone at any time during  
19 that period. We were always together, both of us.

20 Q. Witness, a while ago this morning, you said that you went to the *sous-préfet's* in Rwamagana on  
21 several occasions. And I put "several occasions" in quotes. Can you tell us on how many occasions  
22 you went to the *sous-préfet's*?

23 A. I would rather say how many times we went to Rwamagana. And on each of those occasions, the first  
24 person to contact had to be the *sous-préfet*. If we went there three or four times, the protocol was the  
25 same. What I can say is that I do not remember meeting the *sous-préfet* on any occasion.

26 Q. All right. Now, a while ago you told us that you went to Rwamagana on the 8th of April 1994 with  
27 Accused Mpambara. When was the next occasion you went to Rwamagana with Accused Mpambara?

28 A. I am sort of in a fix with regard to the chronology of events. In any case, I went there on the 11th and  
29 the 12th. I went there on the 11th to find out whether we could move the refugees to the schools in  
30 Rwamagana. And on the 12th, I was in despair that we did not obtain the military protection we had  
31 been looking -- we had been seeking. I am sorry I cannot be more specific than that because I do not  
32 have a clear calendar of how the situation evolved.

33 Q. But, Witness, you told the Chamber this morning that you kept a diary of your activities.

34 A. That is not true. I -- I -- I had a small agenda which I did in Spain, but not at the time. The events were  
35 so overwhelming that I could not note them in my diary. It is only now that I have a diary. I never had a  
36 diary at the time.

37 Q. So, to the best of your recollection, you went to Rwamagana on three occasions with the Accused, on

1 the 8th, the 11th, and 12th, and would it be your evidence that on all --

2 A. (*Microphones overlapping*)...at least on three occasions. It could have been more, but at least it was on  
3 three occasions.

4 Q. And would it be your evidence that on all these three occasions, Witness, you went to the *sous-préfet's*  
5 residence in accordance with protocol?

6 A. We tried to go there because we were told before we got there often that the *sous-préfet* was in  
7 Kibungo, and he often went there to inform the *préfet*. If we were told that the *sous-préfet* was in  
8 Kibungo, in that case, why we would go there? In that case, we went directly to the commander's  
9 office.

10 JUDGE LATTANZI:

11 Excuse me. Prosecutor and Father Santos, could you please observe a short pause between the  
12 questions and the answers. If you do not observe such a pause, the message would not come through.

13 THE WITNESS:

14 Yes, thank you. It is my fault. I answered the questions too quickly.

15 MR. KAREGYESA:

16 Thank you, Judge.

17 BY MR. KAREGYESA:

18 Q. Witness, I'm just trying to establish, you've told this Court that you went to Rwamagana initially on  
19 "several occasions," close quote. Now, you've given us the several occasions as the 8th, 11th, and  
20 12th of April 1994. You've also told the Chamber that on these several occasions you would go to the  
21 *sous-préfet*. And I just need a clarification, Witness. Did you go to the -- in addition to the 8th, did you  
22 go to the *sous-préfet's* on the 11th of April and on the 12th of April 1994?

23 A. I only remember the first occasion when we went close to the house or the office of the *sous-préfet*. On  
24 the other occasions, we heard before we got there, while we were in the vicinity, that the *sous-préfet*  
25 was not there. So we went directly to talk to the commander. That is how the events unfolded. When  
26 we were informed on our way at the entrance to the military camp that the *préfet* -- the *sous-préfet* was  
27 there or was not there, we immediately went to see the commander, since we were requesting military  
28 action.

29 Q. Witness, isn't it actually true that, on the 12th of April 1994, yourself, the Accused Mpambara, and  
30 MP Kalibwende actually visited with the *sous-préfet*, entered his house, and shared a drink?

31 A. I do not remember. That is all I can say. I do not deny that, but I will be surprised if we had a drink  
32 because I normally do not take a drink. If I had taken such a drink, I would have remembered because  
33 normally beer is served, and I do not like beer. That is obvious. So in that case, if we had had a glass  
34 of beer, I would remember because I would have done so against my will.

35 Q. I'll move on, Witness.

36

37 Now, do you recall going to Rwamagana with the Accused on the 9th of April 1994?

1 A. I did not go to Rwamagana on the 9th of April. Maybe I planned to go there but did not have the time to  
2 do so. At 9 a.m. I was at the water pump, trying to fix it, and at 11 a.m. I was with the soldiers in -- on  
3 Rukara hill, and at 2 p.m. I went to look for the person in charge of the pump in Gahini. At 5 p.m. I was  
4 once again at the *bourgmestre's* office or house. At 5:30 p.m. I was in front of the church to see the  
5 bodies that had been killed at that time. At 4 p.m. I was with soldiers. Tell me when I had time to go to  
6 Rwamagana.

7 Q. Witness, do you recall making a statement to the first Defence team of Accused Mpambara shortly after  
8 his arrest in 2001?

9 A. People came to see me so many times that I cannot say exactly what I said. They -- I don't know  
10 whether they came in an official or an unofficial capacity. They came on several occasions to various  
11 locations to interview me. I don't know whether they came in an official capacity or not. Only ask me  
12 whether I know something about the times when they came in an official capacity.

13 Q. Witness, I'm just trying to ask you to recall something quite recent, in fact, as recent as 2002. Do you  
14 remember meeting with the Defence team of Accused Mpambara in Cameroon and making a statement  
15 in defence of Mpambara?

16 A. Yes, it is possible. I have said that several people came to see me. We are talking about the contents.  
17 I would say that I received several people, one from Kigali, one from Arusha, another from France, and  
18 so on and so forth. I do not quite remember. But I received many people recently too.

19 Q. I'll come to the recent ones, Witness. Do you recall making a statement to OTP investigators on the 7th  
20 of August 2004?

21 A. It is possible. I'm a little surprised, but it is possible. Because, in principle, this case was scheduled for  
22 February 2004 -- I beg your pardon, 2005. It is possible. Yes, it is possible.

23 Q. In fact, on the 6th of August 2004, you refused to meet with OTP investigators and had your housemaid  
24 tell them that you were not in. Do you recall that?

25 A. Not at all. Not at all. To the best of my recollection, it is not true. I would never refuse, and I never  
26 refused, to be interviewed on that subject. I do not remember. If they were turned back without my  
27 knowing, I do not know. But I consciously did not turn anyone back.

28 Q. Do you recall meeting with OTP investigators the next day, on the 7th of August, and apologising for not  
29 meeting them as agreed on the 6th of August 2004?

30 A. I do not recall. I am not aware of that. If that had been by my fault, I would have regretted it. But if  
31 those at the entrance did not quite understand, that -- that wouldn't be my fault. If they refused by my  
32 fault, I would say so. If I was busy doing something else, I cannot say so now.

33 Q. In any event, Witness, do you recall being interviewed and signing a statement -- a written statement,  
34 typewritten by investigators of the Office of the Prosecutor?

35 A. Yes, yes, I remember. I signed several pages.

36  
37 Let me say something. One could say that I was tortured in the sense that I was interviewed for four,

1 five hours nonstop. Those four or five pages were written in English. They asked me to sign in English.  
2 I said, "I do not read English. I understand a few words of English. I don't want to sign a document I  
3 don't understand."

4  
5 So they started translating it into French. They translated it more or less. I remember saying, "I am  
6 signing, but I'm exhausted." This was, by and large, what was worse. As for details, I can't remember.  
7 It was at about 5:30 p.m. I signed, but I told them that I was in agreement, more or less. But with  
8 regard to details, there were points I did not quite agree with.

9 Q. Now, this statement that you signed was in French, wasn't it, Witness?

10 A. Yes, that is what I have said. I refused to sign the statement in English, and it was translated before  
11 me. And I signed the documents in French.

12 Q. In fact, let me refresh your memory, Witness. The interview was conducted on the 7th of August 2004.  
13 And a month later, on the 8th of September 2004, you were given a copy of the French statement. And  
14 you had it for two days and actually signed it on the 10th of September 2004.

15 A. I signed those documents on the night of the same day they were written. After -- as to what happened  
16 subsequently, I do not remember. I remember there were a few remarks, a few corrections, for the  
17 Tribunal. What was important, I signed it, as tired as I was -- as I was, just to get it over with. As to the  
18 other points, I do not remember. What I remember is that I signed it. I was exhausted. I signed it at  
19 about 10:30 p.m. in the evening. I just did so to get it out of the way. That is what I remember. As for  
20 the rest, I do not remember.

21 Q. But you do agree with me that this was a month after the interview. This was on the 10th of September  
22 2004.

23 A. That I signed a second time? No. I do not remember. If I did so, perhaps I have forgotten. If you were  
24 to show me the documents, I'll probably be in a position to accept. But for the time being, I do not  
25 remember. That is all I can say. That is all.

26 Q. *(Microphones overlapping)*

27 MR. VERCKEN:

28 Mr. President, Mr. Prosecutor, at this stage I do not know why the Prosecutor is not reading the last  
29 paragraph of the statement in question --

30 MR. KAREGYESA:

31 *(Microphones overlapping)*

32 MR. VERCKEN:

33 -- which was prepared by his office and which does not include all the details he's giving the witness.  
34 I'm making the remarks which I deem necessary, and it is up to the Chamber to admit them or not.

35  
36 Mr. Prosecutor, you are not the one to say what I have to say. What you are telling the witness does  
37 not square with what your investigators noted on the statement you are referring to --

1 MR. KAREGYESA:

2 *(Microphones overlapping)*

3 MR. VERCKEN:

4 -- allow me at least to present this to the Chamber. They may be interested in reading this document.

5 MR. PRESIDENT:

6 *(Microphones overlapping)*...we can't deal with these matters unless there are -- unless there are  
7 proper objections, and parties are able to make those objections. Now, what is your objection,  
8 Counsel? Could you encapsulate it?

9 MR. VERCKEN:

10 The Prosecutor has just told the witness that he was interviewed in August, that a month later he  
11 received a French copy of the statement -- his statement, that he kept it for two days and subsequently  
12 signed it. However, when we look at Father Santos's declaration to the OTP investigators, I notice that  
13 the last paragraph of the last page --

14 MR. KAREGYESA:

15 *(Microphones overlapping)*

16 MR. VERCKEN:

17 -- reads -- states that the --

18 MR. KAREGYESA:

19 *(Microphones overlapping)*

20 MR. VERCKEN:

21 -- that the least --

22 MR. KAREGYESA:

23 *(Microphones overlapping)* -- upon --

24 MR. VERCKEN:

25 *(Microphones overlapping)*

26 MR. KAREGYESA:

27 -- there is no basis for that.

28 MR. VERCKEN:

29 In that case, ask the question. Don't distort the reality by saying things that do not square with the  
30 reality. Ask the question, Mr. Prosecutor, but don't say something that distorts the reality and which is  
31 designed to mislead the witness. Ask questions that are in line with what was stated to your own  
32 investigators and which is stated in the statement. Don't say things that do not correspond to what your  
33 investigators noted. If the Prosecutor says things that are not in the document, I have to object, without  
34 revealing what is in the paragraph and to complete my objection.

35 JUDGE LATTANZI:

36 I do not understand. The Prosecutor has not yet gotten to the merits and the contents of the statement.  
37 So I do not quite understand your objection. Could you please be more specific?

1 MR. VERCKEN:

2 Yes, of course. The Prosecutor has not yet gotten to the merits, but he is giving details to the witness  
3 with regard to the time when he was interviewed by his team and with regard to the circumstances  
4 under which he signed the statement in French. Now he is giving details and saying that they are  
5 correct.

6

7 I want to refresh his memory. When we look at the statement the Prosecutor is referring to, I note that  
8 there is a last paragraph dealing with the time when Father Santos was interviewed and the time when  
9 he signed the statement. And that does not correspond to what the Prosecutor is saying.

10 MR. KAREGYESA:

11 *(Microphones overlapping)*

12 MR. PRESIDENT:

13 Yeah, you are now really giving evidence. You know, these questions are legitimate. This witness is  
14 intelligent enough to answer for himself. Will you please now keep quiet and allow this  
15 cross-examination to proceed. The cross-examination is not complete. He's in the midst of  
16 questioning, and let him complete.

17 MR. KAREGYESA:

18 Most obliged, Your Honours.

19 BY MR. KAREGYESA:

20 Q. Witness, I'm handing you a document through registry, being your statement to the Office of the  
21 Prosecutor.

22

23 Witness, do you now have a document in front of you entitled *Déclaration de témoin*?

24

25 Witness, can you please answer my question?

26 A. My signature is there. I recognise it. If there is information concerning the dates, then, for me, this is  
27 the document which I signed on the same day I was interviewed. Otherwise, I was tired. That is the  
28 impression I have, not another document presented elsewhere or, let us say, another day. That is my  
29 impression. But if you present other documents, I cannot deny them. But that is what I remember.

30 Q. Right. Now, each and every page of the document that was given you has your signature, doesn't it?

31 A. That is it.

32 Q. And each and every page is dated 10th of September 2004, isn't it?

33 A. Yes.

34 Q. And each and every page is countersigned or initialled by OTP investigators who interviewed you, isn't  
35 it?

36 A. Yes.

37 Q. And as an educated person, you know the importance, don't you, of signing documents?



1 A. Yes.

2 Q. The signature would, in these circumstances, confirm that you are telling the truth, isn't it?

3 A. Yes.

4 Q. And that you would be standing by what you told the investigators?

5 A. Yes. And they read it out to me page after page. I sounded that warning when I was already tired, and  
6 I signed it, saying that, on the whole, this is how the events unravelled, but certain details, certain  
7 translations are not correct. But let us say this is the truth. I agree. I signed page after page once it  
8 was read out to me.

9 Q. And if you turn to the last sentence on the last page, Witness --

10 MR. KAREGYESA:

11 Which would appear on the English translation, Your Honours, at page 10.

12 BY MR. KAREGYESA:

13 Q. It reads, and I quote, "Read, confirmed, and signed by the priest," and has at the bottom of every page.

14

15 Witness, what's taking you so long? It's only a sentence, and I've read it for you.

16 MR. PRESIDENT:

17 Well, let him -- let him check that for himself.

18 THE WITNESS:

19 *(No interpretation)*

20 MR. PRESIDENT:

21 Yes, take your time, and you have a look at it. That's fine.

22 THE WITNESS:

23 To read it, yes.

24

25 Yes. If you allow me, I'm going to read only the last paragraph. "The first meeting took place at the --"

26 BY MR. KAREGYESA:

27 Q. *(Microphones overlapping)*...please answer the question put to you. It doesn't concern the paragraph.

28 It just concerns the last sentence.

29 A. *(No interpretation)*

30 Q. So it's correct to suggest, Witness, that you read and confirmed the contents of this statement and  
31 appended your signature after reading it?

32 A. Yes, I signed it after reading it. But if you look at the last words, saying that "Father Santos, on the  
33 8th of September and on 10 September, from 7:30 p.m. to 10:40 p.m.," that is when it ended and that is  
34 when I signed it. And of all the documents, it was the last one that I signed. On the  
35 10th of September 2004, from 7:30 p.m. to 10:40 p.m., as I said, that was the cause of my tiredness  
36 and the way I had to rush through it after about three and a half to four hours. It was only after that that  
37 I signed it.

1 MR. PRESIDENT:

2 If you look at the last sentence, Father Santos, the three critical words are you read it, you confirmed it,  
3 and you signed it. Is that accurate or not accurate?

4 THE WITNESS:

5 It is accurate. That is true.

6 MR. KAREGYESA:

7 Thank you, Mr. President.

8 BY MR. KAREGYESA:

9 Q. And, Witness, you'll also agree with me that the first interview was conducted on 7th of August 2004 as  
10 indicated in the last paragraphs?

11 A. Yes, you have the dates. I agree. I agree with all what is written here. I cannot deny that. If you have  
12 the dates, I accept them. That's all.

13 Q. And it was conducted in French, your working language, wasn't it?

14 A. It was in French, yes.

15 Q. And the next time you met the investigators was a month later, on the 8th of September 2004, Witness?

16 A. If it is written there, I agree. But I cannot remember now. But I agree, yes.

17 Q. And you actually signed the statement on the 10th of September 2004?

18 A. I agree. On the 9th -- we should make that clarification. I'm very weary and tired. We should make  
19 that clarification. Since you had to leave the following day, we had to extend the interview such that I  
20 remember that I was exhausted. I remember that. But I signed it.

21 Q. And you actually had a whole month to think about what you had told the investigators, didn't you?

22 A. Yes. I must say the truth, but I did not read it again. That is all. But I agreed. Since it was read out to  
23 me, and then once I signed it, I could not correct it. So I signed it saying that, on the whole, that was  
24 the truth. But there were details which, to me, were more grammatical or language-based. But if you  
25 have questions, ask them. That is all. I agree. I signed it.

26 Q. Now, Witness, do you remember telling investigators of the Office of the Prosecutor that you went to  
27 Rwamagana on the 9th of April 1994?

28 A. That's possible. It's possible that I did say that, but if you look at the day's schedule, I do not know at  
29 what time, perhaps a very lightning trip which one could have conducted. But now I cannot remember  
30 it, and I find it quite difficult, looking at the schedule for the day, how one could fit in such a trip. And  
31 even if I said so, I think now that it is not correct. I withdraw that statement because I do not see when I  
32 could have gone there. Because at 10 o'clock or 11 o'clock, it was already the issue with the soldiers in  
33 Rukara.

34

35 Yes, I am listening to you.

36 Q. Do you recall the time you went to Gahini to look for the technician for the pump, the water pump?

37 A. Yes --

1 MR. VERCKEN:

2 Wait a minute. I'm sorry, Prosecutor. Could you give the references in the pages? Because I am not  
3 able to see when or where Father Santos said he went to Rwamagana.

4 MR. KAREGYESA:

5 Your Honours, I'll get to that, if I must. I will get to it. Counsel just has to be patient. He's just...  
6 *(microphones overlapping)*.

7 MR. VERCKEN:

8 I'm asking the page you are referring to. I think that would be useful for everyone here to follow  
9 appropriately. I am not criticising you. I'm simply asking the page.

10 MR. PRESIDENT:

11 Yes.

12 MR. KAREGYESA:

13 Your Honours, I'm not yet there. I'm not yet there. I will put the proposition to the witness and refer this  
14 Chamber to the exact location of whatever proposition I put based on the statement, but I am not yet  
15 there.

16 MR. PRESIDENT:

17 No, but I think it -- I was going to ask you that same question myself. I can't find the reference to that  
18 visit to Rwamagana, in this statement, on the 9th of April.

19 MR. KAREGYESA:

20 Your Honours, I --

21 MR. PRESIDENT:

22 Is it there?

23 MR. KAREGYESA:

24 -- I will get there, Your Honours. I'm conducting my cross-examination as I best know, and I will draw  
25 the attention of the Chamber, if I must, refer to any portion of the statement. But I am not yet there.  
26 And I'd like counsel to oblige and stop interrupting unnecessarily.

27 MR. PRESIDENT:

28 All right. Carry on. We would like to see that reference.

29 MR. KAREGYESA:

30 Yes.

31 MR. PRESIDENT:

32 So, yes, have patience. Please sit down.

33 MR. VERCKEN:

34 But, Mr. President, I do not understand this method. The Prosecutor said that in his statement the  
35 witness said he went to Rwamagana on the 9th of April. I am asking for the page. The Prosecutor  
36 made the same request to me on several occasions when I was cross-examining Prosecution  
37 witnesses, and I complied willingly, which was but normal and actually part of decorum. So I am simply

1 asking my learned friend, since he has told the witness that that was the case, let him give us the  
2 reference. If he's mischaracterising its severity, and I find this quite possible, I think then it is a very  
3 simple and rational request to make. One cannot preach false things just to get an answer. I do not  
4 think this is possible. I think this is the barest minimum one can expect from my learned friend. Let him  
5 give the page and the paragraph.

6 MR. PRESIDENT:

7 Yes, we have a --

8 MR. KAREGYESA:

9 Your Honours, if I may just explain. I am, first and foremost, relying on the recollection of this witness  
10 before drawing the Chamber's attention to any extract in the statement. And I -- I will draw the  
11 Chamber's attention to the extract, if I must get there.

12 MR. PRESIDENT:

13 Yes. Well, let the cross-examination proceed, and we will deal with this point at a later stage.

14 MR. KAREGYESA:

15 Most obliged, Your Honours.

16 BY MR. KAREGYESA:

17 Q. Witness, my last question to you was whether you recollect the date and time when you went with two  
18 armed policemen to look for a pump technician in Gahini.

19 A. I remember that the continuation of the events on that day of the 9th at 11 o'clock, it was with the  
20 soldiers in Rukara, I think. I tried on my own to get the pump running. That was prior to 10 o'clock. At  
21 11 o'clock in the morning, I was with the soldiers. In that case, probably I went in the morning. I am  
22 saying "probably" because one has to make the chronology. In the afternoon, or it could have been  
23 early in the afternoon, I went -- no, it does not tie in when we look at the sequence of events because --

24 Q. *(Microphones overlapping)*

25 A. Or perhaps I cannot clarify specifically. Kindly repeat the question. At what time I went to get the pump  
26 operator? Was that the question?

27 *(Pages 1 to 18 by Ann Burum)*

28

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1 1015H

2 BY MR. KAREGYESA:

3 Q. Yes.

4 A. This leaves me time to go through the sequence of events.

5 Q. Witness, do you recall telling the Chamber in your evidence in-chief that at some point in time you went  
6 to Gahini with two policemen provided by Mpambara to collect the water pump technician, don't you?

7 A. Yes, but there were so many events on that day such that I did not know how to place them and at what  
8 time, because it was a series of events, and to make a statement without really thinking, probably one  
9 has to put some chronologies starting from top to bottom. It was a return from the pump. I am talking  
10 about trying to place this -- yes, I'm listening to you.

11 JUDGE LATTANZI:

12 Mr. Prosecutor, I have a problem, in any case, because it is fairly obvious that right now the witness is  
13 mixing up things. But as far as I'm concerned, perhaps I am mistaken. He is confused because you  
14 told him, and I have it before me in English here, that he had told the OTP investigators that on the 9th  
15 he went to Rwamagana. So the fact that you have to indicate for us where the investigators recorded  
16 and that he signed, that he went to Rwamagana, is not a question of less importance in order to carry  
17 on with the cross-examination. Can you shed light on that question for me and your way of examining  
18 the witness on that point going to Rwamagana on the 9th of April.

19 MR. KAREGYESA:

20 Your Honours, this witness had no difficulty in-chief recollecting certain events, times, and places. For  
21 reasons that are unclear, he is becoming evasive and his memory is failing him, and this is very  
22 important when you are assessing the credibility of a witness, whether you should rely on his testimony  
23 and believe him during your deliberations. It is for this reason, because these dates and times are very,  
24 very important, this is a witness who testified for two mornings about his close association with  
25 Mpambara. The sequence of events he had no difficulty, but now he is having difficulty in  
26 cross-examination, and that's my role, to cross-examine him and test the veracity of what he says to  
27 this Chamber.

28 JUDGE LATTANZI:

29 It is your entire right to test his credibility, but with regard to the question concerning the 9th of April,  
30 and his appropriate trip to Rwamagana, you can test whether there is something in this statement which  
31 says that he did not go there, or on the contrary, I am sorry, if there is a passage here in which he  
32 states that he went, perhaps there is, but could you also, on the basis of what the President requested  
33 you a while ago, to indicate for us where it is written that he went to Rwamagana on the 9th of April. I  
34 can't see it. Perhaps I am not able to look at it.

35 MR. KAREGYESA:

36 Your Honours, before I referred to the statement or the extract, I wanted to find out if the witness could,  
37 from his own recollection, reconstruct these events before I refer, and I will refer Your Honours to the

1 extract as I promised, but I haven't got there, and if you could answer the questions I am posing --

2 JUDGE LATTANZI:

3 I am sorry, perhaps what I said was poorly interpreted by the interpreters, but I see a specific passage  
4 in which you said, "You told the investigators that on the 9th of April you went to Rwamagana." That is  
5 a question which I find here in order to test his credibility. So perhaps there is need to correct it. It was  
6 poorly interpreted or perhaps poorly reported by the court reporters, but it is on the record.

7 MR. KAREGYESA:

8 Your Honours, maybe it was poorly reported because my question was, does he recall telling the  
9 investigators and it is (*unintelligible*). He either recalls or he doesn't and I am proceeding, and  
10 depending on the answers he gives, you know, I may or may not draw your attention to the relevant  
11 paragraph in the witness's statement to the OTP. And if I tell the Chamber now, I won't be able to test  
12 his recollection because he has got the statement in front of him. I will be drawing his attention to  
13 matters he told the investigators.

14 MR. PRESIDENT:

15 Proceed then.

16 BY MR. KAREGYESA:

17 Q. Witness, it's a simple question, and I am sure you have had time to reflect as I have been discussing  
18 with the Chamber. You told the Court yesterday that Mpambara gave you two armed policemen, and  
19 you went to Gahini to look for the water pump technician and that actually some Hutu assailants almost  
20 killed you and the policemen threatened to shoot them. And you had no difficulty yesterday, actually on  
21 Monday, recollecting these events. So it is simple: Do you recall at what point in time you went to  
22 Gahini to look for the water pump technician on the 9th of April 1994?

23 A. There was one thing while remembering the events on which I remember very well because that was a  
24 particular problem when I was threatened and I cannot forget that. But another thing is that it is difficult,  
25 very difficult to make a precision (*sic*), not make a categorical statement and having to come back to it.  
26 But I think that it may have been at about 1 or 2 p.m. when I went to Gahini because, after going to  
27 Gahini, I and the *bourgmestre* together tried to get the pump running and that was in the afternoon. It  
28 was after that that the killings (*sic*) came in. I think all those things should be placed in the afternoon.  
29 It was after the visit to Gahini. The other events are certainly to be placed in the afternoon.

30

31 But the question concerning my visit there would have been about 1 or 2 p.m., but the events are true  
32 and the modalities are something else. That is what I signed. The events are there. I signed them and  
33 I stand by them, but the modalities are something which we may argue about and we may come back  
34 to.

35 Q. Witness, I would like to read you what you told the investigators.

36 MR. KAREGYESA:

37 The English version, Your Honours, is at page 3, starting with the second sentence in the fifth

1 paragraph relevant to events of 9th April 1994.

2 BY MR. KAREGYESA:

3 Q. And I quote, "When we returned from Gahini, we went to meet the commander of the Rwamagana  
4 military camp in order to request military reinforcement to protect the refugees. It seemed there were  
5 some problems for I found the bodies of three refugees in the church compound when I got back. They  
6 had been attacked by some youths." So I will ask you again, Witness --

7 A. Wait a minute.

8 Q. I was reading, Witness, this witness statement, and I now am going to pose the question: Do you  
9 recall telling the investigators, after you returned from Gahini you went to meet with the commander of  
10 the Rwamagana military camp in order to request military enforcements?

11 A. That expression is incorrect, even if I signed it, because the reinforcement was already there -- not that  
12 I requested, the reinforcement was already there, because after being with the soldiers who came on  
13 the 9th to calm down the people, after they left, that is when the killing took place, not before.

14 Q. So would it be correct to suggest that you are mistaken?

15 A. It's possible. I'm saying that I accept the events, but the way the events are couched, I am not too  
16 comfortable whether the events are correct.

17 MR. VERCKEN:

18 I'm sorry, can the Prosecutor indicate where in that sentence does the witness state that he went to  
19 Rwamagana precisely?

20 MR. PRESIDENT:

21 Yes, carry on with your questioning.

22 BY MR. KAREGYESA:

23 Q. So Witness, it would be your evidence then that after you came back from Gahini, and after requesting  
24 military assistance from the Rwamagana military camp, you found the corpses of three refugees in the  
25 church, or is that also a mistake?

26 A. The facts are true. It is true that on the 9th at 5:30 p.m. I found three bodies in front of the church, and  
27 another body belonging to a family member, who put it in the video room. It is true that I found up to  
28 eight bodies on the 9th, not after the military reinforcements came, but the military staff, the military  
29 chief of staff in Rwamagana came to calm the population.

30 Q. Well, in the next paragraph, Witness, you say, and I quote, "Earlier that day the military commander of  
31 Rwamagana had assigned five soldiers to accompany the *bourgmestre* to calm the people on  
32 Rukara hills who had begun to cause trouble."

33 A. *(No interpretation)*

34 Q. Witness, wait for the question. I have just read a quote, an extract from your statement. According to  
35 the sequence of events here, earlier in the day the military commander had given five soldiers to  
36 accompany the *bourgmestre* to calm the people in Rukara hills, and subsequently, on your return from  
37 Gahini, you went to meet with the Rwamagana military camp commander in order to request military

1 reinforcement; is that correct? Is that the proper sequence of events or were you mistaken?

2 A. That is not the sequence of events. The events are there regarding the military enforcements given by  
3 the commander. That is a fact, but the reinforcements were not provided. At that time the *bourgmestre*  
4 went there to request the enforcements. That is what he did. The enforcements consisted of four or  
5 five soldiers. The soldiers remained there. But that was not at that time. It happened earlier. If this is  
6 what is stated in the statement, it is wrong, and I have to correct it. If the soldiers were already there  
7 before the events, I was angry with the soldiers. That being the case, that sequence of events should  
8 be corrected because it is not correct. The facts are correct, but the sequence is not correct. The  
9 soldiers were already there and that is why I was angry with them.

10 Q. So you would agree with me, Witness, that you made mistakes. You muddled up the sequence of  
11 events when you were talking to investigators two years ago, isn't it, Witness?

12 A. I accept.

13 MR. VERCKEN:

14 I object to that because what I have before me has been completely mischaracterised. Mr. President, I  
15 do not agree with what is happening, and I must point out that there has been total distortment (*sic*) of  
16 the events.

17 MR. PRESIDENT:

18 The cross-examining party is trying to discredit this witness, which he is entitled to do, to test his  
19 credibility, and you are entitled to re-examine him to correct any mistakes that may result as a result of  
20 his cross-examination. Now, if you keep interfering in the cross-examination, it doesn't advance  
21 matters one bit. So why not let him finish and you can come back and make all the corrections you  
22 want to. Isn't that the way to go?

23 MR. VERCKEN:

24 Yes. I agree that is the procedure, Mr. President, I agree with you. Insofar as the Prosecutor doesn't  
25 distort the statements he is referring to, I agree with you that the Prosecutor, in his cross-examination,  
26 is trying to de-stabilise the witness, but he should do so according to the Rules of Procedure. I do not  
27 agree with what is happening before the Chamber. That is why I am intervening.

28

29 What the Prosecutor is doing is totally unfair because I have the statement he is referring to before me,  
30 and I can give you a very short example. If you look at the paragraph the Prosecutor is referring to, it is  
31 stated "earlier that day". So if what the witness stated is not correct, it is in line with what he told the  
32 Chamber on Monday. So it is quite unfair to make the position to the witness which is wrong, and  
33 saying that "you committed errors", whereas he didn't. I don't think it is fair for the Defence and the  
34 witness.

35 MR. PRESIDENT:

36 Your difficulty is the witness agreed that he may be muddled about the sequence of events. And when  
37 you get up and intervene at this critical juncture, you are merely helping him answer the questions in



1 the way in which you would like him to answer them. That's not right either, is it?

2 MR. VERCKEN:

3 No, Mr. President. Not at all, Mr. President. I don't believe the witness has admitted to committing  
4 errors. I believe the manner in which the Prosecutor is questioning the witness and putting propositions  
5 to him and leading him to think he made errors, whereas he didn't make any. That is why all I am  
6 asking for is fairness in the cross-examination. My intention is not to assist the witness. If you wish, I  
7 would like us to have this exchange in the absence of the witness.

8 MR. PRESIDENT:

9 Well, I don't think that's necessary. For our benefit, Counsel for the Defence, could you tell us why you  
10 say the Prosecutor is misrepresenting this statement? In what way?

11 MR. VERCKEN:

12 Thank you, Mr. President. It would appear that the Prosecutor is putting propositions to the witness  
13 regarding an error he committed with regard to the moving of military detachment close to the church.  
14 To arrive at this conclusion, the Prosecutor has pointed out to the witness that in his opinion, after  
15 reading the 2004 statement taken in Yaoundé, the witness stated in that statement that that military  
16 detachment was stationed close to the parish after the witness had gone to Gahini with two police  
17 officers to look for the pump operator and was threatened. Now, when I read the passage the  
18 Prosecutor is referring to in the witness's statement given in 2004, I see that this statement starts as  
19 follows: "Earlier that day, immediately after the witness spoke about the events --"

20 MR. KAREGYESA:

21 *(Microphones overlapping)*

22 MR. VERCKEN:

23 Immediately after the witness said two paragraphs earlier that he went to look for the pump operator. I  
24 don't think the Prosecutor is cross-examining correctly. I believe he should read the entire passage,  
25 read the passage in which the witness said he went to look for the operator and didn't find the operator.  
26 And he said that earlier that day the military commander had assigned five soldiers, and he should ask  
27 the witness when those soldiers were dispatched, he should ask when he went to look for the operator;  
28 and it's only after you can ask those questions that he will be in a position to say that the witness has  
29 erred. But by distorting the witness's statements the Prosecutor is in error and I don't agree with this.

30 MR. PRESIDENT:

31 Well, part of the difficulty may be the different methods of cross-examination and the different systems.  
32 But in cross-examination, counsel is entitled to put any proposition he likes so long as it is not -- it is  
33 made in good faith, it's perfectly proper, and it is for the witness to answer those questions. And at the  
34 end of the day we will assess all these factors that you are alluding to. So we will allow the  
35 cross-examination to proceed.

36 MR. KAREGYESA:

37 Thank you, Mr. President.

1 BY MR. KAREGYESA:

2 Q. Witness, on the three occasions you say you went to Rwamagana with the Accused to meet with the  
3 military commander --

4 A. Yes.

5 Q. -- do you know approximately how long it lasted?

6 A. It is difficult to say now whether it lasted half an hour. I believe it could have been an hour, no more.  
7 When it has to be one concrete situation, it wouldn't have lasted more than an hour.

8 Q. So each visit would have lasted approximately an hour?

9 A. You are right.

10 Q. And during these three visits, while at the military commander's camp, did you have occasion to meet  
11 other military commanders in his camp, or military officers?

12 A. No. I saw them pass. I saw them act, but I did not speak with anyone other than the simple soldiers  
13 who were on guard there. I did not speak with any military authority.

14 Q. And these military officers would have belonged to the Rwamagana squadron, wouldn't they?

15 A. No. They did not belong to the Rwamagana squadron. It was obvious that they came from Kigali and  
16 that they had been sent by a more higher-ranking authority than the Rwamagana commander. We  
17 could see them.

18 Q. You never talked to them. How did you know they came from Kigali and had been sent by a higher-  
19 ranking military authority? Did the commander tell you this or did you just assume?

20 A. I simply supposed, or assumed, that they were from the presidential guard according to what  
21 Mpambara showed me. He said, "Don't you see the insignia? Those are the insignia of the  
22 Presidential Guard."

23 Q. Now, you also told this Chamber in examination-in-chief in reference to the Rwamagana military  
24 commander that you tried as best to calm the population, but that both you and him felt that there was  
25 another force from outside that galvanised the opposition. Do you recall saying that in this Chamber in  
26 examination-in-chief?

27 A. Yes, and that is true. I stand by my statement that if -- one of those soldiers were led by another force,  
28 and we could see that the commander was overwhelmed by the events because in the neighbourhood  
29 was a superior force that was leading the actions, and we could see the goodwill of the commander, but  
30 in terms of authority and power, he was limited. That is what I felt, not something he told me.

31 Q. Well, according to your evidence in-chief, you told this Chamber that it was both you and the  
32 commander felt that there was another force from outside that was galvanising the opposition. Are you  
33 now telling this Chamber that the commander did not express his feelings to you, that you just  
34 assumed?

35 A. I don't think I said such words. If I signed a statement containing such words, I could not have uttered  
36 them because that is not true.

37 Q. It was actually your testimony on oath in this Chamber, Witness, and not merely a signed statement.

1 A. Did I say that the commander talked to me about that external force? Never. I could not have said  
2 such a thing. Maybe that is what you understood, but I never said so. There were soldiers. The  
3 commandant knew there were also foreigners amongst those soldiers. I could not have said what you  
4 are thinking I said. If I said so, I regret it. I don't think I said so.

5 Q. Maybe, Witness, you misunderstood the question. Let me quote what you told this court on Monday,  
6 9th January, and I will pose a question after repeating what you said. You told this Chamber in  
7 examination-in-chief, and I quote, "He tried to do his best to calm down the population, but we all felt --  
8 he in particular felt that there was another force from outside, and that was the force that galvanised the  
9 opposition."

10  
11 My question was simple. Did the military commander verbally express his feelings to you about this  
12 outside force, or did you just assume his feelings?

13 A. It was not my imagination. I could see how powerless he felt. It doesn't mean the same thing as  
14 imagining something. I saw him. I saw that in Rwamagana, those who were commanding were the  
15 soldiers who came from Kigali and not those in Rwamagana camp. I saw it and that is why I cannot say  
16 that I imagined it. The way the senior officers from Kigali were dressed, and the way those in  
17 Rwamagana were dressed was obvious. They were at war and the war was commanded by Kigali.

18  
19 That was where the soldiers were coming from and that is where orders were coming from, and those  
20 orders were aimed at containing the invasion. I could hear them say, "Guard the area around the lake  
21 very well because they are going to come via the lake, and guard the population around the lake very  
22 well." This was said not by the commander of the camp but by soldiers who came from Kigali.

23 Q. Witness, you are just going off the mark. I just need you to listen to the question. It's simple. You can  
24 answer it in two or three words without going on forever. Did the commander verbally express to you --  
25 did he tell you his feelings, or did you read his feelings and make the assumption about the outside  
26 force? He either told you or you read it.

27 A. He told me nothing. I could see it. I could observe it myself. He told me nothing.

28 Q. So it would be your evidence that you were able to read the feelings of the commander despite, of  
29 course, the difficulty you have conceded about reading the emotions of Rwandans?

30 A. For instance, when I observed that the commander was trying to calm down the group that was in  
31 Rukara, when the 300 people rose to their feet before him with their weapons, I could feel that there  
32 were some instructions being passed around by people who were leading what was happening more  
33 than the commanders there. I could see that those people were under the influence of a force that was  
34 above that of the commander, and the commander recognised that that was the force that was really at  
35 play there.

36 MR. PRESIDENT:

37 Reverend, what did the commander say or do from which you concluded that he felt that there was

1 another force?

2 THE WITNESS:

3 For instance, the mere fact that the assailants were armed with grenades showed that they were not  
4 armed by the commander. The fact that the grenades got there, how did it get there? He knew about  
5 it. The soldiers who were there on guard told me they are armed. "We cannot fight them because they  
6 are armed." And I asked them, "Who?" There was a commander, there was a group of soldiers. There  
7 was that other force that was led by someone else and you could see that clearly. You could see that  
8 clearly. The assailants, known as *Interahamwe*, were led directly by Kigali and the forces came from  
9 there. At that moment in time the commander felt overwhelmed by the events. It was obvious. You  
10 could see that.

11 BY MR. KAREGYESA:

12 Q. So, in any event, Witness, you were convinced that there were superior forces behind the killings,  
13 weren't you?

14 A. Right. A force other than the force under the Rwamagana commander, there was another force and I  
15 agree with you on that point.

16 Q. In fact, in your statement to OTP investigators, you said, and I quote at page 7, paragraph 7 of the  
17 English, "Superior forces were working alongside him doing the exact opposite of what he was saying,"  
18 and this is in reference to the military commander. And can you tell us what these superior forces were  
19 doing, according to you, that was opposite of what the military commander in Rwamagana was saying?

20 A. Let me cite just one case. On one occasion I went with Mr. Mpambara to Rwamagana. One of these  
21 men from Kigali was shouting to all the forces, "Burn, burn, kill, kill." He was right in the middle of the  
22 street. He was mad. Mr. Mpambara told me, "You see? What can we do? We are trying to calm the  
23 people down," and these guys were shouting. Somebody shouted back, "They will kill you." He was  
24 shouting right in front of the soldiers and we had just left the commander's office. But that person who  
25 was shouting was from Kigali and not from there. This is just one case, but there were many others.  
26 He was mad. It was obvious. If they had shot him, many other people would have been killed. This is  
27 just one case.

28 Q. (*Microphone not activated*)

29 THE ENGLISH INTERPRETER:

30 Your microphone, Prosecutor.

31 BY MR. KAREGYESA:

32 Q. I am suggesting, Witness, that you are a man of very strong convictions, am I correct?

33 A. I agree with you. Agreed. I am a man, and I have always been a man, and I stand by my words.

34 Q. Now, Witness, at some point it did come to your knowledge that the day after the president's death on  
35 the 6th of April 1994, the prime minister was brutally killed in Kigali, didn't it?

36 A. I would say that I wasn't monitoring the political situation, but I know that it happened, that is all.

37 Q. And you also learned of the brutal murder of her Belgian bodyguards, didn't you?

- 1 A. Yes. I learned of it.
- 2 Q. And you have also learned from the public domain that several ministers, government ministers, and  
3 the president of the constitutional court in Kigali were also killed around about the 7th of April 1994?
- 4 A. Yes. Yes. I heard of it more or less, because we were not in Kigali, but we could follow what was  
5 happening over the radio. We heard about it.
- 6 Q. It was information in the public domain. Did it occur to you --
- 7 A. Yes, it was public knowledge.
- 8 Q. Did it occur to you then in 1994, or has it ever occurred to you since, that these selective assassinations  
9 were also driven by the superior forces you referred to?
- 10 A. I don't think so. I don't think they were orchestrated. That is all. I think we are turning things upside  
11 down. I would prefer to be questioned on Mpambara and not on other political events. I have stated  
12 that I came here to give evidence in regard to Mpambara's case, and not with regard to any other case.
- 13 Q. Okay, that's fair enough. Let's go to Rukara on the 9th of April 1994, if you're happy with that. Now,  
14 according to your evidence in-chief you purport to have been present at around 1 p.m. when Mpambara  
15 and the gendarmerie commander, or what you call the military commander, were addressing the Tutsi  
16 refugees at Rukara parish; am I correct?
- 17 A. The time is not quite correct. It could have been 2 p.m., 3 p.m., but the facts remain the same. Those  
18 are the details I say I don't agree with. But the facts, yes, and the day more or less, more or less.
- 19 Q. Are you sure about the time or you are not sure at all?
- 20 A. More or less. It could have been 1 p.m., 2 p.m., but I'm not going to wrack my brains on that.
- 21 Q. In fact, on Monday you were emphatic that it was not beyond 1 p.m., Witness, weren't you?
- 22 A. I said that with regard to the time or the hours, I wouldn't wrack my brains. But if we are talking about  
23 the events, I agree with you, but with regard to the exact time, I cannot go any further. I cannot be any  
24 more specific. I agree with you over the facts and the sequence, but with regard to the time, I'm not  
25 quite sure, because things happened one after the other in quick succession.
- 26 Q. And it was also your evidence that the Accused and the military commander were basically assuring the  
27 Tutsi refugees of their security and safety on that occasion, isn't it?
- 28 A. Yes. They were speaking, but it was clear that they were speaking after having failed in front of the  
29 group in Rukara. You could see them. The refugees themselves saw them. They could see the words  
30 being uttered as a sign of goodwill, but no more than that.
- 31 Q. And again at page 7, paragraph 5 of your statement in English to OTP, you told the investigators that a  
32 Tutsi refugee approached you and said "they", referring to the Accused and the military command, and  
33 I quote, "Were all lying and they were responsible for organising the massacres of refugees." Is that  
34 correct?
- 35 A. Gerard Gasherebuka, that is the name of the teacher who came. That is true. It is also true that I  
36 immediately conveyed the statement to the commander there on the spot, and he was really  
37 discouraged when he heard that. And he asked me, "Oh, Father, what can I do?" And I looked at him,

1 he was very discouraged.

2 Q. In fact, in your examination-in-chief, you supplement your written statement with OTP by saying that the  
3 teacher told you that the commander had given grenades to the attackers, isn't it, Witness?

4 A. Yes. That is it. That is the information or suspicion that they had, because if they had grenades, then  
5 someone gave them the grenades. But from there, to state that it was the commander and myself, well,  
6 I told that to the commander and he asked me, "Oh, Father, what can I do?" He was discouraged that  
7 his goodwill was not being accepted.

8 Q. And it's also correct, Witness, that no sooner had you, the commander, and the Accused parted from  
9 the scene, than the Tutsi refugees were attacked with the grenades and 12 of them killed, isn't it?

10 A. That is true. Four of them were killed by grenades, the other eight died of machete wounds. Four died  
11 in front of the door and the others died outside, because the attackers would come attacking a few  
12 moments, then they would disappear. So they left the hiding place, came, lobbed the grenades, and  
13 that was all.

14 Q. And these killings, Witness, took place in broad daylight, isn't it?

15 A. Yes. I arrived there before nightfall and they were already dead. Yes, it was before 5 p.m. at the time  
16 when the *bourgmestre* and I were trying to get the engine running.

17 Q. And these killings took place despite the presence of five soldiers or gendarmes armed with  
18 submachine guns stationed 100 metres from the church, isn't it?

19 A. 100 or 200 metres, yes, in their presence and I could see them. I cannot say anything further.

20 MR. PRESIDENT:

21 I see you are at a critical stage in your cross-examination. Would this be a convenient time to take an  
22 adjournment?

23 MR. KAREGYESA:

24 It is, Your Honours. Much obliged.

25 MR. PRESIDENT:

26 So we will adjourn until 11:30.

27 *(Court recessed at 1107H)*

28 *(Pages 19 to 28 by Jennifer Spring)*

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1 (Court resumed at 1132H)

2 MR. PRESIDENT:

3 We are having some technical difficulties with the French section, and they need about five minutes to  
4 be ready. So instead of waiting here, we will just adjourn for five minutes or more. Thank you.

5 (Court recessed from 1133H to 1143H)

6 MR. PRESIDENT:

7 Yes, we can resume.

8 MR. KAREGYESA:

9 Thank you, Mr. President.

10 BY MR. KAREGYESA:

11 Q. Witness, just for continuity's sake, when we took the adjournment, you had just agreed that on the  
12 9th of April 1994, at Rukara parish, the attack against the Tutsi refugees, and the murder of 12 of them,  
13 took place in broad daylight. And you'd also agreed with the proposition that this was despite the  
14 presence of five armed gendarmes who were stationed about 100 metres from the church. Is that  
15 correct?

16 A. It is.

17 Q. And it was also your evidence in examination-in-chief a couple of days ago that when you went to  
18 reproach the gendarmes the next day, they told you that they were under no instructions to shoot or to  
19 kill the attackers. Am I correct?

20 A. The following day, no. The same day. My answer is correct.

21 Q. So, is it your evidence now that you reproached the gendarmes on the evening of the 9th of April 1994,  
22 subsequent to the attack?

23 A. Yes, I agree.

24 Q. And it's also true, Witness, that according to your evidence, on the 12th of April 1994, somewhere  
25 between 3 to 4 p.m., you purport that Mpambara told you that the killers, comprising youths from all the  
26 14 *secteurs*, had received instructions to attack the Tutsi refugees at the parish that day?

27 A. Please kindly specify which date you are referring to.

28 Q. I'm now referring, Witness, to 12th of April 1994.

29 A. Yes, I agree. Yes, I agree with that.

30 Q. And you recall telling OTP investigators in your statement, at page 5, paragraph 5, in relation to the  
31 attackers, that -- and I quote: "I later learned that they did not plan to kill me. They had monitored all  
32 my movements and waited for me to leave the church before launching the attack." Close quotes. Is  
33 that correct, Witness?

34 A. Not there and then did I realise that, it was subsequently. Because once I left the church -- the  
35 attackers had prepared themselves, they were hiding in the vicinity, and they waited for me to leave the  
36 church. They waited for me to move to a distance where I was beyond reach of the grenades  
37 explosions. And that is why I inferred that they waited for me to leave the church before they launched

- 1 the attack, even if that made the attack operation complicated for them, because they intended to attack  
2 much earlier in order to have more time. That was my inference. No one said anything to me.
- 3 Q. But in examination-in-chief, Witness, yesterday, you said, and I quote: "The assailants had some  
4 instructions: 'When you attack, respect Father Santos and Father Melchior.' The assailants had  
5 received such instructions." Close quotes. Isn't that correct, Witness?
- 6 A. It is true, they let us say two different things. One thing is the principle, the concrete action is  
7 something else. This was just rumours which we heard, not official information. It was mere hearsay  
8 which we got that they had received orders not to kill the priests who were there; Fathers Santos and  
9 Melchior. But it was when referring to the other fact that I deduced that it was correct.
- 10 Q. But your deduction, Witness, would have been based on the rumours about the instructions that these  
11 killers had received, wouldn't it?
- 12 A. No, that was the reality, because they were ready to attack before. And since they knew that I'd  
13 entered the church -- they saw me enter the church and they knew I had spoken to the people. And  
14 then up until the time I left, and was beyond reach of the grenade, they stayed silent. Immediately  
15 thereafter, they waited for me to go. But once I got into my office, and I had not yet completely entered  
16 my office, I heard the attack screams. And that is when I realised that they had been waiting, and that  
17 they simply respected me.
- 18 Q. And according to your evidence, Witness, and to your statement to the OTP, the -- this attack lasted  
19 from dusk till dawn on the night of the 12th to the morning of the 13th of April 1994, didn't it?
- 20 A. Yes, that is correct.
- 21 Q. And according to you, Witness, the explosions lasted all night?
- 22 A. Initially the explosions lasted one hour or two hours. Those were the major explosions. But, the minor  
23 explosions lasted about one hour. And the even more minor explosions lasted about two hours.  
24 Thereafter we heard only the screams of people without any explosion. And at no time did I hear any  
25 gunfire during the attack against the refugees.
- 26 Q. And you were hiding under your bed because of these explosions, weren't you?
- 27 A. Of course. Because one of the initial explosions was very close to my window, and it actually shattered  
28 my window. So instinctively I hid myself under the bed, where I stayed up until 5 a.m.
- 29 Q. In fact, you told OTP investigators at page 5, paragraph 5 of the English, that -- and I quote: "I believe  
30 they used anti-personnel grenades, and the explosions lasted all night." Close quotes. Isn't that  
31 correct, Witness?
- 32 A. This explosions of the small anti-personnel bombs lasted two hours ceaselessly. But after they  
33 stopped, since the people went to look for the potential victims in other areas, when come back we  
34 heard a few, but let's not say the entire attack during the beginning, because they went to the maternity,  
35 which I could not hear that. Thereafter they went to the *commune* and the *bourgmestre's* place, but I  
36 could not hear that. When they came back once more, and probably -- I say "probably" because I did  
37 not know they were not able to enter the church -- I heard a few, very few of such small explosions.



- 1 Q. So, are you suggesting that what you told the OTP investigators is not correct, that explosions lasted all  
2 night? They only lasted two hours according to you; is that what you're saying?
- 3 A. The major attacks lasted two hours. Thereafter they went elsewhere. I cannot say. When they came  
4 back there were minor explosions. One can say that it lasted the whole night, but not with the same  
5 intensity as in the beginning.
- 6 Q. Now, Witness, don't these facts clearly suggest a well-coordinated and ruthlessly executed plan to  
7 exterminate the Tutsis what were refugees in your parish?
- 8 A. Yes, we can recite that there was a plan, and I can say this because the attackers had quite powerful  
9 torch lights to go and look for potential victims. And that means someone provided them with such  
10 torch lights. The bombs and grenades were certainly given them by someone. Talking about a  
11 well-coordinated plan, I would not know because the events were unravelling so fast that if they had  
12 been planned by someone, yes, we could see that. Let us say that they were supported by a force  
13 which was out of the *commune*, and even stronger than the *commune*. We could see that.
- 14 Q. But, Witness, in your statement to OTP investigators, last paragraph on page 7, fourth line, you say,  
15 and I quote: "The killings were not planned, and it would be totally absurd to think that they were." Full  
16 stop, close quotes. Do you agree with me, Witness, that, on the contrary, it would be absurd to think  
17 that these killings occurred with no prior planning?
- 18 A. I don't quite understand the portion of the paragraph which you just read out. Kindly read it out again.
- 19 Q. I will. And I quote: "The killings were not planned at -- were not planned. And it would be totally  
20 absurd to think that they were." Full stop, close quotes. And my question was: On the contrary, now,  
21 with the benefit of hindsight, wouldn't it be absurd to suggest, as you did then, that these killings were  
22 not planned?
- 23 A. Planning -- as I said, you should start by looking at the context of the question. The way I was  
24 answering it was that it was not planned by the *commune*. Being planned in the long term, I do not  
25 believe it is, as I said, because events were unravelling so fast. But things happened in the moment.  
26 But if I used that statement, I do not know against which backdrop I used it. But I said there was an  
27 immediate planning, or a short-term planning. Not a long-term planning. I do not believe there was any  
28 long-term planning. But an action which was mapped out at the last moment, yes, because it could be  
29 seen that they were supported.
- 30 Q. But, Witness, on the same paragraph you continue, and I quote: "It was a spontaneous reaction to the  
31 president's murder." Full stop, close quotes. So, your position then was that these killings were not  
32 planned, but were spontaneous, wasn't it?
- 33 A. Spontaneous action following the president's assassination, I totally agree with that. It could not have  
34 been planned, because that would have presupposed the president's death. But, prior to the  
35 president's death, no one could have planned such a thing.
- 36 Q. So, are you now changing your statement by saying there was a plan, but the plan was subsequent to  
37 the murder of the president on the 6th of April 1994?

1 A. What I am saying is that there wasn't any planning, even after the president's death. I would say the  
2 planning took place a day before the execution, because no one was aware of it. Even the  
3 *bourgmestre* was surprised at the decision that had been taken to organise the entire *commune* for the  
4 attack. Even he himself was indeed surprised, which means that it was not part of what we thought.  
5 We had thought that they had been supported by a few people from outside, and not in terms of going  
6 as far as attacking the mission. We had thought that the mission would be -- would be respected.

7 Q. Yes, but with the benefit of hindsight now, Witness, don't you think it's absurd to suggest that these  
8 killings were spontaneous?

9 A. I would say yes. The screams that we could hear, here and there, was, "They have killed our leader."  
10 And if an African says, you have killed their leader, people will be revolted. We could hear everywhere,  
11 "They have killed our leader, they have killed our leader." And a spontaneous reaction on the part of  
12 the population had prompted some people to go further.

13 Q. Witness, isn't it the case that by classifying these macabre killings as spontaneous, you are actually  
14 denying the evil premeditation that was behind the killings?

15 MR. COURCELLE LABROUSSE:

16 I object to this question, Mr. President, because it is -- this question is of a political nature, which does  
17 not tie in with the events to which the witness has testified. It is an opinion question. I don't see what  
18 the Prosecutor is driving at. We did not ask any such questions. We limited ourselves to the period  
19 from the 7th of April, and we limited ourselves to Rukara. As for what happened in Kigali,  
20 Father Santos was not aware of it.

21 MR. KAREGYESA:

22 Your Honours, I'm referring to the killings at his parish and in his *commune*. And my cross-examination  
23 is legitimate, because it is based on this witness's prior statement to the Office of the Prosecutor.

24 MR. PRESIDENT:

25 Yes, the objection is overruled.

26 MR. VERCKEN:

27 Mr. President, the Prosecutor is asking the witness to express an opinion on events he was not aware  
28 of. So, this is not a testimony to fact. He is not entitled to question the witness on those points. So I  
29 don't see why he is doing so today, whereas the Prosecutor did not say that he was involved in politics.  
30 Under the pretext that it is related to Rukara, the Prosecutor is asking him to express a political opinion.

31 MR. PRESIDENT:

32 His evidence has been full of opinions. We will allow this question.

33 MR. KAREGYESA:

34 Most obliged, Your Honours. I will move on.

35 BY MR. KAREGYESA:

36 Q. Witness, between the 7th and 13th of April, according to your admissions this morning, you were  
37 frequently seen in the company of the Accused, Jean Mpambara, weren't you?

1 A. Yes. We spent a lot of time often together to respond to questions raised at that time.

2 Q. And according to your testimony-in-chief yesterday, you were accused -- and I quote -- of "leaving the  
3 parish" -- I will rephrase. According to your testimony-in-chief yesterday, you said, and I quote: "I was  
4 accused precisely of leaving the parish in order to cause attacks, and I want to defend myself  
5 vehemently in order to prove that I was innocent. I am innocent." Full stop, close quotes.

6  
7 Now, on the basis of that, Witness, wouldn't it be a fair suggestion that you are here to absolve both  
8 yourself and Mpambara from any responsibility for the massacres that took place in Rukara parish?

9 A. Not at all. I am not here as an accused person. I am appearing here as a witness to defend  
10 Mpambara. So, I haven't come here to defend myself, I am here to defend Mpambara. That is all.

11 Q. But, Witness, this is what you told the Court yesterday, isn't it?

12 A. Yes, it is true. But what you have added only concerns you. That is not what I inferred -- that is not  
13 what I stated.

14 Q. Witness, I'm fully aware that you are not an accused before this Chamber. But I put it to you that you  
15 are here to defend yourself vehemently in order to prove that you were innocent, isn't it?

16 A. No. I haven't come here to defend myself; not at all, not at all. Not at all. I have nothing to defend  
17 myself for.

18 Q. Witness, it's also true that the Accused, Mpambara, saved your life en route to Rwamagana on the  
19 13th of April 1994, isn't it?

20 A. That is true. I wouldn't have succeeded to get to Rwamagana alone, and I wouldn't have been able to  
21 get to Kigali either without the assistance of Mpambara, who spoke with the commander of  
22 Rwamagana to obtain a military convoy to escort me right to Kigali.

23 Q. And you would recall an incident en route to Rwamagana where a soldier wanted to kill you, wouldn't  
24 you, on the 13th of April 1994?

25 A. Yes, I very well remember. That is all.

26 Q. So --

27 A. It has nothing to do with Mr. Mpambara. He again saved my life on that occasion by saying that I was  
28 with him.

29 Q. In fact, Witness, you told OTP investigators at page 7, paragraph 7, third sentence on the third line, and  
30 I quote: "When I travelled with Mpambara on 12th of April 1994, we met an armed soldier who wanted  
31 to kill me. He claimed that the problems Rwanda was facing was caused by some white persons.  
32 *Bourgmestre* Mpambara saved my life by calming down the soldier and explaining to him that I was with  
33 them." Full stop and close quotes. That's what you told OTP investigators, isn't it, Witness?

34 A. You are right. It is true, because they were trying to play the game. The two were on the opposing  
35 camp, the soldiers and the Presidential Guard, and he was on the side of the commander of  
36 Rwamagana. But to save my life, he said, "We are together." He tried to play politics to defend me,  
37 and I am very grateful to him for his attitude.

1 Again, later on, they wanted to hurt me, but again he protected me by saying that I was with them,  
2 making me -- or identifying with me, or making me identify with them.

3 Q. So, you actually owe your life to Mpambara, don't you?

4 A. Yes, partly. He's a person who complicated things for me when he didn't let me leave in time. But  
5 again he later saved my life, and I am very grateful to him for that. I would have stayed there, but I had  
6 to go because of my colleague who wanted to save his life. I felt obliged to save my colleague, who  
7 was psychologically crushed.

8 Q. And it's also the case, Witness, that when Mpambara explained to the soldier that you were, and I  
9 quote, "with them" close quotes, Mpambara actually meant that -- by "them", he meant the superior  
10 forces behind the killings, isn't it?

11 A. "One of them". A member of the government would not have underscored the diversity of the forces.  
12 He said, "one of them", not against the government. But that was a white lie. It was his way of  
13 resolving the problem, and I understood that that is what he meant. When he said that "one of us" on  
14 the side of the government, and not against the government.

15 *(Pages 29 to 34 by Kirstin McLean)*

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2 BY MR. KAREGYESA:

3 Q. You actually met Mpambara again in a refugee camp in Tanzania in 1995, didn't you?

4 A. Yes, I have said so on several occasions.

5 Q. And during the course of meeting him in 1995, you discussed the events in Rukara of April 1994, didn't  
6 you?

7 A. Of course, especially the reality at the time. And I told him, "If you ever need me, wherever I am, call  
8 me and I will come and defend you." That is what I said at the time, and I stand by my words. We were  
9 not talking of past events, but the hard reality of the life led by refugees at the time.

10 Q. And, actually, to use the words in your statement to OTP, you promised "to testify about his innocence,"  
11 didn't you?

12 A. Yes, that is true.

13 Q. And it will also be the case, Witness, that in 1995 you had predetermined Mpambara's innocence, even  
14 before charges were preferred against him, hadn't you?

15 A. Of course. He knew, and he told me, "I was *bourgmestre*, and the *bourgmestre* has ultimate  
16 responsibility." I knew he was going to be accused. That was logical. That was the most basic logic.  
17 He was the most high-ranking authority in the *commune*, and he had to justify his actions. That is  
18 logical, too.

19 Q. And, in fact, you told OTP investigators then, when you made your statement, that you were prepared  
20 to stake your life on Mpambara's innocence, didn't you?

21 A. Several accusations were levelled at priests by Rwandans, and some accused Mpambara of being  
22 responsible. I am ready to stick my neck out to prove his innocence. If he is condemned, I am ready to  
23 stick my neck out. I am absolutely certain of his innocence; I have said it before, and I have said it on  
24 several occasions to those who interviewed me and those who accused Mpambara. I am ready to put  
25 my hands in fire to prove the innocence of that man. That is what I told them.

26 Q. And, Witness, you couldn't stake your life to protest the slaughter of thousands of your Tutsi flock, did  
27 you?

28 A. *Oui*.

29 Q. I have no further questions.

30 A. Yes.

31 MR. PRESIDENT:

32 Yes, thank you. Any re-examination?

33 MR. VERCKEN:

34 Excuse me, Mr. President, shouldn't the witness have been allowed to answer the last question?

35 MR. PRESIDENT:

36 I think he did. He said "yes," here.

37

1 THE WITNESS:

2 What question did I say yes to?

3 MR. COURCELLE LABROUSSE:

4 To the Prosecutor's proposition that you did not stake your life to save your parishioners.

5 THE WITNESS:

6 No, I did not say yes. I did not say yes. I wanted to ask, "What do you mean?"

7 MR. PRESIDENT:

8 Well, that's not how it came out in English. Question: "Witness, you couldn't stake your life to protest  
9 the slaughter of thousands of your flock." I think that was the question. And the answer is, "Yes."

10 Now, the English booth might have misinterpreted it, so we should correct the record if this has been a  
11 misinterpretation.

12 MR. KAREGYESA:

13 Your Honours, the witness, in French, said "*oui*," and the translation came later. The record will have to  
14 speak for itself.

15 MR. PRESIDENT:

16 You can re-examine.

17 THE WITNESS:

18 Wait a minute, I would like to say something.

19

RE-EXAMINATION

20 BY MR. VERCKEN:

21 Q. Father Santos, it will be very simple, I will put the question to you again, and that way we will stop  
22 manipulation and unnecessary debate. I put this question to you, Father Santos: How would you  
23 respond to the Prosecutor's proposition that you did not stake your life to protect your Tutsi  
24 parishioners?

25 A. I would say yes, but I intended to continue what I had to say and he cut me short. That was only the  
26 beginning of an answer. What I wanted to say was, "What do you mean when you say I did not stake  
27 my life to defend the refugees?" And then I would answer.

28 Q. That being the case, Witness -- Father Santos, unfortunately, we are in a courtroom and we are not as  
29 free to make spontaneous statements as we would wish. Unless the Prosecutor is more specific, if you  
30 wish, you could respond in regard to how you would interpret the final proposition he made?

31 A. I would have risked my life by staying there, of course, and I knew it fully well -- I know it fully well. But  
32 if the assailants had left in my presence, I would have come out to stop them. But since the first act  
33 they did was to throw a bomb which exploded near me, as you can see, there was no means of  
34 dialogue, the war had broken out, and in a full-blown war there can be no dialogue, unless you want to  
35 make yourself killed for no reason.

36 Q. Father Santos, I still have two or three very short questions for you and I will try to be as clear possible,  
37 because they have to do with the distortion or mischaracterisation of the text on which the Prosecutor

1 questioned you.

2

3 The Prosecutor cross-examined you on what he thought was a contradiction between the statement  
4 you signed in the presence of OTP investigators on the 10th of September 2004 and what you stated a  
5 few days ago yesterday -- or, rather, before yesterday, before this Court. He read out a passage to  
6 you, pinpointing the fact to his mind the soldiers sent on special assignment from Rwamagana camp,  
7 four or five soldiers, had been stationed close to the parish after you went to look for the pump operator  
8 accompanied by two *commune* police officers.

9 A. Right.

10 Q. In reading this text, particularly page 3 of that statement of the 10th of September 2004 given to OTP  
11 investigators, this is what I read. It is the last paragraphs I am quoting: "I later learnt that it was being  
12 said that *Bourgmestre* Mpambara had refused to give the refugees water. But that was not true. The  
13 truth is that the pump could not have been fixed because we could not find a technician. The prevailing  
14 insecurity continued to worsen. When we returned from Gahini, we went to meet the commander of the  
15 Rwamagana military camp in order to request reinforcements to protect the refugees. It seems there  
16 were some problems, because I found the bodies of three refugees in the church compound when I got  
17 back; they had been attacked by some youths. Earlier that day the military commander of Rwamagana  
18 had assigned five soldiers to accompany the *bourgmestre* to calm the people.

19 Q. The impression I have -- and perhaps you will explain this to us in regard to the trips you made in  
20 time -- when you made your statements, when you tell the OTP investigators that it was a little earlier  
21 that day that five soldiers were assigned to calm down the people, who are you referring to? What are  
22 you referring to? Do you remember?

23 A. I think, even if he wants to controvert me, but I am honest that when on the 8th we went to talk, replying  
24 to the *bourgmestre's* request to repeat my statement before the commander, I think it was from the 8th,  
25 and even probably on the 8th that the military detachment was put in place. I am saying "perhaps,"  
26 because I cannot make the assertion. But I know that before the 9th, I knew they were there because,  
27 on the 9th, I went to reproach them knowing that they were there. That is why I am saying that  
28 probably, either very early in the 9th or in the afternoon of the 8th, the military detachment was there. If  
29 I said something else, I can correct what I said.

30 Q. Now, regarding the location where the soldiers were based, since you went to see them after the attack  
31 on the 9th reproaching them for not having been aggressive enough against the attackers, on Monday  
32 before this Court - and that is on page 20 of the French transcript recorded by Laure Kecheman, and it  
33 is on the right-hand part, lines 24 to 33 -- this is what you said: "What I know is that a military unit was  
34 set up immediately, a military unit, not a police unit, in front of the refugees' camp, or let us say, in front  
35 of the parish premises entrance. There was a small house or hut with four soldiers. Perhaps it was just  
36 a stall in the small market. It was a small house which was located near the market." And then, further,  
37 you said it was some 200 metres from the church. Earlier on in one of those questions --

1 MR. KAREGYESA:

2 That is a mischaracterisation and the record is clear. In the last sentence the witness said "about a  
3 hundred metres from the church." You can have my copy of the English transcript. Counsel is reading  
4 200 metres, the English version reads a hundred metres.

5 MR. VERCKEN:

6 Well, I have my copy. I do not know why you are accusing me of mischaracterisation. I am reading the  
7 copy. There is no reason why you should just heap such accusations. You were reading from an  
8 interpretation. I am reading in the language used by Father Santos, and I think that I am reading  
9 correctly, "200 metres," and I stand to be corrected by the Court. Page 20 of the transcript of the trial of  
10 the 9th of January.

11 BY MR. VERCKEN:

12 Q. In any case, I think that the details which you have given, Father Santos, make it possible to clarify  
13 things, as far as I am concerned.

14

15 In the portion I just quoted, you mentioned where that small house in which the soldiers had set up was  
16 located. You said it was "a small market house," is that correct?

17 A. Yes, something of that sort.

18 Q. What I am interested in is that it was in the market.

19 A. Yes, near the market.

20 Q. Which market was it?

21 A. It was Rukara market located opposite the road leading to the parish.

22 Q. Is that the place usually referred to as Karubamba market?

23 A. That is correct, Karubamba.

24 MR. PRESIDENT:

25 And is that 200 metres or a hundred metres from the church?

26 THE WITNESS:

27 More than a hundred metres. I am more inclined to agree that it was about 200 metres, at least  
28 200 metres.

29 MR. VERCKEN:

30 Mr. President, in order not to speak without some benchmark, perhaps in order to make this clear, if  
31 you look at the album of photographs on page 64 of that book of photographs, there is a picture taken  
32 by yours truly. And I would like to show that picture to the witness, if he can identify it.

33

34 And let me equally state on the record that on page 67 of the book of photographs I had covered about  
35 half the distance or even more than the photograph on the previously referred to page, and I took the  
36 photograph from a different direction. So I would like to show the two pictures to the witness.

37



1 MR. KAREGYESA:

2 Your Honours, before counsel shows the pictures to the witness, can he establish how this arose during  
3 examination? Because he is only entitled to redirect on matters arising out of cross.

4 MR. PRESIDENT:

5 I suppose it arises out of this apparent discrepancy as to the distance in the French version, French  
6 translation, as opposed to the English. Does it? Is that what you are trying to do?

7 MR. VERCKEN:

8 Yes, Mr. President. There is a contradiction.

9 MR. PRESIDENT:

10 You contend that this arises out of the cross-examination, does it -- the re-examination? The question  
11 that --

12 MR. VERCKEN:

13 Quite so, Mr. President. Quite so.

14 MR. PRESIDENT:

15 We will allow that. Go on.

16 BY MR. VERCKEN:

17 Q. So, this is my question. Witness, I am going to show you two pictures, and it is my assertion that the  
18 first one was taken opposite the health centre towards the church, and that the first -- or, the second  
19 one, was taken further ahead towards the church, and you are going to tell me whether you identify and  
20 recognise the two pictures as being exact or not. Pages 64 and 67.

21 A. I see that things have changed a great deal from ten years ago. I can recognise certain buildings, yes.  
22 I may be able to locate this, but I am not able to situate it. The photograph is in reverse position from  
23 left to right. These are the silos. This is the hall. Okay, now I can actually identify it. This is the hall.  
24 This is the parish. Yes, now I have looked at it from the opposite direction. This is as far as page 67 is  
25 concerned.

26

27 Now, on page 64, I cannot see what we have in the background.

28 Q. Well, it is true that on this picture there are mainly trees and a road, so it is difficult to see landmarks. It  
29 is a photograph which I took while standing opposite the entrance to what at the time was the maternity,  
30 because it has changed the location. What I am asking you --

31 MR. KAREGYESA:

32 Your Honours, counsel is giving evidence from the Bar. It's totally inappropriate. I see little utility  
33 pushing this line if all that is at issue is a distance of 100 metres.

34 MR. PRESIDENT:

35 He is probably trying to establish the locations by reference to the photographs, and we allow that. But,  
36 certainly, we can't take any notice of what you are saying about where the photographs were taken  
37 from.

1 MR. VERCKEN:

2 You are quite right. I quite agree with you, Mr. President. I just wanted to give some visual impressions  
3 to the witness.

4 BY MR. VERCKEN:

5 Q. Now, Witness, this is my question to you. If there were soldiers, where were they? Were they close to  
6 the Karubamba market?

7 A. The post in which they were was not very close, but it was quite close. As a matter of fact, they did not  
8 reside there. They were working opposite because that post was not directly opposite the main road.  
9 They were working around where ammunition was stored. That is what I can say. But that was at the  
10 main entrance of the road leading to the parish. That was on one side. The other side was free. But  
11 they could see all what was happening from one end to the other.

12 Q. I thank you. When I went to Rukara, I counted my steps from the church to the health centre and that  
13 was 300 steps.

14 MR. KAREGYESA:

15 Your Honours, we object to the *(inaudible)* from the bar.

16 MR. PRESIDENT:

17 Counsel, I think you know the rules perfectly well. You know, if you want us to take you seriously, I  
18 think you should learn to observe the rules. You can't give evidence from the bar table, certainly not in  
19 the jurisdiction that I am used to, and I suspect not here either.

20 MR. VERCKEN:

21 I believe this also applies to the Prosecutor, at least I hope so. I move on to another subject.

22 MR. PRESIDENT:

23 What was the purpose of that last comment? What are you trying to say?

24 MR. VERCKEN:

25 I was referring to what seems to be distortion of the witness's evidence by the Prosecutor in the  
26 questions he has put to him, and which I have criticised, although my observations were not taken into  
27 account.

28 MR. PRESIDENT:

29 Well, we have given you the fullest opportunity to correct those distortions, which you have now done.

30 So what are you complaining about?

31 MR. VERCKEN:

32 *(No interpretation)*

33 MR. KAREGYESA:

34 For the record, Your Honours, the Prosecutor did not make any distortions. The record is clear. This  
35 witness on three occasions on Monday the 9th of this month gave three distances for the same area.

36 The transcript will reveal that he gave the distance of a hundred metres, 200 metres and 300 metres.

37 And the Prosecutor has not, as alleged by the Defence, made any distortion, and we ask the Defence

1 to withdraw that last comment.

2 MR. PRESIDENT:

3 Yes, please refrain from making these unnecessary comments. The record is there to speak for itself.

4 You can make your submissions at the end of the case, as far as it may be relevant.

5 MR. VERCKEN:

6 Quite so. I also think there is a recording of this and it will be very easy to ascertain what Father Santos  
7 said on Monday regarding the distance.

8 BY MR. VERCKEN:

9 Q. Father Santos, when you tried to meet the *sous-préfet* during your trips to Rwamagana and that you, in  
10 company of the *bourgmestre*, went towards a house in which you thought the *sous-préfet* would be, are  
11 you able to state clearly whether the house which you approached was the private residence or family  
12 residence of the *sous-préfet* or whether it was the building housing the sub-*préfecture* office? Can you  
13 be very specific about that?

14 A. What I remember is it was, rather, the building of the sub-*préfecture* office, not the *sous-préfet*'s house.  
15 I have no recollection of the *sous-préfet*'s house. That is what I can say.

16 Q. When answering questions put to you by the Prosecutor, you said you were bent on leaving Rukara on  
17 the 13th of April and also to allow your colleague Melchior to leave because he was on nerve's end.  
18 You said that if it were only you, you would have wished to remain in Rukara. When did you first set  
19 foot in Rukara?

20 A. I went there on the 8th of August 1994 to see how the buildings of Rukara and Kiziguro were. And after  
21 that I did not go back there.

22 MR. VERCKEN:

23 I have come to the end of my redirect, Mr. President.

24 MR. PRESIDENT:

25 Yes, thank you. Yes, all right. The Bench has no questions.

26  
27 Reverend, it remains for me to thank you for coming here, making yourself available and for testifying.  
28 We thank you very much, and we wish you a safe journey back home.

29 THE WITNESS:

30 If you allow me, Mr. President, I seek leave to go and say hello to Mpambara, because, so far, it has  
31 not been possible for me to do so.

32 MR. PRESIDENT:

33 Yes, certainly you have that permission.

34 THE WITNESS:

35 Thank you.

36 MR. KAREGYESA:

37 Your Honours, before we take another witness, we are applying that his witness statement made to

1 OTP investigators be admitted onto the record. The French original would be A and the English  
2 translation B.

3 MR. PRESIDENT:

4 What's the number?

5 MR. MUSSA:

6 Your Honours, the next exhibit is P. 16.

7 MR. PRESIDENT:

8 P.16 is the French statement made to the OTP. That's dated the 10th of September?

9 MR. KAREGYESA:

10 Yes, Your Honours, it was signed on the 10th of September 2004.

11 MR. PRESIDENT:

12 And 16 A, did you say?

13 MR. KAREGYESA:

14 A would be the French original and B the English translation.

15 MR. PRESIDENT:

16 Yes. So marked and admitted into evidence.

17 *(Exhibit No. P. 16A and P. 16B admitted)*

18 MR. PRESIDENT:

19 We have one outstanding issue that relates to the --

20 MR. KAREGYESA:

21 Your orders of 14th December, Your Honours.

22 MR. PRESIDENT:

23 Yes.

24 MR. KAREGYESA:

25 Counsel requested time to review the documents, and you granted him the time. This was on Monday.

26 MR. PRESIDENT:

27 Well, we don't need this witness here for that.

28 MR. KAREGYESA:

29 Maybe the witness can be cautioned not to discuss his evidence with other witnesses possibly staying  
30 at the same location.

31 MR. PRESIDENT:

32 Yes. Reverend, it is customary to tell all witnesses not to discuss their evidence with other potential  
33 witnesses or, indeed, with any other person or persons. We would be obliged if you could honour that.

34 Thank you, and you are now free to leave, and you may see Mr. Mpambara.

35 THE WITNESS:

36 Thank you.

37 *(Witness excused)*

1 MR. PRESIDENT:

2 Do you wish to deal with that issue now or later?

3 MR. KAREGYESA:

4 We made an application, Your Honours, and we wrote in our application that the documents pursuant to  
5 your order of 14th December be admitted onto the record.

6 MR. PRESIDENT:

7 Could I have the -- have you got a copy of that? Has the Defence any submissions to make in respect  
8 of this application?

9 MR. VERCKEN:

10 Mr. President, the difficulty faced by the Defence team entails translating by non-professionals  
11 documents which are tens of pages long and we do not have the translation. So our investigators  
12 kindly accepted to make an unofficial translation into French, but it is not yet complete. You see, these  
13 are not professional translators. So my preference would be for this matter to be deferred, or for the  
14 Prosecutor to secure a very speedy official translation into French, otherwise we need much more time  
15 to reply. It is not extremely urgent because HY is not here. We are not dealing with him right now. I  
16 am seeking an extension of time limits, and if it is possible for us to receive as soon as possible an  
17 official translation into French and English.

18 MR. KAREGYESA:

19 The Prosecutor is surprised by counsel's submission. This is a document that counsel obtained using  
20 certain methods that are known to the Chamber and the Prosecutor, and the Chamber ordered the  
21 Prosecutor to get authenticated copies. This document is already admitted into evidence as an exhibit.  
22 The Defence relied on it without official translation. They relied on their own in-house translation, and  
23 we are surprised to see that right now they are asking for time and for translation when, technically, the  
24 document is already on the record.

25 MR. PRESIDENT:

26 Can you just assist? You say this is authenticated. Is that what you referred to, Mr. Karegyesa, is it?

27 This is the seal, is it?

28 MR. KAREGYESA:

29 Yes, there is a cover letter from the Rwandan ministry of justice and all the pages bear a seal.

30 MR. PRESIDENT:

31 And this is in Kinyarwanda?

32 MR. KAREGYESA:

33 Yes, Your Honours, it's the same language the Defence used when submitting their exhibit.

34 MR. PRESIDENT:

35 And is this identical to the one that was produced by the Defence or are there differences?

36 MR. KAREGYESA:

37 There are some differences.

1 MR. PRESIDENT:

2 And I suppose this is what they want to check, which is a legitimate concern, isn't it?

3 MR. KAREGYESA:

4 Yes, but I don't see the basis of the objection. The Chamber ordered under Rule 98, not under  
5 Rule 89, and as such this document, you know, can form part of the record as a Chamber exhibit.

6 MR. PRESIDENT:

7 You are quite right. We will have to admit this eventually. But I think they are probably entitled to have  
8 a look at the translation to see that this is -- that we are talking about the same document. Can we deal  
9 with this at a later stage instead of wasting time on it now?

10

11 It is ten to one now. Is there any point in starting a new witness?

12 THE ENGLISH INTERPRETER:

13 Microphone, sir.

14 MR. KAREGYESA:

15 Your Honours, it would make sense to quickly go through their next witness because, according to the  
16 summary, he doesn't really have much to say. He was never in Rwanda at the time, and he is only  
17 testifying to the evacuation of his mother, and that shouldn't take ten minutes.

18 MR. PRESIDENT:

19 Well, ten minutes are precious, so why don't you call the witness. We will use the ten minutes.

20 MR. VERCKEN:

21 Very well, Mr. President. But it is the Prosecutor granting me ten minutes, so I may go beyond that.

22 But, rest assured Mr. President, it won't be long.

23 MR. PRESIDENT:

24 Yes, all right. Please call him.

25

26 Your next witness waives protective measures that have been put in place, is that right?

27 MR. COURCELLE LABROUSSE:

28 No, Mr. President. On the contrary, he wishes that the protective measures be maintained, and I would  
29 like to request some minutes of closed session when we start his evidence in-chief.

30

31 Are you referring to RU31 whom you intend to be ushered in now?

32 MS. BEN SALIMO:

33 *Oui.*

34 MR. PRESIDENT:

35 Apparently the witness was allowed to leave and they are trying to retrieve him from somewhere, either  
36 the lift or the steps, I am not sure which.

37

1 It's five minutes to one now, and I am just wondering whether we can begin to hear him tomorrow  
2 morning. And I now understand that all the sections are agreeable to sitting in the afternoon tomorrow,  
3 so we will continue till five and try and finish the remaining three witnesses for this week. Am I right, we  
4 have three? Yeah, we must make every effort to finish three by the end of the hearing tomorrow.  
5 Otherwise we'll adjourn until tomorrow morning at 8:45.

6 *(Court adjourned at 1256H)*

7 *(Pages 35 to 45 by Judith Baverstock)*

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## CERTIFICATE

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

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

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Ann Burum

\_\_\_\_\_  
Jennifer Spring

\_\_\_\_\_  
Kirstin McLean

\_\_\_\_\_  
Judith Baverstock