

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

CASE NO. : ICTR-01-73-T
CHAMBER III

THE PROSECUTOR
OF THE TRIBUNAL
v.
PROTAIS ZIGIRANYIRAZO

MONDAY, 6 MARCH 2006
0910H
CONTINUED TRIAL

Before the Judges:

Inés Mónica Weinberg de Roca, Presiding
Lee Gacuiga Muthoga
Khalida Rachid Khan

For the Registry:

Ms. Stephania N. Ntilatwa
Ms. Zulphur Mhina

For the Prosecution:

Mr. Wallace Kapaya
Ms. Charity Kagwi-Ndungu
Ms. Gina Butler
Mr. Iskandar Ismail

For the Accused Protais Zigiranyirazo:

Mr. John Philpot
Mr. Peter Zaduk

Court Reporters:

Ms. Verna Butler
Ms. Roxane Meena
Ms. Sithembiso Moyo
Mr. Sherrifo Jammeh

I N D E XWITNESSFor the Prosecution:

ALISON DES FORGES

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1

2 MADAM PRESIDENT:

3 Good morning.

4

5 Ms. Ntilatwa, could you please read the case?

6 MS. NTILATWA:

7 Opening statement by the Registrar, represented by Stephania Ntilatwa.

8

9 Trial Chamber III of the International Criminal Tribunal for Rwanda, composed of
10 Judge Weinberg de Roca, presiding, Judge Khalida Rachid Khan and Judge Lee Gacuiga Muthoga, is
11 now sitting in open session today, 6 March 2006, for continuation of trial in the matter of the Prosecutor
12 v. Protais Zigiranyirazo, Case No. ICTR-01-73-T.

13

14 Please, Your Honours.

15 MADAM PRESIDENT:

16 Thank you very much.

17

18 Appearances for the Prosecution, please.

19 MS. KAGWI-NDUNGU:

20 Your Honours, the Prosecution is represented by Mr. Wallace Kapaya; Mrs. Ndungu; Ms. Gina Butler;

21 Mr. Iskandar Ismail; Ms. Jane Mukangira; and legal intern, Mr. George Karamera.

22 MADAM PRESIDENT:

23 Thank you.

24

25 Appearances for the Defence.

26 MR. PHILPOT:

27 Good morning, Your Honours. For the Defence John Philpot, lead counsel; and Peter Zaduk,
28 co-counsel; Innocent Nzabona, assistant; and Phillip Taylor, investigator.

29

30 Thank you.

31 MADAM PRESIDENT:

32 Thank you very much.

33

34 And, Mr. Zigiranyirazo, can you to follow the proceedings in French?

35 THE ACCUSED:

36 Good morning, Madam President. Good morning, Your Honours. Yes, I am able to follow the
37 proceedings in French.

1 MADAM PRESIDENT:

2 Thank you.

3

4 Good morning, Dr. Des Forges.

5

6 Mr. Philpot or Mr. Zaduk, are you ready to cross-examine?

7 THE WITNESS:

8 Your Honour, may I ask leave to address the Court first? I find myself in a situation which I have been
9 in before, and I believe it's quite parallel in the Government II case, involving Mr. Mugenzi, which is that
10 over the weekend I was working on another case and discovered material which is relevant to this case.
11 It is, in some sense, exculpatory. It is, in some sense, incriminating. It can be read in different ways
12 and would obviously have to be carefully weighed, but it is of such significance that I feel obliged to
13 mention it because I do not know that either the Prosecution or the Defence is aware of this material, so
14 I ask the guidance of the Court.

15

16 In the Government I case, I know we discussed it after that quite openly, and I believe there was also a
17 situation in the Media trial where I had discovered evidence subsequent to preparing my report.

18 JUDGE KHAN:

19 You were not in possession of that material before?

20 THE WITNESS:

21 Your Honour, technically, I was in possession of it, but did not read it because it did not seem to me
22 relevant. I was looking at material from the Kambanda seizures, which I had not had access to, had not
23 seen before, and in going through some of that, it raised questions in my mind, such that I went back
24 and, yesterday afternoon, asked for the help of someone, who happened to be in the building, to locate
25 some of the Kambanda tapes which I had had in my possession, but had not read through or had not
26 read with sufficient attention, and it was in that connection that I discovered material.

27 MADAM PRESIDENT:

28 Let's hear the parties.

29

30 You want to address the issue first, or should the Prosecution? I think Prosecution should go first.

31 MS. KAGWI-NDUNGU:

32 Your Honours, since -- we haven't seen this material, but since it is pertinent and an expert's duty does
33 not, I believe, end with writing her report, I believe, and this will be our application to the Court, that we
34 receive this information and then you weigh it in the light of -- as you have taken all her other evidence
35 in the light of -- the evidence in the light of this case.

36 MR. PHILPOT:

37 The Defence position is that we want to see the information first, and then we will make our position

1 known. Whether it's exculpatory; whether we consider that the Prosecution's case being closed is
2 disclosed, depends on this information.

3

4 I suggest that I sit down with Dr. Des Forges and the Prosecutor and take note -- *cognisance* -- take
5 notice of this information, and then I can give the Defence position, because we don't know what it's all
6 about.

7 JUDGE KHAN:

8 Is it here?

9 THE WITNESS:

10 Yes.

11 MS. KAGWI-NDUNGU:

12 No objection to that.

13 JUDGE MUTHOGA:

14 Although there is no objection from the Prosecution, if the material happens to be relevant, it becomes,
15 ipso facto, admissible howsoever.

16 MR. PHILPOT:

17 I won't comment until I see it because I don't know anything about it, and something which is relevant
18 depends -- I don't know what to say yet. I have to see it before I make a reply to your comment
19 because we are talking about vague terms, probably, but we will have to see.

20 MADAM PRESIDENT:

21 The issue is whether Defence should be allowed to separate what is exculpatory and have it in, and
22 what is incriminating, throw it out; or whether, if the witness -- expert witness considers that she has
23 relevant information, it should be accepted. So, I'm not very sure whether it has -- it's reasonable to
24 wait till you see it, because I think it's a question of law, whether the expert witness can inform the
25 Court about information that has come to her, or evidence which she knows, or whether at this stage it
26 cannot be done.

27 MR. PHILPOT:

28 Well, just a second. I'd like to comment -- I'd like to make a comment, because it's a question of
29 disclosure; in other words, if it's exculpatory, it must be disclosed. If it is going to be part of a testimony,
30 it must be disclosed prior, and then we will make a position, because one thing is absolutely certain: if
31 we cannot defend ourselves because of the late disclosure, then there may be another recourse
32 necessary, like postponing, which I'm not looking for; believe me, I'm ready. But if it requires
33 investigation, then we will make the appropriate request to Your Honour.

34 MADAM PRESIDENT:

35 So, both parties, why don't you look at the information the expert witness has and address it in the
36 afternoon or tomorrow morning.

37

1 MR. PHILPOT:

2 Well --

3 MR. KAPAYA:

4 Your Honour, the information will certainly fall into two categories: either it's 68 material or it's 67(D)
5 material, 67(D) in the sense that this is information which ought to have been disclosed early on, if we
6 had knowledge of it. It's 68 material if it's exculpatory. In any event, this is going to be information
7 which is relevant to Your Honours for a just determination of the case. So, either way, Your Honours, I
8 submit that this is relevant under Rule 67(D) and 68 of the rules of procedure and that the -- it is
9 admissible. And at the end of the case, Your Honours will rule whether it has any probative value in the
10 case.

11 JUDGE MUTHOGA:

12 What has been suggested, Mr. Kapaya, is this: take a look at it; let Mr. Philpot take a look at it. You will
13 know what use you could make of that evidence, if you think you should use it. If you don't think you
14 should use it and if Mr. Philpot doesn't think he should use it, but it is relevant, we can still dig it out
15 under 89(C), because anything that is relevant -- evidence that is relevant, howsoever obtained, can
16 reach us. But, for now, take a look at it so that you take the view as to how it should come to us and --
17 it, itself, the evidence -- and see how it will come to us, such as not to cause injustice on either side. It
18 is a question of eliminating the possibility -- the coming of that evidence might cause injustice, and if it is
19 in the interests of justice to receive that evidence, it shall be received.

20 MR. KAPAYA:

21 Your Honour, we are not opposite that position. My submission was based on the assessment of the
22 witness -- of the evidence by the expert, who has testified in nine or 10 trials. She said it's partly
23 inculpatory and partly exculpatory. On the basis of that, I say that if it's inculpatory, then it's admissible
24 under 67(D). If it's exculpatory, then it's admissible under 68, but we are not opposed to looking at it
25 before a final determination is made.

26 MR. PHILPOT:

27 All I'd like to do, we'd have to look at it. And then my colleague and I will meet with the Prosecutor and
28 Dr. Des Forges. I -- hopefully, we can do it quickly. I want to get started. But --

29 MADAM PRESIDENT:

30 Let's start with cross-examination.

31 MR. PHILPOT:

32 Actually, that's not what I want to do, because I want to see this. Because if the evidence is
33 exculpatory, I can use it in my cross-examination. I might adjust my cross-examination if there's new
34 evidence coming in, which is in the possession of the expert and, effectively, in the hands of the
35 Prosecutor.

36 JUDGE MUTHOGA:

37 This evidence is -- if this is in some documentary form, you can have a look at it while you are

1 cross-examining him (*sic*). Mr. Zaduk would be going through it and seeing what it is. You are unlikely
2 to finish your cross-examination this morning, unless you think you were.

3 MADAM PRESIDENT:

4 Dr. Des Forges, is it documents? What is the form of the information?

5 THE WITNESS:

6 Yes, Your Honour, the -- what initially made me curious was just a single-word notation in a diary, but
7 when I checked the tape-recorded interviews with Mr. Kambanda that were relevant to that period, I
8 found a rather extensive discussion in the tape recorded interviews, so what I have is the transcript of
9 that interview.

10 MR. PHILPOT:

11 And, obviously, I'm discussing this without having prepared it. If the Prosecutor wants to lead this
12 information, he has to lead it before the cross-examination, not after. It's not re -- it's not a re-direct.
13 And, certainly, the Court has a residual right to ask questions, that is, a residual right. If the
14 Prosecutor -- so I would like to know what this information is, and the Prosecutor will make his mind up
15 whether he wants to lead it or not. And I can assure you that we can sit down somewhere very close by
16 here and have an answer very quickly.

17 MADAM PRESIDENT:

18 We will adjourn for half an hour --

19 MR. PHILPOT:

20 Thank you.

21 MADAM PRESIDENT:

22 -- so both parties can take a look at the information.

23 (*Court recessed from 0924H to 1010H*)

24 MADAM PRESIDENT:

25 Mr. Kapaya -- or, Ms. Ndungu, have you had deliberation with the other party?

26 MS. KAGWI-NDUNGU:

27 Yes, we have, and we have reached an agreement to reopen the direct examination just for
28 five minutes.

29 MADAM PRESIDENT:

30 Please, go ahead.

31

32 Yes, Mr. Philpot, do you have anything to add?

33 MR. PHILPOT:

34 No, no, just to say that we discussed the parameters of this, and we agree.

35

36

37

1 ALISON DES FORGES,

2 EXAMINATION-IN-CHIEF *(continued)*

3 BY MS. KAGWI-NDUNGU:

4 Q. Dr. Des Forges, over the weekend, did you come across information that was -- that is pertinent to the
5 trial of Zigiranyirazo?

6 A. I did.

7 Q. Could you describe this material?

8 A. What I first found was a handwritten -- an extract of a handwritten document prepared by former
9 Prime Minister Jean Kambanda and, as a result of reading that, I sought out the transcript of a recorded
10 interrogation of Mr. Kambanda by ICTR investigators, which is available on cassette 42JK, and we will
11 be discussing side A only of that cassette.

12 MS. KAGWI-NDUNGU:

13 Your Honours, I wish to tender that document as an exhibit. I do not have copies for the whole
14 courtroom, but I will give in a copy.

15 MR. PHILPOT:

16 We agree physically to -- there are pieces of side B which have no relevance, which we will physically
17 remove, please.

18 MADAM PRESIDENT:

19 Are all these pages exhibits, or some of them? Let's get this clear.

20 MR. KAPAYA:

21 *(Microphones overlapping)*

22 MS. KAGWI-NDUNGU:

23 Page 1 to 10.

24 MR. PHILPOT:

25 And, theoretically, two lines on page 11, theoretically.

26 MADAM PRESIDENT:

27 We have them.

28 *(Exhibit No. P. 51 admitted)*

29 BY MS. KAGWI-NDUNGU:

30 Q. Now, Dr. Des Forges, could you give the Court your opinion on the relevance of this document?

31 MS. MHINA:

32 It's P. 51, Your Honour.

33 MADAM PRESIDENT:

34 Make copies.

35 JUDGE KHAN:

36 Could you repeat your question, Madam Prosecutor?

37

1 BY MS. KAGWI-NDUNGU:

2 Q. Could you give the Court your expert opinion on the relevance of this transcript?

3 A. Assessing the reputation or the weight of someone in this informal network is obviously going to be one
4 of the most difficult tasks for the Court: to what extent did the -- did Mr. Zigiranyirazo actually continue
5 to have importance in his home region? And this conversation -- this evidence by Mr. Kambanda, goes
6 directly to that question by giving a very nuanced reading, saying, in essence, he lost power, to a
7 certain extent, in the multiparty period, which we've discussed here, but in the end, Kambanda
8 concludes this is a man of great importance.

9 JUDGE KHAN:

10 Was he referring to Zigiranyirazo?

11 THE WITNESS:

12 He was. Yes, Your Honour, he was referring to Mr. Zigiranyirazo. So we can go through that if you
13 wish, but that's the guts of the thing. He comes down saying, "This is a man whom I could not not
14 respond to when he called me. I was in his region; I had to respond, and so I did". And there are two
15 events discussed here: the first one is a meeting, a political meeting, which took place in the general
16 area, not -- in the general area of Bushiru, and we have agreed that we are not going to discuss the
17 content of this meeting. But what is relevant here is that Mr. Zigiranyirazo attended this meeting and, in
18 Mr. Kambanda's opinion, may well have been the organiser of the meeting.

19
20 And then Mr. Kambanda was invited by Mr. Zigiranyirazo to his house and his opinion is -- Kambanda's
21 opinion -- that all of this was done to show people that Zigiranyirazo still had links that were powerful
22 enough to get the prime minister to come to his house. That's the first event.

23
24 The second event is the death of Mr. Zigiranyirazo's mother who is, of course, the mother-in-law of the
25 dead president. And she has apparently been in residence with Mr. Zigiranyirazo, and she dies of
26 illness, natural causes -- at least nothing else is suggested. And Mr. Zigiranyirazo -- Mr. Zigiranyirazo is
27 described by Kambanda as being bitter at that funeral, being resentful that so few ministers attended.

28
29 Now, of course, on the radio there would have been the announcement of the death and, ordinarily, in --
30 in ordinary circumstances, people would have been expected to come in large numbers, because one
31 of the indications of the social weight of a person was how many people came to his or her events, the
32 marking points of life, birth, celebration of birth, marriage, death. and so forth. And Zigiranyirazo,
33 according to Kambanda, complained in his remarks at that funeral that so few people have come.
34 Kambanda is then asked why so few ministers -- truly important people -- had come. There had been
35 four of them: the prime minister, the minister of planning, minister of feminine affairs, and minister of
36 defence. And Kambanda says that Zigiranyirazo complains. So, this isn't enough. He wanted -- he
37 expected to see more. And Kambanda's analysis is that, by that point, people understood that this

1 family was losing power and anyone who might have gotten their place in government because of
2 Zigiranyirazo did not come to the funeral because they did not want people to think that was how they
3 had gotten their position. So it's a complicated -- it's a complicated argument, but one that I think is
4 extremely appropriate to what I have seen operate in Rwandan culture.

5
6 The initial reaction after the killing of the president is an enormous upsurge of concern and commitment
7 and dedication to the dead president and his family. But, then, you know what? He's dead, and this is
8 the end of June, and people are beginning to realise that this genocidal programme has brought the
9 nation to the edge of disaster. The government is poised on the border at Gisenyi ready to flee.
10 Everyone is on their way out of the country and those people held to be responsible -- namely, the
11 group in Bushiru, the *Akazu* -- are now regarded with considerable resentment, and there's a new
12 generation of people coming up, and there's a very clear indication in the diplomatic correspondence,
13 for example, that the French are trying to create this new leadership and say, "Separate yourself from
14 those old guys because that is the only way in which we can get international recognition."

15
16 So, all of this is contained in this implication that Zigiranyirazo on the last day of June -- or, one of the
17 last days of June has lost his national purchase, his national leverage, to a certain extent. But the final
18 words that Kambanda comes out with is, "This is a person of great importance and I have to go when
19 he calls me."

20 MADAM PRESIDENT:

21 Of which date are we speaking, the meeting and the funeral of the mother? I gather the funeral was in
22 June -- at the end of June.

23 THE WITNESS:

24 Your Honour, the diary that I was using --

25 MR. PHILPOT:

26 I want to object at this stage. I would like the witness to say how she found out the day was the end of
27 June, which we do not agree with.

28 THE WITNESS:

29 In the written document, which was what sent me to this document and which is relatively -- was the --
30 as best I can determine, was the basis for these interviews. Now, it's a document that is unclassified,
31 virtually. The -- it's a handwritten document, and the only way you can make the connection between
32 that handwritten document and this is by looking at the content because the content is identical in some
33 places. So what -- what transpired is that Mr. Kambanda went into the interviews with a written --
34 handwritten document. He read that into the tape recorder and then the investigators questioned him.
35 And in the handwritten document he refers to this being in the last days of June when the government
36 is in residence at Gisenyi, and I think it is even said in here that the government was nearby.

37

1 MADAM PRESIDENT:

2 Dr. Des Forges, in -- the meeting, after which the prime minister went to the Accused's house, was it
3 the same month?

4 THE WITNESS:

5 Your Honour, according to Mr. Kambanda's statement, it was several days before. And I think he even
6 says that he went to Mr. Zigiranyirazo's house -- yeah, on page 2 of this document, if I may read, "To
7 my utter surprise, Mr. Zigiranyirazo, Protais, nicknamed Z, the brother-in-law of the president, invited
8 me to his home after the meeting" -- which means that he was, in fact, at the meeting, presumably --
9 "together with my defence minister who was familiar with the gentleman. During this courtesy call, I
10 was informed that his mother was seriously ill. Incidentally, she died a few days later, and I felt duty
11 bound to attend the funeral". So it was within a period of a few days.

12 JUDGE KHAN:

13 Dr. Des Forges, you have spoken about a handwritten document. Have you seen that statement
14 yourself?

15 THE WITNESS:

16 Yes, Your Honours, that was the document I was working with originally that then sent me to -- having
17 read that, and it's not clear exactly what that document is. It's a handwritten account by Mr. Kambanda
18 in something of a chronological sequence, but then, after that, he goes back and forth out of the
19 chronology to make other comments. But in that document it speaks of this incident in almost exactly
20 the same words as what you find on page 2. And having read that handwritten document, I asked
21 someone at the -- who was in the office yesterday, actually it was, first, someone from the Military team
22 and then was one of the interns whom I happened to find, to help me locate this transcript, and the
23 transcript, essentially, as I say, reproduces what's in the handwritten document, but we could also look
24 at the handwritten document, if you wish. It's a little bit hard to use.

25 MR. PHILPOT:

26 I would request that a copy be disclosed to us and then we'll see what happens with that.

27 JUDGE KHAN:

28 Do you have it with you now?

29 THE WITNESS:

30 I do not, Your Honour, but it's in -- I think it's still in the office that I was using, so I can certainly bring it,
31 or if someone can go and get it, the office is not locked.

32 MADAM PRESIDENT:

33 Is after the break soon enough?

34 MR. PHILPOT:

35 I think what I would like to do is close out this examination. And then I can use it for cross-examination
36 eventually and -- so we can move on to the full cross-examination. I think there are imperative reasons
37 to advance.

1 MS. KAGWI-NDUNGU:

2 Your Honours, I do not have any other questions. That would be the end.

3 MADAM PRESIDENT:

4 Thank you.

5

6 Mr. Philpot.

7 MR. PHILPOT:

8 I'm going to start cross-examination, as such, now.

9

CROSS-EXAMINATION

10 BY MR. PHILPOT:

11 Q. Dr. Des Forges, in the international commission report which -- I think, you were one of the authors of it.
12 You stated concerning the Zero Network, the following. This is page 160 of the international
13 commission report. You may not need it. I do not intend to go into great detail. You are certainly
14 welcome to look at it, but it probably won't be necessary.

15

16 On page 160, you said: "Those leading the operations, who are known collectively as the Zero Network,
17 were able to direct civilian, military and judicial authorities and the militias."

18

19 You also -- on the following page, with respect to the judicial system, you wrote: "Although
20 underfunding and lack of training are serious shortcomings, political interference is the most serious
21 failing of the judicial system."

22

23 Now, I assume that you agree with these statements, that they were accurate.

24 A. Yes.

25 Q. Okay. Now, if the *Akazu* members wanted a contract or a business deal, would they get it, would they
26 succeed; did they have a lot of power to get their way?

27 A. Provided they were not countered by another member of the *Akazu*, yes.

28 Q. And would the people be afraid to stand up to them, to the *Akazu*?

29 A. If they did not have the backing of someone within the *Akazu*, it would be virtually unheard of to
30 challenge a powerful member of the *Akazu*.

31 Q. And was it common for ordinary people to initiate lawsuits against members of the *Akazu*?

32 A. Only if they had the backing of someone else in the *Akazu*.

33 Q. And what if the *Akazu* institutes a lawsuit against ordinary people, would they succeed?

34 A. Again, it would depend on the power dynamics. If the ordinary person also had an *Akazu* protector, not
35 necessarily.

36 Q. Are you aware of a lawsuit between Mr. Zigiranyirazo and Mr. Said Nassor?

37 A. I am.

1 Q. And are you aware that Mr. Zigiranyirazo did not succeed?

2 A. That is correct.

3 JUDGE MUTHOGA:

4 Who is the other fellow?

5 BY MR. PHILPOT:

6 Q. This was in 1990 --

7 MR. PHILPOT:

8 Said Nassor.

9 MS. KAGWI-NDUNGU:

10 Spelling, please.

11 MR. PHILPOT:

12 S-A-I-D N-A-S-S-O-R.

13 BY MR. PHILPOT:

14 Q. I'm going to move over to a little bit about the person of Mr. Zigiranyirazo. Is it not accurate to say that,
15 during his tenure in Ruhengeri, there were no racist murders of Tutsis during that period, to your
16 knowledge?

17 A. Racist murders of Tutsi?

18 Q. Well, as difference (*sic*) from a murder of passion or a neighbourhood murder, or something of that
19 nature, compared to what happened with the Bagogwe amongst -- but during the tenure of
20 Mr. Zigiranyirazo there were no mass attacks on the Tutsi.

21 A. That, I can certainly agree to. Of individual racist murders, no, I can't say that. But I can certainly say
22 that there were, to my knowledge, no massive attacks on Tutsi, not just in Ruhengeri, but anywhere in
23 Rwanda during that time.

24 Q. And when did Mr. Zigiranyirazo leave Rwanda?

25 A. On which occasion? I believe he left a number of times.

26 Q. His departure for Canada, when did he leave Rwanda?

27 A. Didn't he depart several times to Canada? I believe he did.

28 Q. Well, I'm asking you what you know, Dr. Des Forges. When he went to Canada to study, when was it?

29 A. As I understand it, he left his post as *préfet* in 1989. His actual date of departure from the country, I do
30 not know.

31 Q. In what month did he leave his post as *préfet*?

32 A. I do not know the month.

33 Q. And how long did he stay in Canada to study?

34 A. Well, I've seen a document from 1993, which records a payment by the Rwandan government,
35 supposedly, for his tuition in Canada, but I do not believe that he was actually in Canada at that point
36 because I think he was excluded by the Canadian authorities.

37 Q. Yes. To your knowledge, was he absent from Rwanda for all that time, from 1989, say, to 1993?

1 A. My understanding is that he went back and forth a number of times.

2 Q. And do you know when he went back -- came back from Rwanda to Canada -- from Canada to
3 Rwanda?

4 A. Well, I know he was there in November 1992. Other than that, I do not know the dates of his voyages
5 back and forth.

6 Q. And during the political tracts and a lot of the agitation against the *Akazu*, it's quite correct to say that he
7 was absent, is it not?

8 A. He was out of the country at various times during this period. For how long and the exact periods, I do
9 not know.

10 Q. What was Mr. Zigiranyirazo's nickname? Was it Mr. Zero?

11 A. No. The nicknames that I am familiar with are Z, for the French, Z; the prince; and the *préfet* of *préfets*.

12 Q. Fine. Now, do you know about his wives?

13 A. I do not.

14 Q. Do you know how many wives he had?

15 JUDGE KHAN:

16 She has answered you. She has answered you.

17 MR. PHILPOT:

18 My question was very general about his wives. Maybe we can make it more specific about some parts,
19 some aspects. If you don't mind, I would like to ask her: "Do you know how many wives he had?"

20 THE WITNESS:

21 I do not.

22 BY MR. PHILPOT:

23 Q. Do you know anything about the ethnicity of his wives? Was he married to Tutsi women or Hutu
24 women?

25 A. Well, since I do not know anything about his marital history, I cannot help you there.

26 Q. Fine.

27 A. But I would remark that it was not infrequent for members of the *Akazu* to be married to Tutsi women. It
28 was a fairly standard pattern during -- even from the first republic for political leaders to choose Tutsi
29 wives.

30 Q. Are you familiar with an answer given by ADE in question 80 in the transcription of ADE's testimony?
31 And I'm reading the English one, and it is as follows: "In your opinion, did Protais Zigiranyirazo have
32 de facto powers as *préfet* of Ruhengeri in the sense that he was empowered to prevent and punish
33 crimes committed against the entire civilian population of Rwanda by soldiers, gendarmes,
34 *Interahamwe* and official administrators?"

35

36 And the answer, which I'll read out: "It was common knowledge that, as *préfet* of Ruhengeri,

37 Protais Zigiranyirazo had powers of control and authority over all that was happening in his *préfecture*.

1 He was held in awe until he left in 1989. The official version was that he had taken sabbatical leave,
2 but the reasons were that everybody had had enough of him. He had become a political liability and
3 was tarnishing the image of President Habyarimana. In the *préfecture* he headed until 1989, he had
4 authority over everything and could order the arrest and arbitrary detention of whoever went against his
5 wishes. Upon his return from Canada in 1991, Protais Zigiranyirazo tried to enter the political and
6 social mainstream in Rwanda, but found himself out of depth. He was overtaken by events. The
7 country was at war. He had contracted in securing the promotion of certain personalities like
8 Felicien Gatabazi, former minister of public works; Frederic Nzamburambaho, former minister of
9 agriculture; Enoch Ruhigira, former minister at the presidency; and Simeon Nteziryayo. All of them had
10 been appointed as an influence of the *Akazu* family. He did not find the same allegiance in return."

11
12 Does this reflect, in general terms, your understanding?

13 A. I believe I described to the Court in my direct testimony two different interpretations of the period
14 between 1989 and the beginning of the genocide; namely, one being the one you have read out here,
15 that Mr. Zigiranyirazo was regarded as somewhat in disgrace and was no longer able to wield the same
16 leverage that he once had and then had scrambled up -- had been in the process of scrambling to the
17 top of the heap at the time of the genocide; and the other interpretation, which holds, that he did not, in
18 fact, lose power at all and continued to be equally powerful throughout that period. So it's just a
19 question of which interpretation appears to have the greatest weight, and my sense is that the first
20 interpretation, namely, that he had suffered a blow and that he was trying to resume his earlier position
21 by his lawsuit, by his connections with the president, by contributing to the *Interahamwe*, by showing
22 himself, again, an important man on the scene, and I think -- that is my interpretation of what was
23 happening in those years.

24 Q. I think you stated that President Habyarimana felt, I think, in '89 that his hold on Ruhengeri was
25 vulnerable. Is that the reason why Mr. Zigiranyirazo was replaced as *préfet*? Was he considered not
26 strong enough to hold down this important post?

27 A. There is one school of interpretation that holds. He had been extremely effective in his time, but that
28 his harsh measures had, in effect, driven people away by 1989. And the -- particularly the beginnings
29 of political organisation by MDR politicians in Ruhengeri was seen as proof that he was losing his hold
30 over important people like Donat Murego, who had been an outstanding political leader, over
31 Thaddée Bagagaraza.

32
33 Excuse me, for the record, that's -- Donat Murego is D-O-N-A-T; surname, M-U-R-E-G-O. The other
34 name I mentioned was Thaddée, T-H-A-D-D-E-E, Bagagaraza; no relation to any Bagagaraza who
35 might come to the Court's attention. His name is B-A-G-A-G-A-R-A-Z-A.

36
37 And it was because you had the beginnings, the stirrings, of a new political organisation, which we dealt

1 with in quite some detail here, of the MDR in Ruhengeri, and that was blamed, in part, on Zigiranyirazo
2 who was seen as having been too harsh with this particular group, and it was felt that, by removing him,
3 it might be possible to win them back to the MRND.

4 Q. So this group -- and this was felt in 1988 or '89 also, then?

5 A. It would have been during the late eighties. You know, people's political opinions are not formed over
6 night. It's a period of time that we're talking about here. But, certainly, the beginnings of sentiment
7 favouring the reconstruction of the PARMEHUTU political organisation in a new format had already
8 begun in 1989.

9 Q. Fine. We are going to move on to another topic now. We are going to move on to another topic now.
10 Where did you obtain this information about Mr. Murego and Mr. Thaddée Bagagaraza? Is it not true
11 that it was stated in the CV, that this information came from the CV -- curriculum vitae of
12 Mr. Zigiranyirazo?

13 A. I don't know. I don't remember. I don't remember that it's in the CV. It seems to me that it is discussed
14 by James Gasana, for one. I have already also had that in exchange with other scholars, including
15 Filip Reyntjens and André Guichaoua, so I really --

16 Q. Is this information not present --

17 A. I really --

18 Q. -- in the CV?

19 A. I really don't remember. I honestly don't know. I am sure you can tell me.

20 Q. We will move on then. In your quality as an expert on African history and, in particular, with the
21 Great Lakes, region, I'm sure you know a fair amount about independence and the sophisticated
22 relationships between countries in the newly -- in the period following independence. I'd like to ask you
23 a question about the RPF invasion of Rwanda. And I must say -- I'll take this approach and ask you to
24 comment. Let me finish before you answer.

25

26 Is not the invasion of Rwanda by the RPF totally irregular and illegal for the following reasons: a country
27 which received refugees must not allow refugees to invade a neighbouring country, and it must not also
28 allow refugees to engage in subversive activities in a neighbouring country? Is that your
29 understanding?

30 MS. KAGWI-NDUNGU:

31 Your Honour, may I object to this line of questioning? The witness has already shown her position on
32 the RPF, and this is totally irrelevant to the proceedings that are before this courtroom.

33 MR. PHILPOT:

34 Well, first, I don't want to discuss this in the presence of the witness. I mean, these are --

35 MADAM PRESIDENT:

36 Objection overruled.

37

1 MR. PHILPOT:

2 -- these are issues of African history.

3 MADAM PRESIDENT:

4 Just continue, Mr. Philpot.

5 MR. PHILPOT:

6 Yes.

7 BY MR. PHILPOT:

8 Q. Would you please answer the question?

9 A. Are -- you asking me to do what, to evaluate the quote that you read?

10 Q. I stated -- I stated that: is it not true that a country which received refugees must not allow refugees to
11 invade a neighbouring country, and a country must not allow its territory and border to be used in
12 subversive activities against a neighbouring country?

13 JUDGE MUTHOGA:

14 Are you asking whether that's a provision of a Tutsi?

15 MR. PHILPOT:

16 I'm asking her to give an opinion on that, and then we will see what the answer is.

17 JUDGE MUTHOGA:

18 The opinion being whether that is provided for in treaty in a statute or not, or whether it is the customary
19 international law at issue.

20 MR. PHILPOT:

21 It's an open question, Your Honour, which we may or may not wish -- an expert in African history would
22 certainly be aware of the problem which came out of the problem of decolonisation, as happened with
23 other countries when they became independent. And then we'll see if it's -- if I have to ask any more
24 questions about this. Maybe not, I don't know.

25 MS. KAGWI-NDUNGU:

26 Your Honours, I would just like to know where Defence is --

27 JUDGE MUTHOGA:

28 What I don't understand is the question. What is the question? Is it -- is the question whether it is
29 provided, as you state it is, or is it the question that, does she agree that it is the customary law that a
30 state which receives refugees may not use this as -- what is the question you are asking to her?

31 MR. PHILPOT:

32 It is both questions. It is both as a possibility and then, depending on the answer, I will ask a more
33 specific question of which I have the information, if necessary.

34 MS. KAGWI-NDUNGU:

35 Your Honour, I just wanted to know where Defence is quoting from.

36 MADAM PRESIDENT:

37 He asked your expert witness a question on African history or background.

1 THE WITNESS:

2 As I understood the original question, you said "I'm going to read you a quotation and ask you to
3 comment on it".

4 MR. PHILPOT:

5 It wasn't exactly -- it was a quotation from the "Honourable" Philpot.

6 THE WITNESS:

7 Oh, well given the source.

8 BY MR. PHILPOT:

9 Q. It's a quotation of certain -- it's a statement of certain principles which -- and I can say it in very, like,
10 simple terms, sitting in a bar, talking. Is it not wrong for a country to allow refugees to invade its
11 neighbour or to do a subversive action against its neighbour?

12 MADAM PRESIDENT:

13 The question is whether it's wrong or not and whether it's common practice or not in the Great Lakes
14 region.

15 MR. PHILPOT:

16 The last one, not yet. I will get to that.

17 MADAM PRESIDENT:

18 Okay.

19 BY MR. PHILPOT:

20 Q. Is it right or wrong, first, since we're concerned with the rule of law?

21 A. It's my understanding that it is a violation of international law.

22 Q. Right. I think you know the answer to this question because I think you have testified about it before,
23 maybe not exactly on this exact question. But the charter of the OAU which, to my knowledge, was
24 signed on May 25th, 1963, requires the members to respect the following principles: it's sovereignty;
25 equality of member states; non-inference; respect for sovereign and territorial integrity; peaceful
26 settlement of disputes by negotiation, et cetera; and I'll read the last one, "unreserved condemnation in
27 all its forms of political assassination as well as of subversive activities on the part of neighbouring
28 states or of any -- of any other state". I'm sorry. Is that your understanding? Do you recognise that
29 principle?

30 A. I just say I haven't read the OAU charter recently, but I assume you are quoting it accurately.

31 Q. Yes. Then there's another convention, the 1969 OAU convention governing the specific aspects of
32 refugee problems in Africa, which requires the signatory states to undertake to prohibit refugees,
33 residing in their respective territories, from attacking any state member of the OAU, by any activity likely
34 to cause tension between the member states and, in particular, by the use of arms through the press or
35 by radio. And article 2 provides that refugees shall abstain from any subversive activities from any
36 member state of the OAU.

37

- 1 Do you understand that principle?
- 2 A. I understand it, as you read it, yes.
- 3 Q. And, finally, the African charter on human rights -- human and people's rights, entered into in -- on
4 June 27th, 1981, which took force, if I'm not mistaken on October 21st, 1986, sets forth many principles
5 of collective and individual rights, but states -- in article 23, paragraph 1, it says, "For the purpose of
6 strengthening peace, solidarity and friendly relations, state's party for the charter shall ensure that any
7 individual enjoying the right of asylum under section 12 of the present charter, shall not engage in
8 subversive activities against his country of origin or any other state party to the present charter, and,
9 finally, their territories shall not be used as bases for subversive or terrorist activities against the people
10 of any other state of the present charter." Are you aware of that, Doctor?
- 11 A. Yes, I am.
- 12 Q. Now, was not President Museveni president of the OAU in 1990?
- 13 A. I believe that is correct.
- 14 Q. And did the OAU and its organisations try to do anything to ensure the respect of these different
15 treaties?
- 16 A. There were a number of attempts to bring together authorities from Rwanda and Uganda. The ones I
17 recall best were either initiated or facilitated by the UN High Commissioner of Refugees, rather than the
18 OAU, but there were attempts made at that point.
- 19 Q. Did --
- 20 A. The disregard of international customary law and convention in this field was, indeed, a troublesome
21 issue vis-à-vis Uganda and Rwanda, but also between Rwanda and Burundi, because at that very time
22 Burundi -- Rwanda was providing a base for Burundian rebels who were having military training, and
23 the UNHCR protested about that as well.
- 24 Q. Did Africa rights watch or, Human Rights Watch protest against the violation of the African charter on
25 human rights -- human and people's rights by the invasion of Rwanda by the RPF?
- 26 A. First of all, I would also ask you to, please, keep in mind there are two organisations, one of which I am
27 not, and have never been, affiliated with, and that organisation is African Rights.
- 28 Q. I'll correct myself. Africa Watch, which was swallowed up -- or, became Human Rights Watch; I'll be
29 correcter (*sic*) on that one. We will just continue with it. Did you in Africa Watch or Human Rights
30 Watch raise the issues of these three fundamental human rights' treaties and their violation by the
31 RPF?
- 32 A. To make clear that -- I believe I have already dealt with this in some detail in the voir dire. Human
33 Rights Watch interprets its mandate rather strictly, in such a way that it focuses on violation of laws of
34 war, for example; violations of international humanitarian law in the specific sense of civil and political
35 rights, for example. It does not deal with violations of treaties.
- 36 Q. Civil and political rights, the UN covenant also talks about territorial sovereignty, does it not?
- 37 A. It does.

1 Q. Did you not -- so you could have raised it through that knot, could you not have?

2 A. If you look at the record of not just Africa Watch, but any of the Watch committees and the organisation
3 as a whole, I think you will find that it is not our general practice to deal with that kind of treaty violation.
4 We simply feel our contribution is in dealing with the consequences on the ground in people's
5 immediate lives, rather than with the diplomatic blather which usually goes nowhere.

6 Q. And are you not aware of the Nuremberg judgement, Dr. Des Forges, which says that the biggest crime
7 is the crime of aggression and that all other crimes ensue? Are you aware of that, Dr. Des Forges?

8 A. I haven't read the Nuremberg judgements recently. Can you give me the citation and I can look it up?

9 Q. I am stating Judge Burkett, and I'm very close to being verbatim, I can tell you that.

10 A. Was that the position of the court?

11 Q. It's a semi-verbatim statement of the court.

12
13 Is it not true that African Watch and Human Rights Watch does not deal with the crime of aggression?

14 A. In general, we do not deal with the crime of aggression.

15 Q. Is it not true that President Museveni, president -- or, chairman of the OAU did not imprison all the
16 Rwandan refugees who were members of the RPF and members -- largely members of his own army,
17 the NRA -- he did not throw them in prison because -- when they violated these laws, did he not?

18 A. I believe on one occasion he made an undertaking to arrest those members of the NRA, that is, those
19 soldiers, who had deserted, but to our knowledge he did not do so.

20 Q. And he called them publicly, "They were our boys", did he not?

21 A. I have heard that quoted, but I have not verified that.

22 Q. Why haven't you verified that? It's a pretty serious problem, is it not?

23 A. It does not rank among the major issues of my concern.

24 Q. You were not concerned about the legality of the RPF attack on Rwanda; yes or no?

25 A. I'm concerned about the statements of President Museveni, whether they are accurately quoted or not
26 in the press.

27 MR. PHILPOT:

28 Maybe -- it might be -- depending on whether the Court wants to break -- I don't. I'm not asking for a
29 break, but if you want to break, we can break now, or we can break in half an hour. I wouldn't want to
30 break in five minutes. I'm very happy to continue.

31 MADAM PRESIDENT:

32 So we break for 15 minutes.

33 MR. PHILPOT:

34 Fine.

35 MADAM PRESIDENT:

36 And I'm asked by court management to announce that we will be sitting here in courtroom 4 in the
37 afternoon.

1 MR. PHILPOT:

2 Thank you.

3 *(Court recessed from 1058H to 1132H)*

4 MR. PHILPOT:

5 May I start?

6 MADAM PRESIDENT:

7 Yes, please.

8 BY MR. PHILPOT:

9 Q. We are starting a new topic now. With the assassination of President Habyarimana and the chief of
10 staff of the army and his other members of his entourage, I understand that created a power vacuum.
11 What steps did the alleged *Akazu* members take to fill that vacuum?

12 A. There was no power vacuum until the political leaders and military leaders decided to assassinate the
13 prime minister. There was a prime minister; there were various ministers; there was a president of the
14 constitutional court. All of these people were assassinated in order to create a power vacuum. The
15 death of the president, in and of itself, was not sufficient to do that.

16 Q. Let's call it -- there was a period of confusion. I'm going to go back to the *Akazu* members that you
17 allege held power. Did the leading *Akazu* members attend cabinet meetings? And when I talk about
18 the "leading", I am talking about the inner circles.

19 JUDGE MUTHOGA:

20 Before you do, Mr. Philpot, in terms of time space, were there 24 hours between Habyarimana's death
21 and Agathe's death?

22 THE WITNESS:

23 Your Honour, it was about 16 hours later that she was killed.

24 JUDGE MUTHOGA:

25 So the time gap you are talking about is that 16 hours?

26 THE WITNESS:

27 That is 16 hours, during which time she announced her intention to act as head of government by going
28 to the radio station to call for calm and to announce interim measures, and it was that intention which,
29 more than anything else, provoked her immediate assassination.

30 BY MR. PHILPOT:

31 Q. Did you say the presidency was assassinated or the president was assassinated?

32 A. I believe I said "the president".

33 Q. Fine. Did the members of the inner circle attend any cabinet meetings?

34 A. To my knowledge, they did not ever attend cabinet meetings. Do you have a specific date in mind?

35 Q. On -- we are talking about after the 7th -- after the 6th.

36 JUDGE MUTHOGA:

37 After the 9th, it should be --

1 MR. PHILPOT:

2 Well, we'll see.

3 JUDGE MUTHOGA:

4 -- because there was no cabinet before the 9th.

5 BY MR. PHILPOT:

6 Q. Did the members of the alleged *Akazu* attend any cabinet meetings after, let's say, the 9th, then?

7 A. As I said, with the exception of Mr. Nzirorera, who was a sitting minister and who ordinarily participated
8 in cabinet meetings, the heads of political parties identified with the wider *Akazu* were present from the
9 beginning of negotiations of forming the government right on through. The narrow definition of the
10 immediate circle of the family, to my knowledge, the political discussions took place at the home of the
11 assassinated president the evening after his assassination, and not otherwise, involving the president's
12 widow, for example, who left the country, I believe, on Saturday, and Mr. Zigiranyirazo.

13 Q. Okay. Well, we'll move on, Dr. Des Forges. Thank you. Thank you for your help. Did the inner *Akazu*
14 travel with the interim government?

15 JUDGE MUTHOGA:

16 Is that to Gitarama, you are asking?

17 MR. PHILPOT:

18 I'm referring to the government formed after -- from the 9th.

19 JUDGE MUTHOGA:

20 The *Abatabazi*, or the government which called itself the *Abatabazi* government?

21 MR. PHILPOT:

22 The *Abatabazi* government.

23 JUDGE MUTHOGA:

24 And "travelled with them", you mean they went to the provinces?

25 MR. PHILPOT:

26 Well, they moved. In general --

27 JUDGE MUTHOGA:

28 They moved, for example, from Kigali --

29 MR. PHILPOT:

30 To Gitarama.

31 JUDGE MUTHOGA:

32 -- Gitarama and then to Gisenyi.

33 MR. PHILPOT:

34 Yes.

35 JUDGE MUTHOGA:

36 You are asking whether the *Akazu* leaders went with them, along with them?

37

1 MR. PHILPOT:

2 Yes, among other things. I'm asking in general and in specific. I am referring all this to the inner
3 *Akazu*.

4 THE WITNESS:

5 Meaning the five persons?

6 BY MR. PHILPOT:

7 Q. Yes, who held all the power.

8 A. The president, her wife and her two cousins and her one brother.

9 Q. Uh-hum.

10 A. Certainly not Madam Habyarimana because she left the country promptly. I do not recall seeing any
11 mention in the documents of the presence of other family members at government meetings after the
12 9th of April.

13 Q. And are you aware that Sèraphin Rwabakumba left on the 9th also with the rest of the family and the
14 wife of Dr. Bararengana? Are you aware of that?

15 A. I believe that is correct.

16 Q. So you are saying that there is no written documents of input or participation of the inner *Akazu*
17 members?

18 A. Of the immediate family members after the 8th or 9th, I do not know of any written input, with the public
19 exception of communications between Madam Habyarimana and Madam Nyiramasuhuko, but I would
20 have to check that. There may have been come communications that were written, or at least an
21 indication in Madam Nyiramasuhuko's diary of having received communications, but I am not at all sure
22 of that. I would have to check.

23 Q. I think you wrote in your book that Madam Habyarimana or Madam Kanziga might have participated
24 from outside the country, but it's not obvious. I think I remember you saying that in your book.

25 A. That is what I said in my book, and I believe there was subsequently either some testimony or some
26 documents connected with the Butare case that talked of some communication between those
27 two figures -- that is, Madam Habyarimana and Minister Nyiramasuhuko -- but I would have to verify
28 that.

29 *(Pages 1 to 21 by Verna Butler)*

30

31

32

33

34

35

36

37

1 1140H

2 BY MR. PHILPOT:

3 Q. The *Akazu* power depended on the president, did it not?

4 A. Well, I think we've described in some detail the complexity of this circle of power relationships that
5 stretched throughout the country and which had it as its cement the president and his wife and her male
6 relatives. It was a complex ball of yarn, you might say. And to pull out one strand and say this strand is
7 more important than that strand -- it would depend on the circumstances and the question being raised,
8 I am sure.

9 Q. It might be a ball of yarn with a little nucleus which controls the surrounding yarn, but when this nucleus
10 was virtually eliminated, was not the power of the *Akazu* shattered? Why did the members go into
11 exile? Why did they flee Kigali for their lives?

12 A. Certainly, the impact of the killing of the president was enormous but, from my research, my conclusion
13 would be that the immediate result was an upsurge in power and loyalty. And let me give one example:
14 Before the beginning of the multiparty era, many people wore portrait pins of the president on their
15 clothes to indicate their loyalty to the president. With the beginning of the multiparty era, in most parts
16 of the country, that fell out of favour; people didn't do that any longer except perhaps in Bushiru or other
17 parts of Gisenyi. But after the -- within hours after the shooting down of the aeroplane, a number of
18 witnesses remarked to me that they saw people immediately wearing that button again on their clothes.
19 So I think any of us who have had the experience of having a president assassinated understands what
20 that kind of emotion is.

21
22 But, as I said, as the time went on and as the military defeat of this government became increasingly
23 obvious, and its failure to provide for the immediate needs of people, which perhaps it could not have
24 done given the circumstances, but the impact on people's perceptions was nonetheless that this
25 government by the end of June was falling apart, and who was responsible for it falling apart, those
26 people who had made these decisions, including the decision to kill the Tutsi. So I think by the end of
27 June, the 1st of July, yes, clearly they were having serious problems, but this was after an upsurge and
28 peek in their power and control.

29 Q. You are aware that Mr. ADE places significant members of Tutsi in the *Akazu*; is that correct?

30 A. From the diagram that we looked at, I recall one person being a Tutsi.

31 Q. Is -- does he not recall -- does he not write about Justin Maharangari (*phonetic*), who has a Tutsi
32 background?

33 A. He may write about him, but he's not included in the organigram that he drew of the inner circle.

34 Q. Okay. So Mr. Kajeguhakwa is part of this *Akazu* as described by ADE; is he not?

35 A. That is correct. And there are other people, I believe, who would differ with that assessment, who
36 would say not part of it but rather a client of it, a hanger-on, someone dependent on it, as always in a
37 reciprocal sense because clients also have means of exercising some influence.

1 Q. Or the *Akazu* depended on him in part, did they not?

2 A. It was a relationship of reciprocal benefit, for sure.

3 Q. Which was, in fact -- his wealth was greater than any -- the individual wealth of any member of the
4 *Akazu*, was he not -- was it not?

5 A. That I don't know, but certainly he was very wealthy. There is no doubt about that.

6 JUDGE MUTHOGA:

7 *(Unintelligible)* ... which personality?

8 MR. PHILPOT:

9 I'll spell the name out, Your Honour. It is Valans Kajeguhakwa, K-A-J-E-G-U-H-A-K-W-A.

10 BY MR. PHILPOT:

11 Q. Now, I'd like to ask you a little bit more about Mr. Zigiranyirazo. When he was in Canada, did he control
12 appointments of -- in general of -- to positions of importance in Rwanda?

13 A. In order to draw a conclusion about that, I would have to know the exact dates of when he was in
14 Canada, which I said --

15 Q. Well, let's say --

16 A. -- earlier I do not know.

17 Q. Okay. Well, in 1990, did he control appointments? And do you have any documents in support of that?

18 A. Do we know the dates in 1990 --

19 Q. No, I am asking you in 1990.

20 A. -- when he was actually -- well, it was a long year. He could perfectly well have been home for a
21 number of months during 1990. I just don't know.

22 Q. But I'm asking you what appointments he may have controlled at that period in 1990.

23 JUDGE MUTHOGA:

24 The use of the word "control", do you actually mean --

25 MR. PHILPOT:

26 Have named.

27 JUDGE MUTHOGA:

28 *(Microphones overlapping)* ... or have influence?

29 MR. PHILPOT:

30 Have named. The term is a general term, and Dr. Des Forges, in her expertise, can apply nuances if
31 she likes.

32 BY MR. PHILPOT:

33 Q. Maybe there are no examples in 1990; is that correct?

34 A. That's not at all what I'm saying. I'm saying you're asking me an impossible question. If I do not know
35 when he was present in Rwanda, how can I possibly conclude whether or not he exercised influence
36 during that period? I do not have *(Microphones overlapping)*.

37 Q. Whether -- okay -- well, I'll read --

1 MADAM PRESIDENT:

2 Was there any possibility of his exercising influence from Canada, or did he have to be physically
3 present in Rwanda to exercise influence?

4 THE WITNESS:

5 You're right, Your Honour. Of course he could also have exercised influence at a distance, arguably a
6 little less effectively, but certainly that was within the realm of possibility. And the -- some of the names
7 which are cited as people whose -- whose appointments he influenced, including the list read earlier
8 this morning by counsel, did change post during this period of time, and that's why I'm saying it's
9 difficult for me to make any link, yes or no, unless I have the dates and the actual factual information,
10 which, regrettably, I do not have.

11 BY MR. PHILPOT:

12 Q. So --

13 JUDGE KHAN:

14 Did you know that Mr. Zigiranyirazo visited his country during his stay in Canada?

15 THE WITNESS:

16 I understand that he was back and forth a number of times, Your Honour, but I do not know -- except
17 from November 1992 on, I believe he was rarely outside of Rwanda, but the exact history before that
18 time I'm not sure.

19 BY MR. PHILPOT:

20 Q. My question is -- we'll go year by year. In 1990, inside or outside, who did he have named or unnamed,
21 if you don't mind the expression, and what documentary proof do you have of that?

22 A. Well, earlier this morning, you, yourself, read a list of names, including Gatabazi, including Nteziryayo,
23 including Ruhigira, as people who were supposed to have been put in power by his influence.

24 Q. Well, this is what ADE says. I'm asking about 1990. What examples do you have?

25 A. Well, I would need to --

26 Q. Because I certainly didn't say it was in 1990, those names. I did not raise those names for 1990 in any
27 way whatsoever.

28 A. I would need to look at the details of appointments when these persons shifted posts to attempt to draw
29 a conclusion whether or not he was influential in those changes or not.

30 Q. I'm not asking about those people. I'm asking in general.

31 MS. KAGWI-NDUNGU:

32 Your Honours, I believe this question has been asked and answered. The witness has told counsel that
33 she does not know when he was in and out and has no documentary evidence of that particular time.

34 MADAM PRESIDENT:

35 Dr. Des Forges, in your testimony you expressed that Mr. Zigiranyirazo had to leave Rwanda because
36 he had become a liability. He went to Canada and then came back, and one of the positions is that he
37 was struggling to be back in power. To your knowledge, between his leaving Rwanda and then coming

1 back in '92 and struggling or not to be back in power, did he have any power or was it really a
2 sabbatical?

3 THE WITNESS:

4 Your Honour, to the best of my interpretation of the evidence, he continued to have influence, but less
5 influence than he had had prior to 1989; that is the, perhaps, not very satisfactory, but the closest I can
6 come to evaluating the evidence, that he may have experienced a dip in his influence, but that this then
7 rose again, partly due to his involvement in the *Interahamwe* and then subsequently soared as a result
8 of the killing of his brother-in-law.

9 BY MR. PHILPOT:

10 Q. Now, I'm still not clear and if I'm saying -- if I understand correctly, if you don't have the dates, you can't
11 give examples -- the dates of his absence, you can't give the examples; is that correct? If I'm wrong,
12 tell me I'm wrong.

13 A. I think that we've covered this, haven't we? I don't have that information.

14 Q. Thank you. Now, you have studied a lot of documentation, original, different sources. How many times
15 in the year preceding the death of President Habyarimana did he meet Protais Zigiranyirazo?

16 A. I have never seen a calendar of presidential appointments, nor have I seen a calendar of
17 Mr. Zigiranyirazo's appointments. One would suppose that family members see each other at least on
18 an occasional basis, but that is an assumption rather than a provable fact.

19 Q. How many times --

20 JUDGE MUTHOGA:

21 Did "meet" imply formal meetings, or does that also include meeting together at the ranch, or what,
22 somebody's wedding, or at some social event or something, or are you talking about recorded meetings
23 when Mr. Zigiranyirazo asked to see and the president agreed to see him?

24 MR. PHILPOT:

25 I'm talking about all meetings. And I think as the evidence will unrole -- unfold, you will understand our
26 position very clearly. Thank you.

27 BY MR. PHILPOT:

28 Q. How many times did he meet with his sister, Agathe Kanziga, in the year prior to the assassination of
29 President Habyarimana?

30 A. How many times did he see her and have conversation with her?

31 Q. Yes, because, after all, you have stated it is an informal network where things happen by saying half
32 sentences.

33 A. I do not have access to her appointment calendar either.

34 Q. Is it not true that you find out about meetings in other ways other than an appointment calendar? You
35 couldn't read mine; mine's illegible.

36 A. Perhaps yes, perhaps no. It depends on what's available.

37 Q. But you could find out that I had met my colleagues on the weekend by asking in the hotel. Now, there

1 are other ways of finding out about meetings. We can move on then.

2

3 If I told you that they only met -- that Mr. Zigiranyirazo met the president three times, about three times
4 in the preceding year and they were social occasions; is that possible?

5 A. Three is possible, 30 is possible. If one has no basis to draw conclusion, anything is possible.

6 Q. Yes. I understand you have no basis to draw a conclusion.

7 A. I don't draw conclusions if I do not have evidence. I simply say I do not know.

8 Q. Fine. Did Madam Kanziga attend meetings where political decisions were taken?

9 A. As I understand it, on the evening of April 6th in the hours following the shooting down of the aeroplane,
10 she and her brother were involved in political discussions --

11 Q. Okay.

12 A. -- I suppose you could call that a political meeting.

13 Q. So let's go back from that and look back in the period where this famous *Akazu* had so much power
14 back in -- well, the *Akazu* came into the political discourse, when? When did it come into the political
15 discourse in Rwanda? I'm sure you know the answer to that; we do.

16 A. It was being used certainly in 1991; whether it was being used much before that time, I'm not sure.

17 Q. But you're a historian, you should know.

18 A. Well, I just told you what I know.

19 Q. So are you saying you do not know if the term "*Akazu*" in this political connotation was being used prior
20 to 1991?

21 A. I'm saying that the first use that I recall at this point is 1991. If you wish me to go back and consult all of
22 my interview notes, perhaps I will find it being used earlier than that.

23 Q. Fine. You don't know. Thank you.

24 A. That's not what I said.

25 Q. Well, you don't know anyway.

26 A. I said what I know (*Microphones overlapping*)

27 THE ENGLISH INTERPRETER:

28 Pause, please, for the interpreters, please, and the court reporters.

29 BY MR. PHILPOT:

30 Q. When Mr. Zigiranyirazo returned from Canada, what political favours did he benefit from from the
31 president, contracts, appointments, money? Do you have any specific information about that?

32 A. Well, in August of 1989 he was named to the administrative board of the ORTPN, the office -- the
33 national office of tourism and parks. And to my knowledge, he continued in that capacity and would
34 have, on his return, had access to whatever resources that parastatal had at its disposition.

35 Q. So -- we'll go on from that, but there's nothing new other than this possible position that he may have
36 had from '89.

37 A. Well, he did have it in '89.

- 1 Q. And did he continue to exercise that one during his absence?
- 2 A. I do not know of his being removed.
- 3 Q. And I asked you about possible contracts. Did he receive any contracts from the government,
4 beginning in the period of his return around 1993?
- 5 A. Would he have received any contracts? Was he a contractor?
- 6 Q. I understand your answer. I'll move on and talk about appointments. Did he receive any
7 appointments? Was he named to a commission, to a board?
- 8 A. No, but neither was any other member of the *Akazu* during that period, to the best of my recollection,
9 named to a board. It was a time when it was the -- the *Akazu* was under public attack, and it would
10 have been highly impolitic for the president to draw attention to the powers and privileges of this small
11 circle by naming one of them to something of importance. There may have been some unimportant
12 post, but to put a member of the *Akazu* in the middle of the multiparty era, when this was a major
13 accusation against the *Akazu* that it was a circle of nepotism and corruption, it would have been
14 handing an opportunity to the opposition which I believe the president was too smart to do.
- 15 Q. Now, you referred to the Zero Network and the well-known person who wrote it. He wasn't in Rwanda
16 in '94, was he, the author of the Zero Network?
- 17 A. I'm sorry, in '94, did you say?
- 18 Q. Yes. He was in Gabon, wasn't he -- was he not?
- 19 A. I don't know where he --
- 20 Q. You don't know where. Okay. Fine.
- 21 A. -- was in 1994. He left Rwanda in 1992 and, to my knowledge, did not return before 1994.
- 22 Q. And then he became -- he joined the MDR party in spite of his --
- 23 THE ENGLISH INTERPRETER:
- 24 Pause, please, for the interpreters.
- 25 MR. PHILPOT:
- 26 May I start now?
- 27 MADAM PRESIDENT:
- 28 Yes. Repeat, please.
- 29 MR. PHILPOT:
- 30 Fine, I will. Thank you.
- 31 BY MR. PHILPOT:
- 32 Q. He joined the MDR party, did he not?
- 33 A. I don't know his personal history.
- 34 Q. And he had a nomination to a post in Gabon, did he not?
- 35 A. I do not know his personal history.
- 36 Q. And is it not true that after -- during multipartism, ministries were not controlled by the MRND and that
37 other ministries could grant contracts to people; is that not correct?

- 1 A. Well, first on the question of his own particular post, whether he was or was not appointed and whether
2 he was or was not in Gabon, I simply don't know.
- 3 Q. Okay.
- 4 A. I don't know the man's history. On the general question, yes, I believe I dealt with that in some detail in
5 my report when I talked about multipartism essentially allowing the other parties to come to the table
6 and to share in the meal. And they did that by appointing their adherence to as many positions as they
7 could, and this was part of that rivalry of *Kubohoza* that we talked about last week.
- 8 Q. Yes. Now --
- 9 THE ENGLISH INTERPRETER:
10 Could counsel kindly pause.
- 11 BY MR. PHILPOT:
- 12 Q. So now we're back to mister -- we'll call him SGM, because this gentleman, SGM, became a
13 representative of Rwanda after the RPF took power, did he not?
- 14 MADAM PRESIDENT:
15 You mean *****
- 16 MR. PHILPOT:
17 Yes.
- 18 BY MR. PHILPOT:
- 19 Q. He became ***** ** ***** did he not?
- 20 A. That is correct, for a brief -- relatively brief period of time, I think.
- 21 Q. Well, at least two years. I don't know, but at least two years, was it not?
- 22 A. I have not followed his life. I really don't know. I know that at one point he was, but I don't recall the
23 period.
- 24 Q. And would it -- do you believe that his Zero Network paper should be used as hard evidence, in your
25 expert opinion as a historian?
- 26 A. Well, as any piece of evidence, it needs to be used with a level of caution, given consideration of what
27 his particular point of view was in writing it. But as a reflection of what one intellectual, well-trained,
28 political personality who had been influential within the inner circle, what he concluded about what he
29 had seen, yes, of course, it needs to be taken into account.
- 30 Q. Would you be surprised that this gentleman said that he did not do much of an investigation before
31 writing this booklet?
- 32 A. Well, that wouldn't surprise me at all. He didn't put it forward at all as the result of an investigation, but
33 as the result of years of observation. He was just saying, "Listen, here's what I had seen happening
34 around me, and you better wake up and do something about it."
- 35 Q. I'm going to ask you another question about some terminology which was frequently used in Rwanda.
36 The term *Interahamwe* has a number of meanings, does it not; for example, in your book on page 4, it
37 says it means "those who stand together or those who attack together." This is what your book states;

1 is that accurate?

2 A. I believe that is correct. The wording may not be exactly like that, but certainly the content is accurate.

3 Q. I think the wording is accurate. I certainly try to be accurate. And you know the linguistic expert who
4 testified in the *Akayesu* case, Mr. Ruzindana? You know him, do you not?

5 A. I believe I may have made his acquaintance once, but I would not say that I know him. I don't think I
6 would recognise him if I were asked to choose him from a group of people.

7 Q. Fine. I'll read out what he said in January 1997 when asked about the *Interahamwe*. And I'm
8 translating from French. He said, "Therefore, the word *Interahamwe* -- when you know that *hamwe*
9 means 'together', then '*Interahamwe*' could mean 'people who work together' or 'people who attack
10 together', but the majority of linguists in Rwanda would give the meaning to the word 'people work
11 together'."

12

13 Now, I'm not asking you to adopt or not adopt, but if you were to use the term, would it not be
14 appropriate to explain there are at least two definitions?

15 A. Use it in what context?

16 Q. Well, any context. If you're talking about it and citing -- translating for the purposes of any public
17 document, would it not be fair and appropriate to use at least two definitions, if not three?

18 A. Well, the one public document you've referred to, I did, in fact, do that. If the name of the organisation
19 is the focus of discussion, then, of course, that is appropriate, but if the name is being used simply as it
20 is commonly used in a given period of time -- and I would point out that the meaning of the term did
21 change over time, and that in the earlier period, in the '60s, '70s the '80s, you had women's groups and
22 other groups that could use this term, and it had a perfectly innocuous connotation to it. But over time,
23 with history, with the events of the 1990s, it took on a particular meaning which was an accurate
24 reflection of the behaviour of that group.

25 Q. Now, is it -- when did it take on this meaning?

26 A. It began to be identified as an aggressive group soon after its formation, even in late 1991. And in early
27 1992, one of the founders of the organisation, Mr. Morenzi, was already expressing to the president,
28 either directly or indirectly, his concern that this group was not what he had meant it to be. And it was,
29 in part, the failure of the MRND to recognise or to accept the desire to put the group back on a less
30 aggressive basis that caused Morenzi and others to leave it.

31 Q. When the *Interahamwe* were formed, did anyone say, "You can't use that name. That's an aggressive
32 name. That's a warring name" when they were first formed?

33 A. I was not present at the formation, and I have not collected any evidence about how the name was
34 chosen.

35 Q. Is it not true the name comes from a -- is it not true that the name comes from a PARMEHUTU
36 song -- an old PARMEHUTU song that everybody knows about in Rwanda?

37 A. As I have indicated, the name had a number of uses in previous decades, which were not specifically

1 linked to the question of attacking and killing people.

2 Q. And when it was adopted, it was adopted in the sense of working together or standing together, was it
3 not?

4 A. I was not present at that meeting. As I understand it, the organisation was formed to further the
5 interests of the MRND in a period of multiparty contention, and the standing together eventually
6 became attacking together. I would point out that the name of the CDR militia was also potentially an
7 innocuous name. It was -- those were the single purpose. The purpose was unstated.

8 Q. Now, would it not be fairer to use the term -- in your report, the commission report, on page 16, that's
9 page 136 -- I don't think you have to look at it again -- you referred in your report, which went
10 international, "The militias and the MRND called *Interahamwe*, or those who attacked together, began
11 to disperse through the country in February and March 1992." Why didn't you give both names?
12 Certainly, it still had the meaning of both -- had both possible meanings, as Mr. Ruzindana said, did it
13 not?

14 A. Well, I believe that I have already mentioned, but perhaps I did not, the experience of commission
15 members whose vehicle were stopped at a barricade by *Interahamwe* with the demand that the Tutsi in
16 their company get out of the vehicle and be taken away. When we protested that to
17 President Habyarimana, he said the *Interahamwe* are only boy scouts, they are just like boy scouts. So
18 obviously there were different interpretations possibly of what was happening, but if you had seen a
19 group of some 40 men carrying machetes, attempting to pull a person of Tutsi ethnicity from a vehicle,
20 you would be unlikely to think of them as boy scouts.

21 Q. And would it not have been more appropriate for you to say then, well, it was formed as to mean work
22 together and it had changed its sense to become attacked together? Why didn't you say it like that?

23 JUDGE MUTHOGA:

24 (*Unintelligible*) ... changed her sense to depend on what "work" means?

25 MR. PHILPOT:

26 Well, actually, Your Honour, the term that Dr. Des Forges used in her book was "stand together", so I'm
27 aware of that possible distinction except that -- the term that was used in her -- Dr. Des Forges' book
28 was "stand together".

29 MADAM PRESIDENT:

30 Yes, Counsel, but do you think this questioning line is fair --

31 MR. PHILPOT:

32 I'm going to --

33 MADAM PRESIDENT:

34 -- because Dr. Des Forges was making a report on events, not on terminology?

35 BY MR. PHILPOT:

36 Q. So we'll move on then, Dr. Des Forges. The *Kubohozza* was, I guess we might use in North American
37 terms, a form of raiding by the new parties of the old party; is that correct?

- 1 A. You could call it a form of raiding; although sometimes it did not involve physical violence, sometimes it
2 involved simply pressure --
- 3 Q. Sure.
- 4 A. -- but it went in both directions. It was exercised by the MRND against people who had adhered to the
5 new parties, as it was vice versa. The initial -- it has been alleged and I believe probably accurately,
6 that the initial *Kubohaza* impetus came from the MDR, in other words, attempting to use either bribery
7 or force to get greater numbers of adherence from the MRND. But it soon became a reciprocal process
8 where each group was involved in the use of violence against the other.
- 9 Q. And I think you stated that the MRND was formed after the *Inkuba* or the JDR; is that correct?
- 10 A. That is correct.
- 11 Q. And is it not true that -- sorry -- is it not true that the leader of the *Interahamwe* was Robert Kajuga, a
12 Tutsi?
- 13 A. That is correct. And I have recently learnt that there was a second founding member named
14 Eric Karekezi (*phonetic*), who was also a Tutsi. Karekezi, as far as I know, left after a brief period, but
15 Kajuga stayed on.
- 16 Q. Now, we're going to examine a little bit about the war. Mr. Kajeguhakwa, as we discussed earlier, was
17 a very wealthy Tutsi who was either a member of the *Akazu*, or a close client of the *Akazu*, who may
18 or -- itself may have depended on him or he on them, and he was a Tutsi who had been a teacher and
19 had made a fortune in many areas of business; is that correct?
- 20 A. That is a general description, yes. His teaching career, I think, was soon overshadowed by his
21 business career.
- 22 Q. And I think he left in August 1989, did he not? He left --
- 23 A. I don't know exactly.
- 24 Q. Was it August 1990?
- 25 A. I believe it was August 1990.
- 26 Q. Let me verify. I don't -- we can continue, then. And I think he left with Pasteur Bizimungu, did he not?
27 Were they together? I think they were, were they not?
- 28 A. No.
- 29 JUDGE MUTHOGA:
30 Left what?
- 31 MR. PHILPOT:
32 Pardon?
- 33 JUDGE MUTHOGA:
34 Left what?
- 35 MR. PHILPOT:
36 Left Rwanda to go to Uganda.
37

1 THE WITNESS:

2 It is my understanding that they met in Uganda.

3 MR. PHILPOT:

4 Okay.

5 THE WITNESS:

6 I believe that is what Kajeguhakwa has written.

7 BY MR. PHILPOT:

8 Q. Okay. That is neither here nor there in terms of definitive. Now, Kajeguhakwa claims rightly or wrongly
9 that he had a large network of informants inside Rwanda, did he not?

10 JUDGE MUTHOGA:

11 Did not claim or did he not have?

12 MR. PHILPOT:

13 That he claimed to have had.

14 THE WITNESS:

15 He claimed that, and I believe accurately so. His book is a remarkable description of how clientage
16 works.

17 BY MR. PHILPOT:

18 Q. And he took this network to serve the RPF, did he not, and he was proud of it, was he not?

19 A. I don't know that is accurate. It was a network that he had constructed for his own personal interest,
20 and when he left the country, how many of his clients remained loyal to him and how many saw his
21 departure from the country as significantly disloyal act, to separate from him, I really don't know.

22 Q. So you're saying that some --

23 THE ENGLISH INTERPRETER:

24 Could counsel observe a pause. By the time you start, the interpreter is still interpreting what the
25 witness was saying.

26 BY MR. PHILPOT:

27 Q. So you're saying that he may have lost some of his support when he left?

28 A. Indeed, and I would say that the disloyalty that people may have felt he had shown by leaving could be
29 interpreted either as disloyalty to the country or as disloyalty in a personal sense. "I've been left behind.
30 I've been abandoned. Why should I continue to support someone who is not going to be here to protect
31 me?"

32 Q. And -- but it is correct that he considers that he had a network of informers in the army in civilian circles
33 which gave him a very extraordinary analysis of the army, the gendarmerie, and different aspects of
34 Rwandan society? Is that not correct?

35 MADAM PRESIDENT:

36 Until which year are we speaking of?

37

1 MR. PHILPOT:

2 When he left in 1990, which I was corrected. It was in 1990, I think.

3 THE WITNESS:

4 I don't know that he would depict it in the same terms you do. You depict it in the sense of -- almost of
5 a secret service, understanding the analysis of how a gendarmerie or an army is working and so on and
6 so forth. I think his focus was much more narrow. I think his focus was what's going to serve
7 Kajeguhakwa's interest best. And that was the way he operated. I don't know that his focus was as
8 broad as you suggest.

9 BY MR. PHILPOT:

10 Q. But he does say that he put all his efforts after that into the RPF, and a lot of money, did he not?

11 A. Can we look at that quotation because that is subject to a lot of discussion, exactly what he says?

12 Q. Well, what I would like to -- I want you to give your understanding of his historical role. And you, as an
13 expert, how -- do you not understand that he lent himself and all his -- a lot of his resources to the RPF?

14 A. I would say that in his book that is not clear, but that in the assessments of other people who have
15 followed the course of his -- his life, it is clear that he did contribute a significant amount to the RPF.

16 Q. And not just money, but resources, contacts.

17 A. I do not know that specifically, but I -- well, actually, yes, I think there was one case that I do know of
18 specifically, but I also think that probably in the eyes of someone committed to a cause, one does not
19 make distinctions; if one is ready to put up the money, one is also ready to hand over the telephone list.

20 Q. Now, when the Rwandan RPF invaded Rwanda, it is my understanding that they had already
21 clandestined themselves as of October 1st, 1990; is that correct?

22 A. As I understand it, there had been an effort, a political organisation in different parts of the country, and
23 because multipartyism was not yet permissible, any attempt at political organisation was necessarily
24 underground. For example, the MDR, one could say, was organised underground prior to the actual
25 proclamation of the legality of multiparty activity.

26 Q. Well, yes, except that they did not attack the country militarily. I'm talking of the RPF. Have you --

27 A. I don't know that in its organising prior to 1990 that it made clear to people that a military attack was
28 envisioned. It is possible that they presented themselves as a political party. I do not know how they
29 presented themselves at that period.

30 Q. Well, have you met Mr. Ruhenzi (*phonetic*), Aloys Ruhenzi, the gentleman who fled and is in Paris
31 now?

32 A. I have not met Mr. Ruhenzi.

33 Q. Is it not true that the recruiting of the young was, "We are going to go back by force"? Is that not what
34 they say?

35 A. What's important here is the time element.

36 Q. '87, '88, '89, '90?

37 A. Is that what he says, that he was recruited at that time?

1 MADAM PRESIDENT:

2 Mr. Philpot, wait, wait, wait.

3 THE ENGLISH INTERPRETER:

4 There has to be a pause between when he speaks and when the witness speaks or else we can't work.

5 MR. PHILPOT:

6 Thank you.

7 MADAM PRESIDENT:

8 Don't get carried away.

9 MR. PHILPOT:

10 Well, I fully agree that we have to slow down.

11 THE ENGLISH INTERPRETER:

12 Perhaps counsel should understand it's not that you're fast. You need to pause between when she
13 speaks and when you speak because when you speak the interpreter is still interpreting what you were
14 saying, and he has to start interpreting again. And it is the same for the court reporters.

15 MR. PHILPOT:

16 Thank you.

17 BY MR. PHILPOT:

18 Q. Well, you read Mr. Ruhenzi's statements in 2004 where he had been recruited while he was living in
19 Uganda, did you not?

20 A. I think we're risking some confusion here. You ask me about RPF organisation inside Rwanda prior to
21 1990, and then you introduce the dates '86, '87, '88 and the name of Mr. Ruhenzi. And now you're
22 asking me about Mr. Ruhenzi being recruited in Uganda. Are you saying then he wasn't recruited in
23 Rwanda?

24 Q. The reason I mentioned Mr. Ruhenzi --

25 MADAM PRESIDENT:

26 Pause.

27 MR. PHILPOT:

28 I thought I paused.

29 BY MR. PHILPOT:

30 Q. The reason I mentioned Mr. Ruhenzi was because of the discourse, not because of whether he was
31 recruited in Rwanda, Uganda, or Burundi. So -- I will now go back to October 1st, 1990. Have you
32 read a paper entitled "Exile, Reform, and the Rise of the RPF" written by William Cyrus Reed in
33 The Journal of Modern African Studies, Volume 34, No. 3, 1996, pages 479 to 501?

34 A. I have not.

35 Q. Okay. So is it plausible, then, that when Mr. Reed says they had clandestined themselves in Rwanda
36 on October 1990, that is possible because they could not work legally; correct?

37 A. I think we have established that.

- 1 Q. Thank you. And it's also very likely that the number of cells grew as the invaders gained ground; is that
2 not correct?
- 3 A. That is correct.
- 4 Q. And there was extensive recruiting in Rwanda of young Tutsis to go and take up arms to overthrow the
5 Rwandan government; is that not correct?
- 6 A. There was recruiting, but what is your definition of extensive? How many thousands make it extensive?
- 7 Q. Do you know about this as a historian?
- 8 A. I'm asking you to define your term so that I can answer your question appropriate --
- 9 Q. Maybe you could use -- instead of -- I'm not an expert in Rwandan history, nor am I a witness. Maybe
10 you could tell us the scope of recruitment of young Tutsis in Rwanda.
- 11 A. At what date?
- 12 Q. Between 1990 and nineteen -- let's say, April 6th, 1994. And maybe before, Doctor, if it is possible, but
13 I'm concerned about the wartime periods specifically.
- 14 A. If we begin with the date of October 1st, our best estimates were that the RPF force consisted of some
15 7,000 combatants, of whom perhaps one third were soldiers from the NRA, from the Ugandan army.
16 The majority of recruiting, up until that time, have been carried out outside of Rwanda. In Uganda,
17 Burundi, what was then Zaire, and Tanzania, and elsewhere in the diaspora of -- mostly in that
18 immediate region. The push to recruit Tutsi from inside Rwanda became important towards the end
19 of '91 and 1992.
20
- 21 To recap a bit, after -- after the first invasion, the force was essentially driven out of Rwanda. There
22 were a few pockets left here and there, but there was virtually nothing left. They then moved their base
23 of operations to the west, to the volcanos, and from there began to undertake guerilla attacks into
24 Ruhengeri as well as elsewhere further to the east. At that time the force was relatively disorganised.
25 It was not in a position to do widespread recruiting anywhere. It was only after a number of months that
26 it pulled itself together and, once again, was able to take in and absorb significant numbers of new
27 recruits. So that is why I would put the date as late '91 and on into '92. The cases of recruitment that I
28 personally investigated were from November and December '91 and onward. The numbers are difficult
29 to be sure of, but would have been in the hundreds rather than the thousands.
- 30 Q. And the local population was infuriated by this, were they not?
- 31 A. Not necessarily. It depended on which local population you're talking about. The Tutsi local population
32 could presumably have been proud that their sons were going off to join the RPF. Some Tutsi were in
33 fact, very angry and felt that their sons had been taken from them in an inappropriate way. But some
34 Hutu certainly felt that this was inappropriate, like Léon Mugesera, for example, who said the families
35 whose kids had gone abroad should all be exterminated. But the -- there were other Hutu, of course,
36 who eventually saw the RPF as a political ally, and for them the RPF offered, in fact, a military arm that
37 they themselves didn't have. There was no MDR army, there was no PL army, there was no PSD

1 army. And some of them certainly saw an advantage in being able to use the RPF military force as a
2 leverage to improve their own power position inside the country. So I think you would have to be very
3 specific about the time and place before concluding that the local population was outraged.

4 Q. We'll get back to that in more detail. Just -- you did -- you did quite a lot of work with the Bagogwe, I
5 think, did you not? You read a lot about it and you studied it.

6 A. I interviewed a substantial number of Bagogwe, yes.

7 Q. Now -- now -- and there were lists of people who had been killed, allegedly killed in the series of attacks
8 that had happened from 1990 or 1991 on; correct?

9 A. That is correct.

10 Q. And let me put it to you that a considerable number of people who have been -- a certain number of
11 people who have been allegedly killed, in fact, joined the FPR in Mulindi. And I'll explain it to you: We
12 received information from a witness from the area, Bagogwe area, where -- who was returned in 1996
13 and was astonished to find a series of names -- series of people present who had been allegedly killed
14 on the list of victims. And I'll tell you the names that we've been informed of. And I'm asking you
15 whether this is plausible. There was a name of Serushago; please don't conclude anything with that
16 word.

17 MS. KAGWI-NDUNGU:

18 Your Honours, could he tell us the source of this information that he says he received because we -- it
19 is definitely not from us?

20 MR. PHILPOT:

21 I'm asking Dr. Des Forges if it is plausible. And there are people who, as Dr. Des Forges has many
22 times testified and not prepared to give names, I'm asking her whether it's plausible. I'm not testifying
23 (*unintelligible*), I am asking whether it's plausible.

24 MADAM PRESIDENT:

25 The question is whether it is plausible that people that have been -- supposed to have been killed were,
26 in fact -- had, in fact, joined the RPF.

27 MR. PHILPOT:

28 Yes. And -- or had gone to their side. Because some of them may not have been military. We have
29 the names of Mr. Serushago, Mr. Bajani, who looked after cows on one of -- the property of
30 President Habyarimana, someone by the name of Kamango, Mabyue; Straton Sebutiliro,
31 S-E-B-U-T-I-L-I-R-O, Straton, S-T-R-A-T-O-N; Laurent Kanamugire, K-A-N-A-M-U-G-I-R-A -- I-R-E,
32 Laurent, who was a lieutenant in the FAR, in the Rwandan Armed Forces; and, as I pointed, there is
33 some woman who were allegedly killed, a woman named Gahongayire, G-A-H-O-N-G-A-Y-I-R-E; and
34 Kanamugire, Florida.

35 BY MR. PHILPOT:

36 Q. Now, these are -- information which we've received, right or wrong. And I would like to ask --

37

1 MS. KAGWI-NDUNGU:

2 Your Honours, perhaps if he would formulate the question --

3 MR. PHILPOT:

4 I am going --

5 MS. KAGWI-NDUNGU:

6 -- as Your Honours had directed him. Whether this is plausible for some people, he's now telling us
7 that this is information he's received.

8 MR. PHILPOT:

9 Yes.

10 MS. KAGWI-NDUNGU:

11 We don't know where he's received this information from, evidence --

12 MADAM PRESIDENT:

13 But Mr. Philpot has said that his information may not be correct, so he's checking with the witness
14 whether it is possible or not at this stage. I understand that that is all it is.

15 MR. PHILPOT:

16 For sure.

17 BY MR. PHILPOT:

18 Q. What my question is: Is it not possible that among the alleged people killed, among the Bagogwe, in
19 the period pre-genocide that some, in fact, were not killed, but went behind the lines? Is that plausible,
20 historically?

21 A. Are we going to deal with your first formulation which mentioned Mulindi, or are we going to deal with
22 your second formulation which did not specify a place?

23 Q. Use the broadest interpretation possible because I'm asking you as an expert to say if this is plausible.

24 A. Because the answer to the first would be no; the answer to the second would be yes, because it would
25 be, I think, highly unlikely to find these people at Mulindi. That -- some of the people -- when the
26 Bagogwe were attacked, they fled, not surprising. The lists of people presumed dead were drawn up
27 as a result of looking at the houses that have been burnt down, the physical evidence of destruction
28 drawn up by their neighbours, so the neighbours drew up lists saying we know that such-and-such a
29 family is no longer here. The house has been destroyed, the people are gone. In the confusion of
30 flight, is it possible that some of those people got away? Of course, of course.

31 MADAM PRESIDENT:

32 Would it have been beneficial for the neighbours to think -- to assume that they were dead so as to
33 seize their property?

34 THE WITNESS:

35 Indeed, Your Honour, that is exactly correct. The explanation of the Rwandan government at the time
36 was, "There has been no killing here. These people have all fled. And, in fact, there haven't been any
37 attacks." But when we went on the ground, we saw the houses, some of which were still smoldering.

1 We saw the evidence of attacks. We interviewed people who had been injured. And we excavated
2 mass graves on two occasions where witnesses told us with great precision, one mother saying, "My
3 sons are buried in that grave." And we did, indeed, find human remains in those graves of young
4 males. So this was a common -- a common explanation given by the authorities, and I'm sure that in
5 some cases it was true that some people did flee and were still alive or had voluntarily gone off under
6 guise of an attack because they had decided to join the other side, but that certainly accounted for a
7 relatively small number of the hundreds of victims.

8 BY MR. PHILPOT:

9 Q. Now, you stated that you had read the book by Abdul Joshua Ruzibiza; correct?

10 A. That is correct.

11 Q. And you read the preface by Claudine Vidal and the postface of Mr. Guichaoua, did you not?

12 A. Guichaoua, yes.

13 Q. Guichaoua. Thank you. And they both gave what might be called a stamp of approval to the book, in
14 simplistic terms; correct?

15 A. That is correct.

16 Q. That it was rigorous and accurate.

17 A. Well, I don't know that they said that. I think they said it is an important document which needs to be
18 taken seriously.

19 Q. Did they not give more than that, a stamp of approval, saying this is -- seems very true, did they not,
20 seems very accurate, in layman's terms?

21 A. I don't recall it -- I don't recall it being quite that sweeping. Perhaps if you have the words, we can have
22 a look at them.

23 Q. We'll have a chance later.

24 JUDGE KHAN:

25 How would you rate that book (*unintelligible*)?

26 THE WITNESS:

27 Your Honour, it is a very important book for many reasons. It is the first time that a survivor of genocide
28 has spoken out in a very public fashion to call for justice for both sides. That to me is the most
29 important aspect of this book, that you, for the first time, have a survivor who is ready to say that to the
30 international community in a very public way. The actual details of his own experience I would suppose
31 to be accurate. The description of information taken from others I would want to examine with greater
32 care. He has apparently taken information from some published sources without accrediting it as being
33 from a published source. He has also, according to his own account, drawn information from what he
34 has been told by many others. In some cases, what he says conforms to information I have gathered
35 myself or information gathered by other human rights colleagues. In other cases, it does not. So like in
36 any important piece of work, it needs to be analysed carefully and not accepted whole cloth and not
37 trashed whole cloth.

1 BY MR. PHILPOT:

2 Q. Now, he -- I have some excerpts if you'd like to look at them. I am going to ask you some questions
3 about it. If you like, I could give you a copy.

4 A. I always like to have the text.

5 MR. PHILPOT:

6 And I will give a copy to my colleagues. And if the Court wishes a copy, I have copies. I would very
7 much like to give you copies. I may or may not file them. And I have to say they are in French, but I
8 will refer to the -- so --

9 MADAM PRESIDENT:

10 Ms. Ntilatwa, could you please --

11 MR. PHILPOT:

12 I have -- they are excerpts. I have three for Your Honours; I have one for the witness; one for the
13 prosecutor; and one, potentially, as an exhibit if we --

14 MADAM PRESIDENT:

15 Keep the exhibit.

16 MR. PHILPOT:

17 If we so decide.

18 MADAM PRESIDENT:

19 Yes. Keep it for now.

20 BY MR. PHILPOT:

21 Q. I'd like you to -- I will be trying to follow certain excerpts quite closely. Dr. Des Forges, we -- I will first
22 look at page 143, which is on the first page of your -- of the inner part of this. On the right-hand side, in
23 July 1991, the 27th of July -- 29th July, he describes a military action or series of actions where he
24 states a plan of destabilisation of the country was undertaken by placing bombs on roads to trap or to
25 injure passers-by or vehicles. That's -- and then at the bottom, he describes a little, like you had
26 mentioned, that they were in the volcano region. The examples of explosives put out by this network
27 are in Gisenyi *préfecture*, Rubugu (*phonetic*) *commune* on the 29th of July, on the 23rd of August, and
28 the 22nd of October '91 at Kabuhanga in the *commune* of Mutura and the 29th of October, 1991, at
29 Ruheri, Gisenyi.

30

31 My question is the following, Doctor: Do you agree that there was a plan of destabilisation undertaken
32 by the guerilla forces of the RPF whereby -- by which, among other things, they blew up -- they placed
33 explosives in other places to hit passers-by and vehicles? Is that -- you, as an expert, does that ring
34 true?

35 A. I would question the date here, not of the individual incidents, but the date assigned at the top of the
36 page to a plan of destabilisation because these -- the incidents he cites here are, in fact, all near the
37 combat zone, that he gives at the bottom of the page. And the ones he mentioned overleaf, from

1 Bugesera, which actually took place in -- I believe, in October, November, maybe December of '91, is
2 also a zone which is at the frontier. So the actual movement into what I would describe as mines and
3 bombs in civilian areas removed from combat, I would date to 1992, not 1991. I think it is well
4 established that there were such bombs and mines. It is less well established who was responsible for
5 them. So I don't dispute that there was a pattern of activity -- a pattern of the use of explosives against
6 civilian targets, particularly in 1992, but I think not all of them are to be attributed to the RPF. Some of
7 them, I think, should be attributed to the RPF, but not all of them.

8 Q. I'm referring to these events in 1991 in Gisenyi *préfecture*. And are you suggesting that Mr. Ruzibiza is
9 not telling the truth here?

10 A. No. I think if you considered carefully what I just said, I did not say he was not telling the truth.

11 Q. Fine. We'll go on to the next page. It's now page -- what would be called page 196. And some of
12 the -- I am going to refer to 7, 8, 9, and 10th March 1993, and I'll read it out, I'll translate it into English:

13
14 "During this period, the RPF -- APR, *l'armée patriotique rwandaise* -- buried and burnt the bodies of the
15 civilian populations massacred in the regions under its control. There were, at this time, numerous
16 pillages of vehicles, of food stores, of merchandise, medical supplies in Rulindo, Kinyihira, in the tea
17 factory at Siohoka Rukari (*phonetic*), Nkumba (*phonetic*) and Siazaro (*phonetic*)."

18
19 Is it true that, at that period, by you as an expert, that the Rwandan patriotic army buried and burnt the
20 bodies of civilian populations they massacred? Is that true, in your opinion?

21 A. If I recall correctly, the 8th of March 1993 was the signing of the new ceasefire. And so -- whether the
22 withdrawal by the RPF was before and up to the 8th, I'm not sure. But, in any case, it is likely that it
23 was in this general time period when they were moving back from the area of their dramatic military
24 advance of February; they were basically moving back as a result of international pressure, which said
25 you have to return to your original line of combat. And in the intervening zone, which I take it is the
26 area being described here, it is indeed possible that they were concerned to eliminate evidence of any
27 killings of civilians.

28
29 Now, the question of how many civilians is one that, to my mind, is not adequately investigated. The
30 Rwandan government, within three days or four days of the attack, published a figure of 104,000 people
31 killed. Well, that frankly is impossible. We did not -- that is, Human Rights Watch did not have the
32 opportunity to go into Rwanda at that point. And the local organisations which attempted to investigate
33 came to a far lower number, perhaps in the hundreds, not in the thousands. So the exact figure of how
34 many civilians were killed in the course of this advance I cannot say. That it was a frequent RPF policy
35 to eliminate the evidence of killings, that I can say was indeed the case.

36 Q. And they also -- I'm waiting -- they also did pillage of cars and food stocks, merchandise, medication; is
37 that correct -- likely?

1 A. I do not have specific reports of that, but it does indeed seem probable since that is what withdrawing
2 armies often do.

3 Q. And on the next page, 197, on the bottom right, it says, "On the economic level, the attack had
4 completely disorganised the country, creating more than 1,000,000 war refugees or displaced persons
5 from the war. Everybody -- all these people became a charge for the state, which was absent itself,
6 which had to look after them because they had left their crops behind them." Is that accurate?

7 A. It is. But, again, it needs to be -- it needs to be supplemented with further information about how many
8 of these 1,000,000 people actually stayed there once their homes were liberated; in other words, once
9 the RPF pulled back, how many of those million people went home? Some of them certainly went
10 home. But I don't know of any exact computation of how many. So people use that figure as if it were
11 a million people from that point until 1994. In fact, that is not my understanding. It was not a million
12 people from then on until 1994.

13 Q. Was not Kigali surrounded by what we call *de bidon-villes* of people living in makeshift camps displaced
14 from the north, and if it is not a million, it may be 600,000. Is it not a fact that was a central
15 phenomenon in the collective consciousness?

16 A. There were some very large concentrations of displaced persons who were living in conditions of great
17 misery. There is no doubt about that. And the most of them were to the north of Kigali. I wouldn't say
18 that Kigali was surrounded by them, but certainly they were a significant presence in national life at that
19 point.

20 Q. In your expert opinion, would people go back to where they had been chased out by the RPF knowing
21 the RPF never respected ceasefires and they are the only ones that broke ceasefires?

22 MADAM PRESIDENT:

23 There are two parts to your question.

24 MR. PHILPOT:

25 No. Well, I'll restate my question.

26 BY MR. PHILPOT:

27 Q. Given the RPF always broke its ceasefires, would populations feel safe to go back, thinking that it may
28 happen again?

29 JUDGE MUTHOGA:

30 What do you mean the population did know that RPF always broke ceasefires?

31 MR. PHILPOT:

32 Can I -- well, it is a fact, and the population would know it much better than we would here, 12 years
33 later, because I'm sure the population wanted peace. And I'm giving a speech now, but I'm ask --
34 answering your question. I think living on the field and knowing what it is like to be attacked and
35 pillaged and maybe killed in part, you're aware of ceasefires and of the danger of an invading army. I
36 really believe that, and I think the population could know that.

37

1 THE WITNESS:

2 There were a number of ceasefires, all of which were broken. I don't know that it was ever established
3 who was the first person to fire in each of those situations, but it is a fact of history that all previous
4 ceasefires had been broken.

5 BY MR. PHILPOT:

6 Q. Which --

7 A. It is also the case that farmers tend to go back to their fields as soon as they can, even in parts of the
8 world which are flooded with great regularity. People go back to their homes, even if they know there's
9 a great likelihood of flood, because it seems a better choice than staying in a miserable displaced
10 persons camp.

11 JUDGE MUTHOGA:

12 Not only New Orleans.

13 THE WITNESS:

14 Including New Orleans, Your Honour. So I do not know, in fact, how many people went home.

15 BY MR. PHILPOT:

16 Q. So which ceasefire was broken by the Rwandan Armed Forces, you, as an expert opinion -- as an
17 expert?

18 A. At the time when the original ceasefires were drawn up, there was no neutral observing force to report
19 on the violation. That makes it extremely difficult to determine, but in this connection with the -- the
20 violation which concerns us most immediately here, that of February 1993, there was no doubt and
21 there was an OAU observer force in place which was able to document that.

22 Q. Now, we'll turn the page to 202, in this -- on the left, 18 March 1993. I'll translate it for the benefit of
23 Your Honours.

24 MADAM PRESIDENT:

25 Isn't it simpler if you read it in French and let the interpreters do their job?

26 MR. PHILPOT:

27 Fine. Thank you.

28

29 "18 March 1993, it was on that date --"

30 MADAM PRESIDENT:

31 Excuse me.

32 MR. PHILPOT:

33 I have to turn it off because he -- I can't hear myself. I can't talk when I am hearing.

34 MADAM PRESIDENT:

35 And you would know the pauses you should make. I believe it is the 18th of May, not March.

36 MR. PHILPOT:

37 Yes, thank you.

1 "It was on that date that the chairman of the political committee of the MDR and the president of foreign
2 peace and democracy, Emmanuel Gapyisi, was assassinated by the commandos of the PR led
3 by PGO2, Charles Ganamatiza (*phonetic*), under the orders of SO Garakikarenzi (*phonetic*). The
4 reason for the assassination was that he had openly denounced the RPF project of seizing power
5 totally. Emissaries were sent to get him to be quiet, but without any success. Paul Kagame ordered
6 that he should be assassinated. Gapyizi's death caused great confusion amongst people. Most people
7 believed that he had been assassinated by the presidential clan. Very few politicians stated, without
8 proving that, it was the RPF."

9 BY MR. PHILPOT:

10 Q. Dr. Des Forges -- may I start now? Is this the first -- do you believe that this man is telling the truth, that
11 his army killed Mr. Gatsinzi?

12 A. I believe that he is accurately recording what he believes to be the truth, yes.

13 Q. No, but you're an expert. Is it true -- do you think it is true what happened?

14 A. I have not had the opportunity to evaluate the evidence that he is presumably drawing on. As he points
15 out in the second paragraph, there was considerable suspicion directed at the president and his
16 immediate circle. Because, what is not immediately clear from this passage, is that Gapyisi was equally
17 critical of Habyarimana at this point. He was attempting to create a third way which would have drawn
18 from the strength of the MRND. So, in that sense, at the time, either -- either interpretations seemed
19 equally plausible. Now, what we have is the statement of someone who apparently has drawn this
20 information from others. He doesn't say that he was personally involved, but it is not clear whether he
21 spoke to the assassin or whether or how he came by this information. So I'm ill placed to assess its
22 veracity. All I can say is he apparently believes it himself.

23 JUDGE KHAN:

24 What did your investigation say?

25 THE WITNESS:

26 Your Honour, at that time, we did not investigate this case. We certainly didn't investigate it in a police
27 sense. We reported it on the basis of the information from Rwandan human rights organisations, but
28 we did not personally attempt to look at forensic evidence or to follow the steps of the assassinated
29 person the day of the crime or anything like that.

30 JUDGE KHAN:

31 Did you come to any conclusion as to how he was killed and who was the killer?

32 THE WITNESS:

33 Your Honour, as I recall, the position that we took was that the assassination was not -- was not
34 adequately investigated and we did not know who the killer was and that the importance at the time was
35 in, once more, undermining the rule of law, the failure of police to adequately investigate and bring to
36 justice someone accused of the crime. And, for us, that was the significance of this, that an important
37 political leader was assassinated and there was no -- it was done with total impunity.

1 JUDGE MUTHOGA:

2 You're suggesting that police did not -- the government authorities did not make an attempt to
3 investigate it or they investigated it and came to a different conclusion?

4 THE WITNESS:

5 Your Honour, our conclusion was that it was not adequately investigated. We did not draw a conclusion
6 whether this was a lack of will or simple incompetence, but it was not adequately investigated and there
7 was no subsequent trial. The information from Mr. Ruzibiza is a statement of assertions that have
8 become increasingly frequent over the years.

9 MADAM PRESIDENT:

10 Mr. Philpot, when do you want to break?

11 MR. PHILPOT:

12 We can break now. And we're moving along well. Thank you.

13 MADAM PRESIDENT:

14 So we'll break for one hour and a half. So until 20 to 3:00. Thank you.

15 *(Court recessed at 1310H)*

16 *(Pages 22 to 44 by Roxane Meena)*

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1 (Court resumed at 1450H)

2 MADAM PRESIDENT:

3 Mr. Philpot, please.

4 MR. PHILPOT:

5 Thank you.

6 BY MR. PHILPOT:

7 Q. Before the break, you were describing the investigation of the death of Mr. Gapyisi, in response to a
8 question from the Bench. You stated that there were inconclusive investigations and that you had
9 made no comment on that; is that correct?

10 A. I don't believe I said that. I think I said we drew attention to the assassination as one more sign of
11 increasing terror and lack of confidence in the enforcement of law at the time.

12 Q. And you said that it caused impunity; did you not? It was an example of impunity.

13 A. That the failure to resolve this crime was one of many cases of impunity for assassination at the time.

14 Q. Now, in your book *Leave None to Tell the Story* at page 113, you mentioned -- you described his
15 assassination on May 18th by an efficient hit squad, and then you stated, "Habyarimana used the
16 assassination to try to discredit his political advertise -- adversaries and accused the RPF and some
17 MDR leaders of the killing. They in turn charged Habyarimana with the crime; an allegation
18 substantiated by the investigation but never brought to court. So, why in your book, did you say that the
19 investigation was substantial -- held Mr. Habyarimana responsible? Why didn't you tell the Court that
20 today?

21 A. When you write an 800-page book, it is sometimes hard to recall exactly what your wording was in
22 every passage. The crime was never resolved in the sense of a trial resulting in a condemnation.

23 Q. But in your book, in fact, you said in crude terms, the investigations said it was Habyarimana, who did it,
24 but he had impunity. That is what you are effectively saying; it was never brought to court; is it not?

25 A. Not exactly. Would you read the passage again?

26 Q. Speaking of the RPF and the MDR, "They in turn charged Habyarimana with the crime; an allegation
27 substantiated by an investigation but never brought to court."

28 A. There was at one time an investigation which appeared to substantiate that allegation, but it was never
29 proved in a court of law.

30 Q. And the allegation to the effect that Mr. Habyarimana or his entourage was responsible, as Mr. Ruzibiza
31 says, the presidential clan was responsible -- was held to be responsible.

32 A. We are dealing with the element of perceptions here.

33 Q. Thank you. Do you agree that with the affirmation that Mr. Ruzibiza here, that Gapyisi denounced
34 publicly the project of the RPF to take all the power and this was the reason for the ordering of his
35 assassination by Mr. Kagame?

36 A. As I described earlier today, Gapyisi separated himself from both sides, and I don't know the exact
37 quote to which Mr. Ruzibiza is referring, so it is a little hard to comment on it, but as I said this morning,

1 Gapyisi, in effect, separated himself from both sides saying that both sides were attempting to take, if
2 not complete then, virtual control of power.

3 Q. I am going to look at page 2 or 3 very briefly and I do not want to go through necessarily a tedious
4 reading of it. Here they speak of arms caches in Kinyabushenge in the *commune* of Butare and
5 Ruhengeri at Bungwe in the *commune* Siyondo -- of Byumba, at Kaniga and Siyondo in the *commune*
6 of Kayumbu and Byumba and Karama in the *commune* of Muvumba and Byumba. Is that a reasonable
7 appreciation?

8 A. Yeah, but what's missing here and would be helpful is, first of all, a map showing the exact delineation
9 of the RPF zone, and second of all, a date for the events, and without those two, it is difficult to draw
10 much of a conclusion.

11 Q. Well, the dates are the period of June, July and August and the sub date is 9th of June 1993 where --
12 and I guess I will have to read it again fully from the bottom of 202, and I will read it in French. "The
13 RPF introduced to Rwanda or brought into Rwanda from Uganda, the quantity of arms and
14 ammunitions and bombs with a view to creating disorder through acts of sabotage throughout the
15 country where the armies were to be joined together according to a decision."

16 A. I think the specific date given here of the 9th of June is meant to refer not to what you just read, but to
17 the first paragraph there, in other words, the signing of the protocol of accord because, obviously, he is
18 not saying that all of this happened on the 9th of June, right?

19
20 So, if we go back to the heading above that this three-month period of 1993 is the period when he
21 asserts these arms were buried in these areas -- and I would point out that these are all areas relatively
22 near the combat zone, and only if we have an exact map of where the RPF was supposed to be at that
23 point can we see exactly what the significance of this is. In other words, he is not telling us that arms
24 are buried in civilian locations in southern Butare or in Gikongoro, he is telling us that along the combat
25 zone arms are being buried, just as arms were being hidden at Rwambura and Bushiro not long after
26 that. So, this is not another surprise. Both sides, as I have said repeatedly, had groups that did not
27 accept the accord and that they were preparing for further war.

28 Q. We will move on to the next page, on page 224, and this is dealing with the assassination of
29 Mr. Félicien Gatabazi, and I will try to read just one sentence in French.

30
31 "From the 21st to the 22nd of February 1994, Minister Félicien Gatabazi was assassinated by members
32 of the RPF, who had dissimulated themselves among the *Interahamwe*."

33
34 You have also -- no doubt read that Mr. Guichaoua has also given an opinion that the RPF killed
35 Mr. Gatabazi. Is this a reasonable assessment, in your opinion?

36 A. I am sorry. I didn't get the name of the person you just mentioned, Mister?

37 Q. Mr. Guichaoua.

- 1 A. Oh, Guichaoua.
- 2 Q. Yes.
- 3 A. I have no evidence to the contrary, and the citation of the exact names of persons said to be
4 responsible offers an important opportunity for further investigation. But I would hesitate to draw the
5 necessary conclusion that he draws in his first sentence, namely, that the assassins were hidden
6 among the *Interahamwe*. It has been said by a number of people, including Guichaoua, that the
7 assassins were RPF soldiers, but were those RPF soldiers passing as *Interahamwe*? I don't see that
8 that is established.
- 9 Q. You seem to question the information sources of Mr. Ruzibiza or his method of arriving at a conclusion.
10 I presume you have read the post phase, and Mr. Guichaoua states that he had spent three intense
11 days verifying the facts -- verifying with Mr. Ruzibiza, and he came to the conclusion that they were on
12 the same wavelength?
- 13 A. Does he say he verified the facts or does he say he spent three intense days in discussion with the
14 author?
- 15 Q. He said we are on the same wavelength -- and I am now paraphrasing him -- but that they were on the
16 same wavelength on methodology and -- what I would like to go back to, Dr. Des Forges, is this: Did
17 you look at Mr. Ruzibiza's methodology, which he described in great detail at the beginning of his book?
- 18 A. To the extent that it is described in the book, yes. But I think -- I really am very uneasy with
19 paraphrases such as "He was on the same wavelength." I would like to see the exact words so that we
20 know what Guichaoua did, in fact, say.
- 21 Q. I am not going to go into fine details of that at the moment. I am asking you, in your opinion, whether or
22 not Mr. Ruzibiza's research techniques and historical techniques in terms of affirming certain things
23 were rigorous. I am sure you looked at them, did you not?
- 24 A. I read his description.
- 25 Q. And have you done any investigation into his death?
- 26 A. I have not. I have discussed it with a person familiar with the investigation done by the UN civilian
27 police unit who did do an investigation of his death, but I did not investigate it myself.
- 28 Q. That is an old investigation; is it not, back in those days, back in the period of the war; was it not?
- 29 A. It was done at the time of the crime.
- 30 Q. You have read Mr. Guichaoua's work on this affair; have you not?
- 31 A. Mr. Guichaoua has published a very great deal, I am not sure I have read absolutely everything. Which
32 particular work are you referring to?
- 33 Q. His recent writings about who killed Mr. Gatabazi, have you read about that?
- 34 A. Which ones? He has referred to that on any number of occasions in the last year or two.
- 35 Q. Fine. Now, we will move on, Dr. Des Forges, to page 228, and we will look at the 2nd of March 1994,
36 and it is very simple, the first part, 2nd of March, the first sentence. "We infiltrated all the networks
37 including that of the *Interahamwe*." Is that a reasonable -- do you consider that accurate in your role as

- 1 an expert or is he wrong?
- 2 A. I think it is accurate to say that the sources that the agents for collecting information had indeed
3 penetrated many networks including almost certainly the network of the *Interahamwe*, which meant that
4 the RPF was well aware of what the *Interahamwe* was planning to do, and that, in fact, it is clear from
5 Kagame's conversations with General Dallaire as recounted by General Dallaire in his book, that he
6 had a very concrete notion of what was being planned. The implication that all networks had been
7 infiltrated and to what extent and for what purpose infiltrated to find out what they were planning, or
8 infiltrated in order to influence their actions, that is where I have a difficulty with this. It's not -- it's not a
9 very precise analysis of the situation.
- 10 Q. Now, if you look at page 229, in the middle, on the 14th of March, some three weeks before the
11 assassination of the president, in the middle it states, concerning a meeting of the RPF: "It was
12 decided that all Hutu elements will be wiped out in Byumba, Mutara and Kibungo areas." Is that
13 reasonable that, as a historian, you consider this to be an accurate account of the RPF decisions?
- 14 A. I see no reference to who was supposed to be the source of the information about this decision. If I
15 look at the pattern of what actually happened on the ground and what was being said by the actors at
16 the time, RPF leaders at the time were saying, "We are killing Hutu and we will kill Hutu if we find them
17 in the process of killing Tutsi civilians." And they were pretty straightforward about that, but that is not
18 for me, adequate substantiation of a plan decided ahead of time to eliminate all Hutu -- eliminate all
19 Hutu from Byumba, Mutara and Kibungo. It seems to me that this is a statement which will be very
20 difficult to substantiate and, in this case, it is not substantiated.
- 21 Q. But were you present in the meetings of the RPF during the period before the war broke out again?
- 22 A. It is exactly because I was not present that I feel it incumbent upon me, as a critical historian, to ask
23 questions. Had I been there, I would have no questions. I would know what I heard.
- 24 Q. Is it not contrary to your pretensions throughout the war that the only killings done by the RPF were the
25 leaders of the militant groups or the killers?
- 26 A. Could you show me, please, where I was supposed to have made such an affirmation?
- 27 Q. I will ask you again about this and, then, we may or we may not have to show you these documents.
28 During the war, did Human Rights Watch say the RPF is killing civilians, Hutu civilians? Did they, yes
29 or no?
- 30 A. I believe we covered this quite thoroughly in the voir dire. If I recall, I think we went through all of the
31 Human Rights Watch statements. I indicated the collection he presented was not complete and I
32 pointed to a number of places where we had, in fact, condemned the killing of civilians.
- 33 Q. Are you saying that the RPF -- that the Human Rights Watch during the war publicly criticised the RPF
34 for killing Hutu civilians and not just people involved in killings?
- 35 A. I believe, if you look at the letter beginning -- the statement beginning April 15th with the letter to the
36 president of the RPF, you will find such indication.
- 37 Q. That was a letter to the RPF; I am talking about public statements.

- 1 A. I believe that letter was issued publicly.
- 2 Q. I will come back to this subsequently, since I have the documentation, but not right in front of me.
- 3
- 4 Page 272, top left, you have had a chance to read these pages, I assume, during your break?
- 5 A. Actually, no. I was socialising.
- 6 Q. Fine. Well, on the top left in French: "The killings carried out by the RPF after the capture of Byumba.
- 7 After Byumba was captured, the RPF systematically killed civilian population members, irrespective of
- 8 age and gender. I would like to demonstrate that there was a determination to exterminate the Hutu."
- 9
- 10 Now, is that -- as a historian, is that accurate?
- 11 A. We have documented widespread killings by the RPF including in Byumba and not limited to Byumba.
- 12 We have not documented an intention to exterminate the Hutu ethnic group.
- 13 Q. So if this turned out to be correct, then the work done by Human Rights Watch is erroneous -- is wrong,
- 14 is it?
- 15 A. One might say that the work of Human Rights Watch, rather, has been the foundation upon which
- 16 subsequent work has been built.
- 17 Q. So, are you suggesting that Mr. Ruzibiza dealt with his information on the work of
- 18 Human Rights Watch?
- 19 A. Since Mr. Ruzibiza does not indicate anywhere the published sources which may or may not have
- 20 served as a basis for his information, I have no way of knowing.
- 21 Q. Did not Mr. Ruzibiza say that his sources were firsthand, himself or others involved in these issues? Is
- 22 that not all his sources?
- 23 A. I don't believe he excludes other possibilities. I don't know that he says he uses only foreign sources,
- 24 does he?
- 25 Q. Primarily, have you read it? Is it not primarily based on personal experiences and experience of
- 26 colleagues and people who he fought with?
- 27 A. Those are the sources whom he cites. He does not cite written sources.
- 28 JUDGE KHAN:
- 29 Mr. Philpot, can you just hold on for a while, please?
- 30 MR. PHILPOT:
- 31 Yes.
- 32 JUDGE KHAN:
- 33 Thank you, Philpot. Go ahead, please.
- 34 MR. PHILPOT:
- 35 I am moving on to another topic.
- 36 BY MR. PHILPOT:
- 37 Q. You spoke at length about what has been commonly known as the "enemy document," and I would like

1 to examine it with you. Do you have a copy?

2 A. I believe so, yes.

3 Q. And I am going to try to work with the English one, although it is -- it is in the bound package here, and
4 it is pages -- the English are pages 62 to 81. It has already been produced. It has already been filed.
5 It is the book of -- a kind of exhibits of Dr. Des Forges, and the English version is from 62 to 81, and the
6 French, if we have to refer to it, is 48 to 61. And it is a little difficult to read and I am going to have to
7 squint.

8 JUDGE MUTHOGA:

9 It is not just a little difficult; it is very difficult. It is very difficult for people of our age.

10 MR. PHILPOT:

11 Yes. Well, you see that I have taken off my glasses.

12 JUDGE MUTHOGA:

13 It is not easy.

14 MR. PHILPOT:

15 -- even though I have a --

16 MS. KAGWI-NDUNGU:

17 Your Honours, to be helpful, the Prosecution had given clear copies in the other folder, a black folder,
18 clear copies of this document. Then we have, maybe two copies that we could give to the Bench.

19 MADAM PRESIDENT:

20 We would be most grateful. We could have one and the witness, I think, should have one so she can
21 see what it is all about.

22 MR. PHILPOT:

23 And I would like one, too.

24 MS. KAGWI-NDUNGU:

25 We had given the Defence -- actually, they got two of the clear copies.

26 MR. PHILPOT:

27 Well, I am not -- I am not complaining. I am just saying that -- I am trying to figure this, I wouldn't --

28 THE WITNESS:

29 Thank you. I think I may have it. I can make do with what I have. Thank you. I can make do with this.

30 Thank you.

31 MR. PHILPOT:

32 If there is a legible one, I would appreciate having one. I am not accusing anybody, I just can't find it.

33 MADAM PRESIDENT:

34 We don't need one, we have this one.

35 MR. PHILPOT:

36 Much obliged. Thank you very much.

37

1 BY MR. PHILPOT:

2 Q. Now --

3 A. If I may make a remark about the translation here. This one, which is provided just now, at K0237414,
4 is not the same as the English translation at K0153844. So we have -- I see one phrase that is
5 different. I don't know that there are other significant differences, but I will just draw the Court's
6 attention to that. In one case it said: "Contaminating public opinion by spreading false rumours and
7 information," and the other says, "Brainwashes public opinion through propaganda, rumours and
8 misinformation."

9 MR. PHILPOT:

10 There may be a solution to work with the French document. Which one does the Prosecution say is
11 official?

12 MS. KAGWI-NDUNGU:

13 The French is the original.

14 MADAM PRESIDENT:

15 You just work with the French and have the interpreters --

16 MR. PHILPOT:

17 So, in this case, may I put it -- possibly suggest to the Court that those who are -- we can try and follow
18 the English one, which was given, at least, so you can follow me.

19

20 So, I will read out paragraph 1 and I will read it in French. "The definition of the enemy. The enemy is
21 divided into two categories; the main enemy and supporters of the enemy. The main enemy is the Tutsi
22 within or abroad who is extremist and has nostalgia for power, who has never recognised and does not
23 yet recognise the realities of the social revolution of 1959, and who wants to recapture power in
24 Rwanda by all means, including by way of arms. Supporters of the enemy would be anybody who
25 assists the main enemy."

26

27 Dr. Des Forges, what is wrong with that statement? There is a war going on. The RPF is a majority
28 Tutsi organisation, this does not refer to all Tutsis; it refers to certain ones, who refused to recognise
29 the revolution and want to have power by arms.

30 JUDGE MUTHOGA:

31 Mr. Philpot, how does one identify which of two Tutsis is the one who is hungry for power, does not
32 recognise that, and the other one is the hungry for power and recognises it?

33 MR. PHILPOT:

34 I think this is dealt with further on in the document, Your Honour.

35 JUDGE MUTHOGA:

36 Is it? I will wait to see.

37

1 THE WITNESS:

2 I would draw your attention between -- to the difference between the definition of the principal enemy
3 and the partisan of the enemy. If you notice the partisan of the enemy is defined without reference to
4 ethnic group. Why wasn't the principal enemy defined without reference to ethnic group? Why doesn't
5 it say, "the principal is any person inside or outside the country who is extremist and nostalgic for power
6 and who did not accept the results of the 1959 revolution?" Why the ethnic reference here?

7 BY MR. PHILPOT:

8 Q. Now, you had stated -- Mr. Dallaire has stated, almost any writer who had studied this is well aware that
9 the RPF is a majority Tutsi organisation.

10 A. The president of the RPF was Hutu and a number of people in leadership roles were Hutu. I am quite
11 prepared to admit that the majority of people were, in fact, Tutsi. But why would one draw attention to
12 their ethnicity when defining them as an enemy? If you remember the passage we looked at later in the
13 document, where it says "The enemy is the person who distracts from the ethnic context by talking
14 about the socio-economic problems in the country." So from a point of view of the people writing this
15 document, and if you look again at the end the phrase I cited previously, where it says, "The Tutsi are
16 united in a determination to create a Tutsi hegemony." Clearly from the point of view of the people who
17 wrote this document, the ethnic element was central to defining who was and who was not an enemy."

18 Q. Let's talk about the Hutu who were in the RPF. Is not Mr. Sendashonga dead? Is not Mr. Lizindi dead?
19 Is not Mr. Twagiramungu outside the country? Did he not flee in October -- August 1995?

20 A. You forgot Mr. Bizimungu is in prison.

21 Q. Yes. Thank you very much, that was next.

22 MS. KAGWI-NDUNGU:

23 Is there a question here?

24 MR. PHILPOT:

25 Yes.

26 BY MR. PHILPOT:

27 Q. Are there -- is this not just window dressing, and have not most of these people announced the
28 narrowness of the subsequent government and there was no place for them?

29 A. That is irrelevant to the consideration of a document which needs to be looked at in the perspective of
30 the time period which was 1992. At that time, the RPF was presenting itself as a multi-ethnic front.
31 Now, whether that was false window dressing and we now see the true colours, or whether that was a
32 real intention, which subsequent to the genocide has turned into something else, none of us can say
33 because that involves reading history backward. All we know is that at the time it presented itself as a
34 multi-ethnic front and that the people who wrote this document chose instead to define it in ethnic
35 terms.

36 Q. And most of the Hutu who were in there as in this multi-ethnic front you have said now, it was not the
37 multi-ethnic front?

1 A. I don't believe that is accurate. I don't believe that is accurate, not if you look at – certainly, my
2 conversations with Mr. Sendashonga, for example, never called into question his conviction about the
3 nature of the RPF at that time. It called into question perhaps its subsequent development, but we can't
4 read history backwards.

5 Q. Now, we will talk about how to identify an enemy. And it is the next subparagraph. I will read it in
6 French.

7
8 "Identification of the enemy. The enemy or his supporter, be it Rwandan or a foreigner from inside or
9 from within or from abroad, can be recognised mainly from one of the following actions or activities:
10 taking of arms and attacking Rwanda, purchasing weapons for combatants of the enemy, making
11 material contributions to the enemy in any manner whatsoever, makes up or embarks on propaganda in
12 favour of the enemy, recruiting people for the enemy, engage in propaganda, rumours and
13 misinformation for purposes of intoxicating public opinion, engaging in spying on behalf of the enemy,
14 disclosing military secrets to the enemy, acting as liaison officers or smugglers for the enemy,
15 organising or performing acts of terrorism and sabotage in support of the enemy action, organising or
16 provoking revolts, strikes and all types of disturbances with a view to supporting enemy action, refusing
17 to fight the enemy and refusing to comply with our demands.

18

19 "It is further added that political opponents seeking to take power or peaceful and democratic change of
20 the current political regime in Rwanda are not to be mistaken for the enemy or supporters of the
21 enemy."

22

23 Would not most of the acts described in this list constitute treason in most countries?

24 A. Arguably, yes. And in a country ruled by law, there is an appropriate recourse, isn't there, namely,
25 police investigation and trial by duly constituted judicial authorities?

26 Q. Why did you not note this in your report -- in your testimony, this last paragraph about political
27 opposition not being confused with the enemy?

28 A. I'm delighted that you give me the opportunity to comment on it. One never has enough time to
29 develop in complete detail the complexity of historical events. Had I been asked specifically about this
30 paragraph, I would have been happy to draw your attention to a very similar passage in a prior
31 document issued by a so-called high command of the Rwandan Armed Forces in December 1991,
32 approximately two weeks before the commission that produced this document was created, and that
33 so-called press release by the high command has almost identical language in it. And I would then go
34 back one step further to the July 27th letter of Colonel Nsengiyumva, who talks about waving the
35 democratic flag to please the international community. So, I think it is clear that it is necessary to make
36 some kind of curtsy in the direction of an appropriate acknowledgement of multiparty activity being
37 legitimate.

1 But if you take the document as a whole and you continue on to look at some of the other passages
2 which I have noted, and to note that reference to turning public attention away from socio-economic ills,
3 which is what the opposition political parties were doing, all -- at the top of page 11 -- sorry, page 58 in
4 the handwritten, are to lead a campaign of intoxication through newspapers, clearly some kinds of
5 political activities are acceptable and other kinds are not here. And the thrust of this document
6 followed, as it was, the very next day by a press release by the CDR political party naming some of the
7 same individuals who are named in this document as enemies, to me, conclusively proves the point that
8 this document was meant to draw attention to the ethnic part of the conflict.

9 Q. We will go on and talk about the recruitment, which I will read in French.

10
11 "Recruitment. Social recruitment groups: The enemy and the supporters are mainly recruited from
12 among the following social groups: Tutsi refugees, the national resistance army, Tutsis within the
13 country, dissatisfied Hutus or Hutus who are unhappy with the government in place, the unemployed
14 persons within or outside of Rwanda, foreigners married to Tutsi women, nilo-Hamitic people of the
15 region and fugitives.

16 MADAM PRESIDENT:

17 I recall that you read this passage in the voir dire.

18 MR. PHILPOT:

19 Yes. Well, I think I asked that it be read, but anywhere, I agree with you.

20 BY MR. PHILPOT:

21 Q. Is it not true, the -- were the RPF recruited?

22 A. I think we are just going round in circles here. We are saying the same thing, aren't we, that the
23 majority of the RPF combatants were, indeed, of Tutsi ethnicity? And the authors of this document
24 chose to underline that fact of bias. Reference, for example, to the nilo-Hamitic people of the regions.
25 Everyone knew what that phrase meant, it meant Tutsi.

26 Q. Now, you referred a few minutes ago to the documents by Mr. Nsengiyumva, of which I have the
27 English translation which was filed -- I don't have the number, the one from the 27th of July 1992. Was
28 this not this document -- I am not sure of the exact number?

29 MR. KAPAYA:

30 It is P. 47.

31 MR. PHILPOT:

32 Yes, P. 47. Thank you.

33 MADAM PRESIDENT:

34 Thank you very much, Mr. Kapaya.

35 BY MR. PHILPOT:

36 Q. Was this not an intelligence -- confidential memo to the president?

37 A. It does, indeed, give that appearance, yes.

- 1 Q. Is it not just an assessment of the political tensions of the time caused by the types of things, types of
2 crimes committed as explained by Mr. Ruzibiza, murdering civilians, terrorism, sabotage, and war? Is
3 that not just common sense explanation of the political tensions of the time?
- 4 A. I would say to attribute a piece of analysis like this on the part of the head of the intelligence service to
5 common sense is to very much underrate the seriousness with which the document was produced.
- 6 Q. You received this document from Linda Melvern, did you not?
- 7 A. No, I did not.
- 8 Q. Which document did you receive from Linda Melvern?
- 9 A. I saw this document in her possession. She showed it to me, but I did not get a copy of it from her. I
10 subsequently got a copy from the Office of the Prosecutor.
- 11 Q. Fine. And so, she gave her collection to the Office of the Prosecution; is that it? Is that your
12 understanding?
- 13 A. That appears to be the case, although I see that it is also part of a public archive at the
14 University of Wales.
- 15 Q. And, did she not tell you that she obtained these documents with the personal -- under the personal
16 authority of Paul Kagame?
- 17 A. I believe in the course for our conversation she indicated that it was after she had spoken to
18 President Kagame that she had access to these archives.
- 19 Q. And this is where her archives -- she's seen considerable documents from these archives -- from
20 Mr. Kagame this way?
- 21 A. I believe she showed me what I would estimate to be 20 to 30 documents. I understand she
22 subsequently obtained others, but I have not seen those documents. I do not know if they exist and/or
23 of what they consist.
- 24 Q. And so, does the Prosecution have full access to the military archives under the control of Mr. Kagame?
- 25 A. As I believe I pointed out to the Court, the Prosecution does not have full access to the archives. As far
26 as I know, Ms. Melvern is the only person who has had that advantage.
- 27 Q. And so it is accurate to say then that Mr. Kagame selects which document -- which military documents
28 reach the Tribunal; is that not true?
- 29 A. Not completely. As I understand it, she had the opportunity to choose what she wished from the
30 documents there. I do not know if she gave all of them to the Tribunal or not.
- 31 Q. But it was under the approval of Mr. Kagame?
- 32 A. As I understand that her admission to the archives was with his authorisation, yes.
- 33 Q. Now, I would like to exhibit to you two documents. I will give you four documents. I will strike out two
34 documents. I would like you to have a look at them. I will tell you what we understand them to be.
- 35 MS. KAGWI-NDUNGU:
36 Can we have a look at these documents to see what the witness has been given?
37

1 MR. PHILPOT:

2 Certainly. Certainly. If we decide to file them, I will provide copies to the Court.

3 BY MR. PHILPOT:

4 Q. For your interest, these documents are security reports written by the Minister of Defence,
5 Mr. James Gasana, to the Prime Minister, Dismas Nsengiyaremye, for the weeks of September 19th
6 and September 26th, 1992.

7 MADAM PRESIDENT:

8 Mr. Philpot, should the interpreters have this fair copy or -- the witness have a fair copy?

9 MR. PHILPOT:

10 They are kind of bulk documents and I wish to read -- my intention is to read a couple of excerpts from
11 them and not to file them, unless it becomes necessary, and for this reason, I did not make secondary
12 copies.

13 MADAM PRESIDENT:

14 No, no, we don't need -- because this is the copy you gave the Prosecution already. And, now, then
15 the interpreters would like to have the same.

16 MR. PHILPOT:

17 No. Fine. Thank you. I misunderstood you. I am sorry.

18 MADAM PRESIDENT:

19 Can you give this to the interpreters' booth, please?

20 BY MR. PHILPOT:

21 Q. Maybe I can make a suggestion and help you to see where I am. Dr. Des Forges, I understand these
22 to be two letters written by the minister of defence to the prime minister, talking about security
23 problems, and I wish to ask you a couple of questions about them. We understand they are authentic.

24 JUDGE KHAN:

25 *(Inaudible)* create problems at the national level or at a particular area?

26 MR. PHILPOT:

27 These are national documents which describe problems, and I am speaking very generally now, and
28 the document is what counts -- of military planning from inside and outside the country, recruitment of
29 young Tutsis to join the RPF and other related problems which create fear and anger and political
30 worries in the country about the course of the war. That is all.

31 MS. KAGWI-NDUNGU:

32 Your Honours, just to mention, I heard counsel state that he understands these documents are
33 authentic. I believe it is not for him to give that kind of evidence; that should be led properly through the
34 witness.

35 MADAM PRESIDENT:

36 *(Microphones overlapping)*

37

1 MR. PHILPOT:

2 What I am asking is, if Dr. Des Forges would recognise these documents as potentially authentic and
3 they had been filed in other trials, and if necessary, we will file them in Defence, but it may be easier to
4 deal with this now.

5 THE WITNESS:

6 It is the first time I have seen these documents. I am not familiar with Mr. Gasana's signature, so, I
7 cannot indicate on the basis of that whether or not they are authentic. I would need some time to study
8 them in order to appreciate the content completely.

9 MADAM PRESIDENT:

10 In which case have they been filed?

11 MR. PHILPOT:

12 What I would suggest we do is either -- we are moving ahead quite well. I am not sure I will finish today
13 given the late start this morning but either during the break or overnight we can --

14 MADAM PRESIDENT:

15 You are pleading for half an hour tomorrow.

16 MR. PHILPOT:

17 I am not. Well, actually, we didn't start up until 10:20, but anyway, the Prosecution's case was almost
18 two days and I am intending to -- all I can say is that we are going to do our best.

19 MADAM PRESIDENT:

20 Do your best; that is all we can ask.

21 MR. PHILPOT:

22 Yes.

23 JUDGE MUTHOGA:

24 Mr. Philpot, these documents you are passing to the witness, is it for her as an expert to confirm or
25 deny the content, or is it that you want to make a proposition that what they say might have been the
26 position or was the position?

27 MR. PHILPOT:

28 I will ask her a couple -- some questions about these documents. They can be admitted provisionally
29 and we can file them in Defence, if necessary. It's a -- I think I could speak hypothetically now because
30 obviously, I am not guaranteeing the authenticity. It's an opportunity to ask the expert about documents
31 which have some similarity to contemporaneous documents about which a lot of comments have been
32 made, and historically, the context may be different than the interpretation given of the other
33 documents. And I can say that these documents were filed in the Military I trial in the context of the
34 very same and maybe other documents which we are dealing with today under cross -- the ones which
35 I have been questioning about.

36 MS. KAGWI-NDUNGU:

37 Your Honours, perhaps he should give us an exhibit number, tell us filed by who. And, you know, he

1 has to lay the proper foundation in order to give this witness documents that she has not seen.

2 MR. PHILPOT:

3 I don't have the exhibit number here. I have something -- I may have the exhibit number, and during
4 the break, if we have a break, I can -- I think I have it in the office.

5 MADAM PRESIDENT:

6 Dr. Des Forges, do you think you can answer on these documents or do you need to read them
7 carefully during the break or until tomorrow?

8 THE WITNESS:

9 Your Honour, I am not familiar with this format of -- with the security report by Mr. Gasana, and I would
10 need to -- in order to answer any question intelligently, I would need to know what the whole document
11 is saying and each document is 89 pages long. So --

12 MADAM PRESIDENT:

13 Would you proceed with different -- with other questions and come back to this later?

14 MR. PHILPOT:

15 Fine. Thank you.

16 BY MR. PHILPOT:

17 Q. We will discuss briefly now the civil defence, and I have now two documents I would like to display to
18 you, one of which is -- comes from the Prosecution because I can tell by the coding and one I think may
19 have come from the Prosecution about civil-defence, and I would like -- I will show them to you and to
20 the Prosecution and then -- I don't think this will cause the same problems as the other ones. I think
21 they are well-known documents.

22

23 Now, we will deal with these documents chronologically. The first document is a document from the late
24 Déogratias Nsabimana, who died in the assassination of the president, and it is a document about
25 civil defence. It is a discussion of a meeting on civil defence dated March 13th, 1994. Do you see it,
26 the first one?

27 A. I do.

28 Q. And do you know that document?

29 A. I do.

30 Q. Yes. So, you consider this document to be authentic?

31 A. I do.

32 Q. Yes. Now, I would like to point out to you --

33 A. Actually, if I can just comment, the document is -- as presented, it is not complete, in other words, what
34 is presented here is really two documents, not one, and if the second one is taken as part of the first, it
35 is incomplete because there are another 10, 12 pages of lists of names attached to that document.

36 Q. Well, what we can do then -- because it is not -- I am not obviously an expert on these archives. You
37 can take out the last two pages and we will forget about them. I don't need -- I don't intend to use them.

1 A. They are important because they represent a response to the first document.

2 MS. KAGWI-NDUNGU:

3 And, Your Honours, it would not be appropriate to put in a document and then take 10, 12 pages. I
4 think we should put in the whole document, and if Defence wants to rely on it, if Defence wants to ask
5 questions, he should give the whole document to be fair to the expert.

6 MADAM PRESIDENT:

7 Well, the expert knows the document I understand. So, why don't you ask a question?

8 MR. PHILPOT:

9 I am asking -- I only have one very simple question. Thank you.

10

11 I would like to read out paragraph 10 of the letter from the former chief of the army, in French.

12 THE ENGLISH INTERPRETER:

13 The interpreters don't have a copy.

14 MADAM PRESIDENT:

15 All of us don't have a copy.

16 MR. PHILPOT:

17 It is just one paragraph, one short paragraph.

18

19 "It was suggested that the *bourgmestre* should educate the people on the handling of traditional
20 weapons, machetes, swords, bows and arrows, given the inadequacy of available firearms."

21 BY MR. PHILPOT:

22 Q. So, Dr. Des Forges, is this document authentic? I know you have already answered, yes.

23 A. This document are -- is extremely helpful in establishing the history of the civilian self-defence effort
24 beginning with the diary of Colonel Bagosora, which refers in very much the same terms to the same
25 problem given the insufficiency of firearms, the population must be equipped and learn how to use
26 swords, spears, machetes and so on. It also again repeats the same information, the same words, the
27 same argument as is found in the documents presented in my direct examination, which I argued was
28 authentic despite its lack of date or authorship where the same kind of things are advocated.

29 *(Pages 45 to 59 by Sithembiso Moyo)*

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37

1 1600H

2 BY MR. PHILPOT:

3 Q. Now, the final document to which I wish to refer is the one of the 25th of May 1994 which was from
4 Mr. Jean Kambanda. I think you are aware of that document also.

5 A. I am.

6 Q. Is this not the formal decree of the implementation of the civilian self-defence?

7 A. It is the formalisation of an existing programme.

8 Q. And it is dated 25th of May 1994?

9 A. Correct, which is the same day when you first have a formal minister of interior. Prior to this time, you
10 have only an acting minister of interior, and arguably, that was -- these two events were connected, the
11 actual taking of office of a minister of interior, and the issuance -- this document and the subsequent
12 which was the implementing instructions from the minister of interior about how to put this decree into
13 effect.

14 Q. I would like to move on to another topic. Now, in your historical interpretation of the -- what we might
15 call the "ethnic problem" in Rwanda, it is my understanding that your theory is that the colonial agents
16 made the change and they privileged the Tutsi and removed Hutu from powerful positions; is that not
17 correct?

18 A. The position of the best informed historians who attempt to deal with this very difficult issue is that there
19 were -- that the labels existed prior to the twentieth century, that is, groups were known as -- or
20 individuals were known as Hutu or Tutsi prior to the arrival of the colonial administration, but with the
21 changes of the twentieth century -- and it wasn't just colonialism, it was also the economic changes of
22 being connected to a world market and so on -- the terms acquired political significance and became
23 interpreted as group labels rather than as references the individual starters, that is, before colonialism,
24 someone was the Hutu of another person. That meant, his follower, his servant, his client, his man.
25 After the impact of colonialism and the entrance of the monetary economy and so on, the terms
26 acquired group significance and became politicised. It doesn't -- it is not easily subjected to a
27 shorthand formula.

28 Q. I think you stated in another trial, in Gacumbitsi trial, and I think that is what you are saying now also,
29 the reorganisation of the Tutsi into an exclusive ethnically defined elite and the organisation of Hutu into
30 an exclusively subordinate category of population was a twentieth century popular phenomenon.

31 A. I think I can go with that, yes. Certainly, Hutu enjoyed considerable political power before the colonial
32 period both as heads of lineages, as heads of military units, and as clients of the court. Now, with the
33 arrival of the colonial period, that was no longer possible.

34 Q. Now, in 1969 you wrote an article in Eastern African history entitled "the White Fathers in Rwanda,
35 Kingdom or Crowns," and I would like to show you --

36 MR. PHILPOT:

37 And file with the court and give copies to the -- Your Honourable Judges, copies -- excerpts from this

1 article which I would be filing.

2 MADAM PRESIDENT:

3 For the interpreters, let them have a copy. If not, they can have my copy.

4 MR. PHILPOT:

5 Yes. This is for the Court, for the Prosecutor, for the witness, and this can be for the interpreters, and
6 we would file the copy with the witness.

7

8 And I will be looking at page 177, starting with the middle of the first paragraph which reads as follows:

9 "The Bantu Hutu comprising more than 80 percent of the population had lived in small independent
10 kingdoms until the fifteenth century when the third group, the pastoral Tutsi, migrated from Uganda.
11 Although Tutsi were only a small minority, they were able to subjugate the Hutu and unite their
12 kingdoms in allegiance to a single Tutsi monarch. The Tutsi, who themselves squandered all their
13 agricultural labour, established a form of feudalism which the Hutu -- in which the Hutu rendered labour
14 and agricultural produce in return for the loan of some cattle."

15 BY MR. PHILPOT:

16 Q. Is that what you stated in 1969?

17 A. When I was a graduate student, before I had yet done any field research, I was recognised as a person
18 of some promise and invited to give a paper at Boston University, which was regarded as surprising,
19 given that I had not yet done a doctoral dissertation. It is what you might regard as five-finger exercise
20 or a beginning study by a graduate student. As you indicate, it was published in '69, it was written
21 some time before that and it represented what was then held to be the accurate version of history. It is
22 a version which I have myself criticised on many occasions as an inadequate version of history. It was,
23 at that point, based largely upon the interpretation of foreign historians and court historians, and
24 fortunately, we have since had access to wider sources of information, which has allowed us to correct
25 some of the inaccuracies.

26 Q. And in your doctoral thesis of which I don't have a copy, but I believe I read an excerpt, did you not say
27 pretty much the same thing? And I am trying to be faithful to that. Did you not write and I may be
28 wrong here, "Rwanda had been created by two different peoples, the *Abahutu* and the *Abatutsi*, who
29 were Bantu speakers, arrived in Rwanda during the first millennium probably from the south to the west.
30 The *Abatutsi* presumably (*inaudible*) speaking people, entered Rwanda from the north-east during the
31 12th century --"

32 THE ENGLISH INTERPRETER:

33 Could counsel slow down?

34 MR. PHILPOT:

35 I will repeat that.

36

37 "The *Abatutsis*, presumably, are (*inaudible*) speaking people entered Rwanda from the north-east

1 during the 12th or 13th century."

2 BY MR. PHILPOT:

3 Q. Is that how you saw things when you wrote your doctoral thesis?

4 A. It was an exercise in which many of us, not just myself, but many of us spent a great deal of time trying
5 to date the arrival of various groups in Rwanda. And it was only subsequently, with the development of
6 a greater field of historical, that we realised it was purposeless and that the people did not arrive as
7 peoples, but became defined, rather, through the course of the expansion of the state and eventually
8 the colonial experience. So what you see before you is an example of the progression of historical
9 knowledge over time fortunately.

10 Q. Now, and I think Mr. Le Marshall, Rene Le Marshall, at that time, also agreed with this fundamental
11 thesis; did he not?

12 A. It was generally held until the work of Jan Vansina, who challenged some of these ideas and brought us
13 all to our senses.

14 Q. And when did you change your mind on this topic?

15 MADAM PRESIDENT:

16 I think the witness has just answered.

17 MR. PHILPOT:

18 I don't know the date.

19 THE WITNESS:

20 It was in the course of my own field research and through study of Vansina's work, not just his
21 published work, but also unpublished work, that my ideas evolved.

22 BY MR. PHILPOT:

23 Q. What date was that, approximately?

24 A. I could not say. My graduate work was in '68 and '69 -- '67, 68, and '69. So it was a process over time.

25 Q. But when did you arrive at the thesis which would be approximately the following: "It was the colonial
26 period which transformed the Tutsi to a dominating group, and subjugated the Hutu." When did you
27 arrive at that approximate conclusion?

28 A. I would say that's too approximate, I won't accept that as my conclusion.

29 Q. I'm not trying to put words into your mouth, only that I'm trying to find the date when you moved away
30 from the position in your paper of 1969.

31 A. Well, there was my own field work and there was the work of Catherine Newbury and David Newbury
32 which was extremely helpful in defining my ideas; the work of Philip Reyntjens, and as I mentioned,
33 Jan Vansina. To pinpoint a particular day when my ideas changed, I'm afraid I can't do that.

34 Q. Was it before 1980?

35 A. It was a process of time and, again, I think that your characterisation is exaggerated and not particularly
36 fair. My ideas have not changed all that much. I have said to the Court just a few minutes ago that the
37 political role of the groups became defined over time in the twentieth century. I didn't say the groups

1 didn't use to exist, but that the membership was attached to individuals rather than to a political group
2 with political significance.

3 MADAM PRESIDENT:

4 When do you think it would be an appropriate time for a break?

5 MR. PHILPOT:

6 If the Court is so disposed, we can do it now.

7 MADAM PRESIDENT:

8 Do you want the witness to read the document?

9 MR. PHILPOT:

10 Yes.

11 MADAM PRESIDENT:

12 So how long will you need?

13 THE WITNESS:

14 15 minutes should suffice, Your Honour.

15 MADAM PRESIDENT:

16 We will break for 15 minutes.

17 *(Court recessed from 1615H to 1645H)*

18 MADAM PRESIDENT:

19 Mr. Philpot.

20

21 We will be sitting until six o'clock.

22 BY MR. PHILPOT:

23 Q. So, we will continue with this subject and then go back to the document which you had read during the
24 break. Just before the break, you mentioned that you had changed your theory gradually, the theory
25 that the Tutsi had oppressed the Hutu for centuries, let's say four centuries or three centuries. When
26 did you stop believing that? I'm speaking in simple terms now and you can obviously *(inaudible)* the
27 nuances, but would you please give a date, approximate date?

28 A. In history, nuances are important, so I am afraid I can't ignore them. My ideas, it gave two great
29 credence: First of all, at the start to the idea of migration of people in blocks, and I accept currently,
30 along with my fellow historians, concluded that there was no migration of a people known as the Hutu
31 or a people known as the Tutsi. This realisation came about by studying the history of various Hutu
32 dominated parts of Rwanda, as well as by re-examining the history of the court. My position has
33 evolved to a realisation that Rwanda, like all places, showed a period of state growth through the use of
34 military power as other kinds of power, where the forces of the state fought against local people, a
35 power, some of whom were Hutu and some of whom were Tutsi. I believe I made that clear in my
36 direct testimony, which I hope I did, that the expansionary state expanded at the expense of Tutsi as
37 well as at the expense of Hutu. So, I would not want you to create a simplified image in which my

1 position is depicted as not recognising the expansion of state power. Clearly, there was an expansion;
2 of state power over a period of centuries, but the state included Hutu and Tutsi in the forces of its
3 expansion, in other words, there were military leaders who were Hutu. As far as I can identify, the most
4 important military leaders under Rwili, the Tutsi king who led Rwanda to its greatest extent. His most
5 important military leaders were what we would call today as Hutu. Why? Because he didn't trust the
6 Tutsi. It's a situation that has parallels elsewhere in history where a ruler makes use of groups other
7 than his own because he fears the rivalries of his own group. And, at the same time, that the forces of
8 the state encompass Hutu as well as Tutsi. The victims of that expansion, encompassed Hutu, as well
9 as Tutsi. There were Tutsi lineages and Tutsi dominated states that fell to the power of Rwanda, as
10 there were Hutu lineages and Hutu dominated states. It is that appreciation of the complexity of state
11 growth which has been the result of my scholarship and that of a number of others.

12 Q. In 1972 and 1969, you had a different point of view. When did you stop espousing the theories you --
13 similar theories you wrote about in 1969 and 1972?

14 MADAM PRESIDENT:

15 The witness answered that it was a graduate course, Mr. Philpot.

16 BY MR. PHILPOT:

17 Q. The theory that Hutu and Tutsi are tribes in the conflict between them dates from the dawn of time and
18 will continue to the end of time. Don't you consider that to be plain wrong and it leads it to erroneous
19 policy decisions?

20 A. I do.

21 Q. Do you know when you stopped believing the theory? I'm not talking about migration anymore, I'm
22 talking about oppression, Tutsi aristocracy before colonialism.

23 A. If I can make it clear once and for all, I believe that the state was an expansionary state, and in that
24 sense, one that exercised a certain form of oppression over the people brought within its boundaries,
25 but that in doing so it was not exclusively Tutsi. I am not depicting a happy land of utopian harmony, I
26 am simply saying that the violence that took place was not on ethnic lines.

27 Q. Now, would it be inaccurate to say that in 1959 the Hutu formed the majority of the population, rose up
28 against the minority, the Tutsi, who had ruled them for centuries?

29 A. I would say that that's a gross simplification. The newly created political elite of Hutu, in combination
30 with some Tutsi elite, rejected the control of that group around the monarchy which included some Hutu
31 and some Twa. Among the refugees who fled the country in 1959, there were some Hutu and some
32 Twa. So, it was a rejection of monarchical rule, but was not exclusively ethnic at that time.

33 Q. But did you not say yourself in writing as late as 1992 that the Hutu rose up against the Tutsi who ruled
34 them for centuries?

35 A. We all on certain occasions are forced into sound bites, but before a Court where one has an
36 opportunity to develop ones ideas in greater details, I prefer to give a more nuance presentation of
37 history.

- 1 Q. So, you did say that in 1992?
- 2 A. I do not know that. Can you show it to me?
- 3 Q. Yes. I would like to show you. It's an Africa Watch document which I will show to you and, if
4 necessary, file.
- 5 MR. PHILPOT:
- 6 Thank you, very much.
- 7 MS. KAGWI-NDUNGU:
- 8 Your Honours, just to avoid us asking all the time, when he has the document to show the witness,
9 could he always just give us a copy?
- 10 MR. PHILPOT:
- 11 Yes, of course, I have copies. Ask me; no problem. We will give copies to the Court, Interpreters, for
12 you. Thank you.
- 13 BY MR. PHILPOT:
- 14 Q. Do you recognise that document?
- 15 A. I do.
- 16 Q. Did you write it with others?
- 17 A. I did.
- 18 Q. We will now move on to another topic. I won't file it as an exhibit. During your testimony in-chief, you
19 quoted a long document by Mr. Anasthase Gasana in one of the bundles which were provided. I think
20 it's number 3, pages 11 to 27. I would like to ask you, this document was written by a political opponent
21 of the MRND; was it not?
- 22 A. I believe I described thoroughly its origin.
- 23 Q. Now, in your country, do you believe everything the Democratic Party says about the Republican Party,
24 and vice versa?
- 25 A. I am skeptical of everyone at all times.
- 26 Q. And should we not take political tracts with a grain of salt?
- 27 A. I would hope that you will have sufficient judgment to do so.
- 28 Q. You've cited articles critical of the regime written by MDR politicians, published in MDR documents and
29 MDR papers. Would you not have preferred a less partisan source?
- 30 A. Which example would you like to show me?
- 31 Q. Documents written by other people who weren't involved in politics.
- 32 A. No, but I am asking you for an example of when I cited the MDR in an MDR journal.
- 33 Q. Wasn't this document by Mr. Gasana an MDR document?
- 34 A. It was not published in an MDR journal. I am asking you for a reference to the one you raised a
35 moment ago.
- 36 Q. I am referring to the document by Mr. Gasana.
- 37 A. This document was an internal document. It was not meant to influence public opinion and to form

1 public reactions against the MRND. It was meant to be a working document kept confidential among
2 the MDR which is, from my point of view, very different from a political tract designed to influence the
3 public at large.

4 MADAM PRESIDENT:

5 Mr. Philpot, this whole -- seems to go a bit like they were (*inaudible*), so you may (*inaudible*) your
6 submissions on the bias of the expert witness, which we are going to take into account when we assess
7 the evidence. But what is all this leading to if it is not a repetition of the same?

8 MR. PHILPOT:

9 I think that I am moving on now, but there were facts which I have not touched on concerning the
10 context of the period which came out in-chief which I think merit cross-examination and, in fact, I am
11 moving on to these issues.

12 MADAM PRESIDENT:

13 Make your point about the bias. We have listened to it, but try to move on, on the evidence now.

14 BY MR. PHILPOT:

15 Q. Now, we touch on this a little earlier today. Do you know who decided to use the term "Akazu" in the
16 political arena, and in what circumstances?

17 A. I do not know in which circumstances it was used originally or by whom or what date.

18 Q. If I told you that the term was decided upon by some of the people who were the pre-members of the
19 MDR, does that sound plausible to you?

20 A. It is an interesting theory. Is there something to substantiate it?

21 Q. Do you know Mr. Jean Marie Vianney Nkezabera, who was in the MDR?

22 A. I don't know that I have met him.

23 Q. Do you know Mr. Anasthase Munyadekwe?

24 MS. KAGWI-NDUNGU:

25 Your Honours, for the record, could the Defence counsel spell out his name?

26 MR. PHILPOT:

27 Certainly. Anasthase is phonetic. Munyadekwe is not really phonetic, it's M-U-N-Y-A-D-E-K-W-E; and
28 the previous name was Jean Marie Vianney, V-I-A-N-N-E-Y; Nkezabera is, N-K-E-Z-A-B-E-R-A.

29 BY MR. PHILPOT:

30 Q. Is it not plausible that these people said to themselves let's use this term to describe the presidential
31 in-law family to marginalise the president by attacking those around him?

32 A. In history, many things are plausible, but only few things are real. What is the proof to substantiate that
33 idea? I simply have no basis to draw conclusions unless you give me some facts.

34 Q. Well, have you ever interviewed people from the MDR on this question of how they came to coin the
35 term "Akazu"?

36 A. I believe I made clear in my previous answers that I did not know who coined the term, whether it was
37 MDR or someone else.

1 Q. Do you know when the term *Akazu* was first used in public, at a public meeting?

2 A. I believe we dealt with that this morning, didn't we?

3 Q. As a historian, can you tell us whether -- why male (*sic*) leaders are sometimes attacked by their
4 political opponents of their husbands in order to undermine the male leader?

5 MADAM PRESIDENT:

6 In general, in Rwanda, in which --

7 MR. PHILPOT:

8 In general.

9 BY MR. PHILPOT:

10 Q. In history, to your knowledge.

11 JUDGE MUTHOGA:

12 As a historian, is that a matter for her, or are you asking her whether she is aware of a case where
13 spouses have been attacked as a way of reaching and getting at their spouses?

14 BY MR. PHILPOT:

15 Q. In simple terms, criticise the wife to -- as a manipulator of the husband, in order to denigrate the
16 husband.

17 A. I believe we can all think of examples in our own cultures, as well as in other cultures, yes.

18 Q. Can you give me some examples?

19 MS. KAGWI-NDUNGU:

20 Your Honours, is this really relevant? He is asking examples from which part of the world, which time
21 period? It's really going very far off the scope.

22 JUDGE MUTHOGA:

23 From history (*inaudible*) is one case which comes in point. There is no bread eat cake.

24 BY MR. PHILPOT:

25 Q. I would like to show you a document from --

26 JUDGE MUTHOGA:

27 Sorry, it's the 16th, not the 4th. My history is not very good, I am told by better historians.

28 BY MR. PHILPOT:

29 Q. I would like to show you a document from James Gasana's book, an excerpt from James Gasana's
30 book.

31 MR. PHILPOT:

32 And I have four extra copies. I thought I had seven. I may or may not -- maybe I will just show one to
33 the Prosecutor and one to the witness, because I may or may not file it.

34 MADAM PRESIDENT:

35 And one for the interpreters.

36 MR. PHILPOT:

37 Yes.

1 BY MR. PHILPOT:

2 Q. This is on page 100 and I will read from the middle of the page when -- I'm starting from the
3 16th of April 1992 and I will read it in French:

4

5 "On 16th April 1992, the transition government made up of parties MRND, MDR, PSD, PL and the PDC,
6 set up in accordance with --

7 THE ENGLISH INTERPRETER:

8 Madam President, if counsel would slow down, we might be able to follow him in interpreting.

9 MADAM PRESIDENT:

10 Mr. Philpot, come again.

11 MR. PHILPOT:

12 I know. I realised that.

13

14 "On 16th April 1992, the transitional government made up of the following parties, MRND, MDR, PSD,
15 PL and PDC, set up in accordance with the understood rules and regulations in a protocol by militants
16 of the party. And, by the way, Habyarimana did not dear to commit himself personally. From the time
17 that government was put in place, significant restructuring of the administration took place. Services
18 were redistributed along the lines of political tendencies and Habyarimana had no control under any of
19 them. All the instruments that were available to him and to his power were taken away from him, the
20 ministry of justice was given to the PL, external intelligence was attached to MINADEF, internal
21 intelligence was given to the MDR and directly under the prime minister's office, foreign affairs and
22 information went to the MDR, and the minister of home affairs was of the MRND. Even in matters of
23 territorial administration where Habyarimana had the constitutional power to appoint *préfets*, the
24 opposition was able to get four *préfets* appointed from its rank. He was no longer able to dismiss or
25 appoint *bourgmestre* of various *communes*, and as we would see further on, he quickly lost control over
26 the forces of security. It would, therefore, be false to my mind, to talk about a Habyarimana regime
27 after the 16th of April 1992.

28 THE WITNESS:

29 I agree with the sense which he didn't read: "While remaining first of the faction head, he is aware of the
30 changes that have taken place in his position and his manoeuvring -- his elbow room has been
31 significantly reduced." (*Inaudible*) in July from Colonel Nsengiyumva. That was in July. Here Gasana
32 is telling us from April 16th, Habyarimana had very little power. I think that is not clearly the case when
33 you analyse the historical documents from July. He still had considerable power but he was, indeed,
34 threatened that has been my point from the beginning, that he was threatened by a hardcore of people
35 who did not accept the policy of negotiation. He was caught between a rock and a hard place. On one
36 hand, he had his own hardline military officers refusing negotiations, on the other hand, there were not
37 just military officers, but politicians. On the other hand, he had the international community which held

1 the keys to the strong bucks and he needed that money, and the international community said,
2 "Negotiate", the other people said, "if you negotiate, we are going to abandon you." He was in a very
3 difficult position and, as a result, he went back and forward. He pursued what I called the zigzag
4 course in an attempt to stay alive.

5 BY MR. PHILPOT:

6 Q. And he was deprived of resources that he had at his disposal before that date; is that not correct?

7 A. He was certainly deprived of many resources, but he retained his personal network and it was in that
8 connection that personal power came into play. The less that could be done openly through the
9 administration, the more it had to be done through personal contacts of reciprocity and graft.

10 Q. Dr. Des Forges, how many times in your report and in your book do you not disclose the sources of
11 your conclusions?

12 MADAM PRESIDENT:

13 Sources of investigation or sources of conclusions?

14 MR. PHILPOT:

15 Sources of investigation which eventually lead to conclusions.

16 THE WITNESS:

17 I attempt to be thorough in documenting my conclusions. I will not pretend to be a hundred percent --
18 what should I say? A hundred percent complete, but I do attempt to be straightforward and honest in
19 providing the substantiation for my conclusions.

20 BY MR. PHILPOT:

21 Q. Maybe I missed -- Maybe I didn't -- wasn't clear. Very often, you keep your names confidential. I would
22 ask you what percentage of your information comes from sources which you will not reveal the names?

23 A. It's difficult to say if you're referring to *Leave None to Tell the Story*. If you go through the footnotes, I
24 think you will quickly realise that there were some sections where everything is drawn from
25 documentary sources that are fully indicated, and there are other sections where information is from --
26 largely from interviews where the name of the interviewee is not ordinarily given. So, it depends where
27 you are looking in the book, exactly what you are referring to. Perhaps you could be more precise.

28 Q. Well, would it not be (*inaudible*) to say --

29 MADAM PRESIDENT:

30 Don't lapse again into the bias and --

31 MR. PHILPOT:

32 I am not bias -- I am not into bias. That is not bias to --

33 BY MR. PHILPOT:

34 Q. Would it not be accurate to say the book about half or sixty percent is based on written materials or
35 rules that are freely disclosed and that the others would be items that are kept confidential?

36 A. I have not attempted to analyse my sources and, in any case, you know, we, historians, sometimes find
37 that one source is more important than another, and it could be that ten documents provide less

- 1 information than a single interview. So, how would you weigh that?
- 2 Q. You spoke to General Dallaire, I think about the person who gave him the information which led to the
3 famous genocide facts; is that correct?
- 4 A. At the time, no; subsequently, I may have.
- 5 Q. You did not -- did General Dallaire give you the information about the person whom he met on
6 January 10th, who informed him apparently about the training of *Interahamwe* militia?
- 7 A. I believe the meeting was not with General Dallaire, I believe from an interview I saw of
8 Colonel Marshall, that it was Colonel Marshall who met with the informant.
- 9 Q. Are you aware of the genocide report commissioned by the Rwandan government in -- which was
10 published in February 1996?
- 11 A. Is that the one that was done under the auspices of the ministry of education?
- 12 Q. Minister of higher education, scientific research and culture.
- 13 A. Yes, I am familiar with that.
- 14 Q. Was it an attempt to catalogue genocide sites and the numbers killed?
- 15 A. That was certainly part of it. In some cases, it presented testimonies as well about how killings had
16 been done, but as I recall, it did also give information concerning sites and locations of mass graves
17 and so on.
- 18 Q. Let me show you a document of which I have only one copy, some excerpts from this report, and then I
19 will ask you some questions about it.
- 20 MR. PHILPOT:
- 21 You can show it to the Prosecutor first, please.
- 22 BY MR. PHILPOT:
- 23 Q. Did you have a chance to look at it?
- 24 A. Yes.
- 25 Q. This deals with an area of Gaseke, Rwili and it speaks of a massacre on Gashihe or what we called
26 Kesho Hill, where there were approximately 820 dead and Bizimungu commemoration. And there is
27 another page called "the major sites of genocide in Gisenyi *préfecture*." Was this report a conscientious
28 report?
- 29 A. Would you define your terms, please? What do you mean by "conscientious report"? Were there
30 people involved in doing it? "Conscientious".
- 31 Q. Yes, do you know?
- 32 A. I do not, in fact, know. I do not know who the investigators were except to know that it was published
33 under the authority of Dr. Nsengimana, but I do not know who the investigators were or how long they
34 took or how they went about assembling their information.
- 35 Q. Was there any motivation to minimise the numbers killed or ignore major massacre sites?
- 36 A. I do not know that.
- 37 Q. Do you think that this report is accurate concerning the Gisenyi *préfecture*?

1 MS. KAGWI-NDUNGU:

2 Your Honours, she has answered.

3 BY MR. PHILPOT:

4 Q. In specifics, based on your knowledge?

5 A. I would say that in general, my assessments would be that the report in its numbers -- in its estimate of
6 numbers is in some places, from my knowledge, substantially inaccurate. Why that is, I could not tell
7 you.

8 Q. Fine. And you can -- thank you very much. I'll take back the documents. Today, you testified about
9 Mr. Kambanda. You said that the death of our client's mother was in late June. On what basis, from the
10 documents, do you make such an affirmation?

11 A. I believe we all now have copies of the handwritten document which is K0127115. In the middle -- well,
12 not quite the middle of the page, but under the heading, "Gisenyi", the fourth line down, the sentence
13 begins, "At the end of June", and then again in the transcription of the tapes; I do not have a K-number,
14 but this is Cassette 42JK, side A, on page 2 in the first substantial block of text beginning on the second
15 line down at the right-hand side at the end of June.

16 Q. If I put it to you that this woman -- elderly woman died about June 6th, would that -- if that were true,
17 would you wonder about the accuracy of this report in terms of dates at least?

18 A. I would, indeed, need to compare the sources. If there were conflicting sources of dates, that is often
19 an issue.

20 Q. Now, I --

21 A. I believe that it should not be difficult to establish, given that the diaries of Mr. Kambanda's movements
22 and of the movements of the minister of women affairs are fairly detailed in terms of their movements
23 from region to region, and perhaps that way we could establish more accurately the date.

24 Q. In these notes from -- or the interview with Mr. Kambanda, do you -- did you know that Mr. Zigiranyirazo
25 did not take the floor at this meeting?

26 A. I did.

27 Q. And did you know that Mr. Kambanda stated that he was not a radical?

28 A. He said that the region is known for its radicalism --

29 Q. I can help you if you like.

30 A. Please.

31 Q. Page 7 of the bottom. "Could Mr. Z be described as a radical because he is someone who,
32 Jean Kambanda knows he kept a very low profile during the war, and during the period following his
33 dismissals? Nothing was heard of him."

34 A. Indeed, to me it's not completely clear whether the no is a response to the unstated question or should
35 the first question be -- the interrogator unfortunately has given two questions at once and it's difficult to
36 know which the no is a response to. It could be that Mr. Kambanda understood this to be, was he
37 someone who played the leading role, and the answer would be no, he kept a low profile but his attitude

1 were in fact radical. He says somewhere earlier that he believes that his acquaintance with
2 Mr. Zigiranyirazo is very limited and that he had never actually met him before. So it clearly has an
3 attitude of respect towards him but how much in detail he really knows about his ideas, I think it's open
4 to question.

5 Q. And Mr. Kambanda became prime minister without even knowing this gentleman, without even knowing
6 Mr. Zigiranyirazo?

7 A. He --

8 JUDGE MUTHOGA:

9 The gentleman had said Mr. Zigiranyirazo knew him, the prime minister, but the prime minister didn't
10 know him.

11 MR. PHILPOT:

12 Exactly.

13 *(Pages 60 to 72 by Sheriffo Jammeh)*

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1 1735H

2 BY MR. PHILPOT:

3 Q. You said also the article -- the interview said that Mr. Zigiranyirazo did not express his opinions on what
4 was going on; is that correct?

5 A. At the funeral, right, that is when he was asked to express his opinion, and I think that at the funeral, he
6 did not express his opinions.

7 Q. And today, I understood you to say that it was Kambanda's opinion that Mr. Zigiranyirazo organised a
8 meeting. Could you please show us where this comes from?

9 A. In the middle of page 8 -- again, we have to complain a bit about the quality of the investigator's
10 questions -- but about in the middle of the page. "We had never really met for discussion before, for
11 him to be able to say I was such-and-such a person." "Question: Do you think he had any reasons to
12 invite you to him home? Answer by Mr. Kambanda: "Of course, he did." Question: "Which one?"

13 THE ENGLISH INTERPRETER:

14 If the witness could please read slowly.

15 THE WITNESS:

16 -- to show that as he was from the family of the president, the prime minister could go to his house. It
17 was important at that time. Question: "Do you think that he was involved?"

18 MADAM PRESIDENT:

19 *(Microphones overlapping)*

20 THE WITNESS:

21 Question: "Do you think that he was involved in the organisation of that visit, that he would himself --
22 that he, himself, would have invited you, would have arranged to meet you?" Answer: "I think so."

23 Question: "You think so?" Answer: "Yes." Question: "That he should have been behind that visit with
24 the specific aim of arranging to be seen in your company, Kambanda?"

25 Answer: "Yes." Question: "To invite you, so you think that the meeting, including the invitation to his
26 house, all that had been planned in that manner?" Answer by Mr. Kambanda: "I cannot confirm it, but
27 it wouldn't surprise me that this was part of the reason for organising the visit."

28

29 Question: "And then, who else was invited with you?" Answer: "The minister of defence."

30 BY MR. PHILPOT:

31 Q. Are you aware that the minister of defence had been a friend of Mr. Zigiranyirazo, Mr. Bizimana?

32 A. According to Kambanda, he says he knew him well.

33 Q. Now, today, you mentioned about Mr. Kambanda being duty bound, is it not that he felt duty bound to
34 attend the funeral, as you stated in page 2, after all, the mother-in-law of late president had been killed?

35 A. Had died of natural courses.

36 Q. Had died. The president had been killed. She hadn't been killed; she died, yes.

37 A. I think we are back to the ball of your own problem. Yes, he had to go because she was the

1 mother-in-law of the president, but that also meant that he had to be in relationship with this man whom
2 he recognised as someone of great importance. I think the importance of Mr. Zigiranyirazo cannot be
3 separated out from the importance accorded to the dead president at this point.

4 Q. But was he not already in the area, as stated in page 10?

5 A. Well, that depends on the question of date, doesn't it? If the date provided by Mr. Kambanda is
6 accurate, and we are talking of the end of June, the government was in Gisenyi and that was -- it would
7 have meant half a day, a half a day of the prime minister's time at a minimum, from Gisenyi to this site
8 of the funeral, appropriate respects and pass again and perhaps a full day. If the date were earlier in
9 June, we would have to localise exactly where Mr. Kambanda was to know if he were, in fact, in the
10 region, but his own description of the situation was that he was in the region. He was on
11 Mr. Zigiranyirazo's turf, in fact, and therefore had to attend.

12 Q. And you also noted that the turnout for the many ministers who were nearby was very low, was it? I
13 think only four attended.

14 A. At least one of the ministers was out of the country at this point, maybe more. I would have to check to
15 see how many of the ministers were actually in Rwanda at that time. Mr. Kambanda's interpretation of
16 why people were not there is a very telling one, that people felt that this man was going down and they
17 didn't want to be associated with him,, even if, in fact, they should have been grateful to him for giving
18 them power and that was the origin, apparently, of his bitterness. And Kambanda says it shouldn't
19 have been that way -- maybe it shouldn't have been that way, but that is the way it was. He is making a
20 moral judgment that people should have been prepared to share their gratitude for whatever services
21 had been rendered in the past, but they weren't and he finds this inappropriate.

22 Q. It's not in -- in Rwandan culture, it's not. Rituals associated with birth and death and marriage, are they
23 not very important?

24 A. Indeed, they are.

25 Q. And the president had just been assassinated and his mother-in-law had died.

26 A. Indeed, that was a double blow, indeed, a triple blow, because Mr. Segatwa, as well had been killed.

27 Q. Is it not all the more important for a dignitary to attend the funeral of a family member of a former
28 dignitary?

29 MADAM PRESIDENT:

30 The witness has explained this.

31 BY MR. PHILPOT:

32 Q. You have advanced the thesis that the killings during that period were a form of planning. You will no
33 doubt recognise that there were hundreds or thousands, if not a million refugees that they had been --

34 A. Refugees, meaning those who had left the country?

35 Q. Internal refugees.

36 A. Oh, displaced persons.

37 Q. Yes. That there had been a three-and-half-year war with infiltration, sabotage, there had been

1 extermination or at least serious killings of Hutu, and the plane was shot down. Is it not normal that
2 violence broke out in response to these events?

3 A. The main weakness for that explanation is that violence did not break out. That violence was caused
4 by deliberate calls from authorities of various kinds at different times and places. It's important to be
5 exact and precise, and to distinguish between those areas as I did in my direct testimony, between
6 those areas which were strongholds of the MRND and/or of personal loyalty to the president, where
7 people were very quick to respond to calls and to begin killing. It is important to distinguish that from
8 many other parts of the country, the central and southern part of the country, where people had to be
9 killed themselves. Hutu had to be killed themselves, in order to make other Hutu willing to kill Tutsi.
10 And I can give you many examples of that phenomenon. It was not a spontaneous uprising in any
11 sense of the word at Saga, where the staff of the medical hospital was divided into Hutu and Tutsi, and
12 the Hutu were told to kill the Tutsi and they refused to do so until several of their number were killed,
13 and then they, indeed, picked up the machetes that had been delivered to them and killed the Tutsi.
14 This is not a spontaneous uprising.

15 Q. We will go back to the area where ADE lived. ADE does not say in his testimony, which I am sure you
16 have read that he stood up and ordered people to go and kill. You heard it. He said he facilitated it, he
17 didn't order it. He facilitated. He furnished gasoline.

18 JUDGE MUTHOGA:

19 What is to facilitate?

20 MR. PHILPOT:

21 He talked to people over a few days at the time, but the regional killings, he didn't order. You know
22 that, at least, that is what he said.

23 MADAM PRESIDENT:

24 Are you asking the witness to judge on ADE's responsibility?

25 BY MR. PHILPOT:

26 Q. I am stating the -- ADE was the only authority in the region at the time, was he not? I am talking about
27 the 7th. You talked about it happening right after. I am not going past the 7th or the 8th; I am just
28 talking about the 7th or the 8th. I am not past that.

29 A. I do not know the extent of Witness ADE's responsibility in ordering or facilitating. But if we were, for
30 purposes of argument, to take the position which you have described here, in a culture like Rwanda, I
31 can tell you based on my experience and research, that if an authority hands out gasoline, hands out
32 weapons and indicates that the Tutsi are perceived as the enemy, that will, indeed, be interpreted as an
33 order.

34 Q. What you are speaking --

35 JUDGE MUTHOGA:

36 More where it is defined that one of the ways to identify an enemy is a refusal to kill an enemy, and if
37 that enemy is Tutsi, a refusal to kill a Tutsi, immediately makes you killable (*sic*)-- if there is a word like

1 that -- eligible to be killed.

2 THE WITNESS:

3 That is correct, Your Honour, and in some cases that did happen, and it didn't take many cases to
4 convince people of the gravity of the situation. A few examples sufficed.

5 BY MR. PHILPOT:

6 Q. When you are talking about the Bushiro area, you are speaking hypothetically and your opinion is not
7 based on any facts that are either in evidence or in the evidence that you have taken note of because,
8 as you stated, you are not aware of his activities fully.

9 A. I was attempting to respond to your question and you --

10 Q. I realise that. I realise that and --

11 MADAM PRESIDENT:

12 Mr. Philpot, could we go back to -- could we return to the case?

13 MR. PHILPOT:

14 Yes.

15 BY MR. PHILPOT:

16 Q. You -- are you aware of the writings of André Guichaoua concerning the composition of governments in
17 Rwanda?

18 A. I am aware of a number of things written by Mr. Guichaoua, but I would need to know exactly which one
19 you are referring to. He has, I believe, just in the last few weeks or in the last few days produced
20 another of his compendium and I have not read that one.

21 Q. I will show you -- and we intend to file this -- some excerpts from his book entitled, *The political crisis in*
22 *Burundi and Rwanda 1993-1994*.

23
24 We have here -- do you have the document yet? No. We have here an excerpt from the 1991 census
25 of Rwanda and then we have four pages from the book by Mr. Guichaoua, and then we have another
26 page at the end of page 770 from the same book.

27
28 Now, I would like you to -- I would like to point out to you that 1987 government, as I have written down
29 on the cover page, five of 16 ministers -- cabinet ministers were from Gisenyi and Ruhengeri. In 1989,
30 three of 17 from the same regions. In 1993, three of 17, and 1991, five of 17, which -- these are all
31 MRND governments which makes a total of 16 out of 67, which is 23.8 per cent

32 MS. KAGWI-NDUNGU:

33 Your Honours, before we proceed, I do not believe it is proper for counsel to write down on a document
34 that he intends to file in the court and then read out what is written down to the witness, that is highly
35 improper. He should use the document as it appears.

36 MR. PHILPOT:

37 Of course, we have done a compilation -- because if I didn't do a compilation and reading it out would

1 be onerous and almost impossible to follow, and if I am dishonest on this, we can be judged for that.

2 We have tried to make the documents legible.

3 MADAM PRESIDENT:

4 Mr. Philpot, this -- the cover page is the -- you come to these numbers by adding the numbers of
5 ministers which are in the document?

6 MR. PHILPOT:

7 Yes.

8 MADAM PRESIDENT:

9 And those Tutsi ministers are the one -- I mean, the Gisenyi-Ruhengeri ministers are the ones which
10 have a cross next to them?

11 MR. PHILPOT:

12 Yes.

13 THE WITNESS:

14 Not all of them, Your Honours, some of them are indicated, apparently, because they are Tutsi.

15 MR. PHILPOT:

16 We -- the document of which we only had one copy, of course.

17 MADAM PRESIDENT:

18 And in '89, but we have four crosses.

19 MR. PHILPOT:

20 I will explain that. What we did is -- I will explain, it is very simple. We did not include the
21 prime minister -- the president and the president and minister of national defence, Mr. Habyarimana, he
22 is not included, and that is the reason why that is so. I am talking about ministers outside
23 Mr. Habyarimana.

24 MADAM PRESIDENT:

25 And in 1991, we have two lists.

26 MR. PHILPOT:

27 Yes, the second list is not included. It is the one from 4291, which is --

28 MADAM PRESIDENT:

29 I think it is the first '91 list. We don't have five names, five ministers apart from Habyarimana.

30 MR. KAPAYA:

31 Your Honours, we suggest that this compilation be done by the witness, otherwise, let Mr. Philpot step
32 into the witness box and we cross-examine him on this compilation.

33 MR. PHILPOT:

34 Well, it is a simple question of trying to make it easier. I could ask the witness, certainly to --

35 MADAM PRESIDENT:

36 Mr. Kapaya cannot (*inaudible*) you on the direct.

37

1 MR. PHILPOT:

2 No, fine.

3 BY MR. PHILPOT:

4 Q. So in the May 1997 -- 1987 government, excluding the president of the republic, how many ministers
5 are there from Gisenyi and Ruhengeri?

6 MADAM PRESIDENT:

7 If you can say this by looking at them.

8 MR. PHILPOT:

9 It is hard to read.

10 MADAM PRESIDENT:

11 And the expert witness does not have to know necessarily --

12 MR. PHILPOT:

13 It is indicated. This is the word of Mr. Guichaoua.

14 THE WITNESS:

15 Well, first of all, I would protest against any exclusion of the president and the minister of defence. In
16 what -- how, in what country in the world would one attempt to assess the political weight of a system
17 and begin by excluding the president and the minister of defence. It's simply is not a logical
18 assessment of political power.

19 BY MR. PHILPOT:

20 Q. Well. We have given you --

21 MADAM PRESIDENT:

22 It's not excluding them that affect the numbers. Well, the president is not a minister, so the --

23 THE WITNESS:

24 He was a minister, Your Honour.

25 MADAM PRESIDENT:

26 You have to excuse me.

27 THE WITNESS:

28 He was minister of defence.

29 MADAM PRESIDENT:

30 So, he comes twice.

31 JUDGE MUTHOGA:

32 From my own information, Gisenyi was a *préfecture*.

33 THE WITNESS:

34 That is correct, Your Honour.

35 JUDGE MUTHOGA:

36 And Ruhengeri was another *préfecture*?

37

1 THE WITNESS:

2 That is correct.

3 JUDGE MUTHOGA:

4 So you are dealing with two of the 12 *préfectures*?

5 THE WITNESS:

6 At this time, Your Honour, it would have been two out of 10, the eleventh was added in 1991, I believe.

7 JUDGE MUTHOGA:

8 The table seems to suggest there were 12?

9 THE WITNESS:

10 That is not correct. That is the present situation -- well, that was the situation until just before
11 January 1st, 2006, that was not the situation in 1987.

12 JUDGE MUTHOGA:

13 So in 1987, they were how many?

14 THE WITNESS:

15 In 1987 there were 10 *préfectures*.

16 JUDGE MUTHOGA:

17 In 1989?

18 THE WITNESS:

19 Yes, the same.

20 JUDGE MUTHOGA:

21 In '90.

22 THE WITNESS:

23 I think in '90, the same. I recall that it was '91 that the eleventh *préfecture* was added, that may be in
24 my report, and I am quite sure it was '91.

25 MADAM PRESIDENT:

26 Can you tell which of the list of 12 was not a *préfecture*? Was Kigali-rural and Kigali city, it was one?

27 THE WITNESS:

28 They were -- that is correct, Your Honour. There was a single Kigali *préfecture* until, as I say, I believe
29 it was 1991, but it could have been possibly in 1992 that Kigali city was established as a separate
30 *préfecture*, and the twelfth *préfecture* of Mutara was not added until after 1995, but that administrative
31 structure is not currently the situation. There was an administrative reform which on January 2006,
32 which eliminated *préfectures*.

33 MADAM PRESIDENT:

34 Bearing in mind within *préfectures* that existed at the time, we would see how many ministers were from
35 Gisenyi and from Ruhengeri.

36 JUDGE KHAN:

37 At the time there were six.

1 THE WITNESS:

2 In 1987, I would count two, three, four, five, six, seven.

3 MR. PHILPOT:

4 I am sorry.

5 THE WITNESS:

6 In 1987, counting the president and the minister of defence, that is two. And --

7 MR. PHILPOT:

8 Are you counting the president twice?

9 MADAM PRESIDENT:

10 The president as the minister of defence, I think. Well, it doesn't matter, we can -- we will assess it as
11 long as we know how.

12 JUDGE KHAN:

13 The president was also minister of defence?

14 THE WITNESS:

15 That is correct, Your Honour.

16 JUDGE KHAN:

17 So it is one.

18 THE WITNESS:

19 It is two positions. Are we counting people or positions, I think that's the question?

20 JUDGE KHAN:

21 Yes, if it's the position, then it is two.

22 MR. PHILPOT:

23 I am counting persons, in my question.

24 MADAM PRESIDENT:

25 I think it's advisable to have full answers, positions and persons.

26 THE WITNESS:

27 And then the next one would be the minister of foreign affairs, the minister of primary and secondary
28 education, the minister of industry and commerce, the minister of public health and social affairs, and
29 the minister of public works. So, what I came up with is seven of out 17.

30 BY MR. PHILPOT:

31 Q. If you count the prime minister, it is two out of 18; is it not? Because the president is two, it is out of 18,
32 is it not? We are getting into the realm of unreal -- a little unreal but --

33 A. Yes, you are correct.

34 MR. PHILPOT:

35 May I suggest to the Court that we suspend now. We have very little left, maybe half an hour as the
36 Court mentioned today, on this and some other minor related issues plus the document from
37 Dr. Des Forges read during the break. I understand that -- unless I am wrong that there is a re-direct.

1 MS. KAGWI-NDUNGU:

2 It will be a short re-direct.

3 MR. PHILPOT:

4 And so, that's our position right now.

5 MADAM PRESIDENT:

6 Finish by noon tomorrow.

7 MR. PHILPOT:

8 Before that --

9 MADAM PRESIDENT:

10 Is there any homework for Dr. Des Forges?

11 MR. PHILPOT:

12 No.

13 MADAM PRESIDENT:

14 Judge Muthoga is reminding me that the CV was accepted originally, and we should address that after
15 re-direct.

16 MR. PHILPOT:

17 It is up to the Prosecutor.

18 MS. KAGWI-NDUNGU:

19 We should be having no problem, we are trying to organise.

20 MR. KAPAYA:

21 Yes, we will hold a voir dire on the CV. We intend to call the person who was dealing with the Accused
22 at the time this thing was prepared. Right now, he is in Europe on other issues.

23 MR. PHILPOT:

24 We request to have a will-say, as I have written on many occasions to my colleague and to his
25 predecessor, we would like to have in advance, a will-say on all people who had been in contact with --

26 MADAM PRESIDENT:

27 I am not (*inaudible*), can you explain what the will-say is?

28 MR. PHILPOT:

29 A will-say is either a statement signed or a summary of what the witness was saying. And in the case
30 of a voir dire for a statement, this would go beyond simply the one person, but we would request and
31 we will put it in writing by email tonight or tomorrow morning, with a copy to the Court, a list of all
32 individuals who were in contact with my client, associated with the Prosecutor in relationship to the
33 taking of the statement, and we will redraft a request about this and put it on the Court record and make
34 a motion if necessary.

35 MR. KAPAYA:

36 Your Honour, we intend to produce with the voir dire the way we deem it fit. It would be up to the
37 Chamber then to rule at the end of the exercise whether the document will or will not be admissible.

1 Thank you.

2 JUDGE MUTHOGA:

3 And will you be proceeding with that tomorrow or at some other date?

4 MR. KAPAYA:

5 Your Honour, we will ask for some time, perhaps when we reconvene again because that witness is
6 nowhere around, he is on some important mission in relation to some important issues.

7 MR. PHILPOT:

8 Well, our request stands, and we will put it in writing.

9 MS. KAGWI-NDUNGU:

10 Just one small matter, Your Honours. There was this handwritten document that Dr. Des Forges had
11 looked at and had consulted before getting the *Kambanda* transcript. So, we would like this entered as
12 a Prosecution exhibit.

13 MADAM PRESIDENT:

14 The only exhibit of today?

15 MS. KAGWI-NDUNGU:

16 Yes, Your Honour.

17 MADAM PRESIDENT:

18 Were there any –

19 MR. PHILPOT:

20 There will be some exhibits.

21 MADAM PRESIDENT:

22 For tomorrow.

23 MR. PHILPOT:

24 Yes, I am alluding to tomorrow because the time is --

25

26 On the question of homework, I could ask --

27 MADAM PRESIDENT:

28 Let us do one thing at a time.

29

30 So, this would be Prosecution exhibit number?

31 MS. MUSSA:

32 P. 52, Your Honour.

33 MADAM PRESIDENT:

34 P. 52.

35 (*Exhibit No. P. 52 admitted*)

36 JUDGE KHAN:

37 And what about the other document which you put to the witness, will it be tomorrow?

1 MR. PHILPOT:

2 Some I will file and some, depending on the text of what was stated and the answer is given, are simply
3 part of the record of the transcripts.

4 MADAM PRESIDENT:

5 You will let us know tomorrow.

6 MR. PHILPOT:

7 Yes.

8 MADAM PRESIDENT:

9 And you had a request to the witness.

10 MR. PHILPOT:

11 Well, a friendly suggestion to the witness that she do her homework for a few minutes and then we can
12 proceed more --

13 MADAM PRESIDENT:

14 *(Inaudible)*

15 MR. PHILPOT:

16 For the home and the documents I gave her, she can --

17 MADAM PRESIDENT:

18 -- the one she looked at during the break this afternoon?

19 MR. PHILPOT:

20 Well, I think that's been done, I hope so. And then the document from Professor Guichaoua, the one
21 on the ministerial composition and one on the military.

22 MADAM PRESIDENT:

23 Is it the last one -- the last two documents?

24 MR. PHILPOT:

25 Yes.

26 THE WITNESS:

27 The one on the military, what is that?

28 MR. PHILPOT:

29 It was the second page. It was the last page, page 770.

30 MADAM PRESIDENT:

31 We would appreciate if you could do that.

32

33 So we will adjourn until tomorrow at nine o'clock.

34 *(Court adjourned at 1805H)*

35 *(Pages 73 to 83 by Sithembiso Moyo)*

36

37

CERTIFICATE

We, Verna Butler, Roxane Meena, Sithembiso Moyo and Sheriffo Jammeh, 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.

Verna Butler

Roxane Meena

Sithembiso Moyo

Sheriffo Jammeh