

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

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

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

6 NOVEMBER 2003
0835H
CONTINUED TRIAL

Before the Judges:

Erik Møse, Presiding
Sergey A. Egorov

For the Registry:

Mr. Nouhou Diallo
Mr. Carlos Javier Ortega
Mr. Edward E. Matemanga

For the Prosecution:

Ms. Barbara Mulvaney
Mr. Drew White
Mr. Segun Jegede

For the Accused Théoneste Bagosora:

Mr. Raphaël Constant
Mr. Paul Skolnik

For the Accused Gratien Kabiligi:

Mr. Jean-Yaovi Degli

For the Accused Aloys Ntabakuze:

Mr. André Tremblay

For the Accused Anatole Nsengiyumva:

Mr. Kennedy Ogetto
Mr. Gershom Otachi Bw'Omanwa

Court Reporters:

Ms. Diane Hermann
Ms. Regina Limula
Ms. Judith Kapatamoyo
Ms. Donna M. Lewis
Ms. Sithembiso Moyo

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WITNESS

For the Prosecution:

WITNESS DAS

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MR. PRESIDENT:

Good morning, Mr. Witness. We will now continue with your examination-in-chief.

Good morning to everyone in the courtroom.

MS. MULVANEY:

Sir -- if the video booth could put what's on the overhead projector on the screen.

WITNESS DAS

EXAMINATION-IN-CHIEF (continued)

BY MS. MULVANEY:

Q. Sir, could you take a look at the screen and tell the Court whether or not you recognise what is depicted in the photograph?

A. Yes, I know that place.

Q. Can you please describe to the Court what is in that photograph?

A. Well, here you have a compound that was occupied by Chinese engaged in road construction. Then on the opposite side you have the house of Mr. Zigiranyirazo.

Q. Sir, when you refer to the Chinese compound, is that the building on the left-hand side of the screen that's two storeyed?

A. Yes, yes, to my left, on the lower side of the road.

Q. And on the right-hand side of the screen there is a, what appears to be a brick wall.

A. Yes, on the right there is the residence of Zigiranyirazo.

Q. Was this the area where the roadblock was?

A. Yes, the roadblock was in front of that house.

Q. Is the building on the left the building where the women were raped?

A. Yes, that's where women were taken during the genocide. That's where the women were kept.

Q. Does it look substantially the same to you as it did in 1994?

A. Yes, nothing has changed.

MS. MULVANEY:

Your Honours, I'd move this into evidence at this time. It's K number K0275732.

MR. PRESIDENT:

Are you about to tender other photographs as well about the same location?

MS. MULVANEY:

Yes, I am.

MR. PRESIDENT:

Maybe we could take them at the end as A, B, C, D, E, if they all refer to the same area.

MS. MULVANEY:

A composite exhibit, that would be fine.

1 MR. PRESIDENT:

2 Yeah.

3 BY MS. MULVANEY:

4 Q. Sir, will you please take a look at that photo that's on the screen, and I'm referring to K0275733, and
5 tell the Court whether or not you recognise what is depicted in that photograph?

6 A. I know that place.

7 Q. Is this the intersection where the roadblock was?

8 A. Yes, that's where the roadblock was, and then in front of the Presbyterian church. I know that place.

9 Q. On the photograph -- are we looking toward the Presbyterian church?

10 A. Yes.

11 MS. MULVANEY:

12 Your Honour, if we could -- this will be B. The first photo will be A; this will be B.

13 BY MS. MULVANEY:

14 Q. Sir, I now refer you to --

15 A. Yes, indeed, this is the Presbyterian church. This is the Presbyterian church. I was mistaken.

16 MR. PRESIDENT:

17 Mr. Degli, please.

18 MR. DEGLI:

19 Yes, Mr. President. I think I'm a bit confused. And I've been asking my colleagues by the side, they
20 themselves are also confused. They don't have a clear picture.

21
22 It would be better for the witness to come close to the projector or the picture to point out clearly. For
23 instance, they talk about the church. I don't see where the church is in the current picture.

24 MR. PRESIDENT:

25 Let's just go back to B again, in other words, 733, and then we come back to 734, as we were about
26 to proceed.

27 MS. MULVANEY:

28 One of the problems is that the quality on the screen is not very good, and so it's difficult to --

29 MR. PRESIDENT:

30 Yes, do that.

31 MS. MULVANEY:

32 Okay.

33 MR. PRESIDENT:

34 Mr. Witness, now we are standing in a road and we are facing to --

35 THE WITNESS:

36 The picture is not clear.

37

1 MR. PRESIDENT:

2 We are all aware of that. But do you see that -- wait, wait for the question. Wait for the question,
3 please.

4 THE WITNESS:

5 And I'm telling you that the picture is not clear.

6 MR. PRESIDENT:

7 Yes, now we have settled that. Now we are trying to look into the picture which is not clear, and you
8 see that there is this road we are standing on, it continues, apparently. There is one building at the
9 other side of the intersection on the right-hand side, and there is one building on the left-hand side,
10 possibly.

11
12 Now, is it possible from where we are now to see the Presbyterian church, even if the picture is not
13 clear? Is it on the right-hand side, on the left-hand side of the continuation of this road, or is it there at
14 all?

15 THE WITNESS:

16 Well, for me this picture is not at all clear. I would prefer that another picture be shown.

17 MR. PRESIDENT:

18 So you are not able at the picture to point out the Presbyterian church; is that so?

19 THE WITNESS:

20 That's right. For me, this picture was not properly taken.

21 MR. PRESIDENT:

22 Yes. All right, then we move on to 734.

23 BY MS. MULVANEY:

24 Q. Sir, I now refer you to what is the photograph that's on the screen, which is K0275731, and ask you
25 whether or not you recognise what is --

26 A. Now, this is clear, and this is the Presbyterian church.

27 Q. Sir, do you happen to know the name of the street that the Presbyterian church is on?

28 A. Yes, the Presbyterian church. Now, on the opposite side there is *Depute Kamuzinzi Road*, and below
29 there is the *Rue du Parc*.

30 Q. Sir, is this -- is the Presbyterian church in the photograph here, does it depict -- is it substantially the
31 same as it was in 1994?

32 A. Yes. Nothing has changed.

33 MS. MULVANEY:

34 Your Honour, I'd request that this be marked as C in the composite exhibit.

35 BY MS. MULVANEY:

36 Q. Sir, do you recognise what is depicted in this photograph?

37 A. I can -- I recognise this place.

1 Q. Is that a picture of the intersection where your roadblock was?

2 MR. SKOLNIK:

3 I object, Your Honour.

4 MR. CONSTANT:

5 Objection. That's a leading question, Mr. President. We didn't come in earlier when something else
6 was asked. I don't think our colleague should go on. Ask "what is this," or "what does this represent";
7 don't suggest.

8 MS. MULVANEY:

9 I can --

10 MR. PRESIDENT:

11 What does it represent, then, Mr. Witness?

12 THE WITNESS:

13 One can see the compound where the Chinese lived, the Chinese who were building the road.

14 BY MS. MULVANEY:

15 Q. Sir, is that on the right-hand side of the photograph?

16 A. Yes, on the right.

17 Q. Can you please just tell the Court where -- how you would get to the Hotel Kiyovu from this
18 intersection?

19 A. You would go down, that is, below this Chinese property, that is, belonging to the Chinese who were
20 building the road. You continue to go down, to descend right up to Kiyovu hotel.

21 MS. MULVANEY:

22 Your Honour, I think I need him to approach the photograph, and I do need to go into closed session
23 just for my final questions. I don't know how you want to handle that.

24 MR. PRESIDENT:

25 Well, these are the very final questions?

26 MS. MULVANEY:

27 They are.

28 MR. PRESIDENT:

29 So why don't we simply from now on go into closed session, and then we don't have to draw the
30 curtains in connection with his walking to the telestrator.

31 MS. MULVANEY:

32 Okay, thank you.

33 MR. PRESIDENT:

34 Can we do that? We will then ask the persons in the public gallery kindly to leave.

35

36 For about how many minutes will the session be closed in your estimate?

37

1 MS. MULVANEY:

2 Fifteen.

3 MR. PRESIDENT:

4 Fifteen, so then the public knows.

5 *(At this point in the proceedings, a portion of the transcript [pages 6 to 10] was extracted and sealed*
6 *under separate cover as the session was heard in camera)*

7 *(Pages 1 to 5 by Diane Hermann)*

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1 MR. PRESIDENT:

2 Mr. Witness, from now on we are in an open session. Your cross-examination is commencing now,
3 and you will have to be careful again so as not to disclose your identity when you answer your
4 questions.

5

6 Please.

7

CROSS-EXAMINATION

8 BY MR. CONSTANT:

9 Q. Good morning, Witness.

10 A. Good morning, Counsel.

11 Q. In your evidence-in-chief you stated that you were witness to the killings that occurred on the 7th of
12 April, 1994; do you remember?

13 A. Yes, I do.

14 Q. Killings in the course of which Major Ntuyahaga stands accused?

15 A. Yes, I do, Counsel. I remember.

16 Q. You also told us that you were a witness to the death of a lady by the name Francine and her children;
17 do you remember?

18 A. Yes.

19 Q. And that several people stand charged or stand accused, and particularly, Mr. Seyoboka; do you
20 remember?

21 A. Yes, I absolutely remember that one.

22 Q. I would like to know whether you had the opportunity to testify in trials or maybe to provide statements
23 to the police or to other judicial officers in regard to those killings that you are testifying to here.

24 A. Yes, I had the opportunity to testify.

25 Q. Could you be more specific in regard to the kind of testimony you've had to make or to provide?

26 A. Yes. The testimony that I gave here before the Court was given, for instance, to the police in
27 Rwanda. We were asked questions in regard to the killings that took place, and I did provide
28 testimony. And by the way, I'm not the only one who testified. There were some others who did the
29 same thing as myself.

30 Q. Now, Witness, let's talk about you, not about the others. So you were questioned by the police in
31 Rwanda in regard to these killings in general, on those murders. That's what you've just said; is that
32 right?

33 A. Yes, yes, I did testify.

34 Q. So this was a statement you made to the Rwandan police?

35 A. Well, investigations were carried out in regard to the events that occurred in the Kiyovu
36 neighbourhood.

37 Q. Could you give us some details. Are you able to tell us when you were questioned in Rwanda? I'm

- 1 not talking about being questioned by the Office of the Prosecutor; we'll get back to it. I'm talking
2 about the Rwandan authorities. When did you have the opportunity or occasion to be questioned?
- 3 A. Now, as for the date on which I was questioned, I believe it was in 1998. Yes, '98, that's when I was
4 questioned, but that's an approximate date. I'm not too sure. I think it was towards that year, 1998.
- 5 Q. Were you the one who got in touch with the Rwandan authorities or did they get in touch with you for
6 that testimony?
- 7 A. At the time, the authorities got in touch with people who survived in the Kiyovu neighbourhood and
8 who were aware of the events. So they got in touch with me, but I don't know how they got to identify
9 me. I simply received a summons, but I don't know the person who gave them my name. So I
10 reported following that summons, and then I told them what happened.
- 11 Q. So to whom did you make that statement?
- 12 A. Well, it was the officer in charge of the police station. I could give you his name if you want.
- 13 Q. Thank you in advance.
- 14 A. His name is Lieutenant Tharcisse who works at what is known as the *auditorat militaire*.
- 15 Q. So Tharcisse would be his first name. What would be his name, then, if you know?
- 16 A. I don't know his family name.
- 17 Q. So how many times did you meet this officer?
- 18 A. Once.
- 19 Q. Could you tell us where that questioning took place?
- 20 A. So they sent me -- I was subpoenaed and I appeared at the military prosecutor's office.
- 21 Q. Could you give us the address where you reported?
- 22 A. Their office is just on the lower side of the embassy of the United States of America in front of the St.
23 Michel Cathedral.
- 24 Q. Well, after you were questioned by Lieutenant Tharcisse, were you required subsequently to appear
25 before Rwandan courts to give evidence?
- 26 A. No, I only reported to the *auditorat militaire* or the military prosecutor's office. I never appeared before
27 any other court.
- 28 Q. Well, what you told us since the day before yesterday, is that exactly what you told Lieutenant
29 Tharcisse when you were questioned in 1998?
- 30 A. No, it's not an exact reflection of what I told Lieutenant Tharcisse. Questions were put to me in regard
31 to soldiers who participated in the massacres that were perpetrated in the Kiyovu area, so I was
32 questioned on that specific point.
- 33 Q. Did you mention -- I beg your pardon. Did you mention Major Ntuyahaga in your interview in
34 Rwanda?
- 35 A. With regard to Major Ntuyahaga, I think that I did not speak of him, but I'm not sure. You see, that
36 was a long time ago, so I cannot remember everything that I said, all the information that I gave.
- 37 Q. So you're telling us that you spoke to Lieutenant Tharcisse about the soldiers who were involved in

1 the killings at Kiyovu. Why did, then, you forget Major Ntuyahaga?

2 A. I was not aware that people who witnessed the events in Rwanda, who loaded corpses on lorries, had
3 problems. I'm not aware of that. We were traumatised.

4 Q. Do you remember that you mentioned Mr. Seyoboka to -- when speaking to Lieutenant Tharcisse?

5 A. Yes, I spoke about him because he asked me questions about him.

6 Q. Are you sure of that?

7 A. Yes, I was asked questions about him. The other survivors of the Kiyovu were contacted. I was not
8 the only person who was interviewed on that subject.

9 Q. I'm talking about you, sir, not about other people. Anyway, let's continue.

10

11 Did you have the occasion to talk about Corporal Irandemba?

12 A. I think that I mentioned him as well. They did not ask me many questions like you are doing now.
13 They asked me a few questions. I did not have the opportunity to talk of all details, and, you see, a
14 human being's memory is not a computer memory.

15 Q. We'll talk about your memory later, sir, but we do agree that Corporal Irandemba was the person
16 whom you described in your testimony as the leader of the roadblock, right?

17 A. As a matter of fact, we were not asked many questions about the roadblock. We were only asked
18 questions about people who died in the Kiyovu neighbourhood.

19 Q. I'll come back to that, but do we agree that Corporal Irandemba is the person whom you describe as
20 being the leader of the roadblock?

21 A. Yes, we agree on that point. I'm talking about events which I personally saw. I saw everything. If my
22 statement was not properly noted down, it's not my fault. I'm here before the Court testifying to events
23 which I personally saw.

24 Q. Sir, don't say in advance that -- what is missing in your written statement. We'll go back to that. I'm
25 asking you specific questions regarding what you told Rwandan authorities.

26

27 You told me, and do you confirm, sir, when you were interviewed by Lieutenant Tharcisse regarding
28 soldiers who were involved in the massacres in Kiyovu, was that the subject of the interview?

29 A. Yes, that is correct.

30 Q. So it would be logical for you at that time, even if you were not asked questions regarding that issue,
31 of soldiers involved in the killings, you should have spoken about Corporal Irandemba whom,
32 according to you, was the roadblock leader?

33 A. You see, when we were asked questions, they placed an emphasis on officers, not the rank-and-file
34 soldiers. They asked questions about officers who played a role in the massacres, whereas ordinary
35 soldiers were so many that it was not possible to ask questions about each and every one of them.

36 Q. Are you saying that when Lieutenant Tharcisse interviewed you, he told you that you should talk about
37 only officers and not soldiers in general? Is this what you're telling us now?

- 1 A. You see, low-ranking soldiers, not all of them fled. Even those who fled came back to the country
2 later. You should be aware of this fact.
- 3 Q. You have not answered my question, but following what you've just told me, I'd like to ask you if you
4 know, do you know what happened to Corporal Irandemba?
- 5 A. Irandemba went into exile. I don't know whether he died or whether he's still alive. However, I heard
6 people say, but this is hearsay, I heard that he came back to Rwanda.
- 7 Q. But you did not talk about him when interviewed by Lieutenant Tharcisse?
- 8 A. I told you that I don't have a computer memory. Please bear this in mind.
- 9 Q. When you heard that Colonel (*sic*) Irandemba apparently returned to Rwanda, you didn't go to tell the
10 police that, "The leader of the main roadblock in Kiyovu has returned to Rwanda and maybe you
11 should look for him"?
- 12 A. Corporal Irandemba did not kill me, he did not kill other people who were with me who were Tutsis, so
13 I had no reason to pursue him. Even if I had met him, I would like to assure you that I would have
14 thanked him because he did not do anything to me. He did not kill anyone who was with us at the
15 roadblock. Even if I see him today, I will thank him for having spared my life.
- 16 Q. Now, in your statement to Rwandan authorities, did you talk about Colonel Nsengiyumva and Colonel
17 Bagosora?
- 18 A. Yes, I talked about them.
- 19 Q. And you told the Rwandan authorities the same thing that you're telling this Court?
- 20 A. I talked about their presence, the various times they were at the roadblock.
- 21 Q. Very well. Do we then agree that you told Rwandan authorities in 1998 the same thing you told us
22 yesterday and the day before yesterday regarding the presence of Colonels Bagosora and
23 Nsengiyumva and Colonel Setako? Do we agree on this?
- 24 A. I was not asked – I was not questioned or examined in the same manner that I'm being examined
25 here.
- 26 Q. This is not my question, sir. I am asking you, what you told the Rwandan authorities, did you tell them
27 the same thing as what you told this Court yesterday and the day before yesterday?
- 28 A. No, because I was interviewed by the military prosecutor in a different manner from the way I was
29 interviewed by the Office of the Prosecutor. I remember that when the judge advocate questioned
30 me, there was a question on how Murumba was attacked.
- 31 Q. That's very good, because as we go along your memory is coming back, but you remember that we're
32 talking about Ntuyahaga. You said that when he gave instructions and upon those instructions,
33 Murumba's house was attacked. Do you remember this?
- 34 A. Yes, I remember that I was asked questions regarding the circumstances of the attack on Murumba's
35 house. But even if I had not talked about those things, I am here now before you. You can ask me
36 questions. You can ask me questions about my evidence here. Don't ask me questions about my
37 statement to the police in Rwanda. Only the Rwandan government can ask me questions about my

1 statement to the police.

2
3 I think that is -- that it is improper for you to ask me questions regarding my interview with the military
4 prosecutor, that is, the advocate general. I think this is improper, and I'm emphasising this point. Ask
5 me questions about my evidence here. Don't ask me questions regarding my statement to Rwandan
6 authorities. I made a statement to Rwandan authorities, but your role is to ask me questions
7 regarding my statement to the investigators of the Tribunal and my evidence here.

8
9 So if we agree on this, then ask me questions regarding my statement to the investigators and my
10 evidence before this Court, but don't ask me questions on my statements to the Rwandan authorities.

11 MR. PRESIDENT:

12 Mr. Witness --

13 THE WITNESS:

14 -- because I am now revealing secret.

15 MR. PRESIDENT:

16 Mr. Witness, I understand what you are saying, and, of course, both the Prosecution and the Defence,
17 both teams are primarily interested in what you have told us here in the courtroom. Of course, that is
18 true. You are absolutely right. But on the other hand, it is the normal part of examination, and cross-
19 examination sometimes also, to put to the witness -- any witness, not only you, any witness -- what
20 they may have said on earlier occasions, and that's something we will all have to accept in this
21 courtroom. This happens every day in any court all over the world.

22
23 So just make -- take note of that, just take note of that, please, and then we will continue.

24 MR. CONSTANT:

25 Thank you, Mr. President.

26 BY MR. CONSTANT:

27 Q. Witness, I'll continue asking you questions on that particular point. In my line of questioning, you
28 came up yourself with the attack on Murumba's house.

29
30 Now, let me ask you, what is the difference, if any, between the statement you gave in 1998 to the
31 military prosecutor in Rwanda and your evidence here yesterday and before yesterday regarding
32 Colonel Bagosora and Colonel Nsengiyumva? Is there any difference between the two?

33 A. Let me explain to you. The way in which I was interviewed by the investigators of the Tribunal or the
34 Office of the Prosecutor and the manner in which I was questioned by the military prosecutor are
35 different. That is the first point.

36 *(Pages 11 to 15 by Diane Hermann)*

37

1 0930H

2 BY MR. CONSTANT:

3 Q. Mr. President -- I beg your pardon. Witness, do you think that in view of the way you are asked
4 questions then the truth will vary depending on how questions are put to you?

5 A. There is only one truth. I talked here about events which actually occurred, but questions which were
6 put to me by the military prosecutor are not the same as questions asked of me here. The military
7 prosecutor wanted to know the officers who played a role in the massacres. They didn't ask
8 questions in detail, that is why I am saying that here you should ask me questions regarding my
9 statement to the investigators of the Office of the Prosecutor.

10 MR. PRESIDENT:

11 And I realise very well where you are going, but you have asked this question and circling around in
12 order to ask the witness to make a comparison between his previous and present statements for
13 some time now, and he will only -- when the question is asked in this general way, he will only come
14 back with the same answer; namely, that the answer was the same, that the way the questions were
15 posed were different, and also the other elements which he has repeated a few times now. So, if you
16 could bear that in mind and simply try to be more specific when it comes to matters that you want to
17 put to him, because otherwise, we won't proceed.

18 MR. CONSTANT:

19 Please don't translate what I am saying, although I think the witness understands French. I want to
20 go into the details of what the witness said earlier. I have just learnt that this witness gave statements
21 to the Rwandan judiciary. But I want to know whether he agrees that there is a discrepancy between
22 what he told the Rwandan authorities and his testimony here, and he is going -- he is beating around
23 the bush, because I don't really know what he actually told the Rwandan authorities; to be frank with
24 the Court.

25 MR. PRESIDENT:

26 That is true. All right, but still I am -- if you want to proceed with this, I think you will have to split up
27 this in order to find out -- in connection with your cross-examination whether this was told previously
28 or not. But if you stick to this introductory general line, you will get the same answer. So, please
29 proceed.

30 MR. CONSTANT:

31 Mr. President, on this point, I would like to suggest that I ask him a last question which will be broken
32 into two. Are there any differences between the two, and if so, what are those differences. Would the
33 Court allow me to ask this question in such away?

34 MR. PRESIDENT:

35 You can try.

36 BY MR. CONSTANT:

37 Q. Witness, I want to know are there any differences between what you told us today, yesterday and the

1 day before yesterday, from what you told the prosecutor in Rwanda, and if so what are the
2 differences?

3 A. I think that there is a difference, because the questions which were put to me here are not the same
4 questions which were put to me by the military prosecutor. I don't know whether the military
5 prosecutor will call us later to ask us more questions. But I want to tell you that the questions which
6 were put to me here and those asked of me by the investigators of OTP are different by the questions
7 asked by the military prosecutor.

8 Q. Yes, I know that there is a difference -- they are different, but I want to know what are the differences.

9 MS. MULVANEY:

10 Mr. President, Your Honours, I would like to know whether or not the Defence has this document. We
11 do not have this document. We have made a discovery demand on Defence counsel. If they have
12 that document, we need to be provided with that document.

13 MR. CONSTANT:

14 Maybe there was a translation problem, because about ten minutes ago I told the Court that before
15 asking this question, I did not know that he had been interviewed in Rwanda. So it means that I do
16 not have that document, but maybe we should request the Trial Chamber, the Court, to ask Rwandan
17 authorities to provide us with the documents, co-operate with the Court. So in answering Ms.
18 Mulvaney, I would just say that I don't have that document.

19 MR. PRESIDENT:

20 You are confirming that no Defence team has this document -- no Defence team has this document,
21 and you are alerting the Chamber that one or both parties may later on ask the Chamber for
22 assistance to get it. But we will deal with it if such request is made, and we can solve it through other
23 avenues.

24

25 Can we proceed now with the next question?

26 MR. CONSTANT:

27 I have to tell the Trial Chamber that -- and I am speaking here on behalf of Colonel Bagosora's team.
28 I am not speaking about the other three teams, but we do not have that document, I just want to say
29 this.

30 MR. PRESIDENT:

31 Is there any team -- is there anyone in this room which has the document?

32 MR. DEGLI:

33 Not our team, Mr. President.

34 MR. BW'OMANWA:

35 We don't, My Lord.

36 MR. TREMBLAY:

37 No.

1 MR. PRESIDENT:

2 Thank you.

3 MR. CONSTANT:

4 A brief comment, Mr. President, before moving forward. If I understood Ms. Mulvaney, they said that
5 they would like to see this document. So it means that she is implying that they know the existence of
6 such a document.

7

8 Anyway, before the interruption by Counsel Mulvaney --

9 BY MR. CONSTANT:

10 Q. I was asking the witness, if he remembers, can he tell us what are the differences. It seems there are
11 differences. What are the differences between the military prosecutor and what you told this Court
12 regarding Colonels Bagosora and Nsengiyumva?

13 A. There is a difference. The Rwandan government wanted to know the high-ranking officers who
14 passed through our roadblock. They did not ask us many questions. They wanted to know the
15 names of the people involved in the genocide and who passed or came to our roadblock. They were
16 not interested in what they did. They wanted to know the identity of people who passed through that
17 roadblock, and I was not the only one who was interviewed. You can contact your investigators and
18 you will realise that many people were interviewed.

19 MR. PRESIDENT:

20 *(Inaudible)*

21 MR. CONSTANT:

22 Yes, Mr. President.

23 BY MR. CONSTANT:

24 Q. If I understood your evidence, sir, from the 8th of April up to the month of July, you were at that
25 roadblock or check-point which was in front of President Habyarimana's brother-in-law. Is that
26 correct?

27 A. That is correct, that is where I was. Now you are asking me questions about that roadblock.

28 Q. I will have many questions about that roadblock, and you were there up to July; is that so?

29 A. Yes, I did not flee. I remained in the neighbourhood, I did not move out of that neighbourhood.

30 Q. Do you remember the date when the roadblock was dismantled or removed, when the RPF soldiers
31 got there in July?

32 A. Yes, I remember.

33 Q. Can you give us the date, please?

34 A. Fourth of July 1994.

35 Q. Did I understand you well. Did I understand your evidence well that you said that on the 8th of April,
36 Corporal Irandemba came and got you so that you could go to the roadblock? Is that correct?

37 A. At that time the roadblock had not been set up. There were many of us there, but we had not yet set

- 1 up the check-point or the roadblock. There were many of us there. We had not yet started stopping
2 people and killing them. I think that two or three people had been killed in our neighbourhood, but not
3 at the roadblock.
- 4 Q. I understand your concern for cooperation with us, but please answer my questions. Do you agree
5 that Corporal Irandemba came to see you on the 8th of April and asked you to go in front of Proteise
6 Zigiranyirazo's house?
- 7 A. Counsel, I have not come here to lie. I am telling you how things occurred. I am not here to tell lies to
8 all these people here.
- 9 Q. I am just asking you, Witness, to confirm what you said. Maybe I didn't understand you.
- 10 A. Yes, they came to get us and they took us in front of Zigiranyirazo's house, and he took people --
11 watchmen, who were in the neighbourhood there.
- 12 Q. So if I understand you well, all watchmen who were in the neighbourhood were ordered to go in front
13 of President Habyarimana's brother-in-law's house. Is this your testimony?
- 14 A. Yes, but only those who were close to that house. I am not talking about all the watchmen in the
15 Kiyovu neighbourhood, I am talking about the watchmen who were working near Mr. Zigiranyirazo's
16 house.
- 17 Q. What I want to understand is, was there a difference? There were only Tutsi -- or, all the watchmen
18 called to come there -- regarding the watchmen who were called there?
- 19 A. All watchmen of all ethnic groups were called. They did not ask for identity cards, they simply asked
20 for all watchmen to go there.
- 21 Q. Very well. You told us, and can you confirm this, you told us that when you got in front the president's
22 brother-in-law's house, you found there seven watchmen?
- 23 A. I was the eight watchman, yes, when I got there, there were already seven watchmen, and here I am
24 referring to watchmen who worked near that place.
- 25 Q. Now, in order to save time, and before the break, I would like to know who those seven watchmen
26 were. Can you put their names on a piece of paper? And here, I am referring to the watchmen you
27 found in front of Zigiranyirazo's house.
- 28 A. Yes, I have no problems giving you their names, because they are still alive. All the people who were
29 there at the roadblock are alive, none of them was killed. All of them are alive, whether they are
30 Hutus or Tutsis.
- 31 Q. Thank you.
- 32 A. Thank you, counsel.
- 33 Q. From the 8th to the 12th -- and here I am referring to the roadblock -- what happened -- before the
34 mounting of the roadblock, what were you doing there? You know, soldiers, watchmen, what were
35 you doing in front of the president's brother-in-law's house?
- 36 A. Don't ask me that question, because I don't know why we were there. I did not ask any questions. I
37 was afraid, so I did not ask why.

- 1 Q. I am not asking you what the other people were doing. I want to know what you were doing there
2 from the 8th, 9th, 10th, up to the 12th. What were you doing there?
- 3 A. I was there, we could move about freely, we could go to the houses which we were guarding and go
4 back at that place. These were our instructions.
- 5 Q. Maybe I didn't express myself well. You were there, but you were not doing anything specific. You
6 were just there in front of the house waiting or did you have specific instructions regarding
7 surveillance or doing something else?
- 8 A. No, they didn't tell us anything. We were there. They told us, "You can go to take a look at the
9 houses you are watching over." We were given specific times to visit the houses we were watching
10 over and then come back to that spot. This was an order.
- 11 Q. But from the 12th onwards, you were at the roadblock checking identity cards. Is that correct?
- 12 A. We started checking identity documents on the 12th.
- 13 Q. Very well. So there was a specific function there at the roadblock, that is, preventing people from
14 passing through without them first showing their IDs? Is that correct?
- 15 A. No one could pass through the roadblocks without their IDs checked, even vehicles, even armoured
16 vehicles of soldiers were stopped to see whether there were no Tutsis who were hiding inside them.
- 17 Q. I want to know, during those three months, how things were organised, because you have told us that
18 you were there permanently, but from time to time you'd go to the houses you were guarding. So I
19 would like to know how things were organised. You told me that there were specific hours, you know,
20 organised for specific things?
- 21 A. Yes, for a few minutes we'd go to take a look at the houses we were watching over, and then we
22 would go back to the roadblock.
- 23 Q. But what I would like to know, Witness, what I mean, rather, is: You were eating there -- were you
24 eating there, were you sleeping there?
- 25 A. Yes, we used to spend the night at the roadblock. Food would be brought to us at the roadblock.
- 26 Q. And when you went to look at the houses, it never crossed your mind that you could flee?
- 27 A. No, I didn't think about fleeing. I was afraid that if I went to another neighbourhood I would have been
28 killed.
- 29 Q. If I understood you well, I mean, subject to your confirmation, you told us that when you allowed
30 Murumba to go to the residence where you were working, he sought refuge at the dwelling of the
31 watchman. Is this what you said?
- 32 A. Yes. He is still alive, and other people who hid there are still alive. I can give you their names. You
33 can telephone them and they can confirm my testimony.
- 34 Q. So I am simply asking you to confirm. And can you just confirm what I am just asking you..
- 35 A. Yes, that is exactly how things happened.
- 36 Q. So Murumba stayed on where you worked in the watchman's dwelling up to the month of July?
- 37 A. No, no, he did not stay in the watchman's house. *(By order of the Court, this name has been*

- 1 *extracted and filed under seal*) went to the ICRC and opened the main building where Murumba
2 stayed up to the end of the war. So he lived in the white man's house, not in the watchman's house.
- 3 Q. Thank you for the clarification.
- 4 MR. PRESIDENT:
- 5 So the reference to the person will be struck from the record in the court video system and in the
6 transcripts.
- 7
- 8 Next question.
- 9 BY MR. CONSTANT:
- 10 Q. Witness, please bear in mind, you should not mention your employer's name. Just say my employer.
11 It will be much simpler.
- 12 A. Yes, I have understood.
- 13 MR. CONSTANT:
- 14 Thank you, Mr. President, for your comments.
- 15 BY MR. CONSTANT:
- 16 Q. Witness, I don't understand. If Murumba was able to hide in that house throughout that period, why
17 did you not hide in that house as well?
- 18 A. I did not hide because people knew that I was there, so I could not hide. If they knew that I was
19 hiding, they would have flushed me out of my hiding place. They knew that I was a watchman in that
20 neighbourhood. Moreover, on the 8th when they asked us to go out, they came to the gate, called us
21 and I went out. So I could not have hidden. Moreover, Irandema is someone I knew very well and he
22 knew me. So I could not have hidden.
- 23 Q. Okay. Yesterday you told us that you were armed with a machete when you arrived at the roadblock.
- 24 A. Yes. I got rid of the machete when RPF soldiers came there. I threw it away.
- 25 Q. Can you explain to me why you had a machete?
- 26 A. Yes, we were told that we should bring with us our weapons, that is, weapons we used in our
27 occupation as watchmen. This is why I took my machete with me.
- 28 Q. So, if I understand you well, you were not given the roadblock -- the machete at the roadblock, you
29 came with the machete?
- 30 A. Yes. They did not give me any weapon. I took my machete with me.
- 31 Q. Did you use that machete?
- 32 A. I think that you should not ask me that question. That question should be put to me by Rwandan
33 authorities, but suffice to say that I did not use it.
- 34 Q. So if I understand you, during the three months at the roadblock, at no point in time you used your
35 machete. Is this what you are telling us?
- 36 A. I used it, for example, when they bring a goat I was entrusted with the task of slaughtering goats. I
37 was also given the task of collecting dead bodies, the bodies -- they said that the bodies should be

1 collected by the tribesmen of those people who were killed.

2

3 So I was given the task of slaughtering goats as well as collecting bodies.

4 Q. So your role at the roadblock was simply collecting bodies? You didn't kill anyone?

5 A. No, I did not kill anyone. We Tutsis who were there were ordered to collect bodies. But when they
6 bring, for example, a chicken or goats, we would slaughter them. But they were the ones who
7 prepared such slaughtered animals, because they were afraid that we could poison them.

8 MR. PRESIDENT:

9 How many Tutsis were there at the roadblock, Witness?

10 THE WITNESS:

11 Not many. The watchmen worked very near Zigiranyirazo's house there. No one was killed from
12 amongst them, but they said that they were going to kill them on the day of President Habyarimana's
13 burial. But no Tutsi who was near Zigiranyirazo's house was killed at the roadblock. All those who
14 were taken to the roadblock survived. No one was killed.

15 MR. PRESIDENT:

16 So how many were you then, approximately, during this period, loading bodies -- Tutsis?

17 THE WITNESS:

18 I think that there were seven or eight of us.

19 BY MR. CONSTANT:

20 Q. Earlier you promised that you would draw up the list of eight watchmen that were there on the 8th of
21 April. But these are not the same people you referred to seconds earlier in response to
22 Mr. President's question regarding the number of Tutsis. They are not the same. You are not talking
23 about the same list.

24 A. I think I can remember, but I think that among the people loading bodies -- removing bodies, all of
25 them were there. They are still alive. No one was killed at that roadblock. If you wish, if you want to
26 meet them, you can contact me, and I will take you to them.

27 Q. Thank you for that, but I also would like to request you to give us, in writing, the names of Tutsi
28 watchmen who were at the roadblock and were not killed. So this will be a second list.

29 A. Yes, I will also give you those names.

30 Q. Thank you, Witness. If I understand you well, in your analysis of facts, rather, in your presentation of
31 facts, you consider that you were obliged -- compelled to be at the roadblock.

32 MR. CONSTANT:

33 Mr. Matemanga, what I would like to suggest, in order to save time, maybe you could do this after the
34 break, or during the break. Now, we will have two lists.

35 BY MR. CONSTANT:

36 Q. So, sir, you were compelled, forced to be at the roadblock?

37 A. I mean, where should I have gone? If I had gone elsewhere I would have been killed. That is why I

1 remained there.

2 Q. Hold on, sir. What I am trying to understand so that things become clear, in Kiyovu neighbourhood
3 there were several roadblocks. Is that correct, that is, other than the roadblock which was in front of
4 Protais's house?

5 A. Yes, there were roadblocks which were manned by three or four people. But most people went to our
6 roadblock. The other roadblocks did not stop vehicles. There were very few of them in the
7 neighbourhood, and the people who were there knew me and I knew them, but I could not get out of
8 Kiyovu neighbourhood.

9 Q. But what I want to tell you is that in general it was considered that people who were at the roadblock
10 were there because they wanted to be at the roadblock. But if I understand your position, you are
11 telling is that you were there because you had no other solution, you were forced and given the order
12 to go there, and you remained there because you had an order that you should stay there. Is that
13 correct?

14 A. Yes, but, I could not move about elsewhere because killings were going on elsewhere.

15 Q. I am going to give you a piece of paper, sir, and there is a name on this piece of paper. Now, I am
16 going to ask you, do you know this person?

17 MR. CONSTANT:

18 I would like to tell the Court, this is XXC's name. Mr. Matemanga, kindly take this piece of paper. I
19 believe that you have a copy -- a handwritten copy, but, please take my copy -- this one.

20

21 Please hold on a second, I just want to check something.

22

23 I am sorry, no, no, it's not that piece of paper, I am sorry. It is not this piece of paper, because this is
24 his name. It is this piece of paper that I want the witness to be shown.

25

26 I would like to apologise to the Court. I would like to make a clarification. This first document has the
27 name of this witness, and this document has the name of a witness who has already appeared before
28 this Court with the pseudonym XXC.

29 BY MR. CONSTANT:

30 Q. Do you know that person, Mr. Witness?

31 A. Yes. He -- I think that he worked at the Rue Deputy Kamuzinzi near the European Union's office.

32 Q. Now, did he know you, if you know?

33 A. No, he didn't know me, but he came to our roadblock quite often during the genocide. He saw me
34 there, but he didn't know my names. I don't think he knew my name. We didn't see each other that
35 often. He worked further away from our place.

36 Q. When did you start working at the Kiyovu neighbourhood?

37 A. I was there for a long time. I don't remember when I started. Well, I worked there for a long time. I

1 changed, I had different bosses, different employers, but I wasn't there for long.

2 Q. Now, in one of your written statements, you said that the position you occupied during that time, that
3 is, in April 1994, that you started working there in February 1994; would that be correct?

4 A. That is what is written, but that is the time when that project was set up there, and the employees
5 changed. But I stayed at that house for a long time. I worked at that building for a long time.

6 Q. So if I have understood you, you were assigned permanently to a building. It was only those who
7 lived there who changed?

8 A. Now, the owner of that building is a neighbour in my *commune*. I was a watchman at the house. The
9 people who lived there changed, but I was there and each time the employer came he found me
10 there.

11 Q. And you have no idea when you started working at that house?

12 A. I think it was around '82, '83 -- say between '82 and '85. I think it was during that period that I started
13 working there. But I had a job elsewhere in Kiyovu neighbourhood, but in regard to that particular
14 building. It was between '82 and '85.

15 MR. PRESIDENT:

16 And when did you start working with that particular organisation for which you were working in '94,
17 when was that?

18 THE WITNESS:

19 I think I started working for that organisation in February 1994, and I think I have my service
20 attestation. I can (*sic*) have it on me -- my service attestation, I hope I didn't leave it where I spent the
21 night.

22 MR. CONSTANT:

23 Can I proceed, Mr. President? Fine, thank you.

24 MR. PRESIDENT:

25 All right.

26 MR. CONSTANT:

27 Thank you.

28 BY MR. CONSTANT:

29 Q. So, between 1994 and now, easily 10 years. You had already been there for say, 10 years.

30 A. I think it is more than 10 years. I had just got to the building, but as for the neighbourhood, living in
31 the neighbourhood, I stayed there for more than 10 years.

32 Q. And you said that in spite of that, the person I gave you the name earlier on did not know you.

33 A. I think that person who worked there with his wife had just arrived in the neighbourhood, and I think he
34 was working with someone who was in the CID A project. They didn't worked in the same area, but
35 he worked in an area where I passed through quite often, and he worked right up to the morning and
36 went back to his home.

37 Q. Because that witness told us that he started working at the beginning of the '90s.

- 1 A. No, then he didn't tell the truth -- it could be possible, but when I saw him, when I started seeing him,
2 he used to work at night, and he went home in the morning, and when I concluded my own shift, I
3 didn't come back to see who was there, but I often saw him when I was at the I roadblock, that is
4 when I saw him very often. But I can't tell you for sure when he started working there.
- 5 Q. When you say you saw him at the roadblock, because he was amongst those who had been
6 mobilised, who had been called to report at the roadblock?
- 7 A. No, no, he was not called, he was ordered to report.
- 8 Q. So what was he doing at the roadblock if he had not been asked to come?
- 9 A. Well, he was manning a small roadblock at the level of the European Union and then from time to time
10 he would come to our own roadblock. They had a small roadblock that had been mounted at the
11 European Union office. Occasionally he would come to our roadblock and then go back.
- 12 Q. And the roadblock at the European Union office, was he compelled to go there, was he asked to
13 report there? Do you know about this, or was he the one who chose to go there?
- 14 A. I used to see him with a gun. I don't know who asked him to go to that roadblock, but when he got to
15 our own roadblock he was armed, and then later on he would go back to the roadblock that he was
16 supposed to man.
- 17 Q. So you are saying that he was armed -- he was carrying a gun?
- 18 A. Yes, yes, he had a gun.
- 19 Q. And did you see him commit any crime?
- 20 A. No, but I used to hear the sound of gunfire that came from their own roadblock, but I didn't see him
21 kill, and I didn't get to his roadblock. We had our own roadblock, they were in a smaller roadblock
22 and I used to hear the sound of gunfire coming from their own roadblock, but I didn't see him kill.
- 23 Q. Earlier on you told me that Corporal Irandemba called you on the 8th of April, in fact, all the watchmen
24 in that area were called to report. That is what you told me earlier.
- 25 A. Yes, that is true, but that person worked at the Presbyterian church building further on, but he was not
26 summoned. It is -- those who were summoned were people who worked at the Avenue Bugarama
27 and the Avenue Kayuku.
- 28 Q. Indeed, that is what surprises me. Well, we could get back a bit regarding how the place was set. But
29 you told us that this roadblock was quite close to the Presbyterian church. So I don't quite understand
30 why he was not summoned -- why he was not required to report, that is, amongst those who had been
31 required to report.
- 32 A. Let me answer your question. He worked at the Rue Deputy Kamuzinzi, but those who were required
33 to report were those who worked on the Rue Deputy Kayuku and Avenue Bugarama. Those who
34 were working at the Rue Deputy Kamuzinzi, were not required to report, they had their own roadblock
35 a bit upper up, and those who lived near Sibikangwa were not required to report at the roadblock
36 close to our place.
- 37 Q. Well, it does happen that when that witness appeared, he was asked whether people were compelled

1 or obliged to go to the roadblock. He told us that people went there, but no one was obliged, and that
2 those who were at the roadblock had to go there voluntarily. Doesn't that contradict what you told us
3 about people being compelled to go to the roadblock?

4 A. Well, I am speaking for myself, what I saw and what I did. If he was not ordered to do so, there
5 were -- I was told to do so, and there were others who were ordered to report at the roadblock.

6 Q. So that there be no misunderstanding, I am going to read an extract from the testimony of that
7 witness, and it is dated 19th September 2003; cross-examination of XXC, French version, page 61;
8 English version page -- sorry, copies were made just this morning -- can't find it.

9 MR. PRESIDENT:

10 Page 55.

11 MR. CONSTANT:

12 You said 55? Yes.

13 BY MR. CONSTANT:

14 Q. XXC replies: "Yes, all those engaged in the same profession as myself and who live at Kiyovu had to
15 report where the roadblocks were mounted." "Yes, there were some people who wanted to do so,
16 and those who didn't want had no interest in doing so."

17

18 Could you tell me what you think of that testimony?

19 A. Well, people are not telling the same story, people speak for themselves. So that is what he saw, and
20 I guess he has to speak about what he saw, and people didn't see things in the same manner. I talk
21 about what I saw.

22 Q. But, sir, we are in the same neighbourhood, and the question is one of knowing whether you were
23 compelled to report at the roadblock, and you say something, and there is someone of the same
24 profession in the same neighbourhood and talking about the same roadblock and that person says
25 that those who were at the roadblocks are people who wanted to be there. Do you agree that there is
26 some difference there?

27 MS. MULVANEY:

28 This has been going on for three, four times now, Your Honour, I think, it is probably time to move on.
29 He has given an answer.

30 MR. PRESIDENT:

31 Asked and answered.

32 MR. CONSTANT:

33 I don't think so, but I will comply with the ruling of the Chamber.

34 MR. PRESIDENT:

35 You see, Mr. Constant, that you may not be absolutely content with his answer, but that you will use it
36 in your submission and say that that is not convincing, if you think so, but that was his answer. He
37 has said twice now why there may be differences between persons of the same profession

1 concerning this particular point, and that is why we have to move on.

2 MR. CONSTANT:

3 Well, Mr. President, I will comply.

4 BY MR CONSTANT:

5 Q. Well, there is something that I would like to understand. At the end of your evidence-in-chief, you said
6 you believed that you survived because you were protected by your boss. You remember having said
7 that, do you?

8 A. Yes, that was my testimony.

9 Q. And earlier, in answer to a question from the President, you explained that all the Tutsi watchmen who
10 were at your roadblock survived; indeed?

11 A. Yes. Those who were asked to report right at the beginning, that is, those who participated in the
12 mounting of the roadblock were not killed.

13 Q. So if I have understood you right then, all those Tutsi watchmen who were there from the beginning,
14 were all protected. Were they all protected?

15 A. Yes, we were protected, because Irandemba and others who manned the roadblock knew us, and
16 they were told that on the day President Habyarimana was going to be buried, "You will be killed," but
17 they didn't do so. No one was killed; they were not killed.

18 Q. Do you remember when President Habyarimana was buried?

19 A. No, I don't know -- I don't know whether the burial took place in Rwanda; I don't know.

20 Q. But you agree that these Tutsi watchmen were all, according to what you have told us, on the 2nd of
21 July, 10th of July, or 4th of July, in any case, when the RPF took over the Kiyovu neighbourhood, all
22 those watchmen were still alive?

23 A. All the watchmen were not at the roadblock, some were afraid, and had to be accompanied by their
24 *Interahamwe* friends, either to the *Eglise de famille* or to ICRC. At any rate, the number of watchmen
25 that I gave you were there when the *Inkotanyi* took over the neighbourhood. But those who had
26 *Interahamwe* friends, asked them to accompany them to more secure areas. The number I gave you
27 was the number of watchmen who were at the roadblock when the RPF arrived.

28 Q. Now, to understand clearly what you are telling us, if those watchmen survived, all of them -- did all of
29 them have a boss who spoke on their behalf or because they had some good relations with Corporal
30 Irandemba?

31 A. Well, their bosses were no longer in the country. I think it is because they knew Corporal Irandemba
32 who was working close to that place. All those who knew Corporal Irandemba were not killed.

33 Q. So you, yourself, who knew Corporal Irandemba could not have been killed, not necessarily because
34 your boss intervened, or maybe because of both reasons?

35 A. Well, I think it is for both reasons. But it is true also that my boss spoke to the *Interahamwes* in the
36 manner that I told you. He also spoke to Corporal Irandemba. You see, he provided medicines for
37 them.

- 1 Q. So if I understood you, your boss came Sunday to the roadblock and to say to Corporal Irandemba,
2 well, not to kill you; is that right?
- 3 A. Well, he went by there regularly to see those who were in his house. He provided them with food, and
4 he had to go by our roadblock.
- 5 Q. Yes, I have understood you when you say that he went by regularly, but is it a fact that some day he
6 just came by, stood, told Corporal Irandemba not to kill you?
- 7 A. Well, the very first day when he came, let me say one day after the mounting of the roadblock, he
8 came -- he came quite often to see those who were hiding in his residence.
- 9 Q. And it was on that occasion that he made that statement, is that right?
- 10 A. Yes, yes, at the very beginning, that is when he made that statement, but he went by on a regular
11 basis to look for persons who had been injured. He went by there very often.
- 12 Q. That is on or about the 13th of April, if it is just after the mounting of the roadblock.
- 13 A. Yes, yes, it was on that day that he came, when that roadblock was established and he started
14 coming quite often to see the people who were in his house.
- 15 Q. And Corporal Irandemba said, that is fine, he was not going to kill you. Is that right?
- 16 A. He even told them, "Please, do not attack my home."
- 17 Q. No, no, what I am asking you is about the answer. What was the reply of Corporal Irandemba to your
18 boss who was asking that you not be killed, and the Corporal said that's fine, he agreed?
- 19 Q. Well, he was speaking in general terms. He didn't address Corporal Irandemba specifically, he was
20 speaking in general. He said; "Please do not kill my watchman, and do not attack my home." And
21 people told him, "That's fine, Okay," that is what I want you to understand.
- 22 A. And they said, "Yes." And they added, "Bring us medicine for malaria and other drugs." They asked
23 for medicines, they asked for beans, they asked for sugar, and they promised that they would not
24 attack his home.
- 25 Q. So there were about 40 *Interahamwes* who were there. Well, none of them said no, all of them just
26 said, "Yes, we are not going to attack your house; we are not going to kill your employer." Is that
27 right?
- 28 THE ENGLISH INTERPRETER:
29 "Their employee," in fact.
- 30 THE WITNESS:
31 Yes, absolutely. In fact, when he came they would all stand up and salute him. They had respect for
32 him.
- 33 BY MR. CONSTANT:
34 Q. And for the three months period there was no *Interahamwe*, no *Interahamwe* leaders, no soldier
35 amongst those who were going by? I find that this is strange. they were killing just Tutsis who were
36 at the roadblock?
- 37 A. No, they weren't checking the ethnic group of those who were manning the roadblock.

- 1 Q. But -- very quickly, because we are going to deal with this matter. When there was that so-called
2 meeting you made mention of at the Kiyovu Hotel, You said that a decision was made at some point
3 that Tutsi watchmen should be killed?
- 4 A. It was during a meeting that this decision was made, that is when the matter was raised, and it was
5 later on, towards the end of the month of June, and all the watchment attended the meeting. But prior
6 to that nobody said that Tutsis who were at the roadblock were going to be killed. They came -- he
7 would come, commend the *Interahamwes* and then leave.
- 8 Q. Well, ultimately that order was not applied -- was not implemented, because the Tutsi watchmen who
9 were at the roadblock were not killed. Is that right?
- 10 A. The Tutsi watchmen who were with me at the roadblock were not killed. I believe in the course of the
11 meeting where that decision was made corporal Irandemba did not kill anyone. He didn't ask us to
12 provide out identity cards. It is those who were in the neighbourhood in the other areas who gave
13 their identity cards, but there were people as their friends, to hide them, for instance.
- 14 Q. Well, without going into details, there is something that I don't understand. You said that Colonel
15 Bagosora had said that these Tutsi watchmen should be killed, and then you said that there were
16 some other soldiers who arrived. And if I understood you clearly, it was Corporal Irandemba who was
17 able to control the situation to ensure that Tutsi watchmen are not checked or killed. I don't quite
18 understand that. I don't get that.
- 19 A. We were at that roadblock, we who were Tutsis were protected by Corporal Irandemba and the other
20 *Interahamwes*. All the *Interahamwes* who were working at the Kiyovu neighbourhood protected us.
21 They put us aside, and those who were with Corporal Irandemba were put aside. We were not asked
22 to produce our identity cards because everyone knew us.
- 23 Q. So you want to say that Corporal Irandemba did not follow the orders of a senior officer, is that what
24 you are saying?
- 25 A. I am saying to you that we who were at the roadblock under the command of Corporal Irandemba
26 were not inconvenienced. But then he asked for the identity cards for those who were in some other
27 roadblocks, and not all the Tutsis who were at the roadblock, not all of them went to the meeting.
28 There were others who stayed back. There were *Interahamwes* who were there to man the roadblock
29 -- who stayed behind to man the roadblock. It is just some people who went to attend the meeting.
30 They stayed there behind to man the roadblock, to continue with the work of gathering dead bodies.
31 Not all the Tutsis went. We went accompanied by the leader of the roadblock, the man in charge of
32 the roadblock, and we went with him because we were protected.
- 33 Q. Well, you have not quite answered my question, but I will move on to some other matter along the
34 same line of questioning.
- 35
- 36 Now, you told us yesterday in the course of your examination-in-chief regarding that so-called meeting
37 that you say took place at Kiyovu Hotel, that there were a lot of people, there were a lot of soldiers,

1 many of them who came. You remember having said so?

2 A. Yes, I do remember having given that evidence.

3 (*Pages 16 to 30 by Regina Limula*)

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1 1030H

2 BY MR. CONSTANT:

3 Q. So if I have understood you, now, those soldiers implemented not the orders issued by Bagosora,
4 namely, that Tutsis be killed, but rather that of Corporal Irandemba, namely, that Tutsis be protected?

5 A. Well, they followed the orders of Colonel Bagosora. There are people who were taken to the Kigali
6 *préfecture*, and there were others who stayed behind. We were amongst those who stayed behind,
7 who were not taken, who were under the orders of Corporal Irandemba. There was a group that
8 stayed at Kiyovu hotel, and there were others who were taken to the *préfecture*. I hope you
9 understand me.

10 Q. Well, one version you gave us was that -- or you claim that Colonel Bagosora had said that Tutsi
11 watchmen should be killed. This is what he said at some point, no, please just wait. Let me finish

12 A. No, he not only talked about the watchmen, he talked about the Tutsis in general. He said -- he talked
13 about the Tutsis who were there, but then he insisted on the fact, he insisted on Tutsi watchmen,
14 because they were there. It's not only the watchmen who were taken to the *préfecture*; there were
15 others. I do remember there were some 40 watchmen who were taken to the *préfecture*.

16 Q. We will get back to it. All I am saying is that in one of your statements -- in your evidence, you said
17 that Colonel Bagosora had asked that the Tutsi watchmen be killed. I am wondering how a corporal,
18 not known to many people, succeeded in not complying with an order of a senior officer.

19 A. They took those people to the *préfecture*, and after that, Bagosora left. Bagosora left immediately
20 after those who were to go to the *préfecture* had gone.

21
22 Now, there was another group which stayed behind, and it is from that group that those who were
23 killed, that is between Kiyovu hotel and BUNEP -- I don't know how Corporal Irandemba went about
24 keeping those people who stayed behind. But Bagosora and other officers followed the group that
25 went to the *préfecture*. We stayed behind at Kiyovu, and those who were to be killed were selected. I
26 don't know what Corporal Irandemba told those other soldiers who were at the Kiyovu Hotel.

27 A. Well, we will get back to it, because that seems to me to be a problem.

28 MR. CONSTANT:

29 I would like, before getting to that point -- Mr. Matemanga, could you give to the witness Exhibit P. 98?
30 P.98. That is the plan or the sketch that was drawn by Witness XXC. Now, it's among those items. I
31 gave you a copy.

32 BY MR. CONSTANT:

33 Q. You see the document, sir?

34 A. Yes.

35 Q. Now, in this document, Witness XXC tried to write down or to set out all the roadblocks that were at
36 the Kiyovu neighbourhood.

37

1 Now, if you have that document, you will notice that, below, to your left, you have the residence of the
2 brother-in-law of President Habyarimana. Do you see what he was --

3 A. Yes, I can see that house?

4 Q. And do you see that, at the top, to the left, there is a roadblock close to the house of Simbikangwa?

5 A. Yes.

6 Q. Now I simply wish to ask you whether this sketch reflects reality, I mean what appears for real.

7 A. No, it's not a proper presentation of the situation because the roadblock that -- was not close -- it was
8 close to the European Union, not close to the house of Simbikangwa. So apart from that there are no
9 other problems with the sketch.

10 Q. Now, on the main highway there were no other roadblocks.

11 A. Maybe there was a roadblock at the level of the National Bank, but there were no other roadblocks.

12

13 Now, the roadblock that was manned by the person whose name you showed me earlier on, was
14 close, that roadblock was close to the office of the European Union. I am not telling a lie.

15 Q. You don't need to tell me that you are not telling a lie.

16

17 Now in the sketch you have before you, there are at least three roadblocks. There's the one at the
18 brother-in-law of the president's house. There's the one close to the house of Simbikangwa, and you
19 would say that that's not quite right. There's another one that's on -- on the left hand side of this
20 sketch. On the right, you have a toll gate, where allegedly there is a roadblock.

21 A. Yes, yes, I could see those roadblocks. Now, that latter roadblock you made mention of, I didn't see it
22 during that period. I didn't go as far as that place.

23 Q. Now according to that, witness, the roadblock that was at the toll gate was manned by the
24 *Interahamwes*. You can see it is not -- they had written down, "Barrier *Interahamwe*". The one at
25 Simbikangwa's house was manned by the army, and the one at Zigiranyirazo's house was manned by
26 the army and *Interahamwe*. So that is what we were told by XXC. What do you think?

27 A. Well, people say what they see. They talk about what they saw, and I am talking about what I saw.

28 Q. So you didn't see that -- those guards -- but you, you saw them. Is that what you are saying?

29 A. Well, people talk about what they saw. I don't know what he saw. I am talking about what I saw. We
30 are not one and the same person. I am telling you about what I saw personally.

31 MR. PRESIDENT:

32 Yes, but on which point is it that you are disagreeing? Here you have seen Simbikangwa's house,
33 then the roadblock. And according to the sketch, it was staffed by army people. You disagree or
34 agree?

35 THE WITNESS:

36 No, I don't agree. I don't think Simbikangwa erected a roadblock. The fellow was disabled. He
37 couldn't put up a roadblock. How could he? And by the way, the location of that roadblock, as it

1 appears in this sketch, is not right.

2 MR. PRESIDENT:

3 We heard you say that, but it was closer to the CEE; is that so?

4 THE WITNESS:

5 Yes, it was close to the CEE, but one could clearly see the roadblock, and vehicles were not stopped
6 at that roadblock.

7 MR. PRESIDENT:

8 So there was a roadblock here. So there what is the discrepancy here, according to you, when it
9 comes to that roadblock? What is it, apart from the location, apart from the position, that you do not
10 agree with?

11 MS. MULVANEY:

12 Mr. President, if I may?

13 MR. PRESIDENT:

14 Yes, please.

15 MS. MULVANEY:

16 I think that it's perfectly appropriate to ask this witness what he saw, what he observed, maybe what
17 he knew, but the way that the question has been asked, we had a string of statements. This is a
18 roadblock that was manned by the soldiers, this was with the Interahamwes; they were here; they
19 were there; what is it that you disagree -- you know, what is it you disagree with? And so I am having
20 a problem following. We can go through each roadblock and ask him if he knows who was manning
21 that roadblock, but I am confused at this point, and I think that maybe the witness is confused.

22 MR. PRESIDENT:

23 Yes, and the Court is confused, and that's why I am doing exactly what you now propose that we
24 should do. I am and taking roadblock by roadblock and finding out, because there was a composed
25 questions in that one. It contained many elements, and now we have to find out what is it, the
26 disagreement.

27 MS. MULVANEY:

28 But could you just narrow it and ask him. I don't know that -- I don't know what the disagreement is,
29 because I don't know what the prior witness -- counsel is representing the prior witness had said this,
30 this, and this.

31 MR. PRESIDENT:

32 Yes.

33 MS. MULVANEY:

34 So, if you can ask him who manned the roadblock?

35 MR. PRESIDENT:

36 Yes.

37

1 MS. MULVANEY:

2 Where was the roadblock?

3 MR. PRESIDENT:

4 Yes.

5 MS. MULVANEY:

6 And we can figure out what the inconsistencies are.

7 MR. PRESIDENT:

8 Yes. And that is the method followed.

9

10 So, now we have noted, Mr. Witness, that you think that this roadblock was closer to the CEE, that's
11 one thing. Now, what else is it with this roadblock? Was it manned by army people, or *Interahamwe*
12 people, or both, or someone else? The roadblock between Simbikangwa's and CEEs building?

13 THE WITNESS:

14 I did not go to that roadblock, but people who manned that roadblock told me that there were some
15 watchmen at the roadblock. Sometimes they would come down to our roadblock. I don't agree when
16 they say that the roadblock was in front of Simbikangwa's house. There was no roadblock in front of
17 that house. He was on the left side of the street. How then could the roadblock have been in front of
18 this house? I don't understand that. I don't agree that there was a roadblock near Simbikangwa's
19 house.

20 MR. PRESIDENT:

21 All right. Now, we have heard that a few times.

22

23 Now, Mr. Constant, if you want to pursue this with discrepancies between this sketch and what this
24 witness tells us, can you then please follow the same method? Go step by step and find out where
25 there's disagreement. Please do that.

26 MR. CONSTANT:

27 I am almost through with this because the witness is saying, the roadblock which is on the right side,
28 he never went there during the time in question, and roadblock Z, with XX and *Interahamwes*, and he
29 says he was there. So there's inconsistency, here. I have just taken note of it, and I will move on,
30 Mr. President.

31 BY MR. CONSTANT:

32 Q. Witness, I am going to request Mr. Matemanga to give you a map of Kiyovu. And please tell me, on
33 that map, is it possible for you to give us some indications?

34 MS. MULVANEY:

35 Mr. President, Your Honours, I would request that counsel lay some foundation. I have found that
36 there are a lot of people who do not read maps. And before we ask him to do work with a map, I think
37 we need to find out whether or not he is comfortable reading a map, and whether he has been trained

1 to read a map.

2 MR. PRESIDENT:

3 That's a matter of routine. Now, please place this in front of the witness first and find out whether he
4 -- because maps are different. Some are easy to read; others are difficult to read. And then we will
5 ask those questions.

6 MR. CONSTANT:

7 I would like to assure Ms. Mulvaney. It's obvious that if this witness says he cannot read a map, and I
8 will duly note that, but this is not a complicated geographical map. It simply shows the layout of the
9 town of Kigali, you know, a part of Kigali, as simple as that.

10 BY MR. CONSTANT:

11 Q. Witness, in order to save time, during break, maybe you can look for about 15 minutes at the map,
12 with leave of the Court, and after which I can ask you questions on the map. So, please keep the
13 map. Let's move on.

14

15 I would like to --

16 MS. MULVANEY:

17 Your Honour, maybe -- I have another point, I am sorry. But the witness has now been given three
18 different homework assignments for the break. The witness also needs a break, and so -- and I am
19 not happy with the foundation that -- if that was a foundation for the map. I have worked with people,
20 and this witness, I have talked to him about maps. It's not an easy issue.

21 MR. PRESIDENT:

22 We will make sure that the break comes at an appropriate moment, and it's not far away. And during
23 the break, we will also be sure that we will repeat the homework, and we will also see what comes out
24 of the map exercise.

25

26 So, thank you for these points which will be borne in mind.

27 MS. MULVANEY:

28 There's one -- I am sorry. My point was that if we give him 15 minutes worth of homework to do
29 during our 15-minute break, he does not get a break. So I just ask that he would get some extra
30 time.

31 MR. PRESIDENT:

32 I understand this. Can we now have the next question?

33 MR. CONSTANT:

34 Thank you, Mr. President.

35 BY MR. CONSTANT:

36 Q. Witness, there are a number of things which I would like to understand so that we can compare your
37 evidence of yesterday, and the testimony before yesterday, compare it with the written statement.

1 You said that the first time that you saw Colonel Nsengiyumva, Colonel Bagosora and Colonel Setako
2 was the 14 of April; is that correct?

3 A. That is correct I said so in my evidence.

4 Q. And you said that on that occasion, since we agree on that point, you say that Colonel Bagosora
5 allegedly thanked people for their work; is that correct?

6 A. Yes, I said so, and I so confirm.

7 Q. No, no, I am just asking you to confirm, and then we will compare that to what you had said
8 previously. You also said that on that occasion, Lieutenant Colonel Setako told people they had to kill
9 Tutsis because they had killed President Habyarimana; is that correct?

10 A. Yes, I said so.

11 Q. And you also said that those three people were there for about ten to fifteen minutes; is that correct?

12 A. Yes, I think that they were there for that length of period, length of time.

13 Q. In your evidence you told us that approximately at the beginning of May, or on the 2nd of May, the
14 three colonels came there and spent about ten minutes; is that correct?

15 A. That is correct. They were there for about five to ten minutes. That was my evidence.

16 Q. And during that time, Colonel Bagosora told Zaireans that the time of the Tutsis and Tutsi women was
17 over?

18 A. Yes, I said so.

19 Q. And Nsengiyumva allegedly at that time told *Interahamwes* and people who were at the roadblock that
20 they should go and search the Presbyterian church, and that things should be left behind because
21 everything that was in Rwanda belonged to the Hutus; is that correct?

22 A. Yes, I said so. And it's true that he said so.

23 MR. CONSTANT:

24 I would like to apologise to the court reporters because I was going a bit too fast.

25 BY MR. CONSTANT:

26 Q. You said that the third time was around mid-June; is that correct?

27 A. Yes, that is correct. I saw them, and I said so.

28 Q. So the three colonels allegedly passed there, and only Mr. Setako alighted from his vehicle; the others
29 remained in the car?

30 A. Yes. I said so?

31 Q. And you said that he was there just for about two minutes?

32 A. No. That is not what I said. I did not say that they were there for two minutes on the third occasion. I
33 said that they were there for about 20 minutes, not two minutes. You can check that out.

34 Q. Okay. I could -- I could admit to something, but unless I am mistaken, yesterday, at around mid-day,
35 20 past 12, you said that, "In the middle of June, I saw them again. They were there for about two
36 minutes at the roadblock. They were in the vehicle. Only Setako alighted."

37 A. I think that I was misunderstood. I said that they were there for about 20 minutes. You can check

1 that. Maybe there was a slip on my part or I was misunderstood, but they were there for about 20
2 minutes.

3 Q. So, I take note that you say that they were there for 20 minutes, but we will countercheck with the
4 recorded version.

5 MR. PRESIDENT:

6 My note says something which confirms approximately what the witness says; middle of June
7 meeting.

8 MR. CONSTANT:

9 Very well, Mr. President. Then it's obvious that I didn't take my note down properly.

10 BY MR. CONSTANT:

11 Q. If I understood you well, during those 20 minutes, the two Accused, Colonel Nsengiyumva and
12 Colonel Bagosora, stayed or remained in the vehicle is that correct?

13 A. Yes, that is correct, and that is what I said.

14 Q. Only Setako alighted, got out of the vehicle?

15 A. Yes, only Setako got out of the vehicle.

16 Q. So what did the two Colonels do during those 20 minutes in the vehicle?

17 A. They remained in the vehicle. They were looking at the bodies which were strewn over the place, and
18 they were chatting.

19 Q. Very well. Can you tell us, because in the case of the two first occasions, you say the first time it was
20 the 14th of April, and the second time you estimated it was the 2nd of May. But here you don't have a
21 date. You simply say it was in the middle of June.

22 A. We didn't have calendars there. We didn't have calendars there. If you had been in my shoes, how
23 would you have known dates when you didn't have calendars?

24 Q. Look, I don't have a calendar here, but I know that today is the 6th of November. So, I am trying to
25 understand, why is it that at times, you are quite specific when it comes to dates but at times you are
26 quite hazy. What allows you to say this? Is it because it's in relation to an event which happened
27 prior or after that?

28 A. Initially I remembered the dates, but you see, collecting bodies every day, witnessing killings every
29 day, you just lose your mind. You end up losing your mind. We were really frightened. We could not
30 know dates.

31 Q. If I understood you well, you said that initially you remembered dates. Did you have the opportunity to
32 give dates prior to coming here?

33 A. I think that the investigators who came to ask me questions, I gave them the dates, but I told them
34 that I do not remember dates pertaining to events which occurred after the 2nd of May.

35 Q. Did you give a specific date regarding the third occasions, when the colonels came there, at any point
36 in time?

37 A. I did not give a specific date. At the beginning of the events, I could remember dates, but later, in

1 view of what happened, I was there at a place where people were being killed every day, so I lost my
2 mind.

3 Q. I take note of your answers, sir.

4
5 Now, let us move on to the fourth occasion, according to you; that is, at the end of the month of June,
6 according to your statements; am I right?

7 A. Yes, that is correct.

8 Q. Unless I am mistaken, earlier you said the roadblock was removed on the 4th of July, when the RPF
9 soldiers got there. Do you remember having said so at the beginning of my cross-examination?

10 A. Yes, I remember having said so.

11 Q. Now, to help us, could you place time-wise how long, prior to the arrival of the RPF soldiers those
12 people came for the fourth time? One week, ten days. If you don't remember, you don't have to. Just
13 say so.

14 A. Approximately, I would say, less than a week prior to the arrival of the RPF. It was at the end of June.
15 Some days later the RPF got there and captured the town. On the fourth occasion, there was fighting
16 in Buturo. I remember that Kabiligi was --

17 MR. DEGLI:

18 Yesterday, I said why I made an objection yesterday. These are subjects which have been reserved
19 in the case of the document DS5. Once again, I object to his answer, because I think that the witness
20 should not deal with this issue until such time as the Trial Chamber has ruled on the status of that
21 document.

22 MR. PRESIDENT:

23 -- *(Microphone not on)* DAS5, that was what you said yesterday. So the Kabiligi issue is now a point
24 with this witness. Now that witness happens to mention an answer. We can't object to his answer.
25 But what we can do is exactly what we did yesterday, namely to disregard it. And I assure you,
26 Mr. Degli, we disregard it. That's how it is. Simple as that.

27
28 Next question.

29 MR. DEGLI:

30 I think that it is important for me to draw the Trial Chamber's attention to what the witness is saying.

31 MR. CONSTANT:

32 Mr. President, we have an experience where I didn't ask anything about genocide, the witness talked
33 about genocide, and Counsel Graham in supplementary examination seized it. I think it's worth noting
34 down things as they unfold.

35 BY MR. CONSTANT:

36 Q. Witness, you said that it was some days before the end of June, and I am saying that on that
37 occasion, Colonel Nsengiyumva and Bagosora did not say anything, that is according to you?

1 A. They did not say anything. Rather, it was Théoneste Bagosora who said something on that occasion.

2 Q. I didn't understand. You say that Théoneste Bagosora said something. I thought that it was Setako
3 and the *consieller who* spoke.

4 A. Which occasion are you referring to? The fourth occasion?

5 Q. At the end of the month of June, some days before July, the colonels were there. I noted down what
6 you said. You said that Bagosora and Nsengiyumva did not speak. It was Setako and --

7 A. I did not talk about Setako. I talked about Théoneste Bagosora. Further away, Setako was speaking,
8 and the people he spoke to me, told me what he had told them. It was Théoneste Bagosora who
9 spoke and he contradicted the *conseiller*. This was my testimony, and this is what happened.

10 MR. PRESIDENT:

11 In order to avoid confusion now, we must know exactly which statements we are referring to. We
12 have agreed on the event. Now we must know which utterances we are referring to.

13

14 Could you assist the witness there, Mr. Constant?

15 MR. CONSTANT:

16 I am referring to his evidence yesterday, Mr. President. It's obvious that there's confusion. Maybe the
17 witness is talking about two things.

18 BY MR. CONSTANT:

19 Q. Yesterday, you said that at one point, Colonel Bagosora and Nsengiyumva and Lieutenant Colonel
20 Setako passed at the roadblock with the *secteur conseiller*, so as to, *inter alia*, convene a meeting in
21 the afternoon; is that correct?

22 A. They came there in the morning at around 11.00. I think that it was the *conseiller* who spoke, and his
23 name was Gabriel Mbyariyehe. They came there, they were there, and Mbyariyehe told us to tell
24 watchmen and other people that there was an extraordinary meeting which would be held in the
25 courtyard of Hotel Kiyovu. And when he was speaking, Setako got out of the vehicle. It was around
26 11:00 when we were told that there would be an extraordinary meeting, but when we got to Hotel
27 Kiyovu at around 2:00 in the afternoon --

28 Q. Sir, sir, Mr. Witness, I am sorry but try to answer my question. I am asking you questions. I am at the
29 roadblock. I am not yet at the Hotel Kiyovu.

30 A. Oh, I am sorry. I had not quite understood you.

31 Q. So at the roadblock, it was the *conseiller* who spoke, and yesterday you said that Colonel Bagosora,
32 still at the roadblock and Colonel Nsengiyumva did not speak. Do you agree on this?

33 A. Yes, at 11:00, they did not say anything there.

34 Q. And you said that at 2:00 in the afternoon, there was a meeting in the courtyard of Hotel Kiyovu; is
35 that correct?

36 A. Yes, that is correct. I said so.

37 Q. And yesterday, you said that the entire population of Kiyovu had been invited to the meeting, and they

1 were at the meeting, there were many of you at the meeting; am I right?

2 A. That is correct. All people – all the people who were near the Hotel Kiyovu were there, except the
3 people who were at the roadblock, especially our roadblock, which still had many people because it
4 was a significant roadblock and there were *Interahamwes* and night watchmen there.

5 Q. Since you didn't do this yesterday, can you give us an estimate of the people who attended that
6 meeting?

7 A. You could not have counted those people. Personally I didn't count them, so how could I have
8 counted them? I had not gone there for that reason. I had gone there because we had been
9 summoned there, and I wanted to know why we had been invited there.

10 Q. But you say that all the inhabitants of Kiyovu had gone there. How many people, two hundred, three
11 hundred, four hundred people? I want to know how many people.

12 A. I cannot know the exact number. How could I dare to count the people who were there, in view of the
13 situation. We were afraid. We saw Bagosora come there, and when we noted that Bagosora had
14 convened the meeting and someone was there, everyone was afraid. We were afraid?

15 MR. PRESIDENT:

16 I think it's time for the lunch break, for the little break now. If that's convenient to you, Mr. Constant,
17 we will have the little break now before we enter into details concerning these meetings.

18
19 And, Mr. Witness, we will now recall that you have been asked during that break, kindly to draw up a
20 list of the Tutsi watchmen who were with you at the roadblock in front of Mr. Z's house, if you could
21 write the names on a piece of paper which will be provided by Mr. Matemanga as usual. That's one
22 thing.

23
24 Then secondly, you have been asked to acquaint yourself with this map and to see whether you think
25 it is easy to understand, and we can then, when you have acquainted yourself with it, see whether you
26 will be able to answer questions relating to that map.

27
28 Has anything else been requested by the witness in the break?

29 MR. CONSTANT:

30 Yes, Mr. President. I would like -- apart from the list of Tutsis, watchmen who were there, since the
31 beginning, I want him to give us the names of the seven watchmen who were there from the 8th of
32 April because I find from the pseudonym, they are not exactly the same people. Do you see what I
33 want to say? Because he said that on the 8th of April he found eight watchmen there and, later on, he
34 said that there were Tutsi watchmen who were there, who were also seven or eight. So, apparently,
35 these are two different things.

36 MR. PRESIDENT:

37 What we are referring to here, Mr. Witness, are the watchmen that were loading bodies at the

1 roadblock. That's what we are looking at throughout the period.

2 MR. CONSTANT:

3 Mr. President, if I understood him, he had said that on the 8th of April there were already seven
4 watchmen there. And he said there were Hutus and Tutsis. Later, he said that there were Tutsi
5 watchmen who were there throughout the three months at the roadblock and who were never killed,
6 and he said that there were six or seven.

7 MR. PRESIDENT:

8 Mr. Constant is confirming my last formulation. So that's what we are interested in.

9

10 Was he asked to do a third thing as a homework? I have forgotten that.

11 MS. MULVANEY:

12 As I understand it, it is, No. 1, the Tutsi guards that were there, the guards that were there on the --
13 the Tutsi guards that were there on the 8th, the ones that were there at the end -- at the end.

14 Constant is shaking his head. But that -- and so it was only three. I am actually standing up because
15 I want to make sure that before we leave the courtroom, I get an estimate on cross-examination so
16 that I can make sure we can call our next witness.

17 MR. PRESIDENT:

18 Yes. So you have two pieces of homework, Mr. Witness, and of course, we will also give you some
19 time to relax in addition to working.

20

21 So we will now have a little break which is somewhat longer than we usually have.

22 THE ENGLISH INTERPRETER:

23 Mr. President, the interpreter would like to make a minor correction. We mentioned Buturo but it
24 should be Mburabuturo; not Buturo but Mburabuturo. Thank you, sir.

25 MR. PRESIDENT:

26 Thank you very much to the interpreters.

27

28 Now as to cross-examination, Mr. Constant, what is your own estimate as far as your cross-
29 examination is concerned?

30 MR. CONSTANT:

31 Mr. President, I think that I would need one hour tomorrow morning.

32 MR. PRESIDENT:

33 And then there may be other teams wanting to cross-examine in addition, is that so? Maybe one
34 team.

35 MR. BW'OMWANA:

36 Yes, My Lord, not only one team but I just have to.

37

1 MR. PRESIDENT:

2 Yes.

3 MR. BW'OMWANA:

4 Now, a lot will depend on Mr. Constant's -- what he covers, but I am estimating at two hours.

5 MR. PRESIDENT:

6 Two hours maximum.

7 MR. BW'OMWANA:

8 Well, I am not saying maximum; I am just estimating. It could be slightly more, slightly less.

9 MR. PRESIDENT:

10 Yes. So then we know, but that implies that the next witness can be called tomorrow then. Yes.

11

12 Thank you, we will meet in a little while.

13 *(Court recessed at 1110H)*

14 *(Pages 31 to 42 by Judith Kapatamoyo)*

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1 (Court resumed at 1148H)

2 MR. PRESIDENT:

3 I understand that the witness needed quite some time to write the list and study the map, and that is
4 why we are starting now.

5

6 All right, Mr. Constant?

7 MR. CONSTANT:

8 Mr. President, just to gain time, I will ask the witness to give Mr. Matemanga the documents. They
9 will be distributed. In the afternoon I will have time to look through it, and this may enable us to move
10 faster, if you agree with that approach that I am suggesting.

11 MR. PRESIDENT:

12 If Mr. Matemanga would simply distribute the copies, and then we will have a look at them -- at it, and
13 then we will decide on the procedure having looked at the copies.

14

15 Next question.

16 BY MR. CONSTANT:

17 Q. Now, Witness, we were in the process of summing up --

18 MR. CONSTANT:

19 Did Ms. Mulvaney want -- fine, okay, sorry.

20 BY MR. CONSTANT:

21 Q. Now, we were summing up your statement and we have got to what happened, according to you, at
22 the Kiyovu hotel at the end of the month of June. And you said that you were not able to count the
23 number of people who were attending the meeting, because there were very many people and
24 because you were afraid. Now, that stated; is it possible -- if that is not possible, we can move on to
25 something else, can you give an approximate figure, 100, 200 people, and then we move on?

26 A. But can I also make a request in connection with the sketch, so that can I explain what my problem
27 is?

28 Q. Please, I don't know if --

29 MR. PRESIDENT:

30 Yes, Mr. Witness.

31 THE WITNESS:

32 Now, those who prepared -- or drew this map made some mistakes that is in connection with Kiyovu.
33 There is no place there by the name of Vitamine, so there are mistakes in this map. There are no
34 place by the name Vitamine in Kiyovu area as far as I know. I think I can continue with the question
35 being put by counsel for the Defence.

36 BY MR. CONSTANT:

37 Q. Now, I can tell you this, Witness, on it -- now don't take into account either Vitamine or Agathe, these

1 are mere pointers or indications that would enable us to locate the house, for instance, of the prime
2 minister, and in the case of Vitamine; that is the name of one of the UNAMIR contingent. The code
3 name was Vitamine. Do you understand what I am trying the say, Witness?

4 A. Yes, Counsel, I have understood you clearly.

5 MR. PRESIDENT:

6 Ms. Mulvaney has been on her feet for sometime and I have tried to overlook her, but it is impossible.
7 Please, go ahead.

8 MS. MULVANEY:

9 I'm very sorry, but I have a serious problem here. We have never seen this map before. I had this
10 map checked. This map is work product of the OTP, and I don't know -- in another case. And I don't
11 know that it has ever been disclosed to the Defence. I think that we need to find out where this map
12 came from. And I would also just like to bring to the attention of the Court that we have -- we have
13 requested reciprocal discovery. And for things to come up in cross-examination is very difficult
14 because we need to find out where these things are from.

15
16 I'm a little disturbed, myself, that it is OTP work product from another team. I just -- I don't like that, I
17 really don't. I'm not sure where it came from. But the other issue, just on maps in general, we have
18 two maps in evidence that are -- they're the most legitimate maps we can find. One is P. 53; one is P.
19 05.

20
21 I do not believe that any of these maps are particularly correct. We are using them for demonstrative
22 purposes to try to assist the Court and the witnesses to see where things are. But I would, at least,
23 request that if we are going to use a map, if it is not a handwritten -- you know, a hand-done sketch by
24 the witness, I do understand the need for that, but if we are going to use a street map, we really
25 probably should just go ahead and stick to P. 53, because, at least, then we are working from one
26 document.

27
28 And if we find there is a mistake, and when we sort out all of this evidence, we can bring in an extra
29 witness who can then go through and make sure that everything is correct on that one map. But if we
30 have things falling out of the sky that are being used with the witnesses, to go back and sort through
31 in our closing brief, it is going to be extremely difficult. So I would like to know, I would request that
32 the Court asked the Defence counsel where this document came from.

33 MR. PRESIDENT:

34 I have two questions for you, Mr. Constant. The first one, please answer Ms. Mulvaney's question.

35 MR. CONSTANT:

36 Mr. President, can we deal with this issue of the map tomorrow? That would enable me to carry out
37 adequate investigations.

1 MR. PRESIDENT:

2 Yes. Now my second question was your last question: did that relate to the number of persons
3 present at the location? Was that your question? Yeah, you see that is why I wasn't particularly
4 interested in the maps. Now, can we please have an answer to that?

5
6 And whenever -- now, the Defence is undertaking to explain to the Prosecutor where this map comes
7 from, Mr. Constant that is done as soon as possible. Generally, you would recall that we have a
8 method in this chamber that material to be used during examination-in-chief and cross-examination
9 shall be communicated to the other party. You are following that rule very nicely, both of you, by your
10 e-mail exchanges the night before. So that is going well. But here, there was an additional lack after
11 clarity and that is why this is being raised, so please bear that in mind.

12

13 Mr. Witness, do you remember the question?

14 THE WITNESS:

15 I would like for the question to be repeated because I didn't quite understand.

16 BY MR. CONSTANT:

17 Q. Now, Witness, are you able to give us an approximate figure, that is of the number of people who
18 were at the Kiyovu hotel, if you are unable, we can move onto something else?

19 A. Well, in view of the situation that was prevailing at the time; and in view of the way Bagosora was
20 behaving, or conducting himself, everybody was afraid when we saw Bagosora and his group. So I
21 wasn't able to see all of those who were present at the meeting. But I can remember those who were
22 killed from the Kiyovu hotel, because after listening to Mr. Bagosora, everybody was afraid. We were
23 trembling. I couldn't in those circumstances, even try to see how many people were there because if
24 we followed Bagosora's statement, we were thinking that everybody was going to be killed.

25 Q. Now, Witness, try to answer my question instead of making comments. What I want to say to you is
26 that we agreed that when the meeting started, Bagosora doesn't speak immediately; it is the
27 *conseiller de secteur* who first speaks, we are agreed on that, aren't we?

28 A. Yes, it is the *conseiller* who first spoke. He spoke well. He wanted the killings to end.

29 Q. Now, at that point in time you didn't have any reason to be afraid, the meeting had just started. So, at
30 that point, you still couldn't tell us how many people were present or attending the meeting?

31 A. I know that there were a lot of people. They couldn't be counted. There were a lot of people. All of
32 the inhabitants of the neighbour were present, so I cannot engage in providing approximate figures.

33 Q. Thank you. So if I understood you, the meeting proceeded in the following manner; the *conseiller*
34 says they should stop the killings, the *conseiller* then leaves. Subsequently, Bagosora takes the floor.
35 Is that the order?

36 A. Yes, that is correct, that is how things went.

37 Q. And, at that point in time, Colonel Bagosora then says that what the *conseiller* has said should not be

1 taken into account; is that right?

2 A. Yes, that is correct.

3 Q. Do you exactly remember what Colonel Bagosora said?

4 A. Yes, and I'm going to repeat his statement. He said, "Arrest the Tutsis who are present here." And
5 he insisted in regard to the watchman because they were the majority of the people there, he ordered
6 that they be taken to the *préfecture* in Kigali; and that the others be taken somewhere nearby and be
7 killed.

8

9 And so, the group of people who were taken to the *préfecture* were arrested. And after that,
10 Bagosora and his group followed them. But I also know that those who stayed behind followed the
11 instructions that he had just issued.

12 Q. Now, my question was the following: How did Bagosora say -- did he say, "Don't follow the orders of
13 the *conseiller*", or he just issued orders immediately?

14 A. No, he didn't make any comment on what the *conseiller* had just said; he just contradicted him; that is,
15 in terms of the instructions that he had issued.

16 Q. Fine. He makes no comment on the statement of the *conseiller*; is that right?

17 A. He didn't ask for the killings to stop.

18 Q. Well, I think we have clearly recalled what you said.

19 MR. CONSTANT:

20 Now, Mr. Matemanga, could you give the French version of DAS 1, 2 and 3 to the witness. And then
21 DAS 4 in French and English to the witness.

22 BY MR. CONSTANT:

23 Q. Do you have the document DAS 1, Witness?

24 A. Yes, Counsel.

25 Q. Can you flip through that document and look at the bottom of each page, on the left, left-hand side, at
26 the bottom of the document there is a date and a signature. I want to know whether that is your
27 signature. And, secondly, if the date is correct, that is the date on which you signed this document?

28

29 I'm only referring to DAS 1 only. We will be looking at the other documents later on, because you
30 have something like eight pages bearing your signature?

31 MR. PRESIDENT:

32 Have you seen your signature on the French version of this document? Now, Mr. Witness, have you
33 found it?

34 THE WITNESS:

35 Yes, indeed, that is my signature.

36 MR. PRESIDENT:

37 And the date, is the date on which you signed, isn't it?

1 THE WITNESS:

2 Yes, it was, indeed, on that date that the investigator showed me a copy of my statement.

3 BY MR. CONSTANT:

4 Q. On the first page of the document, you -- there were two dates, 26 October 1998 and 13 July 1999; do
5 you see those dates?

6 A. I can see the 13th, 13th July 1999 that is clear; I can see it.

7 MR. PRESIDENT:

8 Witness, we are now no longer in the handwritten -- at the bottom. We are at the top of that page, at
9 the typewritten; do you see the first line there? There are two typed dates there.

10 THE WITNESS:

11 I don't see the dates.

12 MR. CONSTANT:

13 Mr. Matemanga -- okay, the President has already --

14 THE WITNESS:

15 Yes, I have seen those dates. I have seen both dates where they are written.

16 BY MR. CONSTANT:

17 Q. So, you have seen the two dates?

18 A. Yes, Counsel.

19 Q. Is that the reality? In other words, on the 26th of October you have the first interview with the
20 investigators of the OTP. And then later on the 13th of July 1999 you were asked to come. Your
21 statement was read out to you in Kinyarwanda, and you agreed with it and signed it; is that the way
22 that matters proceeded?

23 A. My statement was not reread to me. I was in a hurry, and my statement was not reread to me. In any
24 case, I knew my statement by heart, all I did was to append my signature to it, I didn't wait for the
25 statement to be reread to me.

26 Q. Could you then take the last page of that document, look at the last page of that document. I'm still
27 referring to DAS 1. You've seen the document, I know you don't speak French, you don't read French
28 -- sorry, as you stated. It is a document where you have a sentence in Kinyarwanda?

29 A. I am there, Counsel.

30 Q. Now, when reading through the document in Kinyarwanda, there is an interpreter who certifies that on
31 the 13th of July that document was translated to you from French into Kinyarwanda. And you agreed
32 that you heard and understood the translation?

33 A. I didn't read it because I don't read French.

34 Q. Sorry, maybe there was some difficulty in making myself understood. The person who signed there --
35 it is not your signature; it is that of the interpreter. And he said on the 13th of July he translated your
36 statement to you from French into Kinyarwanda, and it was after that that you signed this statement.
37 Do you agree with that statement?

- 1 A. I do not agree with it. There are other documents here, but I don't agree with what appears on this
2 page because I do remember having asked the investigators to come and see me again to correct
3 whatever matters were not correct -- properly reflected in my statement. And they didn't come back,
4 they didn't come to see me later on.
- 5 Q. Well, I didn't quite understand what you told me. You said on the 13th of July, you told the
6 investigators that there were mistakes in your statement, and that they had to come and see you to
7 have those mistakes corrected?
- 8 A. Yes. My statement was not properly reflected. In fact, for instance, in regard to what I said about the
9 three soldiers, I think you should refer to my testimony regarding the three soldiers. It will be
10 preferable that you refer to my evidence because I don't agree with what appears in my statement.
11 You know, my statement in regard to the three soldiers -- I think we should rather refer to my
12 testimony.
- 13 Q. I understand, sir, that you have a problem with what you have signed, but this is the one that I am
14 talking about for now. And we are going to look at what you have said here and what you stated in
15 1999.
16
- 17 Now, for me to understand you, you need to explain your position. You said initially that you were in a
18 hurry but you knew your statement by heart, and you signed it. That is what you said a bit earlier?
- 19 A. Yes, I agree, but --
- 20 Q. Well, if that is the case, if you were in a hurry and you didn't read through your statement, there is one
21 problem; first of all, what the interpreter signed for and said at the end is, therefore, wrong. The
22 interpreter said that your statement was read out to you from French into Kinyarwanda. That would
23 be wrong then?
- 24 A. I already told you, I told them that there were errors in the last page and those errors needed to be
25 corrected, but they didn't come to see me, unless they came by and they didn't find me. Now
26 regarding the three officers, please refer to the testimony --
- 27 Q. Can I urge you just to answer my questions? I want to understand what you explained to us today.
28 You are saying -- now, first of all, was this document translated into Kinyarwanda for you before you
29 signed it?
- 30 A. No. I signed without waiting for it to be read out to me.
- 31 Q. So how were you then able to tell the investigators that there were mistakes in the statement if it
32 wasn't read out to you in Kinyarwanda?
- 33 A. They reread the statement, but I told them that there were mistakes. And they promised to come and
34 see me to correct those errors, but they never came to see me. Later on, some other investigators
35 came to see me to ask questions about the three officers. And I believe on that occasion I made a
36 statement that is correct. I would prefer that you refer to that second statement that I made. As for
37 the first one, it does have a number of errors. Questions were put to me, but I would prefer that you

1 refer to the second statement that I made in connection with the three officers.

2 Q. Quite frankly, sir, I think you have problems with that. We are going to get to the substance, per se.
3 What I want to understand is in regard to the circumstances under which you signed the statement.
4 You just said earlier, you just said the statement was read out to you, so it was read out in which
5 language?

6 A. They read out my statement later on, or afterwards. You know, the investigators who interviewed me
7 immediately after the war found us in a situation where we were virtually traumatised. And what I
8 stated later on applies to the three officers; that is, the correct version, a reflection of the reality.

9 Q. Witness, try to --

10 MR. PRESIDENT:

11 -- when, when, when did they reread the statement to you; that is the question? When did they do
12 that?

13 THE WITNESS:

14 They reread the statement to me when they asked me to come and append my signature, to put my
15 signature, and that was at the Tribunal's office in Kigali. That is the time when I told them that there
16 were errors in my statement and that they had to come and see me for those errors to be corrected,
17 but they never came. But later on, some other investigator came and put questions to me dealing
18 specifically with three officers.

19 BY MR. CONSTANT:

20 Q. Now, what I want to know when they reread your statement to you was it in French or was it in
21 Kinyarwanda?

22 A. Let me answer, Counsel, if the investigators made mistakes, I'm here before you. And I am asking
23 that you refer to my evidence -- to my testimony. The investigators might have made mistakes, and
24 the interpreter who signed it may have made errors, but I'm asking you to refer to my testimony -- to
25 my evidence here before the Court.

26

27 If they made mistakes, those were their mistakes, not mine. Today I am here before you and I'm
28 asking you to refer to my testimony -- to my evidence that I'm giving here before you.

29 Q. We will be dealing with the substance when the statement was read back to you. Was it in French
30 or was it in Kinyarwanda? I seek only a simple answer, sir?

31 A. They read back the statement in French. I don't understand French, and then I asked them to come
32 back so that we correct the errors that appeared in the statement.

33 Q. So even if you don't understand French you did notice that there were errors in the statement; is that
34 what you are saying?

35 A. I told them that in regard to the three officers, please, come back let me give you further details with
36 regard to the passage of those three officers at the roadblock. But later, investigators came and
37 asked me questions, specifically, in regard to those three officers, so I made another statement. I

1 would ask you to forget this first one and refer to my second statement.

2 Q. Witness, answer my question; that is the question I asked you, nothing else. When this statement
3 was reread to you in French, which is what you stated, did you notice that there were errors, or since
4 you don't understand French, you couldn't say anything; this is what I want to understand?

5 A. I didn't say anything to them because the person who read back the statement to me read it in
6 French. But for the second statement, I remember pretty well. I can explain everything in detail. And
7 that is why they came a second time to obtain a second statement from me; a second statement
8 which, specifically, talks about the three officers. I asked them to come back and see me so that we
9 can talk about the three officers only, not about anyone else, that is what I told them. I would,
10 therefore, ask you to refer to that second statement which talks, specifically, of the three officers.

11 Q. I'm not talking about that first statement. I want, first of all, to talk about the circumstances under
12 which this one was done. So you are telling us today that you signed a statement without knowing
13 what is, therein, contained; is that what you are saying, sir?

14 A. I already told you that I don't understand French, and the person who read back my statement to me
15 did so in French. I can understand some slight French, so I didn't understand it perfectly. And that is
16 why he appeared again for a second statement, and it was obtained, it was read back to me. And all
17 that I said is contained in that second statement.

18 Q. I notice that you don't intend to assist me here. Do you agree, Witness, that in that document there is
19 evidence that a duly certified interpreter read back that document to you in Kinyarwanda, and you
20 signed it. Do you, at least, agree with that evidence?

21 MS. MULVANEY:

22 Your Honour --

23 MR. PRESIDENT:

24 We can read this.

25 THE WITNESS:

26 Counsel, I would want us to agree on a point, I'm here before the Court. Even if there are errors in my
27 statement, I am still at your disposal. You can put questions to me. If the investigators or the typist
28 who took down or recorded my statement made errors, these are their errors. Why don't you ask me
29 questions regarding my evidence yesterday in regard to my second statement.

30 MR. PRESIDENT:

31 This is becoming utterly repetitive. Now, we have to move on. Next question.

32
33 And, Mr. Witness, please listen to Counsel's questions and try to answer them as briefly as possible.
34 You see, this Counsel wants simple answers and brief answers, and he formulates the questions in a
35 way which makes that possible. Please try to assist the Court.

36

37 Next question.

1 MR. CONSTANT:

2 Mr. President, when I said, "Was this translated to you in Kinyarwanda" I don't know what is simpler,
3 and he still doesn't answer. I couldn't do it better. I will move on. I will move on. I will put this point
4 aside.

5 BY MR. CONSTANT:

6 Q. Now, let's talk about what you said in DAS 1 on the issue of the colonels. I know that you don't read
7 French, and therefore, I'm not going to ask you to do so. I'm going to read out some excerpts from it,
8 and then I will seek your views.

9
10 The first one appears on page 6 of the French version of your statement; also on page 6 in English. It
11 is the third paragraph of the English version, third paragraph. You start by saying:

12
13 "About one week after the accident, the person by the name Z, himself went to the roadblock. In my
14 presence, he told the six soldiers to go there and search all of the houses in Kiyovu and kill any Tutsis
15 they found there. I believe these soldiers were members of the Presidential Guard because they
16 formed a unit patrolling the Kiyovu neighbourhood." Do you remember having said that or giving that
17 statement?

18 A. It is, indeed, for that reason that I was saying that those who took down my statement in writing made
19 errors. And when they read it out to me in French, I could identify some of these errors, and I say in
20 connection with the setting up of roadblocks. What appeared in this statement or recorded in my
21 statement was not correct, and that is why I am saying that there were errors in my statement as
22 recorded.

23
24 But the investigators came a second time and we corrected those errors that appeared in my first
25 statement. So you understand that that error, that mistake, is not attributable to me, but to the
26 investigator.

27 Q. Witness, why did you sign a statement read out to you and in which you found that there were errors.
28 Aren't you in a situation where what you said at the time is not the same as what you are saying
29 today?

30 A. Well, I noticed that there were errors in the statement afterwards. And I said -- we went to the place
31 but we did not set up a roadblock immediately when we got to the place; and, whereas, they had put
32 down that immediately we got to the place we set up a roadblock, whereas, these roadblocks were
33 mounted on the 12th of April. And that is why I asked the investigators to come a second time, so that
34 I give further explanations. And when they came, they asked me questions in connection with the
35 three officers.

36 Q. Well, wait a minute. You noticed that there were statements in your -- that there were errors in your
37 statement after having signed the statement; is that what you are saying?

1 A. Yes, that is exactly the case. But I asked them to come back so that these corrections can be
2 effected, but they didn't come back. But later on, they did come. But that time around they put
3 questions to me, specifically, on the three officers.

4 MR. PRESIDENT:

5 If anyone tells me more about these three officers, we will close the proceedings. We have heard that
6 now ten times. Will you move on? We can't spend time in this way, we can't. The point is made.
7 The witness has answered. We must move on.

8 MR. CONSTANT:

9 Mr. President, I have a question on the document itself, and he is the one talking about whether he
10 signed or did not sign. I would like -- that's fine, Mr. President, I will comply. I will follow your ruling.

11 MR. PRESIDENT:

12 You see, you have made the point, it is done. It is finished. It is over. We move on.

13 MR. CONSTANT:

14 Very well, fine.

15 BY MR. CONSTANT:

16 Q. DAS 1, I will read out another excerpt, seek your view. Again on page 6, sixth paragraph in French; in
17 English, seventh paragraph. And it is stated therein:

18 "That two or three days after Z's visit, Colonel Anatole Nsengiyumva, Colonel Bagosora and
19 Lieutenant Colonel Ephrem Setako and the Kigaliville *conseiller* by the name Mbyariyehe, Gabriel,
20 came to our roadblock around 11 a.m. I was there. The three senior officers were in military
21 camouflage uniform, each carrying a pistol around his waist, while their escorts carried rifles. Colonel
22 Bagosora addressed the guards there, and asked the *Interahamwe* to take all of the Tutsis to the
23 *préfecture* office right away. He also told us to go to *Hotel Kiyovu* for a general meeting where the
24 *conseiller* was going to address us."

25
26 Now, in this statement it would appear that you are saying the meeting in *Hotel Kiyovu* took place in
27 April, and not at the end of June. What do you say to that?

28 A. Let me remind you that the person who took down this statement in writing made mistakes. And it is
29 for that particular reason that I asked him to come back again, so that I provide a more correct version
30 that is in connection with the three officers. I asked him to come back so that we correct these
31 mistakes. And when he came back later on, it was for a second statement that focused, specifically,
32 on the three officers.

33 MR. PRESIDENT:

34 Mr. Witness, that is fine. So next time just tell us that there is a mistake. Next question.
35 *(Pages 43 to 52 by Donna M. Lewis)*

36

37

1 1230H

2 BY MR. CONSTANT:

3 Q. I am going to ask you whether the next excerpt is an error again, and that is on page 7, second
4 paragraph of the French version. Page 7, fourth paragraph, I am going to read quickly.

5
6 "About an hour later, we found ourselves at Hotel Kiyovu as instructed by Colonel Bagosora. At that
7 time almost everyone in Kiyovu had fled leaving behind only the *Zamus*, these are the guards, and the
8 househelps who constituted *Conseillier* Gabriel's audience. We stayed outside Hotel Kiyovu
9 premises.

10
11 Gabriel the *conseillier*, came alone and addressed us as follows: Henceforth, we should know one
12 another, and I am asking you to stop killing because the international community is watching. The
13 military police here will select some of its survivors, Tutsis among us, and take you to Kigali-ville
14 *préfecture*." Now, here you are saying that the colonel was not present. Is this some other mistake?

15 A. Yes, it is also a mistake. When I heard this I told the investigators that there was an error. I told
16 them, "You come back and we are going to prepare a statement specifically in regard to those
17 officers". There are a lot of errors in this statement, that is why I am saying to you, Counsel, that we
18 refer to the second statement that is in regard to the soldiers. This one is full of errors. They mixed
19 up things, they didn't take down the things -- the facts the way I told them.

20 Q. I shall not make any further comments on the errors.

21
22 There is a second statement DAS2, you have it in the sets given to you, do you?

23 A. (No answer).

24 Q. Do you have it, sir?

25 A. Yes.

26 Q. You see the date, that is 13th of August 1999, the date of the interview?

27 A. Yes, I have seen the date, Counsel.

28 Q. Did you sign this statement?

29 A. Yes, that is my signature. Even before you put a question to me, I can explain to you or rather I can
30 talk about this statement, if you so wish.

31 Q. I think for the time being, it is preferable for you to answer my question rather than to give an
32 explanation. I just want us to look together at this statement whereby you do not mention roadblocks.
33 You do not mention therefore soldiers, but you only talk about one Eliezer Niyitegeka. Do you agree
34 on this point?

35 A. Yes, I agree with you.

36 Q. And we agreed this was the second time that you were meeting with the Prosecution investigators
37 because the first time was in October 1998, and you signed your statement in July 1999, whereas this

1 second statement was given in August 1999; is that correct?

2 A. You are right, Counsel.

3 Q. I would like to suggest to you to move on to DAS3. Do you have DAS3, sir?

4 A. I have it before me, Counsel.

5 Q. Can you check and see whether the signature at the bottom of each page, as from the second page,
6 is your signature?

7 A. Yes, this is my signature.

8 Q. Can you tell us whether you signed the statement after reading or after having the statement read
9 back to you?

10 A. I read the statement.

11 Q. You read the statement in French, sir?

12 A. No, it was interpreted to me in Kinyarwanda.

13 Q. So the document is on the last page where an interpreter says that on the 24th of August 2001, he
14 interpreted the document to you in Kinyarwanda; is it correct?

15 A. On the last page, I see the 17th of July 1999.

16 Q. Hold on. I think there is a problem because the last page of DAS3 is not 17th July 1999. I am talking
17 about DAS3. Is that the document that you have before you, sir?

18 MR. CONSTANT:

19 Mr. Matemanga, could you please check to see whether he has DAS3 and that he is looking at the
20 interpreter's certification on the last page?

21

22 If you don't have the interpreter's certification, I can give you my copy.

23 BY MR. CONSTANT:

24 Q. Have you found the document, sir, last page?

25 A. Yes.

26 Q. So, you agree that interpreter Nkulilinka says that he read back to you the statement? I am sorry.
27 When the interpreter here says that he read back to you in Kinyarwanda the statement, do you agree
28 on this point?

29 A. Yes, I agree on that point, Counsel.

30 Q. So here there is no mistake.

31 MR. PRESIDENT:

32 Just hold on. I don't think we need the name of the interpreter. We can delete that from the record,
33 don't you think?

34 MR. CONSTANT:

35 Yes, Mr. President, I would like to apologise for that. I totally agree with you, sir.

36 BY MR. CONSTANT:

37 Q. In this statement that you gave in August 2001, you say, at the beginning of the statement, "I am

1 prepared to give you my new details to complete my statement of 13th of July 1999 about
2 Zigiranyirazo, whom I knew in 1992/1993". Do you remember having told that to the investigators?

3 A. Yes, I agree with you.

4 Q. So this means -- I suppose that at that time they reminded you of the contents of your statement of
5 13th July 1999, or is my interpretation false?

6 A. That is correct.

7 Q. It happens that at the end of your statement, page 6 of the French version, and maybe I will try to
8 locate it in the English version, it should be on page 5. You say: "This is all the additional information
9 I am giving you to complete my first statement". Do you remember having told this to the
10 investigators?

11 A. Yes, I agree that this is what I said.

12 Q. It happens that in this statement, sir, maybe I could quote. You explain that the killings began at your
13 roadblock at around the third day following Zigiranyirazo's intervention after the three soldiers
14 distributed guns. If you look at the chronology of what you say in your statement, this means that that
15 should have been around the 13th of April. Does this appear to tally with what you had said or do
16 want to go into the details?

17 A. I would like us to look at the days, day by day, according to the chronology of the events.

18 Q. Well, in that case, you have page 4 of the document, which in the English version corresponds to -- in
19 the English, this is on page 3 but I would like the original. It doesn't have a paragraph. It is in the
20 middle of the second paragraph. There is a sentence which begins with: "Around the 12th or 13th
21 April 1994, early in the morning, at least 40 *Interahamwe* militia men came to join us. They had rifles,
22 cudgels, machetes and axes," and you say, "That is when they arrived, three soldiers came and
23 ordered that two trucks be placed across the road and instructed us to get the stones and pebbles to
24 block the main road from Zigiranyirazo's house to Hotel *des Mille Collin*". Do you remember having
25 said so?

26 A. I think that I spoke about those events during my testimony yesterday.

27 Q. What I am telling you is that subsequent to your testimony, you explained that the killing started on the
28 third day following Zigiranyirazo's intervention, and we know that he intervened around the 12th or
29 13th of April.

30 A. That is where the investigator made a mistake. I would like to request you to refer to the comments I
31 made or the statement I made regarding those soldiers.

32 Q. So, if I understand you, that is a mistake as well?

33 MR. PRESIDENT:

34 Mr. Constant, what is the mistake here? Where are we, three days after? We are now on page three,
35 it starts of the English version. First it is around 9.00 a.m. on 7th April, then we jump to the 8th, four
36 lines on, then we go to the passage where you started reading, around the 12th or 13th of April, early
37 in the morning, et cetera, et cetera. I have followed you very well so far.

1 Then you went on and said something about -- did you say three days later or whatever day, I've lost
2 you? Can you explain that to me, please?

3 MR. BW'OMANWA:

4 Mr. President, if I may help.

5 MR. PRESIDENT:

6 I am --

7 MR. BW'OMANWA:

8 There is a problem with the translation in the English and the French. I realised that yesterday
9 because in French there is three days, but in English there is no such a thing.

10 MR. PRESIDENT:

11 Oh, yes, I see that now. You are referring to the fifth page, Mr. Constant, where you have the "the
12 killing started three days after Zigiranyirazo's intervention".

13 MR. CONSTANT:

14 Mr. President, I started to read this out. The witness said that he wanted us to go back initially so I
15 had to go back to the beginning. The problem is that if you look at page 4 of the French version, you
16 start by saying that, "Early in the morning around 12th or 13th, the roadblocks were set up". He talks
17 about Zigiranyirazo's intervention and among other things, he says that Zed (*sic*) said: "Why haven't
18 you started working?" And in the following sentence he said, "the killings started at our roadblock
19 around the third day, that is after Zigiranyirazo's intervention". And I think this is why the witness
20 admitted that there was a mistake.

21 MR. PRESIDENT:

22 The reason why I wanted your clarification was exactly as mentioned by your colleague, namely, that
23 there is a discrepancy between the English and the French. Thank you very much for drawing our
24 attention to that.

25

26 All right. I am with you. So this is a mistake then, Witness?

27 THE WITNESS:

28 Yes, there are mistakes. That is why I requested that we refer to the statement regarding soldiers. If
29 we read the last statement regarding soldiers, then I can tell you whether it is correct or whether it too
30 has mistakes.

31 BY MR. CONSTANT:

32 Q. In the same statement, I wanted to know whether there was a mistake on the second point, because
33 you said, "Three days after Zigiranyirazo's intervention, it was on that day that we saw for the second
34 time, Zed come out of his house accompanied by Colonels Bagosora and Nsengiyumva and
35 Sethako". Is that correct?

36 A. Yes, that is true.

37 Q. I have not yet asked you a question. Do you agree that here you are saying that Zed was with

1 Bagosora and Nsengiyumva as well as with Sethako?

2 A. That is correct.

3 Q. I didn't understand that well, because to my recollection, with regard to the date, there is a difference
4 because yesterday you said it was on the 14th of April, but here we are after the 14th of April.

5
6 Secondly, when we made a summary earlier, you said that the three colonels came aboard a vehicle
7 but you did not say that they were with Zed (*sic*), although you might have said that they passed by
8 his house. Do you agree on this?

9 A. I explained to you that the investigators made a mistake. They did not write what I told them exactly.
10 There is a statement however which is correct. Let us refer to that statement and it deals with the
11 three soldiers. And let us look at my testimony which I gave here yesterday, otherwise we are going
12 to get bogged down.

13 Q. I agree with you, but we will get through with this. We will get to the bottom of this point.

14
15 Now we will leave DAS3, but I want to ask you: Was that statement DAS3 read back to you in
16 Kinyarwanda before you signed it?

17 A. No, most of these statements were not interpreted to me; they were given to me so that I could read
18 them myself, and then I noticed that there were some mistakes. They told me that they would come
19 back so that I could make a statement regarding the three soldiers. I want this to be clear to you, and
20 this is why I am requesting you to refer to the statement regarding the three soldiers and concerning
21 whom I gave evidence yesterday.

22 Q. When we started looking at DAS3, you said that it had been translated to you in Kinyarwanda, but
23 now you are telling us that it was not translated into Kinyarwanda but you read it in French.

24 A. There is a specific statement which I gave, whereas DAS3 has mistakes, it was not noted down to
25 reflect what I said, that is why I always refer to the last statement which concerns the three soldiers
26 where I corrected days concerning the arrival at the scene, and this is why I am imploring you to refer
27 to the statement regarding the three soldiers.

28 Q. But this is not my question. I asked you the question regarding the fact that earlier you admitted that
29 it was translated to you, but now you are saying something different.

30

31 But let us move on to another thing. DAS4, do you have DAS4, Witness? Do you have it, sir?

32 A. Yes.

33 MR. CONSTANT:

34 I would like to point out to the Trial Chamber that here we have in the English as being the original
35 version whereas the others are translations.

36 BY MR. CONSTANT:

37 Q. I am going to request the registry to give you the original English version. We will later move on to the

- 1 French for your comment, but first I want to know whether you have the original which is in English?
- 2 A. Yes, I have it before me.
- 3 Q. You see that there are signatures at the bottom of each page as was the case earlier. I would like you
4 to tell us whether, yes or no, this is your signature?
- 5 A. Yes, this is my signature.
- 6 Q. Can you tell us whether this document was translated to you into Kinyarwanda before you signed it?
- 7 A. *(No answer)*
- 8 Q. Did you hear my question or do you have a problem, Witness?
- 9 A. I heard your question.
- 10 Q. I am asking you whether it was translated to you into Kinyarwanda before you signed this document?
- 11 A. I think that it was translated to me.
- 12 Q. I would like to ask you for some explanations regarding a number of excerpts. The end of the second
13 paragraph, which is in the French version, page 4 and in English, that is page 3, end of the second
14 paragraph in English. "In the statement that I gave to the ICTR investigators on 24th August 2001",
15 and that was DAS3. "I detailed the first occasion after Habyarimana's death in a plane crash that I
16 saw Colonel Sethako. Approximately one week after the death of the president, the initial massacres
17 at my roadblock that I described in that statement occurred.
- 18
- 19 In that statement, I also detailed how the roadblock had been set up at the instigation of Zigiranyirazo,
20 the former *préfet* of Ruhengeri, and how I came to be working there". And you say that, "I would now
21 like to talk about the three other occasions on which I saw Colonel Sethako during the 1994 genocide
22 in Rwanda".
- 23
- 24 And you continue as follows, or rather the statement continues as follows: "Two days after my initial
25 sighting of Colonel Sethako, as detailed in my statement of 24th of August 2001, that is around the
26 14th of April 1994, Colonel Sethako arrived together with Colonels Bagosora and Sengiyumva at the
27 Kiyovu roadblock". Do you remember having said this?
- 28 A. Yes, I said so.
- 29 Q. There is something which I would like to ask you and you will tell me whether this is my interpretation.
30 But my feeling is that when I read this passage, it seems that Sethako came alone to the roadblock. It
31 was the second time that he came back with Bagosora and Nsengiyumva; am I right or am I
32 misinterpreting you?
- 33 A. No, I think that you are making a mistake. I remember clearly that they came there together and they
34 were there on the 14th. They were together.
- 35 Q. I am asking you -- I am not asking you what you said yesterday. I am asking you what you said when
36 you gave this statement. Anyway, I have understood you. But, if we continue, looking at your
37 statement in paragraph -- page 3, last but one paragraph in the English version and the same thing in

1 the French version, that is the last but one paragraph.

2

3 "On the second occasion, I saw Colonel Sethako at my roadblock. He only stayed there for short
4 time, perhaps as little as five minutes. Nonetheless, in his presence, the *Interahamwe* and the
5 presidential guard soldiers killed approximately 15 to 20 Tutsis" and so on and so forth".

6

7 What I would like to understand here, sir, is this second occasion that you mention here would be the
8 time they came there at the beginning of May?

9 A. It was on the 2nd of May 1994.

10 Q. So why in 2002 you did not tell them that the second occasion was on the 2nd of May 1994?

11 A. Well, someone can make a mistake. It is true that I didn't mention it. However, this time around when
12 I saw Colonel Sethako, that was another occasion compared to the occasion I have spoken on earlier,
13 that was a different occasion.

14 Q. Hold on. I didn't quite understand you here. You saw Sethako on another occasion. Could you
15 please elucidate on what you have just said?

16 A. If you have read this statement attentively, and I told you that Sethako was with the three other
17 officers. Colonel Sethako was with two other officers. The three of them were together at all times
18 and this is written down here.

19 Q. This is what you are saying today here, but in this paragraph you don't mention the two other officers.
20 You do not talk about the two other officers; you mentioned Sethako only.

21

22 Anyway, let's move on with this point. You said that on the second occasion you saw him alone. It
23 was on the 2nd of May, did I get you right?

24 A. Yes, it was on the 2nd of May. That is why I told you, that there was a mistake. The investigators
25 took their notes the first time.

26 Q. I understand that there are mistakes. Anywhere, can you tell us why then don't you mention the issue
27 of Zaireans who were trying to get to their embassy? You do not say that their wives were left behind;
28 you do not mention that they begged Bagosora for mercy and he said that the time for Tutsi women
29 was over. You don't talk about Nsengiyumva saying that all the livestock in Rwanda belonged to
30 Hutus. Can you explain why you didn't mention all of this?

31 A. I did not mention all these things because on this occasion, I was asked questions about individuals,
32 and here they were asking me questions regarding Sethako, specifically. So I did not mention all
33 those events because there was a question put to me regarding Sethako.

34 Q. Earlier when you told us that you gave a statement concerning the three colonels and that they were
35 to come back to see you but they did not come; it means that there was no other statement, it is only
36 this statement and it concerns Sethako?

37 A. No, the investigators did not come back to see me.

1 Q. Thank you for admitting that. So, we are going to briefly move and comment on this document. In the
2 last paragraph of the French version -- actually it's the last paragraph in the two versions -- you talk
3 about a visit which took place in the middle of June 1994. That is, it corresponds to the visit which
4 you talked about the last time and which we summarised earlier, but I could read the statement on this
5 point, but you do not mention at all the fact that Bagosora and Nsengiyumva remained in the vehicle
6 and only Sethako got out of the vehicle.

7
8 And in order to be more complete, when you take the first paragraph of the next sentence, you say
9 that people who were there when they saw the colonels, they rushed up to them and started begging
10 them. "I remember that the colonels, including Colonel Sethako, rejected them". This means that
11 Bagosora and Nsengiyumva did not remain in the car. Don't you think that there is a contradiction
12 here, when you compare what you said yesterday compared with what you had said in the year 2002?

13 A. It is true that I said this, but those colonels remained in the vehicle, only Colonel Sethako got out of
14 the car and that is why I emphasised -- I place an emphasis on the person who had alighted from the
15 vehicle.

16 Q. What I am saying here is that, here you do not say that Nsengiyumva and Bagosora remained in the
17 vehicle; this is just what I wanted to point out to you. Did you forget to say it or you didn't deem it
18 necessary to say?

19 A. Given the fact that those people did not do anything important on that day at the roadblock, and that
20 they remained in the vehicle, I did not talk about them. I talked about the person who got out of the
21 car.

22 THE ENGLISH INTERPRETER:

23 Microphone?

24 MR. CONSTANT:

25 Mr. President, can I have a few minutes to ask questions regarding DAS4, or do you want us to
26 adjourn, because I know that you have a case to hear this afternoon. So maybe you would like to
27 conserve your energy and this is why I am asking you?

28 MR. PRESIDENT:

29 I think it would be good for the energy of everyone in the courtroom. Maybe it would be postponed
30 until tomorrow morning. Thank you very much.

31

32 So, Mr. Witness, thank you very much so far, and we will continue with your testimony tomorrow
33 morning and that would be the last day of your testimony. So you are approaching the end of your
34 testimony. Please do not discuss it with anyone.

35 THE WITNESS:

36 No one knows what I am testifying here. No one will know about it.

37

1 MR. PRESIDENT:

2 Thank you. Court is adjourned.

3 *(Court adjourned at 1307H)*

4 *(Pages 53 to 61 by Sithembiso Moyo)*

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CERTIFICATE

We, Diane Hermann, Regina Limula, Judith Kapatamoyo, Donna M. Lewis and Sithembiso Moyo, 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.

_____ Diane Hermann

_____ Regina Limula

_____ Judith Kapatamoyo

_____ Donna M. Lewis

_____ Sithembiso Moyo