

1 Wednesday, 12 October 2022

2 [Open session]

3 [The accused not present]

4 [The witness takes the stand]

5 --- Upon commencing at 10.01 a.m.

6 JUDGE BONOMY: Good morning, everyone.

7 Mr. Kabuga has decided not to attend this morning. We will,
8 therefore, continue with the trial in his absence, and the case will
9 continue this morning with the cross-examination of the current witness
10 by Madam Mathe.

11 Madam Mathe.

12 MS. MATHE: [Interpretation] Thank you, Your Honour.

13 WITNESS: KAB093 [Resumed]

14 [Witness testified via interpretation]

15 Cross-examination by Ms. Mathe:

16 Q. [Interpretation] Good morning. My name is Francoise Mathe. I am
17 one of Mr. Kabuga's counsel.

18 MS. MATHE: [Interpretation] Your Honour, my first line of
19 questions, given their nature, could easily risk identifying her, so I
20 think it would be wise to move into private session.

21 JUDGE BONOMY: Does that present any problem for you?

22 MR. ELDERKIN: No, Your Honour.

23 JUDGE BONOMY: Very well. We shall move into private session.

24 [Private session]

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Pages 2-13 redacted. Private session.

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9 [Open session]

10 THE REGISTRAR: We're in open session, Your Honours. Thank you.

11 JUDGE BONOMO: Thank you.

12 Please continue, madam.

13 MS. MATHE: [Interpretation]

14 Q. You used to live in the neighbourhood called Gatsata. What kind
15 of neighbourhood was it? Was it more popular or wealthy neighbourhood or
16 an ordinary neighbourhood? How would you qualify that neighbourhood in
17 the city of Kigali? Was there a greater number of Tutsi in the
18 neighbourhood or not? More than anywhere else? Could you describe your
19 neighbourhood, please?

20 A. The Gatsata neighbourhood was in the surroundings of the city of
21 Kigali. It was a popular neighbourhood. There were no more Tutsis there
22 than anywhere else, really, compared to other neighbourhoods. If you
23 compare in terms of number of Tutsis, we were just like any other
24 neighbourhood. We could see that there were roads in my neighbourhood.
25 I could see cars driving on roads. It was quite close to the city

1 centre, so it was a popular neighbourhood.

2 Q. You said that you had three brothers, and that the one who
3 survived in 1994 went to Tanzania. You said that he wanted to join the
4 RPF but didn't manage to. Can you tell me why he didn't join the RPF and
5 what he did in Tanzania?

6 A. My brother was in year 6. He had an internship in Kibungo.
7 Kibungo is close to Tanzania. And then after his internship, he
8 graduated. But considering that he thought that he had no future, he
9 decided -- well, he said that he would have to take his life in his own
10 hand, because then, at home, we were not in peace, we were not safe, and
11 so sometimes we would have to go to sleep in the forest to remain safe.
12 And he said that he could no longer do so, and that he was in danger.

13 So I think around the age of 21 years old he decided to go, and
14 no one could prevent him from doing so. And he realised that there was
15 no future there, and he thought that it would be better for him to die at
16 the front, and so that's why he decided to join the RPF-Inkotanyi, but he
17 had no contact there. He didn't know anyone there. And he had no one
18 who was to welcome him in Tanzania. When he went to Tanzania, he didn't
19 find anyone that would allow him to join the RPF and he just stayed in
20 Tanzania.

21 THE INTERPRETER: The interpreter would like to add that after
22 year 6, it was the year 6 after high school.

23 MS. MATHE: [Interpretation]

24 Q. So I'm not sure I understand. You're saying that there were
25 several people in the neighbourhood who went to join the RPF. The

1 question I'd like to ask is that you were saying that there were some
2 neighbour's children who left, but you didn't say how many children in
3 the neighbourhood or young people left to join the RPF. How many
4 exactly?

5 A. I don't know how many young people left. What I said was related
6 to what was mentioned in the radio broadcasts. But what was mentioned in
7 these broadcasts was not true. In the broadcast it was said that my dad
8 would take people to -- drive them to inkotanyi. But had he done so, he
9 would have taken his own child.

10 So I don't really know exactly how many people left to join RPF.
11 If that had been possible, my brother would have followed suit and joined
12 the RPF instead of going on his own, on his own adventure.

13 Q. I'm not sure I understand. So paragraph 343 of your statement,
14 you were saying that there's nothing true about what was said during the
15 RTLM broadcasts. "It was said that my father was accused of training and
16 sending people to the inkotanyi, but my father had nothing to do with
17 them or the decisions made by RPF." What does that mean?

18 A. I didn't say that. I didn't say that my dad was training people
19 and sending them to the RPF. This was mentioned on the radio, on CT
20 radio, and I was simply saying that what was said on CT radio, it was --
21 so it was not true. And during these broadcasts, names of people were
22 mentioned, but I don't really know how these people would make it to the
23 RPF. But it was mentioned during these broadcasts that it was my dad
24 that would train these people and take them to the RPF. And the reason
25 they said that was to accuse my dad, but it was not true. Otherwise, he

1 would have taken his own child and led him to the RPF.

2 Q. All right. Let's be clear. I'm sure that your dad was falsely
3 accused, but this is not the meaning of my question. You are saying
4 that -- so just to sum up what you're saying. You're saying that your
5 dad was falsely accused. You are saying that he was not sending anyone
6 to the inkotanyi, and that there's no evidence that he did so. And so
7 that these are quite probably slanderous statements, but you are saying
8 that he had nothing to do with the decisions made by RPF.

9 So just because some young people went to the RPF, does it mean
10 that your father had something to do with it? My question is that there
11 are some people who did go join the RPF. I want to know how many there
12 were and whether you knew them. So I'm asking how many there were, if
13 they were numerous or not.

14 A. So the young people living in my neighbourhood, I knew them quite
15 well. There were three people. They were my neighbours. I know them
16 well, and I know that they joined the RPF, but I don't know about the
17 circumstances where they left and joined the RPF. But I can confirm that
18 they did go.

19 Q. So we're talking about Pole Pole here in particular. Are there
20 any others?

21 A. Yes, there's Pole Pole's brother, Sano [phoen], and two other
22 people. But I don't know the circumstances in which they left, because
23 they were Hutu. There was Ndahayo [phoen]. And there was another son of
24 [indiscernible] Kayinamura [phoen]. I don't know his name, I don't
25 remember his name, but these three people left and joined the RPF.

1 Q. When was this? Do you remember approximately?

2 A. It was after 1992 or -- between 1992 and 1993.

3 Q. Were you close as neighbours? Geographically close.

4 A. We were separated by two or three houses, four or five maybe.
5 From my house, we could see their houses. So it was quite close. We
6 were in the same neighbourhood.

7 Q. When your dad wrote to the prefect of Kigali - evidence R70 03086
8 - he's asking for verifications regarding Pole Pole, and he wants the
9 prefect to check that, according to what he's said, Pole Pole did not
10 leave for the RPF and that he remained with his parents in Gatsata. So
11 how do you compare what you told us to what is said in this letter?

12 A. We talked about Pole Pole because the RTLM broadcasts were saying
13 that Pole Pole had never joined RPF, that he -- that it was -- but it was
14 his brother that actually joined the RPF and fought for the RPF.

15 Q. It's getting more and more difficult for me to understand. So
16 the people who left and joined the RPF that you talked about earlier on,
17 so this was not Pole Pole and his brothers? It was Pole Pole's brothers
18 but not Pole Pole? Can you tell us?

19 A. Okay. So hear me out. I was saying that -- I told you about the
20 people that I knew and joined the RPF. Amongst them -- so there were
21 three people: Ndahayo, Sano was one of them, and the other, I don't
22 remember his name, but his father was Kayinamura. Regarding Pole Pole,
23 it was the radio that talked about Pole Pole. My dad talked about him as
24 well in his letter to the prefect, and my dad was saying that Pole Pole
25 did not go to join the RPF but that he was at home with his parents. And

1 my dad wanted to say that Pole Pole did not join the RPF, that he was
2 staying with his parents. But I think that Pole Pole never fought with
3 the RPF.

4 Q. So you -- paragraph 346 of your statement. The question is:
5 "When did Pole Pole join the inkotanyi?" So I associated the inkotanyi
6 with the RPF. And you answered: "I don't remember when they went to join
7 the inkotanyi, but I think it was in February or March 1994." That's
8 what you stated.

9 So how is it that now you're telling us that Pole Pole never
10 joined the RPF?

11 A. Regarding Pole Pole, he may have joined RPF but within the
12 country. He never left the country like his brother did or other young
13 people did. To my knowledge, Pole Pole never left the country to join
14 the RPF. Otherwise, I would have said that he had left the country, that
15 he had crossed the Rwandan borders to fight with the RPF, but that I
16 never said. If he was collaborating with RPF, he would do so within the
17 country.

18 Q. So is that what we are supposed to understand when reading your
19 answer to the investigator? You want to say that Pole Pole joined the
20 inkotanyi in February, March 1994, all the while remaining in the country
21 and in his neighbourhood? Is that what we're supposed to understand?

22 A. When I was answering the investigator's question, I was talking
23 about my family, my relatives, my relatives that were living with me up
24 until the moment when we separated to flee.

25 (redacted)

1 (redacted)

2 (redacted). So they talked about Pole Pole on

3 RTLTM broadcasts. What was said about him was not true, regarding Pole

4 Pole. But those who are best suited to answer questions about him are

5 his relatives. I'm not the best suited to answer questions about Pole

6 Pole.

7 Q. I'm not particularly interested about Pole Pole, but I'm

8 interested in what's surrounding you, surrounding your father, regarding

9 your neighbourhood and your city in 1994, just a few weeks before April

10 1994. And you said that Pole Pole or someone else, that some young

11 person from your neighbourhood had joined the RPF in February, March

12 1994, and that that person stayed, and that if he collaborated with the

13 RPF, that would be within the country. But whether it is Pole Pole or

14 not is not particularly fundamental here. What is essential is that

15 there were people in this neighbourhood or other neighbourhoods, that

16 there were people who did not leave to the north of the country to join

17 the front but that were staying in the neighbourhood and they were

18 collaborating in the neighbourhoods. Is that what you're saying, ma'am?

19 JUDGE BONOMO: Madam Mathe, the time for closing arguments is

20 much later. It would be helpful if you could be more precise in the

21 questions you're asking.

22 MS. MATHE: [Interpretation]

23 Q. So very precisely, were there people in this neighbourhood or

24 other neighbourhoods that would not physically go to the front but would

25 be collaborating from within the country?

1 A. Well, I cannot really answer your question. I don't know. I
2 know that around 1994 there was a lot of insecurity and people were
3 trying to find safe places wherever they were. People were -- might
4 sometimes not go home because they could not sleep safely at home. They
5 would not go to work for weeks because they were being threatened. So
6 people had their own homes, but they were not feeling safe at home.

7 So people would leave to find safer places to stay in. In April,
8 but also even before, life was tough. There was a lot of insecurity.
9 People would stay at home during the day and then sleep in other places,
10 or people could stay outside and come home only to sleep. That is my
11 answer to your question.

12 Q. Yes, I was going to ask you questions about this. At
13 paragraph 114 and follows of your statement, you describe or you mention
14 that when the neighbourhood was insecure, you -- at several occasions,
15 you had to go to a forest called the Bourgaarden forest.

16 MS. MATHE: [Interpretation] Could we please have exhibit -- the
17 Kigali map, R70K001. If we could have it on screen, please, so that the
18 witness could see it so that we understand. Please rotate.

19 Q. Do you see your neighbourhood, Gatsata, on this map? Can you
20 find it?

21 MS. MATHE: [Interpretation] The carte hasn't been highlighted?

22 THE WITNESS: [Interpretation] Well, it's difficult to locate
23 Gatsata on this map. If you could show me the river, the Nyabarongo
24 river, I could find Gatsata for you.

25 MS. MATHE: [Interpretation]

1 Q. On this map, you have the main neighbourhoods who are in those
2 oval-shaped -- oval-shaped things, and Gatsata is at the very top in the
3 left. Where exactly is that forest? Is it north of this? Is it outside
4 the map? Because this neighbourhood is north-west of Kigali, not quite
5 at the centre of Kigali. So where is the forest? Is it next to your
6 house? Is it far? Is it easy to go there?

7 A. I see Gatsata on the map. I see it right at the beginning of the
8 map, but it's very difficult to locate yourself on this map. Where
9 there's the A, that's where you have Gatsata. And then you see the road
10 that takes you to Byumba. And the Bourgaarden wood is a small forest
11 that we had to go through, had been planted by a European who used to
12 live there. It's -- and above the northern site of the wood, you could
13 find the house of that European who had planted the forest. That's how
14 it was in 1994. And now the wood has been -- most trees have been
15 chopped down, and there's new infrastructure there.

16 Q. Is it close to your house?

17 A. From our house -- it's a ten-minute walk from our house to the
18 woods.

19 Q. So it's that -- there's this road that we see going to the
20 north-west. Is that the road that goes to Byumba first and Mulindi. Is
21 that the road?

22 A. Yes, that road takes you to Byumba and goes on to Muganda
23 [phoen].

24 Q. And the woods that you are talking about, are they next to the
25 road or does the road cross the woods? How are the woods located

1 compared to the road?

2 A. Well, the road crosses through the woods, and the wood is
3 downhill, and the road's uphill. But if you go a bit -- it's a small
4 wood anyway. And then after that, after you go through, you go to
5 [indiscernible], the place called the Rwandese.

6 Q. This is what you're describing, you're saying that you -- when at
7 night things were insecure, the situation was insecure, you went to
8 shelter in the woods. At a number of occasions, you said that there were
9 incidents in that wood early in 1994. One time, for example, there was
10 an ambush for FPR soldiers in that wood. Once a soldier was killed. We
11 were told that that night there would be murders. The FPR -- so moved
12 between Kigali and Mulindi and that's where they were attacked, obviously
13 while they were looking for wood for fire.

14 Were you there that day? Did you see this or were you told about
15 this? I am saying did you see this or hear this, or was it something
16 that you were told? Please tell us what you saw, what you heard, and
17 what you were told.

18 A. Very well. You were talking about this road. It's the road that
19 goes from Kigali to Mulindi and elsewhere. It's the road taken by FPR
20 inkotanyis when they go to Mulindi and when they come from Mulindi. I do
21 not remember the date precisely, but we were told that people were going
22 to come and kill us. So that day, we went to spend the night somewhere
23 else, you know. Not in our homes.

24 And everyone heard the shots, you know, from wherever they were.
25 And we're not talking about a little skirmish, you know, that could

1 happen only once. And then later on we were told that Interahamwe had
2 set a trap for FPR-Inkotanyi troops coming back from Mulindi. There was
3 an exchange of fire. And I wasn't there. I was told about it. It seems
4 that a soldier was killed. And the next day there was nothing left. You
5 couldn't find any trace of that exchange of shots.

6 So we were told about it. We did not see anything, but we heard
7 the shots from wherever we were spending the night. And before that --
8 the shots, you know. We had been told that we -- people would come to
9 kill us.

10 Q. That's what I understood. So it was at night. And if -- what
11 about the RPF? For how long had the RPF -- for how long had the RPF been
12 in Kigali, in the CMD, when it was in the CMD in Kigali?

13 A. Yes, that's true.

14 Q. Could you tell us what the CMD is on this map? I think you have
15 a pen, an electronic pen that could help you do that. I think it's close
16 to number 3, slightly east of the black circle in the middle.

17 A. It's very hard for me to locate the CMD here on this map. I
18 can't read any. I can't decipher anything. I can't tell you.

19 Q. If I tell you that it's east of the Kimihurura roundabout, you
20 know, that's right in the middle of the map, don't tell me exactly where
21 it is, but tell me is it 1 or 2 kilometres away eastward from that
22 circle?

23 A. Yeah, yeah, that's exactly where the CMD is.

24 Q. So if I understand you right, after what you told us, there were
25 skirmishes between Interahamwe, as you say, and FPR soldiers at night in

1 Kigali quite away from -- quite a distance from the CMD. You were
2 telling us that they were going to get wood fire -- firewood, but were
3 they looking for it in that wood garden -- forest or elsewhere, that
4 firewood?

5 A. You're giving a lot of importance to the fact that they were
6 on -- looking for firewood. You know, it was just firewood that they
7 were looking for, and I was told that. But the inkotanyi soldiers got
8 their supplies from Mulindi. We could see cars, you know, going through.
9 They didn't stop. We saw them coming in and leaving, going out.

10 And so we were told that at one point at night there had been an
11 ambush that had been set against the RPF soldiers. And when they
12 stopped, there was an exchange of fire between them and those who had set
13 the ambush. I mentioned just one incident, you know, one of many. I
14 can't tell you how often these kind of things happened. But there were
15 often incidents, you know, when these soldiers were going to and fro.

16 Q. Thank you.

17 MS. MATHE: [Interpretation] Your Honour, I'm going to ask
18 questions on a number of documents on the record regarding her father,
19 and it could really, really identify the witness. So I think it would be
20 wise to go back to private session.

21 MR. ELDERKIN: Your Honour, no objection. But there is a small
22 matter I would like to raise at the beginning of the private session, if
23 I may.

24 JUDGE BONOMO: Okay. We shall go into private session.

25 [Private session]

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20 [Open session]

21 THE REGISTRAR: We're in open session, Your Honours.

22 JUDGE BONOMO: Yes, thank you.

23 Witness, that does complete your evidence. The Chamber is
24 grateful to you for coming here to give that evidence and to assist the
25 Court. Please remain where you are for the moment while I discuss,

1 briefly, certain administrative issues which arise.

2 [Trial Chamber and legal officer confer]

3 [Trial Chamber confers]

4 JUDGE BONOMY: Mr. Elderkin, I understand there is another
5 witness available to give evidence today.

6 MR. ELDERKIN: That's correct, Your Honour.

7 JUDGE BONOMY: Very well. What we have in mind is that we would
8 adjourn now for lunch and resume, if possible, at 1.00. Is that too
9 demanding? Because if it is, then we would allow at least an hour, but
10 it may be that it suits everyone to reconvene and resume at 1.00.

11 Any dissent?

12 MR. ELDERKIN: No dissent, Your Honour.

13 JUDGE BONOMY: Very well. We'll adjourn in a moment once the
14 witness has left the court.

15 [The witness withdrew]

16 --- Luncheon recess taken at 12.09 p.m.

17 [The witness entered court]

18 --- On resuming at 1.01 p.m.

19 JUDGE BONOMY: Ms. Harbour, your next witness is?

20 MS. HARBOUR: KAB038, Your Honours.

21 JUDGE BONOMY: Thank you.

22 And just before I deal with the solemn declaration, is any of the
23 evidence of this witness to be in open session?

24 MS. HARBOUR: Your Honours, I sent around a brief list of topics
25 which could identify her which should be dealt with in private session.

1 But otherwise, the evidence can be dealt with open session.

2 JUDGE BONOMY: Good afternoon, Witness. The first thing we have
3 to do is to hear a solemn declaration from you. Could you please stand
4 and could you read the declaration?

5 THE WITNESS: [Interpretation] I solemnly declare that I will tell
6 the truth, all the truth, and nothing but the truth.

7 WITNESS: KAB038

8 [Witness testified via interpretation]

9 JUDGE BONOMY: Please be seated. And please make yourself as
10 comfortable as you can. You know that you will be asked a series of
11 questions, and all the Court asks is that you listen carefully to the
12 questions and answer the question that is asked, the particular question
13 you are asked by counsel.

14 Do you understand that?

15 THE WITNESS: [Interpretation] Yes, Your Honour.

16 JUDGE BONOMY: The first counsel to ask questions will be
17 representing the Prosecution, and that is Ms. Harbour. She will now
18 commence.

19 Ms. Harbour.

20 MS. HARBOUR: Thank you, Your Honour.

21 Could I ask that Rule 70 70882 be brought on the screen but not
22 be broadcast.

23 Examination by Ms. Harbour:

24 Q. And, Witness, while this is coming up, I'll let you know that the
25 Court has ordered certain protective measures with respect to you and

1 your evidence here today, and these include the use of a pseudonym as
2 well as distortion of your image and your voice. So I will not refer to
3 you by your name but instead as "Witness" or by your pseudonym KAB038.

4 Now, if you could look at the screen. This is a pseudonym sheet,
5 and I'd like to ask you to confirm where it says "Witness Name," is that
6 your name?

7 A. Yes, I see my name.

8 Q. And where it says "Date of birth," can you confirm that this is
9 your date of birth?

10 A. Yes, this is my date of birth.

11 MS. HARBOUR: Your Honours, I tender the pseudonym sheet under
12 seal, please.

13 JUDGE BONOMY: The sheet will be admitted under seal.

14 THE REGISTRAR: It shall be assigned Exhibit P500. Thank you.

15 MS. HARBOUR: Now, the first thing I will do is lay the Rule 111
16 foundation.

17 Q. So I'd ask you, Ms. Witness, do you recall giving a statement in
18 December 2020 to members of the Office of the Prosecutor of this
19 Tribunal?

20 A. Yes, I remember it well. I made the statement.

21 MS. HARBOUR: Could we please have Exhibit P294 on the screen,
22 not to be broadcast.

23 Q. And what's coming up is a document purporting to be a statement
24 given by you signed on 7 December 2020. And once the document is on the
25 page, I'd ask you to confirm if you recognise any signature at the bottom

1 of the page. Ms. Witness, do you recognise a signature at the bottom of
2 this page?

3 A. Yes, I do.

4 MS. HARBOUR: If we could please have page 19 in e-court on the
5 screen.

6 Q. Do you recognise your signature on this page?

7 A. Yes, I saw my signature. And it is my signature.

8 Q. Did you have an opportunity, prior to testifying today, to review
9 this statement and make corrections and clarifications?

10 A. Yes, I did that. And I corrected a few things.

11 MS. HARBOUR: Could we please have Rule 70 70883, not to be
12 broadcast. And what I'm pulling up is an additional information report
13 dated 10 October 2022.

14 Q. Do you recognise your initials at the bottom of this document?

15 A. Yes. Yes, I saw my initials representing my name.

16 Q. Does this document contain the corrections and clarifications
17 that you made to your 2020 statement?

18 A. Yes.

19 Q. Did you have an opportunity, before testifying today, to review
20 this document in a language you understand?

21 A. Yes, the document was translated to me.

22 MS. HARBOUR: Could we please have page 4.

23 Q. What's coming up is a map. And I'll ask you did you identify the
24 locations on this map, and do you recognise your signature?

25 A. Yes, I recognise my signature.

1 Q. Now that you have taken the solemn declaration, do you affirm
2 that your statement, signed on 7 December 2020, combined with this
3 information report, dated 10 October 2022, accurately reflect your
4 evidence and what you would say if examined?

5 A. Yes, I confirm.

6 MS. HARBOUR: I'd now tender P294 and Rule 70 70883 under seal,
7 please.

8 JUDGE BONOMY: Very well. These will be admitted under seal.

9 THE REGISTRAR: Rule 70 70883 shall be assigned Exhibit P501,
10 admitted under seal. Thank you.

11 MS. HARBOUR: I will now read a public summary of the witness's
12 evidence that does not include any identifying information.

13 MR. ALTIT: [Interpretation] Mr. President, Your Honour.

14 JUDGE BONOMY: Maître Altit.

15 MR. ALTIT: [Interpretation] Thank you, Your Honour.

16 I'm sorry to interrupt. Your Honours, I have a few observations
17 regarding what's about to be done. And I would like to make an
18 objection, and I will tell you why, if I may.

19 My colleague is about to read a text that we received yesterday.
20 It's a summary of the Prosecutor's point of view regarding the case,
21 especially regarding the testimony of our witness today. The Prosecution
22 wants to put on the record, through this witness, a text which the
23 Prosecutor believes is useful regarding what this witness is going to
24 adduce in terms of evidence. In other words, through this, the
25 Prosecutor is giving evidence instead of the witness.

1 Furthermore, and that's even more important, as we read the text,
2 we see that the Prosecutor is telling the witness what he's supposed to
3 say -- tell Defence, how he's supposed to answer, and what he's supposed
4 to refrain from telling the Defence. We believe this is a total breach
5 of cross-examination and examination. It's a total breach of the
6 fairness of this whole proceeding which is why, Your Honours, we have an
7 objection, and we do not want this text to be read.

8 JUDGE BONOMY: I understand what you're saying. It's a great
9 pity this was not raised yesterday when the issue of these statements
10 arose, because the point you're making now is a point that would apply to
11 all of them.

12 MR. ALTIT: [Interpretation] You're absolutely right, Your Honour.
13 Yesterday, I wanted to see what the Prosecutor's approach was. And now
14 that I think I understood what he wants, I raise this objection today,
15 which, of course, will be raised every time the Prosecution will try to
16 read such a text. Because according to us, this doesn't put us on an
17 equal footing, and the Defence can no longer cross-examine a witness,
18 whatever witness it is.

19 MS. HARBOUR: May I respond, Your Honours?

20 JUDGE BONOMY: In a moment. I'm in the middle of reading it so I
21 see the significance of what's being suggested.

22 Yes, Ms. Harbour.

23 MS. HARBOUR: Your Honours, it is certainly not our intention to
24 influence the witness. And, in fact, the public summary that we've
25 prepared for this witness, and for all of our witnesses, derives directly

1 from the under seal statements and testimony of that witness, those
2 witnesses, the purpose being to allow the public to follow this trial to
3 the extent possible while protecting the witnesses' identities.

4 This is in line with Your Honours' guidelines to which the
5 Defence had not objected until momentarily, one moment ago, and it is
6 also standard practice at the ad hoc tribunals to read a public summary
7 of the witnesses' evidence.

8 Now, as my colleague Mr. Elderkin stated yesterday, and I will
9 reiterate today, this is not evidence. This is a summary of the
10 witness's evidence. Your Honours' guideline regarding the public summary
11 is in paragraph 18 of the 14 February 2022 guidelines.

12 JUDGE BONOMY: Yes, the guideline doesn't actually say, I don't
13 think, that this is for the purpose of informing the public. Although,
14 that's an understanding of the purpose of these summaries. You'll see
15 the first sentence sets out the situation that the Chamber thought would
16 apply at the stage it was drafting the guidelines.

17 The proposal that was made yesterday, and which seemed to be
18 acceded to, was principally for the purpose of ensuring that the public
19 got as much information as was reasonably possible about the witness at
20 the time the witness was giving evidence. Now, if I've misunderstood
21 that distinction, please tell me.

22 MS. HARBOUR: That is exactly how we understand the purpose of
23 the summary, and that is how we understood it in the guidelines as well,
24 although it does not expressly say so therein.

25 JUDGE BONOMY: And the other point made by Maître Altit that you

1 haven't addressed is that this serves as a prompt to the witness and is
2 like asking leading questions, effectively. It has the same effect as
3 leading questions in chief.

4 MS. HARBOUR: Your Honours, we read the public summary after
5 their evidence has already been admitted, and it derives directly from
6 their evidence, so it is not prompting the witness to say anything. It
7 is actually a reflection of what the witness has already said.

8 [Trial Chamber confers]

9 JUDGE BONOMY: It is unfortunate, Maître Altit, that this was not
10 raised yesterday. I hear what you say, but there really is no excuse for
11 it not being brought to the attention of the Chamber even this morning as
12 an issue for consideration.

13 To do justice to the point you make, and bearing in mind the
14 regularity with which this is likely to occur in this trial, the Chamber
15 has decided to postpone the decision until later in relation to the
16 reading of this particular summary until we have had time to consider the
17 arguments more fully. That decision will be made between now and our
18 next hearing tomorrow morning, so the decision will be made before any
19 further statement is tendered to be read.

20 So meanwhile, we will proceed with your additional examination of
21 the witness without reading the statement at this point.

22 MS. HARBOUR: If I make one further observation, Your Honours.
23 Our intention is very much not to influence the witness, and we would
24 have no objection to the witness removing her headphones while the
25 summary is read so that she would not be able to understand what was

1 being said.

2 But we do consider it important for the public to be able to
3 follow this trial. And we note that in their opening statement, the
4 Defence accused the Prosecution of presenting an opaque case in part
5 because much of it would not be accessible to the public.

6 JUDGE BONOMY: I hear what you say, but the decision is made.

7 MS. HARBOUR: I will proceed, Your Honours.

8 JUDGE BONOMY: Thank you.

9 MS. HARBOUR: I'm going to play a short clip of an RTLM
10 broadcast. And could I ask that the -- it's Rule 70 0138, and I'd ask
11 that page 16 in the French and page 12 in the English of the transcript
12 be brought to the screens. And I'm going to ask that when I play the
13 broadcasts the interpreters not interpret, which will allow everyone in
14 the courtroom to listen to the broadcast in its original form and follow
15 along on the transcript on the screen. And afterwards, I will read the
16 transcript into the record.

17 Q. Now, before this plays, Witness, in paragraph 41 of your
18 statement, you mentioned some of the things that RTLM broadcasts said
19 about Tutsi women. So please listen carefully to the clip I'm going to
20 play, and I will ask you a few questions.

21 MS. HARBOUR: Page 16 in the French, and page 12 in the English.
22 I'll ask my colleague now to play the clip of this broadcast, and I'll
23 direct Your Honours to the paragraph in the middle of the English that
24 begins: "They will all be exterminated ..." and in the middle of the
25 French as well.

1 [Audio-clip played]

2 [Audio-clip played]

3 MS. HARBOUR: Your Honours, I apologise. When we played this at
4 our desks earlier today, it was intelligible, but now clearly it's not.
5 So with your leave, I will simply read the excerpt of the transcript and
6 ask the witness the question.

7 Q. "They will all be exterminated and none will live to tell the
8 disastrous story. Let them come, the Rwandans are waiting for them with
9 machetes and other equipment they received in sufficient quantities.
10 Throughout the country, young men and women have put down their names and
11 taken uniforms, burning with the desire to go and fight the inkotanyi to
12 finish and beat them pants down. The only people without such confidence
13 are the United Nations people, hesitating, watching, and informing their
14 friends about our situation. Anyway, I hope they are telling the truth.
15 We have a strong government which will engage in negotiations with the
16 inkotanyi in Arusha if ever they accept to go there. They are used to
17 it; as we speak, they are already there with their ibizungerezi to seduce
18 the people with their malicious smiles."

19 Witness, this term "ibizungerezi" was used in this broadcast. As
20 a Tutsi woman, how did it make you feel to hear this term used on the
21 radio?

22 A. I would like to thank you for giving me the floor. I, as a Tutsi
23 woman, when I would hear the word "ibizungerezi" mentioned, that hurt me.
24 That made me feel very bad, myself, when I heard this.

25 Q. Can you tell us what this word meant to you?

1 A. This is a word that refers to Tutsi women who are very beautiful,
2 and it was as if they portrayed these women as being femmes fatales, as
3 being nefarious, as being seductresses. This is a word that was being
4 used to insult Tutsi women, as far as I am concerned.

5 MS. HARBOUR: I would like to tender this into evidence,
6 Your Honours.

7 JUDGE BONOMY: What do you mean by "this"?

8 MS. HARBOUR: I would like to tender Rule 70 00138.

9 JUDGE BONOMY: That's a transcript. But is it just one page of
10 the transcript you're tendering?

11 MS. HARBOUR: Actually, this is a good question. I should say
12 I'd like to ask for it to be marked for identification, and eventually we
13 will tender the full transcript once a different witness has
14 authenticated it in full. But it is not just the transcript. It's also
15 the audio. And there is an audio that is intelligible.

16 JUDGE BONOMY: Very well. Well, the part of the transcript
17 that's been referred to today will be admitted but marked for
18 identification. The audio, you'll need to produce it at some stage so
19 that we can have it authenticated and then admitted on the same basis.

20 MS. HARBOUR: Yes, Your Honours, this, of course, is on our
21 exhibit list. So the audio has been fully disclosed, and we do intend to
22 tender it in full with the full transcript at a later time. And if an
23 intelligible version of this clip can be uploaded, we can try to play it
24 in redirect if that would interest Your Honours.

25 JUDGE BONOMY: Well, yes, we'll deal with it as and when it is

1 presented.

2 THE REGISTRAR: The document shall be assigned Exhibit P502
3 marked for identification. And I assume it's a public document.

4 MS. HARBOUR: Yes.

5 THE REGISTRAR: Thank you.

6 MS. HARBOUR: If we could please move into private session, as
7 I'm going to ask the witness a question that could potentially identify
8 her. And I'm asking that ...

9 JUDGE BONOMO: Yes, let's go into private session.

10 [Private session]

11 (redacted)

12 (redacted)

13 (redacted)

14 (redacted)

15 (redacted)

16 (redacted)

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18 (redacted)

19 [Open session]

20 THE REGISTRAR: We're in open session, Your Honours. Thank you.

21 MS. HARBOUR: Your Honours, I'd just like to politely indicate
22 that we still haven't been receiving any list of documents or estimated
23 cross-examination times once the witnesses are sworn in.

24 JUDGE BONOMO: All right.

25 MS. HARBOUR: This concludes my direct examination, Your Honours.

1 JUDGE BONOMY: Thank you.

2 Maître Altit, what is your response to the comment just made by
3 Ms. Harbour?

4 MR. ALTIT: [Interpretation] Thank you, Your Honour. Your Honour,
5 regarding the cross-examination, it will be led by Ms. Mathe, and it will
6 take about an hour, an hour and 15 minutes for Counsel Mathe to run her
7 cross-examination. And we won't be using any specific document, except,
8 of course, those that have already been sent by the Prosecutor's Office.

9 JUDGE BONOMY: Thank you, Maître Altit.

10 I'm advised, Ms. Harbour, that there was a notification to that
11 effect.

12 MS. HARBOUR: Regarding the length of the cross-examination --

13 JUDGE BONOMY: That there would be no documents used.

14 MS. HARBOUR: In that case, this is my error. Thank you,
15 Your Honour.

16 JUDGE BONOMY: Yes, thank you.

17 Madam Mathe, please begin your cross-examination.

18 MS. MATHE: [Interpretation] Thank you very much, Your Honour.

19 Cross-examination by Ms. Mathe:

20 Q. [Interpretation] Good afternoon. My name is Francoise Mathe. I
21 am one of the lawyers of Felicien Kabuga. I will be asking you questions
22 to make sure that we understand perfectly well your statement. I'll try
23 to mention the least possible and in the most minimal way anything that
24 could trigger pain.

25 And I would like you to tell us if you have a specific political

1 engagement in the 1990s and between 1990 and 1994?

2 A. During this period, I was a member of the Liberal Party.

3 Q. So you became a member. When did you become a member of this
4 party? When? At its creation or later on?

5 A. Following its -- so I joined after its creation, but I was not an
6 active member. I was just a regular member.

7 Q. Was this a known fact in your neighbourhood?

8 A. I'm not sure I understood your question. Do you want to know
9 whether my neighbours knew that I was a member of this political party?

10 Q. Yes, indeed. That's what I'd like to know.

11 A. Yes, they knew about it.

12 Q. In 1990, members of your family were arrested during mass arrests
13 in Kigali after the RPF attack. Who in your family got arrested and why?

14 A. My aunt on my father's side was arrested. Do you want me to give
15 you her name?

16 Q. No, that won't be necessary.

17 A. My aunt on my father's side was arrested. She was being accused
18 of knowing people who lived in Uganda.

19 Q. So you're saying that part of your family lived in Uganda?

20 A. We had some relatives that lived in Uganda.

21 Q. That was also a known fact in your neighbourhood? This was
22 something that your neighbours knew about?

23 A. Yes.

24 Q. Did you yourself, because of this fact, or because of your own
25 political sympathy, were you a victim of aggression and attacks before

1 1994 for such reasons?

2 A. Yes, it would happen from time to time.

3 Q. (redacted)

4 (redacted)

5 (redacted)

6 [Trial Chamber confers]

7 JUDGE BONAMY: A moment, please, Ms. Witness.

8 Ms. Harbour.

9 MS. HARBOUR: Your Honours, would it be okay to briefly go into
10 private session.

11 JUDGE BONAMY: Very well.

12 [Private session]

13 (redacted)

14 (redacted)

15 (redacted)

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Pages 59-89 redacted. Private session.

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17 [Open session]

18 THE REGISTRAR: We're in open session, Your Honours.

19 JUDGE BONOMO: Yes, you heard that request. Yes, thank you.

20 As I was saying, that concludes your evidence. I am grateful to
21 the parties for continuing so that we could complete it this evening, and
22 for administrative staff, and in particular the interpreters, for
23 enabling it.

24 The Court is grateful to you, personally, for coming here to give
25 evidence, and I am pleased to see that with everyone's cooperation we

1 managed to complete your evidence today.

2 I'm going to deal with certain administrative matters now, very
3 briefly, and then the Trial Chamber will leave the Bench. I have to ask
4 you for the moment to bear with us and to stay where you are until we
5 have completed the rest of the work. It will take less than five
6 minutes.

7 On the subject of the objection that was taken to the reading of
8 the statement compiled by the Prosecution.

9 The decision, in principle, of the Trial Chamber is that that
10 practice will be followed in this case. We do not accept the argument
11 that in the context in which it will be read it has the capacity to
12 influence the cross-examination of the witness, so we reject the basis
13 for the objection.

14 However, a badly drafted notice is capable of misleading. And,
15 therefore, we insist on any document that is to be read of that nature
16 being submitted both to the Bench and to the Defence for scrutiny before
17 it's read, and adequate time should be given for that to be done
18 properly.

19 If there is an issue, we will expect the Defence to raise that
20 issue before we go into court so that we are aware of it and can take
21 steps to adjust it, if necessary. And if that fails, then address it in
22 court. Only in these circumstances do we think it appropriate to take up
23 court time to deal with this.

24 The one which should accompany the evidence in this case will be
25 read, but following any adjustment that's considered necessary.

1 Maître Altit will advise the Prosecution if there are elements in it
2 which he thinks somehow or other are misleading, and the Prosecution will
3 have the opportunity to consider these and advise the Bench if
4 agreement's reached or if we need to look again at the terms before it is
5 read. We propose it's read at the beginning of tomorrow's proceedings.
6 So the adjustments, if there are to be any, should be made by then.
7 Thereafter, the timing that the Prosecution propose, which is immediately
8 following the establishment of the authentication of the statement, is
9 the appropriate time.

10 Does that raise any questions for either counsel?

11 MS. HARBOUR: Not for us, Your Honours.

12 MR. ALTIT: [Interpretation] Absolutely, Your Honour.

13 JUDGE BONOMOY: Well, thank you very much. That then completes
14 today's proceedings.

15 The Trial Chamber will resume again with the evidence of the next
16 witness at 10.00 a.m. tomorrow morning.

17 --- Whereupon the hearing adjourned at 3.50 p.m.

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