

III. THE ACCUSED AND THE PARA COMMANDO BATTALION

1. BACKGROUND

468. Major Aloys Ntabakuze was born on 20 August 1954 in Karago commune, Prefecture of Gisenyi. He is married and a father of four children.⁵²⁴

469. With respect to his education, he graduated in 1978 from *Ecole Supérieure Militaire* (ESM) of Kigali and was promoted to the rank of 2nd Lieutenant. From 1978 onwards, he served in various positions in the Rwandan Army and was promoted regularly every three years. He also studied in the United States and in June 1988, graduated from the United States Army Command and General Staff College at Leavenworth, Kansas.⁵²⁵ From June 1988 to July 1994, he was commander of the Para Commando Battalion. On 3 July 1994, he was appointed commander of the operational sector of Gitarama, just two weeks before the defeat of the Rwandan Armed Forces (FAR).⁵²⁶

470. In 1994, the Para Commando Battalion was based in camp Kanombe and commanded by Colonel Félicien Muberuka, who was at the same time the commander of the operational sector of Kigali Town. The camp was located in commune Kanombe, Prefecture of Kigali Rural. The following units were based at camp Kanombe⁵²⁷:

- Para Commando Battalion
- Light Anti-Aircraft Battalion (*Bataillon LAA*)
- Field Artillery Battalion (*Bataillon AC*)
- Engineering Company (*Compagnie Génie*)
- Building Company (*Company Bâtiments Militaires – BM*)
- Logistic Unit of the Rwandan Army (*Cie Trans – Cie QM – Peloton Reconditionnement*)
- Medical Company and Military Hospital of Kanombe.

471. In 1994, the Para Commando Battalion was composed of five combat companies (four maneuver Companies and one Fire Support Company) and one HQ Company.⁵²⁸ The

⁵²⁴ T. 18/09/06, p. 4

⁵²⁵ T. 18/09/06, p. 4-7

⁵²⁶ T. 18/09/06, p. 10

⁵²⁷ See DNT235

⁵²⁸ T. 18/09/06, p. 20-23 and Exhibit DNT57

company commanders were the direct subordinates of Major Aloys Ntabakuze. Before April 6, 1994, the 2nd Para Commando Company was in reinforcement mission at camp Kimihurura under the command of Major Protais Mpiranya.⁵²⁹

472. The Para Commando Battalion was composed of soldiers from all regions of Rwanda and from each of the three ethnic groups of the country. Tutsis held a considerable number of different positions within the unit. Many Para Commando soldiers were married to Tutsi women. None of the Tutsi soldiers or family members of soldiers of Tutsi ethnic origin were victim of mistreatment by other soldiers, the company commander, or the Battalion commander, Major Aloys Ntabakuze, in 1994. Tutsi soldiers in the Para Commando Battalion like their Hutu and Twa colleagues fought bravely against the Rwandan Patriotic Army until the defeat of the FAR in July 1994. After the defeat, they left the country and went into exile with their colleagues from the Battalion. The Chamber heard evidence to this effect from both Prosecution and Defence witnesses. Out of eight former Para Commando soldiers called by the Prosecution to testify against Major Ntabakuze, seven are Tutsis.⁵³⁰ Given the wealth of this evidence, it is difficult to see how the Chamber can conclude that Major Ntabakuze ordered his soldiers to exterminate Tutsis in April 1994.

473. Throughout his career, Major Aloys Ntabakuze was dedicated to his job. He was committed to serving his soldiers to whom he preached professionalism, courage and discipline. He preached also cohesion and love among his troops to the extent that he was nicknamed “Love” by Para Commando soldiers. Indeed, he loved his soldiers and treated them equally with fairness and justice. Serving his soldiers without distinction was the backbone of his command philosophy:

I thank you, Mr. President. To my knowledge, we could not practice discrimination. If we had done so, we would not have enjoyed the efficiency of our battalion. If the RPF feared the paracommando battalion, it was thanks to discipline, the cohesion, the love that reigned in the battalion. I don't know whether Ntabakuze knows that, but the soldiers had nicknamed him "love" because he used that term frequently during meetings.⁵³¹

474. During the war, the Para Commando Battalion was well known to be one of the most effective and disciplined units among the Rwandan Armed Forces (FAR). Para Commando soldiers were very proud of being members of the unit:

Q. Did you feel pride being part of Ntabakuze's men?

⁵²⁹ T. 18/09/06, p. 20-23; T. 05/04/04, p. 10 and T. 12/07/05, p. 58

⁵³⁰ T. 02/10/03, p. 56; T. 14/04/05, p. 48-51; T. 04/07/05, p. 71; T. 12/07/05, p. 58-59; T. 19/07/05, p. 69; 18/09/06, p. 59 and T. 20/09/06, p. 50

⁵³¹ T. 19/07/05, p.70. See also: T. 27/06/05, p. 31; T. 30/06/05, p. 20; T. 01/12/2006, p. 23; T. 21/09/06, p. 39 and Exhibit DNT235

- A. Yes. I was very proud of being a member of his battalion. I was very -- I was at ease, and I liked being a member of the paracommando battalion.
- Q. Do you think you were the only one that felt that pride?
- A. All paracommandos were proud of being paracommandos, and that is why they succeeded in accomplishing their mission. Before you succeed in any endeavour, you have to love such an enterprise, and that is why members of that battalion were very proud of being paracommandos.
- Q. Did that pride and discipline mean that the paracommandos would do whatever Ntabakuze wanted them to do?
- A. Commander Ntabakuze did not instruct us to do anything outside military regulations. All orders which he issued were based on military rules and regulations. For example, he could not ask us to go and farm when we were soldiers. He could not ask us to go and look after cattle when we had been trained to be soldiers. So when he issued us -- when he issued orders to us based on military rules and regulations, we obeyed such orders.⁵³²

475. During the peace process, which followed 3 years of fighting, Major Aloys Ntabakuze felt that the war had lasted too long and had destroyed the country for little or no gain. Having seen the horrors of war, he was more than convinced that a negotiated peace was the only option to end the violence definitively for the benefit and wellbeing of *all* Rwandans:

- Q. Now, at some point during the summer, in August, the Arusha Accords were signed. Did you favour that, or were you opposed to that when you learned that the agreement had been reached?
- A. For me, it was a relief. It was a relief; I fought the war from 1990, I got even wounded two times, I had lost many soldiers. Others has been handicapped. For me the war had last very long. I was relieved and I was definitely supportive with this state of mind. I was supportive to the Arusha agreement and to the signature. It was really a day of joy.⁵³³

476. Major Aloys Ntabakuze was progressive and supportive of the democratic process and of the Arusha Agreement. He was a man devoted to his country and its people, a man with a spirit of self-sacrifice who fought for peace. [REDACTED], witness DM-25, testified on the personality of Major Ntabakuze and said:

I think that in military terms, he was a competent person. He was a disciplined person and courageous, and he accomplished the missions which had been assigned to him, and he respected the hierarchy and complied with orders received.

Now, ideologically, I would classify him as one -- as being a progressive officer, in other words, one of these progressive officers who, because of their virtue and given the multiparty political system which was in place then, had agreed to support the process of change, and they had a conduct which went beyond ethnic and regional cleavage, and they were ready to cooperate with all people of good will and all legitimate authorities regardless of their political parties or regardless of their ethnic origin or their region.⁵³⁴

477. Major Aloys Ntabakuze had great respect for his countrymen, irrespective of their ethnic group or regional origin and for the expatriates working in his country. He is now eagerly

⁵³² T. 12/07/05, p. 59, T. 27/06/05, p. 61-62, T. 30/06/05, p. 20; T. 30/06/05, p. 20; Exhibit DNT226 and Deposition of Major Ntabakuze (written statement), p. 6-7;

⁵³³ T. 21/09/06, p. 44, lines 25-30

⁵³⁴ T. 11/04/05, p. 65, lines 5-14. See also other witnesses: T. 03/05/05, p. 22 ; T. 21/09/06, p. 42-44; Exhibit DNT225 and Exhibit DNT232

waiting to be given the chance to work together with his countrymen, without distinction, to reconstruct and reconcile the nation:

Mr. President, Honourable Judges, I was not involved in the massacres in Rwanda. And I strongly -- I strongly condemned these massacres from the bottom of my heart and with strong feeling. I was not involved. It is unfortunate that our country was destroyed, I regret that. These people who died were -- some of them were friends, others were acquaintance, others were relatives, and they are -- there is no one -- no only -- no single family in Rwanda who had not lose -- lose his loved ones. It is a terrible tragedy. I could condemn the tragedy. The country has been destroyed. People have been killed for nothing. It is very sad, very painful, and I strongly condemn the massacres. These people should have been respected and protected. Not only because they are my countrymen, but because they're human being. And I regret that I could not have done more to stop them with -- myself, personally, and using my troops. I could not stop them or prevent the killings of civilian. It is regrettable, it is a terrible situation, it is a very sad tragedy, the country has been destroyed, and it will be very hard to heal the wounds. And I would -- I would -- I could -- I wish that I could be for any -- anything to participate in the process of reconciliation of the -- of the country.⁵³⁵

478. The Chamber will assess in all honesty, whether such conduct and state of mind are consistent with the utterly distorted picture of the Accused painted by the Prosecution, being that of a ruthless killer possessed of the will and intent to exterminate the Tutsi population of Rwanda. It is submitted that the Prosecution's version of the Accused's character consists of slanderous lies, based on supposition and rumour, and not on the actual facts of the case.⁵³⁶

479. During the events of 1994, the Para Commando Battalion was engaged in combat against RPF combatants on a daily basis. From April 6 to July 17, 1994, Major Aloys Ntabakuze served under the following authorities⁵³⁷:

- From April 6, 1994, following the crash of the President Habyarimana plane, the Para Commando Battalion was put under the operational command of Colonel Félicien Muberuka, the commander of the operational sector of Kigali Town.
- Toward the end of April 1994, the operational sector of Kigali Town was split into two different sectors: the operational sector of Kigali East and the operational sector of Kigali West. From then the Para Commando Battalion was under the authority of the commander of the operational sector of Kigali East, Colonel Anselme Nkuliye Kubona, until the capture of Kanombe on April 21, 1994.

⁵³⁵ T. 21/09/06, p. 61-62. See also: T.23/06/05, p. 50-62; T. 04/12/06, p. 5 and T. 25/09/06, p. 77

⁵³⁶ Prosecution's Final Brief, paragraphs 1628-1638

⁵³⁷ T. 18/09/06, p. 18-19; Exhibit DNT235 and T. 27/06/05, p. 61-62

- During its short stay at Kabusunzu after the capture of Kanombe by the RPF, the Para Commando Battalion was under the authority of the Army Chief of Staff, Major General Augustin Bizimungu.
- After that short stay at Kabusunzu, the Para Commando Battalion intervened in Muyira, Prefecture of Butare, under the authority of the commander of the Bugesera operational sector, Colonel Balthazar Ndengeyinka, until the capture of Nyanza (Nyabisindu) by RPF troops on May 29, 1994.
- After the capture of Nyanza the Para Commando Battalion was put under the authority of the commander of the operational sector of Gitarama, Lieutenant Colonel Bahufite, until July 3, 1994.
- From July 3 to July 17, 1994, Major Aloys Ntabakuze was the commander of the operational sector of Gitarama. As operational sector commander, he was under the authority of the Army Chief of staff, Major General Augustin Bizimungu.

480. With the exception of Major General Augustin Bizimungu, under whom Major Ntabakuze served for a very short period as direct subordinate, Major Ntabakuze's superiors *have not been prosecuted*. All are still alive either in Rwanda or in exile. Moreover, *none of his subordinates have been prosecuted*:

- Q. Mr. Witness, are you aware of any legal proceedings in Rwanda against paracommandos, before any jurisdiction at all, that is, in relation to the events of 1994?
- A. To date, in my region, no member of the paracommando battalion has ever been arrested or prosecuted for those events.
- Q. Did you ever hear of any member of the paracommando battalion being prosecuted in relation to the events of 1994?
- A. I do not know what is happening in the other provinces, but so far I have not heard the name of a member of the paracommando battalion mentioned in relation to such proceedings.
- Q. How can you be sure of this?
- A. Well, we have information about Gacaca jurisdictions from the radio, and the names of people who have been arrested are broadcast. And so far I have never heard the name any member of the paracommando battalion mentioned.⁵³⁸

481. Major Aloys Ntabakuze was not involved in the killing of civilians in 1994 and was never aware of the involvement of Para Commando soldiers in massacres or rapes. If he had been so aware, he would have taken necessary measures. The Accused Major Aloys Ntabakuze was opposed to the massacres. During the events in question, he was charged with fulfilling

⁵³⁸ T. 06/12/05, p. 25-26. See also: T. 14/03/06, p. 26; T. 18/09/06, p. 18-19 and T. 21/09/06, 59-60

a crucial mission: to defend the nation against the aggressor. He was not in a position to be distracted from his duty. Nevertheless, on random occasions he was able to save certain civilians. He expressed deep regrets during his testimony for not having been able to do more, both personally and with the troops under his command, to prevent and stop the killing of civilians:

Mr. President, Your Honours, let me avail myself of this opportunity to bow down before the memory of all Rwandans of all ethnic groups, and of all non-Rwandans who died during the Rwandan tragedy. Let me also seize this opportunity to express my feelings for the suffering of the survivors, the widows, orphans, and those disabled by the war which has been raging in Rwanda since 1990. My heart goes out to these many souls.

At the same time, I am hoping and praying that Rwandans would reject the heartshed of war, so as to build a reconciled and democratic nation, a land of peace and happiness for all Rwandans and people living in Rwanda without any distinction. And I will be very happy to provide my modest contribution to this work of peace building.⁵³⁹

⁵³⁹ T. 25/09/06, p. 77. See also T. 21/09/06, p. 61-62 and Exhibit DNT235

2. THE EVENTS AS EXPERIENCED BY THE ACCUSED⁵⁴⁰

482. The Para Commando Battalion was part of the Rwandan Army. Its mission was to defend the national territory against aggression, not to maintain order in the country. Therefore, the Para Commando Battalion was never involved in the establishment and maintenance of order. As a matter of fact, Major Aloys Ntabakuze did not participate in the operation of arresting people in October 1990:

I deny strongly these allegations. I was not involved. The paracommando battalion was not involved in the arrest of people. My unit had not the mission to maintain or restore order. I had the mission to fight against the aggression from the -- the aggression -- of the national territory.⁵⁴¹

483. Major Aloys Ntabakuze, as commander of the Para Commando Battalion, was a member of a regular army. He was not a member of the fictitious murderous organizations mentioned by Prosecution witnesses, such as the Abakozi group, Dragon group or death squadron. He was never informed about the involvement of the Para Commando soldiers in any such secret organizations. No Amasasu unit ever existed in the Para Commando Battalion:

Q. What is your response to that allegation?

A. It was another witness, ZF, who alleged that there was groups -- (*unintelligible*) *Abakozi*, death squad. I strongly deny these allegations. I heard for the first time *Amasasu* when I got the statement made by DCH. That was, I think, in 2000 here in Arusha. There was no unit of *Amasasu* in the paracommando battalion and former member of the unit testified before this Chamber, for the Prosecution, and for the Defence, no one mentioned the existence of such a unit. I strongly deny that.

Q. Were you involved with death squads?

A. Concerning death squad, D -- XAQ testified that he was informed by someone who was himself in a death squad. I know nothing about this and I was not informed by that, and I strongly deny the allegation. There was no member of squad -- of death squad in the paracommando battalion.⁵⁴²

484. Major Aloys Ntabakuze never visited “*Parcelle*” Butotori in 1992 and never participated in a meeting there. He never participated in a meeting in camp Kanombe involving Colonel Bagosora in 1993:

Q. Major, there was also an allegation with respect to a meeting in Butotori and some other meetings before April 1994. I believe that one of those witnesses was Witness ZF. How did you understand his allegations? And, please speak slowly and leave a break between my question and your answer.

A. This meeting -- this alleged meeting of Butotori is totally untrue. I never went to Butotori in 1992. I know Butotori, I spent some -- some weeks in Butotori when I was doing my commando training in 1976 and in 1978, I know that place very well. There's no place where you can -- can conduct a meeting. It's just a small place where soldiers had to be trained in amphibious operation. That was the only utility of that place. There was no place to conduct a meeting.

Q. If there had -- if you're wrong about that, maybe we should just talk about whether you

⁵⁴⁰ This version is in fact the summary of Ntabakuze's testimony before the Chamber from 18 to 25 September 2006.

⁵⁴¹ Exhibit DNT235 and T. 21/09/06, p. 34, lines 26-28

⁵⁴² T. 21/09/06, p. 34-35, lines 2-11

- ever attended the meeting that was alleged?
- A. I never attended the meeting at Butotori, I never went to Butotori in 1992.
- Q. When --
- A. -- and the person that he mentioned -- even the person that -- that I do not know. I haven't met in my life.
- Q. Can you just tell us the names of those persons that he mentioned that you don't know?
- A. He mentioned, for example, Mugesera. I have never met Mugesera in my life.⁵⁴³

485. Major Aloys Ntabakuze was never involved in the alleged training of militias at Gabiro nor were any soldiers from his unit involved. He was fully committed to the Arusha Accords and to the democratization process:

- Q. Major, in order to save time, I'm going to ask that we direct our attention to the allegations regarding meetings by Witness DBQ. We already have his background regarding the social security lists. How do you recall his allegations?
- A. He -- DBQ alleged that we conducted the meeting of officers at Camp Kanombe and with Colonel Bagosora, Colonel Muberuka, myself, and other officers in Camp Kanombe in 1993, and that we were opposed, according to his allegation, we were opposed to the Arusha agreement or negotiation.
- Q. Major, are the allegations about this meeting true or not?
- A. It is not true. We didn't meet in Kanombe to discuss or to -- to express our opposition to the Arusha agreement; we were not opposed to the Arusha negotiation and agreement. And I do recall that Colonel Bagosora in 1993, before the -- the signing of the accord, he was a member of the government delegation in Arusha, and he was not the commander of the camp anymore. He was in the ministry of defence as *chef de cabinet*.⁵⁴⁴

486. The Para Commando Battalion was characterized by its cohesion. There was no discrimination in the unit. Major Aloys Ntabakuze treated his soldiers equally, with fairness and justice. Tutsis were not identified as the enemy:

I categorically reject the allegation, this is not true. And the Chamber has heard testimony from Prosecution witnesses and Defence witnesses. I treated my soldiers equally with fairness and justice. You heard the testimony of DH-85, especially. This witness is a Tutsi and he came to testify for the Defence. He was a non-commissioned officer. He contradicted these allegations.⁵⁴⁵

487. Within 2 hours after the attack of the plane carrying President Habyarimana on 6 April 1994 at around 08:15 p.m., Major Aloys Ntabakuze visited the crash site three times. During that night he participated in only two meetings:

- A short meeting chaired by Colonel Muberuka, the camp Kanombe commander, in his office at around 09:00 p.m. gathering the unit commanders of camp Kanombe.⁵⁴⁶

⁵⁴³ T. 21/09/06, p. 35, lines 12-27

⁵⁴⁴ T. 21/09/06, p. 35, lines 34-37 and p. 36, lines 1-9

⁵⁴⁵ T. 21/09/06, p. 39, lines 15-18

⁵⁴⁶ T. 18/09/06, p. 39

- A meeting chaired by himself, at around 10:30 p.m., in the office of S2-S3 of the Para Commando Battalion, gathering the company commanders and the staff officers of the Para Commando Battalion. This meeting lasted about one hour.⁵⁴⁷

488. After the meeting with the company commanders, Major Aloys Ntabakuze went to his office where he spent the night:

- Q. What if anything did you do after you went back to your office, that you can recall?
- A. I went back to my office. At that time soldiers were near the office of the company commanders, and I went in my office and I spent the night there. I forgot to -- maybe to indicate that before I -- I met with the officers, I called my wife to inform her about the incident, and at that occasion we agreed that she should postpone her trip to Kanombe the following day, because of security.⁵⁴⁸

Following that serious incident, the Para Commando Battalion like other units of the camp Kanombe, was put on stand-by to be ready to intervene on short notice. Para Commando soldiers spent the night near the office of their company commanders. Except for the CRAP platoon, which received the mission to locate the crash site and secure it, no Para Commando soldiers left the camp until the afternoon of 7 April 1994.⁵⁴⁹

489. On 7 April 1994 at around 09:25 a.m., Major Aloys Ntabakuze left camp Kanombe to participate in a meeting at ESM. He came back to camp Kanombe from the ESM meeting at around 01:15 p.m. At around 03:30 p.m., he held a short meeting with the Para Commando Battalion following the resumption of the war by the RPF and the order to counterattack from Colonel Muberuka, the commander of the operational Sector of Kigali Town. During this short meeting, he ordered his soldiers to counterattack RPF combatants. This is the only meeting that Ntabakuze had with the Para Commando Battalion on the tarmac after the crash. Importantly, during this meeting, he never issued an order to kill civilians.⁵⁵⁰

490. The 4th Para Commando Company was ordered to reinforce Camp Kimihurura immediately, while the 1st and the 3rd Para Commando Companies intervened at Remera as ordered by Colonel Muberuka. The Fire support Company was also deployed to support the maneuver companies. The HQ Company was charged with fulfilling its mission of ensuring the administrative and logistic support to the combat companies. The 2nd Para Commando

⁵⁴⁷ T. 18/09/06, p. 44-46

⁵⁴⁸ T. 18/09/06, p. 47, lines 18-22

⁵⁴⁹ T. 18/09/06, p. 47-54 and 25/09/06, p. 73-75

⁵⁵⁰ T. 18/09/06, p. 48-59

Company was already in a reinforcement mission at Camp Kimihurura, since some time before the crash.⁵⁵¹

491. From 7 April 1994 onwards, the Para Commando Battalion was engaged in a war against RPF troops. It sustained intense fighting on an everyday basis in the Remera area. RPF troops were trying to capture the airport⁵⁵² and Camp Kanombe. The Para Commando Battalion was able to repel the RPF and prevent this from happening, until May 21, 1994. During that period, Major Aloys Ntabakuze conducted combat operations from his command post located at the airport of Kanombe.⁵⁵³
492. Para Commando soldiers were not involved in any killings or rape of civilians during combat operations in the Remera area, where the unit suffered many casualties. The Para Commando Battalion was never deployed at Kabeza, Kabuga, Ruhanga or Masaka.⁵⁵⁴
493. During the night of 21 to 22 May 94, together with other units of the operational sector of Kigali East, the Para Commando Battalion was tasked with breaking the encirclement by RPF troops. In preparation, the Battalion was ordered to go to Kabusunzu for the purposes of reorganization. The Para Commando Battalion was able to retreat in an orderly manner and stayed at Kabusunzu for two to three days. From Kabusunzu, the Battalion was ordered to reinforce the Bugesera operational sector, which was under pressure in commune Muyira in the prefecture of Butare. During that short stay at Kabusunzu for the purposes of reorganization, Para Commando soldiers were not involved in any killing or rape. The Para Commando Battalion was never deployed at College St André during that time:
- Q. Were the paracommandos or you ever in that area during that time?
- A. The paracommando was never deployed at *Saint André* and this was confirmed by Prosecution witnesses and Defence witnesses.⁵⁵⁵

⁵⁵¹ T. 18/09/06, p. 59-66

⁵⁵² It is thanks to the swift and effective intervention of the Para Commando Battalion that the RPF did not capture the capital city of Kigali on 7 April 1994. Indeed, from October 1990, the Para Commando Battalion caused many difficulties for the RPF troops on the battlefield. This may well be the reason behind the relentlessness of the RPF Government against Major Aloys Ntabakuze. The Ntabakuze Defence reminds the Chamber that Mr. Emilien Dusabe, legal Assistant in Ntabakuze team, after he uncovered threats and beatings of Defence witnesses in Kigali, was threatened with arrest by the current Rwandan governing regime, and he could not continue his work with the team. He is now seeking asylum. As a consequence, those witnesses were prevented from coming to testify for Major Aloys Ntabakuze impeding his rights under Rule 20 of the Statute of the ICTR.

⁵⁵³ T. 20/09/06, p. 2-16

⁵⁵⁴ T. 20/09/06, 17-37 and 21/09/06, p. 17-19 and 70

⁵⁵⁵ T. 21/09/06, p. 22, lines 6-8. More generally, see: T. 21/09/06, p. 19-23

494. The Para Commando Battalion left Kabusunzu, around 25 May 1994. It was engaged in intense fighting against RPF troops from the moment it arrived at Muyira. Finally, it was pushed back to Nyanza which was captured on 29 May 94 by the RPF. Then the Para Commando Battalion conducted delaying operations along the road Nyanza-Gitarama until the capture of Kabgayi on 2 June 1994. From 2 June the Battalion was then engaged in fighting in Gitarama town and surroundings until around 12 June 1994. Following the capture of Gitarama on 12 June 1994, the Para Commando Battalion conducted delaying operations along the road Gitarama-Gisenyi until 17 July 1994.⁵⁵⁶
495. The allegation regarding the supply of weapons, ammunition and fuel by Major Aloys Ntabakuze to civilians is simply untrue. The Commando Battalion had no stock of fuel or spare weapons or ammunition to distribute to civilians. It is inconceivable that a high-ranking superior army officer would take weapons from soldiers engaged in intense combat in order to distribute them to civilians.⁵⁵⁷
496. Major Aloys Ntabakuze never received any order to kill civilians from his superiors. Major Aloys Ntabakuze was not answerable to Colonel Bagosora and never received an order from him to kill anybody. Major Ntabakuze did not conspire with his co-accused, did not participate in any plan to kill Tutsis and was never aware of the existence of such a plan:
- Q. Major, I won't go into that more at this moment; I'm sure there will be more cross-examination on it.
- With respect, however, to the substantive offence of conspiracy with these gentlemen who are your co-defendants, do you have any comment as to whether you carried out some sort of agreement or conspiracy with them to commit war crimes?
- A. I never conspired with them, and not with anybody else.
- Q. And with respect to the substantive crime of planning to kill civilians, and particularly Tutsi civilians, what is your comment with respect to your involvement, or your awareness of that allegation?
- A. I was not involved in this planning, and I was not aware of the existence of a plan to kill civilian population or Tutsis.⁵⁵⁸
497. The Accused Major Ntabakuze never gave any orders to kill civilians and was never aware of the involvement of Para Commando soldiers in any massacres or rapes in 1994. If he had been aware, he would have taken the necessary measures. It is submitted that the Prosecution has failed to prove the contrary beyond all reasonable doubt.⁵⁵⁹

⁵⁵⁶ 21/09/06, p. 17-37

⁵⁵⁷ T. 21/09/06, p. 36-39

⁵⁵⁸ T. 21/09/06, p. 61

⁵⁵⁹ T. 20/09/06, p. 46-56; T. 21/09/06, p. 1-14, 17-24 and 59-61 and T. 25/09/06, p. 9-16