

Congo-Rwanda: The Difficult Search for the Truth (part II)

By Col Luc Marchal (translated from the French)

In a recent article, we discussed how much more laborious has become the search for the truth of the tragedy that, for so many years, has befallen the peoples of Rwanda and the east of Congo. Briefly, here are the areas we discussed:

1. The involvement of the US in the events that effected this region since the early 1990s;
2. The total lack of will on the part of the international community to shed light on the attack of 6 April 1994 in which presidents Habyarimana and Ntaryamira perished, the attack that marked the beginning of a holocaust of 6 to 8 million African souls;
3. The disaster produced by the International Criminal Tribunal for Rwanda (ICTR), which, contrary to the mandate conferred on it by the UN Security Council, has contented itself with rendering a biased and costly form of justice;
4. The independent investigations carried out by French and Spanish judges.

As if echoing the concerns expressed in that article, several unique events have occurred since its writing. These events confirm the pertinence of our analysis and preoccupations. So it seems a good time to comment on certain of these and, in that way, to update this information.

The manifesto of Professor Peter Erlinder

Peter Erlinder is a professor at Mitchell College of Law in St. Paul, Minnesota. He is also president of ADAD, the Association of Defense Attorneys, at the ICTR and lead counsel to Major Ntabakuze in the Military I case. He has recently published a document containing the results of several years of his experience arguing before this court of International Justice. In reality, it is more of an indictment laying out the missteps of this institution that has strayed from its prescribed role by adopting a thoroughly partisan attitude. This work contains no real surprises for those who have closely followed the work of the ICTR. However, the truly shocking testimony does not seem to have much concerned the world, except those who remain irrevocably committed to the universal principles of Peace and Justice. Which is certainly the case with the RPP.

1. The one-way vision of the Prosecutor

With regard to the knowledge gained since 1994 as to the importance and pertinence of the war crimes and crimes against humanity committed by the Rwandan Patriotic Army (RPA), it is undeniable that the Prosecutor, by pursuing only one of the protagonists in the Rwandan conflict, has not fulfilled the mandate conferred by the UN Security Council. This mandate authorized the prosecution of all crimes committed in Rwanda during 1994. This is what led professor Erlinder to the following conclusion: either the Rwandan war was the only war in human history during which only one side was guilty of international crimes, or the ICTR has been manipulated for political reasons. Let's just let the former ICTR Prosecutor, Carla Del Ponte, respond to these two assertions: It is not right that our work should be undercut by politics. It is painful to realize how we have trivialized the principles of international justice because Kagame signed an agreement with the US. We can no longer be certain as to why the work of the Tribunal was corrupted and who cut short the work that was to be done here.

However, in August 1994, the 'Gersony Report' (the only independent investigation to be conducted in Rwanda after the seizure of power by the Rwandan Patriotic Front—RPF) informed the highest UN authorities that mass killings of the Hutu population had been committed by the RPA. No follow-up to this report was ever initiated, and it remained out of circulation for several years. On the other hand, in October 1994, Kofi Annan (at the time head of the UN Office of Peacekeeping) and Brian Atwood of the US administration directly intervened with Jean-Marie Vianney Ndagijimana (Foreign Minister under the RPF government) to cover up the crimes committed by the RPA. Former Minister Ndagijimana testified to this fact before the ICTR.

There are also other facts, all verifiable, presented in Professor Erlinder's treatise demonstrating that while a large number of important political and military figures from the previous Rwandan government were locked up in Arusha, the Prosecutor was in possession of all the elements necessary to bring similar charges against several leading figures in the RPF and its military arm, the RPA.

2. The US, the UK and Paul Kagame or the Cosa Nostra

The unconditional protection offered, principally by the US, to Paul Kagame has created a total impunity at the heart of the ICTR that has well served the political and military authorities of the Kigali regime for the last thirteen years. So it should not be surprising that in July 2003 Carla Del Ponte announced her office was in possession of sufficient evidence to bring charges against members of the Kagame government, US Secretary of State Colin Powell and Kofi Annan (by then Secretary General of the UN), both of whom were mouthpieces for Kagame's demands and had openly expressed their beliefs that Carla Del Ponte should be relieved of her duties as ICTR Prosecutor.

Still in this context, President Bush put himself into the game by rushing Pierre Prosper, his ambassador-at-large for war crimes, off to Arusha. His mission was to order Carla Del Ponte to cease all legal actions against the RPF. As to what the deeper purpose of this move was, the answer could not have been clearer: to serve the strategic interests of the US in Central Africa.

We know what happened to Carla Del Ponte. As to the current ICTR Prosecutor, Assan Bubacar Jallow, his position on the case is quite simple: his office has studied the question, and in his judgment, the double-presidential assassination of 6 April 1994 does not fall within the legal mandate of the ICTR. Such clairvoyance will doubtless keep him from a fate like that of Carla Del Ponte's.

3. The despoiling of the riches of Congo

Another subject treated by Peter Erlinder is the Rwandan-Ugandan looting of the riches of eastern Congo and, as a direct result, causing millions of Congolese deaths during the years of war there. This aspect of the problem is illuminated by a report from UN experts who, in 2003, clearly identified Paul Kagame as one of the kingpins of the chaos that is still being visited on this part of Congo.

And he concludes that the image of 'democratic liberators' that prevailed in 1994, has absolutely nothing to do with the true character of the government in place in Kigali.

4. The attack on 6 April 1994

As the lead counsel for one of the main defendants in the Military I trial, Peter Erlinder has had direct access to important documentation of the events that took place in the Great Lakes region of Africa after 1990. Having dedicated a good deal of time to the study of this information, his conclusions are categorical: not only is there a deliberate will to cover up the truth of this pretended crusade of liberation by the RPF forces in 1994, but, moreover, the ICTR is also in possession of evidence that puts the responsibility for the double-assassination of presidents Habyarimana and Ntaryamira directly on Paul Kagame.

One of the consequences of this revelation by the ICTR is that charging solely those who were vanquished in 1994 makes any possibility of reconciliation among the Rwandan people pure illusion. And furthermore, this attitude makes the recurrence of such a tragedy highly possible. It is just a little ironic that this institution, that is supposed to bring about justice, would, through its actions, engender and exacerbate deep feelings of injustice in the hearts of the majority of Rwandan people.

In concluding his dissertation, Professor Erlinder stresses that though the ICTR was originally conceived as an independent institution, it will remain historically a Tribunal that has come to be a weapon of retaliation in the hands of the victors in the war of 1994, who, at all costs and by any means, have assured the total impunity of a leader who, in the Rwandan bi-monthly 'UMUCO' (actually published in Rwanda!), recently was compared to Adolf Hitler.

The massacre at Gakurazo or the enormous incoherence of the ICTR Prosecutor

In our previous article we discussed the killing of several Rwandan priests by the RPA at Gakurazo on 5 June 1994. A few days after the publication of the article, the authorities in Kigali announced the arrests of four suspects in the massacre. In a surprising fashion and without really taking the time to reflect, the ICTR Prosecutor withdrew from the case and ceded all authority to the Rwandan judiciary. Shocking on more than one account. On the one hand, the Arusha Tribunal has precedence over national judiciaries as to incriminating evidence. On the other, this way of proceeding is totally contrary to the Prosecutor's own charging strategy against the accused. In fact, in the Military II trial, the former Chief of Staff of the Rwandan Armed Forces, Augustin Bizimungu, and the former Chief of the Rwandan Gendarmerie, Augustin Ndindiliyimana, are charged with the exactions and crimes committed by their subordinates. How do you explain that, on one side, certain commanders are to be held responsible for the misdeeds of their subordinates, but not on the other?

And last but not least, the ICTR's transferring of its authority to adjudicate the crimes committed by the troops of the RPA to the Rwandan justice system is a bit like having let the Nazis determine who was responsible for the massacres at Oradour-sur-Glane in France or at Bande in Belgium. In any case, true justice does not permit the judge to be a party in the litigation. By this transfer, the Prosecutor has called into serious doubt something he has always affirmed: the certain knowledge that the political and military leaders of the ancien regime are the only ones responsible for all the crimes committed in Rwanda in 1994.

However, no one is fooled. By meekly allowing the Kigali regime the possibility of judging the 'bit players', the Prosecutor has permitted those who really ordered the massacre at Gakurazo never to have to answer to anyone. For that matter, everyone should appreciate the Prosecutor's professional ethics for what they really are. The Prosecutor has, in fact, known the exact circumstances of these killings since 2003. They are by now so detailed as to erase all

doubt: the priests were murdered on the orders of a high authority. The conditions under which they were killed resulted from a deliberate decision and not from spontaneous acts of revenge on the part of some soldiers driven to madness by the pain of having their families wiped out, which might have rendered them guilty.

This misstep by the Prosecutor, which came after the publication of Professor Erlinder's manifesto, only served to further confirm Erlinder's conclusion: the Arusha Tribunal is nothing more than a clearing house for certain partisan interests aimed at assuring all power to a totalitarian minority in the service of a capitalist oligarchy.

The case of General Karenzi Karake

You can reasonably surmise that the brilliant career of this RPA officer is the direct result of the service he has rendered to the cause of the RPF. In 1994, we knew very well what that involved. He served as the liaison officer to Canadian General Romeo Dallaire, commander of the military contingent of MINUAR. This assignment gave him total freedom of movement and allowed him to be completely on top of everything that was discussed inside this peacekeeping mission. We also knew that he worked for the intelligence services of the RPA. More than anything else, this liaison officer 'cover' permitted him to carry out the general coordination of the actions of all the underground cells of infiltrators deployed to Kigali by the RPF. Some of these cells were charged with the physical elimination of people who were thought to be either too critical of the Front, or just simply destabilizing influences on the situation inside the country. He thus fell directly under suspicion for the assassinations of two Rwandan politicians:

Emmanuel Gapyisi and Felicien Gatabazi.

In August 2007, he was tapped to be the second in command of the African peacekeeping force in Darfur (UNAMID). After this assignment, the Human Rights organization 'Human Rights Watch' expressed its total disapproval to the Secretary General of the UN, as well as to the African Union, because of this officer's direct responsibility in the many deaths of Congolese civilians during the June 2000 invasion of the region around Kisangani by Rwandan/Ugandan forces.

With Karenzi Karake's mandate to lead the UNAMID set for only 12 months, the question has recently been just how to extend his term. And, let's remember, at the beginning of this year, the Spanish judge, [Fernando Andre] Merelles, charged Karenzi with direct responsibility in several massacres, war crimes and crimes perpetrated against Rwanda. After that, many voices were raised to stop the renewal of his mandate. But then there was the unconditional support from the US, which, by sending its under-Secretary of State for African Affairs, Jendayi Frazer, as well as its UN ambassador, Zalmay Khalilzad, directly intervened on Karenzi's behalf with Ban Ki-Moon to effectively renew the officer's mandate. As for the government in Kigali, sticking with its well-trying and tested tactic of opposing those who put an end to the genocide to those who were responsible for it, President Kagame simply threatened to remove the significant Rwandan contingent from the peacekeeping force if Karenzi's mandate was not renewed.

How is General Karenzi Karake's case special? In fact, he is a perfect illustration of that international justice that holds to a double standard, one for the winning side and another for the losers. A specific example that is incontestable is that of General Leonidas Rusatira, a former officer in the Rwandan government's armed forces, who also served with the RPA, before going

into exile in Belgium. At the height of the torment in 1994, this man helped save numerous lives, and I can attest to this, having been a direct witness. However, a few years later, here he is on a list of genocidaires (a list established by the Kagame government and that varies with the needs of that regime). Without much reflection, Carla Del Ponte signed an arrest warrant that the Belgian authorities then executed. General Rusatira spent three months in a Belgian prison. Enough time for two experts recognized by the ICTR (professors Filip Reyntjens and Andre Guichaoua) to get Carla Del Ponte to admit that there was no basis whatsoever for the charges against Rusatira. After that she could only withdraw the arrest warrant. It's troubling though, isn't it, that this kind of justice can give a blank check to the 'liberators', allowing them to neutralize anyone who might represent an obstacle to their plans? Sad to say, this particular example is not the only one of its kind—far from it.

What makes the Karenzi case different from that of Radovan Karadzic, of Sudanese president Omar Hassan al-Bashir or even of Jean-Pierre Bemba or Paul Kagame? They are all the subjects of serious criminal charges at the international level. However, they are far from all being treated in the same way. When the international community has figured out how to correct this iniquitous situation, then, perhaps, we can write 'international justice' with a capital 'J'. This is our wish, anyway.

Rwanda: an Anglo-Saxon protectorate?

Decidedly, these last few months, this magnet, Rwanda, has become a must-stop in the itineraries of many important American and British personalities.

The first visitor of note in 2008 was none other than George W. Bush, himself. The moment of his visit most reported in the press was his speech at the genocide memorial in Gisozi, near Kigali. In reality, the purpose of this brief stopover was to finalize the terms of an agreement to make Rwanda the hub of the US presence in Africa. The electronic equipment that is going to be deployed in this the land of the volcanoes will enable the US and its friends to listen in on all communications, by radio, telephone and any other means, over the entire African continent. What's more, a vast military zone will be granted to the Americans in the region of Bugesera. The exact final state of this 'reserved zone' remains unclear. The interest of the US in Rwanda, in this particular area, is nothing new. The same demand was presented to President Habyarimana, who did not sign on to it as had been hoped.

If the current Republican candidate for the White House, John McCain, has not, himself, yet shown up in Rwanda, his wife [Cindy] just paid a quick, clean and almost secret call. She might have run into Chery and Tony Blair, who are by now regular denizens of the place. In fact, since leaving 10 Downing Street to his successor, Tony Blair has become a special advisor to Paul Kagame.

A little while ago, it was Bill Clinton whose tour of Africa led him once again to Rwanda. We remember the apologies he presented to the Rwandan people at the time of his previous visit. But these people will never forget that he was President of the United States in 1994, and that for several weeks his representatives led a pugnacious foot-dragging campaign to keep the word 'genocide' from being uttered in the semi-circle of the UN Security Council.

Just as the repeated visits of Anglophone personalities to Kigali are not the result of mere chance, neither do the kinds of expeditions by those who have preyed on Central Africa for so many years have anything to do with fate. Both are the direct consequence of covetousness for

the immense underground wealth of this region. The Rwandan and Congolese peoples are doubtlessly growing little by little into a full awareness of their total abandonment by the so-called 'civilized' world, which, from one side of its neck, preaches 'good governance', while from the other it unstintingly sows chaos, all the better to loot and pillage the natural resources that do not belong to them.

The Rwandan Commission on the role of France

At the beginning of 2008, a Rwandan Investigatory Commission published its report on the role of France before, during and after the genocide. Remember that the creation of this commission in 2006 was a direct response to the almost personal insult and injury caused by the results of the investigation led by French [anti-terrorist] judge, [Jean-Louis] Bruguire, on the attack [against the Rwandan presidential jet] of 6 April 1994.

Let's leave the analysis of the work of this commission to experts. But we should take note of one point that seems strange, to say the least. While Judge Bruguire's investigation sets forth in the minutest detail the machinations behind this attack on the president's plane, the investigation of the Rwandan government commission, overseen by Jean de Dieu Mucyo, does not utter a single word about this terrorist act. This should have been the perfect opportunity for the Kigali regime not only to put forth all the elements necessary to counter the charges of the French Judge, but especially to lift the veil of suspicion that hangs over the RPF with regard to this act's triggering the Rwandan apocalypse.

It's useless merely to stir the pot. If no explanation is forthcoming from the commission, it is because this terrain is much too slippery. In reality, this silence is the highest form of acknowledging the solid basis for the Bruguire report's [English translation on this blog—mc] conclusions as to the direct responsibility of Paul Kagame in this terrorist attack.

The commission is another example of the technique of 'reversed-accusations', a practice the Kagali authorities have excelled in for many years. It is doubtlessly one more step in Rwanda's willful attempts to surmount all international resistance to its self-proclaimed 'universal competence'. To this end, the ground has been prepared for some time. The Rwandan president has taken advantage of every one of his trips abroad to denounce the arrogance of Western justice in reserving for itself the right to accuse the citizens of 'weaker nations', and directly citing the charges made by French and Spanish courts. Even though it is difficult to see Rwanda as a 'weak nation' with its abundant workforce and its impressively equipped military.

But this insistence that it be granted the judicial implements of universal competence really hides another purpose than just getting back at those countries that presumptuously demand an explanation from the liberator of Rwanda. In fact, more than 14 years after the events, it has become more and more difficult, as was the case in the past, to add endlessly to the list of genocidaires those of whom you want to be rid. This technique is a thing of the past and should be replaced. Universal competence gives the regime in Kigali an excellent and permanent opportunity to pursue, anywhere and everywhere, people who might be considered potential obstacles to the hegemony of the current Rwandan nomenclature. And this is not all, because this same universal competence could also be used against those who search for the truth, those who oppose the intellectual tyranny imposed by those who deliberately chose the force of arms to take power in Rwanda. In other words, many of those who are being classify, in an opportunistic and simplistic fashion, as revisionists and negationists.

The danger is real. But, basically, it is expressions of Truth and Justice that will suffer. All the experts on Central Africa presently agree on one point: the true history of the region, from 1990 until today, is still to be written. Carla Del Ponte, herself, recognized that if the RPF was found to be responsible for the attack of 6 April 1994, the history of the Rwandan genocide must be completely rewritten.

Here is what is really at stake in all the hubbub behind this opposition to the cocked notion of a 'Western Justice'. It is, above all, about the perpetuation, by any and all means, of the 'official version' of the events.

Conclusions

The UN Security Council, in its Resolution 1824, has extended by one year the mandate of the judges at the ICTR. In the current state of affairs, this extension will doubtlessly do little to change the way this Tribunal functions. I think that it is mainly a question of getting rid of the backlog of cases and of finding an acceptable solution to the problem of transferring certain cases to national jurisdictions, but not to that of Rwanda, which continues to express its opposition to the ICTR judges themselves.

However, when you consider that more than a year and a half after the conclusion of the Military I trial, the presiding judges have yet to render a decision (it is difficult to imagine such a situation anywhere else!), the ICTR appears far from being able to call it a day. Especially in view of all the affairs that still need to be concluded.

Let's also consider that this extension is perhaps a much wished for opportunity to change the direction of things. But it is still mandatory that those who are in a position to act mobilize for the cause of Truth and Justice.

The major difference between 1994 and 2008 is that if it was difficult to determine who was responsible for crimes at the time, or just after, they were committed, today no one can say that he doesn't know or that he can't know. One thing is certain: if Western political leaders won't unequivocally declare their determination to find out the whole truth about the real nature of the events that continue to bathe the Great Lakes region in blood, then we must insist they admit to their being accomplices in the next genocide which will surely be inflicted on this tortured part of Africa. Because if, in the West, they don't want to know, the Rwandans and Congolese, most certainly, know all too well who is responsible for their terrible suffering. Today, it is most unseemly to continue to use the phrase:

'Oh! I didn't know.'

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