



Research Report on the *Gacaca*  
Report VI

*From camp to hill,  
the reintegration of released prisoners*

*With the support of the Department for International Development  
(DfID)*

May 2004

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**We would like to thank David Newbury for his invaluable review of this report.**

**The information in this document has been collated by all the research team of PRI in Rwanda. We would like to thank them all for their work, without which this report would not have been possible.**

“The history [of Rwanda] has been the subject of polemical interpretations, approximations and simplifications of which there are few examples as caricatural as this in the history of ex-colonies (...), (...), *the ethnic vulgate has mostly been used without any critical distance.*”

Eugène Ntaganda<sup>1</sup>

“We have adopted the habit of dividing Rwanda’s history into three successive periods, to wit, the pre-colonial period, the colonial period and the post-colonial period. And we believe that each of these periods, taken as a whole, has its own identity, without *taking into account the dynamic character within each one.*”

Minaloc<sup>2</sup>

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<sup>1</sup> Ntaganda, Eugène, “Editorial”, in “Peuplement du Rwanda. Enjeux et Perspectives” [Population of Rwanda. Stakes and Prospects], *Cahiers du Centre de Gestion des Conflits*, No. 5, 2002, p. 6

<sup>2</sup> Ministère de l’Administration Locale, du Développement Communautaire et des Affaires Sociales (Minaloc) [Ministry of Local Administration, Community Development and Social Affairs], *Dénombrement des victimes du génocide. Rapport Final.* [Final Report on the Census of Victims of Genocide] Rwanda, Kigali, November 2002, p. 6

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# Introductory Note

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Since its inception, PRI's research has presented itself as action-oriented, aiming to observe and analyse the *gacaca* process with a view to providing its actors, and at their head the government authorities, with all the necessary elements to gain a better understanding of its implementation in the field. The aim is mainly to help optimise the programme. The logic of supporting an action-oriented research is explained by the exceptional nature of this system of participatory justice, set up in Rwanda, taking into account not only the challenges of implementation, but also what is at stake for Rwandan society on its path towards reconciliation.

The reports published to date<sup>3</sup> dealt with the preparation of the *gacaca* at cell level, i.e., all the work prior to the trials: establishing the lists of victims and accused, and dividing them into the various categories. The procedure of confessions was studied in detail (Report IV of January 2003), as well as the issues regarding compensation for the victims, setting up of Community Service (CS), monitoring of the *gacaca* by various persons and the participation of the population (Report V of September 2003).

After nearly two years of observation, we have found that it is not necessary to stick to a strict analysis of the unfolding of the judicial process itself, but rather to enrich our research by more in-depth studies of peripheral events: the context in which this process is being set up. The issues are eminently complex.

In January 2003, a Presidential Decree ordered the provisional release of some categories of detainees. Around 22,000 persons were released from prison at the time. Their reintegration was achieved in two stages: first they spent some time in solidarity camps, and then they returned to the hills. To help prepare for the new releases being announced for the coming months, this report examines the conditions in which these two stages took place.

First of all, in the form of a preamble, we shall look at the present state of the *gacaca* process and the reforms that are currently being considered.

Thereafter, this report will deal with the time spent by the released prisoners in solidarity camps, which was the first stage before returning to the hills. We have focused on the history courses given at this stage because of their influence on the prisoners' perception of their society. The way these courses forced the prisoners to think about their responsibility in the genocide was decisive.

Following this line of reasoning, we chose to observe and analyse the reintegration of the released detainees who returned to the hills in May 2003. They are again living with the rest of the population, and in particular with the survivors.

By all accounts these two points are directly relevant to the *gacaca* process: in what state of mind will ex-detainees, who are only on provisional release, present themselves to the *gacaca* courts? What impact will the return of the genocide killers, or presumed killers, have on the participation of the survivors? Will this new phase favour the action of the *gacaca* courts or, on the contrary, will it limit the positive effects expected?

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<sup>3</sup> These reports are all available on PRI's website, [www.penalreform.org](http://www.penalreform.org)

This work is based on the results of a qualitative research covering the period of February 2003 to January 2004. From end February to end April 2003, the research team visited more than 10 solidarity camps, including Gisozi (Kigali-Ville), Rwankuba (Umutara), Gisovu (Kibuye), Misizi, Kabagari and Ntongwe (Gitarama), Muhura (Byumba), Gishamvu (Butare), Gati (Kibungo), Mudende (Gisenyi) and Mushubi (Gikongoro). The Ruhengeri, Cyangugu and Kigali Rural camps were not visited for this research due to lack of time and means.

The data gathered during these visits was verified and complemented by observations made during the *gacaca* court sessions and interviews carried out among the population (with survivors, non-survivors, families of detainees, released prisoners, local authorities, honest judges, etc.) by our permanent researchers in the 12 pilot sectors.

The extracts to follow are all a result of this research. More specifically, the extracts on history courses come from the notes of some of the released prisoners in the camp of Gishamvu, corroborated by observations made by our researchers who were present at some of the courses. We have also studied the introduction regarding history of a Minaloc report of November 2002<sup>4</sup>.

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<sup>4</sup> The extract in the annexe is taken from the introduction of a document produced by the Ministry of Local Administration, Community Development and Social Affairs, *Dénombrement des Victimes du génocide - Rapport Final*. [Final Report on the Census of Victims of Genocide] - Rwanda, Kigali, Minaloc, November 2002, pp. 6-14

## Current state of the *gacaca* process

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### *On setting up the National Department of Gacaca Courts [Service National des Juridictions Gacaca (SNJG)]*

The former *Département des Juridictions Gacaca* (DJG) [Department of *Gacaca* Courts], which constituted the Sixth Chamber of the Supreme Court, has been replaced by a new National Department “*responsible for following up, supervising and coordinating the activities of the gacaca courts (SNJG)*”<sup>5</sup>.”

We are very pleased about this reform. The primary aim of the reform was to make administrative and financial management of this department autonomous. It is hoped that this will make the decision process faster and improve oversight of SNJG operations, i.e., the supervision and coordination of the *gacaca* courts, while respecting their independence. This department has an Executive Secretary at its head, currently Mrs Domitille Mukantaganzwa.

However, it is regrettable that the people who conceived the new SNJG did not take the opportunity offered by this reform to strengthen the partnership which should exist between all the ministries and institutions involved in one way or another in the *gacaca* process. In fact, on this issue, article 11 of the bill only prescribes that the SNJG must provide quarterly and annual reports on its activities and the functioning of the *gacaca* courts to the executive (Presidency and Prime Minister), legislative (Parliament) and judiciary (Minister of Justice, Supreme Court and Attorney General) powers. Nothing is specified in terms of communicating with other partners whose action is nonetheless essential for the success of the process. These other partners include :

- the Ministry of Local Administration, Community Development and Social Affairs (Minaloc), for involvement of the local authorities,
- the Ministry of Internal Security (Mininter), for security,
- or even the Ministry of Youth, Sports and Culture (Mijespoc), responsible for the documentation and research on the genocide and the *gacaca*.

Other departments which are not mentioned either:

- the Ministry of Health (Minisanté), responsible for psychological and social care,
- the National Human Rights Commission (CNDH) and of Unity and Reconciliation (CNUR),
- and, above all, the Executive Secretariat of Community Service (CS).

As we write, the new National Department has yet to start operating legally, as the law to create it has not yet been promulgated. However, it exists *de facto* and has been operating since the beginning of 2004.

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<sup>5</sup> Bill “*on the setting up, organisation, attributes and functioning of the National Department responsible for the follow-up, supervision and coordination of the activities of the gacaca courts*”, Kigali, under debate

## *On the adoption of a new law against crime*

The end of the legislative year 2003 will be remembered for the adoption by the National Assembly of a new law<sup>6</sup> against the crime of genocide (*jenocide*), crimes against humanity (*ibyaha byibasiye inyokomuntu*) and war crimes (*ibyaha by'intambara*), which came into force on the 1<sup>st</sup> of November 2003.

This is the first Rwandan law against these “major crimes” apart from the organic laws of 1996 and 2001, which were against crimes of genocide, war crimes and crimes against humanity committed on Rwandan territory “between the 1<sup>st</sup> of October 1990 and the 31<sup>st</sup> of December 1994”. The new law, which is to apply exclusively for any future offences, prohibits such crimes should they be committed again.

The first aspect of major interest of this law is that these crimes are now defined in Rwandan penal legislation, having so far been absent (except when referring to international laws), and in particular the applicable sanctions for them. Thus, the crimes that are now integrated in Rwandan penal law are genocide, crimes against humanity and war crimes, as well as “offences against humanitarian organisations” understood to be “acts of hostility towards persons belonging to humanitarian organisations while exercising their functions” and attacks on the property of these organisations or property which has been put under their protection.

The definition of each of these “major crimes” is the same as that in international law. It should be noted that by comparison to earlier definitions mentioned in the organic laws of 1996 and 2001, the definition of the crime of genocide does not include crimes against property. Not only will the perpetrators of the crime of genocide be prosecuted, but also those who have “denied”, “grossly minimised” or “attempted to justify or approve [the] justification” of genocide. Any groups – such as associations or political parties – which may have acted in this way will be dissolved.

As for sanctions, it should be emphasized that the death penalty is the only sentence available for all perpetrators of the crime of genocide. On the other hand, with regard to crimes against humanity or war crimes, the new law distinguishes between several levels of responsibility and therefore there is a greater variety of possible sentences, which means that the death penalty is not the only one applicable.

Several provisions have been enacted that are common to the measures against all these crimes for “attempts”, “criminal participation”, and the circumstances which, whatsoever the case may be, shall not exonerate the perpetrator of a crime of his/her responsibility. In other words, the accused would not be exculpated due to their status as a government official, the fact that a subordinate committed the crime, or the fact that the crime was authorized by a government order or that of a higher authority.

Finally, judicial proceedings and sentences for crimes of genocide, war crimes and crimes against humanity are imprescriptible (article 20).

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<sup>6</sup> Law No. 33 bis, of 6 September 2003, “against the crime of genocide, crimes against humanity and war crimes”, *Journal Officiel de la République du Rwanda*, 1 November 2003, pp. 62-67

## *On reform of the organic law for the setting up and functioning of the gacaca courts*

The new National Department of *Gacaca* Courts has frequently announced, including recently in a public speech by its Executive Secretary Mrs Domitille Mukantaganzwa, that the law of 26 January 2001, which set up the *gacaca* courts, would be reformed and would come into force before the national phase of the *gacaca* and the phase of *gacaca* judgements were launched.

In view of our ongoing observation and research, as well as the regular recommendations made by our research team and by other organisations, we believe that it is important for us to contribute to this reform (as we have done many times in the past, by participating in workshops on the theme at the request of the *gacaca* department and the Minijust) by offering some thoughts based on the information we received verbally, but publicly, by the new SNJG. In particular, our observations regard the information given during the coordination meeting held at the Belgian Embassy on 5 March 2004<sup>7</sup>. It should be noted, however, that the bill which was made public is incomplete, and was offered orally. As such, the proposed texts are inherently open to interpretation.

PRI's previous reports have described the structure of the *gacaca* courts in detail, including the criteria for categorising the accused and the range of available sentences. It is helpful to refer to them to measure the changes that are under consideration.

### ◆ **Main legal changes announced**

These changes would involve:

- *The organisation and the competence of the gacaca courts, in particular:*
  - suppression of the provincial and district *gacaca* courts, with all the implications for their respective competences “*ratione materiae*”<sup>8</sup>,
  - setting up of appeal courts at the sector level,
  - suppression of the assembly general, except for the cell *gacaca* courts,
  - fewer members of the bench for all the courts (9 elected members<sup>9</sup> and 5 deputies, instead of 19).

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<sup>7</sup> Cf. Appendix 2 of this report

<sup>8</sup> Competence is understood here as the aptitude of a public authority or a court to accomplish an act or prepare and judge a case. A court may be competent according to the nature of the case, “*ratione materiae*” competence, or according to the location, “*ratione loci*” competence.

<sup>9</sup> If this reorganisation is adopted, it will considerably reduce the total number of *gacaca* judges nationwide. If the appeal court is also made up of 9 judges and 5 deputies, as appears to be the case for the *gacaca* courts at cell level (9,201) and sectors (1,545), there will be a total of around 172,074 judges. This represents about 70,000 judges fewer than the number currently established, and may facilitate the training of these judges, improve the selection of candidates and allow them to receive some payment.

• **Categorisation:**

- suppression of third-category crimes (crimes which used to be included in this category would now come under the second category, and the current fourth category would become the third),
- inclusion in first-category crimes of the crime of torture, including when this does not result in death, and of the crime of “*acts of derision and mocking of a person’s corpse*”.

• **Moral damages:**

- the courts’ competence will not include the assessment of moral damages, which will be the task of a Compensation Fund that will determine the amount of compensation and who the beneficiaries will be, based on lists drawn up by the courts.

• **Sentences:**

- the possibility of passing a suspended prison sentence, which could be associated with the obligation to carry out a Community Service<sup>10</sup>,
- maintaining Community Service as an option that may be used to reduce sentences when a detainee has already served part of his prison sentence.

In addition to these modifications of the legal system, several other measures have been announced by the Executive Secretary, including a proposal to hold several *gacaca* sessions per week to accelerate the process. According to the Executive Secretary, this should not be difficult for the population: “*There will be no problem if we tell them that it will only be for a while*”<sup>11</sup>.

◆ **Comments on the planned reforms:**

By all accounts, these changes in the legal system of the *gacaca* are being made in response to certain consequences of the findings and analyses made over several months of monitoring the *gacaca* courts.

The main objective is to improve the operation of these courts, to reduce their cost and to try to achieve as best possible the sought after and reaffirmed goals of this process:

- to make the truth known about what happened during the genocide,
- to accelerate the genocide trials,
- to eradicate the culture of impunity,
- to reconcile Rwandans and strengthen their unity,
- to show that Rwandans are capable of solving their problems on their own.

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<sup>10</sup> Currently, the information we have does not allow us to conclude whether simple suspended sentences are being envisaged or if they are still associated to an obligatory CS order.

<sup>11</sup> Comments by Mrs Domitille Mukataganzwa during a work meeting at the Belgian Embassy on the 5<sup>th</sup> of March 2004, cf. minutes of the meeting in Appendix 2 of this report.

Yet some of the difficulties that were encountered at the hearings and meetings of the *gacaca* courts in the pilot sectors do not appear to be receiving the appropriate reforms, considering the state of affairs and the information that has been distributed. We are thinking in particular of how to tackle the issue of participation of the population, both at the level of absenteeism and late arrival at the sessions, and in respect of their contribution towards establishing the truth<sup>12</sup>.

- ***On the aim of accelerating the gacaca process and increasing the number of sessions:***

The new SNJG believes that one of the current priorities is to find means to accelerate the *gacaca* process. However, the appropriateness and feasibility of holding two to three *gacaca* sessions per week, as has been announced, is doubtful even if “*it is only for a while*” and “*the local authorities will push [the population]*”<sup>13</sup> to adopt this frequency. Even if it is possible to convince the honest judges to make the effort to hold sessions two or three days per week (and if they are paid or compensated), this most members of the general assembly will probably not agree – and their participation is essential to learn the truth and help to hold fair trials.

At this point we should add that the population’s awareness of mass participation in the genocide may not facilitate things. In fact, from the statistics produced by the government based on the work already carried out by the pilot courts, which shows that around 50,000 persons have already been entered on the list of accused, it can be seen that at national level, the courts might have to deal with at least 410,000 cases of accusations of participation in the genocide. It can therefore be presumed that much of the population will suffer the consequences of the judgements passed<sup>14</sup>, and tensions may be rekindled among the population and the various Rwandan communities. This could happen, at least to begin with, as we have observed that over time fear diminishes and a feeling of resignation takes over. Nevertheless, this situation would be damaging in the short term for coexistence and in the long term for reconciliation.

- ***On the means to respond to the potentially large number of convictions:***

Considering the projections made for the number of the potentially accused, the task of the SNJG is arduous. The projections also show that it would be very difficult to imprison

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<sup>12</sup> The issue of popular participation in the *gacaca* courts has already been amply dealt with in previous PRI reports. The new *gacaca* bill does not appear to fully take the participation issue into account, but it is crucial to a participatory justice system such as the *gacaca*. As such, we shall recall some basic points: Non-participation is first and foremost the result of a feeling of insecurity which gives rise to the fear of retaliation. Witnesses fear this all the more as their testimonies implicate members of their close community. The “honest judges”, with their insufficient training and motivation, have difficulty calming such insecurity. The lack of popular participation is also the result of a lack of involvement of the elites and local authorities, giving rise among the population to a feeling of abandonment.

<sup>13</sup> In our reports we have frequently raised the issue of lack of participation on the part of the local authorities. However, we think it is important to underline that we believe that an official and sanctioning role would be just as damaging to the success of the *gacaca* sessions, as it might jeopardise their popular and participatory dimension.

<sup>14</sup> For a discussion of this figure and other statistics, cf. the development further on in this report. The number of persons who could potentially be convicted is around 4 to 5 persons per family. This means that around 2 to 3 million persons might be affected by the consequences of the judgements: prison, CS, etc. This represents a quarter of the country’s population.

all the perpetrators of crimes of genocide, even if this were limited to those who committed serious crimes (categories 1 and 2), as according to some estimates the total may be some 400,000 to 500,000 persons.

- In these circumstances, the use of suspended prison sentences (possibly associated with a CS order) appears to be a possible solution. However, one should be aware that this might be misunderstood and there might even be hostility to this new form of punishment, particularly on the part of survivors, unless effective sensitisation work is carried out to explain that a CS order does actually constitute a sentence preceded by a declaration of guilt. Otherwise, guilt might be associated with a CS order. Failing such measures, it is likely that such a solution will be seen as a denial of the aim of eradicating the culture of impunity, inasmuch as compensation for moral damages will probably be less than what has been promised and is now expected. As for material damages, the restitution of looted goods is provided for. In the case of the perpetrators being unable to restore the goods or make financial compensation, they will have to make it up through days of work. We should emphasise that these days of work, if not well explained and regulated, may be perceived as a new form of exploitation of the “*uburetwa*” type, or *corvée*.

In view of all these challenges, which have already been evident for several months, we made the following recommendation<sup>15</sup> : “*Thought should be given to the problem of these ‘new detainees of the genocide’ (...) and alternatives to imprisonment should be considered that could be proposed before any prison sentence is passed: for instance, community service orders, which could represent not half but the whole of the sentence, or conditional release and/or a Rwandan version of the South African Committee of Truth and Reconciliation (...)*”.

Since January 2002, several measures have already been taken, showing that there is some realization of the quantitative challenge, such as provisional and conditional releases. There is also the possibility, after trial and conviction, of suspended prison sentences (possibly associated with CS). We believe that this kind of sentence is a good alternative.

- Resort to Community Service, no longer conceived as a form of serving the second half of a prison sentence, but as the main sentence, could be another possible solution, with or without a suspended prison sentence.
- Another solution would be to review the issue of complicity, which is not regulated very clearly by the organic law of 26 January 2001, whose provisions can cause some confusion.

Article 53 of the law of 26 January 2001, currently in force, defines an accomplice as being “*one who has, by any means whatsoever, helped the persons referred to in article 51<sup>16</sup> of this organic law to commit an offence*”. This article of a general nature appears to include any form of complicity that occurred at the time any of the offences mentioned in article 51 were committed, and therefore allows the accomplices of perpetrators in all four categories to be prosecuted. Yet in article 51, complicity is not expressly mentioned except in cases of “*voluntary homicides or grievous bodily harm resulting in death*”, classified under category 2.

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<sup>15</sup> PRI, Report I, Kigali/Paris, January 2002, p. 36

<sup>16</sup> Article 51 defines the various categories in which the accused are classified, according to their offences.

In applying the principle of strict interpretation of criminal law, it may be deduced that the accomplices in crimes other than voluntary homicide and grievous bodily harm resulting in death may not be prosecuted. However, this interpretation is contrary to article 53 mentioned above. It would therefore be appropriate for the new SNJG to use the opportunity offered by the rewriting of the law to clarify this question, for example, by returning to the definition of complicity used in the organic law of 1996, where only “essential assistance”<sup>17</sup> was punishable. If the definition of 1996 were to be used, the direct consequence would be to considerably reduce the number of persons accused of such offences.

The impact of an option that would prefer the first interpretation (wider concept) or the second (restricted concept), on the number of accused and therefore the number of convicted, is direct. If the principle of prosecuting all the accomplices of all the offences in the three categories were to be retained, there would probably be a large increase in the number of the accused.

Whatever the case, the question of complicity, which is always a subtle matter for a judge to apprehend, deserves to be clarified and then developed in the training for honest judges.

- ***Prosecution of “barbaric crimes”:***

“*Acts of derision and mocking of the dead*” are assigned to the first category. It is undeniable that these crimes can be the expression of extreme, shocking and revolting barbarism. But it should be remembered that to avoid obeying the order to execute Tutsis, some people accepted orders to mutilate their corpses instead. This gives rise to a question: does such a person deserve to be classified in the first category?

- ***The gacaca schedule: quantitative versus qualitative***

We think that it will be difficult to comply with the schedule requiring pilot courts complete categorisation of crimes by end April 2004. We believe that the various strategies set up at local level to achieve this schedule jeopardise the quality of the individual records and categorisation.

Among these strategies, we could give as an example the fact that the 19 judges are divided into three groups to deal with three cases simultaneously, or the handing over of a case to each judge who is literate. These practices are particularly harmful to one of the essential guarantees for the judges’ work – that of the collegial nature of decision-making.

- ***The trial stage:***

It has been announced that the trials will probably start two months after the beginning of the national phase. The *gacaca* courts in the 118 pilot sectors, which have already drawn up individual records of the accused and have categorised them (7<sup>th</sup> session), will then begin the last stage of trials of the accused.

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<sup>17</sup> Cf. Chap. II, article 3, of the Organic Law No.08/96 of 30 August 1996 on “the organisation of prosecutions of the offences that constitute the crime of genocide or crimes against humanity”, committed as from the 1<sup>st</sup> of October 1990, *Journal Officiel de la République du Rwanda*, 1 September 1999

This announcement is a u-turn in relation to the opinion of many officials of the former Department of *Gacaca* Courts who believed that before the start-up of the third and last stage of the *gacaca* process (that of the trials), all the country's sectors should have arrived at the same procedural stage and should have completed the phase of categorisation. In fact, many of the accused committed offences in different places, and it was important that all these facts should be examined by the local jurisdictions involved before the stage of trials, so that the accused would be tried by the court of the cell where they had committed the most serious crimes. It was therefore thought that the two last phases of the *gacaca* should be carried out by all the country's sectors before the trials could start at national level. Considering the option currently adopted by the SNJG, we can expect to observe the first trials during the second half of 2004 (August-September 2004), if the announced schedule is maintained.

In this respect, we see that the national authorities are faced with a dilemma: whatever the option adopted, it will be unsatisfactory.

If, as expected, it is decided to start the trials without delay in the pilot jurisdictions, then it will be necessary to start other trials for perpetrators who committed crimes in other jurisdictions. On pretext of gaining time, this could end up by wasting a lot of time.

On the other hand, we cannot see how the population, which has just participated in pilot courts for two years, could wait another two years for sentences to be imposed. What is more, the situation of the prisons would become untenable.

The SNJG believes it is preferable, in the interests of reconciliation and establishing the truth, that the victims should witness the trials of the accused in all the places where crimes were committed.

## ***On the assessment of the first two stages of the gacaca courts in the pilot sectors***

In PRI's earlier reports, we tried to evaluate the *gacaca* process with regard to its aims, which resulted in several recommendations concerning, in particular, sensitisation of the population, support for the work of the *inyangamugayo*, honest judges, the lack of participation of the local population, as well as the slowness of the *gacaca* process, etc.

Some of these recommendations were taken into account by the former Department of *Gacaca* Jurisdictions and its current successor, the SNJG. Nevertheless, there seems to be a persistent contradiction : How can we explain the very high number of persons entered on the lists of the accused and the simultaneous chronic deficit of popular participation in the *gacaca* courts? As we shall see, this paradox could indicate some rather expeditious methods.

## ◆ Statistical forecasts and their implications

Before trying to find answers to this question, we propose to analyse the recent statistics. These are the figures sent in January 2004 by the Department of Gacaca Jurisdictions, and then by its successor, the SNJG<sup>18</sup>, concerning the lists of the accused.

Based on these statistics, some forecasts for the continuation of the *gacaca* process can be made, all the more so as these forecasts are supposed to “*help the ordinary courts and those of the gacaca to prepare for the task that awaits them*”. Given the current figures, this task is going to be colossal.

The data published by the SNJG<sup>19</sup> were gathered in the 118 pilot sectors of the *gacaca* courts, i.e., 12 pilot sectors since June 2002 and 106 sectors (one sector per district) since November 2002. In these 118 sectors, 758 *gacaca* courts (GC) are operational, or 8.2% of the total number of cell courts in the country. Thus, at least 90% of the courts at cell level still have to begin operating, to which will be added all the *gacaca* courts and appeal courts at sector level.

The 758 GC have established lists of 49,983 accused. This last figure could still rise as the figures were gathered while some courts were still under way and had not yet completed the 7<sup>th</sup> session (categorisation session carried out by the judges). On the assumption that these figures are more or less representative of the country as a whole, some estimates and projections can be made.

Knowing that the *gacaca* courts have completed their lists, or are in the process of doing so, and that these lists already contain the names of 50,000 accused, it can be estimated that at the national level, at least 607,000 persons could be accused of participation in the genocide<sup>20</sup>. This figure includes the 24,000 persons who were provisionally or conditionally released, the 80,000 persons who are still in detention, those who are exiled or who have died – and of course those who have been accused several times over.

To make forecasts based on data on the categorisation of the accused is a bit risky given the small number of case files sent to the SNJG. However, if we assume that these data are

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<sup>18</sup> I.e., the statistics produced by the DJG, *Rapport Trimestriel, Juillet-août-septembre 2003 [Quarterly Report, July-August-September 2003]*, Kigali and by its successor, the SNJG, *Document on the progress of activities of the gacaca courts of operational cells and programmes of future activities*, Kigali, 21 January 2004, cf. Appendix 3 of this report. We have essentially based our work on the second report, which presents more recent data than that of the DJG.

<sup>19</sup> Basic data:

- 758 GC are operational in 118 sectors, 105 have completed the 7<sup>th</sup> session
- These GC have established lists of accused containing 49,983 names (this figure represents a minimum, as the work of the GC has not yet come to an end). The number of accused persons whose case files are already complete is 7,013, i.e., 14%. Thus 86% of the case files must still be dealt with.
- Of these 7,013 case files, 3,791 have been forwarded to the SNJG, which has proceeded to categorise them as shown in the table in Appendix 3 of this report.
- As Rwanda currently has 9,201 cells, the percentage of cells covered to date by the pilot phase is 8.2%. If these figures are representative, some 607,000 persons accused of genocide could be expected at the national level.

<sup>20</sup> This is more or less consistent with the data from another source (the Prosecution), which show that 32,000 persons who confessed have in their turn accused 250,000 other persons who are still at liberty. All these data from different sources also indicate that the participation of the population in the genocide appears to have been greater than what had been estimated so far.

more or less representative of the country, we can expect there to be around 55,000 accused in category 1 and 382,000 in category 2 at national level. Furthermore, if the clauses of the bill of organic law are applied, which would merge the second and third categories, the number of accused in the second category would be even higher, reaching 455,000 persons.

The following table shows projections of the number of accused based on the statistics supplied by the SNJG<sup>21</sup>:

Categories	Accused by category, of the pilot sectors, whose case files have been forwarded		Projection of the number of accused by category at the end of the national phase		Estimate of the number of persons accused of genocide, by category, at the end of the national phase, after corrections	
	No. of accused	%	No. of accused		Correction 1: (-10% double counting)	Correction 2: (- 25% dead & exiled) = Estimated No. of presumed genocide killers living in Rwanda <sup>22</sup>
1	336	9	55 000		49 500	37 125
2	2 392	63	382 000	455 000	409 500	307 125
3 (becomes 2)	470	12	73 000	in total		
4 (becomes 3)	593	16	97 000		87 300	65 475
<b>Total</b>	3 791	100	607 000		546 300	409 725

These estimates let us conclude:

- that the ordinary courts and the *gacaca* courts will have to deal with a considerably larger number of cases (and therefore of persons to be put on trial) than had been originally estimated at the beginning of the process;
- that this will obviously have a strong impact on the overall duration of the *gacaca* process with all the attendant consequences;
- that around 37,000 accused in the 1<sup>st</sup> category should be tried in the courts of their original jurisdiction. This would require at least 12 years to prepare the casework for the prosecution, based on the optimal rate of five cases per month for 50 full-time prosecutors on cases of genocide, i.e., half the country's prosecutors;
- that it is therefore necessary to immediately consider resorting to other mechanisms to establish the truth in order bring to trial and sentence the 344,000 (or more) future accused in the first and second categories (including the former category 3). This is essential for purposes of reconciliation, the economy and financing, and to remedy the incapacity of the *gacaca* judges and judges of the ordinary courts to respond to the scale of the task.

<sup>21</sup> See Appendix 3 of this report

<sup>22</sup> In our opinion 25% is the minimum. For instance, in Kibuye, it was found that 31% of the persons on the lists of the accused at the end of 2003, i.e., 8,292 names, had died or were in exile (Overall data, Kibuye Province, December 2003).

The SNJG, which supplied these rough statistics, appears to be well aware of all these points and it can be accepted that the new organic law constitutes a first step toward tackling these problems.

#### ◆ Lack of participation and large numbers of accused - a contradiction?

Although participation is an essential element for the smooth functioning of the *gacaca*, a large number of observers have noticed that it has often been insufficient. The rate of abstention is particularly significant among the Hutu members and non-survivors of the population for different reasons<sup>23</sup>, even though there are greater numbers of them. They usually do not become involved in the process and are reluctant to confess or testify. Indeed, they appear to react only when accused.

Admittedly it is never easy to testify, even without any pressure or threats; it is even more difficult in cases concerning genocide. Many important things are at stake in a trial and nobody is really prepared for them. Thus, a reluctance to testify may be entirely legitimate in some situations.

In these circumstances, it is understandable that it may be difficult for the justice system to find the witnesses it needs, and to bring them to testify. What would happen to justice for the genocide, and in particular the *gacaca*, in the absence of witnesses or in the presence of fearful, anxious witnesses, both for themselves and their loved ones, who do not want to say anything or very little ... or may even not tell the truth? If this is what happens, could it be said that the process is working well and has achieved its aims to search for the truth, justice and reconciliation?

It is therefore surprising that during the sixth session of the *gacaca* courts (during which the list of the accused is drawn up), many persons were entered on these lists. In fact, it appears that all the accusations made were nearly always automatically entered on the lists of the accused, without proper verification. Neither the testimonies nor the accusations were attentively examined. This situation is problematic, all the more so because some survivors testified without really knowing what had happened. Also, the confessions of the detainees and testimonies of those released were very incomplete. In fact, most of the detainees started by making partial confessions if they knew that there was already proof of their guilt, or they confessed to minor offences.

As for the testimonies of those released, the omissions, half-truths, even lies and false witnesses were very common. Added to that, the *gacaca* were used in a roundabout way to settle private scores, old or new, or even sometimes for affairs totally unrelated to the genocide.

All of this is detrimental to the search for truth on what happened during the genocide, as it depends mainly on the testimonies of these perpetrators. In such circumstances, it is understandable how very important the verification of testimonies and confessions is. However, it must be acknowledged that it is not an easy thing to do 10 years after the events.

Finally, we should underline that the large number of accused is often used to prove that the *gacaca* process is working. Nevertheless, we do not believe this is a good criterion for

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<sup>23</sup> Cf. PRI, Reports III and V of the research on the *gacaca*, respectively of January 2002 and September 2003

evaluation. Out of the total of 607,000 persons who may be entered on the lists of accused, a certain number of them will be acquitted. False testimonies, both to incriminate and to clear people, as well as errors in categorisation can be expected for the national phase, as they already exist in the pilot phase. The SNJG itself acknowledges that several obstacles such as those mentioned above have prevented the smooth functioning of the *gacaca* courts. Whatever the case may be, it is these courts which have to disentangle falsity from truth.

It would also seem much more appropriate to evaluate the success or failure of the *gacaca* courts by the yardstick of the equity of trials rather than the number of accused, released or convicted persons. However, it is still too early to give an opinion on this, as the trials have not yet begun.

## First Part

### The *ingando*, a stage in the *gacaca* process

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On the 1<sup>st</sup> of January 2003, the Presidency of the Republic published a communiqué regarding the provisional release of various categories of detainees.

We believed it was important to study it in one of our previous reports (report IV), inasmuch as it had a major impact on the functioning of the *gacaca* and CS, the prison system and justice in Rwanda in general.

In this communiqué (Appendix 2), the President of the Republic requests *“that within a month, and in accordance with the law, the competent judicial authorities should examine the files of the prisoners who have confessed, and if these confessions comply with the organic law on the gacaca courts, and any person has spent more time in prison than the period determined by the organic law, then that person should immediately be released provisionally while awaiting trial”*. This communiqué requests that *“the same measure is applied to minors between 14 and 18 years of age at the time the crimes were committed for which they are being prosecuted”*. The President of the Republic also recalls the *“instructions relating to the release of elderly and seriously ill persons”* and requests that they *“should continue to be applied”*.

He also requests that the competent authorities *“should examine the situation of persons who confessed and were tried before the promulgation of the gacaca law (...) and take any measures that may benefit them, according them the same advantages as those given to persons who confessed under the gacaca law”*.<sup>24</sup>

*“All these persons, with the exception of the elderly and seriously ill, will be released and sent to solidarity camps<sup>25</sup>, and will subsequently be integrated in society. However, the persons who confess and have been accused of genocide shall respect legal provisions such as carrying out community service orders”*.

During January 2003, very soon after the communiqué from the President, the first groups of elderly and/or sick persons were released and returned to their communities<sup>26</sup>. From the end of that month, around 20 sites were prepared throughout the country to receive the other recently released detainees – around 22,000 persons.

The purpose of these sites, solidarity camps or *“ingando”*, was to pursue the government’s attempts to achieve several aims and respond to the ex-detainees’ real need (A). On the

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<sup>24</sup> The President of the Republic added that *“this also concerns nonpolitical detainees who may spend more time in prison than the sentence established by law (...) as well as for detainees prosecuted for acts of infiltration”*. Here we are interested mainly in those accused of crimes of genocide committed between 1/10/1990 and 31/12/1994. There are an estimated 3,857 nonpolitical detainees, while there are 505 persons accused of infiltration.

<sup>25</sup> These “solidarity camps” receive those released from prison over a period of two months to facilitate their reintegration in the community and to gather as much information as possible about what happened during the genocide. Here among other things they hold “moral talks”.

<sup>26</sup> PRI, *Research Report on the Gacaca Report IV: The process of confession, cornerstone of Rwandan justice*, PRI, Kigali/Paris, January 2003

whole, they appear to have fulfilled their mission. However, testimonies have drawn our attention to the history courses that were given there. History was not just one subject among others: the way it was taught could have serious consequences in the long term for national reconciliation in Rwanda (**B**).

## **A - The *ingando*, transition to civilian life**

One of the first functions of the *ingando* is to facilitate the social reintegration of the ex-prisoners. This function corresponds both to the political will of the nation and to the concerns of the persons involved. The ex-prisoners spent three months in the *ingando*, during which time they attended classes and carried out various jobs. According to some observers (including the World Food Programme), everything appeared to be well organised and functioned smoothly.

The organisation of these camps was left to the National Unity and Reconciliation Commission (NURC)<sup>27</sup>. This institution has a lot of experience in the matter, as it has been involved with setting up camps in all the provinces to discuss national problems relating to the unity and reconciliation of Rwandans, at all levels of society. According to the circumstances, the participants may be local leaders, women, young people, etc<sup>28</sup>.

### **An exhaustive programme aiming to re-educate those released**

The declared aim of the government was to re-educate the released detainees. Once the construction of the camps was finished, the NURC was put in charge of a whole training programme for ex-prisoners.

The courses given dealt with the following subjects:

- causes and nature of the “Rwandan disease”,
- history of Rwanda and of the Rwandan genocide,
- trauma and its social consequences,
- reintegration after release.

On this occasion, various very different subjects were dealt with, such as:

- unity and reconciliation,
- the culture of peace,
- participatory *gacaca* courts,
- principles of democracy and good governance,
- civic education about elections,
- the legislative, executive and judiciary powers,
- justice and human rights,
- development strategies for Rwanda,
- the role of the population in maintaining security,
- combating paedophilia,
- AIDS and malaria.

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<sup>27</sup> National Unity and Reconciliation Commission, NURC/CNUR, *Nation-wide grassroots consultations report. Unity and Reconciliation initiatives in Rwanda*, Kigali, unknown date

<sup>28</sup> Cf. Appendix 9: Presentation of Colonel F. Rusagara on the concept of solidarity camps, international conference on the genocide, Kigali, April 2004

The authorities also hope that these solidarity camps will enable them to obtain more information on what really happened during the genocide. Thus, ex-detainees were invited to explain how the genocide unfolded in their region, to help establish the truth. Meetings between former prisoners and members of their original cells (survivors and others) were also organised. The authorities' aim was to favour new testimonies in order to detect false witnesses and incomplete confessions.

The case of SH<sup>29</sup> summarises the different aspects of life in the *ingando*:

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The 1,200 persons or so present, glad not to have to wear the pink uniform of Rwandan prisoners any more, worked with determination. The first week was used to elect the camp leaders and to build a large classroom. SH worked as a journalist, in charge of the national page [of the camp newspaper].

Shortly afterwards the courses started, given by some high authorities. According to SH, this gave the participants much hope. The internal regulations of the camp were agreed by common accord, knowing that any person who disobeyed would be strictly punished: the punishment in case of bad behaviour (such as smoking hemp for instance) was to return to prison.

SH viewed the *ingando* as an absolutely necessary stage to improve his understanding of current politics, not only regarding unity and reconciliation, but also about state administration in general. The courses, designed for this purpose, were completed by conferences and abundant debates. The participants appreciated some courses more than others insofar as they discovered the opposite of what they thought they knew, for example, in the courses on Rwandan history and good governance.

Meetings with the local population were organised to try to begin social reintegration. Thus, they played football and volleyball, and they built houses for the survivors. The *umuganda*, [community work] was carried out jointly, and finally this conviviality ended in a party where they danced and drank the local beer made of sorghum. In short, his impression was positive.

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## **For those released, a welcome but sometimes difficult transition**

Although the communiqué of the Presidency, of January 2003, initially caused a lot of excitement, it was followed by discontent when the prison population discovered that the numbers of those released would be well below expectations.

However, for those whose names were on the lists, the departure to the *ingando* was seen as a piece of real luck, allowing them not only to leave prison and their living conditions, but also to accomplish the first step towards the outside, which after so many years of imprisonment they found charged with much fear and anxiety.

The *ingando* appears therefore to have been viewed by the detainees as a necessary stage, and the courses were particularly appreciated. A released detainee gave the following testimony:

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<sup>29</sup> Based on his own narration, "The trajectory of SH", December 2003

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The solidarity camps to which we were taken before going back home were very important. We were told at great length what the *gacaca* courts were. They explained to us where the idea of creating these courts came from and the aims they hoped to achieve. We obviously tried to understand their philosophy. We were also taught how we should behave towards the survivors of the genocide, our families and our villages.

The people in charge of the solidarity camps and the various authorities also spoke to us about Community Service (CS). Some defendants will serve a part of their sentence in liberty. In short, we are looking forward impatiently to beginning this work, although we do not know what kind of work we will be doing. We were only told that we would be doing work in the interests of the community. We were also told that we would have to do work to help develop our community, such as building schools.

- Gitesi, Ruhango town, June 2003 -

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Such admiration for these camps is surprising coming from people who have already spent years in prison and who only dream of returning home to the hills. One could therefore doubt the sincerity of the stories heard, particularly as in Rwandan culture people do not spontaneously confide in a stranger, not to mention a researcher or investigator.

Nevertheless, we believe that these very positive stories about the camps appear to reflect the reality experienced by the released prisoners for two reasons: First, the ex-prisoners appear to see the *ingando* – as well as the *gacaca* – as having a quasi mystic dimension, being experienced as a sort of purgatory through which everybody must pass. The following song composed by the released prisoners and sung in chorus by them while they work is an example of this:

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**A filter for Rwandans**

A filter for Rwandans,  
They are the *gacaca* courts, come and bring them along,  
Come, pass through this filter, come, pass through it, gain access to it,  
Eh, eh, the filter.

**Refrain:**

This filter is a reconciling justice,  
Let us pass through this filter, the filter, the filter for Rwandans,  
They are the *gacaca* courts.  
All of you, who are here, come and pass through this filter,  
The filter eh, eh, the filter.  
You, who are being trained in this solidarity camp, pass through this filter.

**Refrain:**

This filter is a reconciling justice,  
Let us pass through this filter, the filter, the filter for Rwandans,  
They are the *gacaca* courts.

Our leaders, come and pass through this filter.  
You who are being led, come and pass through this filter.  
They are the *gacaca* courts,  
Come and pass through this filter.  
It is our hope, come and pass through this filter.

**Refrain:**

This filter is a reconciling justice,  
Let us pass through this filter, the filter, the filter for Rwandans,  
They are the *gacaca* courts.

- Translation of a song composed by the ex-prisoners in training in the solidarity camp of Gisovu, March 2003 -

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The second reason for optimism is that even when the stories are positive about the content of the courses and the way the camps operate in general, these same witnesses do not hesitate to criticise the harshness of discipline and other problems severely.

The following story illustrates this<sup>30</sup>; T begins by an enthusiastic presentation of the camp:

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It is recommended that all prisoners should follow such courses on leaving prison. This is because the view one has inside prison is not the same as when one is outside prison. They will emerge strengthened after this training and it will help them to manage the various problems they will encounter with their families.

Among these problems, we should mention those related to conjugal life. Some women whose husbands are in prison have, in their absence, had more than one child with other men. For women in prison too, in their absence, their husbands have taken other wives.

Everybody was free to ask questions, to request clarifications or to ask for advice about how to behave when they returned to the outside world. Teams of teachers came to talk to us about all these problems.

I wish that everybody who is in prison could attend such courses. It is beneficial. It is constructive. It is constructive because it teaches you to bear the situation and perceive what part you played in what happened to you. In particular, the fact that after going to prison, our families were displaced and our property disappeared. But also to learn to forgive and ask for forgiveness. We debate very deeply in these solidarity camps. We look at the part everyone had in what happened. Even if you were innocent. We spoke in depth of the genocide that took place in Rwanda, whose consequences affect everybody.

- Kigali, June 2003 -

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T then follows with several criticisms:

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**On the harsh living conditions**

[But] we had a very hard life there. The living conditions in the *ingando* were worse than those in prison. It was deliberate. It is the same in all the camps.

Everybody was subject to the same conditions, without exception, and ready to respond positively to everything that was asked. That is, we had to stay there, be punctual, and do what was required, within the group that had been assigned to us. We had to be ready for any call. If we were asked to dance, we would all dance. If a classroom had to be built, we would all go and build it. If we had to cook, the same applied. If water needed to be fetched, ditto. You have to eat what has been prepared by all, without waiting for your family to bring you food.

**On the duration of the ingando**

What was really difficult was that the date of our release was changed and postponed every day. All these delays made us believe that we might be sent back to prison. There were rumours to that effect.

At the beginning of the training, there were also rumours saying that we were going to be killed. And when the date of release came and went more than once, we started to be afraid.

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<sup>30</sup> This story of T, Kigali – June 2003, gives us a view that is both positive and critical of the camps. Most of the stories gathered on this subject had this twofold dimension. We recount the story of T because its summarised contents reflect most of the other impressions received.

With regard to this fear, a large number of other witnesses corroborated this experience, such as that of SH, who was particularly explicit:

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The *ingando* was to have lasted two months, but due to the commemorations of the genocide, which were to be held in April 2003, another month was added, which disappointed many participants. It was during this additional month of April that some of the prisoners were sent back to prison, explaining that a mistake had been made about their cases.

This caused general panic! When the Prosecution's car was seen, some people would hide. It was in this state of tension that the participants lived until the closure of the *ingando* in May 2003. At their release, some received their identity cards but others did not. The latter were taken back to prison after spending another night in the camp.

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T speaks:

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**On the return to prison of some detainees**

There are people like us, who lived in the camps like we did, but who did not leave them like we did. It was painful. These people were not informed of why they had to return to prison. I found out later and I was told that there were lists which came from Ibuka [the association of survivors of the genocide].

**On the questions that remained unanswered**

Somebody asked why there was national mourning for some (Tutsis) but not for others (Hutus). After all, they were all killed, although some were killed in the genocide and others out of revenge. The answer from the person who was giving the course (who was a military officer) was bitter. Others asked why genocide killings were considered but not murder in revenge or reprisals, using the terms of Kinyarwanda, and asked if a parent is touched by the death of one of his children, may he not be touched by the death of another child. Why do we cry when a Tutsi dies but not when a Hutu dies, when all are children of Rwanda? This question has not received a correct answer<sup>31</sup>. Whether people are killed in genocide or in revenge, the farmers see these deaths in the same light. Therefore, another way has to be found to make the farmers understand the difference between death by genocide and death for revenge.

**On the content of the history and culture courses**

Rwandan culture is considered in the context of history, and in this course they explain how the colonizers transformed our culture. They also spoke of the way the colonizers handled the issue of ethnicity. But we do not agree with that (...). One of us asked if it was true. But he was looked at disapprovingly.

In my opinion, the separation [between ethnic groups] did exist. I cannot deny that they existed, and I would not say that it was the *bazungu* [white men/foreigners], the colonizers, who brought this. It is what is said today, it is what is taught to children nowadays, it is what is taught in the reconciliation camps, etc.

I shall never agree that the situation was only created when white men arrived. The situation already existed. But it was aggravated by the politics imposed by the White Man. To be able to govern, they used one group [Tutsis] to the detriment of the other [Hutus]. They only chose one group. Those who should be condemned are the colonizers and the old regime.

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<sup>31</sup> Regarding the official response about the death of the Hutus, see the Report on the Evaluation of National Unity and Reconciliation, of 23 November 2001 (Kigali, NURC, June 2002), in which it is stated on page 14 that "(...) some people make no difference between the genocide and other crimes committed during the war, when civilians were forcibly enrolled and killed. Death is the same, but the cause of death is very different". Regarding national mourning, the following reply was given: "The government of National Unity is determined to remember and bury with dignity the victims of the cruelty of previous governments. This does not signify that a person who has lost a family member in the war may not bury them with dignity, and that the war crimes committed will remain unpunished."

But first and foremost the colonizers, because it was they who saw, who pulled the strings (...).

If we say that we are all Rwandan, we are saying the truth, that is what we are, and I am entirely in agreement with it. But to say that there are no Hutus or Tutsis in the country, that we are only Rwandan, I cannot agree with that. It must be recognised that the Hutus, the Tutsis and the Twas exist, and we must admit that this is what we are. We must try being honest with ourselves and our fellow men, and say that there is no ethnic group in Rwanda, that we must build on the Rwandan family. I would like that, but the base must be very solid so that it won't topple over. We should not deny that which exists. It doesn't make sense.

Before the arrival of white men, Tutsis existed and Hutus existed. They were socially distinct. For example, serfdom existed before the White Man arrived. The Tutsis and Hutus both practised serfdom, but in a very different context. There were categories: if I were a Tutsi and poor, I would serve, but in whose house? And how? It was not like poor Hutus who had to serve Tutsis. The work for these two, although both were serfs, was not the same.

Some say that good relations between neighbours really existed among Rwandans, but this must be nuanced. Because someone could have good relations with the chief and second in command, but not with the poor people next to him, for whom these good neighbourly relations did not make themselves felt.

I am also thinking of a famous saying in Rwanda: '*Ninde wadusangije?*' which means, 'Who has served us at the same table, you and me?' This is a term that a Tutsi will say to a Hutu: '*Ntawadusangije*', nobody ever received me at the same table as you. Rwandans must admit, without lying, that there has been and still is discrimination between Hutus and Tutsis.

- Kigali, June 2003 -

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Among the criticisms made by the participants about the *ingando*, this last part of the story particularly attracted our attention as it highlights an element that raises a question about the content of the courses – specifically those about history.

We believe it is important to analyse the content of these courses in detail insofar as they represent a major part of the teachings and give rise to a lot of discussions in the camps. The *ingando* organisers appear to have appropriated the findings of the Institute of Research and of Dialogue for Peace (IRDP)<sup>32</sup> according to which the history of Rwanda, as it is written, bears a lot of responsibility for the successive conflicts. Although it is true that the future can only be understood by referring to the past, it may be thought that the reading of history also plays a major role in reconciliation, and *a fortiori* in its first stage, which is the *gacaca*.

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<sup>32</sup> Institut de Recherche et de Dialogue pour la Paix (IRDP), *Reconstruire une paix durable au Rwanda : la parole au peuple [Rebuilding durable peace in Rwanda: the people must have their say]*, Report (draft) 2003, p. 13

## **B - History of Rwanda, stakes in the transfer to the *ingando***

“Those who ignore their history are condemned to repeat it”<sup>33</sup>. If it is admitted that history – however painful it may have been – always provides lessons for the future, then in-depth thought about its content must not be omitted. It is essential for this dissertation that a version of history should emerge which is accepted by all, at the risk of repeating the errors of the past<sup>34</sup>.

Thus, we believe that it is particularly important to return to the subject of the content of the courses given in the camps for various reasons. The reasons are threefold. First, this is the first attempt to “rewrite” Rwandan history since the genocide, as history is not taught anywhere else<sup>35</sup>. Second, this view appears to be relayed both through the process of traditional oral memorisation and in the speeches of the national and local authorities. It is therefore probably this version that will be most disseminated among the population. And third, the courses will have a direct impact on the beliefs, attitudes and behaviour of the people who attend them, and they will influence the conditions for the return of the ex-prisoners to the hills and national reconciliation.

This analysis is based on notes of the courses taken by prisoners in the solidarity camp of Gishamvu during the period of February-April 2003, corroborated by extracts of a Minaloc report on “the origins of the 1994 genocide in Rwanda”<sup>36</sup>. This approach makes it possible both to outline Rwandan history as it is currently taught by the authorities of the country, and also to better comprehend how it will be perceived by detainees released in future. In parallel with the results of research carried out by recognised national and international historians, it emphasises convergences, but also controversial interpretations<sup>37</sup>.

The ethnic issue, which in Rwanda is regaining a complex reality and history, is naturally at the heart of the debate. As a rule, language, culture and even religion are ethnic indicators accepted by the scientific community. However, from the point of view of these

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<sup>33</sup> (PRI translation) Bloomfield, David, Barnes Theresa, Huyse, Luc, *Reconciliation after violent conflict. A handbook*, Handbook series, International IDEA, Stockholm, 2003, p. 168 : “(...) those who ignore their history are condemned to repeat it”.

<sup>34</sup> On this point cf. Pottier, Johan, *Re-Imagining Rwanda Conflict. Survival and Disinformation in the Late Twentieth Century*, Cambridge, Cambridge University Press, 2002, p. 128

<sup>35</sup> See Obura, Anna, *Never Again. Educational Reconstruction in Rwanda*, UNESCO, International Institute for Educational Planning, Paris, 2003, p. 99: “The history of Rwanda is still not taught in Rwanda (...). The subject has been too difficult to deal with in class since the genocide, in spite of the new syllabus published in 1997. The main thing is that there is no written or published history manual since 1994, and it is difficult to tackle the problem of writing such manuals (...)”. (PRI translation)

<sup>36</sup> Introduction to *Dénombrement des Victimes du génocide - Rapport Final - Rwanda*, Kigali, Ministry of Local Administration, Community Development and Social Affairs (Minaloc), November 2002, pp. 6-14

<sup>37</sup> We would once again like to point out that obviously there is not “only one history”, but that it varies according to the work carried out by the researchers. Nevertheless, to comment on a historical narrative, it is possible to rely on existing works written by many historians, which, if put end to end, would constitute a sort of consensus on what is perceived at a given moment by the community of researchers as being the history of a country.

indicators, the three social categories – Hutu, Tutsi and Twa – are not historically differentiated, or very little. Neither are their physical characteristics distinct. Yet, in the hills, everybody knew who was Hutu or Tutsi within the community.

The historians help us to understand the origins of this feeling of belonging. They have established that the historical origins of prejudice against the Bahutu, Batutsi and Batwa are to be found not only in traditional and colonial narratives, but also in some social and political practices that made their appearance, especially after 1850, therefore well before colonisation. However, it was the Belgian colonial policy that played an important role in defining rigid ethnic groups, giving Tutsis the monopoly of power to the detriment of Hutus, and thus sowing the seeds of future conflict in Rwanda.

The version relayed in the *ingando* errs with regard to a number of aspects, either because of its interpretation or because of its omissions. In fact, it is about the role of Rwandans in their own history that the courses in the *ingando* appear to be most questionable. Yet it is essential nowadays that the work of memory and reconciliation is subject to the recognition of three things:

- recognition of Rwandan responsibility in the genocide, which is often blamed on the role of the white colonizer;
- recognition of the individual responsibility of the genocide killers, which cannot be entirely diluted within that of a monstrous machination;
- recognition of persistent ethnic divides in present day Rwanda.

## 1. Shared foundations

Seen close up, historians agree on the essential points regarding the major stages of formation of Rwandan society. Its presentation in the *ingando* is rather sketchy, sometimes even caricatural, but does not contain flagrant untruths.

### How Rwanda was populated

As mentioned by Eugène Ntaganda<sup>38</sup>, the discourse on how Rwanda was populated lies at the heart of the strategies of mobilisation with the intent to exacerbate hate, considered to be atavistic and irreversible. In fact, according to a traditionally repeated theory, Rwandan population corresponds to three successive waves of migration: first of all that of the Batwa, the first inhabitants, then the Bahutu, towards the beginning of our era, and lastly the Batutsi, who arrived in Rwanda in about the 13<sup>th</sup> or 14<sup>th</sup> century. This theory is no longer scientifically credible.

It is important therefore, and everybody is now in agreement on this point, to emphasise the antiquity of the population of the Great Lakes region, and the ancestral character of its inhabitants. According to the director of the National Museum of Rwanda, Dr Kanimba<sup>39</sup>,

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<sup>38</sup> Ntaganda, Eugène, “Editorial”, in “Peuplement du Rwanda. Enjeux et Perspectives” [Population of Rwanda, Issues and Prospects], *Cahiers du Centre de Gestion des Conflits*, Butare, UNR, No. 5, 2002, p. 6

<sup>39</sup> See Kanimba, Misago, “Peuplement ancien du Rwanda: à la lumière de récentes recherches” [Ancient population of Rwanda in the light of recent research], in “Peuplement du Rwanda. Enjeux et Perspectives”, *Cahiers du Centre de Gestion des Conflits*, Butare, UNR, No.5, 2003, pp. 8-44, also Rutembesa, Faustin, Josias Semujanga and Anastase Shyaka, “Rwanda. Identité et citoyenneté” [Rwanda: Identity and citizenship], in *Cahiers du Centre de Gestion des Conflits*, Butare, UNR, No.7, 2003, pp. 47-81

historical, archaeological and linguistic research has proven the great antiquity of human presence in Rwanda. According to Dr Kanimba (2003): “the theory is that there was a group of Negroids who were joined by other Sudanese, Cushitic and Bantu groups. It appears that the process started before the first millennium BC. The long coexistence of these groups (native and immigrants) resulted in the fusion of cultural and linguistic elements, as well as genes. There is thus an ancient unity among the peoples of this region, cultural, linguistic and anthropological”. The ethnic differences were not constituted during waves of immigration, but were built progressively, with the structuring of society.

## **The social structure at the origin of the divide between Tutsi and Hutu**

Rwandan society was originally organised into multiethnic clans, around 18 large families or “lineages” and was therefore not based on ethnic divisions. For a long time, the terms Tutsi and Hutu designated a social class (in terms of riches in cattle and power).

[The] social classes were defined according to an individual’s wealth, the number of cattle they possessed or the size of their land. These two elements played a major role in the classification. Thus what we call [an] “ethnic” group today was nothing more than the degree of wealth yesterday. So much so, that the poor, thus Hutu, could become Tutsi if they extended their property or increased the number of their cattle. This was the “*kwibutura*” procedure.

*Course notes*

This presentation of social classes taken from the course notes of ex-prisoners is very simplistic, but nonetheless corresponds, even if summarily, to historic reality. However, we should qualify social mobility between Hutus and Tutsis, very much exaggerated in this extract. Although social mobility between “ethnic groups” was quite usual before 1860, it became much rarer after that. The anthropologist Maquet (who gave an idealised description of patron-client relations in Rwanda), wrote that this type of social mobility was very rare. It is true that there are some famous examples of Batwa who became Tutsi. But as a rule, the orders were not to drink, share a pipe or eat with them. The fact that the king ennobled one or two Twas did not affect the general lack of social mobility that characterised their group.

## **The role of the colonizers in exacerbating dissension and hate**

The prevailing social organisation was to be misinterpreted by the colonizers, who superimposed their racial prejudice, immobilising society and exacerbating rivalries. Whether in the *ingando*, in official documents or in publications of Rwandan or Western researchers, this period of history is well analysed and everybody agrees on the basic facts. The colonial Belgian regime, while using the Tutsis, privileged them in detriment of the Hutus and Twas.

## *Colonial racism and ethnic prejudice*

According to colonial myth, there was an irreducible opposition between the distinct and unequal races (Hutu, Tutsi, and Twa), which had different origins and arrived at various periods in what became the territory of Rwanda<sup>40</sup>.

The Europeans believed that the Tutsis were superior to the Hutus, and that the latter were superior to the Twas, while they themselves were superior to all three groups. The supposed superiority of the Tutsis was based on their physical resemblance with the profile of Europeans, which it was believed brought them closer to them on the scale of evolution.

This erroneous version of the past considered that the Tutsis were a people descended from the North (Hamitic hypothesis), politically and militarily superior, having conquered the Hutus whose population was much larger, but less intelligent. This is shown in a letter which became famous, written by Monseigneur Classe to the Resident Mortéhan, dated 21 September 1927, and mentioned in the Minaloc report:

In particular, it says: *“Born to lead, they (the Tutsis) have a feeling for taking command (...) it is the secret of their move to this country and their control over it”*.

With this kind of racist remark, it appeared to be logical that the Europeans should dominate the Africans, and that the Tutsis in their turn should dominate the Hutus and Twas.

## *The colonial administration and its practices*

To govern the country without conflict, the Belgians and the Germans preferred to maintain the existing administrative structures and use the local authorities as intermediaries. The latter played the role of liaison between the people and the colonizers. They received the directives and supervised the execution of work.

In 1936, a law was promulgated which ruled that only a Tutsi was capable of exercising power in Rwanda. This law thus automatically ruled out the traditional Hutu chiefs (cf. Abahinza, especially in the North of the country). Anybody who did not give in was fought by the king and the colonizers, the latter trying to demonstrate their support for the king, but above all so that they would have only one person to deal with in the country.

*Course notes*

As a matter of fact, the Belgians decreed that only the Tutsis could now be notables. They systematically dismissed Hutus from all positions of authority and did not allow them access to higher education, which meant that they were excluded from becoming professionals in the administration. These measures resulted in the establishment of a Tutsi monopoly of public life, not only during the 1920s and 1930s, but also for the following generations. By ensuring the monopoly of power for Tutsis, the Belgians sowed the seeds of future conflict in Rwanda.

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<sup>40</sup> Cf. “Presentation”, in Rutembesa, Faustin, Josias Semujanga and Anastase Shyaka, 2003, p. 7

The difficulty for the Belgians was to determine exactly who was Tutsi, as their physical characteristics were not identifiable. In the 1930s the Belgians decided to register everybody by ethnic category, based on the indication of the persons themselves, and writing it on the identity cards (*ibuku*) of the adults. From then on, all Rwandans were registered at birth as being Hutu, Tutsi or Twa. The consequence was that ethnicity, which had been very flexible before, became much more immobile and permanent, making any change from one group to another more difficult.

As in many colonies the world over, until the 1950s, the Belgians applied the strategy of “divide and conquer”, which was based on racist and ethnicist categorisation (white/black and Tutsi/Hutu-Twa), supporting the Tutsis and excluding the Hutus from power. The Minaloc report explains that between 1926 and 1931, the Belgians undertook a vast administrative reform.

A reform that (...) aimed to create a rational administration in which only the Tutsis could be in command. The effect of this reform was, in particular, to oust some chiefs only because they were Hutu.

It was only towards the end of the colonial regime that the colonial administrators started to allow Hutus a wider participation in public life.

## Post-colonial history

After the electoral victory of the Parmehutu party, the abolition of the monarchy and the proclamation of the Republic in 1961, the new government continued to classify all Rwandans as Hutu, Tutsi or Twa. Identity cards, which had in the past ensured privileges for the Tutsis, in turn became tools of discrimination against them in the fields of employment and education. By preserving the system of registering the population, the new leaders perpetuated the erroneous concepts on which these discriminatory practices were based. Thus Hutus justified the violence of the “Hutu Revolution” and the new discriminatory measures by using the same ideas that had been held in esteem by the Tutsis in the past – their differences, their foreign origins and even the justifications of their total control over the Hutus.

Consequently, after independence the two Hutu governments did not invent a new policy of ethnic discrimination. They merely used the old discriminatory colonial policy, but turned it against the Tutsis this time, who in the past had been the beneficiaries.

## 2. Controversial elements

Let us underline what we believe is important and problematic in the historical reading given in the *ingando*. Contrary to what appears in the notes we consulted, the pre-colonial history of Rwanda was complex, sometimes characterised by power struggles. The country already displayed ethnic dissensions, which were aggravated by the colonial powers. What is more serious is that the individual and collective responsibility of Rwandans themselves in the genocide appears to be concealed. There is no denying the impact of the colonial period – or the role of some Western countries and the dramatic consequences of procrastination of the international community. But it is also necessary to create conditions

that are favourable to thinking about the responsibility of Rwandans in the genocide and that encourage the perpetrators of genocide to understand the horror of their acts. Finally, by putting forward the notion of a “Rwandan nation”, the history courses may be neglecting the persistence of ethnic divisions and therefore negating the conditions for reconciliation of the Rwandan people.

## **The role of the colonizers in ethnic polarisation**

### *The pre-colonial period*

The conclusion of the course notes summarises: “*The colonizers instituted ethnic groups and categorised Rwandans accordingly (...)*” and in the part on genocide “*a simple analysis of Rwandan history shows that the colonizers were at the origin of ethnic dissension*”.

Although it is true that the Belgian colonial authorities immobilised ethnic identities, the above interpretation is wrong. Under Rwabugari, the polarisation between Tutsis and Hutus had already appeared. The nature and extent of central power are some of the factors influencing the feeling of ethnic belonging, as is proven by the example of consolidation of an ethnic conscience that occurred during the pre-colonial expansion and intensification of Nyiginya power. Although in some cases, religions (such as that of Ryangombe<sup>41</sup>), blood pacts or even clientship relations transcended ethnic divisions, more often than not these practices strengthened divisions via alliances within ethnically identified groups.

Furthermore, according to Catharine Newbury and Vansina (2001, p.172)<sup>42</sup>, the appearance around 1870 of the pre-colonial institution of corvée, the *uburetwa*, aggravated and poisoned the divide between the two hierarchical social categories. This form of control of the workforce was imposed principally on Hutu farmers and not on Tutsis. The performance of the corvée two days out of five was obligatory and to the exclusive benefit of the chief. According to the Rwandan historian Mbonimana<sup>43</sup>, generalisations should be avoided, as this institution did not develop in a uniform way, either over time or space. Thus, in some places, Tutsis were obliged to submit to it, and usually the *uburetwa* was demanded only from groups which belonged to certain lineages (usually the poorest and/or weakest). However, Mbonimana does say that of all the forms of exploitation of

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<sup>41</sup> Cf. Vansina, 2001, p. 55 : “This cult was territorial (...) it explicitly celebrated the superiority of the territorial community over the lineage group, by taking precedence over the cult of the ancestors”.

<sup>42</sup> Newbury, Catharine, *The Cobesion of Oppression. Clientship and Ethnicity in Rwanda, 1860-1960*, New York, Columbia University Press, 1988, p. 52 : “Under Rwabugari, Tutsis and Hutus became political labels; ‘ethnicity’ was considered so significant that it became politically important, defining not only a person’s social opportunities but also their relations with the authorities”.

By admitting major differences in degrees of exploitation in the name of the *uburetwa* (corvée), Vansina (p. 172) stipulates that “the imposition of this *uburetwa* on farmers and not shepherds was the last straw. It quickly precipitated a social split that would rend society from top to bottom into two hierarchical and opposite social categories, called Tutsi and Hutu”.

<sup>43</sup> Mbonimana, Gamaliel, “Political integration in view of the ‘*igikingi*’ and ‘*uburetwa*’ institutions (apportioning part of a domain to someone so that they would cultivate the fields and carry out the corvée) in the reign of Rwabugari (1867-1895)”, in Rutembesa, Faustin, Josias Semujanga and Anastase Shyaka, “Rwanda. Identity and citizenship”, in *Cahiers du Centre de Gestion des Conflits*, Butare, UNR, No.7, 2003, pp. 39-43.

the population in Rwanda during the 19<sup>th</sup> century, the institution of *uburetwa* was certainly the most unfair and most hated.

Popular stories from Rwandan tradition also spread the belief that Tutsis were superior, and encouraged the social and moral inequality of the three groups. In the myth about the origins of the *Rwanda* community, Gihanga, the founder of the country and its population, is said to have handed down unequal roles to his three children, after making them undergo several ordeals:

- to Gatutsi (ancestor of the Tutsis), he is said to have attributed pre-eminence, particularly political,
- to Gahutu (ancestor of the Hutus), hard work,
- and to Gatwa (ancestor of the Twas), the inferior status of protégé of both the others<sup>44</sup>.

This myth (which differed from the colonial myth) constitutes the founding myth of *all* Rwandan men (Hutu, Tutsi and Twa), who are all descendants of the same mythical ancestor. Therefore, according to this Rwandan author, it is possible to find just as many historical origins for current prejudices regarding the Bahutu, Batutsi and Batwa in traditional stories as in colonial writing.

It can therefore be considered that the ethnic immobility of the colonial regime was not imposed based on nothing, but was elaborated from a racist interpretation of a tangible Rwandan reality, that of the structuring of power according to ethnic lineage. On the other hand, the Belgian colonial powers played a major role in extending this system to all the other regions, which had until then been circumscribed to the central region. However, this could not have happened without the connivance of the central power, i.e., the Court. What is more, the Tutsis received the premise favourably, establishing their superiority and justifying their privileged position. This coincided with some of their own beliefs<sup>45</sup>.

### ***“Dual colonialism”***

The king and his chiefs retained power only in appearance, as supreme authority was in the hands of the colonizers. In fact, the latter had the ultimate power but exercised it through the nationals.. It should be noted that ordinary citizens always considered the king and his chiefs to be their only masters. It was thus that the whip (*ikiboko*), introduced by the colonizers, was attributed to the Tutsis. As a rule, the wrongdoings of colonialism are falsely attributed to the Tutsis who governed for the colonizers. Forced labour (*uburetwa*) and the whip (*ikiboko*) made the Hutus hate the Tutsis who apparently were the ones in power.

*Course notes*

This interpretation obscures reality by excessively simplifying it. Although it is true that the Belgians retained supreme power, it was impossible for them to exercise it in all the regions and domains. Therefore, the chiefs appropriated an important part of the colonial power, using it in their own interests, sometimes even exceeding the demands of their

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<sup>44</sup> Kagabo, José, “Towards a new Rwandan identity”, in *Vers une nouvelle identité rwandaise ?*, Work documents, Editions Charles Léopold Mayer, No.118, p. 31, as well as Josias Semujanga, “Forms and uses of prejudices in the social discourse of Rwanda”, in Rutembesa, Faustin, Josias Semujanga and Anastase Shyaka, 2003, pp. 22-23

<sup>45</sup> Alison des Forges, 1999, pp. 49-54

colonial masters. The population was very much aware of this state of affairs. Tutsi power, far from being only “in appearance”, was actually very real. This is why Catharine Newbury uses the expression “dual colonialism” – it makes the interaction between these two power systems explicit<sup>46</sup>. Many of the obligations exacted from the peasantry only benefited the chiefs, without the colonial agents even being aware of them.

This interpretation reflected in the course notes poses a problem insofar as the Tutsis in power appear to have been cleared of all responsibility, being only passive victims of colonialism. Yet this was an alliance between the Royal Court and the Belgian colonial authorities, where each one used the other. In this way the royal power used the colonizers to bring the Northwest to heel and incorporate the Hutu kingdoms into Rwanda. The members of the Royal Court were not simply passive victims, but active political actors.

Finally, the absence of any comment on the fact that Rwanda was governed by a Tutsi minority for many hundreds of years, of which 60 years involved an alliance with the German and Belgian colonial regimes, is a problem – even if the colonial relations were unequal. The role of the political elite has been more important than suggested in the official view. This is particularly demonstrated by the historian Catharine Newbury (1988, p. 207) : “The strengthening of royal power in Rwanda during the 19<sup>th</sup> century involved increased control of land, cattle and the population, concentrated in the hands of the Tutsis, who achieved this power by cooperating with the state apparatus. In the 20<sup>th</sup> century, this process intensified with Tutsis resorting to the new material and coercive means introduced by the Europeans. In collaboration with the European leaders, but not always known to them, political Tutsi agents resorted to these means to satisfy their private interests. They aimed to tighten their control of land, cattle and labour, and managed to exclude most Hutus from access to education, to a higher professional status, as well as positions of high level responsibility within the government structures. The construction of a colonial state in Rwanda gave rise to the development and intensification of a system of political oppression and economic exploitation, dominated by a group that defined itself and others by ethnic criteria”.

### *A widely disseminated and accepted view*

We find this simplified perception of the role of the colonizers again today in the views of some local authorities. The following example is particularly revealing<sup>47</sup>. In one of the districts of Gikongoro, the mayor (a survivor, former history student) explained to the population that in the past, Hutus, Tutsis and Twas lived together in harmony, and that it was the whites (the *bazungu*) who had caused all the conflicts and the genocide: “The separation between Hutus, Tutsis and Twas is artificial, created by the former regimes. In the past, everybody got on well with each other, and there were hardly any differences. The only difference was the fact that if you had many cows you were a Tutsi, whereas if you cultivated the land, you were considered to be Hutu. This was a way of expressing wealth, and nothing more. What is more, if someone rich fell ill and lost their cattle, they became Hutu, while a poor person who earned a fortune would become Tutsi.”

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<sup>46</sup> Newbury, 1988, pp. 53-70

<sup>47</sup> Molenaar, Arthur, *Gacaca: grassroots justice after genocide. The key to reconciliation in Rwanda?*, Amsterdam, Graduation Thesis, University of Amsterdam, January 2004, pp. 41-42

Arthur Molenaar, a student who attended this session, also added: “during the sessions of awareness-raising, the authorities were particularly inclined to insist on the negative role of the colonizers in Rwandan history. During one of the meetings, this gave rise to an incident. The authorities were arguing interminably about it, repeating that if white people had not come to Rwanda, the inhabitants would have gone on living together in peace, and Rwanda would never have experienced genocide. At one point, a priest got up and said that he could not accept that all these problems were being blamed on white people. He was afraid that if the leaders continued to reason in this way, there would be war between whites and blacks. When the priest gave his point of view, the mayor shouted at him: “Those who divided Rwandans against each other were the white people! And I am angry about it. I have no scruples in saying it in the presence of a *muzungu* [the mayor said this while pointing at the student]. It was the *bazungu* who brought weapons to Rwanda, it was therefore they who caused the genocide’.”

## Rwandan participation - state and individual - in the genesis and execution of the genocide

### *Some themes for reflection*

1. How did we get to the point of committing genocide?
2. How was the genocide prepared and implemented?
3. What are the consequences of the genocide on the lives of Rwandans and on the lives of people who live in the region of the Great Lakes?
4. What strategy should be adopted to eradicate genocide and the ideology of genocide?

### *Elements for a reply*

1. The policy of the colonizer, based on ethnic discrimination, created dissension, jealousy and hate within Rwandan society.

Yet, the Belgian colonizers who governed Rwanda from 1916 to 1962, that is to say, for 46 years, did hardly anything to improve living conditions for poor farmers. It was therefore hardly surprising that the farmers were used to create havoc by saying that the Tutsis lived in detriment of the Hutus and that Tutsis have always been exploiting Hutus. It is always easier to destroy than to build.

2. The genocide was prepared by the colonizers who stated that the Tutsis were different from the Hutus at all levels, but especially intellectually. In 1959, when the Hutus, aided by the colonizers, drove away the Tutsis and took power, they set up a policy of exclusion instead of attempting reconciliation. This policy of exclusion only accentuated the split between the two ethnic groups. It is not easy to erase from people’s minds an ideology that has been assimilated over more than 40 years. The Government of Unity and Reconciliation has the political will to eradicate this ideology and banish genocide forever. There is no longer an ethnic Government, there is a Rwandan Government.

3. The war, and particularly genocide, has brought us misery, poverty and diseases of all sorts, especially AIDS. The country’s economy was completely destroyed. The nation was wrecked and we have mourned countless wounded, dead, refugees, orphans, widows and widowers.

The reputation of Rwanda and of Rwandans is negative the world over. Immediately after the genocide, diplomatic relations with other countries was catastrophic. Inhabitants of the Great

Lakes region suffered because of the genocide and the war in Rwanda. The refugees invaded neighbouring countries en masse and even the war was dislodged to the depths of Congo<sup>48</sup>.  
4. We must all roll up our sleeves and work assiduously to combat poverty and put an end to begging.

Rwanda is, and will be, what we want it to be. Improving people's understanding, banishing separatist ideologies, and teaching love, unity and reconciliation; all these will help us overcome the problems in our country.

*Course notes*

The course notes that we studied presented a simplistic and unequivocal version of the genesis and outbreak of the genocide. They totally conceal the responsibility of Rwandan governments after independence and the individual responsibility of each one of those who took part in the killings. In this respect, the Minaloc document mentioned in the annexe is more balanced.

### *The regional context*

Two factors, linked to wars and violence in the region of the Great Lakes, are insufficiently dealt with in this course on genocide, although they facilitated the preparation of the genocide in Rwanda.

As underlined by the Minaloc's Report, the attacks from outside the country by Tutsis in exile were used as a pretext by the government to perpetrate the massacres. In particular, the invasion from Uganda of the FPR army in October 1990 allowed President Habyarimana to strengthen his shaky power base by appealing to Rwandans to withstand the enemy en masse.

On the other hand, the assassination in 1993 of Ndadaye (first democratically elected Hutu president in Burundi), played an important role in confirming "the fear of many Hutu Rwandans about the refusal of Tutsis to share power"<sup>49</sup>. This assassination, which was considerably exploited by the RTLM radio station, called on them to come and "boost the ranks of the partisans of Hutu Power"<sup>50</sup>.

In the case of Rwanda, the State (and in particular high level officers of the Rwandan Armed Forces [*Forces Armées Rwandaises*/FAR]<sup>51</sup>) did not hesitate to define as "enemy" of the country, long before 1994, not only the members of the Patriotic Front of Rwanda [*Front Patriotique Rwandais* (FPR)] with whom they were at war, but also all the Tutsi inhabitants who were considered "*ibyitso*" – the accomplices or infiltrators – and even the

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<sup>48</sup> It would be possible to say a bit more about these wars of Congo, which did not start simply for reasons of security. Yet no description or analysis of the two successive wars that Rwanda waged in Congo is given in this course, the first one in 1996, in support of Laurent Kabila in an anti-Mobutu revolt, and the second in 1998, against the same Laurent Kabila to assure security aims, as well as other interests such as ethnic solidarity with the Congolese Tutsis, or even economic interests, in Clark, John F., *The African Stakes of the Congo War*, Kampala, Fountain Publishers, 2003, pp. 129-144

<sup>49</sup> Alison des Forges, 1999, p. 10

<sup>50</sup> *Ibid.*

<sup>51</sup> Alison des Forges, Conference in Butare, 2003

Hutus who were opposed to the ideology of the National Revolutionary Movement for Development [*Mouvement Révolutionnaire National pour le Développement* (MNRD)].

These elements are not negligible, as in a war context the attacks against the country reinforce the vulnerability of the groups targeted as “scapegoats”, and therefore render genocide against them more probable. According to Longman<sup>52</sup>, the dominant group generally presents itself as being vulnerable in the ideology of genocide. Consequently, genocide is legitimated in the minds of the perpetrators of crimes, as it becomes an act of self-defence.

It is surprising that the United Nations’ inaction and retreat – or France’s involvement – were hardly touched on in the classes.

### *The political manipulation of ethnicity*

The authorities of the first Republic did not try to analyse and resolve the ethnic problems. On the contrary, they continued to support ethnic rivalries with all sorts of arguments and manoeuvres. Regionalism only aggravated the situation (Abakiga in the North and Abanyenduga in the Centre and South). These authorities never thought to implement a policy aimed at reunification, reconciliation and national unity. Faced with the practice of favouritism, nepotism and bribery that continued to undermine society and favour inequalities, the need for justice was increasingly felt.

In 1973, with the advent of the 2<sup>nd</sup> Republic under President Habyarimana, the slogan was “peace and unity”. These beautiful words never became more than a slogan, and were never followed by concrete action. Indeed, the policy of regional and ethnic equilibrium could not bring the Rwandan people either peace or unity.

At the outset of the 1980s, the refugee problem was very topical and President Habyarimana did not accept to negotiate. He argued that Rwanda was bursting at the seams and that the refugees should be accepted as citizens by the countries which had received them. To make his point, he used the image of a glass filled with water which would overflow if one more drop were added. This was said very clearly so that the refugees should feel permanently excluded.

Negotiations were impossible inasmuch as Habyarimana made the choice of going to war. It broke out in October 1990 and lasted for four years. In the meantime, the negotiations at Arusha to reach an agreement on cohabitation and power-sharing were put on hold or sabotaged by the government, the MRND and the CDR. President Habyarimana himself once said in Ruhengeri that the Arusha agreements were not binding on him as they were only scraps of paper. A high ranking official of the regime, Colonel Bagosora, slammed the door on Arusha, saying that he was going to prepare the apocalypse, i.e., genocide. The death of Habyarimana was just the detonator for a bomb that was already activated. It was on that same evening of 6 April 1994 that the genocide got started in Rwanda.

*Course notes*

These analyses are pertinent. However, other clarifying elements may be examined in the study of how the Rwandan genocide was started. Mamdani<sup>53</sup> analysed the genocide as a State project, prepared by the Habyarimana regime, and in particular by its high ranking officers. It was made possible by the will to organise it and massive participation. According to Mamdani, the genocide was also a social project that incarnated the

<sup>52</sup> Longman, in Clark, 2003, Chapter 8, p. 132

<sup>53</sup> Mamdani, Mahmood, *When Victims Become Killers: Colonialism, Nativism, and the Genocide in Rwanda*, Princeton, PUP, 2001 (Chapter 7, “The Civil War and the Genocide”, p. 185-233). See also: PRI, *Report III. Research on the gacaca, April-June 2002*, PRI, Kigali/Paris, July 2002

aspirations of the lower classes: that of an antidote to the privileges that the Tutsis enjoyed, and a struggle to defend the power acquired during the “1959 Revolution” that drove away the Tutsis from the political arena and sent many of them on the path to exile. Hutu extremists, who took power after the death of the Rwandan president, decided that genocide was the only way to achieve these aims. In fact, the massacre of the Tutsis did not have ethnic identity as its only motivation. Ethnicity was used as an instrument to mobilise the population. Material and political interests, as well as a power struggle played a major role.

In its previous reports, PRI likewise underlined the fact that the former government, with the aim of remaining in power and redirecting the growing dissatisfaction of the population towards a scapegoat, manipulated the devaluation of the minority group with consummate skill, by defining all Tutsis as the “out group”. Considered to be the source of all misfortunes and evils, the Tutsis were the object to which all negative feelings were transferred. Thus, at the same time the Hutus’ feeling of superiority and of their own worth grew.

The post-colonial regime took the initiative of promoting a negative and destructive image of the Tutsis. Thereby, they favoured inequality and exclusion, which progressively led to the explosion of hate, legitimating and glorifying violence, impunity, and finally genocide. A culture of terror developed. It incarnated and reached its paroxysm with mutilation, dismemberment, rape and death. For extremist Hutus, Tutsis became variously “intruders from Ethiopia”, “cockroaches”, “eaters of their sweat”, or in other words, a “heavy burden on their shoulders” that “threatened the purity of social order” in Rwanda, and “dirty enemies” who had to be destroyed to purify the nation<sup>54</sup>.

In a war situation, the old regime managed to make the population accept a negative image of the Tutsis that was relayed by the media. By means of social interactions in local communities, mobilised by the local authorities or leaders, many members of the Hutu majority (the “in group”), began to admit that it was reasonable to exclude all Tutsis, to use violence against them and finally to exterminate them. A culture of obedience to authority, together with a host of negative sanctions<sup>55</sup> and positive incentives (land, cattle, etc.), did the rest. The Hutu population was effectively incited to kill Tutsis and were often threatened if they refused or were unsuccessful. Many Hutus rallied to this socially approved norm<sup>56</sup> of killing all the Tutsis, insofar as it constituted the easiest choice and without any direct consequences.

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<sup>54</sup> Taylor, Christopher C., *Sacrifice as Terror. The Rwandan Genocide of 1994*, Oxford/NY, Berg., 1999, p. 139-140

<sup>55</sup> On this point, we will refer to the testimonies gathered by Jean Hatzfeld, in *Une saison de machettes* [A season of machetes], (Paris, Seuil, 2003, pp. 85-89) that show that the persecution of Tutsis was obligatory, but that failure to do so only gave rise, at least in Nyamata, to light punishment. The authorities only threatened the recalcitrants with a fine. The killers: “*We were more afraid of the wrath of the authorities than of the blood we shed (...) (But) when you have been persuaded enough by the radios and by advice, you obey with greater ease, even if the order is to kill your neighbours (...). You obey freely (...). I don't know anybody who was beaten because he refused to kill (...). You could also do something useful instead of killing (...)*”. It can also be deduced from these testimonies that the group mentality of the members of bands of killers (*igitero*) (who were all friends and remain so to this day) probably became more important when participating in genocide than the threat of a fine.

<sup>56</sup> Cf. Philip Verwimp, who uses and explains this concept of “*socially approved norm*”, in Verwimp, Philip, *Development and Genocide in Rwanda. A Political Economy Analysis of Peasants and Power under the Habyarimana Regime*, Leuven, KUL, 2003, p. 296

However, the killings often started later, or slower, where the local authorities or the local elite did not immediately adhere to the ideology of genocide. Obviously there would always have been some Rwandans in favour of participating in the genocide, but some decided not to take part and acted differently.

### *Individual responsibility*

It is amazing that no mention was made in this course of the many Hutus who refused to participate in the genocide<sup>57</sup>. This is all the more surprising as were it put forward, it would enable people no longer to consider all the Hutus as collectively responsible for genocide, and could therefore constitute a new historical basis for the construction of a Rwandan society without discrimination or ethnic tensions.

To imply a collective responsibility of the Hutus may create a distance or mistrust between people, and even reinforce the ethnic prejudices that the government is trying to eradicate. In the long run, therefore, it could become an obstacle to the desired unity and reconciliation.

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#### *A 1959 repatriate*

“I am still concerned about what the government says about the killings. Every day they say that the Tutsis were killed and that the Hutus killed them, but forget to mention also the generosity and compassion of some Hutus who accepted to hide Tutsis. So much so that some sympathetic Hutus lost their lives after these acts of compassion towards Tutsis.”

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Furthermore, the implicit recognition of collective responsibility helps to diminish the responsibility of the perpetrators by not recognising the part of individuals in these crimes.

Yet, in Butare in November 2003, the participants in a seminar on the genocide, stated that the existence of genocide such as in Rwanda inevitably implies that there was participation of the State, but that there is also an undeniable individual dimension. At this seminar, local participation in the genocide was analysed according to three main aspects:

1. First of all, the researchers underlined that individual choice was important in the execution of the genocide. The murders commenced much later and developed much slower in places where the local leaders did not adhere to the ideology of genocide. However, genocide took place even when the burgomaster was opposed to it. This tends to show the extent of the role played both by the media and the State. On the other hand, in some cases, the genocide started even before the local and national political leaders had expressly urged the population to attack the Tutsis. It can therefore be concluded that although there was a hierarchical machine that pulled its full weight in carrying out genocide, the aspect of individual choice cannot be ignored and was also important.
2. Political competition at the local level was then presented as another factor in facilitating the genocide. Although some were engaged in mass killings in order to participate in the planned destruction of the Tutsis, and did it for this purpose alone, others created the ideology of genocide in order to satisfy exclusively political aims of gaining power. Such participants either feared losing existing privileges or hoped to acquire new ones – or perhaps both.

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<sup>57</sup> See PRI, *Report III* (The case of Forgeron) and *Report V* (The case of Augustin), as well as the study of African Rights, *Tribute to Courage*, London, 2002

3. Finally, various mechanisms to mobilise the population, developed at this time, were highlighted. Three factors entered into play at the local level. Their presence or absence influenced the launching and unfolding of the genocide:

- First of all, the leadership of the State, or even the relation between the central State and the population was underlined. In this respect, the chains of state responsibilities are becoming better understood and evaluated. Some researchers continue to study the cogs and wheels. It is already noticeable that the models of popular mobilisation tally with formal institutions in place.
- Secondly, the important role of the army was also put forward. Indeed, after having identified all the Tutsis or their accomplices as enemies, the army used their authority to involve members of the population in campaigns of extermination, often under pretext of “Campaigns of civil self-defence”. Thus, the “*igitero*”, attack group, set up originally as an institution of collective cooperation in the defence of the local community, was activated during the genocide to mobilise the population to carry out the massacres. The fact that the civilian authorities were threatened if they refused to participate demonstrates that instead of trying to prevent violence, on the contrary, the State had generated this violence.
- Thirdly, the economic crisis and poverty were presented as having constituted a background which favoured genocide. Popular resentment was fed by this precarious context and was directed against the Tutsis, who became scapegoats.

The notion of individual responsibility does not transpire from the course notes, which on the contrary transmit a strong sense of the unaccountability of the role played by Rwandans themselves, particularly in the dark periods of their history.

This becomes even more problematic considering that the declared objective of the government is to re-educate the population about the political history of the country in view of achieving reconciliation. Yet the refusal to accept individual responsibility may in the long term become particularly damaging for the aim of reconciliation. How can a person, who does not assume responsibility for what happened, become involved in a responsible and individual way in reconciliation? This is an important question because it is precisely at the individual level that the perpetrators will be judged, and it is at the interpersonal level that reconciliation may be achieved.

Furthermore, we found that in the solidarity camps, ex-detainees did in no way assimilate the notion of individual responsibility for the suffering they had inflicted. The history courses, as they were written, do not contribute to the development of this feeling of responsibility. In this respect, their attitude after the *ingando* differs very little from that which many of them had in prison. Thus, Jean Hatzfeld, who interviewed a band of killers when they were still in prison in Rilima (Nyamata), noted that all these genocide killers (who for the most part had pleaded guilty to murder and complicity in murder) “minimised their participation and rejected responsibility, placing it on others – the administration, the *interahamwe*, hinting at the *muzungu* and the Tutsis”<sup>58</sup>.

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<sup>58</sup> Hatzfeld, Jean, *Une saison de machettes* [A season of machetes], Paris, Seuil, 2003, p. 292

When they were released, most of the ex-detainees maintained the same arguments, continuing to reject responsibility on to others, explaining that the genocide was the consequence of harmful leadership and erroneous teaching or telling of history:

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***Ex-prisoner A***

“If my child asked me why I was an *interahamwe* militia man, the starting point of everything that happened, I would explain about the unfolding of history, and I would tell it that history is at the basis of all of this. In other words, this country has had a very bad history and the authorities led the population into error. The authorities sowed a bad seed among the population, and that had repercussions, including on me. In short, this is what I would tell my child.”

***Ex-prisoner B***

“If my child asked me the same question, I would explain that it should avoid letting the authorities lead it into error and make it hate his neighbours and fellow men, as the consequence of this has been genocide.”

***Ex-prisoner C***

“If my child asked me why I was an *interahamwe* militia man, and if I really was one, I would tell the truth. I would not lie. I would tell him that it was necessary.”

***Ex-prisoner D***

“If he asked me why I was an *interahamwe* militia man, I would tell him that I was not born a militia man. I would tell him that I was born like everybody else, but given the turbulent history of our country, this happened because of the colonizers who sowed the seed of dissent among the population. They taught us that our fellow men were bad and that we should hate them. This hate germinated and spread.”

***Ex-prisoner E***

“I would show my child that this had seriously harmed me and that it was because of the colonizers that all this happened. I would say that it started in 1959, when King Rudahigwa started to ban divisions so that each one could work for himself. But the colonizers did not let him do as he thought fit and killed him. When Kayibanda came to power, he also sowed discord.”

***Ex-prisoner F***

“When I go back home, if my child asks me this question, I shall tell him first of all about our ancient history. I shall also tell him that one must not cling to a specific authority because the time will come when that authority will leave power. If people had not clung to Habyarimana, whom they considered as a father, his death would not have given rise to genocide.”

Question: “Will you not consider President Kagame as your father?”

Answer: “We will do so, but we will remind ourselves that the day will come when he will have to leave power peacefully, (...) we shall not cling to him.”

- Solidarity camps of Muhura, Byumba, 13 March 2003 -

**An ex-prisoner in a nightclub**

“What happened in our country exceeds all understanding. In spite of this, I would say that the ordinary population is innocent, as the planner of this genocide was the State, the government which was in power at the time. Those who killed did it by order of the State which was in power at the time, and nobody had the strength to oppose it. The State has the strength, the power, it is above everything else.”

- Ntongwe, February 2004 -

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Of course the ex-prisoners know that these arguments do not reflect all the truth. However, even though they are conscious of the crimes they have committed, it is such a heavy load to bear that they prefer to take the way out that is officially proposed.

We believe that even now, the respect for authority, and particularly the State, is such that some of them could again take part in killings if they received orders or the incitement to do so. According to Rwandans themselves, their cultural tendency is to have a profound respect for authority. In fact, based on several testimonies, both from survivors and detainees, it appears that the following idea is strongly shared culturally, with however a few regional differences: when one is Rwandan, one systematically executes the authorities' demands. The consequence is that people submit patiently and remain impassive until the day when an opportunity arises and they explode. They perceive this as a strategy of defence in a highly hierarchical society where there is very little trust. An ex-detainee who had been acquitted sighed: "*We Rwandans have never had, and I do not know if Rwandans will ever have, the courage to say no and in time. This is because we always react too late! We should have the courage to say no right from the start!*" A bystander objected to this statement, claiming that there were some people who did have the courage to say no, but unfortunately they no longer exist, and he mentioned a few names.

The question of unaccountability is all the more acute, as the content of these courses will be disseminated through the procedure of oral memorisation. Thus this history will spread among the entire population, not just the ex-prisoners. The tradition of oral transmission in Rwandan culture, in the shape of dynastic poetry, is seemingly believable, but selects and eliminates certain historical facts, and appears to be perpetuated with the contemporary historical narratives of some Rwandans who would like to see history arranged to their taste.

The fact of not discussing the need for the "genocide killers" to assume their responsibility individually is a problem. On the whole, not encouraging Rwandans to think of their role in Rwanda's past history and in its future in terms of individual responsibility makes it difficult to search for solutions to improve social relations between Hutus and Tutsis, which are still quite antagonistic in some domains.

It would appear to be crucial to implement programmes of civic education to start a real dialogue and prevent new conflicts. However, such programmes assume that criticism is considered acceptable, including by the political and government authorities, which is the norm in democratic societies<sup>59</sup>.

## **Persistent feeling of ethnic belonging**

Notes taken in the *ingando* end with the exclamation "*We are all Rwandan!*" This indisputable statement should not, however, lead to a denial of the feeling of ethnic belonging. This feeling, having been present and gradually strengthened in Rwanda since at least the beginning of the colonial regime, appears to have been internalised by all Rwandans, the war and genocide having contributed to make it stronger. What is even more serious is that racist and discriminatory dimension of ethnic belonging does not appear diminished.

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<sup>59</sup> Cf. the report of several Dutch organisations titled "*Tell our government it is OK to be criticised*". This is a paraphrase of a Rwandan saying referring to the fact that historically, Rwandan political society had a lot of difficulty in accepting criticism. CORDAID, ICCO, KERKINACTIE, NOVIB, "*Tell our government it is OK to be criticised. Rwanda Monitoring Project*", Report 2003, The Hague, February 2003

Indeed, the following extracts suggest that many Rwandans still want to know to what ethnic group the people they meet or who are around them belong:

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***An ex-prisoner***

“My daughter looks just like a Tutsi (...) and she is engaged to be married to a Hutu boy (...). One day, the boy took his fiancée to his mother who is Hutu. Her husband was killed by the *inkotanyi*<sup>60</sup>. And the boy’s mother asked him later how he could have chosen a Tutsi girl. The boy had to explain that this girl was Hutu, and that her father had just spent eight years in prison.”

***An ex-prisoner***

“One can distinguish a Tutsi from a Hutu mainly by their facial appearance. If you are in doubt about an individual and you have to work with him, you find a way to find out about him. In this respect, Rwandans always discover exactly who they are talking to. (...) When I talk to somebody, I must also know whether he is from the North, the Centre or the South of the country. And this goes for all Rwandans. They know how to distinguish.”

***A repatriate***

“Everybody talks about *umacu?* [One of ours?]”

- Kigali, May 2003 -

***A young female survivor***<sup>61</sup>

“(…) when one has seen one’s mother hacked up so cruelly, and suffer so long, one loses part of one’s trust in others forever, and not only in the *interahamwe*. I mean that a person who has watched for so long such terrible suffering can never again live among other people as before, because they will be on their guard. They will mistrust others, even if the others have not done anything.”

- Nyamata -

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In PRI’s first report (*Gacaca Report I*, 2001, p. 57) it is stated that “One must question if the issue of ethnicity should be ignored (...). One can imagine that the development of a policy based on the ‘deconstruction’ of a negative ethnic mentality, showing how the previous governments manipulated public perceptions, and then the ‘construction’ and promotion of other forms of identity (national, religious, professional or other: ‘we, the women...’) could support a positive perception of social identity, and the acceptance of diversity, including ethnic diversity. Although it is true that in ‘normal times’ ethnicity did not matter much in daily life, today this is no longer the case.”

Since 2001, many other institutions and persons have thought similarly. Thus Newbury and Baldwin<sup>62</sup> mention that an “important consequence of the war and the genocide is that ethnicity has become more important in Rwanda, in spite of the announced intentions of the government to abolish ethnic distinctions. Few Rwandans speak openly of ethnicity (...). In the current Rwandan political context, what is important is the (presumed) ethnic past, the place where the person has lived in Rwanda, from where they came, and if he or she was in exile and came back to the country after the genocide.”

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<sup>60</sup> “*Inkotanyi*”: this is what members of the FPR called themselves. The name is drawn from that of a 19<sup>th</sup> century army. It means “tireless fighters”.

<sup>61</sup> Hatzfeld, Jean, *Dans le nu de la vie. Récits des marais rwandais [In the raw of life. Stories of the Rwandan quagmire]*, Paris, Seuil, 2000, p. 32-33

<sup>62</sup> Newbury, Catharine and Baldwin, Hannah: “Confronting the Aftermath of Conflict: Women’s Organisations in Postgenocide Rwanda” in Kumar, Krishna, *Women & Civil War*, Lynne Rienner Publishers, Boulder/London, 2001, pp. 97-128

Observations made by the Rwandan authors of the Institute of Research and Dialogue for Peace report are similar: “In Rwanda, ethnicity constitutes an unavoidable given in political management because of the role it has played in the country’s history”<sup>63</sup>.

Professor Erwin Staub, a specialist recognized worldwide in the psychology of genocide, recently said<sup>64</sup>: “The factors that contributed to the emergence of genocide have not disappeared. There is an urgent need to promote psychological changes at a time when the problematic notion of unity denies the existence of Hutus and Tutsis. My hypothesis is that this does not help. [...] The problem with the notion of ‘All Rwandans’ is that it stifles expression”.

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<sup>63</sup> Institut de Recherche et de Dialogue pour la Paix (IRDP) [Institute of Research and Dialogue for Peace], *Reconstruire une paix durable au Rwanda: la parole au peuple [Rebuilding durable peace in Rwanda: the people's voice]*, Report (draft) 2003 (quote from chapter 4.3.1 : “Power sharing and ethnicity”), p. 51

<sup>64</sup> *The New Times*, “ ‘The Rwandan genocide was not only about bad leadership, it is also about bad followership’, says a visiting University Professor of Psychology, Erwin Staub.”, 15-18 January 2004, p. 5

## *Conclusion*

Whatever their personal history, Rwandans must learn how to live together again. They know this, and many of them are ready to make an effort to do so and to consent to some sacrifices. They expect to be helped in this, either by the government, their entourage or local associations.

Those who stand accused of participation in the genocide, some of whom have passed many years in prison, are worried about the conditions for their return to civilian life. They are happy to be back in liberty, but are not certain if they will know how to face the changes that their families or society have undergone in the meantime. They still do not know how they should behave when they see their victims or the families of their victims. In this respect, the *ingando* are a decisive stage of transition, which they usually welcome with relief.

The *gacaca* courts, whatever their failings, try to meet the need for justice which must be satisfied so that life can resume its course more serenely for all. The *ingando* are part of the attempt to achieve this. But both these mechanisms can only bear the hoped for fruit by openly confronting the challenges that arise.

The history of Rwanda is rich and complex. By excessively simplifying some episodes, by concealing some pages of history, the society of today and tomorrow is being put at risk. Deep down, each Rwandan identifies with a group. The challenge is now to build a united society together, in which the values of peace and trust once more find their place, and where the groups will not see each other as antagonistic.

## Second part

### Return to the hills

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The declared aim of the solidarity camps was to facilitate the reintegration of the released prisoners. It is therefore important to examine the conditions of this return to the hills for all the parties concerned, and to evaluate the consequences for the *gacaca*.

On the whole, fear and mistrust characterise the feelings of both the released prisoners and the survivors. Each one, to face real or supposed dangers, builds systems of protection which may harm the operation of the *gacaca* courts, and more generally the progress towards reconciliation: fear encourages people to try to manipulate justice to their advantage, thereby contributing to its weakening. The pressures of the authorities who demand a confession and a pardon make people question the nature and depth of the feelings of those who have been ordered to become reconciled.

## A - Learning how to live together again

### 1. The difficult return of the ex-detainees

On the whole, ex-detainees are delighted to be able to return to their homes, and families to have them back at home. In fact, their families frequently come to pick them up at the gates of the camp. And although they remain cautious, the stories of families and friends of ex-detainees are on the whole very positive.

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#### A released prisoner

“When the *ingando* came to an end, my sister came to fetch me. I spent a few days with her before going to greet my old mother on the hill. My mother received me very well and cried, “I thought it was a lie. Thank God. No doubt he has listened to my prayers. Now, if I die I shall not be sad because I have just seen you again!” After that, the neighbours came in large numbers to greet me. Everybody wanted to buy beer for me, but I no longer drink alcohol. Some think quite wrongly that I have changed my religion.”

- Butare-Ville, December 2003 -

#### A recently released man

“I do not want to introduce myself. I think we can talk without that. First of all, I would like to thank the Government of Unity because it has done a magnificent job. We spent a long time in prison, where we suffered a lot, although we had not done anything wrong. Obviously, some people did commit reprehensible acts. But we welcomed the decision to release us. When I went back home, I was very well received in the village. I should tell you that there is no problem and that we get on well with the others just as usual. During the meetings, nobody mistrusts anybody else. Unless this situation changes later on.”

#### The wife of another released prisoner

“Only God knows how happy I am. I admit that it is not easy to take a bucket full of food every week. What’s more, it is not easy to live alone for somebody who was used to being with someone else. During all these years while he was in prison, our relationship was going downhill. Therefore we have now started to cultivate it. You must understand that this release has been very good for us.

My husband is welcome; I found there was no problem. People are happy to see him back. Since this morning, he has been going round greeting people who asked him to visit. People do not mistrust him because he has admitted his misdeeds and said he was sorry.”

**Another inhabitant of Gitesi**

“The release of detainees made us happy, except that some of the persons released committed murders. Nevertheless, most of them are innocent. In any case, we are tired of having to feed them in prison. Personally, I was happy because a member of my family was released. We have lived together since his release and there is no problem so far. Instead of keeping them in prison, it would be better that they come and live with us, especially as unity and reconciliation have become a reality in our lives. After their release, we greeted them. For some of them, it had been a very long time since we had seen them. It was really lovely. We had banana beer. We shared it with them in an atmosphere of gaiety. It was difficult to realise that they had just left prison, but one mustn’t forget that they were taught how to behave. There is total security and there is no problem between us.”

- Stories of Gitesi sector, Ruhango, May 2003 -

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Yet leaving prison, or even a solidarity camp, is still not easy after so many years of imprisonment. So much so, that for some of them, the return is far from going smoothly and may give rise to a number of avoidance strategies.

**A 1959 repatriate<sup>65</sup>**

“At Umutara, a solidarity camp was closing down and I had taken the initiative of escorting the people who left it. People walked slowly in small groups of three or four along the road. I then asked some of them where they were going. They replied that they were going to Kahi, close to the border. I asked them if they were waiting for transport, to which they replied that they were going to walk. I then continued on my way, however when I looked back I saw that some of them were sitting down. I therefore stopped again and asked those who had sat down if they wanted transport, but they replied “no thank you”. This showed me that they were afraid of returning to their hills! I ask myself if they ever did reach their homes.”

- Umutara, May 2003 -

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Sometimes there is so much fear that some people, because of their crimes or their confessions, give up going back home to their hill and run away. For example, in Gikondo, a released prisoner had made a complete confession. Knowing that many people were unhappy about his release, he chose to flee. To this day, nobody knows where he is or even if he is still alive.

What is more, in the camps, they had been forewarned that some people might be unhappy about their return. According to one ex-prisoner “*This seemed obvious [to them], inasmuch as that a person who has caused someone to be put in prison cannot be happy about his release*”. The prisoners are usually given provisional release and therefore feel particularly vulnerable, which explains the following statement by a released detainee: “*I could be returning to prison even today, as our release is provisional*”. Everybody is afraid of possible new accusations, whether false or true, on the part of survivors.

These fears may be considered justified insofar as some detainees’ family members have been killed in suspicious circumstances, particularly in Kibuye and Umutara, and these murders have not been solved to this day.

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<sup>65</sup> The 1959 repatriates are those who fled the country to escape the massacres that occurred that year, and returned after 1994.

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#### **The case of M**

In mid-June 2003, M, a released detainee, was attacked by unknown persons, who wounded him in the arm with a firearm, with the intention of killing him. According to his neighbours, the perpetrators must [have been] survivors because he had already received threats from them. Even the other ex-detainees expected this as M had participated very actively in the genocide. Nobody knows where he is as he left the hospital of Kiziguro where he was being cared for and since then nobody knows what happened to him.

- Kawangire sector (Umutara), July 2003 -

#### **At Gisunzu**

At the end of 2003, in the district of Gisunzu, the whole family of a prisoner who had just confessed and pleaded guilty at his trial was exterminated. According to the inhabitants of his community, it must have been an act of revenge<sup>66</sup> by relatives of the victims of the genocide for whose death the detainee had admitted being responsible.

- Gisunzu, Kibuye, End 2003 -

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But the survivors do not represent the only risk. The released prisoners are also afraid of those whom they have denounced as their accomplices and who are also at liberty. It is well known that once they have confessed, their families run into trouble. Some of them even requested the police who were teaching about security in the solidarity camps if there was any chance of some sort of protection being set up for them and their families.

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#### **An acquitted ex-detainee**

“There were some twenty people in our camp who had received messages from their wives or their children, saying that things were not looking at all well for them on the outside.”

- Gishamvu, June 2003 -

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According to another story, there was so much fear that a man wanted to commit suicide when rumours began circulating that the prisoners were going to be taken to their villages for the *gacaca*, so that the innocent could be released. As he was afraid of returning to his village, this man tried to commit suicide by hanging himself.

Apart from the fear created by their relations with other members of the community, the freed prisoners often find it difficult to reintegrate into society, because the reality they find after so many years in prison is so very different from what they had left behind. It is sometimes difficult therefore to readapt, as per the account of SH after five years in prison:

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“- The companions of my age group have all started families. Others have finished their studies and occupy important positions in the administration of the country.

- The system of communications has improved considerably with mobile phones, and the price of transport has increased enormously.

- Jobs have become very rare. Supply is very much below demand, which is why there are so many unemployed.

- Dress fashions have changed a lot, especially for women.

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<sup>66</sup> Traditionally, the family has a religious obligation to avenge any one of its members who is the victim of a crime committed by a person outside the family. Revenge may be taken against all the male members of the extended family of the offender.

- In respect of justice, the population is aware of the importance of the participatory *gacaca* courts, but there is a part of the population which is afraid of being denounced by those who have confessed. People no longer file complaints any old how as in the past; now they go through all the stages of the process. The inhabitants appear to have mutual respect and look after their personal affairs.

Some members of my family help me as best they can, but the future remains uncertain. I would like to have a job, continue my studies and start a family. I met a girl who had helped a widow survivor accuse me of genocide. We greeted each other and had a conversation that was absolutely fraternal. I also saw my ex-fiancée again who has found another husband. Wherever I hand in my CV, I find it difficult to justify a blank period of five years. Furthermore, I realize that the accusation against me of participating in the genocide remains a negative label which is the real reason for rejection of my CV in many cases. It is serious (...) Nevertheless, during the presidential and legislative elections, I managed to find temporary work as an interpreter for the election observers of the European Union. This has enabled me to survive.”

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## 2. The difficult welcome of the survivors

The announcement of the first wave of releases gave rise at first to a strong feeling of fear among the survivors, who questioned how the released prisoners would behave, fearing that they would continue the cruelty of the past. At the time, the president of a cell *gacaca* court commented on the situation as follows:

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“The survivors of the genocide question if the released detainees, who hacked up their fellow creatures with machetes and ate other people’s cattle, will not pursue their evil ways. This was what worries them.”

- Gitesi, Ruhango, June 2003 -

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And although the survivors, at least at first, found out with relief that this was not happening, this concern persists for many of them.

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### A survivor

“We believe that in future our security will be a problem. You must understand that someone who has killed our loved ones, and who is today released, does not love us at all. I think it will be difficult for us to be happy about their release. I also think that the work of the *gacaca* courts will become even more complicated. We thought we were going to become reconciled when they had served their sentence. It would have been easy for me if I had been asked to reconcile with him after he had served his sentence. In this way, we could have had a basis on which to become reconciled. How can we be reconciled with someone who does not even know what he did [who has not been formally charged,]”? This is a really serious problem. But I must say that up to date, the released detainees have not done us any harm. We believe that they have been sufficiently trained or that maybe they are afraid. We do not know in which way the situation will develop. But so far they have not attacked anybody.”

- Gitesi, Ruhango, June 2003 -

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However, even more than fear, what is surprising in the way survivors see the situation is their expression of great dissatisfaction, incomprehension and resignation. The idea that they must cohabit and more or less begin to become “reconciled” with persons who have not yet been convicted for the crimes they committed, is particularly difficult for them. In fact, many of them believe that among these ex-detainees, a large number does not deserve

to return to the hills. Based on stories from survivors, Ibuka managed to prevent the release of around 800 detainees who were about to leave the solidarity camps.

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**A survivor's story**

“In reality, I must say that the release of the detainees surprised us a lot. In our opinion, the law was not respected. We thought people had been put in prison because of the crimes they had committed. [T]hese crimes are very evident as we lost a lot of people in this sector. Yet suddenly we learned that the communiqué of the Presidency had released the detainees. This plunged us into a state of complete incomprehension, yet we cannot ask for explanations anywhere because it was the powers that be who released these persons. They should have taken our interests into consideration by not releasing them until they were judged.

The innocent people among them should really be released by the communiqué. But the guilty should be brought to trial and convicted. Whatever the case, they should not have been released without a valid reason. There are even some among them who do not know why they were released. By releasing them without having prepared people for it is to turn the knife in our wounds. It cannot be said that all those released are innocent, just as much as it cannot be said that they are all guilty. The justice system should establish their guilt or their innocence.

I agree that some of these detainees should be released to be brought to trial before the *gacaca* courts. Obviously, given that everybody did not commit the same crimes, I think that those who committed serious crimes should be kept in prison.”

- Gitesi, Ruhango, June 2003 -

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The idea itself that some detainees are innocent is far from being accepted by all the victims. This explains the alarmist reaction of the survivors as soon as a released and acquitted prisoner dares to say that he thinks he has the right to receive compensation for the years lost in prison:

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**A survivor**

“Recently one of the persons who were released said that the Government should compensate them for having detained them without reason. In reality, this person does not even know why he was released!

“In this country there are two categories of people. There are us, the survivors of the genocide, and there are those who perpetrated the genocide. Usually, everybody who has committed an offence should be punished.”

- Gitesi, Ruhango, June 2003 -

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Thus, individual initiatives of rapprochement as that of Pascal, a survivor, remain the exception:

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**Stories of ‘sharing’ at Pascal’s home which were attended on several occasions by PRI’s team**

A sharing<sup>67</sup> organised by Pascal and his wife in August 2003 for their tenth wedding anniversary and the first communion of their oldest daughter.

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<sup>67</sup> “Sharing” (*ubusabane*) is the moment when everybody gathers together and shares not only the entertainment, but also ideas and drinks. There are exchanges of traditional brews made of sorghum, bananas and honey, which are very symbolic in Rwandan culture, to which more modern varieties have been added, such as Primus and Mutzig beers. These exchanges, including food and other things, are multiple signs that make up a shared culture, and are therefore significant from the point of view of cohabitation and reconciliation. In fact, such events were traditionally held after a wedding or after the harvest in August, during the seasonal ritual of beginnings (*umuganura*), and the annual cult of the spirits of the ancestors of the

Pascal is a relatively young man, with a clear and peaceful mien, welcoming, smiling and always happy. His wife, apparently younger, whose eyes shine with joy, full of a natural energy, smiles enthusiastically at everybody who approaches them, kissing them in the Rwandan fashion and whispering in their ear, "Congratulations, congratulations". Many who look at them murmur, "What a successful marriage! What good luck! I envy them!" A few meters from Pascal's villa, through the clearing of a dense and well-kept banana plantation, a large public shed can be seen, converted specifically for this purpose, where hundreds of people are seated who have come from far and wide, from Byumba and Kigali, impatiently awaiting the arrival of their "VIP guests" to express their sympathy.

Several folk groups in various uniforms, of all ages, are already practising to do sensational numbers. Drums and little bells tied to the feet of the dancers can be heard. "Hmm, it is going to heat up" a young man exclaims. Signs of impatience are already apparent, especially among the children, who run around in all directions.

Finally, everybody is ready to go forward to the place of honour. In a procession, a crowd is directed by Pascal and his wife, followed by members of their respective families, close and distant friends and work colleagues.

A warrior poem is proclaimed by the head of the *intore*<sup>68</sup> dancers, welcoming Pascal and his train, as if he were a brave warrior returning from a victorious battle field and decorated with a gold medal! A veritable party atmosphere is created.

Although the mass was the first activity of the day, additional prayers have been said for Pascal and all this guests, asking God to protect everybody and preserve them from evil. In all the speeches by various orators, the words that are constantly repeated are: war, genocide, post-war, fear, mistrust, cohabitation, cattle, blood pact<sup>69</sup>, and reconciliation.

The speeches speak of the following events:

Pascal took the initiative of organising this kind of party after the war and the genocide, when he found himself as practically the sole survivor of his family, and learned that friends, Hutu neighbours, who were linked to his parents by a blood pact, had either been powerless to prevent the death of his parents, or had actively participated in their massacre. They were all afraid of Pascal. They were sure that he would take revenge whereas he was overwhelmed by the situation in which he found his father's house: everybody had been killed, the house was practically destroyed, with neither doors nor windows left, and all the cattle had been stolen or slaughtered.

Furthermore, his Hutu wife, who hailed from Kibuye, had also lost a lot of family members. Pascal, as the member of a family of cattle breeders, could not imagine life without cattle,

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clan. Sharing strengthened links between neighbouring families, cf. De Lame, Danielle, "Une colline entre mille ou la calme avant la tempête. Transformations et blocages du Rwanda Rural" [A hill among thousands or calm before the storm. Transformations and obstacles in Rural Rwanda], Tervuren, Royal Museum of Central Africa, *Annales Sciences Humaines*, 1996, Chapter 5, pp. 197-218

<sup>68</sup> The term *intore* initially meant: virtuous, talented, whose consideration depends on the recognised merit of a group of combatants and/or *intore* dancers, the latter assisting the former by beating different rhythms to indicate each phase of the battle until victory is achieved.

<sup>69</sup> The *blood pact* (*kunywana*) was very widespread in Rwanda, and was made between men of different clans and not limited to members of a same ethnic group. In central Rwanda, many Tutsis had Hutu blood brothers. The ceremonies, which consisted in exchanging a little of each other's blood, were celebrated in front of witnesses. A small incision was made in the abdomen for this. The pact irrevocably obliged the "brothers" to help each other unconditionally. Terrible immanent punishments (such as leprosy or death without posterity) threatened anybody who betrayed the pact. To have many blood brothers gave a sense of security in uncertain material and social living conditions. Cf. Hertefeld, Marcel d', "Le Rwanda", in M. d'Hertefeld, A.A. Trouwborst, J.H. Scherer and J. Vansina, *Les anciens royaumes de la zone interlacustre méridionale: Rwanda, Burundi, Buba* [The ancient kingdoms of the Southern Great Lakes region: Rwanda, Burundi, Buba], Tervuren, Ethnographic monographs, No. 6, Royal Museum of Central Africa, pp. 59-60.

According to Rwandan sources, a blood pact could also be made for other reasons, such as not to reveal a secret or ensure that a crime would not be reported. However, a blood pact was less important than marriage, which created family ties between two groups. Although these pacts are no longer practised, the families whose parents or grandparents had made such pacts continued to have a special relationship. Yet, during the genocide, neither blood pacts nor family ties through marriage appear to have had much influence on the protection traditionally expected.

without milk, without herders and without a stable. He was filled with violent emotions, and being unable to dissimulate his feelings, the sadness he felt was visible in his face. Everybody was afraid that some day he would take revenge.

*“Yet,” recalls Pascal, “I did not have the courage to do it, or to accept my new situation. I prayed very hard that one day the good times would come back. Everybody was suspicious of everybody else, whatever their ethnic group.*

*I even learned that some Tutsis had helped to denounce their brothers, cousins or other family members. We did not think that peaceful cohabitation would be possible. Reconciliation was a term banished from the usual expressions. But then, bit by bit, everything came to an end and the light returned.*

*The first one who gave me back the hope to live was a very poor man who gave me everything he had, that is, the plot of land where I built this beautiful villa that you can see. This man, he is here, please applaud him. Many people think that making a gift of cattle<sup>70</sup> is only for the rich. For me, a plot of land given by a poor man is worth more than a cow. And to show my gratitude, usually expressed through the gift of a calf born from that cow, I helped him to build a house of corrugated iron. And I am proud to announce that this man was the first who gave me a cow and I reciprocated by giving him another cow. Twenty other persons also gave me cows and I gave cows to another twenty-two persons.*

*For some it was a sign of gratitude for their gift to me, for others it was in recognition of the cattle given to my father and my brother, and finally for others it was a gift without expecting anything in return. In the times of our grandparents and parents, reciprocal gifts of cattle were enhanced by a blood alliance, taken from an incision made in the lower part of the abdomen. This blood was drunk by the head of each family. This custom no longer exists or rather its meaning has been devaluated by the genocide. That is a great pity for Rwandan society.*

*The idea of organising this kind of event came to me after a lot of thought. I was convinced that around a jug of sorghum or banana beer, or imported beers such as Primus and Mutzig, people could get over their fear and mistrust of each other. The success of the first such event gave me the idea of repeating this ceremony regularly. Even if some people believe,” Pascal continued, “that the organisation of such a type of party is the sign of excessive richness and that one should, cost what it may, spend the excess, I would agree to it if they referred to the richness of the heart. One must have been able to forgive in order to help others do so.*

*Consider the length of one’s nose. You will see that the length of my nose and that of my wife are completely different. And yet, who loves each other more than we do? Who tolerates their ethnic difference better than we do? Who sincerely forgives the brothers and sisters of our respective ethnic groups as much as we do? Look at all the guests here; do they all belong to one ethnic group?*

*Those who gave me a cow or to whom I gave one belong to all the ethnic groups. The fact that they all come together around me is an occasion for each one to extend their group of acquaintances, to learn from the experience of others, to accept each other without necessarily knowing each other, in short, to share everything we have. This is what I call a ‘sharing party’. Everybody shares with everybody else: drink, food, different stories, etc.”*

At one point in his speech, Pascal asked everybody to look at their neighbour on the left and ask them how they were doing. It was a moment for exchanges of smiles, for soft looks from those in love, for family news, all sorts of information. This is one of the aspects of sharing.

*“Sharing is not always organised as a party or Christian ceremony. Sharing is something we do every day, often unconsciously. As far as possible, one could organise this party and share one’s joy or grief, one’s peace or worries with friends, share a beer while eating the produce of a new harvest, all this constitutes sharing. During such sharing, people come together and get to know each other better. People ask for all sorts of favours, and if necessary, they dare to ask for forgiveness, and finally they become reconciled.”*

That is, according to Pascal, the aim of this sharing party and the results expected at the end of this ceremony.

**- Kisaro, Byumba, end August 2003 -**

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<sup>70</sup> The reciprocal gift of cattle (*kgororerwa*) is different from the relation of serfdom (*ububake*), in which a person worked for years for someone else in order to buy a cow, for example. This gift made it possible to deepen friendship and improve coexistence between families. Such a relation also brings obligations such as that of giving a cow in return, born from the cow that has been received as a gift (*kwitura*), either to the person who made the gift or to his children.

### 3. The case of Gikongoro<sup>71</sup>

Three murders committed in Kaduha, in the region of Gikongoro, and the treatment given by the media and judiciary to these affairs, very well illustrate the climate that surrounded the release of certain prisoners and the difficulties of cohabitation.

Although similar cases of violence to survivors or witnesses occurred in other provinces, the murders committed in Kaduha in 2003 attracted special attention. There are various reasons for this, probably including the extreme cruelty of one of these crimes, but certainly also due to political factors specific to this province.

These affairs and their treatment by the local and national authorities, and of course by the media, created a common feeling of insecurity, which was obviously of a different nature for the various groups. The survivors feel physically threatened and are afraid of being killed and others are afraid of being unjustly accused of wanting to kill. Whatever the reasons for these murders, the consequence for all is the persistence, or even aggravation of social tensions.

#### *The known facts*

In 2003, three assassinations of survivors of the genocide were committed in the province of Gikongoro, in the district of Kaduha:

- on 20 April 2003, Mr Karasira (alias Kabombo),
- on 4 October 2003, Mr Emile Ndahimana,
- on 26 November 2003, Mr Charles Rutinduka.

For many people – survivors, politicians and journalists especially – it was immediately apparent that these murders were intended to eliminate witnesses for the prosecution in the *gacaca* trials. This was confirmed by the justice system in two cases. The third (Mr Karasira alias Kabombo) was more likely to be an ordinary crime.

#### *A panic reaction*

The population of survivors in Kaduha was immediately convinced that these three murders were committed to prevent the victims from testifying before the *gacaca* courts. The direct consequence of this supposed motive was to create a strong feeling of fear among those survivors who felt at risk of death, especially as one of these crimes was committed in particularly atrocious circumstances. Furthermore, a tract was found at the end of December 2003, by some widow survivors of the *umudugudu* (village), close to the

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<sup>71</sup> Sources :

- Newspapers (*The New Times*, *Umuseso*, *Imvaho* and *La Nouvelle Relève*, *Jeune Afrique*, etc.)
- Several interviews in the field during the period of January to March 2004 with the local authorities, survivors, families of victims and the local population
- AERG reports of 8 January 2004 on '*Les questions du Sénat et les réponses du Gouvernement*' [The questions of the Senate and the Government's replies], of 3 March 2004, called '*Raporo y'urugendo rwakorewe i Kaduha tariki ya mutarama*'
- Communiqués from human rights organisations (CLADHO, PAPG and Ibuka)

home of the widow of Charles Rutinduka, assassinated on 26 November 2003. The tract contained the following items<sup>72</sup>:

“Those bitches and stupid women, one of whom is M (...), she has only one more day to live and will not survive to the next day. They had better keep quiet as they are nearly dead; it is only a question of finishing them off without any obstacle. (...) Be prepared, I shall come tomorrow or after tomorrow. It appears you have the protection of soldiers! Are there enough to guard each house? What can I say?”

The associations of survivors – particularly the *Association des Etudiants et Elèves Rescapés du Génocide* (AERG) [Association of Students and Pupils Survivors of the Genocide] and Ibuka – and some parliamentarians went to Kaduha immediately to express their indignation and their support for the survivors. The Ibuka authorities strongly denounced the “*climate of harassment, threats, and savage assassinations...*”<sup>73</sup> and established the link with the forthcoming start-up of the trials in the *gacaca* courts. Senator Antoine Mugesera, the former president of Ibuka, stated that “*people have always killed embarrassing witnesses*”<sup>74</sup>. The head of Ibuka underlined that several survivors of the genocide had been killed, others had been threatened or forced to flee, and all this by “*genocide killers determined to get rid of all the witnesses for the prosecution*”<sup>75</sup>.

The two Rwandan human rights organisations, PAPG and CLADHO, in two public communiqués of 10 and 12 January 2004<sup>76</sup>, as well as in several press communiqués, deplored the “*silence of the authorities before these ignoble acts qualified as the ‘systematic elimination of witnesses’ before the gacaca trials are extended to the whole country*”. They demanded that “*detailed and speedy*” enquiries should be set up to identify the “*bloody perpetrators determined to eliminate persons who could provide testimonies and information that should be given in the gacaca trials*”.

The members of the Parliamentary Commission of Enquiry, who travelled to Kaduha on 15 December 2003, call on the Rwandan government to take all the appropriate urgent measures to put an end to such assassinations in the whole country, without which the success of the *gacaca* process would be jeopardised.

The president of the Bar, Jean Haguma, expressed himself in these terms: “*these killings are a potential threat for the gacaca courts*”<sup>77</sup>.

Many of those who went to Kaduha to express their solidarity to the survivors publicly condemned part of the population for its lack of support for the group of victims. Thus

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<sup>72</sup> According to the women involved, Kaduha, 9 January 2004

<sup>73</sup> Communiqué of the Ibuka association dated 15 December 2003

<sup>74</sup> AFP dispatch of 16 December 2003

<sup>75</sup> PAPG, *Rapport sur les cas d’assassinats commis contre certains rescapés de la province de Gikongoro* [Report on the cases of assassinations of certain survivors of the province of Gikongoro], 10 January 2004, see Appendix 5 of this report

<sup>76</sup> The report of the PAPG of 10 January 2004 and the “Declaration of the *Collectif des Liges et Associations de défense des Droits de l’Homme au Rwanda* (CLADHO) [Action Group of Human Rights Leagues and Associations of Rwanda] on the security of the witnesses in the *gacaca* process” of 12 January 2004, see Appendices 5 and 6 of this report

<sup>77</sup> Comments made in an article in the *New Times* of 30 December 2003

the coordinator of the AERG deplored that the population had not aided the victims and requested that exemplary sentences should be given to the perpetrators of these crimes, whose trials were to be held in Kaduha itself. He also declared that he was unhappy with his reception by the local authorities. The mayor of Kaduha, who speaks English, is considered to be a foreigner from Umutara, although his parents came from the province of Gikongoro (Kinyamakara), and was strongly criticised for not having sufficiently ensured the security of the survivors. The representative of Ibuka accused the mayor of having morally traumatised the survivors and noted that some survivors had allegedly fled due to the climate of insecurity that reigned in Gikongoro in general, and in Kaduha in particular.

These declarations show that the first reaction was to believe that these three murders expressly targeted witnesses of the genocide, potential accusers before the *gacaca* courts. All the neighbouring community immediately became suspect. For the survivors, these acts intend to perpetuate the “genocidal ideology”, and the threat that hangs over all their community is very real. Such a reaction is very understandable on the part of the survivors who are a minority living in the hills and have seen their persecutors return. But if it is the role of the organisations and political authorities to defend the interests of those they represent, they should not add fuel to the fire by making categorical declarations that only contribute to increasing the climate of fear and insecurity, even before the judicial enquiries and trials take place. Indistinctly casting opprobrium on all members of part of one group is not likely to restore the links of trust between these groups.

In spite of the criticism, the attitude of the mayor of Kaduha appears to be constructive in helping to play down the significance of the phenomenon while also taking it seriously. In the aftermath of these crimes, together with the police and the army, he organised a large number of meetings for the population so that “*each one would feel involved in security*”. He also organised several awareness-raising actions on providing aid for people at risk, the “*relief*” of survivors, the *gacaca*, and the organisation of security rounds, particularly in the sections of Jenda, Joma and Musange. He believes that “[*the detainees*] *who were released after the presidential communiqué are not a problem for us. We are worried about those who were freed earlier, as they were acquitted, although they know very well that they participated in the genocide*”.

### ***The role of the media***

The media, particularly radio, also contributed to spreading the prevalent climate of insecurity. According to the mayor of Kaduha, the content of their broadcasts only increased the feeling of fear, which was already very strong among the survivors, by reminding them of the time of genocide. According to him, local events are systematically interpreted in a way that supports the conclusion that survivors are being persecuted. As an example, he mentioned the case of survivors who had left the village for personal or non-political reasons, which the media reported as having fled persecution<sup>78</sup>.

It has been established by the judicial enquiries that one of these three murders was a non-political crime. In fact, during the trial itself, at the beginning of February 2004, nobody (neither the Court, the Prosecution, or the civil parties and their lawyers) at any time

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<sup>78</sup> It should be noted that he is not the only one to share this point of view, as the Prefect of Gikongoro and the Minister of National Security had similar comments (respectively in the *La Nouvelle Relève* of 15-29 February 2004 (p. 8) and *The New Times* of 5-8 February 2004 (p. 2)). The latter did in fact emphasise that “*Nobody is fleeing. Some people have left for other areas either due to marriages or for business purposes, but not persecution*”.

thought that the motive of this murder had anything to do with the fact that the victim was a survivor of the genocide. This information was not initially relayed, but some of the media, even after being informed of the nature of the punishment inflicted on the two accused, continued to give a contrary impression to the Court's judgement<sup>79</sup>.

The media were unanimous in their treatment of these affairs. The only nuance found between the different broadcasters concerned their portrayal of the importance of the crimes. For some it is above all temporary and local (position of members of the Government), for others it is national (Ibuka, some senators).

It is clear that their impact on the behaviour of the population is very important and will be decisive in terms of popular participation in the *gacaca* courts.

### ***Judicial treatment of these murders***

The three trials were held successively in Kaduha during February 2004, i.e., very soon after the crimes were committed in two of the cases.

Some of the accused were acquitted, but on the whole, the sentences passed on those convicted may be considered as exemplary in view of their severity: of the twenty accused, fourteen were condemned to death, three to life in prison and a minor to five years in prison. Two other persons were acquitted and released immediately. All those convicted were also ordered to pay damages.

The observers on the whole noted a strong presence of the population among the audience, as well as many representatives of human rights organisations and some Government, Parliament and Public Prosecution representatives. All this confirms the perceived importance of these trials. By their presence, the authorities wanted to play down the consequences of these murders by showing their will to respond rapidly and firmly.

It would appear to be legitimate that the judicial institution should pay attention to the requests of the victims, as well as to social demands in a context of insecurity (at least perceived as such), by reacting as quickly as possible. However, this should not be done to the detriment of the essential principles of a fair and equitable trial. In the present cases, the speed at which these trials were organised did not allow all these principles to be respected. The way the enquiries and debates were carried out raised questions that were prejudicial to establishing the truth.

In fact, the Prosecution required such speed from the Court that it was impossible to ensure the proper administration of justice. Thus, the trials for the murders of Emile Ndahimana (killed on 4 October 2003) and Charles Rutinduka (killed on 26 November 2003) were held in February 2004. At the time of the trials, most of the accused present pleaded "not guilty" and all the known participants, as noted by the Prosecution itself, were not present at the debates (one was fleeing, the others had just been arrested). The many requests for adjournment made by the court-appointed defence lawyers were refused. Some lawyers had less than an hour to prepare their defence, others had only one day (to find a file, study it and speak to their clients). The Court even judged one of the

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<sup>79</sup> Cf. *New Times* 9-11 February 2004

cases (that of Charles Rutindika) when many of the lawyers had disappeared over the course of the debates and had actually abandoned their clients.

Several other requests to hear witnesses for the defence or to obtain information, for example, were made by lawyers but refused by the Court (particularly on the results of a field visit reported by the Court in the affair of the murder of Emile Ndahimana, of which the defence were totally unaware until the end, as the Court refused to respond and give contradictory statements of offence).

These circumstances make it impossible to ensure a criminal defence that respects the basic rules of a fair trial, especially in a case where capital punishment may be pronounced. Many of the difficulties encountered by the defence constituted actual legal irregularities and thus it is impossible to conclude that these trials were equitable. These three trials gave the impression of an expeditious and politicised justice, given that strong social and political pressures were exercised on the magistrates so that “justice would be done, and quickly!”, whatever the conditions.

Although it is essential to investigate this kind of crime, to convict the perpetrators and to establish the truth, this goal should not preclude doing everything possible to ensure that judicial errors and violations of the law are avoided, in the interests of all and particularly of the victims.

### *Conclusion*

These cases demonstrate several things. Firstly, that there are effectively cases where awkward witnesses are eliminated. The issue of their scope is put forward. Then, that the survivors live in an atmosphere of insecurity. Their perception of this atmosphere is partly justified and partly exaggerated, but it is one which must be recognised and respected. This state of insecurity naturally sparks panicked reactions among the population, which if not controlled, may lead to abuses. It is therefore extremely important that civil society, politicians, media and the justice system each play their role in reducing tension in these events by establishing the truth. In the examples we have examined, we have found that the associations of survivors and the representatives of the authorities did not play a stabilising role. On the contrary, their attitude exacerbated the feelings of fear shared by all the population for various reasons. The media also spread and accentuated these feelings.

The will to see justice done swiftly and to ensure that perpetrators are punished is praiseworthy. However, it must not lead to neglecting or scorning the principles of good administration of justice. An expeditious trial may give some a feeling of relief, but it does not always allow security to be restored within the community: the truly guilty parties are not punished, the fear of arbitrariness is created, and trust is destroyed.

In these conditions, people’s participation in the *gacaca* process is questionable. How does one create trust where mistrust is obligatory? How can one ask people to be sincere? The reliability of testimonies and confessions produced before the *gacaca* courts can be questioned, and therefore in the long run also the legitimacy of their decisions.

## B - Protective reflexes

In the delicate situation that is post-genocide Rwanda, everyone tries to respond to their own fears or uncertainties, to preserve their living conditions. Negotiations, intimidations, attempts to destabilise, and lies come into play. These are as many pitfalls for the *gacaca* courts.

### 1. Negotiate to avoid accusations

The prisoners are only released provisionally. They must still be tried in the *gacaca* courts, whose task it is to verify the confessions, classify the crimes committed, categorise and judge some of the guilty and, finally, pass sentence – Community Service or prison. Those who have so far escaped the accusations also fear that they may have to answer for their acts before the justice system. All of them risk going to prison. Faced with such stakes, their attitude may vary considerably, depending mainly on whether the position they hold in their hills is of strength or weakness.

It is noticeable that very few spontaneously visit the families of their victims. Some seem not to feel the need to do so, but others fear the reactions of the survivors, or what they think these reactions will be. Thus a recently released ex-detainee explained that he does not even go near the house, imagining that its occupants will believe that he is going there to kill them.

Those who find themselves in a weak position tend to avoid being sent back to prison by attempting to come to an arrangement with the authorities or the victims' families. Therefore the perpetrators of crimes and their families frequently come to agreements with the survivors in order to exchange their silence for a payment in money, cattle or other goods. These arrangements do not of course provide any guarantee for them, as in the following case of an accused who tried to come to an understanding with a local authority:

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JM, presumed genocide killer, but not yet brought to justice, became very fearful and anxious because of his situation. He is so restricted by his fear in day-to-day life that he is finding it increasingly difficult to work to ensure the survival of his family. He describes himself as living in a climate of total insecurity, experiencing the situation as a torture that will end in death; repeatedly saying that he would prefer to be arrested rather than suffer this torture in disguise.

JM is accused by CL (a grassroots authority<sup>80</sup>) of murder. However JM alleges that he only saw the killers leaving. On that day CL lost four persons (his mother, younger brother, his wife and their child), who JM buried on the following day, aided by three other neighbours.

JM appears to have been wanted by the police since 1994. But when he returned to Kicukiru, in 2002, after his wife suffered a lot of pressure, he was not interrogated about the death of these persons, whom he admits to having buried himself. He only gave the names of well-known killers who lived in that cell, putting all the responsibility of the genocide on their shoulders. However these persons all returned home, to Ruhengeri and Byumba. He explained that those who had houses nearly all sold them through the authorities at very low prices. He added that they were obliged to do so, more or less like he was, having given

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<sup>80</sup> Rwandan term to designate the local authorities

FRW 100,000 from the sale of his own house to CL in the hope that he would not denounce him, but he is not sure it will work.

- Kicukuru, Kigali-Ville, January 2004 -

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On the other hand, if they are in a position of strength, some will try to avoid arrest or re-arrest by resorting to means such as intimidation or even murder to get rid of the proof. What is more, since the beginning of the *gacaca* courts, there have been rumours, but also some concrete cases, of intimidations or acts of violence committed against survivors or other members of the population who accused certain persons of having taken part in the genocide. The murders committed in the district of Kaduha mentioned earlier illustrate this.

## 2. The survivors' concerns

Faced with forced cohabitation, people behave differently depending on the degree of isolation of the survivors. If somebody is relatively isolated and if, in order to survive after the genocide, they come to an arrangement, for instance, with the families of the perpetrators themselves, they tend to bypass the justice system by not acting as a witness for the prosecution against the imprisoned members of these families. For these survivors it is a question, above all, of avoiding testifying in order not to rupture the social links that have already been rebuilt. This allows them to live in relative peace or to survive in a more acceptable manner.

The fact that many survivors have lost all hope of compensation, either from the perpetrators of the crimes (who for the most part are very poor) or from the State, which has not yet approved the law on compensation, makes them look for other solutions which are sometimes questionable<sup>81</sup>.

Many of them believe that the released prisoners do not have the right to return home, particularly if they have not been tried, and the feelings of fear, impotence, trauma and anger are sometimes so great, that the survivors try to do everything possible to have those they consider to be a threat re-arrested. They therefore try to get some released prisoners sent back to prison, often by committing perjury.

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A local authority in Murama found that a woman survivor had serious mental problems. Yet the other survivors tried to convince this woman to appear to be more seriously traumatised than she really was to dramatise her reactions to the return of the ex-prisoners so that some of them would be returned to prison.

- Murama, Kayove, July 2003 -

In Kibungo, some survivors agreed to try to have a man arrested by mandating one of their number to accuse him of rape<sup>82</sup>. This she did. However, she was exposed and admitted that the accusation had been entirely fabricated by her two brothers. Further to this revelation, she came into direct conflict with them, as well as with some policemen who were present, as the false accusation had been prepared with their connivance.

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<sup>81</sup> As we described in the case of Kicukuru, Kigali-Ville, cf. above.

<sup>82</sup> With an accusation of rape, a crime of genocide of the first category, the accused incurs a sentence of at least 25 years, or even the death penalty.

She then feared for her own security, which led her to ask for protection during a *gacaca* session, arguing that she was now hated by her brothers and could not even trust the police who were supposed to provide protection for her. At this point some members of her family said that she had received FRW 60,000 to reveal the secret! The man accused of rape was released.

- Birenga, Kibungo, June 2003 -

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The increasing number of perjuries can be partly explained by the fact that many survivors have relatively little trust in the integrity of the *gacaca* judges:

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“The *inyangamugayo* are judges of the *gacaca* courts who should instil positive values in the participants. However, among them one can find some who pass themselves off as *inyangamugayo*. It is difficult to find a real *inyangamugayo*. But on the whole we believe that these judges will pass good sentences.”

- Gitesi, Ruhango, June 2003 -

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It will be noticed that strong criticism such as the one above is generally followed by a contradiction – i.e., a statement considered more politically correct, cf. the last sentence of the above extract. Nonetheless, the view expressed by the survivor above is partially supported by the statistics<sup>83</sup> of the National Department for the Gacaca Courts, which show that out of the 14,402 *gacaca* judges, 9% (i.e., 1,319) have been replaced, half of them because of participation in the genocide.

Furthermore, some testimonies of killers are stories of such violence, and told with such insensitivity, that it is nearly unbearable to listen to them. As for example the report of this detainee: “One day, a minister came to the prison of Butare when the prisoners were making their confessions. Among them was one who had killed his own sister, married to a tradesman. Instead of saying that he had raped her and then killed her, this prisoner told everything about the rape in the smallest detail, telling how they had used a razorblade to cut her genitals, etc. At the end, the prisoner asked the minister to do him a favour by appointing him as cook of the prison, so that he could eat. The minister did not reply, asking only that someone should bring some water to wash his face which was running with sweat after hearing these stories. The meeting ended in this way. At the end, we [the other detainees] asked the prisoner why he had gone into such detail, instead of just saying that they had killed and buried her after raping her. To justify his action, he answered that he had been asked to say the truth, and that is why he had told it all in such detail!”<sup>84</sup>

One can easily imagine the trauma aroused by such comments and survival reflexes or anger sparked off among the survivors.

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<sup>83</sup> Service National chargé des Juridictions *Gacaca*/SNJG [National Department for the *Gacaca* Courts], *Document on the progress of the activities of the gacaca courts in operational cells and future activity programmes*, Kigali, 21 January 2004

<sup>84</sup> Comments of an ex-detainee of Butare prison, May 2003

### 3. Requested or granted, the pardon at any cost?

The sincerity of forgiveness, requested or granted, cannot be known except deep down inside a person. The pressures exerted at different levels, however, make the spontaneity of such pardons questionable at the very least.

It is therefore interesting to consider the circumstances surrounding these exchanges of pardons, on the importance accorded to them, and on the misunderstandings that may exist among those victims who expect a pardon which they think is their due and those who have not the same demand and who would simply like justice to be done.

#### The released prisoners' request for pardon

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“I have already asked for pardon for the crimes I have committed. We received a lot of explanations about how we must ask for forgiveness, and this aspect was very much emphasised. I have already attended two meetings at our *gacaca* court. In our testimonies, we talk about events as they happened, and we ask for forgiveness from the persons present at the meeting. As a rule, we don't see any problem in this, as you explain what you have done and you say you are sorry. If you have committed a murder and a relative of the victim is present, you can approach him and ask for forgiveness. But usually we do so during these meetings. Each testimony is inevitably followed by saying you are sorry.”

- Gitesi, Ruhango, June 2003 -

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This story summarises very well the problems that arise with regard to the released prisoners' request for pardon: the pressure of the authorities, pardon as a duty, and the nearly exclusive public character of such requests in most cases.

Very strong pressure is exerted on the detainees to make them plead guilty, confess and ask for pardon. Yet, in an earlier report, we had already found that confessions were often made without any showing of real contrition. It appears that the detainees frequently do not really recognise their own guilt<sup>85</sup>. This is part of the process of unaccountability that we alluded to in the first part of this report. These pardons often take the shape of public verbal apologies, more or less dragged out of the prisoners under pressure, in the hope that they may be released, which does not help to make them very credible. As nobody really believes in them, how will the survivors do so?

What is more, this doubt is corroborated by the fact that released prisoners rarely dare to contact the family of their victims directly, restricting themselves to bearing witness in public and apologising during the *gacaca* meetings. However, there are some exceptions, as in the case of Steph:

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<sup>85</sup> It can be noted, furthermore, that the number of confessions is not very high, as mentioned in the document of the SNJG, which shows that the number of confessions before the courts is, on average 2-3 persons per cell GC. The report also states that the persons who have pleaded guilty and confessed represent at most 3.5% of the persons entered on the lists of the accused drawn up by the *gacaca* courts. This means that the majority of the accused are included in the lists after having been accused by survivors, detainees or ex-detainees. Each GC has accused, on average, 66 persons. Cf. Service National chargé des Juridictions Gacaca/SNJG, *Document sur l'état d'avancement des activités des Juridictions Gacaca des Cellules opérationnelles et programmes d'activités à venir* [Document on the state of progress of the activities of *gacaca* courts in operational cells and future activity programmes], Kigali, 21 January 2004, p. 2

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### Steph's pardon

"I left prison and am now free. The problem that worries me is that I have nowhere to live. When I returned I could not ask for my plot of land back as someone else had taken possession of it. I now live with my brother. I have not yet approached the authorities. But I have asked for forgiveness and have been granted it.

During the genocide, I killed two young girls who had been raped and sexually tortured. I found them already in a very bad state. They could only move on all fours. They were seriously injured as they had been very badly treated. When they saw me, they asked me if there were many people outside who would rape them and begged me to finish them off. To kill them, I got hold of a large piece of wood and I hit them with one stroke each. As they were very weak, it did not take long for them to stop breathing and that was all. I did it with my own strength as I was in a hurry. My colleagues and I buried them.

When I returned from exile, I went directly to the commune and contacted the authorities to confess my guilt in the genocide. I was put in a detention cell without any further investigation. Soon after, we were taken to Byumba, the prosecution filled in my file and I was brought to court where I was given a 10-year sentence.

The sister of the two girls whom I killed, Jeanne, came to see me in the *ingando* of R, while I was doing a course. A member of the local defence came to tell me that somebody wished to see me. I went out and found her where the visitors wait for the released prisoners (...) When I recognised Jeanne, I was a bit afraid, but I tried to keep calm. After a while, I took up courage again. When she greeted me I was really relieved (...) She took some time to console me, and then she expressed herself in these terms: 'I have come to see you to tell you that I wish you welcome', and she gave me some money (FRW 400) to buy a kilo of sugar. My friends asked me why Jeanne had come. I told them, but they replied that it was impossible, that there must have been some ulterior motive for this visit.

After leaving the solidarity camp, I went to see Jeanne whom I had harmed. She was surprised to see me coming to her house, but she welcomed me and we spoke for a long time. She said that she was really happy to see me and that it was I who took the initiative to come and see her. She also said that the door of her house was open to me at any time. I was really relieved. I told her that I had come to see her to ask for forgiveness and she replied: 'The Government has pardoned you and I cannot refuse you the same. Do not be afraid of coming here, there is food, there is drink, do not feel isolated. You may come here, there is security'. She thus demonstrated her total support."

- Gakenke, Umutara, 21 March 2003 -

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Beyond the doubtful sincerity of some pardons, what most shocks the survivors is the attitude of many ex-detainees who, thinking that the State has pardoned them (some even extend that pardon to God), demand that the survivors do likewise, as if it were their due. During the presentations or the *gacaca* meetings, some of them even behave as "[self-proclaimed] agents of the State", "*charged with telling the truth about the genocide*"<sup>86</sup>.

A certain similarity of attitudes can be highlighted in this respect between the current period and that of the genocide. In fact, this behaviour, which consists in considering oneself a sort of [self-proclaimed] agent of the State, was unfortunately an attitude found among many of the killers in 1994. Many of them behaved during the genocide as if they were "*agents of the State*" "*charged with killing all the Tutsis, without exception*". The story of L (one of these young men who became a chief) illustrates this: "*I was a young man responsible for the killings in the cell of M [Nyamata]. This was of course new to me. I would rise earlier than my neighbours to start preparing. I would whistle the call, I would hurry the rallying, I would scold the sleepers, I would count those who were missing, I would check why they were absent, and I would distribute*

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<sup>86</sup> On this point, our recent observations corroborate the analyses presented in Report III, PRI, Kigali, p. 17

*recommendations. If after a meeting of the bosses there was a speech or a declaration to be made, I would make it without hesitation. I would give the signal to start*<sup>87</sup>.

In spite of these attitudes, some detainees do in fact make sincere confessions, and in this they bring hope for reconciliation. However, reintegration is a two-way process, and in it the survivors also have their place.

## The survivors' pardon

Many prisoners, released or not, put forward the argument that as the government has pardoned them, the survivors have to do likewise. And indeed, many survivors feel obliged to do so:

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“The government has pardoned you and I cannot refuse to do likewise.” (cf. woman survivor, the case of Steph).

Or even: “We couldn’t ask for explanations anywhere given that the powers that be had released these persons. They should have considered our interests by not freeing them until after they were tried.”

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Because the decision to release the prisoners was made by the authorities, the survivors spontaneously tend to believe that they are obliged to pardon them, without anybody intervening.

However, there are also concrete cases of pressures exerted on victims, sometimes with the best of intentions. Thus in many cases, the survivors pardon because it is “those in power”, “the State” or “the Church” who ask them to do so. As a rule, they do not dare refuse, especially in a public meeting, although they would often prefer to “*demand justice, full stop*” instead of “*pardoning a genocide killer*”, particularly if the latter could return to be their neighbour in the hills.

The case of Murama is a good example of this obedience to the authorities in granting pardon:

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A local official of Murama had found that a woman survivor had serious mental problems. And yet, the other survivors tried to convince this woman to pass herself off as more seriously traumatised than she really was, so as to dramatise her reactions when the ex-prisoners returned in order to have them sent back to prison.

The local official made this woman survivor understand that she should not allow herself to be manipulated in this manner, in spite of her various problems, which she immediately accepted. The authority then contacted an agent of Unity and Reconciliation to try to find solutions in case other similar attempts were made. She invited some survivors particularly affected by the events of 1994, but ready to forgive, and some released detainees to speak about reconciliation, while requesting them to ask for forgiveness and to grant it. Thus, each released detainee would stand in front of a survivor to explain how he had committed his crimes and ended by asking for forgiveness. Subsequently, the survivor would in his turn stand in front of the ex-detainee and pardon him as he had just requested. And so on and so forth unto the last person.

The official tells the story: “Then, when it was the turn of the ex-detainee who had committed crimes against that woman who was particularly traumatised, she wept when he

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<sup>87</sup> Jean Hatzfeld, 2003, p. 19

told the story of his crimes. But she soon calmed down, after seeing the looks that were being exchanged which reminded her of the advice that I had given. When it was her turn to pardon, I was exalted with joy to hear that woman forgiving the ex-detainee with these words: "If you have been absolutely sincere in what you have just said, I forgive you as requested". After this pardon, two other persons who had committed crimes against her also asked for forgiveness. And fortunately the woman accepted and also forgave them!"

Happy with the results of this meeting, the official bought drink with her own money and distributed it to the survivors and released detainees, explaining that the sharing of this drink would be the symbol of their reconciliation. After this, she continued, "However, this woman hesitated to share with her released prisoner. I immediately looked at her and she got up bravely and went to stand by the ex-prisoner. Without hesitating, she shared with him. It could possibly be the beginning of a process of reconciliation between that ex-prisoner and that woman."

- Murama, Kayove, July 2003 -

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It should be noted that pressure is exerted on both sides, even with good intentions, to make people ask for pardon and grant it. We do not believe that in the long run this is the best way to ensure reconciliation, as it may lead to doubts about the sincerity of those involved.

# Conclusion

People's experiences and attitudes raise questions about the real extent of what is at stake in the *gacaca*, within a long-term perspective of reconciliation. One of the innovative elements, which bring hope to the *gacaca* process, is that the process calls on everybody to take part in order to try and open up debate as a first step towards the rapprochement of community members.

Yet, we believe that the perceptions and projections of people on both sides are divergent. All of them, even if they don't really believe it, say that the *gacaca* process is important and that it will contribute to reconciliation. It is about the only point on which they do agree.

These stories, collected at the end of May 2003 (in Gitesi/Ruhango) appear to be characteristic of the attitudes heard from various people during our research:

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## Survivors' points of view

“- The *gacaca* courts are necessary and no reasonable person could deny the importance of these courts. You understand, it will be difficult to learn the truth because:

- Those who spoke the truth earlier will try to lie. To be honest, it is not only the survivors who are (...) very few in number in this region to attend the meetings of the *gacaca* courts.

- During the last two meetings of the *gacaca* courts, the recently released detainees testified about the crimes they admitted to. But we get the impression that these detainees who have confessed are either trying to exculpate themselves by accusing other people, or they confess to very few of the misdeeds that they have actually committed. You see, most of them are our neighbours. There are things that we, the survivors of the genocide, know about them. And we are often very surprised at how little they confess to, saying that they only looted when they actually killed people. In short, we get the impression that they are not telling the truth so that we do not know if what they are saying to us here is really what they confessed while they were in prison. We don't know why.

- Their confessions are not enough and are not made in the spirit of the *gacaca*. For example, there is someone who in his confession said that some people came to him, and ordered him to rise, that he then took his coat and followed them. Another person will tell you that he stole cows from somebody else. The next one will tell you that he was ordered to take away someone's children, but does not say that he killed them, so one gets the impression that everybody is avoiding saying that they killed. So far, nobody has admitted to murder. Everybody is avoiding this issue.”

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## Points of view of the released prisoners and their families

- “After the *gacaca* meetings which I have just attended, I have the feeling that the *gacaca* courts will help reconciliation.

- We are trying to say the truth and tell what we saw.

- Except that I have already noticed a problem with the testimonies of the survivors of the genocide. The survivors are people who do not know what happened because they were in hiding (...).

- We do not agree with certain points of their testimonies. There have been times when we have testified in the belief that we were telling the truth. However, the survivors say that we lie and appear to be asking us to tell another truth, when we thought that we had told the truth. This is the problem I observe at the moment.

- I think that the truth exists. The crimes were committed in plain daylight, in the midst of all of us. In our case we are telling the truth. The survivors should really try to see this truth. It is true that people were killed. Some of those who killed them are in prison. Some among them have not confessed to their crimes, while others are dead. There are still some others whose whereabouts we do not know. As for myself, for instance, nobody has accused me of tangible crimes and everybody knows it. It is true that I participated in killing expeditions, but I did not personally kill any victim.

- Besides, if the *gacaca* pursues its work as normally as we have been seeing here today, and if we continue to confess to the crimes that we committed, it may lead to reconciliation.”

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# Recommendations

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## *On the laws, draft legislation and statistics:*

### *On interministerial cooperation*

The law creating the new *Service National des Juridictions Gacaca* (SNJG) [National Department of Gacaca Courts] gives it a coordinating function. However, no cooperation appears to have been planned between the other ministries, except for the Minijust. Yet these other ministries currently play an important coordinating role in the *gacaca* programme, which is expected to expand, as in the case of the Minaloc.

The fact that the Sectorial Plan of the National Police Force explicitly provides for a programme of witness protection for closed hearings, while the SNJG was unaware of the existence of such a measure, appears to illustrate this lack of coordination.

*We recommend that a system of cooperation should be set up between the ministries involved in the gacaca programme, enabling better circulation of information and therefore improved effectiveness of the process and its functioning.*

### *On the need to take into account the judicial reality of Rwanda*

Using statistics produced by the Government based on the work already carried out by the pilot courts, that put a figure of around 50,000 persons already entered onto the list of the accused, it can be estimated that at national level, the courts will have to handle at least 607,000 cases of accusation of participation in the genocide.

*Therefore, we recommend to the authorities that they consider the implications of such forecasts on the gacaca process. Faced with this dilemma, combining a colossal number of persons to be tried and the reality of the limited judicial means in Rwanda, we would encourage the search for appropriate judicial solutions.*

### *On the lessons to be learned from the functioning of the pilot courts*

◆ The modifications that the new draft legislation would make appear to be able to contribute in some respects to the improved functioning of the *gacaca* courts, while reducing their cost. Nevertheless, we would like to underline certain points:

- We believe that the problems raised by the functioning of the pilot courts, such as the lack of participation of the population, training of judges, or even the involvement of the local authorities<sup>88</sup>, do not appear to be sufficiently taken into account in the proposed changes.

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<sup>88</sup> Cf. the recommendations of previous PRI reports

*We recommend that all the problems raised during the pilot phase should be studied with a view to making the necessary changes for the smooth running of the process in its national phase.*

- The proposal to organise two to three sessions per week in order to speed up the process does not seem realistic. Even assuming that the honest judges accept to work at this rate in exchange for compensation, we believe that that the pace would make it impossible for the population – which constitutes the Assembly General -- to follow the *gacaca*. This, in turn, would be detrimental because the population's participation is essential to establishing the truth.

*We recommend that the realities of day-to-day life of the hill population should be taken into account. This population is mostly agricultural (as is the majority of the Rwandan population) and the frequency of the sessions should be adapted to these realities.*

◆ Furthermore, we would like to reiterate the recommendations made in our previous report of January 2002, “to think about this problem of ‘new detainees of the genocide’ [or accused] (...) and consider that alternatives to imprisonment could be proposed before any jail sentence is passed: for instance, *community service, representing not only half but the whole of the sentence, or conditional release, and/or a Rwandan version of the South African Truth and Reconciliation Commission (...)*”.

- Since January 2002, certain measures have already been implemented, such as provisional and conditional releases. “*Suspended sentences*” together with Community Service orders are now being considered. We believe that this solution is of particular interest, especially if it is combined with the idea of a Community Service sentence that would represent not only half, but the whole sentence.

However, although it is a solution for the management of the inflated number of persons being imprisoned after trial, it should be noted that such a mechanism may create misunderstanding and deeply shock the survivors by being interpreted as a form of amnesty.

*If such a solution is retained, we recommend the implementation of an important awareness-raising campaign on this theme.*

- A *review of the categorisation of accomplices* would also make it possible to differentiate them from the real authors of crimes of genocide, including rape. In fact, we find that as the process is being set up, the list of the accused is becoming much longer than was envisaged at the outset. This is the moment to craft a solution that would allow the accused to be categorised in a more precise manner and to adapt the sentences accordingly, in order to avoid prison overcrowding which would be fatal to the *gacaca* courts. Just as in 1997, when Rwanda realised that the ordinary courts would never manage to handle the legal disputes resulting from genocide in under a century, it looks as if Rwanda is again faced with a terrible dilemma of justice needing to be done, faced with an excessive number of accused and extremely limited means.

*With regard to the problems currently encountered by the gacaca process, we recommend that the government should consider all the alternatives which would allow a speedier settlement, while still being fair, for the legal disputes of the genocide.*

## *On the solidarity camps and the history taught there:*

◆ It should be noted that, compared to previous historical views, the history taught in the camps is closer to what is recognised by the community of historians. However, some infringements of historical reality still remain. This applies to the pacifist and idealised vision of the Rwandan authorities and elites, particularly regarding the pre-colonial and colonial periods. This appears to clear them of responsibility, at the same time putting all the blame of preparing the genocide at the door of the colonialists.

*We recommend that these teachings should be reviewed to better reflect historical reality, inasmuch as they appear to be leading to a general feeling of unaccountability. This can be very harmful, both in the short term with regard to the involvement of the accused in the gacaca process, and in the long term for reconciliation.*

*For this purpose, the setting up of a work group of historians from all sides, or even a few international experts, to draft a book on the history of Rwanda, could be a useful contribution, making it possible to take a critical distance.*

*With this same objective, we believe that setting up programmes of civic education, to get Rwandans to reflect on the notions of obedience to authority and individual responsibility, appear to be essential to prevent new violent conflicts.*

We also believe that these teachings try to deny what was and still is the place of ethnicity in Rwanda's collective conscience. The fact of denying the notion of ethnic identity in the attempt to build a global Rwandan identity, to which it would be opposed, seems very harmful in the long term. This does not correspond to reality and tends to stifle expression within Rwandan society.

*Although it is crucial to deconstruct the harmful and conflictual mentality that has for too long been linked to the issue of ethnicity in Rwanda, we nevertheless recommend that the concept of ethnic identity be taken into account, so that it should no longer be thought of in antagonistic terms, but in terms of building different and complementary identities.*

## *On reconciliation:*

◆ *We believe that it is essential that violent behaviour, leading to the murder of survivors or ex-detainees, and members of their families, should immediately be investigated and brought to trial speedily, fairly and equitably. We urge the Government to be particularly vigilant on this issue, which is inevitably raised after the release of ex-prisoners.*

◆ *We also wish to call the Government's attention to the way the released prisoners twist the truth in order not to be sent back to prison, and to the way the survivors do likewise so the ex-detainees are sent back. This leads to a weakening of the judicial process to settle the legal disputes of the genocide, both in its operation and in its symbolic scope in the long term.*

## Glossary\*

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*Bazungu*: the whites, the Europeans, white populations (sing. *Muzungu*)

*Gacaca*: literally “grass”, a meeting of the people to settle an issue under dispute amicably, or to try to reconcile people; by extension, the name given to the place where these people gather and, today, the new courts tasked with prosecuting part of the legal dispute of genocide

*Ibuku*: identity card or book

*Ikiboko*: whip

*Ingando*: a term used for the “solidarity camps”, meaning literally stage (stopping place or station); camp for a large group of people

*Inkotanyi*: literally “tireless fighters”, the name adopted by the members of the FPR referring to an army of the nineteenth century. Today, the acronym FPR is always used together with *Inkotanyi*.

*Igitero*: troupe of warriors who leave for combat, army on the march

*Interahamwe*: militia of the MRND, meaning literally those who work together

*Intore*: virtuous, talented, who is well regarded based on the recognised merit of a group of fighters

*Inyamugayo*: person of integrity, *gacaca* judges

*Kubandwa*: initiation to the ancestral religion

*Kugororerwa*: reciprocal gifts of cattle

*Kunywana*: blood pact

*Ubuhake*: serfdom

*Uburetwa*: corvée, days of unpaid work carried out for the boss or landowner

*Ubusabane*: sharing

*Umudugudu*: village, agglomeration

*Umuganda*: communal work

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\* Source : Jacob, Irénée, *Dictionnaire Rwandais-Français en trois volumes* [Rwandan-French Dictionary in three volumes], Extract of the dictionary of the National Institute of Scientific Research, unknown date

*Umukonde*: landowner

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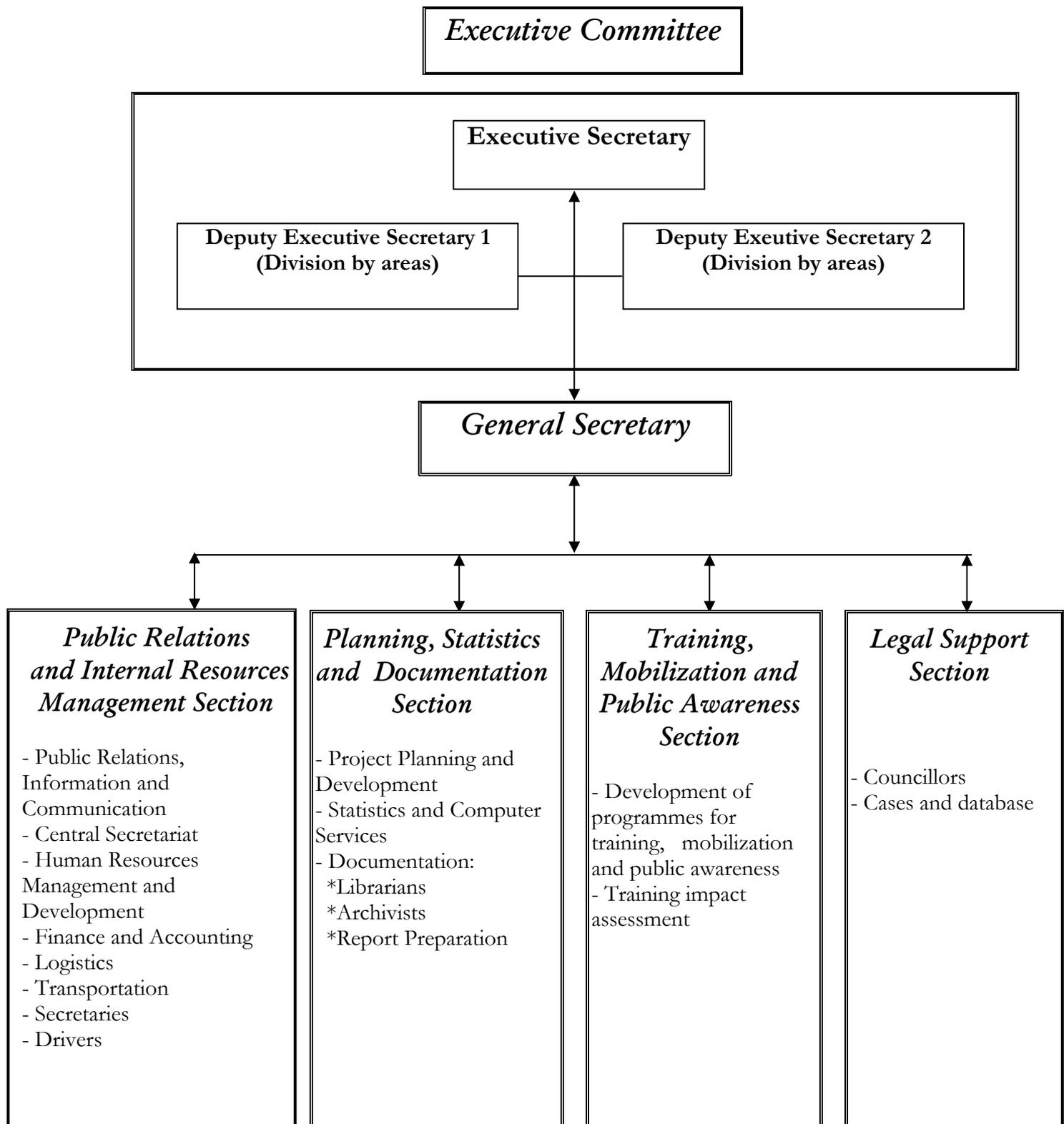
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**Annex 1**  
**SNJG Organizational Chart**

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## Annex 2

### Minutes of the *Gacaca* Process Coordination Meeting which took place at the Belgian Embassy, March 5, 2003

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## *Gacaca* Process Coordination Meeting

Belgian Embassy, March 5, 2004 at 10:00 A.M.

Meeting participant list is attached, along with e-mail addresses)

The meeting was opened by the Belgian Ambassador.

The Executive Secretary of the SNJG, (National Department for *Gacaca* Courts) was given the floor. He reviewed the items on the agenda.

### 1. New Law

Contrary to what was announced during the meeting with some sponsors, the new version of the *Gacaca* law was not available, as certain points are still being debated in government.

The items already agreed upon involve the following changes:

- There will be **courts at two levels: cell and sector**. A separate Court of Appeal will be established at the sector level. The reason given is that the distance is too great between the crime scenes and the possible trial locations at the District or Provincial levels (search for trials in local area). In addition, travel costs would be too high and the number of courts at the district/provincial level too low for the number of cases to be handled.
- From now on, **there will only be 3 categories**, the former Category 3 will be combined with Category 2. This change was necessitated by the problem encountered by the judges with categorizing cases. The former Category 2 cases will therefore be tried at the sector level, instead of the district level, and the former Category 3, which was already planned to be judged at the sector level, will remain there after being changed to Category 2. Judging from experience, the highest number of accused will be ranked as Category 2 and thus their trials at the sector level will increase proximity to their homes.
- Due to absenteeism (quorum often not reached), **the number of judges has been reduced from 19 to 9**. The General Assembly is still required for the pre-court phase (sessions 1 – 6). The presence of 100 people in attendance is still obligatory but absenteeism will be reduced due to the higher involvement of local authorities
- The idea of **suspended sentencing is enshrined in the law**. It is estimated that the number of people presumed guilty who have still not been detained is 6 times the number of prisoners incarcerated at present. It must be noted that 70% of the accused could be classed at Category 2. As it is impossible to consider detaining so many accused, the National Department is presently looking for ways to put in place suspended sentencing. Consultations with the population on this topic will be organized.

Evaluation documents for the first phases will be sent to participants. Problems encountered during these phases will be resolved by amending the Organic Law and by creating a separate structure for the *Gacaca* department.

## 2. Schedule

Availability of the revised law will determine the launch of the 3<sup>rd</sup> phase. The law is presently in the government which recognized the urgency and foresees **its publication in May (or the beginning of June)**. At present, *Gacaca* activities at the pre-trial phase would have to be launched in the 8,253 cells and cases in the 1<sup>st</sup> and 2<sup>nd</sup> phases of the courts that have finished the 7 sessions must start. However, it is imperative that each court finish the 7 sessions prior to the publication of the law in order to avoid legal problems. Presently, 80% (phases 1 and 2) are already finished. The role of the councillors is to move the process along in the remaining courts.

**The first trials are planned for 2 months after the launch of the 3<sup>rd</sup> phase.** The launch of the sector courts will be carried out at the same time.

## Questions and Answers

Questions were asked after the above information was given. The Executive Secretary answered each question. This report attempts to highlight the main points from the answers.

- A plan of action (2004-2006) and an operational plan for 2004 are ready and open for consultation by the possible sponsors. The SNJG coordinates the aid and each sponsor must go through this department. A briefing on these plans is planned for April 4. The SNJG is responsible for facilitating the process and retains the initiative. Training for the judges is organized directly by the SNJG. At present, the position of the SNJG is to stop training and awareness sessions while awaiting the revised law, except for general public awareness.
- The SNJG organizes coordination meetings with the other participants.
- The total duration of the *Gacaca* process is unknown. However, it could be accelerated if more funds were available. The possibility of organizing more working days (per week) in the court requires more compensation for the judges. Some participants had doubts about this possibility since it would mean more days away from work for the *Gacaca* participants, which risks further reducing their presence.
- The chapter concerning sentencing has not yet been finalized in the revision of the law. Therefore the place for community service and fines is still under revision. Community service is definitely part of the proposed sentences. The issue of compensation poses a problem as substantial amounts cannot be considered due to the financial capacities of Rwanda. A social type of compensation is more conceivable. There will be social consequences and while survivors' claims are certainly understandable, it is a problem that concerns the entire Rwandan society. This society, represented by the government, must face up to and accept its responsibilities in the matter. *Gacaca* is a means for arriving at the stabilization of the society. It is estimated that 70% of the accused fall under Category 2 and are thus punishable for life. It is inconceivable that this number of people could be imprisoned.

- The same problem could occur with Category 1 accused. According to statistics, about 10% or 50 to 60,000 people would have to be tried in the 12 provincial courts. This would probably have to be revised and imprisonment would also be adapted. This figure could possibly increase with the facilitation of witnesses in cases of rape (through a trustworthy person or by written testimony) and the inclusion of offering an indignity to a dead human body. (There is a question of whether these offences should be classed as Category 1, while a defence could be advanced for the person who would prefer to inflict an indignity on a dead body rather than kill). This is, however, another topic for public consultations.
- Priority will be given to the launch of phase 3, collecting information, bringing into operation 758 phase 1 and 2 courts and trying those released by the January 2003 Presidential Decree. Those without a case file and Category 4 accused will be released. 15,582 common law prisoners will be released on March 15, 2004. After the commemoration of the 10<sup>th</sup> anniversary of the genocide, other prisoners could be released by Presidential decree. This is not directly linked to the commemoration, but is due to a problem of prison closures. There will necessarily be some use of community service.
- In spite of the releases, other people were arrested for perjury or refusal to testify. An adaptation of sentencing is truly necessary and the revised law proposes sentences of between 7 days and three months. Nevertheless, in order to achieve the *Gacaca* objectives in the matters of reconciliation and establishing the truth, it is imperative that people be encouraged to talk. To this end, the proposal suggested in the National Police Sector-based Plan for witness protection through *in camera* testimonies, is not approved and is unknown to the Executive Secretary.
- Decentralization is seen as an advantage for mobilizing the population and facilitating logistic and administrative management. Administrative authorities will be responsible for rallying the people but cannot give orders to the courts. The SNJG will retain co-ordination, research and assistance (equipment, logistics, training, etc.) aspects of the *Gacaca* process.
- Audiovisual coverage of the trials is being considered and the Rwandan party would be aiming towards a one-stop system<sup>89</sup>.
- If a person is accused in several courts he or she must appear in each court. The SNJG has given up the idea of collecting all information and deciding where the accused will be tried. It is important to note, that in order to establish the whole truth, each victim should be able to understand the trials. Reconciliation will only be possible if each crime is debated and victims could confront the accused for each offence committed.

The meeting closed with a request by the Belgian Cooperation to communicate the activities of each participant in order to put together a register of all speakers on the topic of *Gacaca*.

The date of the next meeting is set for April 20, 2004 at 10:00 a.m. at the Belgian Embassy.

Dirk Brems  
Attaché for Cooperation

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<sup>89</sup> PRI note: A “one-stop” system is one which brings together several ministries so as to coordinate and facilitate decision making

## Annex 3

### Progress Report of Activities in Functioning *Gacaca* Courts and Programmes for Future Activities, SNJG, January 21, 2004

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#### REPUBLIC OF RWANDA



#### SERVICE NATIONAL CHARGE DES JURIDICTIONS-GACACA (NATIONAL DEPARTMENT IN CHARGE OF GACACA COURTS B.P. 1874 KIGALI.

Progress Report of Activities in Functioning *Gacaca* Courts and Programmes for Future Activities

#### I. Introduction

By June 2002, eighty *Gacaca* courts had commenced the first phase of their activities. They are operational in 12 sectors, chosen on the basis of one sector in each province and Kigali City which has most adhered to the process of confessions. The objective was to closely monitor their operations so as to make timely changes, but also to launch all *Gacaca* courts.

Thus in November 2002, the other *Gacaca* courts had to start operations in one sector of each district and city. Since then, 758 *Gacaca* courts are already operational in 118 sectors.

#### II. Progress of activities in *Gacaca* Courts

Among these *Gacaca* courts, 105 have already completed the 7<sup>th</sup> session, that is, the task of preparing case files for the accused on the list, as well as categorizing them according to the severity of the crimes with which they have been charged. Only the actual trials remain to be conducted.

#### Summary of Activities Carried Out:

Provinces/ Kigali City	Confessions made in <i>Gacaca</i> courts	Provisional Detentions	Detainees Released by <i>Gacaca</i> courts in their jurisdiction	List of accused established by the Prosecutor's Department	List of accused established by the <i>Gacaca</i> courts	Accused whose files are already completed
Kigali City	73	84	24	5,085	4,652	298
Kigali Ngari	198	9	52	9,505	6,657	349
Gitarama	225*	4	5	12,969	7,506*	230
Butare	250	9	50	4,422	5,298	773
Gikongoro	32	10	7	2,239	2,812	134
Cyangugu	94	39	7	3,888	3,071	643
Kibuye	62	0	0	3,904	3,796	236

Gisenyi	129*	35	58	1,053	4,151	1380
Ruhengeri	51	21	8	670	1,992	838
Byumba	91	2	5	1,497	1,764*	999
Umutara	162	42	16	2,330	2,167	692*
Kibungo	382	42	50	9,201	6,117	441
Total	1,749	297	282	56,763	49,983	7,013

\*In these provinces, the new numbers were not available at the date of writing this report.

Synopsis of files already sent to the National Department in charge of *Gacaca* courts and their categorization :

Provinces/ Kigali City	Total number of persons categorized	Category 1	Category 2	Category 3	Category 4
Kigali City	295	62	170	43	20
Kigali Ngari	209	8	161	2	38
Gitarama	1,662	136	1,211	120	195
Butare	119	6	54	36	23
Gikongoro	29	2	8	14	5
Cyangugu	188	9	53	53	73
Kibuye	175	15	109	44	7
Gisenyi	451	35	345	18	53
Ruhengeri	64	11	24	2	27
Byumba	102	4	61	2	35
Umutara	223	32	94	43	54
Kibungo	274	16	102	93	63
Total	3,791	336	2,392	470	593

Summary of Judges Replaced:

Provinces/ Kigali City	Total number of judges replaced	Judges replaced after having been charged with genocide
Kigali City	158	50
Kigali Ngari	236	125
Gitarama	77	42
Butare	54	35
Gikongoro	123	47
Cyangugu	43	27
Kibuye	188	123
Gisenyi	116	90
Ruhengeri	43	14
Byumba	67	20
Umutara	129	39
Kibungo	85	44
Total	1319	656

### **III. Urgent Programme Planned**

#### **➤ Training:**

At the time of preparations for launching the *Gacaca* courts throughout the country, training in 2 stages is in the process of being prepared:

- Training of the instructors of judges;
- Training of the judges.

#### **- Training the Instructors of Judges :**

Training the instructors of judges

In order to train the 156, 807 judges registered in 8,252 cells which must start their third phase activities, at least 842 instructors are required.

In addition to 342 SNJG agents who will be involved in training, 500 *Gacaca* training consultants have been planned to support the existing training staff for the judges.

After raising awareness in the first phase (where mass rallies of the population are organized), Instructor training will be carried out at the offices of each province and Kigali City. The above-mentioned agents can play a role in raising awareness (one only has to see how it's done at the Ministry of Justice).

#### **- Training the Judges:**

Although they were trained in the past, it will soon be two years and since then, they have not put their training into practice. It is important to retrain them.

Retraining will be organized in each sector, by bringing together judges from 2 or 3 cells for 2 consecutive days. This activity will be carried out by the same judges who were trained at the provincial and Kigali City level. The training could commence after intensive public awareness sessions in the first phase as it must be ongoing.

**Table indicating the number of Judges to be trained:**

<b>Provinces/ Kigali City</b>	<b>Total number of <i>Gacaca</i> courts in the country</b>	<b>Number of <i>Gacaca</i> courts to launch operations</b>	<b>Number of judges on duty at present</b>	<b>Number of <i>Gacaca</i> courts operating at present</b>	<b>Number of Judges to be trained</b>
<b>Kigali City</b>	<b>221</b>	<b>170</b>	<b>969</b>	<b>51</b>	<b>3,230</b>
<b>Kigali Ngari</b>	<b>1,179</b>	<b>1,074</b>	<b>1,995</b>	<b>105</b>	<b>20,406</b>
<b>Gitarama</b>	<b>1,070</b>	<b>987</b>	<b>1,577</b>	<b>83</b>	<b>18,753</b>
<b>Butare</b>	<b>678</b>	<b>643</b>	<b>665</b>	<b>35</b>	<b>12,217</b>
<b>Gikongoro</b>	<b>836</b>	<b>785</b>	<b>969</b>	<b>51</b>	<b>14,915</b>
<b>Cyangugu</b>	<b>688</b>	<b>638</b>	<b>950</b>	<b>50</b>	<b>12,122</b>
<b>Kibuye</b>	<b>609</b>	<b>563</b>	<b>874</b>	<b>46</b>	<b>10,697</b>

<b>Gisenyi</b>	<b>859</b>	<b>779</b>	<b>1,520</b>	<b>80</b>	<b>14,801</b>
<b>Ruhengeri</b>	<b>941</b>	<b>871</b>	<b>1,330</b>	<b>70</b>	<b>16,549</b>
<b>Byumba</b>	<b>782</b>	<b>719</b>	<b>1,197</b>	<b>63</b>	<b>13,661</b>
<b>Kibungo</b>	<b>733</b>	<b>661</b>	<b>1,368</b>	<b>72</b>	<b>12,559</b>
<b>Umutara</b>	<b>415</b>	<b>363</b>	<b>988</b>	<b>52</b>	<b>6,897</b>
<b>Total</b>	<b>9,011</b>	<b>8,253</b>	<b>14,402</b>	<b>758</b>	<b>156,807</b>

➤ **Raising Awareness:**

Before, during and after the judges' training, we would like all Rwandans of all ages, to be re-educated on the subject of *Gacaca* Courts.

Authorities at all levels must include the public in their programmes according to the plan of action established by the ministry of Justice, because there are people who have yet to understand the benefits of the *Gacaca* courts.

➤ **Launch of remaining *Gacaca* courts (3<sup>rd</sup> phase: 8,252 *Gacaca* courts):**

It is our wish that after the training of judges is completed, as well as raising awareness of all Rwandans in general, all *Gacaca* courts should start operating since all the required conditions would be present. We would like to launch this activity immediately after the intensive public awareness campaign. The date will be confirmed at a session of the Council of Ministers

➤ **Start of the actual trials in the courts that have completed the collection of information:**

The trial phase for the *Gacaca* courts which have completed or almost completed the 7<sup>th</sup> session is necessary and very long-awaited.

As a prerequisite, however, the problem of compensation must be resolved, that is, to determine if a scale or flat rate system would be applied.

It is also imperative to start with the revision of the Organic Law creating the *Gacaca* courts, especially since we have in the courts already operating, people who have committed crimes in several cells, some of which have not yet commenced their activities. The law stipulates that the National Department of *Gacaca* Courts is the only body entitled to settle jurisdictional disputes in the cases where many courts can have the same jurisdiction over the accused. In the present state of affairs, there is no doubt that the National Department in charge of *Gacaca* Courts would only be dealing with interminable jurisdictional disputes since the majority of accused committed their offences in different places. After removing these ambiguities, the judges could be trained in the matter of hearings for the actual trials.

**IV. Obstacles Encountered and Ways to Solve Them:**

The quarterly report paints a picture of the obstacles encountered during the quarter and the solutions proposed to overcome these obstacles. The particular obstacles that were apparent in all of the reports are as follows:

- **Some local authorities have not made the *Gacaca* court programme an over-riding concern**

As indicated in many reports, since the launch of the first and second phases of the *Gacaca* courts, fewer problems have been noted in places where the authorities, especially at the District and City levels are committed to the *Gacaca* court programme. This they do by joining forces with the general population in public awareness sessions concerning active participation in the *Gacaca* courts. At the same time, people's fear of these courts is dispelled.

As long as the authorities, especially at the Districts and City levels, as well as the lower level authorities, have not yet convinced the people of the importance of this programme as they have done for the elections, the Constitution, security, to cite only these few, the people will never appreciate the true value of the *Gacaca* courts.

- **Some local authorities accused of genocide**

When some local administrative authorities are put on the list of accused prepared by the cell's *Gacaca* courts, they do all they can to hamper the public's participation in these courts. Without monitoring by higher level authorities (Districts and Cities), the *Gacaca* court does not progress, due to the appearance of one sole person on the list.

- **Interference of local administrative authorities in *Gacaca* Court Activities**

In some places, there are cell and sector coordinators who try to take over the *Gacaca* court sessions. They do not seem convinced when it is pointed out to them that their role is to educate the public about participating in *Gacaca* courts. This degenerates into disputes between the bodies.

The District/City authority has to restore order, otherwise the sessions will no longer take place.

- **Low level of participation in the General Assembly of the Cell *Gacaca* Courts**

Cell *Gacaca* courts have a valid General Assembly session when there are at least 100 adult cell residents 18 years or older present. It has been noted that in most cases the sessions are postponed due to lack of quorum of 100 people. The problem lies not in an insufficient population, but more often it is because of sporadic attendance. Some come to the session, others do not. The ones who are absent are not answerable for their recalcitrant behaviour, especially since the administrative authority representatives do not show up.

In this case, the situation worsens each day, as those who came to the previous session do not show up at the next one. This vicious cycle paralyzes the court. The judges are also discouraged about it, especially since they are citizens the same as the others and their work in the courts is voluntary. Some General Assemblies never reach the required quorum, including for members of the Bench (at least 15 people).

From the lessons learned with the *Gacaca* courts, from the first phase, as well as the second, people realize that the success of a particular programme is assured when the administrative authority tackles it in partnership with the population.

The problem lies in the fact that some administrative authorities leave the cell and sector *Gacaca* courts with no decision-making power against people with defeatist attitudes. In Kigali and other cities, as in all other places, intellectuals, the genteel classes, as well as the wealthy, seem not to be concerned about the *Gacaca* courts

- **Infringement of ordinary meetings on the Gacaca court programme**

Except for urgent and special programmes, no other programme should cause the adjournment of *Gacaca* court sessions, especially since this is a well-known initiative the cell, sector, district and city, up to the highest levels. Programme planners should respect the pre-existing programmes since they all call on the public's participation.

When the Judges and the public realize that their sessions are pushed to the background, they wonder about the relevance of the Gacaca court programme, which the government considers a priority. District and city authorities must firstly find out about these cases in order to rectify the situation. If it's not monitored closely, participating in the sessions will be left to the lower classes alone.

- **Witness Safety**

It goes without saying that the safety of people and property cannot be the duty of the security forces alone. Everyone must lend a hand. However, the role of the authorities cannot be forgotten when safety is threatened or about to be threatened.

Educating the public reassures the fearful and pushes them to reveal the truth.

This same public awareness helps to dissuade the troublemakers for fear of incurring a punishment. Without public awareness campaigns, requiring close collaboration between the civil and military authorities and the National Police, people lose interest. Those who intimidate others take advantage of the situation and those who want to testify recant.

- **Premises for the *Gacaca* courts**

The Organic Law establishing *Gacaca* courts, provides for administrative bodies to be responsible for finding available premises for the courts under their jurisdiction.

In the cells where *Gacaca* courts have commenced their activities, the lack of infrastructure is a well-known fact. The problem will remain without solution in a good many of the country's cells. This does not prevent the residents from building make-shift premises gradually, cell by cell, in order to protect the people in attendance from bad weather. The work is done as part of the community service initiated by the administrative bodies and there is no need to resort to impossible and costly means, such as sheet metal and sheetings

## **V. Conclusion**

Districts and City authorities have an important role to play in the *Gacaca* process, one that they are capable of accomplishing. If the *Gacaca* courts achieve the goals they have been assigned, there is no doubt that a giant step would have been taken in the direction of good governance, and the fight against injustice and others.

The *Gacaca* court programme remains one of the big priorities of the government of National Unity. It demands self-sacrifice in order to accomplish its objectives quickly and efficiently.

Kigali, January 21, 2004

## Annex 4

### “Origins of the 1994 Genocide in Rwanda”\*

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*As we have based our research on the court notes of Ingando participants, we considered it interesting to reproduce, as an annex, this extract from a document prepared by the Ministry of Local Administration, Information and Social Affairs. It concurs on all points, the vision of history presented in the camps.*

*This extract is the introduction to the document, which is entitled: "Counting the Genocide Victims - Final Report - Rwanda, Kigali, November 2002, pp. 6-14.*

#### ORIGINS OF THE GENOCIDE IN RWANDA IN 1994

Rwandan history is now generally divided into three successive periods: pre-colonial, colonial and post-colonial. Furthermore, it is rather pleasing to believe that each of these periods, taken as a whole, has its own identity, without taking into account the dynamic character of each one.

For this reason, it is believed that the pre-colonial society was static, when in fact, it had its highs and lows like all human societies. It is incorrect to consider the present borders of Rwanda to be ancient, just as it is out of the question to assume that this same Rwanda has always been ruled exclusively by the Banyiginya (Batutsi) dynasty.

This clarification is a necessary prerequisite for studying the society in question.

Given the above information, we will try to answer the following questions:

- Was the Rwandan society essentially a breeding ground for the emergence of conflicts, due to the way it was structured and/or functioned?
- If not, which elements formed the basis for perpetrating the genocide in 1994?

#### 1. The Pre-colonial Period in Rwanda

The foundation of the Rwandan society was the clan, that is, the network families descended from a common ancestor. In the beginning, these clans were autonomous and headed by Chiefs (Abatware).

These clan chiefs could become kings, once they had achieved recognition from other families and could pass on their titles and privileges to their descendents.

To better understand the situation, we quote following extracts from a text by E. Ntezimana<sup>90</sup>:  
*“The latter (the clans) slowly and with great difficulty, established the favoured and almost exclusive places for identification and integration of families and individuals through enriching the “collective memory”, setting up the cultural communities, promoting the “ikinyarwanda” language, which in itself was a catalyzing element, and generating the historic and national conscience”*,

He added:

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<sup>90</sup> E. NTEZIMANA, « Histoire, Culture et Conscience Nationale : le cas du Rwanda des origines à 1900 », in Etudes Rwandaises, vol. 1 n° 4, July – September 1987, pp. 462-497

"It is because of the clan and its smaller unit, the family, that multiple realities: *umutwanyi* (the neighbour), *umwanzi* (the enemy), and *umugenzi* (the passenger/traveller), contrary or complementary towards each other came to life and were defined".

On the level of the military structure, the role of clans, called "Abanyiginya", is certainly at the forefront. But without the voluntary support or subconscious complicity several clans, these initiatives would not have succeed or the results would have been short-lived".

We select this aspect in order to show the role played by all Rwandans themselves, in the construction of Rwanda. The grandeur of the Rwandan kingdom was the manifestation of the relationships between clans. The idea of belonging to an "ethnic" group did not exist in the beginning, it was more an idea of clanship.

The people first became conscious of belonging to the Tutsi, Hutu, or Twa groups in the 18<sup>th</sup> century with the establishment of permanent armies, and this consciousness would have started in the armies. The army chiefs at the time, who identified themselves as Tutsis, ranked themselves above the clan chiefs. In order to have access to certain privileges, some clans sought to identify themselves with the self-designated Tutsis. The start of this consciousness was also due to a vertical administration of land and pasture which also dates back to the 18<sup>th</sup> century (Abatware b'ubutaka, abatware b'umukenke)<sup>91</sup>.

Some clans were able to profit from alliances and conflicts between clans and with the spread of the political and military power of the Nyiginya dynasty, a hierarchization and differentiation of roles occurred.

The Nyiginya dynasty and its allies thus became dominant in almost all of present-day Rwanda, and the clans dominated by this group included all social categories. There was never "ethnic" solidarity between some and against other groups. The following cultural elements demonstrate this:

- 1) *Ubuse*: Among the ceremonies which the clans Abagesera and Abazigaba were required to perform on house lots prior to construction of the home. This created friendly relations between the two families with regard to the previously mentioned subdivisions.
- 2) Marriage: Intermarriage between the groups has existed for a long time. This was proven by German researchers at the beginning of the 19<sup>th</sup> century.<sup>92</sup>
- 3) The Kubandwa ceremonies: Hutu could be godfathers for Tutsis and vice-versa. This refers to a matter of great importance, since it was sacred. It goes without saying that this practice created very close relationships.

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<sup>91</sup> E. NTEZIMANA, *art. cit.*

A. KAGAME, *Un abrégé de l'histoire du Rwanda de 1853 à 1972*, Butare, 1975, p.159, n°511 & pp. 184-185

J. VANSINA, *Le Rwanda ancien. Le royaume nyiginya*, Karthala, 2001, pp. 173-174

<sup>92</sup> CZEKANOWSKI, J., *Forschungen im Nil-CongoZwischengebiet. Band I: Ethnographie*, Leipzig, 1917, Quoted by d'HERTFELT, M., *Les clans du Rwanda ancien. Eléments d'Ethnosociologie et d'ethnohistoire*, Tervuren, 1917, pp. 56-57

- 4) The multi-class character of the clans: It has been observed that Hutus, Tutsis and Twas could belong to one same clan. Nonetheless, historians already biased as regards the ethnic differences, try in vain to find an explanation.
- 5) The blood-pact: This pact sealed the friendship between the contracting parties, without any reference to the subdivisions that are in question here.

On the political level, belonging to a particular “ethnic” group was not a determining factor in having access to power, whereas belonging to a particular clan was important. However, this latter factor was not rigid since new arrivals were often highly regarded.

Relations between Nyiginya court and other Hutu kingdoms or principalities from the north, north-west and south-west were not necessarily marked by hostilities.<sup>93</sup> One only has to consider the good relations that existed between the Nyiginya court and the Hutu kings Bukunzi and Busozo.<sup>94</sup>

The case of Rukara, son of Bishingwe, should also not be forgotten. He revolted against Nyirayuhi V Kanjogera, while he was already a member of the *Ingangura-rugo*, Rwabugiri’s own army.<sup>95</sup> One must also not forget that this same Rukara, who was considered a Hutu, allied himself with Basebya against Musinga. Now then, the parents of Basebya were Nyirantwari, considered a Twa and Ndungutse, considered a Tutsi.<sup>96</sup> Even ubuhake relations, considered, mistakenly, by some as the mainstay of Tutsi domination over the Hutus, were not in force throughout Rwanda and not all Rwandans were affected by it.<sup>97</sup>

## 2. The colonial period

In 1920, L. Frank, the Belgian Minister for the Colonies, initiated an administration whose directives were clear, all agents had to be exclusively Tutsi: “this [administration] must be composed of only Batutsi, in accordance with the Mwami”.<sup>98</sup>

Monsignor Classe supported the directives of the Belgian Minister for the Colonies in a letter dated September 21, 1927 that he wrote to Resident Mortehan that has since become famous. In particular he said, “Born leaders, they (the Tutsis) have a sense of leadership... It is the secret of their installation in and their seizure of the country”.<sup>99</sup>

This statement made by Monsignor Classe was simply not true, since, not only did the Tutsis not take over the country, even less, no one is a “born leader”. It was a new fact that was going to

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<sup>93</sup> J. VANSINA, *Op. cit.*, pp. 156-157

<sup>94</sup> E. NTEZIMANA, « *Coutumes et traditions des royaumes du Bukunzi et du Busozo* » in *Etudes Rwandaises*, April 1980, pp. 15-39

<sup>95</sup> A. KAGAME, *Op. cit.*, p. 54

<sup>96</sup> IDEM, *Op. cit.*, pp. 160-168

<sup>97</sup> See SAUCIER, J-F, *The patron-client Relationship in Traditional and Contemporary Rwanda*, New York, Columbia University, Ph D Thesis, 1974

<sup>98</sup> Quoted by J. RUMIYA, *De la royauté au Sultan Belge du Rwanda*, Doctoral Thesis, Paris, 1983, p. 79

<sup>99</sup> DE LACGER, *Ruanda*, p. 523

legitimize “ethnic” exclusion in political leadership, as it was the first time that such statements were being made by influential people.

During the pre-colonial period, Hutus and Tutsis were in leadership positions in the areas controlled by the central government, but also in peripheral areas to the west where historians have found Hutu kings.

Directives from the Ministry for Colonies, supported by Monsignor Classe’s letters were implemented through Mortehan’s administrative reforms of between 1926 and 1931. The aim of these reforms was to institute a rational administration where only Tutsis could be in positions of leadership. The result was particularly to remove certain leaders from power only because they were Hutus.<sup>100</sup> At the same time, when collecting taxes, the Belgian administration considered all Rwandans who owned more than 10 cows as Tutsis.

Thus, perhaps without realizing it, the Belgian Minister for the Colonies and the representative of the Catholic Church had planted the seeds of “ethnic conflict”.

The introduction of forced labour, imposed by the two European powers (the administration and the clergy) reinforced this division, since the sector of the population who suffered the ill-effects shifted all blame on to the Rwandan authorities, who were exclusively Tutsi. Furthermore, the doors of the Butare School Group, were open to Tutsis in particular<sup>101</sup>, resulting in the predominance of Tutsis in the labour market.

This situation was to produce disastrous effects during the 1950s, starting especially from February 22, 1957, year of the publication of the “Mise au Point” (Setting the Record Straight) by the Superior Council of the country. This was followed , on March 24, by the publication of “Notes on the Social Aspects of Indigenous Racial Problem in Rwanda”, better know as the “Bahutu Manifesto”,

The “Mise au Point” was addressed to the UN visiting mission and demanded quick independence, while the “Notes on the Social Aspects of Indigenous Racial Problem in Rwanda”, published one month later, reacted against aspects of the “feudal” system and the Tutsi supremacy. The die was cast and the Hutu-Tutsi problem was brought to the forefront.

Curiously, the signatories of the document did not entitle their publication “Bahutu Manifesto” in the beginning. One can deduce that they did not have any bad intentions at that point, as, in this case, using such a term in a title could have been perceived negatively.

The negative intentions subsequently became apparent, when Gregoire Kayibanda created the “Mouvement social Muhutu” (Muhutu Social Movement) at Kabgayi in June of 1957, and later the Parmehutu Party (Mass Party for the Emancipation of the Hutu), on October 9, 1959.

In reaction to the "Bahutu Manifesto", letters were signed at Nyanza, first by 12 *bagaragu b'ibwami bakuru* on May 17, 1958, then by 15 *banyarwanda* who were at Nyanza, where it was declared that Hutu and Tutsi can never be brothers. These *bagaragu b'ibwami bakuru* identified themselves using vague terms, which had no particular political meaning, neither in ancient nor in colonial Rwanda

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<sup>100</sup> For an example, see J. RUMIYA, *Le Rwanda sous le régime du mandat belge (1916-1931)*, pp. 162-163

<sup>12</sup> De 1932 à 1943, 76% of admissions were Tutsis compared to 18,4% Hutus, see J.M.V. RUTERANA, *Le Groupe scolaire de Butare*, Dissertation for “Licence” degree, Ruhengeri, 1987, pp. 131-134

and only referred to its authors in their declarations. They represented neither the king Rudahigwa, nor the yet to be founded UNAR Party. They did not represent all Tutsis, not any more than the signatories of the Bahutu Manifesto represented all Hutus, who never gave them that mandate.

In addition, these so-called *bagaragu b'ibwami bakuru* conveyed ideas that were foreign to traditional court ideology.<sup>102</sup>

The years 1958 and 1959 were marked essentially by debates centring on whether the Hutu-Tutsi problem was acknowledged or not. Other topics debated were the death of Mutara III Rudahigwa, the succession of Kigeri V Ndahinduwa, the creation of political parties and the beginning of what some consider the revolution, others the genocide, as well as the replacement of some Tutsi authorities by Hutus.

The most important declarations were made by King Mutara III Rudahigwa who denied that a problem existed on June 12, 1958 and those of Jean-Paul Harroy at the General Council at Bujumbura, on December 3 of the same year. Harroy recognized the crux of the problem when he said:<sup>103</sup> *“However, there is an undeniable problem in this country of unequal conditions, to which it is necessary to find solutions. There is a problem of generalized poverty which affects the largest sectors of the population. For these extremely poor masses, this poverty is part of a system of political, social and economic oppression on the part of a certain number of representatives of their local authorities. This situation seems to become more pronounced every year.”*

He continued, identifying the Tutsis: *“But, if not used appropriately, too much modesty can be harmful. The fact still remains that today - I emphasize, today – people who call themselves Tutsis, who are Tutsis, comprise the vast majority of groups in leadership positions in the country, possessing a high proportion of the wealth in real estate and personal property of this territory”*.<sup>104</sup>

One year later, Monsignor Perraudin spread the contents of Harroy's speech in Kinyarwanda, in the missions at Bujumbura. In particular, he said: *“In our Rwanda, he stated, the social differences and inequalities are for the most part linked to racial differences, in the sense that the wealth on one hand and the political and even judicial power on the other hand, are in reality largely in the hands of one race.”*<sup>105</sup>

Perhaps, in order to provide his own solution to this problem, Gregoire Kayibanda announced the details of his programme during a joint meeting with the APRSOMA party (Association for the social promotion for the masses), held in Butare in September, 1959: *“Our movement is aimed at the Hutus, a group that is abused, humiliated and despised by the Tutsi invaders. I we want to do them a favour, let's avoid confusing them with a play on words. Many people wonder what APROSMA means. The answer is that they are the “the enemies of Mwami”, it is a “monster that is going to devour the Batutsis”. [...] We must enlighten the masses, we are here to restore the country to its rightful owners. The country belongs to the Babutus*

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<sup>102</sup> The myth of the origins of the Nyiginya dynasty informs us that the ancestor “Kigwa” fell from the sky. He landed at Mubari and having found the king Kabeja, of the zigaba clan, he asked for his hospitality by saying to him: “we are men; we came to find you especially to help you with our hands to increase your family. If, on your part, you are accommodating, you must live on good terms with us.” See L. De HEUSH, *Le Rwanda et la civilisation inter-lacustre*, Université Libre de Bruxelles, 1966, p. 86

<sup>103</sup> A. KAGAME, *Op. cit.*, p. 241

<sup>104</sup> IDEM, *Op. cit.*, p. 243

<sup>105</sup> IDEM, *Op. Cit.*, p. 247

*(gusubiza igibugu bene cyo; ni icy' Ababutu). The little Mututsi came with the great. The forest was cleared by whom? By the Gabutus. Well, then!"*<sup>106</sup>.

It is widely accepted that the "revolution" was triggered by 8 youths, at times called Tutsi, other times called UNAR militants who derided and mistreated Dominique Mbonyumutwa, one of the few Hutu deputy leaders at this time. According to the story, Mbonyumutwa was returning from the All Saint's Day Mass at Byimana. It was November 1, 1959. The word spread in the region that Mbonyumutwa was just killed by Tutsis. It was like a starting shot to set in motion the violence against Tutsis. This scenario was replayed at Ruhengeri, where the rumour spread that Baltazar Bicamumpaka, a popular Hutu leader in the region, was just killed by Tutsis. Again the same scenario repeated itself on April 6, 1994, when some leaders proclaimed loudly that President Habyarimana was killed by Tutsis. Tutsi were killed, homes set on fire, others went into exile and Tutsi authorities were driven from their positions of leadership.

This latter act was the work of Colonel G. Logiest. He took the initiative to replace Tutsi leaders and deputy leaders with Hutus, although it was not within his jurisdiction to do so.<sup>107</sup> In so doing he went against the orders of Minister L. Franck, from 1920.

The years 1960-1962 were essentially marked by the communal elections, UN debates, the creation of the National Guard, the proclamation of the Republic, legislative elections and regaining independence.

The Parmehutu won the communal elections of June/July of 1960, following an electoral law, which was extremely favourable to them. This law was written by the Belgian Administration.

This electoral victory was reinforced by the creation of the National Guard on September 13, 1960. It was a Guard for the Parmehutu, a pure product from Colonel Logiest, since "pure" and "strong" Hutus were recruited for the job. It was believed that these Hutus were a monopoly in northern Rwanda.<sup>108</sup>

32 years later, on September 21, 1992, the general staff of this army defined Tutsis as enemies of the state.<sup>109</sup> It was therefore not surprising that its officers would subsequently be implicated in the 1994 genocide.

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<sup>106</sup> S. MUSANGAMFURA, *Le Parti MDR Parmehutu. Information et propagande, 1959-1969*, Mémoire de Licence, Ruhengeri, 1987, p.70, Quoted by J-P Chrétien, *Le défi de l'Ethnisme*, p. 71

<sup>107</sup> The decree of July 14, 1952 recognized the Mwami as having the exclusive right to designate leaders and deputy leaders

F. REYNTJENS, *Pouvoir et Droit au Rwanda. Droit public et Evolution politique 1916-1973*, IRST, Butare & Tervuren, p. 499

<sup>108</sup> F. REYNTJENS, *Pouvoir et Droit au Rwanda. Droit public et Evolution politique 1916-1973*, IRST, Butare & Tervuren, p. 499

<sup>109</sup> F.I.D.H., AFRICA WATCH, *Report of the International Commission of Inquiry on the Violation of Human Rights in Rwanda since October 1, 1990 (January 7-12, 1993)*, Final Report, March 1993, p. 64

### 3. The Post - colonial Period

The improvised proclamation of the temporary Republic, on January 28, 1961, was an easy way to bring the Parmehutu to power and to protect it after its recent defeat at the Ostende talks which took place from January 7-12, 1961.<sup>110</sup> The proclamation fit into the ideological framework that was dominant in the communal elections and creation of the National Guard. In fact, installing the Parmehutu in power meant prolonging the practice of basing political power along ethnic lines and thus perpetuating the colonial ideology.

Rwanda, republican and independent since July 1, 1962, developed in the ideological sphere of the Parmehutu. Political discourse praised the hardworking Hutus compared to the lazy and parasitic Tutsis who lived at the expense of the Hutus.<sup>111</sup>

Consequently, Hutus became essentially democratic, whereas Tutsis were born feudalists. However, there is no way to confirm that the rejection of the monarchy on September 25, 1961, was the desire of Hutus alone. It is as if Hutus monarchs had never existed.

Hutus became above all a synonym for the "majority", compared to the "minority" Tutsis. Thus, the majority became ethnic instead of democratic, and belonging to the Hutu "ethnic group" became a political quality sometimes over and above any other abilities

Although Tutsis were stereotyped as lazy and parasitic, they were presented as occupying the majority of places in schools and workplaces. Consequently they were driven from the schools and workplaces in 1973.<sup>112</sup>

Tutsi who took refuge in foreign countries were called terrorists, enemies of Rwanda and Africa. Tutsis who remained in Rwanda had better be careful if they (the exiled ones) want to return by force.<sup>113</sup> This idea came from Colonel Logiest. On one occasion, Godard, the security commissioner made the following remark to Colonel Logiest: "*Keep in mind that at any given moment, an intervention from outside the country could help set off events within the country. That is to say, terrorists trained in foreign countries could return to spread trouble and incite an insurrection in certain population groups.*"

Logiest answered: "If such a movement should arise among the Tutsis, that would be the signal for their massacre by the Hutus. I think that all Tutsis are aware of that"<sup>114</sup>

In March 1964, President Kayibanda repeated that message: "*Suppose the impossible occurs and you came to launch an attack on Kigali, how do you measure the ensuing chaos in which you would become the first victims? You talk about it among yourselves: "It would be the complete and precipitated end of the Tutsi race". Who is annihilated?*"<sup>115</sup>

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<sup>110</sup> For more information, read A. KAGAME, *Op. cit.*, pp. 302-306 ; F.REYNTJENS, *Op. cit.*, p.288 ; J.M.V. HIGIRO, *La décolonisation du Rwanda et le rôle de l'ONU 1946-1962*, Université de Montréal, Dissertation for Masters Degree, 1975, pp. 170-181

<sup>111</sup> One recalls the song "Umuhutu azi guhinga, Mututsi nawe hinga", that is "The Hutu know how to farm, you Tutsi start farming as well"

<sup>112</sup> For more details, see F. REYNTJENS, *Op. cit.*, pp.501-504 ; J.SEMUJANGA, « le Rwanda : d'un génocide à l'autre » in *Wihogora Rwanda*, n° 4 (vol.2, December 1997 - January 1998), pp. 18-47

<sup>113</sup> Grégoire KAYIBANDA, « Adresse du Président KAYIBANDA aux Rwandais émigrés ou réfugiés à l'étranger » in *Rwanda Carrefour d'Afrique*, n° 31, March 1964, pp. 1-4

<sup>114</sup> F. REYNTJENS, *Op. cit.*, p. 468

<sup>115</sup>Grégoire KAYIBANDA, *art.cit.*

In 1976, President Habyarimana said the same thing: “On the Hutu-Tutsi question, it also exists in other prefectures. If we study Rwanda’s history, we see that Tutsis claim to be the descended race (from heaven) [...] these Tutsis who provoke Hutus forget that if the time of massacre returns, they will be the ones to pay the price. Obviously, Hutus are the majority and the power belongs to them.”<sup>116</sup>.

It is important to know that in 1976, no Tutsi dared defy the Habyarimana regime. Opponents of his regime were mostly the politicians of Gitarama, where he had just massacred the most prominent ones. Another element that should be noted is that Habyarimana was well aware of the cyclical nature of the Tutsi massacres. He bragged about it to frighten them.

At times, the government in power wished for such a return (of Tutsis) in order to seize the opportunity to massacre them. Such a situation was observed in 1963 during the Inyenzi attack.<sup>117</sup>

It is within this ideological atmosphere that the FPR (Patriotic Front of Rwanda) launched an offensive against the Kigali government on October 1, 1990. The intention was to fight especially for unity and democracy, which were seriously threatened by the ideology of hate. The regime under attack retorted that the aim of this attack was to restore the monarchy and the former privileges enjoyed by the Tutsis.

It was a way to raise awareness among a population already won over to the cause of divisionist policies and to prepare them psychologically for violence.<sup>118</sup> Arbitrary arrests and massacres of Tutsi followed, especially in the north-west of the country, in Kigali, and in Bugesera.<sup>119</sup>

After the death of President Habyarimana, on April 6, 1994, an interim government was formed on April 8, 1994. This government, led by President Theodore Sindikubwabo, only preached about killing Tutsis. In fact, on April 19, 1994, President Sindikubwabo gave a memorable speech calling for violence in veiled but understandable terms. At the end of his speech he had this to say: “Dear brothers, I would like to end my speech here. But I will repeat the following to you: I want you to fully grasp our message; that you understand the meaning of each word used, and why it was used. Know that we are going through difficult times. Stop joking, dreaming, going for walks, to be fooled. Now is the time to work. After victory, when calmer times would have returned, you can go back to joking. But now, it’s not the time for jokes. May God be with you”<sup>120</sup>!

The wave of massacres stemming from the ethnicization of power culminated in the genocide of 1994. This event is described in this report.

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<sup>116</sup> Yuvenali HABYARIMANA, *Ikiganiro Prezida wa Repubulika, Presida-fondateri wa MRND yagiranye na ba Militantes na ba Militants bo muri za Prefegitura z’u Rwanda*, 16 mata- 6 gicurasi 1976, Kabgayi, 1976, p. 73. The original is in Kinya-rwanda. "Kuri icyo kibazo cy’abahutu n’abatutsi, biyita ibimanuka [...]. Abo batutsi bashotora abahutu ntibazi ko imvururu zigarutsi aribo byakoraho. Nanone abahutu nibo beshi, ubutegetsu ni ubwabo. "

<sup>117</sup> J-C WILLAME, *Aux sources de l’hécatombe rwandaise*, Institut Africain, CEDAF, 1995, p. 73

<sup>118</sup> For the implementation strategy for launching the genocide machine, read, lire A.DESFORGES, *Aucun témoin ne doit survivre. Le génocide au Rwanda*, Karthala, 1999, pp. 81-107

<sup>119</sup> For more details, see *Report of the International Commission of Inquiry on the Violation of Human Rights in Rwanda since October 1, 1990 (January 7-12, 1993) Final Report*, March 1993

<sup>120</sup> See the original in Kinya-rwanda, Radio Rwanda, April 21, 1994, 6:00 a.m. (News in Kinyarwanda)

## Annex 5

### History of Rwanda from court notes taken during the *ingando* at Gishamvu

*Document based on notes from several prisoners at Gishamvu camp*

#### HISTORY OF RWANDA

Humans have lived in Rwanda since 40.000 B.C., indeed Central Africa is known as the birthplace of humanity. The heart of Rwanda is Gasabo (Rwanda rwa Gasabo) (beginning of the 14<sup>th</sup> century) in the former commune of Rubungo, presently Gasabo district, in the Province of Kigali Rural (Kigali ngali). At that time the country was divided into four big principalities:

1. Principality of the Abongera
2. Principality of the Abenengwe (cfr Abridged History of Rwanda)
3. Principality of the Ababanda
4. Principality of the Abasinga.

There are eighteen great families in Rwanda: Abega, Abasinga, Abanyiginya, Abacyaba, Ababanda, Abongera, Abenengwe, etc.

Royalty was in the hands of only one great family: the Abanyiginya.

The king was assisted in the administration of the country by three chiefs in each administrative area. Each chief was delegated a particular duty. Thus in each area there were:

- a chief in charge of the army (*umutware w'ingabo*)
- a chief in charge of land management (*umutware w'ubutaka*)
- a chief in charge of livestock management (cows) (*umutware w'umukenke*).

These chiefs governed in the name of the king and were his direct representatives. They had to collect taxes in kind and send them regularly to the court of the king (harvested crops, cows, milk, butter, the hides of cows and wild animals, elephant tusks, etc.).

By way of religious rites, such as *kubandwa* (initiation into the ancestral religion) and *kunywana* (exchange of blood), different families were able to create solid bonds of friendship and harmony among themselves and pacts on social, political and administrative levels.

At that time Rwandans used barter as a system of trade. The different social classes were determined by the wealth of individuals. The number of cows or the amount of land played a crucial role in the categorization. Anyone one who owned ten or more cows was automatically categorized as Tutsi by the colonizers and this information was noted in the *ibuku* (from the English "book") identity papers. What is today considered an ethnic group was previously nothing more than the degree of wealth; so that one who was a Hutu yesterday and thus poor, could become Tutsi tomorrow (a process called *kwibutura*) following the acquisition of more cows.

Relationships between individuals and families were more often of a lateral nature, that is, between people of the same level of wealth, from which the proverb "*Amaboko atarashya ntaramukanya*". Translated literally, it means "long arms cannot greet short arms". Other possible types of relationships were of a vertical nature, based on servitude (*ububake*). This included *ubugererwa* (working for another person for years in order to acquire a cow), or *umukonde* (working for a landowner in order to benefit from his land or his crops).

Rwanda was officially declared a German colony in 1896, only two years after the arrival of Von Goetzen in the country of a thousand hills.

The king, who at first intended to chase the Germans away, hesitated. Before starting a war he asked for advice from his friend Rumanyika, king of Karagwe. His friend advised him against it, because he said, these whites had fire-spitting sticks (rifles). He even supposedly told the king that they controlled thunder and lightening, that is, they had supernatural powers.

Furthermore, the Rucunshu war to overthrow Rutarindwa and put Musinga on the throne, had weakened the Rwandan army. The king preferred to resign himself to collaborating with the Germans.

So, the Germans installed themselves in Rwanda without difficulty and started to set up their administration while retaining the structures already in place.

This did not last long since the Germans, who lost the First World War (1914-1918) ceded Rwanda to the Belgians.

At the end of World War I, the Belgians acquired Rwanda and Burundi (Urundi). This is why, for administrative reasons, they installed the governor of Rwanda-Urundi at Usumbura (Bujumbura) and a Resident in each country.

The king and his chiefs kept their power in appearance, but the supreme authority passed to the colonial power. In reality, the colonists held the real power and they exercised it through the locals.

From then on, the national leadership had to execute the orders of the colonizers, without question. It must be noted that the ordinary citizen still considered the king and his chiefs as the only rulers. Thus the whip (*ikiboko*), introduced by the colonists, was attributed to the Tutsis. In general, the misdeeds of colonialism were falsely blamed on the Tutsis who were governing on behalf of the colonial power. Forced labour (*uburetwa*) and the whip (*ikiboko*) bred a feeling of hatred among Hutus for the Tutsis who seemed to have the power in their hands.

During the 19<sup>th</sup> century, an ideology arose in Europe that promoted the supremacy of certain races over others. For this reason, the Arians in Germany thought that they should dominate all other races. This is how nazism was born.

Europeans in general considered Africans as animals without souls. They wondered if Blacks really had a soul! Their main mission was thus to enlighten the world and especially Africans since these people could never achieve anything without the help of the Europeans. Africa had to be civilized, while using its raw materials for European industries. At the same time a guaranteed market would be created for the products of the various colonial home countries.

Groundless statements asserting that in Rwanda there are three distinct ethnic groups with different origins are pure invention of the whites (see Felgman, Leblanc).

Leblanc even stated that the Tutsis were whites in black skin! Others say that they came from Abyssinia, the Hutus came from Chad and the Twas from the equatorial forests of Central and Central-West Africa. These statements are all false since we do not have, neither in our language nor in our customs, any trace whatsoever of elements from these countries or regions. If in fact, the Tutsis had come as conquerors, they would have imposed their customs and languages on the conquered.

If the Tutsis really came from Abyssinia and they had this power in Rwanda, they would have imposed their customs and their language so that today we would find words in Kinyarwanda

related to languages spoken in Ethiopia, for example. However, Hutus and Tutsis speak the same language of which there are no traces in Chad or Abyssinia.

In order to govern the country without problems, the Belgians, as did the Germans before them, preferred to keep the administrative structures already in place and use the local authorities as intermediaries. These latter played the role of a link between the people and the colonizers. They received directives and saw to the execution of the work.

In 1936, a law was enacted stating that Tutsis were the only ones capable of ruling in Rwanda. This law automatically dismissed the customary Hutu chiefs (cf. *ababizwa*, especially in the north of the country). Those who did not want to give up their power were fought by the king and the colonists. In so doing, the colonial power demonstrated its support of the king, but actually, they wanted to have only one interlocutor in the country.

Even missionaries were often involved in these conflicts. The most striking example is that of Rukara rwa Bishingwe, chief of the Abarashi in the Murera region, Ruhengeri and Rugigana province: Father Lupias of the Rwaza parish.

Schools were created for the children of chiefs in Nyanza, then Astrida (Butare). The school group (*indatwa*) trained government officials, medical assistants, agricultural assistants, veterinary assistants and teachers.

However, it must be recognized that the colonists contributed to the efficient development of our country by building hospitals, schools, roads, all types of infrastructures, introducing modern dress, etc.

Obligatory forced labour was in fact linked to the construction of roads, hospitals, schools, administrative buildings, transportation demanded by the administration, cultivation of security foodstuffs such as cassava and sweet potato, caretaking and looking after livestock.

With the arrival of World War II (1939 - 1945), the colonial powers (the French and the British, for example) called on their colonies to increase the strength of their respective armies. Participation of African soldiers in this war beside their white colleagues, influenced the Africans' way of thinking. It also erased somewhat the complexes existing between the two groups. Indeed, at the military level, whites and blacks had the same rights. They fought for the national integrity of France or England. The question that was posed was why then would they not fight to liberate their own countries? They were already politically aware. They learned notions of human rights and learned about independence movements in other countries (Vietnam, Indonesia, India, Iraq, Syria, etc.). Even some African countries started to demand independence: Nasser in Egypt, Kwame N'krumah in Ghana, Jomo Kenyatta in Kenya, Nyerere in Tanganyika.

When the colonial powers saw that African elites were demanding independence, they changed their policies in the colonies. To this end, the Belgians dropped their old allies, the Tutsis, in Rwanda and turned towards the Hutus. They made them (the Hutus) understand that the time had come for them to take the upper hand and take revenge against the Tutsi oppressors. The colonists used a well-known method: Divide and conquer. They used the rare Hutus who attended the seminaries (they had no other choice) to oust the Tutsis from power. That was the way that events of 1959 started, leading to a change in power in 1961 and independence on July 1, 1962. These events were more or less guided by the colonial power.

After independence, politics in the country were oriented towards ethnic interests, that is, the interests of the Hutus in power, to the detriment of the defeated Tutsis. That is why a large number of Tutsis sought refuge in neighbouring countries such as Uganda, Burundi, Tanzania

and Congo. The Parmehutu party in power and the government of the First Republic, under President Grégoire Kayibanda, were not able or did not want to resolve the problem of the Rwandan refugees. Within the country, rampant regionalism added to the persecutions and ethnic discrimination. With each day, these separatist policies created a great gulf between the Hutus and the Tutsis and between the people in the central areas who were in power and those from the north of which there were many in the army.

From 1964 to 1972, the ruling party gradually removed northern high-ranking party leaders from the north. The high level officers, all from the north, were appointed as school headmasters, managers of tea factories, or parastatal institutions, with a view to keeping them out of the army. This created an almost generalized discontent in the north, especially in the Ruhengeri and Gisenyi Préfectures. President Kayibanda, who had intended to seek another term in office in 1974, wanted to change the constitution in order to accomplish that wish.

People from the north who wanted to overthrow the regime took advantage of the situation. Assisted by the managers originally from the military, who were scattered around in schools, tea factories and parastatal institutions, the northerners instigated a revolt of the Hutus against the Tutsis. Tutsis were chased away or killed. In the midst of this chaos, a coup d'état carried out on July 5, 1973 brought Major General Juvénal Habyarimana to power. Under the Habyarimana regime (2<sup>nd</sup> Republic), the physical elimination of political opponents was instituted. For this reason President Kayibanda and those close to him were killed. The two Republics were similar in their policies of discrimination and favouritism based on ethnic group and region.

Ethnic equality at all levels in schools, public and parastatal services were an unsuccessful innovation of 2<sup>nd</sup> Republic authorities. Regionalism became more pronounced, up to the point where the northern allies stormed off and went their separate ways. Thus in Gisenyi, the Bashirus were differentiated from the Bagoyi, while in Ruhengeri, the Barera distinguished themselves from others who were called the Abanyenduga.

These misunderstandings led some highly-placed officers in the regime to seek refuge in neighbouring countries, Tanzania and Uganda in 1979 (Kanyarengwe / Ruhengeri and Biseruka / Bugoyi). In 1980, the strongman of the Lizinde (Bugoyi) regime was imprisoned in Ruhengeri. From that time on the “maisonette” (*akazwi*), literally “little house” was created. It consisted of a small group of people, especially members of his family who seized property and benefits throughout the country. Their tentacles even reached into foreign countries. Corruption was rampant and in order to start a business one was obliged to take on a member of the maisonnette as an associate.

The 1990-94 war ended that state of affairs and since the FPR took power in 1994, the Government of Unity and National Reconciliation has managed the country with coherent and transparent policies where the population has an input. Management of the nation is closely followed and monitored. Corruption, ethnicism and regionalism are prohibited.

## **CONCLUSION**

We all agree that before the arrival of the whites, the concepts of Hutu, Tutsi, Twa only referred to an individual's social standing, determined by their wealth, that is, the number of cows owned by that individual. A wealthy Hutu became a Tutsi and a poor Tutsi became a Hutu. A Twa could also become Tutsi. We can cite the example of Busyete, a Twa who was ennobled by the king when he gave him his daughter in marriage as well as cows and land. (The previous king had given Busyete the task of killing the queen who was falsely accused of being pregnant. Instead of killing her, Busyete hid her in the forest until the son came to the throne. When the new king saw

his mother he rewarded Busyete by making him a noble).

The colonial power established the ethnic groups and categorized Rwandans according to these different ethnic groups, even having this categorization noted in the identity papers called *ibuku* (from the English “book”).

Today, the Government of National Unity and Reconciliation has removed this indication from the identity cards and call on all Rwandans to consider themselves as members of the same family without any distinction whatsoever. We are all called on to work towards this goal for the construction of a strong nation where peace, unity and harmony reigns.

We are all Rwandans!

### **THE RWANDAN GENOCIDE.**

Three genocides are known in the world today:

- genocide of the Armenians in Turkey (1916)
- genocide of the Jews in Germany (1939 – 1945)
- genocide of the Tutsis in Rwanda (1994).

The genocide of the Tutsis in Rwanda was completely different from the others. There, Rwandans killed each other while in the other two cases, two different peoples involved. Before the genocide in 1994, there had been other massacres of Tutsis in Rwanda in 1959, 1963 and 1973.

During these massacres, the authorities had always played a role of galvanizing and inciting the peasant masses.

For example, during the 1959 events, Commissioner Pilate, who was then Chief of Police in Butare, had to personally intervene in Ngera, District de Kibungo for the Hutu peasants to start the killings.

In 1973, soldiers were sent throughout the country to organize massacres and protect the killers. In 1994, as nothing was happening in Butare after their inflammatory speeches, the authorities sent a contingent of the Presidential Guards to launch the killings and supervise the militia.

A basic analysis of Rwanda’s history shows that the colonial power was at the root of the ethnic strife that Rwanda is going through. Indeed, once they arrived in our country, the colonizers categorized Rwandans into three ethnic groups according to the number of cows they owned. The ones who had none or who had less than ten were categorized as Hutus. The Twas were easily identified and categorized since they practiced one specific occupation: working in clay. Belonging to one or the other ethnic group was also indicated in the identity book, commonly called *ibuku* (from the English “book”). It must be noted that even the missionaries were involved in this policy. It is within this framework that all schools were reserved exclusively for children of the Tutsi class in power. This policy of exclusion gave rise to social opposition and created a state of latent resentment and hate between the Hutus and Tutsis.

Contact between King Rudahigwa and other African leaders, as well as his visits to Europe, opened his eyes to the various political problems of the day. That was why he abolished the practice of patronage “ubuhake” and he started to demand the country’s independence. Sensing their interests threatened, the Belgians quickly changed their politics by seeking a new ally. They dropped the Tutsis and turned towards the Hutus. They helped the Hutus oust the king and take power. The country became independent on July 1, 1962; a republic with Grégoire Kayibanda as president.

The authorities of the first republic did not try to analyse and solve the ethnic problems. On the contrary, they continued to support ethnic rivalries through all types of speeches and manoeuvres. Adding regionalism to the mix aggravated the situation (Northern Abakiga and Central and Southern Abanyenduga). These authorities never considered reunification, reconciliation and national unity. There was an increasing need for justice as the practices of favouritism, nepotism and bribes continued to undermine society and promote inequalities.

When the second republic came into being in 1973, headed by President Habyarimana, the slogan was “peace and unity”. These fine words were only a slogan and were never followed by concrete actions. Indeed, policies based on regional and ethnic differences could not bring the Rwandan people neither peace nor unity.

In the early 1980’s, the refugee problem was at the forefront and President Habyarimana did not accept negotiations. He said that Rwanda was crammed full and refugees should be accepted as citizens of the countries in which they were now living.

To better communicate his ideas, he used the image of a glass filled with water, where one more drop would make it overflow. This was said clearly so that the refugees should feel excluded forever. Negotiations were impossible because Habyarimana chose war. War broke out on January 10, 1990 and lasted 4 years. Meanwhile, the Arusha negotiations to arrive at cohabitation and power sharing were stopped or sabotaged by the government, the M.R.N.D. and the C.D.R. President Habyarimana himself said one day in Ruhengeri that the Arusha accords were not binding at all because they were only pieces of paper. A high ranking officer of the regime, Colonel Bagosora, stormed out of Arusha, saying that he was going to prepare an apocalypse, that is to say, genocide.

Habyarimana’s death on April 6, 1994 only lit the fuse of a bomb that was already wired. That same night, the genocide in Rwanda started.

Some issues for consideration:

1. How did the genocide come about?
2. How was the genocide prepared and how was it executed?
3. What are the consequences of the genocide on the lives of Rwandans and others living in the Great Lakes region.
4. What strategy must be adopted in order to eradicate genocide and the ideology of genocide?

Answers:

1. The policies of the colonizers, based on ethnic discrimination, created dissension, jealousy and hate within Rwandan society.  
Although they governed Rwanda for 46 years, from 1916 to 1962, the Belgian colonizers did almost nothing to improve the living conditions of poor peasants. It is therefore not surprising that the Belgians used the poor to stir up discord by saying that the Tutsis lived well at the expense of the Hutus and the former have always exploited the latter.  
It is always easier to destroy than to build.
2. The colonizers paved the way for the genocide, when they stated that the Tutsis were different from the Hutus on all levels, especially intellectual. In 1959, when the Hutus, helped by the colonizers, chased the Tutsis and took power, they put in place a policy of exclusion instead of thinking of reconciliation.  
This policy of exclusion only accentuated the gap between the two ethnic groups. It is not easy to erase an ideology assimilated into people’s minds for more than 40 years. The

Government of Unity and Reconciliation has the will to eradicate this ideology and banish genocide forever. There is no longer an ethnic government, there is a Rwandan government.

3. War and especially genocide brought us misery, poverty and all types of diseases, particularly AIDS. The Rwandan economy has been completely destroyed. The country has been devastated and we have suffered many injuries, deaths, refugees, orphans, widows and widowers.

Rwanda and Rwandans have a bad reputation throughout the entire world. Immediately after the genocide, diplomatic relations with other countries were catastrophic.

Inhabitants of the Great Lakes region have suffered due to the genocide and war in Rwanda. There have been massive movements of refugees into neighbouring countries and even the war itself has moved into the heart of the Congo.

4. The Rwandan people must know the truth about the politics and management of their country. They must actively participate in the construction of the country. They must be educated and informed. All Rwandans must be a party in the management of the country and in the fight for unity and reconciliation. They must ensure that children are initiated from a young age into Rwandan culture, history and good relations between Rwandans, as well as love for the country.

We are, therefore, all called upon to roll up our sleeves and work diligently to fight poverty and say goodbye to begging.

Rwanda is and will be what we want it to be. Improve the people's understanding, banish separatist ideas, teach love, unity and reconciliation, all of this will help us to overcome the country's problems.

#### Collective of Rwandan Organizations for the Promotion of Women, Peace and Development "Pro-Femmes Twese hamwe"

This collective started in 1992 with only 13 organizations and today there are 41. Their programme focuses mainly on the promotion of peace without ethnic or regional distinction.

In order for our country to fully develop, these organizations teach tolerance, mutual respect, fraternal love, solidarity, good relations and collaboration within the fight for justice and peace, without regards to ethnic and regional differences.

After the meeting in Beijing (2000) where the organizations were all united under the tent of peace, called KARISIMBI, they decided to form the collective Pro-Femmes in order to better coordinate their activities. Some of the organisations are: AVEGA-Agahozo, DUTERIMBERE, BENURUGWIRO, BENIMPURWE, RTC-RUHUKA, etc...

Some important points in the culture of peace:

1. The culture of peace in traditional customs;
2. Tolerance leads to peace;
3. The necessity of tolerance in order to achieve peace;
4. The role of Rwandans in solving conflicts.

#### 1. The Culture of Peace in Traditional Customs

Rwandans customarily greet each other and say goodbye by wishing each other peace. Unfortunately this manner of greeting is tending to disappear.

There are no second-class citizens; each person has rights that must be respected and duties that

they must fulfil. The respect of everyone's rights is one of the fundamental bases in order to achieve good relations between individuals and peaceful cohabitation. Differences in colour, religion, size and ethnicity should be a basis for complementarity instead of a source of conflict. We were created to complement each other, to help each other, and to live together. Tolerance has always been taught in Rwandan culture. To this end we have proverbs that teach us to accept the fact that others will have ideas different from our own. For example:

1. *Nta nkuba ebyiri zibindira mu gicu*: Two thunders do not exist together in the sky.
2. *Ibihanga bibiri ntibitekwa mu nkono imwe*: Two big heads cannot fit in the same pot.

Certain rights, when respected, are all indications of peace in any country. They are: human rights, the right to safety of persons and property, the right to an education and health and the right to a minimum living wage for each citizen. Peace is therefore not defined only by the absence of war, as many people have a tendency to assert.

Poverty, lack of knowledge, lack of safety and injustice must be banished from our country. We must do everything possible to achieve solidarity in the Rwandan society so that genocide will never be repeated.

## 2. Tolerance Leads to Peace

Tolerance reduces tensions between individuals or groups. We must accept our differences and use them to build instead of using them to destroy. We must then accept ourselves with humility and tolerance, without which peace will never be possible.

## 3. The necessity of tolerance in order to achieve peace

Let us start with the family, which is the basic unit of the country. If one member of a family does something wrong, it is obvious that the consequences fall on the entire family. Another member of the family could pay for the misdeeds of the first when the perpetrator cannot be found.

A family must have friends, whom they could call on as additional support in cases of disputes. *Inshuti ya hafi ikurutira umwandimwe wa kure*: A good neighbour is worth more than a brother who is far away. This is why dishonesty within the family and between neighbouring families must be avoided in order to live together peacefully.

Neighbouring families must help each other in everyday activities, such as: taking the sick to the hospital, working the fields, milking cows, building homes and marrying children. All of these activities performed together in a cordial way, lead to good relations between the families of a hill.

Those of you who are returning to your hills after so many years in prison, should know that you would only have peace if your neighbour has peace.

## 4. The Role of Rwandans in Settling Conflicts.

We were conceived and born in a conflictual process. The fertilization of an egg by only one sperm among thousands is in itself conflictual.

There is conflict starting from disagreements between 2 individuals, between groups of individuals or even between countries. These disagreements could be based on colour, language, ethnic group, wealth, thoughts or political ideas. When there is a conflict, a solution must be

found as quickly as possible. The disputed situation should not be left to endure. In order to resolve a conflict, a competent mediator acceptable to both parties should be found. This mediator must fulfil the following conditions: be honest and be experienced in this field, be able to assist the disputing parties to sit around the same table and frankly discuss the issues in contention, be able to assist the parties to seek possible solutions and to find the ways and means to implement the solutions themselves.

In conclusion, it would be a good time to ask ourselves what we have done to avoid the genocide. What are we doing to bring peace back? Whose role is it to rebuild? We believe that each one of you is involved and all Rwandans have a role to play in the rebuilding of the country. All Rwandans have been directly or indirectly affected by the consequences of the genocide. Those of you who are coming out of prison, you will be confronted with many problems. The state has looked after you for all of these years and now you must feed yourselves and your families. This will probably not be as easy as you think. You will be confronted with survivors who feel resentful towards you. You will perhaps find yourselves faced with a disintegrated family, or a wife who is pregnant by another man. Women will find their husbands in the arms of other women, etc. You will have to find the courage to forgive and ask forgiveness. This requires a lot of energy, courage and goodwill from both sides. The government's policy is aimed at rebuilding the country through unity and reconciliation and all steps are being taken to arrive at that goal. We must all join forces for the culture of peace.

### **RETURN TO NORMAL LIFE AFTER SEVERAL YEARS PRISON**

What do we mean by "normal life"?

What would we do if once we are out of prison, we find that nothing is the same as before?

The return to the family, the right to travel around the country, to go where we want, to work or practice a trade, become a father, mother, or head of the family again, none of that is easy after 8 or 9 years in prison.

You are going to be faced with a broken family or one that has been enriched with new births or marriages.

You will be confronted with survivors who will be unhappy about your return, not all, but no doubt some will be. You will find that your property has been sold by members of your family and that poverty is rampant.

You will be faced with the women's liberation movement and the new inheritance law where children of both sexes have the same rights.

You will be faced with neighbours who hate you for having pointed them out in your confessions.

You will perhaps find many people on your hill who are strangers to you.

All of this contributes to creating conflicts, lack of safety and fear on all levels.

How are you going to confront to these problems?

The training that you are receiving here in the solidarity camps will give you the opportunity to prepare for all of these eventualities. Once you have arrived in your families, your cells, your sectors and districts, tolerance and forgiveness must guide you in your daily life. You must try to solve disputes with frank discussions, mutual respect, tolerance and forgiveness.

As a result of equality and complementarity between the sexes, women today take on jobs that in the past were reserved for men. Therefore do not be surprised, but prepare yourselves to listen

and respect the opinions of your wives on equal terms. In particular, accept the fact that you are no longer the only decision makers.

If ever there are disputes that you are not able to resolve, speak to the competent authorities instead of fighting or creating useless tensions that only aggravate the situation.

### **UNITY AND RECONCILIATION**

We have a commission for unity and reconciliation at the national level, which has ramifications at the provincial level. This commission was established in the Arusha accords and was put in place from the meetings directed by President Pasteur Bizimungu in Urugwiro village.

Rwandan unity implies that each citizen should live in safety and peace, participate without exclusions in the building of the country and should have their say in the policies and management of the country.

On the issue of reconciliation:

We speak of reconciliation when there are disputes that have caused division.

Bad policies of discrimination and exclusion based on ethnicity and regionalism have created dissension between Rwandans. It is within this context that appropriate measures must be taken so that Rwandans could once again better understand each other and live together peacefully. Reconciliation must be the duty of each Rwandan without distinction.

Each of us must feel directly affected and seek ways and means to make peace with our neighbours with whom we have quarrelled. Reconciliation does not only affect those who were in Rwanda during the genocide. Each of us needs to live in a country where harmony, security, peace and prosperity prevail.

We believe that reconciliation is possible, since Hutu and Tutsi Rwandans have always lived together in peace. They shared everything, intermarried, exchanged cows, made blood pacts and practiced the cult of the ancestors together without discrimination. There were never wars between Hutus and Tutsis. Wars were conducted jointly and were directed against one external enemy, particularly for enlarging the territory.

#### **Questions for consideration:**

1. Is there a development towards better cohabitation and good relations between Rwandans?
2. What are the different factors that impede good relations between Rwandans?
3. What concrete actions can be taken to achieve good relations between Rwandans.

Answers:

1. We note that there is tangible development at the national level towards harmonious cohabitation and good relations. In fact, the unity government has a programme of educating the public and raising awareness at the national level. Education is provided in solidarity camps for all levels of the population, emphasizing reconciliation, cohabitation, harmony, sharing, marriage, etc.  
Children are admitted in the different schools without any regard to their ethnic distinction. Repatriation of refugees is continuing. An ad hoc commission was set up and is working relentlessly to resolve this problem once and for all.  
Funds were made available to help the survivors. We have security inside the country, a basic necessity for any reconciliation.

Justice has been improved and reformed. *Gacaca* courts have started operating and will help bring out the truth about the genocide. The prisoner problem will find a solution through the *gacaca* courts.

The Unity and Reconciliation Commission operates at the national level and has achieved tangible results.

Suspicion and fear is gradually disappearing. Through confessions, the truth about the genocide has been brought to light. Many people are confessing their crimes and are asking for forgiveness. The majority of survivors are able to forgive. Other people's property seized after the genocide has been returned to their owners. Ex-FAR soldiers and rebels have been integrated into the army. Ethnicity is no longer indicated on identity cards.

The lesson taught by the children of the Nyange Secondary School who did not want to be separated according to ethnic group, despite the threat of death, is an eloquent example which demonstrates that what we advocating is possible.

2. The factors that curb or handicap harmony are many. Poverty, ignorance, greed, jealousy, politicians hungry for power and wealth who sow discord within the population, are all factors that contribute to impeding the path towards reconciliation.

People inside or outside the country who try to play down or not acknowledge the Rwandan genocide, are creating misunderstanding which is susceptible of curbing the movement towards reconciliation.

A certain mistrust exists between Rwandans from outside the country (former refugees) and those who stayed in the country.

Furthermore, there is mistrust and suspicion between survivors and families of those who were arrested for genocide.

Rwandan history has been badly taught and misinterpreted. The truth has always been hidden or disguised by the authorities. Disinformation, injustice and partiality have created tensions of hate and suspicion between Rwandans.

3. Concrete actions to be taken:

We must banish forever any behaviour, any declaration, as well as any policy that promotes and advocates dissension and hate between Rwandans.

We must:

- learn to confess to crimes committed and ask for forgiveness
- learn to forgive
- respect basic rights
- love our neighbours as we love ourselves
- promote justice and fight impunity
- look out for the security of people and property
- fight ignorance and poverty
- fight all types of segregation
- if necessary, protect and defend the integrity of the country
- fight rumours

## TRAUMA

What is trauma? What are the causes of trauma?

What are the signs of trauma? How should sufferers be helped?

What are the consequences of trauma for the individual? For their family? For the country?

Trauma is manifested by unusual behaviour of a person when faced with a sudden or unexpected event which causes them distress.

Trauma can be caused by:

- a) What one has seen. For example:
  - witnessed killing of people,
  - be the only survivor in an automobile accident,
  - have seen atrocities committed during the war or the genocide,
  - after an earthquake or volcanic eruption.
- b) What one has lived through. For example:
  - been beaten, mistreated, persecuted, raped
  - been imprisoned for long periods,
  - have lost all one's belongings.
- c) Acts committed. For example:
  - have killed, beaten, raped or committed other senseless acts

When the acts committed were very frequent, of a long duration and of a certain importance, the consequences will be all the more serious.

Isolation is also a factor that could contribute to trauma.

The signs of trauma are:

- insomnia, headaches and stomach aches
- the traumatised person has recurring visions of the scene in the present
- he/she is sad, cries often and has a tendency to avoid others
- he/she is always afraid and could attempt suicide
- he/she could easily take to alcohol, tobacco and narcotics
- he/she could avoid or refuse all sexual relations
- he/she could lose all motivation and desire to work
- he/she could be sensitive to all small noises and have a tendency to hide
- he/she wants to avoid anything that reminds them of the events; for example, military uniforms, guns, machetes, prisoners, etc.
- he/she could become cruel, aggressive and dangerous for the people around them.

#### How to help someone who is traumatised?

You must try to listen to them, to understand them, to share their pain and to console them. If necessary, you must consult special councillors who are present in health centres. These councillors will decide if it is necessary or not to refer the patient to CARAES.

#### Consequences :

- disagreements and lack of safety in homes and families and, by extension, in cells and sectors
- poverty in the family
- children not educated
- isolation and mistrust in families
- family break-up
- traumatised girls are exposed to AIDS due to licentiousness

#### How to avoid trauma?

Firstly, never isolate yourself.

Secondly, have the courage to meet and speak to others on what has happened to us, on what we have seen and what we have done.

It must be noted that trauma can be cured without medication, contrary to madness. Individual or group psychotherapy can often have good results.

## GACACA COURTS

They were established on March 15, 2001 to judge thousands of people accused of genocide who have been awaiting trial for more than eight years.

After the genocide of 1994, more than 100,000 people were imprisoned and *gacaca* courts must help to carry out justice in order to punish the guilty and release the innocent, while aiming for national reconciliation. The main idea is to punish while seeking reconciliation. *Gacaca* courts have always existed in Rwanda as a way of solving conflicts and providing reconciliation between individuals or families. Today, a participative justice was conceived where all of the inhabitants of one hill or one sector has a say with the objective of finding the truth on the genocide and to bring it to light.

### Anticipated Advantages:

- trials will progress faster
- the truth will be established so that those truly guilty will be punished and the innocent will be freed
- prisons will be cleared leading to reduced state spending
- confessions and requests for forgiveness promote reconciliation.

We know that the law has established 4 categories. *Gacaca* courts will try cases of categories 2,3 and 4, while category 1 cases will be tried by normal courts, courts of the first instance. Only categories 2 and 3 could appeal to the higher courts. Category 4 accused must return stolen or damaged property.

Thus, accused classed as category 4 (with no appeal) will be tried at the cell level. Also facts will be investigated and the accused categorized at this level.

- category 3 will be tried at the sector level,
- category 2 cases will be tried at the district level, appeals of category 3 cases will also be heard at this level,
- *gacaca* courts will be in charge of category 2 appeals at the province and Kigali City levels.

There are three structures at each level, namely:

1. At the cell level, the General Assembly is composed of all residents 18 years of age and older. At the other levels, the G.A is composed of at least 50 respected residents who are elected.
2. The judges bench: 19 in each court
3. The coordinating committee: 5 people.

There are approximately 11,000 *gacaca* courts throughout the country.

A provision has been made for half of the sentences handed down to be replaced by community service. This means that half of the sentence will be served in prison and the other half outside of prison by carrying out community service work 3 days per week. Time already served before conviction will be deducted.

### Questions for consideration:

1. How will you contribute to helping the *gacaca* courts find out the truth about the genocide?
2. What are the factors that could impede the optimum operations of the *gacaca* courts?
3. What are the ways and means and strategies to be used to ensure the optimum operation of these courts?

### Some Answers:

1. We are ready to bring to light the truth on what we have done and what we saw. Our confessions will help to ascertain the truth on what happened during the genocide. We believe that these confessions will help the *gacaca* courts to work transparently and thus help Rwandans to reconcile with each other.
2. As for the factors that could impede the smooth operation of the courts, we could cite the following examples: false confessions, half-truths, lies, false accusations from survivors or accused.
3. Strategies to be adopted to ensure the smooth operation of the courts.

Educating the public and providing them with information on the *gacaca* courts must be emphasized. Moreover, the people must be encouraged and motivated so that they will actively and positively participate in these courts by showing interest of everyone in the process. We must raise awareness among the accused about confessions and among the survivors about forgiving. Take the time to fully verify new accusations.

In conclusion, it must be noted that the objective of the *gacaca* courts is reconciliation while attempting to eradicate the culture of impunity. The courts punish and reconcile at the same time. Community service sentences were established so that the convicted could serve half their sentences outside of prison, that is, in their respective families. They will perform community service work 3 days per week and the other 3 they will work for their families.

Examples of community service work:

- construction and renovation of schools, hospitals, health centres and homes for survivors
- construction and repairing of bridges
- development of the swamp areas
- construction des hillside terraces
- digging of anti-erosion ditches
- reforestation.

## Annex 6

# PAPG, Report on Cases of Murder of Some Survivors in Gikongoro Province, January 10, 2004

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PROJECT OF SUPPORT FOR CIVIL SOCIETY  
IN THE GACACA PROCESS IN RWANDA (P.A.P.G)  
« Survive Together »

Joint Project: CLADHO, C.C.O.A.I.B, PRO-FEMMES TWESE HAMWE, L.D.G.L, IBUKA

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REPORT ON CASES OF MURDER OF SOME SURVIVORS IN GIKONGORO PROVINCE.

## Introduction

Gikongoro province is increasingly becoming the scene of murders of genocide survivors by bloodthirsty individuals determined to eliminate witnesses and with them the information that would have been presented during the *Gacaca* court trials.

This report recounts the story of the murders of three people: Charles Ritinduka, killed November 11, 2003; Emile Ndahimana, killed October 04, 2003, and Karasira alias Kabombo, killed October 4, 2003.

### 1. Murder of Mr. Charles Rutinduka.

He was killed on November 26, 2003, between 1:00 a.m. and 2:00 a.m. He lived in Jenda cell of Kaduha district. He survived the genocide and was married with 4 children.

#### Testimony From the Victim's Wife

Madame Jeanne Mukaneza, married to Charles since 1998, related her experience at the time of her husband's murder.

She said that the criminal gang arrived at Charles' home at around 2:00 a.m.

She was awoken by the whispering of some of the criminals who were walking in the vicinity outside, while others had already entered the home.

She had thought it was some cows that were moving around in the enclosure. However, when she got up, she saw a lot of light (flashlights) inside the house and woke her husband up immediately. When he reached the door that opens from their bedroom into the living room, he met a group of people who said loudly: "*You seemed to be invincible, but you're not getting away from us today*".

She heard them fighting for several minutes before they cut her husband up.

While some were cutting her husband, others went into the bedroom where she was and she gave them 50,000 francs, begging them not to kill him, but to no avail.

They asked her for all the money she had and the woman gave them a bag where the family's money was kept. The killers took out some money, she did not know exactly how much. At the

same time that she gave them this bag, she called out for help. To prevent her from calling out, the criminals cut her arm with the machete (the scars were still visible when she was testifying), and again on her chest. All of a sudden, she fainted and fell to the floor. The criminals shone their flashlights in her face and began asking her if she recognized their faces, she replied that she did not recognize anyone.

Others went into the children's bedroom and asked them if they knew where their father hid money. The children answered no and the killers opened the door and told them to look at how their father was being chopped up. They told the children and the wife that they were not going to harm them, but that their father had to die and lose the wealth that he had boasted about.

Afterwards, the killers went back into the victim's bedroom and took all of his clothes, sheets and the blanket, they then cut the mattress into bits before leaving.

The woman was left completely naked and even her husband was left naked by his killers. Before leaving they put chairs and jerry cans on top of the body saying: "*Come back, if you are strong*".

In addition, the victim's wife said that it was not the first time that her husband was attacked. She said that he had escaped twice before:

The first time, they wanted to throw a grenade on him but the attempt failed. Among the people pointed out in these failed attempts, she named a certain Vincent, who, according to Charles's wife, had said that he was leaving the Jenda sector and will return when Charles was no longer alive. It is possible that Vincent moved to Kibungo.

The second time, they wanted to beat him with a hammer studded with nails, but Charles managed to get away and grab hold of the hammer. The hammer was still at Charles's house when he was buried.

### **Testimony of Mr. John Hakorimana.**

Originally, from Kaduka district in Gasiza sector Hakorimana has been a servant at Charles' home for nine months. He said that during the night of November 26, 2003, at about 1:30 a.m., a criminal gang came to Charles Rutinduka's home.

He said that on that day, Charles came home at about 9:00 p.m. and had called him to share some banana beer. The servant said that during their conversation, Rutinduka told him that Bosco (who had worked at Charles' mill but was just fired) was plotting an attacking against him (Charles). He added that the situation worried him a lot.

John added that they each went to their own bedrooms towards 9:30 p.m., the servant's bed was in an annexe built next to the main house

John was awoken from his sleep by the shouts of his employer's wife and the children. He got up immediately and went to the living room where Charles surrounded by a group of people shouting: "*Kill him, don't be afraid. Start cutting him up with the machete. Don't be afraid*", and they started to cup him to pieces.

He said that he left, running through the back door of the enclosure. About 200 metres from Charles' house, he started to shout until he reached beside the "Umudugudu" village.

The village's inhabitants came running and helped him call for help. However, Charles' next-door neighbours did not come to help because, John said, they knew what was going on.

The ones who came to help, ran towards Charles' house. Among them were Siméon Nzabarinda, Thomas, Gakwandi, Mukarwego.

When they arrived at the front door, Siméon Nzabarinda called out three times to Charles' family, to see if someone would answer from inside the house.

Hearing this call, the gang came running out, insulting those who came to help as they left. The rescuers tried to run after the gang to see if they could catch one of them but they couldn't. They then gathered at the primary school located about 1 km from Charles's house and decided to go and inform the police, located at about 8 km from the murder site, at the office of the former Musange commune. They returned to the murder site at about 3:00 a.m. and the killers had already left.

When they arrived inside Charles house:

- They found Charles already dead;
- Cut up into several pieces from his head to his toes;
- His tongue, teeth and genitals were missing.
- On top of his body, the criminals had placed chairs which were in the house, jerry cans and other material that they found in the house;
- Before leaving, they took all of the victim's and his wife's clothes and carried them away.
- They also cut the victim's mattress into pieces and his wife was there completely naked.

The other witnesses interviewed stated that among the people suspected of having participated in the murder, was a certain Bosco who had worked for Charles (he worked at Charles' mill) and who was fired just one day before the date of the murder.

The Councillor of Jenda sector, Mr. Célestin Akimana was also pointed out because, according to the witnesses, he did not come to help the suffering family during the night, nor even in the morning. He arrived a little late with the excuse that he went to solve a dispute about land over which two of his cell's inhabitants were fighting.

The close neighbours were also accused of not coming to the aid of the victim's family. Only the villagers from the "Umudugudu" village, located at about 200 m from Charles' house, came to his funeral in great numbers. His closest neighbours carried about their daily business.

Among the motives for Charles's murder, several testimonies concurred on the fact that Charles had accused many people in his sector, including the councillor Akimana, of having participated in genocidal acts against his family in 1994.

## **2. Murder of Mr. Emile Ndahimana.**

Mr Ndahimana was killed on October 4, 2003, when he was returning from his friend Dionis Kibwana's wedding towards 5:30 p.m.

According to his wife's testimony, on the way home, Emile has stopped at a tavern at Vénuste MUBERA's place. There, a certain Ntawuruhunga had offered him a bottle of banana beer and a heavy rain found him still at the tavern.

His wife waited all night for her husband to return, but he did not come home. Two days later she went looking for him, starting with the family whose wedding he had gone to. When she arrived at the Kibwana home, she was told that her husband had left even before it had gotten late on the day of the wedding. She also went to Stanislas Rukanika's home, who told her that her husband had passed by at around 7:30 p.m. and had left his shoes there, fearing that they might be ruined in the mud after the heavy rain that had just fallen. Emile told him that he was in a

hurry to go and milk his cows. It was at that moment that his wife started to believe that her husband had been killed

On October 8, 2003, his clothes (his shirt and pants) were found close to the Kigogo River, far from the route which would have led to his house from his friend's wedding.

On October 12, 2003, his body was found naked at the confluence of the Rukarara and Mwogo rivers in Nokoro sector. He was hanging from two logs attached with rope and was stabbed about the face, head and stomach.

Among the people suspected of participating in his murder, a certain Fidèle Habiyambere was named. Emile had accused him of genocidal acts and he was imprisoned in Gikongoro prison. He escaped from prison and lives in the same sector (Joma) as the deceased. Fidèle had said to people in the sector and even to Emile himself that he would end up killing him. A certain André Nkundabagenzi and a certain Janvier Senturo, who also live in Joma sector, were also named. They were all arrested and are presently detained in the central prison of Gikongoro.

We point out that Ndahimana was president of IBUKA in Joma sector and many witnesses state that he had much to say about what happened in this area during the genocide. He had accused many people of having taken part in crimes committed in this sector in 1994. He had also said that he was going to continue testifying in the *Gacaca* courts.

### **3. The Murder of Karasira alias Kabombo.**

Mr. Karasira was murdered on April 20, 2003. He lived in Kavumu sector of Kaduha district. He was killed by a certain Damascène Mushimiye to prevent him from providing information on what occurred in this sector during the genocide.

Apart from the above mentioned three cases, IBUKA paralegal reports also mentioned the cases of:

1. Séraphine Mukashyaka (genocide widow from Karaba district), killed December 27, 2000 ;
2. Jean Paul Twagiramungu (son of Hutu prosecution witness of the genocide), killed October 4, 2003;
3. Munyankiko, killed August 20, 2003, (Gasiza sector), Kaduha district;
4. François Mutambirwa, of Cyabute sector, Kaduha district, killed June 3, 2003;
5. Athanasie Uwimana, of Remera sector in Gikongoro city, killed August 28, 2003.

They also emphasized that a good number of genocide survivors were killed, threatened or forced to flee by "genocide perpetrators" determined to eliminate all prosecution witnesses. The mayor of Kaduha district, Désiré Ndimbati, was also named for psychologically traumatizing genocide survivors including:

1. Madame Jeanne Mujawamariya, former secretary of Musange commune and president of IBUKA in the same commune;
2. Aloys Mugwizambaraga, deputy for financial affairs and president of IBUKA (successor to Jeanne Mujawamariya) in the same commune, who survived three attacks;
3. Laurence Mukamuhozi, genocide widow and witness;
4. Mr. Dominique, Kigoma sector councillor, in Kaduha district;
5. Alexis Muberuka, Cyabute sector councillor, in Kaduha district;

6. Zéphilin Tuyisenge, Joma sector councillor, in Kaduha sector;
7. Vèrèna Mukaremera, survivor from Kaduha;

He stated that these 6 people were forced to flee from their district because of threats from the Mayor himself.

He was sure to mention that the competent authorities as well as the police have shown remarkable indifference or a telling silence towards many of the cases mentioned above.

Some of these cases were also mentioned by the P.A.P.G monitoring agents not only in their monthly reports, but especially during the meeting of all P.A.P.G field workers which took place October 10, 2003.

The coordination office had mentioned some of the cases during the meeting which took place with the 6<sup>th</sup> Chamber department on November 7, 2003, but as of December 15, 2003, there was no reaction from the competent authorities. On the latter date a parliamentary delegation and the IBUKA Association had carried out an inspection of the scenes to ascertain what had taken place.

It is obvious that these people were killed by some bloodthirsty individuals who had given themselves the task of eliminating witnesses before the launch of the *Gacaca* courts throughout the country.

The P.A.P.G deplors the silence of the authorities in the face of these heinous acts deemed a « *systematic mission to eliminate witnesses* » before the *Gacaca* courts could start operating across the country.

We draw your attention to a leaflet that was picked up beside the house of Rutinduka's widow on December 31, 2003. This leaflet shows that the killers had not yet laid down their arms. They have even declared that the measures taken by the police to increase the safety of genocide survivors have not dissuaded them. Furthermore, they said, "the police cannot assure the safety of each genocide survivor forever".

Faced with this problem, all bodies involved with the security and optimum operation of the *Gacaca* courts are asked to closely monitor these and other cases which are more or less similar throughout the country. The perpetrators should be severely punished in order to provide security for witnesses in general and genocide survivors in particular, so that the *Gacaca* courts can achieve their objectives.

Written in Kigali, January 10, 2004  
Francine RUTAZANA  
P.A.P.G. Coordinator

## **Annex 7**

### **CLADHO, Declaration on the Safety of Witnesses in the Gacaca Process, January 12, 2004**

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#### **DECLARATION OF THE COLLECTIVE OF HUMAN RIGHTS LEAGUES AND ASSOCIATIONS OF RWANDA (CLADHO) ON THE SAFETY OF WITNESSES IN THE GACACA PROCESS**

Some localities in Gikongoro Province were recently the scenes of atrocious murders of genocide survivors by bloodthirsty individuals determined to eliminate people who have testimonies and information which could be given in the *Gacaca* process. Some of the cases brought forward were as follows:

- December 27, 2000, murder of Madame Séraphine MUKASHYAKA in Karaba district;
- April 20, 2000, murder of Mr. KARASIRA alias KABOMBO, in Kaduha district;
- October 04, 2003, murder of Mr. Emile NDAHIMANA, in Kaduha district;
- November 26, 2003, murder of Mr. RUTINDUKA, in Kaduha district.

CLADHO condemns these heinous crimes and calls on the Rwandan government to take the appropriate urgent measures to put an end to such murders in the country. Without such measures, the success of the *Gacaca* process will be compromised.

CLADHO recommends that detailed and speedy inquiries should be conducted, leading to the identification and trial of all perpetrators of these heinous crimes which violate the most basic right, that is the right to life, a necessary requirement for the exercise of all other rights. Such trials are critical and essential as they could deter other acts of intimidation or harassment of witnesses in the *Gacaca* process that have been recorded in various places around the country.

Having noted that many other inquiries have been conducted in similar situations, without publication of the results, CLADHO takes this opportunity to bring the Rwandan government's attention to the risk of continued criminality if inquiries into such heinous killings, plotted by bloodthirsty individuals, should continue to be ineffective.

Written in Kigali, January 12, 2004

**For CLADHO**  
**Bernadette MUKARUTABANA**  
**President**

## Annex 8

### Colonel F. Rusagara presentation about solidarity camps, international conference on Genocide, Kigali, april 2004

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**The concept of the solidarity camps: a military approach to reintegration and promotion of the Rwandan identity based on the institutions and the alleged values of the pre-colonial period.**<sup>121</sup>

According to Colonel Rusagara (§34), the mission to reconstruct Rwanda through a process of integration or re-integration of its people started with the military. In order to move ahead with its mission, the RDF (army of the RPF) found it necessary to integrate captured ex-FAR (Rwandese Armed Forces) soldiers in its fighting forces.

(§35) The process of integration or re-integration entailed assembling the ex-combatants in reorganization camps of centers, orienting them to national politics, and emphasizing reconciliation and national unity. The concept of the re-organisation camps, which were later called solidarity camps by the National Unity and Reconciliation Commission (NURC), were modelled along the idea of the *Amotorero*<sup>122</sup> of the pre-colonial period. Within the same context these are referred to as *Ingando* (traditional military encampment), implying that the individual in the solidarity camps are reconstructed using the ideology of *Rwandanicity*.<sup>123</sup>

(§36) The RPF/A pioneered the *ingando* concept through the integration process of the ex-combatants, but has assumed a national character under the NURC. Indeed, as one of its main vehicles of integration, the *ingando* has been adopted by the National Unity and Reconciliation Commission for replication in the wider society. The political commissars of the RDF continue to serve in the solidarity camps under the NURC, both as active staff and as consultants. This underscores the continued facilitative role beginning in the military to all strata of the society in

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<sup>121</sup> Summery, by PRI, of a part of a presentation by Colonel Frank Rusagara, April 2004. Col. F. Rusagara, Commandant Rwanda Military Academy, Nyakinama, *Presentation to the International Conference on Genocide, on Prevention and Intervention to Stop Genocide: Political Will, Legal Instruments, Mechanisms, Constraints, Resources...*, no date, 21 pages, 51 paragraphs.

<sup>122</sup> According to Colonel Rusagara (2004: 4) the *Amotorero* (military regiments) inculcated the ideals and values of *Rwandanicity* to instil a common identity. This was done through lessons in history and culture, which were about self-identity as a Rwandan. These were often expressed through poems, song and dance. For instance, the famous Rwandan dance, *Intore*, was the military dance of the *Itorero* (regiment). *Intore* was a hero's dance. In fact, heroes and celebrities are referred to as *intore* in *Kinyarwanda*. Whatever lessons there might have been to learn in history were imparted, as noted, through the *Amotorero* for both young men and women.

<sup>123</sup> Colonel Rusagara affirms also (2004: 2-4) that it was through poetry that *Rwandanicity* (the idea and philosophy that guides the peoples conduct) found an enduring repository that manifested itself in social stability and military strengths. According to this author, in pre-colonial Rwanda, *Rwandanicity* is what the people of Rwanda understood themselves to be, what they knew about themselves, and how they defined their country. *Rwandanicity* was codified into does and don'ts that have historically been the performance parameters expected of each individual in the Rwandan society. To the Rwandans, Rwanda is a state of mind. Rwanda was the best country. It is said: 'Rwanda is the best of the best, and only a gentleman comes from Rwanda'. A gentleman of Rwanda (*imfura y'iRwanda*) meant adherence to the standards and values that had been inculcated over a period of time. Those standards and values of conduct were codified in *Kamere y'u Rwanda*, which in essence defined a true Rwandan. The term literally means the roots that facilitate and sustain growth. It was a terrible insult to be referred to as lacking in *Kamere* (having no roots). *Rwandan-ness* lived in the Diaspora, but had to be taken back to its roots for fulfilment and self-actualization. This was the essence of the RPF/A struggle in the 1990s, as apposed to the post-colonial leadership of Kayibanda and Habyarimana who themselves had not internalised *Rwandanicity*, and who thought they could exile *Rwandan-ness*.

reconciliation and conflict management. The *ingando* can also be described as participatory workshops, where the RDF officers and men interact with the ex-FAR officers and men in a process that normally takes a minimum period of two months.

(§38) The RDF strategy entails providing a platform to search for ways of building a united and reconciled Rwanda based on the ideal of *Rwandanicity*. Based on the *Ingando* participatory exercises, the RDF set up a civic education programme among others to create awareness, among Rwandans, of the need for reconciliation and reconstruction of a cohesive society.

The purpose is to empower the inductees to draw lessons from the past legacy with a view to rebuilding a united and prosperous country. Participants are equipped with analytical skills and knowledge to enable them understand socio-economic and political events that shaped the present Rwanda. Participants are encouraged to take individual and collective responsibility in addressing the national challenges. Through such *Ingando*, participants are challenged to understand that unifying factors such as history, language, culture, common heritage and socio-economic challenges provide a common ground on which to address issues of national importance. The stress is on promoting Rwandan identity as a basis for durable peace and development. The *Ingandos* have also been inclusive of the entire society, including the youth joining higher institutions of learning, opinion leaders at the various levels of administration, *Gacaca* judges, and returnees and, recently, the provisionally released prisoners. The returnees and released prisoners are prepared for smooth reintegration back in their societies. The *Ingandos* have also lately been used to complement the *Gacaca* legal system. The provisionally released prisoners, for instance, have to pass through the *Ingando* for orientation before they appear in the *Gacaca* courts.

(§39) The *Ingandos* are restorative and reconciliatory for the participants. The *Ingando's* purpose is to enlighten them on national development, give them space to discuss the causes of genocide and their role in it. They are also encouraged to openly confess and ask for forgiveness before the victims and the community. In the process they are prepared for smooth re-integration back to their communities. During the *Ingando* sessions, the information gathered from the participants on their role in the genocide will hopefully add value to the *Gacaca* legal process. While in the *Ingandos*, the participants interact in community programmes such as providing shelter for the victims of Genocide across the board.

(§40) The interaction within the military between the different identities that formally had been at war with each other offers a role model of reconciliation and national unity to the society at large. The military, which is engendered by teamwork and efforts towards joint goals easily, facilitates the attainment of national objectives and aspirations. This is because the military clearly defines the common enemy to the national ideal of guaranteed security. In the case of post-genocide Rwanda, the RPF/A was able to demystify the notion of incompatibility between the Hutu and Tutsi identities through the integration process.