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6. The civil defence confronted by RPF brigades

The Prosecutor, faced with the attacks against the civilian population since October 1990, wrongly considers the civil defence as a crime for which some accused persons before ICTR must answer. Of the prosecution exhibits used by the Prosecutor to support allegations in this regard, it is worth noting in particular:

- the Prime Minister's 25 May 1994 Directives on the organization of the civil defence,
- the Minister of Interior's Letter of 25 May 1994 sent to *préfets* indicating priority actions to be carried out as part of the rapid implementation of the said directives of 25 May 1994,
- the Minister's Instructions of 20 June 1994 to the *préfets*,
- Colonel Déogratias' Nsabimana's Letter of 29 September 1991 to the Minister of Defence,
- Colonel Laurent Serubuga's Letter of 14 October 1991 to the Minister of Defence,
- The 2 March 1993 Press release to political parties,
- General Nsabimana's Letter of 30 March 1994 to the Minister of Defence,
- Colonel Tharcisse Renzaho's Letter of 31 March 1994 to the Rwandan Armed Forces Chief-of-Staff.

The fact that all of the above correspondences were exchanged between national security officers is ample proof that in their understanding, there was no harm in addressing the concerns expressed by the people who were victims of incursions of the RPF which, as all are aware, had renounced conventional warfare after its defeat of 30 October 1990 and engaged in guerilla warfare.

However, the ICTR Prosecutor willfully mixed up civil defence with the MRND *Interahamwe* and the co-called militias of political parties to whom, according to the Prosecutor's allegations, weapons were distributed for purposes of killing the Tutsi population identified with the enemy so as to justify their extermination. Since there is no justification for this regrettable mix-up, the following submissions focus exclusively on the information relating to the solutions adopted by the public authorities in response to the demands of the innocent civilian population that was a victim of attacks by RPF brigades.

Regarding the various stages of the civil defence operation up to the phase of the 25 May 1994 directives, it is important to refer to the filed documents and transcripts of Expert Witness Des Forges in the Military (*Bagosora et al*) trial. The most significant of the major exhibits filed in the Military trial in respect of the civil defence are:

- the 29 September 1991 Letter of Colonel Déogratias' Nsabimana, then sector commander for Mutara,
- the 12 October 1991 Letter of Colonel Laurent, then Chief-of-Staff,
- the 21 September 1992 Report of the Bagosora Commission on the definition of the enemy,
- the 2 March 1993 Press release of political parties,
- the 30 March 1994 Letter of General D. Nsabimana, then Chief-of-Staff,
- the 31 March 1994 Letter of Colonel Tharcisse Renzaho, then *préfet* of Kigali Ville *préfecture* (PVK),
- the Prime Minister's Directives of 25 May 1994.

The primordial objective of all these exhibits is to establish unequivocally that the civil defence in Rwanda was an operation that was closely related to the course of the war imposed on the country by the RPF. It was never of the MRND's making. It was not organized clandestinely. It could not have succeeded if it had been established along discriminatory partisan lines.

The civil defence existed everywhere in the country in the form of night patrols since the October 1990 RPF. That was on account of the insecurity that was rife in the country as a result of the actions of the RPF infiltrators and armed banditry. In Kigali town, the organization of night patrols was known to UNAMIR, which was involved in the operations conducted jointly by the people and the gendarmerie on whom it constantly relied to carry out its own night patrols. It was within the same framework that the *préfet* of PVK, the Army Chief-of-Staff and Kigali sector commander met on 29 March 1994 and decided to distribute weapons to persons selected by the commune authorities to participate in securing the capital.

Colonel Déogratias Nsabimana's letter of 29 September 1991 to the Minister of Defence focuses on the recommendations of the joint meeting of local administrative authorities of Ngarama *Sous-préfecture*, covering the communes of Muvumba, Ngarama, Bwisige and Mutara, and the Chief Prosecutor for Ngarama. It is therefore obvious that the idea of civil defence dates back to the very beginning of the October 1990 war and, at the time, it only concerned the frontline communes that were constantly vulnerable to the incursions of the RPF which, after circumventing the positions of the FAR, was attacking the civilian population, massacring them and, in particular, forcing them to abandon their property. Those were the people who demanded weapons and basic training for their own protection.

The 21 September 1992 report of the Bagosora Commission on the definition of the enemy was a military security document which was meant to prevent any mix-up between elements that could constitute a threat and those that were not. That commission of officers had been set up when the RPF was shifting to the unconventional and psychological warfare strategy. The President, who was then Minister of Defence and Chief-of-Staff of the Army and the Gendarmerie, played the

role of manager of the war by ordering a situational analysis, known in military procedure as command assessment.

Such reflection was also engaged in at the Ministry of Interior during meetings held with *préfets* and by other departments concerned with the wellbeing and security of the people during that period of acute crisis. The ministerial CIC in charge of security carried out coordination while the Minister at the Presidency in charge of Defence and Security regularly monitored the situation with a view to enlightening the President and the Government in their decision-making. To accuse President Habyarimana of planning the genocide because he assumed his legal and constitutional responsibilities does not make sense. The dissemination of this document by the Army Chief-of-Staff had no other objective than to gather new information for purposes of intelligence updates. The document was confidential and its circulation was restricted.

Letter No. 1152/G2.1.2 of 12 October 1991 sent by Colonel Serubuga to the Minister of Defence again confirms the people's determination to participate in providing for their security and all the precautions recommended by the FAR Chief-of-Staff before they engaged in the operation to arm civilians.¹⁶²

The first civil defence operations were therefore organized in the communes of Mutara that were exposed to the RPF's relentless incursions. In the face of the undeniable successes achieved, the operation was countered by the RPF which threatened to attack the civilian population directly if the government did not scrap its plan to organize them as part of civil defence. The RPF enjoyed the support of factions within some political parties that were still faithful to the 3 June 1992 Brussels Accord.

In March 1993, the Nsengiyarumye Government completely ignored the political parties'¹⁶³ unanimous recommendation that the people be organized and involved in the civil defence of the country. It decided to suspend the organization of the people for civil defence to satisfy the RPF and the Americans who had demanded such suspension as a condition for the resumption of the Arusha peace talks. The Minister of Defence, James Gasana, received the order to withdraw all weapons that had been distributed in some communes of Ruhengeri, Gisenyi and Byumba as part of the civil defence project.

The idea of civil defence was again discussed on 20 March 1994 during a meeting chaired by the FAR Chief-of-Staff, and attended by the *préfet* of Kigali Ville, Colonel Tharcisse Renzaho, and the OPS commander for Kigali, Colonel Muberuka. The holding of that meeting was prompted by the widespread insecurity caused by the presence of RPF infiltrators in all the neighbourhoods of the capital. Des Forges admits in her expert report in the Ndindabahizi trial that in April 1994, the RPF had more than 600 brigades nationwide, including more than 147 in Kigali town alone. Filip Reyntjens gave the same figures in his testimony in the Rutanga trial.

¹⁶² See point 5 of this letter

¹⁶³ Press release of 2 March 2003 published at the end of the consultation meeting held in Kigali under the auspices of the Contact Committee by the representatives of 13 parties: MRND, MDR, PSD, PL, PDC, CDR, Parti Démocrate, PECO, PPJR-RAMA RWANDA, RTD, MFBP, PADER and PDI.

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Letter No. 0599/G3.9.2 of 30 March 1994 sent by General Nsabimana to the Minister of Defence focuses on the conclusions of the meeting of 29 March 1994. The collaboration between the administrative authorities of the Kigali Ville *préfecture* and the military aimed at providing for the security of the town with the support of the civilian population was indispensable to the success of the civil defence operation in Kigali. The government was in charge of the whole operation. The support of the *préfet* of Kigali Ville *préfecture*, Colonel Tharcisse Renzaho, who drew up and forwarded the list of persons selected as per cellule to participate in the civil defence operations,¹⁶⁴ should be viewed in the same light.

Hardly a week after that meeting of 29 March 1994, General Nsabimana was assassinated with President Habyarimana in the attack of 6 April 1994 before the recommendations of the 30 March 1994 could be implemented. The RPF resumed the war on all fronts with the priority objective of capturing the capital, Kigali.

The interim government in turn revived the idea of associating the people in efforts made by the FAR and other security forces in defending the country. The RPF attacks on all fronts, coupled with the actions of its brigades which had been infiltrated for months in all the regions of the country, turned the whole country into a veritable battlefield. From then on, the civil defence operation could no longer be limited to some communes, excluding the rest of the country. In Kigali, the army and the PVK administration were in charge of involving the civilian population in the defence of the town as of 18 April 1994.

The Prime Minister spoke of civil defence at the very first meeting with the *préfets of préfectures* held on 11 March 1994. He said the following:

“So it would appear that in Kigali, some regions are often plundered on account of the roadblocks illegally established and erected by criminals. This means that wherever roadblocks have to be set up to contribute in upholding security, the Administration should be duly informed. Furthermore, the *préfet* of the *préfecture* should issue instructions to that effect (...). We have requested the political parties to meet with the Minister of Defence and study in concert the possibility of having the people assist the army in providing for the security of the country.”¹⁶⁵

Unfortunately, the extension of the operation nationwide required resources that could not be mustered expeditiously. It was also imperative to review the entire organization in order to guarantee the success of such a risky operation, given the extremely turbulent situation. That is why the civil defence operation continued to feature in practically all speeches and documents signed by Kambanda. It had no real impact outside of Kigali.¹⁶⁶

To support his contrived argument based on the mix-up between the civil defence, the *Interahamwe* za MRND and the militias of political parties, the Prosecutor resorted to false

¹⁶⁴ Letter No. 14/04.07 of 31 April 1994.

¹⁶⁵ Prime Minister Kambanda's speech of 11 April 1994 to the *préfets of préfectures*.

¹⁶⁶ In Kigali, the participation of the people in defending the town alongside the FAR shored up the resistance against RPF attacks for 3 months. See testimony of General A. Ndindiliyimana before the Belgian Senate Committee.

allegations contained in the guilty plea extorted from the former Prime Minister, Jean Kambanda, the speculations in Alison Des Forges' book, 'Leave None to Tell the Story', and reports drawn up by Hock and Lemaire, both intelligence officers in the Belgian contingent of UNAMIR.

However, following her intense cross-examination by defence counsel after her testimony in the *Bagosora et al* trial (ICTR-98-41-T), Alison Des Forges admitted to having lied regarding the so-called stock of twenty thousand (20,000) R4 automatic rifles from which weapons were withdrawn for purposes of arming militias. Similarly, it has been established that the reports of the two Belgian intelligence officers were based on the same elements as those mentioned in the famous fax sent on 11 January 1994 to New York by General Roméo Dallaire.¹⁶⁷ The analysis of that fax and provisional conclusions drawn, pending the final results of ongoing investigations obviate the need for further considerations except that of casting doubt on the neutrality of the two Belgian officers. They faulted only the MRND and President Habyarimana and found nothing blameworthy on the side of RPF, the aggressor, or its allies in the internal opposition.

Regarding the allegations of Jean Kambanda, it is important to recall the exceptional circumstances under which the Prosecutor's dubious investigators,¹⁶⁸ Pierre Duclos and Marcel Desaulniers, coerced him to admit to committing the crimes which he never committed and, in particular, to promise to assist the Prosecutor in his diabolical plan to convict persons for the sole reason that they were members of the interim Government. The best evidence of the flimsy nature of the charges based on the allegations of Jean Kambanda is contained in his own statement of 23 September 2003. After having denied or significantly altered his prior assertions, including those relating to planning of the genocide, training and distribution of weapons to *Interahamwe*, Jean Kambanda made this important clarification:

To conclude, I consider that my isolation and the lack of a process that is mindful of the rights of the defence have not allowed, thus far, a genuine trial that should have been the trial of the whole interim Government, and that grants a hearing to one of the key accused persons likely to shed light on the precise manner in which the events unfolded and the concrete responsibilities of everyone involved. That is why my testimony has remained disjointed or has belatedly been the subject negotiations unconcerned with due process". The Prosecutor finally resolved to withdraw Jean Kambanda from his list of witnesses. Under these circumstances, the Prosecutor is no longer entitled to invoke the allegations drawn from the confessions that were dishonestly extorted from the former Prime Minister, Kambanda, by the Deputy Prosecutor, Bernard Muna, assisted by his friend and family advocate, Mr Olivier Michael Inglis.

The Prosecutor of ICTR tried, to no avail, to have the former Prime Minister, Dismas Nsengiyaremye, confirm the speculative allegations he had made earlier to both ICTR investigators and before the Belgian Senate Committee regarding the civil defence, the so-called

¹⁶⁷ See Annexes 4, 5 and 5 bis.

¹⁶⁸ It would be recalled that both investigators of Canadian nationality had been recruited specially for this task by their compatriot, Louis Arbour, then Prosecutor of ICTR, who was well aware that Pierre Duclos was being prosecuted for forgery and fabrication of false documents in Canada, thereby screening him from the law.

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MRND militias and the purported planning of massacres committed from April to July 1994, particularly by drawing up lists of persons to be killed, and the disturbances that occurred in some parts of the country.¹⁶⁹ Dismas Nsengiyaremye acknowledged, in essence, that he had based his allegations on rumour that was circulating at the time or on information in his possession, but that he had not been able to crosscheck it. Regarding the planning, his final position is summed up in his answer to the following question put to him by Counsel for Bagosora, Mr. Constant:

Mr. Prime Minister, in light of your recollection of the various investigations, do you recall whether the members of the different commissions were able to establish the premises of any planning of genocide?

Dismas Nsengiyaremye's answer:

No, I did not really witness any planning of the genocide, but I nevertheless witness strong resistance to the democratization process and eventually to the Arusha Accord, but I did not have a plan or a draft plan aimed at eliminating part of the Rwandan population.¹⁷⁰

Before the testimonies of the two former Prime Ministers who were members of the MDR, Dismas Nsengiyaremye and Jean Kambanda, the former Prime Minister from the RPF, Faustin Twagiramungu, also a member of the MDR, had made the same admission when he was examined on the allegations of Jean Pierre Turatsinze, alias Kassim, alias Kassim, implicating the MRND. He stated as follows:

I have never seen Jean Pierre. Colonel Luc Marchal, perhaps. Jean Pierre worked with the MRND, that is true. But he did not have any responsibilities. What kind of source was he? What role did he play in the MRND? There is need for proof. If one wanted to embarrass Colonel Marchal and General Dallaire, one would tell them: has this man shown you where the weapons were hidden? As for planning, did he tell you who uttered that sentence? Did he show you a document? The only source of this fellow. It has gone round the world: one Jean Pierre was aware of the planning – he alone. Today, we are not in the era of oral tradition. I no longer accept such unidirectional analyses.¹⁷¹

Twagiramungu's stand cannot be any clearer. He gives no credit to the famous witness and General Roméo Dallaire's 'high-level trainer' whom he is quick to qualify as a 'rascal'. Yet Roméo Dallaire, Jacques Roger Booh Booh and the ICTR Prosecutor persist in their conviction that the allegations of Jean Pierre, their sole witness who has never been called to appear before

¹⁶⁹ These are, in particular, the events that occurred in about late 1992 early 1993 in Gisenyi and Ruhengeri prefectures, the events in Kibuye in August 1992 and the reports of the commissions of inquiry tasked by Prime Minister Nsengiyaremye and his Government with shedding light on responsibilities by identifying the perpetrators. These are also related to the civil disobedience operations cherished by leaders of the MDR, PSD and PL parties grouped within the FDC and better known as 'Kubuhozo'.

¹⁷⁰ Testimonies in the *Bagosora et al.* trial, of 11 to 13 April 2005; transcript of hearing of 12 April 2005, p. 81.

¹⁷¹ Interview of Faustin Twagiramungu published in *Diplomatie Judiciaire*, No. 83 of March 2002, p. 16.

the chambers to be confronted in order to be confronted with his lies by the Defence, are sufficient ground for accusing the MRND and its leaders.

7. Guaranteed impunity for Dallaire and Paul Kagame

Obviously, the fates of Generals Paul Kagame and Roméo Dallaire are inextricably bound since their historic meetings as part of UNAMIR, as Dallaire brilliantly recounts in his above-mentioned book. The two books published recently by Editions Duboiris seem to confirm this observation (Onana, 2005; Booh Booh, 2005). In reading both books, the most optimistic persons could tell themselves that at last the truth about the assassination of President Habyarimana will soon be known officially and determine the responsibilities of these two generals in the attack of 6 April 1994 and its consequences on the aftermath of the tragic events that plunged Rwanda in mourning. I do not entirely share such optimism even though the facts known today support such an observation. The political obstacles are such that the end of the conspiracy of silence which is in the offing, thanks to the remarkable work of Charles Onana and his friends, will tarry somewhat before becoming a reality – a situation that will have some serious legal consequences. However, the facts are glaring and the end of impunity for the one will undoubtedly have an impact on the protection enjoyed by his accomplice and understandably so.

7.1 Dallaire, the ally of Kagame upon his arrival in Rwanda

Whatever his defenders may say, General Roméo Dallaire bears heavy responsibility in the Rwandan tragedy. One cannot protect Dallaire indefinitely and continue to ignore the admissions he makes in his book (Dallaire, 2003) and during his testimony in the *Bagosora et al* case.¹⁷² General Dallaire, who was in charge of commanding the UN force within the United Nations Mission for Rwanda (UNAMIR), rightly admits that the mission was a failure. In answer to the following question put to him by Mr. Constant, Counsel for Bagosora: ‘Do you agree that you can be viewed as someone who is not neutral?’, General Dallaire stated: ‘Yes, that perception is possible, but I was not particularly more efficient on the side of the Government, throughout the country’. And he adds: ‘That is why I am telling you and have written in a book that my mission was not successful’.¹⁷³

Unfortunately, it is worth noting that in spite of this timid but clear confession, General Dallaire does not want to accept responsibility for the errors of appreciation that led to the fiasco of [sentence not concluded on last page of assignment].

¹⁷² *Bagosora et al*: Testimony of General Dallaire of 19 to 27 January 2004.

¹⁷³ *Bagosora et al*: Testimony of General Dallaire, transcript of hearing of 21 January 2004, page 51, lines 34 to 37.